

**The
Journal of the
Assembly**

**OF THE
TWENTIETH SPECIAL SESSION
OF THE
LEGISLATURE OF THE
STATE OF NEVADA**

2003



**BEGUN ON WEDNESDAY, THE TWENTY-FIFTH
DAY OF JUNE, AND ENDED ON MONDAY, THE
TWENTY-FIRST DAY OF JULY**

ARRANGEMENT AND CONTENTS OF VOLUME

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ASSEMBLY LEGISLATIVE CALENDAR

<i>Calendar Day</i>	<i>Date</i>	<i>Page Number</i>
1.....	June 25, 2003.....	1
2.....	June 26, 2003.....	69
3.....	June 27, 2003.....	102
4.....	June 28, 2003.....	174
5.....	June 29, 2003.....	176
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19.....	July 13, 2003.....	182
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LISTING OF ASSEMBLY BILLS AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action is denoted by an asterisk following the page number.)

<i>No.</i>	<i>Summary, Introducer and Page Reference</i>
1....	Makes various changes concerning state financial administration. Fiscal Note: Effect on Local Government: Yes. Effect on the State: Yes. Committee on State Revenue and Education Funding. 20, 51, 58, 70, 84.
2....	Makes various changes concerning state financial administration. Fiscal Note: Effect on Local Government: Yes. Effect on the State: Yes. Committee of the Whole. 220, 222, 223, 224, 238.
3....	Makes various changes concerning state financial administration. Fiscal Note: Effect on Local Government: Yes. Effect on the State: Yes. Committee of the Whole. 220.
4....	Makes various changes concerning state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 221*, 239, 240.
5....	Makes technical corrections to certain measures approved by 72nd Session of Nevada Legislature. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 294, 297, 298*, 312.
6....	Makes various changes regarding public bodies. Fiscal Note: Effect on Local Government: Yes. Effect on the State: Yes. Committee of the Whole. 295, 303.
7....	Creates Nevada Commission on Minority Affairs and creates Regional Business Development Advisory Council for Clark County. Fiscal Note: Effect on Local Government: Yes. Effect on the State: Yes. Committee of the Whole. 295, 296, 298, 2999*, 315.
8....	Makes appropriations to University of Nevada, Reno, for expenses of Pediatric Diabetes and Endocrinology Center at School of Medicine, to University of Nevada School of Medicine for its residency program and to Health Division of Department of Human Resources for certain HIV/AIDS services. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee of the Whole. 296, 300*, 312, 314.
9....	Temporarily authorizes Board of Regents of University of Nevada to waive registration and other fees for certain members of Nevada National Guard. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 296, 303*, 314.
10....	Makes various changes to provisions concerning financial practices. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee of the Whole. 296, 303*, 314.
11....	Makes various changes concerning access to health care services for persons in this state. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee of the Whole. 297, 303*, 314.
12....	Makes appropriation to Governor for support of Nevada Commission for National and Community Service. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee of the Whole. 297, 303*, 314.
13....	Makes various changes relating to governmental financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee of the Whole. 302, 303*, 314.
14....	Revising provisions regarding manufacture, sale and use of tobacco products. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee of the Whole. 302, 304, 310, 313*, 314.
15....	Makes appropriations to Department of Cultural Affairs for expenses relating to continued operation of Southern Nevada Office of Nevada Humanities Committee and for creation of Nevada Online Encyclopedia. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee of the Whole. 302, 304*, 314.
16....	Authorizes imposition of fee on certain rental cars in certain larger counties to finance performing arts center and facility for providing vocational training in culinary skills. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 305, 306, 309*, 315.

LISTING OF ASSEMBLY RESOLUTIONS AND ACTION THEREON

ASSEMBLY CONCURRENT RESOLUTIONS

No. Summary, Introducer and Page Reference

- 1.....Adopts Joint Rules of Senate and Assembly for 20th Special Session of Legislature. Assemblymen Perkins, Buckley, and Hettrick; Senators Raggio and Titus. 4, 9, 20, 101.
- 2.....Directs Legislative Commission to conduct interim study of telecommunication services in Nevada. Committee of the Whole. 294, 315.

ASSEMBLY RESOLUTIONS

No. Summary, Introducer and Page Reference

- 1.....Provides for appointment of attaches. Perkins, Buckley, and Hettrick. 10, 101.
- 2.....Provides that no allowances will be paid for 20th Special Session of Nevada Legislature for periodicals, stamps, stationery or communications. Perkins, Buckley, and Hettrick. 10, 101.
- 3.....Adopts Rules of Assembly for 20th Special Session of Legislature. Perkins, Buckley, and Hettrick. 10, 101.
- 4.....Acknowledges that Nevada Legislature has constitutional duty to provide for support and maintenance of schools in this state and determines appropriate amount of appropriations for their support and maintenance. Perkins. 177.

LISTING OF SENATE BILLS AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action
is denoted by an asterisk following the page number.)

<i>No.</i>	<i>Summary, Introducer and Page Reference</i>
1....	Makes appropriation to Legislative Fund for costs of 20th Special Session. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Raggio and Titus. 20, 21*, 173.
2....	Makes various changes to provisions pertaining to business. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 69, 214, 215, 216, 217*, 239.
3....	Makes various changes pertaining to regulation of gaming. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 69, 70*, 173.
4....	Makes appropriations to State Distributive School Account for class-size reduction Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee of the Whole. 69.
5....	Makes various changes related to state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee of the Whole. 69, 70, 242, 249, 290*.
6....	Makes various changes concerning state financial administration. Fiscal Note: Effect on Local Government: Yes. Effect on the State: Yes. Committee of the Whole. 84, 102, 155, 157, 173* 174, 174*, 182, 193, 204, 211, 212*, 239, 240.
7....	Makes appropriation to Legislative Fund for costs of 20th Special Session of Nevada Legislature. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Raggio and Titus. 304, 305*.
8....	Makes various changes concerning state financial administration. Fiscal Note: Effect on Local Government: Yes. Effect on the State: Yes. Committee of the Whole. 305, 306, 307*, 308.
9....	Makes various changes concerning franchises for vehicles. Fiscal Note: Effect on Local Government: Yes. Effect on the State: Yes. Committee of the Whole. 308, 309*.
10....	Makes conditional appropriations to National Judicial College and Louis W. McHardy National College of Juvenile and Family Justice. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee of the Whole. 308, 309, 314, 315*.

ELECTED OFFICERS OF THE NEVADA STATE ASSEMBLY
Twentieth Special Session, 2003

<i>Title</i>	<i>Name</i>	<i>Mailing Address</i>
Speaker	Richard D. Perkins	328 Fife Street, Henderson 89015-2700
Speaker pro Tempore	Wendell P. Williams	3701 Fortune Avenue, Las Vegas 89107-2147
Chief Clerk.....	Jacqueline Sneddon.....	401 South Carson Street, Carson City 89701-4747

PERSONNEL OF THE NEVADA STATE ASSEMBLY

Twentieth Special Session, 2003

<i>District</i>	<i>Name and Party</i>	<i>Mailing Address</i>
Carson City (part), Washoe (part), No. 40	Knecht, Ron (R).....	1009 Spencer Street, Carson City 89703-5422
Clark, No. 1.....	Collins, Clarence W. (Tom) (D)	4716 San Miguel Avenue, North Las Vegas 89032-2828
Clark, No. 2.....	Mabey, Garn (R).....	1404 Silver Oaks Street, Las Vegas 89117-1456
Clark, No. 3.....	Pierce, Peggy (D).....	5304 Gipsy Avenue, Las Vegas 89107-3847
Clark, No. 4.....	Beers, Bob (R)	9428 Grenville Avenue, Las Vegas 89134-6206
Clark, No. 5.....	Weber, Valerie (R).....	10001 Harpoon Circle, Las Vegas 89117-0931
Clark, No. 6.....	Williams, Wendell P. (D).....	3701 Fortune Avenue, Las Vegas 89107-2147
Clark, No. 7.....	Arberry, Morse Jr. (D)	5300 W. Spring Mountain Road, #104, Las Vegas 89146-8721
Clark, No. 8.....	Buckley, Barbara E. (D).....	5442 Holbrook Drive, Las Vegas 89103-2439
Clark, No. 9.....	Giunchigliani, Christina R. (Chris) (D).....	706 Bracken Avenue, Las Vegas 89104-1644
Clark, No. 10.....	Goldwater, David E. (D).....	2201 Plaza De La Candela, Las Vegas 89102-4043
Clark, No. 11.....	McCleary, Bob (D).....	2205 Flower Avenue, North Las Vegas 89030-7159
Clark, No. 12.....	Ohrenschall, Genie (D)	1124 S. 15th Street, Las Vegas 89104-1740
Clark, No. 13.....	Christensen, Chad (R).....	9101 W. Sahara Avenue, Suite 105, Las Vegas 89117-5799
Clark, No. 14.....	Koivisto, Ellen M. (D)	1147 Timber Ridge Court, Las Vegas 89110-2545
Clark, No. 15.....	McClain, Kathy (D)	107 Greenbriar Townhouse Way, Las Vegas 89121-2456
Clark, No. 16.....	Oceguera, John (D).....	4560 El Campana Way, Las Vegas 89121-6510
Clark, No. 17.....	Atkinson, Kelvin (D)	5631 Indian Springs Street, North Las Vegas 89031-5078
Clark, No. 18.....	Manendo, Mark (D)	4629 Butterfly Circle, Las Vegas 89122-6149
Clark, No. 19.....	Claborn, Jerry (D).....	6617 Network Circle, Las Vegas 89156-7015
Clark, No. 20.....	Hardy, Joe (R).....	895 Adams Boulevard, Boulder City 89005-2235
Clark, No. 21.....	Andonov, Walter (R)	P.O. Box 531106, Henderson 89053-1106

<i>District</i>	<i>Name and Party</i>	<i>Mailing Address</i>
Clark, No. 22.....	Brown, David F. (R)	701 N. Green Valley Parkway, Suite 200, Henderson 89074-6178
Clark, No. 23.....	Perkins, Richard (D)	328 Fife Street, Henderson 89015-2700
Clark, No. 28.....	Chowning, Vonne (D).....	2015 Carroll Street, North Las Vegas 89030-6401
Clark, No. 29.....	Josh, Griffin (R).....	792 Camino La Paz, Henderson 89012-5687
Clark, No. 34.....	Horne, William C. (D)	2251 North Rampart, No. 357, Las Vegas 89128-7640
Clark, No. 37.....	Conklin, Marcus (D)	1600 Palmae Way, Las Vegas 89128-3244
Clark, No. 41.....	Parks, David R. (D).....	P. O. Box 71887, Las Vegas 89170-1887
Clark, No. 42.....	Mortenson, John H. (Harry) (D)	3930 El Camino Road, Las Vegas 89103-2221
Douglas, Carson City (part), Washoe (part), No. 39	Hettrick, Lynn (R)	1475 Glenwood Drive, Gardnerville 89460-8981
Elko, Humboldt (part), No. 33 ..	Carpenter, John C. (R)	P. O. Box 190, Elko 89803-0190
Esmeralda, Lincoln, Mineral, Nye, Churchill (Part) No. 36	Sherer, Rod (R).....	2091 Zuni Avenue, Pahrump 89048-4811
Eureka, Pershing, White Pine, Churchill (part), Humboldt (part), Lander (part), Washoe (part) No. 35	Goicoechea, Pete (R)	P. O. Box 97, Eureka 89316-0097
Humboldt (part), Lander (part), Washoe (part), No. 32	Marvel, John (R).....	P. O. Box 1270 Battle Mountain 89820-1270
Lyon, Storey, Carson City (part) Churchill (part), No. 38 ...	Grady, Tom (R)	43 Fairway Drive, Yerington 89447-2170
Washoe, No. 24.....	Geddes, Jason (R)	750 Putnam Drive, Reno 89503-5900
Washoe, No. 25.....	Gibbons, Dawn (R).....	2535 Kinney Lane, Reno 89511-6546
Washoe, No. 26.....	Angle, Sharron (R).....	1802 Rainbow Ridge Road, Reno 89523-1847
Washoe, No. 27.....	Leslie, Sheila (D).....	825 Humboldt Street, Reno 89509-2009
Washoe, No. 30.....	Gustavson, Don (R)	P. O. Box 20300, Sun Valley 89433-0300
Washoe, No. 31.....	Anderson, Bernie (D).....	747 Glen Meadow Drive, Sparks 89434-1536

ATTACHÉS OF THE NEVADA STATE ASSEMBLY

Twentieth Special Session, 2003

<i>Name</i>	<i>Title</i>	<i>City</i>
Diane Keetch.....	Assistant Chief Clerk.....	Carson City
Lucinda Benjamin.....	History Clerk.....	Schurz
Matthew Baker.....	Journal Clerk.....	Carson City
Kathryn Fosnaugh.....	Recording Clerk.....	Carson City
Harle Glover.....	Document Clerk.....	Carson City
Jason Hataway.....	Media Clerk.....	Carson City
Terry Sullivan.....	Sergeant at Arms.....	Washoe Valley
Robin Bates.....	Assistant Sergeant at Arms.....	Gardnerville
Heidi Hansen.....	Assistant Sergeant at Arms.....	Carson City
Beverly Mobley.....	Assistant Sergeant at Arms.....	Dayton
Kyle T. Wentz.....	Assistant Sergeant at Arms.....	Gardnerville
Lona Domenici.....	Speaker's Executive Assistant.....	Carson City
Julie Whitacre.....	Speaker's Executive Secretary.....	Las Vegas
Barbara Houger.....	Majority Floor Leader's Executive Assistant.....	Carson City
Mary G. Garcia.....	Committee Secretary.....	Minden
Eddie Cordisco, Jr.....	Supervisor of Bill Services.....	Carson City
Mary Carel.....	Assistant Supervisor of Bill Services.....	Carson City

Journal

OF THE

ASSEMBLY OF THE STATE OF NEVADA

TWENTIETH SPECIAL SESSION

THE FIRST DAY

CARSON CITY (Wednesday), June 25, 2003

Pursuant to the provisions of the Constitution and Statutes, the Assembly was called to order by Speaker of the Assembly Richard D. Perkins at 9:53 a.m.

Roll called.

All present.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Dear Lord, thank You for the safe passage home that You gave all of us. And thank You for bringing us all back safely. Oh, and thank You for all the help You've given us in these past months, but right now we really need Your help. These good legislators have some important decisions to make and we all ask that You give them the strength and courage to vote their innermost convictions on these serious matters.

AMEN.

Pledge of Allegiance to the Flag.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. Speaker appointed Assemblymen Anderson, Leslie, and Hardy as a committee to inform the Senate that the Assembly was organized and ready for business.

Mr. Speaker appointed Assemblymen Buckley, Ocegüera, and Hettrick as a committee to inform the Governor that the Assembly was organized and ready for business.

A committee from the Senate composed of Senators Townsend, Care, and Mathews appeared before the Bar of the Assembly and announced that the Senate was organized and ready for business.

Assemblyman Anderson reported that his committee had informed the Senate that the Assembly was organized and ready for business.

Assemblywoman Buckley reported that her committee had informed the Governor that the Assembly was organized and ready for business.

COMMUNICATIONS

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA OFFICE OF THE GOVERNOR EXECUTIVE ORDER

A PROCLAMATION BY THE GOVERNOR:

WHEREAS, Section 9 of Article V of the Constitution of the State of Nevada provides that, "The Governor may on extraordinary occasions, convene the Legislature by Proclamation and shall state to both houses when organized, the purpose for which they have been convened, and the Legislature shall transact no legislative business, except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session;" and

WHEREAS, believing that an extraordinary occasion now exists which requires action by the Legislature;

NOW, THEREFORE, I, KENNY C. GUINN, GOVERNOR of the STATE OF NEVADA, By virtue of the authority vested in me by the Constitution of the State of Nevada, do hereby convene the Legislature into a Special Session to begin at 8:00 a.m., on June 25, 2003.

During the extraordinary session, the Legislature may consider a tax plan sufficient to meet all of the appropriations and other spending measures that were passed during the 72nd Session of the Nevada Legislature and which may be passed during this Special Session. The Legislature may further consider during this session the matters contained within Assembly Bill 536, Senate Bill 432, Senate Bill 508, and Senate Bill 509 of the 72nd Session of the Nevada Legislature.

The Legislature may also consider an appropriation to pay for the cost of the session and any other matters brought to the attention of the Legislature by the Governor during the Special Session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City this 12th day of June, in the year two thousand three.

Kenny C. Guinn
Governor

Dean Heller
Secretary Of State

OFFICE OF THE GOVERNOR

June 25, 2003

THE HONORABLE RICHARD D. PERKINS, *Speaker of the Assembly*, Nevada State Assembly,
Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701

TO THE HONORABLE MEMBERS OF THE NEVADA STATE ASSEMBLY:

The Nevada State Constitution, in Article V, Section 9, provides that the Governor may on extraordinary occasions convene a Special Session of the Legislature by proclamation. On June 12, 2003, I issued a proclamation convening the 20th Special Session of the Nevada Legislature. Within my proclamation, I defined and limited the scope of your legislative endeavors for the special session. Consider only the matters set forth in this proclamation.

I feel compelled to mention that the end of the fiscal year is a mere five days from today. Because of this, there are consequences being realized by the school districts of Nevada as each day passes without K-12 education being funded for the upcoming biennium. Therefore, I wish you well in completing the legislative business before you; I urge you on behalf of the citizens of Nevada to complete their business in an expeditious and effective manner.

Sincerely,
Kenn C. Guinn
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Mr. Speaker announced the following select committee, the first-named member being the chairman, the second-named being the vice chairman:

SELECT COMMITTEE ON STATE REVENUE AND EDUCATION FUNDING—Arberry, Parks, Anderson, Chowning, Giunchigliani, Goldwater, Leslie, McClain, McCleary, Mortenson, Pierce, Andonov, Angle, Brown, Gibbons, Grady, Griffin, Hettrick, Marvel.

Assemblywoman Buckley moved that persons as set forth on the Nevada Legislature's Press Accreditation List of June 25, 2003, be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chambers, that they be allowed use of appropriate broadcasting facilities, and the list be included in this day's Journal:

ASSOCIATED PRESS: Benjamin Kieckhefer, Ryan Pearson; BUREAU OF NATIONAL AFFAIRS: William Carlile; DAILY SPARKS TRIBUNE/KAME/KRXI-TV: Andrew Barbano; ELKO DAILY FREE PRESS: Jerry Blair; FOX 5 NEWS: Garrett Breit, John Huck; KLAS-TV: Matthew Adams, Richard Czarny, George Knapp, Victor Woodall; KLVX-TV: Tom Axtell; KNPB-TV: Erin Breen, Ali Herndon-Ortega, Jack Kelly, Bonnie Maclean, Dennis Myers, Ethan Salter, Dave Santana, Douglas Walters; KOLO-TV CHANNEL 8: Brent Boynton, Jean Casarez, Mark Cronon, Jeff Deitch, Tim Ill, Justin Kanno, Josh Little, Vicky Nguyen, Ed Pearce, Terri Russell, James Steiner; KPTL-RADIO: Cheri D. Flynn, Scott Gahagen, Ron Harrison, Jarvis Kaler, Terrie Q. Sayre; KTNV-TV NEWS 13: Mark Sayre; KVBC-NEWS 3: Alyssa Anderson, Justin Rush, Kendall Tenney; KWNA-RADIO: Torrey Sheen; LAS VEGAS CITYLIFE: Matt O'Brien; LAS VEGAS SUN: Michael Campbell, David Clayton, Dana Gentry, Jeff German, Matt Huffman, Steve Kanigher, Jennifer Knight, Ed Koch, Aaron Mayes, Erin Neff, Judy Odierna, Angla Pilmer, Launce Rake, Jon Ralston, Emily Richmond, Cy Ryan, Susan Snyder; NEVADA APPEAL: Cathleen Allison, Brian Corley, Rhonda Costa-Landers, Kelli Du Fresne, Ray Estrada, Rick Gunn, Brad Horan, Karl Horeis, Jill Keller, Francine Norton, Barry Smith, Teri Vance, Susan Vasquez; NEVADA BROADCASTERS ASSOCIATION: Robert David Fisher; KNPR NEVADA PUBLIC RADIO: Kyril Pluskon; NORTH LAKE TAHOE BONANZA: Rick Adair; NORTH LAKE TAHOE BONANZA, Kirk Caraway; NORTHERN NEVADA BUSINESS WEEKLY: Anne Knowles; SAM SHAD PRODUCTIONS: Sam Breen, Ande Engleman, Samuel Shad; THE MEDIA CENTER: Don Alexander, Kim Anhalt, John Bankhead, Jeremy Baumann, Nancy Burgess, Carol Cizauskas, Kaye Crawford, Charles M. Evans,

Fred Fichman, Mitch Fox, Henry King, David Kizler, John Ponzio, Earl Spriggs; THE UNLV REBEL YELL: Erik Ball, Nick Christensen, Angela Flores; UNIVISION-LAS VEGAS NEWS: Jorge Avila, Sol Binkier, Ricardo Fernandez, Janette Luviano, Joel Romo, Xochitl Sandoval, Johanna Suarez, Brenda Torres, Roger Velado; VARTEK: Marcia Cohen, Michael Vargas; VIRGINIA CITY REGISTER: Gary M. G. Deacon, Scott Phillips, Bill Sjovaugen, Sharon Truchill, Douglas Truchill, Ernst Wipple; WE THE PEOPLE: Shayne Del Cohen.

Motion carried.

By Assemblymen Perkins, Buckley, and Hettrick; Senators Raggio and Titus:

Assembly Concurrent Resolution No. 1— Adopting the Joint Rules of the Senate and Assembly for the 20th Special Session of the Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the following Joint Rules of the Senate and Assembly for the 20th Special Session of the Legislature are hereby adopted:

APPLICABILITY OF JOINT RULES

Rule No. 1. Generally.

The Joint Rules for the 20th Special Session of the Legislature are applicable only during the 20th Special Session of the Legislature.

CONFERENCE COMMITTEES

Rule No. 2. Procedure Concerning.

1. In every case of an amendment of a bill, or joint or concurrent resolution, agreed to in one House, dissented from in the other, and not receded from by the one making the amendment, each House shall appoint a committee to confer with a like committee to be appointed by the other; and the committee so appointed shall meet publicly at a convenient hour to be agreed upon by their respective chairmen and announced publicly, and shall confer upon the differences between the two Houses as indicated by the amendments made in one and rejected in the other and report as early as convenient the result of their conference to their respective Houses. The report shall be made available to all members of both Houses. The whole subject matter embraced in the bill or resolution shall be considered by the committee, and it may recommend recession by either House, new amendments, new bills or resolutions, or other changes as it sees fit. New bills or resolutions so reported shall be treated as amendments unless the bills or resolutions are composed entirely of original matter, in which case they shall receive the treatment required in the respective Houses for original bills, or resolutions, as the case may be.

2. The report of a conference committee may be adopted by acclamation, and such action may be considered equivalent to the adoption of amendments embodied therein. The report is not subject to amendment. If either House refuses to adopt the report, or if the first conference committee has so recommended, a second conference committee may be appointed. No member who served on the first committee may be appointed to the second.

3. There shall be but two conference committees on any bill or resolution. A majority of the members of a conference committee from each House must be members who voted for the passage of the bill or resolution.

MESSAGES

Rule No. 3. Procedure Concerning.

1. Proclamations by the Governor convening the Legislature in extra session shall, by direction of the presiding officer of each House, be read immediately after the convening thereof, filed and entered in full in the Journal of proceedings.

2. Whenever a message from the Governor is received, the Sergeant at Arms will announce: "Mr. President, or Mr. Speaker, the Secretary of the Governor is at the bar." The Secretary will, upon being recognized by the presiding officer, announce: "Mr. President, or Mr. Speaker, a message from His Excellency, the Governor of Nevada, to the Honorable, the Senate or Assembly," and hand same to the Sergeant at Arms for delivery to the Secretary of the Senate or Chief Clerk of the Assembly. The presiding officer will direct any message from the Governor to be received, read and entered in full in the Journal of proceedings.

3. Messages from the Senate to the Assembly shall be delivered by the Secretary or Assistant Secretary, and messages from the Assembly to the Senate shall be delivered by the Chief Clerk or Assistant Chief Clerk.

NOTICE OF FINAL ACTION

Rule No. 4. Communications.

Each House shall communicate its final action on any bill or resolution, or matter in which the other may be interested, by written notice. Each such notice sent by the Senate must be signed by the Secretary of the Senate, or a person designated by the Secretary. Each such notice sent by the Assembly must be signed by the Chief Clerk of the Assembly, or a person designated by the Chief Clerk.

BILLS AND JOINT RESOLUTIONS

Rule No. 5. Signature.

Each enrolled bill or joint resolution shall be presented to the presiding officers of both Houses for signature. They shall, after an announcement of their intention to do so is made in open session, sign the bill or joint resolution and their signatures shall be followed by those of the Secretary of the Senate and Chief Clerk of the Assembly.

Rule No. 6. Joint Sponsorship.

1. A bill or resolution introduced by a committee of the Senate or Assembly may, at the direction of the chairman of the committee, set forth the name of a committee of the other House as a joint sponsor, if a majority of all members appointed to the committee of the other House votes in favor of becoming a joint sponsor of the bill or resolution. The name of the committee joint sponsor must be set forth on the face of the bill or resolution immediately below the date on which the bill or resolution is introduced.

2. The Legislative Counsel shall not cause to be printed the name of a committee as a joint sponsor on the face of a bill or resolution unless the chairman of the committee has signed his name next to the name of the committee on the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 4.

3. Upon introduction, any bill or resolution that sets forth the names of primary joint sponsors must be numbered in the same numerical sequence as other bills and resolutions of the same House of origin are numbered.

4. Once a bill or resolution has been introduced, a primary joint sponsor or nonprimary joint sponsor may only be added or removed by amendment of the bill or resolution. An amendment which proposes to add or remove a primary joint sponsor must not be considered by the House of origin of the amendment unless a statement requesting the addition or removal is attached to the copy of the amendment submitted to the front desk of the House of origin of the amendment. If the amendment proposes to add or remove a committee as a primary joint sponsor, the statement must be signed by the chairman of the committee. A copy of the statement must be transmitted to the Legislative Counsel if the amendment is adopted.

5. An amendment that proposes to add or remove a primary joint sponsor may include additional proposals to change the substantive provisions of the bill or resolution or may be limited only to the proposal to add or remove a primary joint sponsor.

PRINTING

Rule No. 7. Ordering and Distribution.

Each House may order the printing of bills introduced, reports of its own committees, and other matter pertaining to that House only; but no other printing may be ordered except by a concurrent resolution passed by both Houses. Each Senator is entitled to the free distribution of four copies of each bill introduced in each House, and each Assemblyman to such a distribution of two copies. Additional copies of such bills may be distributed at a charge to the person to whom they are addressed. The amount charged for distribution of the additional copies must be determined by the Director of the Legislative Counsel Bureau to approximate the cost of handling and postage for the entire session.

RESOLUTIONS

Rule No. 8. Types, Usage and Approval.

- 1. A joint resolution must be used to:*
 - (a) Propose an amendment to the Nevada Constitution.*
 - (b) Ratify a proposed amendment to the United States Constitution.*
 - (c) Address the President of the United States, Congress, either House or any committee or member of Congress, any department or agency of the Federal Government, or any other state of the Union.*
- 2. A concurrent resolution must be used to:*
 - (a) Amend these joint rules.*
 - (b) Request the return from the Governor of an enrolled bill for further consideration.*
 - (c) Resolve that the return of a bill from one House to the other House is necessary and appropriate.*
 - (d) Express facts, principles, opinion and purposes of the Senate and Assembly.*
 - (e) Establish a joint committee of the two Houses.*
 - (f) Direct the Legislative Commission to conduct an interim study.*
- 3. A concurrent resolution or a resolution of one House may be used to:*
 - (a) Memorialize a former member of the Legislature or other notable or distinguished person upon his death.*
 - (b) Congratulate or commend any person or organization for a significant and meritorious accomplishment.*

VETOES

Rule No. 9. Special Order.

Bills which have passed a previous Legislature, and which are transmitted to the Legislature next sitting, accompanied by a message or statement of the Governor's disapproval, or veto of the same, shall become the subject of a special order; and when the special order for their consideration is reached and called, the said message or statement shall be read, together with the bill or bills so disposed or vetoed; and the message and bill shall be read in the Senate by the Secretary of the Senate and in the Assembly by the Chief Clerk of the Assembly, without interruption, consecutively, one following the other, and not upon separate occasions; and no such bill or message shall be referred to any committee, or otherwise acted upon, save as provided by law and custom; that is to say, that immediately following such reading the only question (except as hereinafter stated) which shall be put by the Chair is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such vetoed bill without the same shall have first been read, from the first word of its title to and including the last word of its final Section; and no motion shall be entertained after the Chair has stated the question save a motion for "The previous question," but the merits of the bill itself may be debated.

*ADJOURNMENT**Rule No. 10. Limitations and Calculation of Duration.*

1. *In calculating the permissible duration of an adjournment for 3 days or less, the day of adjournment must not be counted but the day of the next meeting must be counted, and Sunday must not be counted.*

2. *The Legislature may adjourn for more than 3 days by motion based on mutual consent of the houses or by concurrent resolution. One or more such adjournments may be taken to permit a committee or the Legislative Counsel Bureau to prepare the matters respectively entrusted to them for the consideration of the Legislature as a whole.*

*EXPENDITURES FROM THE LEGISLATIVE FUND**Rule No. 11. Manner of authorization.*

Except for routine salary, travel, equipment and operating expenses, no expenditures shall be made from the Legislative Fund without the authority of a concurrent resolution regularly adopted by the Senate and Assembly.

*RECORDS OF COMMITTEE PROCEEDINGS**Rule No. 12. Duties of Secretary of Committees and Director.*

1. *Each committee shall cause a record to be made of the proceedings of its meetings.*

2. *The secretary of a committee shall:*

(a) *Label each record with the date, time and place of the meeting and also indicate on the label the numerical sequence in which the record was made;*

(b) *Keep the records in chronological order; and*

(c) *Deposit the records immediately following the final adjournment of the Special Session of the Legislature with the Director of the Legislative Counsel Bureau.*

3. *The Director of the Legislative Counsel Bureau shall:*

(a) *Index the records;*

(b) *Make the records available for accessing by any person during office hours under such reasonable conditions as he may deem necessary;*

(c) *Maintain a log as a public record containing the date, time, name and address of any person accessing any of the records and identifying the records accessed; and*

(d) *Retain the records for two bienniums and at the end of that period keep some form or copy of the record in any manner he deems reasonable to ensure access to the record in the foreseeable future.*

*LIMITATIONS ON REQUESTS FOR
DRAFTING OF LEGISLATIVE MEASURES**Rule No. 13. Germaneness Required for Amendments.*

1. *The Legislative Counsel shall not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution.*

2. *For the purposes of this Rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general, single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.*

*CONTINUATION OF LEADERSHIP OF THE SENATE
AND ASSEMBLY DURING THE INTERIM
BETWEEN SESSIONS*

Rule No. 14. Tenure and Performance of Statutory Duties.

1. Except as otherwise provided in subSections 2 and 3, the tenure of the President Pro Tem, Majority Leader and Minority Leader of the Senate and the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader of the Assembly extends during the interim between regular sessions of the Legislature.

2. The Senators designated to be the President Pro Tem, Majority Leader and Minority Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session of the Legislature if the Senator formerly holding the respective position is no longer a Legislator.

3. The Assemblymen designated to be the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session.

*POLICY AND PROCEDURES REGARDING
SEXUAL HARASSMENT*

Rule No. 15. Maintenance of Working Environment; Procedure for Filing, Investigating and Taking Remedial Action on Complaints.

1. The Legislature hereby declares its intention to maintain a working environment which is free from sexual harassment. This policy applies to all Legislators and lobbyists. Each member and lobbyist is responsible to conduct himself or herself in a manner which will ensure that others are able to work in such an environment.

2. In accordance with Title VII of the Civil Rights Act, for the purposes of this rule, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment;

(b) Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or

(c) Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

3. Each person subject to these rules must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following noninclusive list provides illustrations of conduct that the Legislature deems to be inappropriate:

(a) Verbal conduct such as epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments;

(b) Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;

(c) Physical conduct such as unwanted touching, blocking normal movement or interfering with the work directed at a person because of his sex;

(d) Threats and demands to submit to sexual requests to keep a person's job or avoid some other loss, and offers of employment benefits in return for sexual favors; and

(e) Retaliation for opposing, reporting or threatening to report sexual harassment, or for participating in an investigation, proceeding or hearing conducted by the Legislature or the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person or such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

4. *A person may have a claim of sexual harassment even if he has not lost a job or some other economic benefit. Conduct that impairs a person's ability to work or his emotional well-being at work constitutes sexual harassment.*

5. *If a Legislator believes he is being sexually harassed on the job, he may file a written complaint with:*

- (a) The Speaker of the Assembly;*
- (b) The Majority Leader of the Senate; or*

(c) The Director of the Legislative Counsel Bureau, if the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate.

The complaint must include the details of the incident or incidents, the names of the persons involved and the names of any witnesses.

6. *Except as otherwise provided in subSection 7, the Speaker of the Assembly or the Majority Leader of the Senate, as appropriate, shall refer a complaint received pursuant to subSection 5 to a committee consisting of Legislators of the same House. A complaint against a lobbyist may be referred to a committee in either House.*

7. *If the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate, the Director of the Legislative Counsel Bureau shall refer the complaint to the Committee on Elections, Procedures and Ethics of the Assembly or the Committee of the Whole of the Senate, as appropriate. If the Speaker of the Assembly or the Majority Leader of the Senate is a member of one of these committees, the Speaker or the Majority Leader, as the case may be, shall not participate in the investigation and resolution of the complaint.*

8. *The committee to which the complaint is referred shall immediately conduct a confidential and discreet investigation of the complaint. As a part of the investigation, the committee shall notify the accused of the allegations. The committee shall facilitate a meeting between the complainant and the accused to allow a discussion of the matter, if both agree. If the parties do not agree to such a meeting, the committee shall request statements regarding the complaint from each of the parties. Either party may request a hearing before the committee. The committee shall make its determination and inform the complainant and the accused of its determination as soon as practicable after it has completed its investigation.*

9. *If the investigation reveals that sexual harassment has occurred, the Legislature will take appropriate disciplinary or remedial action, or both. The committee shall inform the complainant of any action taken. The Legislature will also take any action necessary to deter any future harassment.*

10. *The Legislature will not retaliate against a person who files a complaint and will not knowingly permit any retaliation by the person's supervisors or coworkers.*

11. *The Legislature encourages a person to report any incident of sexual harassment immediately so that the complaint can be quickly and fairly resolved.*

12. *Action taken by a complainant pursuant to this rule does not prohibit the complainant from also filing a complaint of sexual harassment with the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission.*

13. *All Legislators and lobbyists are responsible for adhering to the provisions of this policy. The prohibitions against engaging in sexual harassment and the protections against becoming a victim of sexual harassment set forth in this policy apply to employees, Legislators, lobbyists, vendors, contractors, customers and visitors to the Legislature.*

14. *This policy does not create any enforceable legal rights in any person.*

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblywoman Buckley.

Resolution adopted.

Assemblywoman Buckley moved that all rules be suspended and that Assembly Concurrent Resolution No. 1 be immediately transmitted to the Senate.

Motion carried unanimously.

By Assemblymen Perkins, Buckley, and Hettrick:

Assembly Resolution No. 1—Providing for the appointment of attachés.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the following persons are elected as attaches of the Assembly for the 20th Special Session of the Nevada Legislature: Diane Keetch, Lucinda Benjamin, Matthew Baker, Kathryn Fosnaugh, Harle Glover, Jason Hataway, Terry Sullivan, Robin Bates, Heidi Hansen, Beverly Mobley, Kyle T. Wentz, Lona Domenici, Julie Whitacre, Barbara Houger, Mary Garcia, Eddie Cordisco, Jr., and Mary Carel.

Assemblywoman Buckley moved the adoption of the resolution.

Resolution adopted.

By Assemblymen Perkins, Buckley, and Hettrick:

Assembly Resolution No. 2—Providing that no allowances will be paid for the 20th Special Session of the Nevada Legislature for periodicals, stamps, stationery or communications.

Assemblywoman Buckley moved the adoption of the resolution.

Resolution adopted.

By Assemblymen Perkins, Buckley, and Hettrick:

Assembly Resolution No. 3—Adopting the Rules of the Assembly for the 20th Special Session of the Nevada Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the following Rules of the Assembly for the 20th Special Session of the Legislature are hereby adopted:

I. APPLICABILITY

Rule No. 1. Generally.

The Rules of the Assembly for the 20th Special Session of the Legislature are applicable only during the 20th Special Session of the Legislature.

II. OFFICERS AND EMPLOYEES

Rule No. 2. Speaker of the Assembly.

1. All officers of the Assembly are subordinate to the Speaker in all that relates to the prompt, efficient and correct discharge of their official duties under the Speaker's supervision.

2. Possessing the powers and performing the duties described in this rule, the Speaker shall:

(a) Take the chair at the hour to which the Assembly will be meeting, call the members to order and, upon the appearance of a quorum, proceed to business.

(b) Preserve order and decorum and have general direction of the Chamber of the Assembly and the approaches thereto. In the event of any disturbance or disorderly conduct therein, order the same to be cleared.

(c) Decide all questions of order, subject to a member's right to appeal to the Assembly. On appeal from such decisions, the Speaker has the right, in the Speaker's place, to assign the reason for the decision.

(d) Have the right to name any member to perform the duties of the chair, but such substitution must not extend beyond one legislative day.

(e) If the Assembly resolves itself into a Committee of the Whole, preside as Chairman of the Committee or name a Chairman to preside thereover and call him to the chair.

(f) Have the power to accredit the persons who act as representatives of the news media and assign them seats.

(g) Sign all bills and resolutions passed by the Legislature as provided by law.

(h) Sign all subpoenas issued by the Assembly.

(i) Receive all messages and communications from other departments of the government and announce them to the Assembly.

(j) Represent the Assembly, declare its will and in all things obey its commands.

(k) Vote on final passage of a bill or resolution, but the Speaker shall not be required to vote in ordinary legislative proceedings except where the Speaker's vote would be decisive. In all yeas and nays votes, the Speaker's name must be called last.

3. If a vacancy occurs in the office of Speaker, through death, resignation or disability of the Speaker, the Speaker Pro Tempore shall temporarily and for the period of vacancy or disability conduct the necessary business of the Assembly.

4. If a permanent vacancy occurs in the office of Speaker, the Assembly shall select a new Speaker.

Rule No. 3. Reserved.

Rule No. 4. Reserved.

Rule No. 5. Reserved.

Rule No. 6. Reserved.

The next rule is 10.

III. MEETINGS

Rule No. 10. Reserved.

Rule No. 11. Open Meetings.

All meetings of the Assembly and its committees must be open to the public.

Rule No. 12. Motion to Rise Committee of the Whole.

A motion that the Committee of the Whole rise is always in order, and must be decided without debate.

The next rule is 20.

IV. DECORUM AND DEBATE

Rule No. 20. Points of Order.

If any member, in speaking or otherwise, transgresses the rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if called to order by a member, such member shall immediately state the point of order. If the point of order be sustained by the presiding officer, the member shall not be allowed to proceed; but if it be not sustained, then he shall be permitted to go on. Every such decision from the presiding officer shall be subject to an appeal to the House; but no discussion of the question of order shall be allowed unless an appeal be taken from the decision of the presiding officer.

Rule No. 21. Portable electronic communication devices.

1. *A person who is within the Assembly Chambers shall not engage in a telephone conversation via the use of a portable telephone.*

2. *Before entering the Assembly Chambers, any person who possesses a portable electronic communication device, such as a pager or telephone, that emits an audible alert, such as a ringing or beeping sound, to signal an incoming message or call shall turn the audible alert off. A device that contains a nonaudible alert, such as a silent vibration, may be operated in a nonaudible manner within the Assembly Chambers.*

Rule No. 22. Reserved.

Rule No. 23. Reserved.

The next rule is 30.

V. QUORUM, VOTING, ELECTIONS

Rule No. 30. Manner of Voting.

1. *The presiding officer shall declare all votes, but the yeas and nays must be taken when called for by three members present, and the names of those calling for the yeas and nays must be entered in the Journal by the Chief Clerk.*

2. *The presiding officer shall call for yeas and nays by a division or by a roll call, either electronic or oral.*

3. *When taking the yeas and nays on any question, the electronic roll call system may be used, and when so used shall have the force and effect of any roll call under these rules.*

4. *When taking the yeas and nays by oral roll call, the Chief Clerk shall take the names of members alphabetically, except that the Speaker's name must be called last.*

5. *The electronic roll call system may be used to determine the presence of a quorum.*

6. *The yeas and nays must not be taken with the electronic roll call system until all members present are at their desks. The presiding officer may vote at the rostrum.*

7. *Only a member who is physically present within the Assembly Chambers may cast a vote in the Assembly.*

8. *A member shall not vote for another member on any roll call, either electronic or oral. Any member who votes for another member may be punished in any manner deemed appropriate by the Assembly.*

Rule No. 31. Reserved.

Rule No. 32. Announcement of the Vote.

1. *A member may change his vote at any time before the announcement of the vote if the voting is by voice, or at any time before the votes are electronically recorded if the voting is conducted electronically.*

2. *The announcement of the result of any vote shall not be postponed.*

Rule No. 33. Voting by Division.

Upon a division and count of the Assembly on any question, no person without the bar shall be counted.

The next rule is 39.

VI. LEGISLATIVE BODIES

Rule No. 39. Committee of the Whole.

1. *All bills and resolutions may be referred to the Committee of the Whole.*

2. *All amendments proposed by the Committee:*

(a) *Must first be approved by the Committee.*

(b) *Must be reported by the Chairman to the Assembly.*

3. *The minutes of the Committee's meeting must be entered in the final Journal.*

Rule No. 40. Standing Committee.

The standing committee of the Assembly is the Select Committee on State Revenue and Education Funding.

Rule No. 41. Appointment of Committees.

All committees must be appointed by the Speaker, unless otherwise directed by the Assembly. The Speaker shall determine the appropriate number of members for each committee and shall designate the chairman and vice chairman of each committee.

Rule No. 42. Committee Action.

1. The committee shall have meetings in accordance with the direction of the Assembly leadership. A quorum of the committee is a majority of its appointed members and may transact business except as limited by this rule.

2. Except as limited by this rule, a simple majority of those present may move, second and pass a motion by voice vote.

3. Definite action on a bill or resolution will require a majority of the entire committee.

4. A two-thirds majority of the entire committee is required to reconsider action on a bill or resolution.

5. The chairman shall vote on all final action regarding bills or resolutions.

6. No member of the committee may vote by proxy under any circumstances.

7. A committee shall not take a vote on the question of whether to exercise its statutory authority to issue a legislative subpoena unless the chairman has informed the Speaker of the intention of the committee to consider such a question.

Rule No. 43. Subcommittees.

Subcommittees made up of committee members may be appointed by the chairman to consider and report back on specific subjects or bills.

Rule No. 44. Reserved.

Rule No. 45. Request for Drafting of Bill, Resolution or Amendment.

Except as otherwise provided in this rule, the Legislative Counsel shall not honor a request for the drafting of a bill, resolution or amendment to be introduced in the Assembly, unless it is submitted by the Select Committee on State Revenue and Education Funding, the Committee of the Whole, a conference committee or the Governor. The Speaker may request the drafting of one bill for the 20th Special Session of the Legislature without seeking additional approval.

Rule No. 46. Committee Action on Reports.

Committee reports must be adopted at a committee session actually assembled and meeting as a committee with a quorum present. Every committee vote on a matter pertaining to a bill or resolution must be recorded. The vote may be taken by roll call at the discretion of the chairman.

Rule No. 47. Committee Records.

The chairman of each committee shall keep, or cause to be kept, a complete record of the committee proceedings in which there must be entered:

1. The time and place of each meeting;

2. The attendance and absence of members;

3. The names of all persons appearing before the committee, with the names of persons, firms, corporations or associations in whose behalf such appearance is made; and

4. The subjects or measures considered and action taken.

Rule No. 48. Disposition of Committee Records.

All minutes, records and documents in the possession of committees and their chairmen must be filed in the offices of the Legislative Counsel Bureau upon adjournment sine die.

Rule No. 49. Committee Hearings.

1. *The presence of a quorum of the committee is desirable but not required to conduct a public hearing. At the discretion of the chairman, members of the committee may attend, participate in and, if applicable, vote during the hearing via simultaneous telephone or video conference.*

2. *Public hearings are opened by the chairman, who announces the subject under consideration and provides for those wishing to address the committee to be heard. These persons shall rise in an order determined by the chairman, address the chair and furnish their names, addresses and firms or other organizations represented. Committee members may address the chairman for permission to question the witness.*

Rule No. 50. Reserved.

Rule No. 51. Reserved.

Rule No. 52. Reserved.

The next rule is 60.

VII. RULES GOVERNING MOTIONS

A. PROCEDURE

Rule No. 60. Entertaining.

No motion may be debated until it is distinctly announced by the presiding officer. If desired by the presiding officer or any member, the motion must be reduced to writing and be read by the Chief Clerk before the motion is debated. A motion may be withdrawn by the maker at any time before amendment or before the motion is put to vote.

Rule No. 61. Reserved.

Rule No. 62. Reserved.

B. PARTICULAR MOTIONS

Rule No. 63. Reserved.

Rule No. 64. Reserved.

Rule No. 65. Indefinite Postponement.

When a question is postponed indefinitely, the same question must not be considered again during the 20th Special Session of the Legislature and the question is not subject to a motion for reconsideration.

Rule No. 66. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution does not take precedence over any other subsidiary motion. If the motion is carried, it shall be considered equivalent to the rejection of such bill or resolution.

Rule No. 67. Division of Question.

Any member may call for a division of the question, which shall be divided, if it comprehends propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the Assembly. A motion to strike out being lost shall preclude neither amendment nor a motion to strike out and insert. A motion to strike out and insert shall be deemed indivisible.

Rule No. 68. To Reconsider.

No motion to reconsider a vote is in order.

The next rule is 80.

VIII. DEBATE

Rule No. 80. Speaking on Question.

No member shall speak more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

Rule No. 81. Previous Question.

The previous question shall be put only when demanded by three members. The previous question shall not be moved by the member last speaking on the question.

Rule No. 82. Privilege of Closing Debate.

The author of a bill, a resolution or a main question shall have the privilege of closing the debate, unless the previous question has been sustained.

The next rule is 90.

IX. CONDUCT OF BUSINESS

A. RULES AND PROCEDURE

Rule No. 90. Mason's Manual.

The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern the Assembly and its committees in all cases in which they are applicable and in which they are not inconsistent with the Rules and orders of the Assembly for the 20th Special Session of the Legislature, and the Joint Rules of the Senate and Assembly for the 20th Special Session of the Legislature.

Rule No. 91. Rescission, Change or Suspension of Rule.

No rule or order of the Assembly for the 20th Special Session of the Legislature may be rescinded or changed without a vote of two-thirds of the members elected, and one day's notice being given of the motion therefor; but a rule or order may be suspended temporarily by a vote of two-thirds of the members present.

Rule No. 92. Notices of Bills, Topics and Public Hearings.

1. Except as otherwise provided in subsection 3, all committees shall provide adequate notice of public hearings on bills, resolutions or other topics which are to come before the committees. The notice must include the date, time, place and agenda to be covered. To the extent practicable, the notice must be posted conspicuously in the legislative building, appear in the daily history and be made available to the news media. The daily history must include the most current version of the notice that is available at the time the daily history is created and an informational statement informing the public where more current information, if any, regarding such notices may be found.

2. The noticing requirements of this rule may be suspended for emergency situations but only after approval by a two-thirds vote of a committee.

3. Subsection 1 does not apply to:

- (a) Committee meetings held on the floor of the Assembly during a recess; or*
- (b) Conference committee meetings.*

Rule No. 93. Reserved.

Rule No. 94. Privilege of the Floor and Lobbying.

No person, except Senators, former Assemblymen and state officers, may be admitted at the bar of the Assembly, except by special invitation on the part of some member; but a majority may authorize the Speaker to have the Assembly cleared of all such persons. No person may do any lobbying upon the floor of the Assembly at any time, and it is the duty of the Sergeant at Arms to remove any person violating any of the provisions of this rule.

Rule No. 95. Material Placed on Legislators' Desks.

All papers, letters, notes, pamphlets and other written material placed upon an Assemblyman's desk shall contain the signature of the Legislator requesting the placement of such material on the desk or shall contain a designation of the origin of such material. This rule does not apply to books containing the legislative bills and resolutions, the legislative daily histories, the legislative daily journals or Legislative Counsel Bureau material.

Rule No. 96. Peddling, Begging and Soliciting.

1. Peddling, begging and soliciting are strictly forbidden in the Assembly Chamber, and in the lobby, gallery and halls adjacent thereto.

2. No part of the Assembly Chamber may be used for, or occupied by signs or other devices for any kind of advertising.

3. No part of the hallways adjacent to the Assembly Chambers may be used for or occupied by signs or other devices for any kind of advertising for commercial or personal gain. Notices for nonprofit, nonpartisan, civic or special legislative events may be posted in a designated area of the hallways adjacent to the Assembly Chambers with the approval of the Chief Clerk.

Rule No. 97. Petitions and Memorials.

Petitions, memorials and other papers addressed to the Assembly shall be presented by the Speaker, or by a member in the Speaker's place. A brief statement of the contents thereof shall be made by the introducer. They shall not be debated on the day of their being presented, but shall be on the table, or be referred, as the Assembly shall determine.

Rule No. 98. Request of Purpose.

A member may request the purpose of a bill or joint resolution upon its introduction.

Rule No. 99. Remarks.

It shall be in order for members to make remarks and to have such remarks entered in the Journal.

Rule No. 100. Precedence of Parliamentary Authority.

The precedence of parliamentary authority in the Assembly is:

1. The Constitution of the State of Nevada.
2. The Statutes of the State of Nevada.
3. The Rules of the Assembly for the 20th Special Session of the Legislature and the Joint Rules of the Senate and Assembly for the 20th Special Session of the Legislature.
4. Mason's Manual of Legislative Procedure.

*Rule No. 101. Reserved.**Rule No. 102. Privileged Questions.*

Privileged questions have precedence of all others in the following order:

1. Motions to fix the time to which the Assembly shall adjourn.
2. Motions to adjourn.
3. Questions relating to the rights and privileges of the Assembly or any of its members.
4. A call of the House.
5. Motions for special orders.

Rule No. 103. Reserved.

B. BILLS

Rule No. 104. Reserved.

Rule No. 105. Substitute Bills.

A substitute bill shall be deemed and held to be an amendment, and treated in all respects as such. However, a substitute bill may be amended after its adoption, in the same manner as if it were an original bill.

Rule No. 106. Skeleton Bills.

The introduction of skeleton bills is not authorized.

Rule No. 107. Reserved.

Rule No. 108. Reserved.

Rule No. 109. Reading of Bills.

The presiding officer shall announce at each reading of a bill whether it be the first, second or third reading. The first reading of a bill shall be for information. If there is objection, the question shall be, "Shall the bill be rejected?" If the question to reject fails to receive a majority vote by the members present, or if there is no objection, the bill shall take the proper course. No bill shall be referred to a committee until after the first reading, nor amended until after the second reading.

Rule No. 110. Second Reading and Amendment of Bills.

1. All bills must be read the second time after which they are reported by committee. Upon second reading, Assembly bills reported without amendments shall be placed on the General File and Senate bills reported without amendments shall be placed on the General File. Committee amendments reported with bills shall be considered upon their second reading, and such amendments may be adopted by a majority vote of the members present. Any amendment which is numbered, copied and made available to all members must be moved and voted upon by number unless any member moves that it be read in full. Assembly bills so amended must be reprinted, engrossed and placed on the General File. Senate bills so amended must be reprinted, then engrossed or reengrossed, as applicable, and placed on the General File.

2. Only amendments proposed by the Select Committee, the Committee of the Whole or a conference committee may be considered on the floor of the Assembly. Such a motion to amend may be adopted on the floor of the Assembly by a majority vote of the members present. Bills so amended on second reading must be treated the same as bills with amendments proposed by a committee. Any bill so amended upon the General File must be reprinted and then engrossed or reengrossed, as applicable.

3. The reprinting of amended bills may be dispensed with only in accordance with the provisions of law.

Rule No. 111. Consent Calendar.

1. A committee may by unanimous vote of the members present report a bill with the recommendation that it be placed on the consent calendar. The question of recommending a bill for the consent calendar may be voted upon in committee only after the bill has been recommended for passage and only if no amendment is recommended.

2. The Chief Clerk shall maintain a list of bills recommended for the consent calendar. The list must be printed in the daily history and must include the summary of each bill and the date the bill is scheduled for consideration on final passage.

3. At any time before the presiding officer calls for a vote on the passage of the consent calendar, a member may give written notice to the Chief Clerk or state orally from the floor of the Assembly in session that he requests the removal of a particular bill from the consent

calendar. If a member so requests, the Chief Clerk shall remove the bill from the consent calendar and transfer it to the second reading file. A bill removed from the consent calendar may not be restored to that calendar.

4. During floor consideration of the consent calendar, members may ask questions and offer explanations relating to the respective bills.

5. When the consent calendar is brought to a vote, the bills remaining on the consent calendar must be read by number and summary and the vote must be taken on their final passage as a group.

Rule No. 112. Reserved.

Rule No. 113. General File.

All bills reported to the Assembly, after receiving their second readings must be placed upon a General File, to be kept by the Chief Clerk. Bills must be taken from the General File and acted upon in the order in which they were reported, unless otherwise specially ordered by the Assembly. But engrossed bills shall be placed at the head of the file, in the order in which they are received. The Chief Clerk shall post a daily statement of the bills on the General File, setting forth the order in which they are filed and specifying the alterations arising from the disposal of business each day. The Chief Clerk shall likewise post notices of special orders as made.

Rule No. 114. Reserved.

Rule No. 115. Reserved.

Rule No. 116. Reserved.

Rule No. 117. Reserved.

C. RESOLUTIONS

Rule No. 118. Treated as Bills—Joint Resolutions.

The procedure of enacting joint resolutions must be identical to that of enacting bills. However, joint resolutions proposing amendments to the Constitution must be entered in the Journal in their entirety.

Rule No. 119. Reserved.

D. ORDER OF BUSINESS

Rule No. 120. Order of Business.

The Order of Business must be as follows:

- 1. Call to Order.*
- 2. Reading and Approval of Journal.*
- 3. Presentation of Petitions.*
- 4. Reports of the Standing Committees.*
- 5. Reports of the Committee of the Whole.*
- 6. Communications.*
- 7. Messages from the Senate.*
- 8. Motions, Resolutions and Notices.*
- 9. Introduction, First Reading and Reference.*
- 10. Consent Calendar.*
- 11. Second Reading and Amendment.*
- 12. General File and Third Reading.*
- 13. Unfinished Business of Preceding Day.*
- 14. Special Orders of the Day.*
- 15. Remarks from the Floor, limited to 10 minutes.*

Rule No. 121. Reserved.

Rule No. 122. Reserved.

Rule No. 123. Reserved.

Rule No. 124. Reserved.

Rule No. 125. Reserved.

Rule No. 126. Reserved.

Rule No. 127. Reserved.

Rule No. 128. Reserved.

The next rule is 140.

X. MISCELLANEOUS

Rule No. 140. Reserved.

Rule No. 141. Use of the Assembly Chamber.

The Assembly Chamber shall not be used for any public or private business other than legislative, except by permission of the Assembly.

Assemblywoman Buckley moved the adoption of the resolution.

Mr. Speaker requested the privilege of the Chair for the purpose of making remarks.

Resolution adopted.

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

Assembly in recess at 10:22 a.m.

ASSEMBLY IN SESSION

At 10:32 a.m.

Mr. Speaker presiding.

Quorum present.

Assemblywoman Buckley moved that the Assembly recess until 1:00 p.m.

Motion carried.

Assembly in recess at 10:35 a.m.

ASSEMBLY IN SESSION

At 1:22 p.m.

Mr. Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 25, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 1.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 1.

MARY JO MONGELLI

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By the Select Committee on State Revenue and Education Funding:

Assembly Bill No. 1—AN ACT relating to state financial administration; providing for the imposition and administration of an excise tax on employers based on wages paid to their employees; imposing a franchise fee on business entities for the privilege of doing business in this state; providing for the imposition and administration of a tax on financial institutions for the privilege of doing business in this state; replacing the casino entertainment tax with a tax on all live entertainment; eliminating the business activity tax; revising the provisions governing the taxes on liquor and cigarettes; imposing a state tax on the transfer of real property and revising the provisions governing the existing tax; revising the fees charged for certain gaming licenses; establishing the Legislative Committee on Taxation, Public Revenue and Tax Policy; requiring the Department of Education to prescribe a minimum amount of money that each school district must expend each year for textbooks, instructional supplies and instructional hardware; revising provisions governing the purchase of retirement credit for certain educational personnel; apportioning the State Distributive School Account in the State General Fund for the 2003-2005 biennium; making appropriations to the State Distributive School Account for purposes relating to class-size reduction; making various other changes relating to state financial administration; authorizing certain expenditures; making an additional appropriation; providing penalties; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that the bill be referred to the Committee of the Whole.

Motion carried.

Senate Bill No. 1.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 1 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Remarks by Assemblywoman Buckley.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 1.

Bill read third time.

Remarks by Assemblywoman Buckley.

Roll call on Senate Bill No. 1:

YEAS—41.

NAYS—None.

EXCUSED—Geddes.

Senate Bill No. 1 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 1:29 p.m.

ASSEMBLY IN SESSION

At 1:44 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 1, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Assembly Bill No. 1 considered.

BRENDA ERDOES, LEGISLATIVE COUNSEL:

Sections 1 to 24, inclusive, provide for the imposition and administration of a tax on employers based upon wages paid to employees. Note that this tax would replace the business tax set forth in chapter 364A of Nevada Revised Statutes (NRS) which is repealed by Section 232, and that pursuant to Section 241, this tax and the complete repeal of chapter 364A of NRS become effective on January 1, 2004. For the purposes of this tax, Section 4 defines an “employer” as one who is required to make contributions for the purposes of unemployment compensation, and excludes Indian tribes, nonprofit organizations, and political subdivisions. Section 11 requires payment of the tax each calendar quarter at the rate of 0.6 percent of the wages paid, as determined pursuant to NRS 612.545, which excludes the amount of any wages in excess of 66.66 percent of the average annual wage.

MARK STEVENS, ASSEMBLY FISCAL ANALYST:

The revenue projection that has been developed by the Fiscal Analysis Division for this particular tax is \$76.8 million in revenue in the first year of the biennium and \$119,760,000 in the second year of the biennium.

CHAIRMAN PERKINS:

It would be of value for the members who did not sit on the committee for the last Special Session to know that Assembly Bill 1 is, in essence, the compromise plan we had discussed with some Senators before we left. There are very few minor changes in here, some of which you will recognize. Please feel free to ask any questions. It is my belief that this is a starting point. If there are suggestions or objections as we move through this, please don't hesitate to bring them to the Body and they will be considered at that point.

BRENDA ERDOES:

Sections 25 to 58, inclusive, provide for the imposition and administration of a tax on the amounts paid for live entertainment. Note that this tax would replace the casino entertainment tax set forth in NRS 463.4001 to 463.406, inclusive, which is repealed by Section 232, and that pursuant to Section 241, this tax and the complete repeal of the casino entertainment tax are made to become effective on January 1, 2004. For the purposes of this tax, Section 27 provides for the definition of the term "amount paid for live entertainment," which depends upon where the entertainment is provided.

Sections 32 and 35 provide for the definition of the term "live entertainment," requiring the physical presence of both the entertainer and the audience, and the adoption of regulations by the Department of Taxation. Section 36 provides for the imposition of the tax at the rate of 10 percent of the amount paid for live entertainment, and sets forth a variety of exemptions from the tax. Section 38 requires the administration of the tax imposed on: (1) Licensed gaming establishments by the State Gaming Control Board; and (2) Other taxpayers by the Department of Taxation. Section 39 requires the reporting and payment of the tax on a monthly basis.

MARK STEVENS:

The revenue projection that has been developed by the Fiscal Analysis Division for the live entertainment tax is \$46.5 million in the first year of the biennium and \$78.7 million in the second year of the biennium. That would be implemented in January of 2004, based on the revenue sheets that have been provided to the members of the Assembly.

BRENDA ERDOES:

Sections 59 to 93, inclusive, provide for the imposition and administration of a franchise fee on the total revenue of business entities in this state. Note that pursuant to Section 241, this fee is made to become effective on October 1, 2003. For the purposes of this fee, Section 68 defines "total revenue" as the gross revenue of a business entity minus the amounts specifically excluded by that section, such as: (1) Any revenue received by a natural person from the rental of not more than four residential units. (2) Any revenue from the sale of agricultural products at wholesale. (3) The gross revenue of an insurer from direct premiums written. (4) The gross revenue of a nonrestricted gaming licensee from which its licensing fee is calculated. (5) The gross yield of a mine from which the tax on the net proceeds of minerals is calculated. (6) The operating revenue of certain public utilities. (7) Any revenue of a nonprofit organization, which is exempt from federal income taxation.

Section 75 requires payment of the fee each calendar quarter based upon the estimated amount of the annual total revenue of the business entity, and requires reconciliation of the amount due upon the determination of the actual annual total revenue of the business entity for each fiscal year. Section 77 sets forth the amounts which may be deducted by a business entity from its total revenue in calculating the fee it is required to pay. Section 78 provides for the adoption of regulations by the Department of Taxation for the allocation or apportionment of the liability for the fee of a business entity that conducts business both within and outside of this state.

MARK STEVENS:

The franchise fee would be implemented in October of 2003 based on Assembly Bill 1 and the revenue projection by the Fiscal Analysis Division is approximately \$88.5 million in fiscal year 2004 and approximately \$118 million in fiscal year 2005.

BRENDA ERDOES:

Sections 93.10 to 93.72, inclusive, provide for the imposition and administration of a franchise tax on the net income of financial institutions in this state. Note that pursuant to Section 241, this tax is made to become effective on January 1, 2004. For the purposes of this tax, Section 93.18 defines the term “financial institution.” Section 93.36 imposes the tax at the rate of 3 percent of the Nevada taxable income of the financial institution as calculated pursuant to Section 93.42 each taxable year which is the same taxable year as that used for federal income tax purposes, and requires the filing of a tax return and payment of the tax when the federal income tax return is due. Section 93.42 provides for the calculation of the Nevada taxable income of a financial institution through the adjustment of the amount of taxable income reported by the financial institution for federal income tax purposes. Section 93.44 provides for the adoption of regulations by the Department of Taxation for the allocation or apportionment to this state of the tax liability of a financial institution.

MARK STEVENS:

The bank franchise fee would be implemented in January 2004; however, taxes would not be due until January of 2005 and revenue would only be received in the second fiscal year of the biennium. The Fiscal Analysis Division’s revenue projection is \$13.2 million in fiscal year 2005.

BRENDA ERDOES:

Section 94 provides for the addition of Sections 95 to 101, inclusive, to chapter 360 of NRS “General Provisions” relating to revenue and taxation. Section 95 requires the Nevada Tax Commission to adopt regulations for the electronic submission of tax returns and the payment of taxes by credit card, debit card, and electronic transfers of money. Sections 96 to 101, inclusive, provide for the replacement of certain provisions of chapter 364A of NRS, regarding the requirements for a state business license, upon the repeal of that chapter by Section 232 on January 1, 2004. Section 102 amends NRS 360.095 to require the Department of Taxation to consider a weighting of indicators of noncompliance in determining which taxpayers to audit. Pursuant to Section 241, this section becomes effective on July 1, 2003. Section 103 amends NRS 360.225 to account for the repeal of chapter 364A of NRS by Section 232.

Sections 104 to 109, inclusive, amend NRS 360.2935, 360.300, 360.417, 360.419, 360.510, and 360.750 to provide for the administration of Sections 2 to 24, inclusive, employer tax, 60 to 93, inclusive business franchise fee, and 93.12 to 93.72, inclusive, financial institution franchise tax as soon as those sections begin to become effective, and to account for the repeal of chapter 364A of NRS by Section 232 on January 1, 2004. Section 110 amends NRS 360A.020 to require the Department of Motor Vehicles to adopt regulations for the electronic submission of tax returns and the payment of certain taxes by credit card, debit card, and electronic transfers of money. Sections 111, 112, and 113, respectively, amend NRS 364A.020, 364A.120, and 364A.130 to revise the entities to which chapter 364A of NRS apply, to increase the state business license fee to \$75, and to require the submission of that fee on an annual basis. Pursuant to Section 241, these provisions become effective on July 1, 2003. What happens is that these Sections in 364A are amended as of July 1, 2003, and then are repealed as of January 1, 2004, at which time the other provisions take effect and the \$75 fee continues after that.

MARK STEVENS:

The revenue projection for the business license fee of \$75, which would be implemented in July of 2003, is \$17.6 million in fiscal year 2004 and approximately \$18.4 million in fiscal year 2005.

BRENDA ERDOES:

Sections 114, 115, and 116, respectively, amend NRS 369.174, 369.330, and 369.370 to increase the state liquor tax by approximately 75 percent and to reduce the collection allowance for that tax from 3 percent to 0.5 percent. Pursuant to Section 241, these provisions become effective on July 1, 2003.

MARK STEVENS:

The 75 percent increase in liquor taxes is estimated to generate approximately \$15.2 million in fiscal year 2004 and approximately \$15.5 million in fiscal year 2005. Reducing the liquor allowance to 0.5 percent would also generate approximately \$800,000 each year of the biennium.

BRENDA ERDOES:

Sections 117 to 120.5, inclusive, amend NRS 370.165, 370.220, 370.260, and 370.350 to increase the state cigarette tax by 45 cents on July 1, 2003, and by an additional 10 cents on July 1, 2004, and to reduce the collection allowance for that tax from 3 percent to 0.5 percent on July 1, 2003.

MARK STEVENS:

Increasing the cigarette tax by 45 cents, effective July 1, 2003, is estimated to generate approximately \$67 million in fiscal year 2004; and the additional 10-cent increase in July of 2004 is estimated to generate about \$5.1 million in fiscal year 2005. In addition, reducing the cigarette stamp fee to 0.5 percent would generate between \$3 million and \$3.1 million in each year of the biennium.

BRENDA ERDOES:

Sections 121 and 122, respectively, amend NRS 370.450 and 370.490 to reduce the collection allowance for the state tax on other tobacco products from 2 percent to 0.5 percent. Pursuant to Section 241, these provisions become effective on July 1, 2003. Sections 123 and 124, respectively, amend NRS 372.130 and 372.140 to increase from \$1 to \$5 the fees for the issuance of a seller's permit for the administration of the sales and use tax and for the renewal or issuance of such a permit, which has been previously suspended or revoked. Pursuant to Section 241, these provisions become effective on July 1, 2003.

Sections 125 and 126 amend NRS 372.220 to provide for the registration of certain businesses with the Department of Taxation for purposes of the sales and use tax when the business obtains a state business license. Note that pursuant to Section 241, Section 125 becomes effective on July 1, 2003, and that Section 126, which becomes effective on January 1, 2004, accounts for the replacement of certain repealed provisions of chapter 364A of NRS by Sections 96 to 101, inclusive. Section 127 amends NRS 372.370 to reduce the collection allowance for the sales and use tax from 1.25 percent to 0.5 percent. Pursuant to Section 241, this section becomes effective on July 1, 2003.

MARK STEVENS:

Section 127, in combination with Section 130, the local school support tax, will generate an estimated \$11.4 million in the first year of the biennium and \$12.1 million in the second biennium. I have the information that breaks that out between the 2 percent sales tax and the Local School Support Tax (LSST). If anyone is interested, I can get that information out of my file for you.

BRENDA ERDOES:

Sections 128 and 129, respectively, amend NRS 374.135 and 374.145 to increase from \$1 to \$5 the fees for the issuance of a seller's permit for the administration of the local school support tax and for the renewal or issuance of such a permit, which has been previously suspended or revoked. Pursuant to Section 241, these provisions become effective on July 1, 2003. Section 130 amends NRS 374.375 to reduce the collection allowance for the local school support tax from 1.25 percent to 0.5 percent. Pursuant to Section 241, this section becomes effective on July 1, 2003. Section 131 provides for the addition of Sections 132 and 133 to chapter 375 of NRS "Tax on Transfers of Real Property." Section 132 provides for the imposition of a state tax on transfers of real property at the rate of \$1.30 on each \$500 of value of the property transferred, and specifies a collection allowance of 0.2 percent for the county recorders required to collect the tax. Pursuant to Section 241, this tax becomes effective on July 1, 2004.

MARK STEVENS:

This revenue source, which would become effective July 1, 2004, is estimated to generate \$57 million in the fiscal year 2005.

BRENDA ERDOES:

Section 133 requires the Department of Taxation to coordinate the collection and administration of the tax imposed by Section 132, and to provide related assistance to the county recorders of certain rural counties upon request. Sections 134 to 154, inclusive, amend NRS 375.018, 375.030, 375.070, 375.090, 375.120, 375.130, 375.160, 375.170, 375.250, 375.270, 375.290, 375.300, 375.330, 376A.040, 376A.050, and 376A.070 to account for the tax imposed by Section 132 and the repeal of NRS 375.025 and 375.075 regarding the imposition and disposition in certain counties of an optional tax on the transfer of real property by Section 232. Additionally, Section 139 revises the provisions governing the exemptions from the taxes on transfers of real property. Pursuant to Section 241, the provisions relating to the repeal of NRS 375.025 and 375.075 become effective on July 1, 2003, and the remainder of these provisions become effective on July 1, 2004, except that the second parallel amendments of NRS 376A.040, 376A.050, and 376A.070 become effective when those second parallel sections of NRS become effective on October 1, 2029.

Sections 155 to 161, inclusive, amend NRS 78.150, 80.110, 86.263, 87.510, 88.395, 88A.600, and 89.250 to account for the replacement of certain repealed provisions of chapter 364A of NRS by Sections 96 to 101, inclusive. Section 162 provides for the addition of Sections 163 to 168, inclusive, to chapter 218 of NRS "State Legislature." Sections 163 to 168, inclusive, provide for the establishment, membership, administration, powers, and duties of a Legislative Committee on Taxation, Public Revenue and Tax Policy. Pursuant to Section 241, these provisions become effective on July 1, 2003, and expire by limitation on June 30, 2005. Section 169 amends NRS 218.53883 to require the Legislative Committee for Local Government Taxes and Finance to review exemptions from certain state and local taxes to ascertain whether any of those exemptions are obsolete and should be repealed. Pursuant to Section 241, these provisions become effective on July 1, 2003. Section 170 amends NRS 233B.039 in conformity with the provisions of Section 38, which requires the State Gaming Control Board to adopt certain regulations for the administration of the proposed tax on live entertainment. Sections 171 and 172, respectively, amend NRS 244.335 and 268.095 to account for the replacement of certain repealed provisions of chapter 364A of NRS by Sections 96 to 101, inclusive. Section 173 adds a new section to chapter 338 of NRS "Public Works Projects," which requires a public body to include in its public works contracts a clause requiring contractors, and others involved in such a project, to comply with all applicable state and local laws, including those requiring licenses and the payment of sales and use taxes. Note that pursuant to Section 241, these provisions become effective on July 1, 2003, but that pursuant to Section 238, do not apply to any contracts made before that date.

Section 174 adds a new section to chapter 353 of NRS "State Financial Administration" to define a term used in Sections 178 to 188, inclusive.

Section 175 amends NRS 353.1465 to require the Department of Administration to adopt regulations for the submission of payments to state agencies by credit card, debit card, and electronic transfers of money. Section 176 amends NRS 353.210 to require a state agency to submit annually to the Chief of the Budget Division of the Department of Administration certain information regarding positions within the agency that have been vacant for 12 or more months. Pursuant to Section 241, this section becomes effective on July 1, 2003.

MARK STEVENS:

Section 177 has been deleted. Sections 178 to 189, inclusive, respectively, amend NRS 353.2705, 353.2735, 353.274, 353.2745, 353.2751, 353.2753, 353.2754, 353.2755, 353.276, 353.2765, 353.2771, and 353.288 to cause the Disaster Relief Fund to become the Disaster Relief Account in the Fund to Stabilize the Operation of the State Government, and to provide for the quarterly transfer to the Disaster Relief Account of not more than 10 percent of the aggregate balance in the Fund to Stabilize the Operation of the State Government. Additionally, Section 189 revises the provisions governing the transfer of money into, and the maximum balance of, the Fund to Stabilize the Operation of the State Government. Pursuant to

Section 241, these provisions become effective on July 1, 2003. Currently, the ending fund balance must reach 10 percent of General Fund appropriations before an amount can be triggered into the Rainy Day Fund. Section 189 would change that to 5 percent. If the ending fund balance was at least 5 percent of total General Fund appropriations, the Director of the Department of Administration could approach the Board of Examiners and recommend an amount that would be transferred from the State General Fund to the Rainy Day Fund. The Board of Examiners would then consider that and make a recommendation to the Interim Finance Committee, and then the Interim Finance Committee would make a decision on the amount of money that could be transferred from the State General Fund to the Rainy Day Fund.

Sections 190, 191, 192, 193, and 194 have been deleted. Sections 194.2 through 194.6 and Sections 195.2 and 195.4 will be summarized later. Sections 195 and 196, respectively, amend NRS 388.750 and 396.405 in conformity with the amendatory provisions of Section 139, renumbering of exemptions from the taxes on transfers of real property. Section 197 amends NRS 414.135 in conformity with the amendatory provisions of Sections 178 to 189, inclusive.

Section 198 amends NRS 459.3824 to account for the replacement of certain repealed provisions of chapter 364A of NRS by Sections 96 to 101, inclusive. Sections 199 and 200, respectively, amend NRS 463.0136 and 463.270 to account for the replacement of the casino entertainment tax by Sections 25 to 58, inclusive. Section 201 amends NRS 463.370 to increase each tier of the state nonrestricted gaming license fee by 0.5 percent. Pursuant to Section 241, these provisions become effective on July 1, 2003.

Section 202 amends NRS 463.373 to increase the state licensing fees for a restricted gaming license, authorizing the operation of not more than 15 slot machines by 33 percent. Pursuant to Section 241, these provisions become effective on July 1, 2003.

This is estimated to generate an additional \$2.3 million in fiscal year 2004 and \$2.4 million in fiscal year 2005. Sections 203 and 204 respectively, amend NRS 463.401 and 463.4055. In conjunction with the repeal of NRS 463.4001, 463.4002, 463.4004, 463.4006, 463.4008, 463.4009 and 463.4015 by subsection 1 of Section 232, these sections revise the scope of the casino entertainment tax. Note that pursuant to Section 241, these provisions become effective on July 1, 2003, which precedes the effective date of the live entertainment tax set forth in Sections 25 to 58, inclusive. Section 205 amends NRS 463.408 to account for the replacement of the casino entertainment tax by Sections 25 to 58, inclusive. Section 206 amends NRS 463.770 in conformity with the increase in the highest tier of the state nonrestricted gaming license fee pursuant to Section 201.

Section 207 has been deleted. Section 208 amends NRS 612.265 to account for the repeal of chapter 364A of NRS. Section 209 has been deleted. Sections 210, 211, and 212, respectively, amend NRS 616B.012, 616B.679, and 616B.691 to account for the repeal of chapter 364A of NRS. Sections 213 and 214 have been deleted. Sections 215 to 225, inclusive, respectively, amend NRS 645B.060, 645B.670, 645E.300, 645E.670, 649.395, 658.151, 665.133, 673.484, 675.440, 676.290, and 677.510 to carry out the provisions of Sections 93.10 to 93.72, inclusive, financial institutions' franchise tax. Section 226 has been deleted. Sections 227 to 229.3, inclusive, amend NRS 680B.037, 687A.130, and 694C.450 to carry out the provisions of Sections 59 to 93, inclusive, business franchise fee, effective on October 1, 2003, and Sections 93.10 to 93.72, inclusive, financial institutions' franchise tax, effective on January 1, 2004.

Section 229.7 amends Section 62 to exempt from the business franchise fee a financial institution that pays the financial institutions' franchise tax. Note that pursuant to Section 241, this exemption becomes effective when the financial institutions' franchise tax becomes effective. Section 230 amends Section 101 to impose a penalty of \$75 on a person who fails to pay the state business license fee on time. Note that pursuant to Section 241, this penalty becomes effective on July 1, 2004. Section 231 is a technical amendment to account for the repeal of NRS 375.025 by Section 232. Note that NRS 375.025 was amended by Section 1 of chapter 458, Statutes of Nevada, 1999. Section 232 repeals: (1) NRS 353.272, which refers to the Disaster Relief Fund, in conformity with the provisions of Sections 178 to 189, inclusive, effective on July 1, 2003; (2) NRS 364A.160, which exempts a natural person who does not employ any employees from the provisions of chapter 364A of NRS effective on July 1, 2003; (3) NRS 375.025 and 375.075, which provide for the imposition and disposition in certain

counties of an optional tax on the transfer of real property effective on July 1, 2003; (4) NRS 463.4001, 463.4002, 463.4004, 463.4006, 463.4008, 463.4009, and 463.4015 in conjunction with the provisions of Sections 203 and 204, effective on July 1, 2003; (5) Chapter 364A of NRS regarding the business tax, effective on January 1, 2004; and (6) The remaining provisions of NRS 463.4001 to 463.406, inclusive, regarding the casino entertainment tax, effective on January 1, 2004.

Sections 233 and 234 provide for the creation of the Fund for Tax Accountability and the transfer to the Fund of the amount of certain unappropriated state revenue which exceeds the amount that can be transferred into the Fund to Stabilize the Operation of the State Government, and limit the use of the money in the new Fund to supplementing future state revenue to allow the reduction of the rate or amount of a tax or fee.

Section 235 authorizes public utilities and local government franchisees that must obtain approval of their rates by a governmental entity to increase their previously approved rates by the amount of any increased tax liability they incur before January 1, 2005, as a result of this Bill Draft Request (BDR). Section 236 provides for the expenditure of an appropriation authorized by the 72nd Session of the Nevada Legislature for the collections of state revenue approved by the 20th Special Session of the Nevada Legislature. For those who are on the Committee on Ways and Means, this involves the \$12.5 million and \$20 million that has been appropriated to the Interim Finance Committee for use by the Department of Taxation, if the Interim Finance Committee concurs, for any data processing requirements or staff that would be required by the Department of Taxation to implement a new tax package. Section 237 makes an appropriation from the State General Fund to the Interim Finance Committee for allocation to the Legislative Committee on Taxation, Public Revenue and Tax Policy, established by Section 164. This is at \$125,000 per year.

Sections 237.10 through 237.20 make appropriations to the State Distributive School Account (DSA) for class-size reduction. Specifically: Sections 237.10 and 237.12 of the bill appropriate \$108,937,389 and \$117,142,553 in fiscal years 2003-04 and 2004-05, respectively, for continued support of the Class-size Reduction Program. This money will pay for the salaries and benefits of at least 1,887 teachers hired to reduce pupil-teacher ratios in the first year and for 1,953 teachers in the second year. The bill continues the Class-size Reduction Program in the Distributive School Account, and maintains the separate expenditure category to highlight the program. Funds still will be allocated based upon the number of teachers needed in each district to reach the ratios of 16 to 1 in first and second grades and 19 to 1 in third grade, as in the current year. To ensure that the school districts with the greatest needs for class-size reduction teachers receive adequate funding, money will be distributed by the same method utilized in the past.

Section 237.14 of the bill continues the flexibility allowed in the use of the third-grade funding to the money for first and second grades. In the last seven years, school districts have been allowed to carry out alternative programs for reducing the ratio of pupils per teacher or to implement remedial programs that have been found to be effective in improving pupil achievement. To use the funds in this manner, school districts are required to receive approval of their written plan from the Superintendent of Public Instruction, evaluate the effectiveness of their program, and ensure that the combined ratio of pupils per teacher in the aggregate of grades K through 3 does not exceed the combined ratio in those grades in school year 2000-2001. For school districts located in counties whose population is less than 100,000, the bill authorizes a program of alternative pupil-teacher ratios in grades 1 through 5, or grades 1 through 6, if grade 6 is included in the elementary school. These alternative programs would require prior approval from the Superintendent of Public Instruction and would require pupil-teacher ratios not exceeding 22 to 1 in grades 1, 2, and 3; and 25 to 1 in grades 4, 5, and 6. The districts that choose to carry out alternative programs are required to complete an evaluation of the effectiveness of these projects and report to the Superintendent of Public Instruction who will report to the 2005 Legislature.

Section 237.16 requires that a school district located in a county whose population is 100,000 or more must study the current class sizes in the school district for grades 1 through 5 to determine whether alternative pupil-teacher ratios may: (1) improve the academic achievement of pupils; (2) decrease pupil discipline; or (3) decrease or eliminate team teaching in grades 1

and 2. These districts are required to report their findings to the Legislature. Section 237.18 allows priority in expenditure to assist at-risk pupils first. The section also restricts the use of the money appropriated in this bill from use for collective bargaining and for adjustment of salaries. The section prohibits distribution of class-size reduction money to school districts unless the district has filed a plan for achieving the required ratio and demonstrated that a sufficient number of teachers have been employed. Section 237.20 prohibits the continuation after June 30, 2005, of the alternative pupil-teacher ratios unless the continuation is approved by the 2005 Legislature.

Sections 237.22 through 237.66, as well as Sections 194.2 through 194.6 and 194.2 and 195.4, appropriate money from the State General Fund to the DSA and authorize the expenditure of that money. Specifically, Section 194.2 of this bill adds a new section to chapter 387 of NRS that requires the Department of Education, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, to develop or revise, as applicable, a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies, and instructional hardware. Section 194.4 is a housekeeping section that adds appropriate internal references to reflect the addition of the new section in Section 194.2. Section 194.6 amends NRS 387.207. Currently, NRS 387.207 provides a formula to be used by each school district to determine the amount it must spend for textbooks, library books, supplies, and materials relating to instruction, including software for computers. The amendments to this section reflect that the new Section 194.2 of this bill moves to the Department of Education the determinations for spending regarding textbooks, instructional supplies and instructional hardware. Sections 195.2 and 195.4 incrementally amend NRS 391.165 regarding the purchase of retirement credits for certain educational personnel.

Beginning with the upcoming school year, Section 195.2 requires the boards of trustees of certain school districts to purchase retirement credits for teachers with at least 2 years' experience working at an at-risk school. Starting in FY2004-05, Section 195.4 also requires the boards of trustees of certain school districts to purchase retirement credits for teachers in mathematics, science, English as a Second Language, special education, and for school psychologists. Sections 237.52 and 237.54 of this bill contain the funding for these purchases of retirement credits. Sections 237.22 and 237.24 establish the statewide average basic support per pupil and show an increase over the upcoming biennium from \$3,987 in the current year to \$4,295 in FY2004 and \$4,424 in FY2005. Section 237.26 allocates state funding for special education programs. Such funding continues to be allocated on the basis of special education units. Total funding for the units amounts to \$83,185,765 for 2,615 units at a cost of \$31,811 each in FY2004 and \$87,866,476 for 2,708 units at a cost of \$32,447 each in FY2005. As in the past, 40 of those units will be reserved for the State Board of Education to assign to districts or charter schools that have unexpected needs. In addition to the 40 "discretionary" units, the bill includes 5.69 units and 5.88 units for FY2004 and FY2005, respectively, for gifted and talented pupils to participate in instructional programs incorporating educational technology.

Section 237.28 appropriates from the State General Fund to the DSA, \$637.8 million in the first year of the 2003-05 biennium and \$767.1 million in the second year of the 2003-05 biennium. These appropriations have been reduced from the figures in the bill from the previous Special Session to account for the increased tax revenue produced by the reduction in the collection allowances for the Local School Support Tax (LSST). Section 237.30 authorizes the expenditure of \$208.9 million and \$147.8 million of other revenues authorized to be received and expended for the state support of public education over the biennium. Similar to Section 237.28, these authorized expenditures have been correspondingly increased from the figures in the bill from the previous session to account for the increased tax revenue produced by the reduction in the collection allowances for the LSST. It should be noted that these numbers are overstated and will need to be amended downward slightly if this bill is processed. Section 237.32 authorizes the State Controller to make certain temporary advances of money from the State General Fund to the DSA. Section 237.34 authorizes the expenditure of money from the DSA to fund adult high school diploma programs. The sums of \$16.9 million and \$17.8 million are budgeted for the first and second years of the 2003-05 biennium, respectively,

for the support of courses approved by the Department of Education as meeting the course of study for an adult standard high school diploma as approved by the State Board of Education.

Section 237.36 authorizes the expenditure of \$50,000 each year, per district, from the DSA to support special counseling services for elementary school pupils who are at risk of failure. Section 237.38 authorizes a reduction in the amounts guaranteed in Sections 237.22 and 237.24 if deemed necessary by the Governor pursuant to NRS 353.225 to effectuate an emergency reserve in the DSA. Section 237.40 provides for the transfer from the DSA of \$8.8 million for FY2004 and \$8.9 million for FY2005 from the DSA for the maintenance and continued operation of the Regional Professional Development Program and the Nevada Early Literacy Intervention Program. Section 237.42 authorizes the Legislative Bureau of Educational Accountability and Program Evaluation to receive \$100,000 for each year of the 2003-05 biennium from the DSA for the evaluation of the regional training programs for the professional development of teachers and administrators established pursuant to NRS 391.512. Section 237.44 provides for the transfer from the DSA of \$80,000 for each year of the 2003-05 biennium for additional training opportunities for educational administrators in Nevada by the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516 and to support the goals of Nevada Project Leadership in Educational Administration Development.

Section 237.46 provides for the transfer from the Distributive School Account (DSA) of \$5.18 million for FY2004 and \$5.01 million for FY2005 from the DSA to provide remedial education programs that have been approved by the Department of Education for certain schools which are designated as demonstrating a need for improvement, failing to meet adequate yearly progress, or in which 40 percent of the enrolled pupils score below the 26th percentile on certain examinations. Section 237.48 provides for the transfer from the DSA of \$1 million for FY2004 and \$1.5 million for FY2005 for supplemental services or tutoring for pupils in non-Title I schools that failed to meet adequate yearly progress on certain examinations administered pursuant to NRS 389.550. Section 237.50 provides for the transfer from the DSA of \$2,896,583 for each year of the 2003-05 biennium for the Nevada Early Childhood Program for grants to school districts and community-based organizations for early childhood education programs and places restrictions on the use of that money. Of this amount, \$301,000 in each year of the 2003-2005 biennium must be used for the Classroom on Wheels Program.

Sections 237.52 and 237.54 provide for the transfer from the DSA of \$2.7 million for FY2004 and \$12.8 million for FY2005 for the purchase of retirement credits in accordance with Sections 195.2 and 195.4 of the bill. Section 237.56 requires that of the amounts enumerated in Sections 237.22 and 237.24 of this bill, \$64.4 million for FY2004 and \$66.7 million for FY2005 must be expended for the purchase of textbooks, instructional supplies, and instructional hardware as prescribed in Section 194.2 of this bill. Section 237.58 authorizes any remainder in the Fund for School Improvement, Estate Tax, at the close of the 2002-03 fiscal year to be transferred to the DSA.

Section 237.60 limits the use of the money appropriated or authorized by Sections 237.40 to 237.54 of this bill to the stated purposes only. Section 237.62 provides for the transfer from the DSA of \$47,715 for each year of the 2003-05 biennium to reimburse school districts for the additional costs of transportation for any pupil to a school outside the school district in which his residence is located. Section 237.64 makes a supplemental appropriation from the State General Fund to the DSA of \$3,152,559 for an unanticipated shortfall in money for FY2002-2003. Section 237.66 requires each school district to spend all money it receives in a manner that is consistent with NRS 288.150 regarding collective bargaining and in a manner that is designed to achieve educational reform. The section also provides that materials and supplies for classrooms are subject to negotiation by employers with recognized employee organizations. Section 238 consists of transitory provisions regarding the initial applicability of various provisions of this Bill Draft Request (BDR). Section 239 provides that the repeal of chapter 364A of NRS by this BDR does not affect the collection of any taxes, which became due pursuant to that chapter before the chapter was repealed. Section 239.3 consists of a transitory provision to exempt financial institutions from the business franchise fee. Note that pursuant to Section 241, this provision becomes effective when the business franchise fee becomes effective, and that

pursuant to Section 229.7, a statutory exemption will become effective when the financial institutions franchise tax becomes effective.

Section 239.5 consists of transitory provisions regarding the initial applicability and payment of the financial institutions franchise tax. Section 240 requires the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau jointly to identify and develop a proposal for coordinating state programs regarding the treatment of alcohol and drug abuse or the provision of funding to local governments for such programs. Section 241 sets forth the effective dates for the provisions of this BDR.

CHAIRMAN PERKINS:

The issues housed in Assembly Bill 1 were 75 to 80 percent of what was listed on the proclamation by the Governor, in terms of our responsibility for this Special Session. It is the goal of the Chair to try to find some accommodations, some ability to find two-thirds support in this Body so that we might be able to accomplish our work. As I mentioned before, this is a starting point. If there are suggestions, please feel free to make them. We will handle them just like any other committee hearing and have a free discussion. Certainly, amendments come through the Committee of the Whole just as they would in any other committee. If the pleasure of the Body is to make changes, then we can accomplish that as well. I might start with a couple of questions. Mark, as I look at the revenue sheet that you provided for the members, on the comment side there are a number of comments that say "matches last Senate revenue option." Is that indicative of what the Senate bills had in them?

MARK STEVENS:

Yes, Mr. Chairman. It matches the last Senate revenue option that was available before the end of the 19th Special Session. There were a number of revenue options that were being discussed. That is the last one that was worked on by the Senate before the end of the 19th Special Session.

CHAIRMAN PERKINS:

The restricted slots, at 33 percent, I believe that came as a recommendation of the task force. If memory serves me, wasn't the 33 percent an inflationary increase? Did they go back and look at what inflation had been since the last increase in that area and apply that percentage?

MARK STEVENS:

That is correct, Mr. Chairman.

CHAIRMAN PERKINS:

In the area of cigarette and liquor taxes, how do those specifically compare to some of the surrounding states?

MARK STEVENS:

In regard to cigarettes, Arizona is \$1.18, California is 87 cents per pack, Utah is 69.5 cents per pack, Oregon is \$1.28, and Idaho is 57 cents per pack. The liquor tax is a little more difficult because it is applied differently in each state. It is not applied consistently like the cigarette taxes are, but we can develop some information and provide that for you.

CHAIRMAN PERKINS:

Thank you. I would appreciate that. In Section 93.36, in the 3 percent profits tax on financial institutions, is that based on only Nevada revenue or is it for the interstate banks, or other revenues?

BRENDA ERDOES:

Mr. Chairman, it would only affect the state revenue that is generated in the state.

ASSEMBLYWOMAN WEBER:

Would you please repeat the section where the Secretary of State's fees are located?

MARK STEVENS:

The Secretary of State fees are not in this bill and will be handled in a separate bill.

ASSEMBLYMAN GEDDES:

Thank you. Please address Section 27 and explain why we are exempting out the refreshments and merchandising of food on facilities above 5,000 seats. Why would we want that specific exemption and not apply that to all facilities or none of the facilities?

MARK STEVENS:

I believe whether you want to exempt those facilities or not is a policy choice that the Body gets to make. That was what staff was requested to draft, so I think it is a policy choice whether that provision is wise or not.

CHAIRMAN PERKINS:

I may be able to help, Mr. Geddes. The live entertainment tax is evolving out of the casino entertainment tax and currently the casino entertainment tax does tax food and beverage, and exempts those facilities above 2,700 seats. We are able to broaden things by getting rid of those exemptions and capturing a show such as the Celine Dion show in Las Vegas. At the same time we must recognize that the large sporting events, either at Lawlor Events Center, UNLV, or other places, already pay a sales tax on much of their food and beverage, so it was intended to corner this to the casinos. We also tried to capture the adult entertainment type of establishments that really do not have an entry fee or admissions charge. Instead they make most of their revenues based upon some sort of food or beverage.

ASSEMBLYMAN HARDY:

Thank you, Chairman Perkins. First, I would like to offer a compliment, in that I asked the Fiscal Analysis Department to prepare a form so that the gross receipts tax could be estimated by a business so that they could plug their numbers into a form and discover what they would pay. Could we have an online version of such a form, in this iteration, so a business today could plug in their numbers and find out where they would be and then e-mail us and tell us where they would be?

Second, in Section 237.66, as I understand that section, in regard to the collective bargaining for books, the concept is for teachers who are teaching the class and want to be able to use the books. If a school district says, "This is the book you have," there is an organization that can collectively get together and say they want a say in the kind of book, material, and software they feel comfortable teaching from. My understanding is that it is not to do away with books or do away with the money that has been fenced off already in another section, but to allow the teacher to have the kind of books they want to teach from.

Third, how does this plan match up with our sister House down the hall and are they hearing what we are hearing? Do you have inside information that would address the differences that we are hearing?

Fourth, I happily did not see a room tax.

MARK STEVENS:

The last Senate plan I was privy to, a week or ten days ago, did include a room tax. The franchise fee revenues that were generated were less than in the Assembly version. In the payroll tax portion, the rate was higher and so more money was generated in the particular fee. In regard to the Secretary of State fees, the assumptions included in the revenue sheets in the Assembly have resident agents at \$110 and the Senate at \$125. Those were the major differences in the revenues in the last plan I saw. I am not sure if there are changes in what is being discussed today.

On the question of Section 237.66, my understanding is, the way you described it is accurate.

I don't know if it is possible for a business to go online to find out how they would be impacted. I can find that out for you.

ASSEMBLYMAN HARDY:

They should be able to look up not only the franchise part, but also the payroll part. They should be able to refer to what they pay currently and find out how the two portions would be affected because that is really what a business is looking at, as well as the Real Property Transfer Tax (RPTT) and how that would play into their roll, depending on what kind of business they own.

CHAIRMAN PERKINS:

Thank you, Mr. Hardy. We will ask the Information Systems Unit to see if there is something that can be done.

I would like to indicate to the members of the audience that if you want to address the committee, there is a sign-in sheet in the back. You can sign in and when we complete our committee dialog, we will ask for public testimony. If there is a specific chapter or chapters that you would like to address, we will take that testimony at that time.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. I would like to clarify the Luxury Sales Tax (LST) reduction in Section 130. By removing or lowering the collection per pack, is the dollar amount being made up so that the districts are being made whole?

MARK STEVENS:

Yes, as you reduce the allowance that is able to be retained, that produces more sales tax revenue, which then reduces the amount of General Fund that is necessary to finance the Distributive School Account. The total funding between authorized and appropriated funds is the same.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Is it still correct that on page 149, for the 2003-2004 fiscal year, the average expenditure amount, per pupil, is \$4,295 and \$4,424 in the second year?

MARK STEVENS:

Yes.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Section 237.14 contains the language regarding the study regarding the class size. We changed this to allow flexibility to allow rural counties under 100,000 to be able to do the report. I think the report is to make sure all districts take a look at the idea of the goal of class-size reduction, which is to eliminate team teaching. I see that contained in the study that is supposed to be reported back, on page 148, but it seems to me that it may only be for those that did the alternative program, or is that for all districts to look at, coming back to report how they could eliminate team teaching for next time?

MARK STEVENS:

It looks to me like it would be for any district that chose an alternative class-size reduction program.

ASSEMBLYWOMAN GIUNCHIGLIANI:

So we still would not hear, but we could ask the other two large, urban areas to report to us, if we wanted, separate from this legislation?

MARK STEVENS:

The urban districts, contained in Section 237.16, subsection 3, do have to report.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Good, because I wanted to make sure the intent was there. We debated the whole class-size issue toward the end of the regular session, wanting to get to the point where we eliminated team teaching throughout all 17 school districts. I wanted to make sure, for the record, that we were looking at that.

ASSEMBLYMAN GRIFFIN:

I have a couple of questions. My first question is regarding Section 75, which is the franchise fee. We have talked often about apportionment in terms of Nevada versus non-Nevada revenue. I know there have been two key ways that it has been determined. You can currently measure apportionment on a current sales tax system, but I don't think this works. I was wondering if there has been consideration as to how to do apportionment in terms of the source of the

revenue. Do we know if this will allow a business to have a federal tax deduction from their federal income tax?

In Section 74, we talk about the gross of a business being determined from the Schedule C, Form 1040, Profit and Loss Business Form. Are those the only ways that are listed in Section 74 to determine gross? There had been some discussion of the State of Nevada doing audits independent of forms already being filled out. Is it our intention, under this section, that the only way we will be able to determine the gross of a business, and consequently determining their franchise fee, is based on the forms that they are already filing with the federal government?

My next question is regarding the notion of the range. Obviously if you are a business making \$20 million a year and you pay \$28,000 for the year, that is .0014; and if you are making \$29 million you would have the same fee, which is .0096. I wasn't sure if it was an ease of implementation, why it went with ranges, or if it made sense.

My final question is on a completely different section of the bill, Section 233, which is the spending cap. Have we done that in this state before? I personally appreciate, and think it is an important component of this bill, that we will cap, at some level, future spending. I am curious what the impact on operations this will incur.

Thank you.

MARK STEVENS:

I can answer a couple of those questions. The ranges that are in Section 75 are necessary because the current data processing system that is employed by the Department of Taxation can't use a flat rate. They have to use ranges. If the Interim Finance Committee approves the dollars necessary to implement a new data processing system for the Department, once it is up and running, then the ranges could be converted to a straight percentage.

The other question I can answer is in Section 233. I have not seen a provision like this utilized by the Legislature in the past in this fashion. There is a capping mechanism within IRS that is employed but I have not seen it employed in this fashion before.

BRENDA ERDOES:

I will address your other questions. The first question was about apportionment. The apportionment provided for this tax is in Section 78, on page 26. It requires the Department of Taxation to adopt regulations providing for the allocation or apportionment of the liability of franchise fees pursuant to the chapter. It goes through methods of dividing income. These are the Uniform Division of Income For Tax Purposes Act and the formula recommended by the Formula For Apportionment and Allocation of Net Income of Financial Institutions if there is any financial institution as a part of that. This would all be taken care of by regulation by the Department of Taxation.

As to your other question, Section 74 doesn't have to do with determining gross revenue or total revenue for the purposes of this tax. We are really concerned about not taxing individuals in a way that is unconstitutional and Section 74 provides that a natural person, if they file one of these forms, is deemed to be a business for the purposes of the tax. The actual determination of how much you would pay would be determined based on the method you use to determine your federal taxation requirements.

I do not know the answer to your question regarding federal tax deductibility. We can find out for you.

ASSEMBLYWOMAN CHOWNING:

Thank you, Mr. Chairman. I have two questions. The first is on Section 27, live entertainment tax. We have a maximum seating capacity of not more than 5,000 seats. How many facilities do we have that have more than 5,000 seats? If we are going to implement a tax, it should be provided for facilities. If we knew how many facilities have more than 5,000 seats then we could derive additional revenue, and I would like to know how much that would be.

My second question is on page 10, Section 36, regarding boxing contests. On June 6, 2003, we had discussed in the Select Committee to raise the boxing tax to 10 percent if indeed the live entertainment tax was going to be 10 percent. It was felt they should be taxed the same amount. I do not see in here that they would be taxed the same amount. Why was it excluded? If it was

excluded, how much additional revenue would be derived by having boxing taxed the same as any other live entertainment? Thank you.

CHAIRMAN PERKINS:

Thank you, Ms. Chowning. The 5,000-seat threshold is only on the food and beverage. There are probably about a dozen of them, including UNLV and Lawlor Events Center. There is the Mandalay Event Center, the MGM Grand Garden, the Motor Speedway, et cetera. We were trying to encapsulate the casino entertainment tax philosophy for those types of lounge shows, the adult entertainment clubs, and that type of thing. They don't have much of an admissions charge and make their money on the food and beverage. That is why the capping mechanism on the seating requirement. They, as well as other venues, will pay a sales tax on their food and beverage, and the thought was that all the large venues would have an admissions fee that would be affected by the live entertainment tax and the revenues would be generated on that fee rather than the food and beverages.

In regard to your second question, it is my belief that part of it was that the boxing arrangement already pays in excess of 7 percent to the Athletic Commission for the regulation of that sport. They also had some concerns because they are selected, promoted events and very high on promoters' shopping venues all over the country, and we might lose those events from coming to the state of Nevada that have a larger impact to the overall economy. The other reasoning for it not to be in this bill is that we are trying to reconcile as much as we could with the House down the hall, in order to forge a consensus support for any of these concepts.

ASSEMBLYMAN BROWN:

Thank you, Mr. Chairman. I have a couple of questions. In Section 11, the reference to the 66.66 percent of the average annual wages, is that the statutory reference to the \$21,500? The second question relates to Section 68, subsection 1, the exclusion for revenues received by a natural person from the rental of not more than four residential units. I don't think I have seen this previously. I would like to hear the reasoning behind this. I know there were some discussions about subcontractor amounts to be excluded for contractors or developers, and I do not see that here. Was there a reason that was not included?

Lastly, as it is related to Mr. Griffin's question and the response relative to Section 75 with the franchise tiered rates. I thought that the question and response was related to a stepped basis versus a flat percentage rate, and I thought the answer was that there might be some technological limitations that require, at this point, a stepped rate versus a percentage rate.

BRENDA ERDOES:

I will answer the first question in regard to the statutory wage. You are correct; that is the statutory wage from chapter 612, and it is called the base wage. We picked that up because they are reporting it anyway.

Looking at Section 68, subsection 2, in regard to rentals, I think we picked that up from the Senate bill when we were requested to.

Finally, if you look at page 26, line 8, "the cost of all payments made to contractors and subcontractors by a business entity . . ." I believe that is the cascading portion.

MARK STEVENS:

On implementation of the franchise fee, there is a problem, as I understand it, with the current Department of Taxation's computer system implementing a percentage tax versus a tiered tax. If you will recall, in the Governor's budget, the recommendation for a gross receipts tax would not have begun until after the biennium. That would have given the Department time to get their processing system up and running. Until that new data processing system is up and running, a flat percentage tax is not possible.

CHAIRMAN PERKINS:

I might add, Mr. Brown, on the "not more than four residential units," I think it fell into the philosophical approach that we have tried to protect the average taxpayer and small business. This is more on the lines of those folks who might just have rental properties to supplement their income rather than doing it as a business.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. That brought a question to my mind as well and the response made it more so. It appears to me that by doing the “any revenue received by a natural person from the rental of not more than four” would mean we are now defining any more than four as business income to a natural person, which is personal income tax. I think that by statute we are now changing the constitutional provision that we cannot have personal income tax. I am wondering if we can do that because what we have done here by the definition, is that if you have more than four, you are a business; but if you have less than four you are not. I am not sure that is legal. I would question that.

Section 234, subsection 2, the Fund for Tax Accountability and the 7 percent spending cap pushes any surplus over 7 percent to the Rainy Day Fund. After that any money is pushed to the Tax Accountability Fund. The problem I have is the language in subsection 2, “Money from the fund may be appropriated only for the purpose of supplementing future revenue of this state to allow the reduction of the rate or amount of a tax or fee.” It would appear to me that would say, the only way you could ever get that money out of there would be to reduce a tax and this may or may not be ongoing revenue. So, you would have to reduce a tax or reduce a fee and then the next time you came back to this Body, you would have to raise the tax or fee again because that is not ongoing revenue. I think this is a problematic section, as well, and that we should clean up the language to make sure it is clear, because, otherwise, the money would be trapped in there unless you reduce taxes with non-ongoing revenue.

BRENDA ERDOES:

I would like to address your first question and Mark will address your second question. We have looked into the constitutionality of this and I believe that it is constitutional for the Legislature to draw a line. Specifically, this line, I think, is very defensible because if you recall, in the past, for many years in Nevada, the landlord-tenant law in Section 118 provided a differentiation if you had four or more units. If you had five or more units you had much stricter commercial law requirements. It is definitely a judgment call on the part of the Legislature, but, in my opinion, this is one that is defensible. At some point the Legislature will have to determine a boundary around what is personal income and what is a business. There are several other provisions in the bill which try to make that determination as well.

ASSEMBLYMAN HETTRICK:

I believe that in the Committee on Commerce and Labor this year, we changed the law regarding the four residential units to zero and now it applies to all. I believe the two statutes would be in conflict with each other. If we are going to use that as criteria, saying that four units is personal income and anything over four units is not, I think this is a statutory change to a constitutional provision. I appreciate your opinion, but it appears to me that by statute we are changing what the law says and we are taxing personal income.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I will check the citation right now, but as a point of clarification, that bill did not pass in the Senate.

MARK STEVENS:

In regard to the issue in Section 234, I think it is possible that you would be using one-time revenue for an ongoing expense. I think it is a possibility that it may not happen either. The way that the language is included in the bill, after 107 percent of the General Fund Revenue projection, we would start filling the Rainy Day Fund. The Rainy Day Fund would fill, and once it was completely full then we would put money in this account. At that level we are generating revenue at a much higher rate than what we projected. You could probably bring that revenue down a little bit and still not be using it for a one-time purpose. You could reduce those ongoing revenues at that point in time and still be able to maintain an increase in your General Fund revenues to support the budget in the next biennium.

CHAIRMAN PERKINS:

I think we are trying to find some measure of tax accountability in case some of these projections were under projected. We are breaking new ground here. In essence, we are trying to make sure we didn't get out of control and try to show again that sense of responsibility.

ASSEMBLYMAN GEDDES:

Thank you, Mr. Chairman. Mark, at the bottom of page 2 of the handout, with the numbers that each tax would generate, there is a franchise tax yield with numbers that are pulled back out. Would you explain that in more detail?

MARK STEVENS:

Those negative numbers at the bottom of the second page involve exemptions that would be provided for those particular groups and is included in the total franchise fee amount of \$113.5 million in the first year and \$151.3 million in the second. That would be the total universe and then there are exemptions that are included to get to the net of \$88.5 million and \$118 million.

CHAIRMAN PERKINS:

Those are the areas that have industry-specific taxes already so they are already being taxed in a separate arena. We felt it would be unfair to have a double taxation with this franchise fee and that revenue has been extracted out.

ASSEMBLYMAN GEDDES:

Thank you, Mr. Chairman, I agree with that. What, specifically in construction and in financial institutions, what fees are being pulled out? It looks like, in the financial institutions, there are two separate ones, the new financial fee and one for current existing fees.

BRENDA ERDOES:

The financial institutions' income taxes are being pulled out because they are taxed under that and they are also exempt from the franchise tax. The section regarding the construction was answered by Mr. Brown's question.

CHAIRMAN PERKINS:

In Assembly Bill 1 there are industry-specific taxes, so it does not fall under the franchise fee bracketing situation. So that is why it is pulled out there.

ASSEMBLYMAN GEDDES:

That would be the income tax portion of the financial institution?

CHAIRMAN PERKINS:

Correct.

ASSEMBLYMAN GEDDES:

So the numbers are coming out from the franchise and going back in from the income?

CHAIRMAN PERKINS:

Correct.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Mr. Chairman. I would just like to make a comment on the rental properties that are five or more units. I believe that they are licensed already as a business in the counties. I think we have already set a precedent that it is a business. Also, I have a question on the industry-specific taxes and insurance. Doesn't the policyholder pay the insurance premium tax, and not the company?

BRENDA ERDOES:

The actual person in the statute who is required to pay the taxes is the insurance company. They pay a tax on their premiums. If you are suggesting that they passed it on, I am not sure I should comment on that. It is like other businesses that would pass it on.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Chairman. I have questions on Section 237.58 having to do with a fund for school improvement. You said that this was the estate tax and this would go into the General Fund for the Distributive School Account (DSA). There is \$5 million now left in that account, so I am assuming that will go into the DSA. Why couldn't that be used for the shortfall? My second question is if this is the estate tax, does all the estate tax go into this Fund for School Improvement, and if not, what portion? My third question is, I am assuming the estate tax is going to go away, so when does it go away, after the 2003-2005 biennium or before then? My last question has to do with the Permanent School Account 754. Can that money be brought into this as well? There is some escheated estates money there and all of this amounts to about \$17 million.

MARK STEVENS:

The estate tax is split 50 percent between K-12 education and higher education. The entire 50 percent portion for K-12 is deposited to the Fund for School Improvement. What we have done in our projections of those funds is we projected it through the end of this fiscal year and then we needed, in addition, \$3.1 million from the State General Fund based on those projections, in order to completely fund the Distributive School Account in fiscal year 2003. We need to sweep that account, based on our projections of a few weeks ago, and bring of the estate tax money that we can into the Distributive School Account and, in addition, the \$3.1 million in supplemental appropriations from the State General Fund.

As far as the Permanent School Fund, the interest that is earned is a revenue source within the Distributive School Account and it is used to offset General Fund appropriations. I believe if you are suggesting that we take some of the principal that is included in the Permanent School Fund, there would be constitutional prohibitions against doing that. The Legislative counsel could probably go into that in further detail.

ASSEMBLYWOMAN ANGLE:

When does the estate tax go away?

MARK STEVENS:

The estate tax is phased out over the next few years so we are anticipating estate tax revenues will be received that we have budgeted to reduce the General Fund obligation in the upcoming biennium in the DSA budget. I don't have the exact amount but I can get it for you. We have budgeted about \$16 million in estate tax funds to come in each year of the next biennium. We do not anticipate that much estate tax revenues will be available for the 2005-2007 biennium and even these amounts might be at risk. We may not be able to generate that much money in the upcoming biennium but we feel that we probably will get that.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Chairman. I have a question on the employer tax where it says 0.6 percent of capped wages. Is that capped wages what we were looking at before at \$21,000?

BRENDA ERDOES:

Yes, that is the base wage that you were looking at before.

ASSEMBLYMAN CARPENTER:

Do you have any idea what we are taking in now in what I call the "head tax" versus what this employer tax would raise?

MARK STEVENS:

The business license tax is estimated to generate around \$82 million to \$83 million in each year of the upcoming biennium. It may generate \$84 million.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. I have three questions. Did I understand when you said business license tax? I am thinking of that as the Business Activity Tax (BAT) that my colleague from Elko alluded to. I wanted to know if we are losing revenue in this change in regard to the BAT. Are the slot route operators exempted under the Nevada Franchise Tax as gaming and banking

and construction? My final question is, would you explain the mechanism for raising funds? Is it a system where we file for the Business Franchise Tax once a year, for example, July? And what kind of powers are we giving government? Is there a mini IRS? And what is the jurisdiction? That is the biggest complaint I am hearing from my constituents. I need to feel comfortable that they are not going to be faced with snoopers in their lives.

MARK STEVENS:

In regard to your first question on the BAT or the business license tax, that revenue is estimated to generate between \$80 million to \$85 million in each year of the upcoming biennium.

ASSEMBLYWOMAN GIBBONS:

What was the BAT in comparison to the business license tax, the business activity tax, the head tax, versus the payroll tax?

MARK STEVENS:

The payroll tax, if I understand the question, at least in Assembly Bill 1, would generate \$76.8 million in the first year and \$118 million in the second year. The head tax, or business license tax, is estimated to generate \$82 million, \$83 million, or \$84 million each year of the upcoming biennium.

ASSEMBLYWOMAN GIBBONS:

Would you tell me the difference in how much, because we are deleting one bureaucracy and adding another bureaucracy, and what type of additional money it would cost, or would it be easier to raise the BAT to \$107.50 as opposed to \$107 per year?

BRENDA ERDOES:

As I recall, Mr. Chinnoch, from the Department of Taxation, testified that the staff from the repealed Business Activity Tax (BAT) would be transferred over to collect the payroll taxes, which would be a fairly even trade. The franchise tax is collected quarterly. Slot operators are not currently exempt in this bill, only unrestricted licensees for the gross revenue tax.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. Would you address my question about the mini-IRS, collection, and how much power and jurisdiction the bureaucracy is going to have? How much of an impact will there be on our taxpayers and business owners?

BRENDA ERDOES:

I guess the best thing I can say in answer to that question is we have not increased the powers of the Department of Taxation in any way over and above what they currently have for the taxes they currently collect. That means if you believe that currently they are invasive or a mini-IRS, then that is continued. Beyond that we have not put anything in here that would take them further than that.

ASSEMBLYWOMAN OHRENSCHALL:

Thank you, Mr. Chairman. In regard to Section 74 of the proposed bill on page 23, I was wondering why it includes Internal Revenue Service information that is filed on Schedule C, Schedule E, and Schedule F. Prior legislation involving this did not include the Schedule E information. Is that to include different types of information coming in and, if so, what and why?

BRENDA ERDOES:

We actually had the chance to send our tax to a federal income tax expert at the University of Nevada, Las Vegas (UNLV) and we also received some help from a professor at UNR who both recommended that we add the Schedule E to this. As you said, this section is used to determine when a natural person becomes a business. The way that works is, if you have a choice, for example, if you had a home business and you decided that you wanted to take off your home office or your vehicle in order to get the deduction on your federal income tax, you would have to file one of these forms. That is the manner in which it is intended to work. I am sorry that I

don't have additional federal income tax experience to tell you that, but you might refer to the man sitting on your left. He may have that answer for you.

ASSEMBLYWOMAN OHRENSCHALL:

I am not sure I fully understand what you said this far, much less going any higher up and getting other information. If this determines whether someone running a business out of his home office is a business entity, is there additional filing that needs to be done to be legally considered a business entity, instead of just a self-employed businessman? Is there something different that you are getting out of this?

BRENDA ERDOES:

I think the manner in which this is crafted is to distinguish between someone who is receiving revenue, and someone who is receiving revenue and has chosen to be able to deduct for federal income tax a portion of that revenue by declaring themselves a business. We are attempting to sort of piggyback onto the federal law. In other words, if you just received that revenue and you don't declare yourself a business for the purposes of federal income taxation, then you would not be filing under this tax and paying this tax. However, if you did choose to declare yourself a business under federal income tax purposes in order to deduct things like a car or an office, then you would be considered a business and would need to file under these provisions.

ASSEMBLYWOMAN OHRENSCHALL:

Mr. Chairman, to you and through you. Again, this question is entirely mine, no one else's. Was the purpose of including this extra section to make more income potentially taxable or to make more income potentially exempt?

BRENDA ERDOES:

I don't believe that the intent, at least as it was explained to me, for including this section had to do with more or less revenue. There was simply a problem of where to draw that line between personal income and business income and this was a method that was recommended to us. This type of provision is also currently being used in the business activity tax and we thought it might work with this as well.

ASSEMBLYWOMAN OHRENSCHALL:

You are saying you are transferring this from a business activity tax that you are already using and it was recommended as a better way of defining the income that would be business income. Thank you. I think I understand now. Thank you for your courtesy.

ASSEMBLYMAN BEERS:

Thank you, Mr. Chairman. Just to further muddy the waters, as an employee, I am allowed to deduct certain expenses related to my employment to the extent that they exceed 2 percent of my adjusted gross income. You do have people out there who fall into both camps, personal and business income, where they are getting W2 wages. Yet they are deducting expenses of getting that W2 wage. They don't file a Schedule C. How do they fit into the plan?

BRENDA ERDOES:

Under the provisions of this bill, if you didn't file a Schedule C, then you would not be considered to be a business and that would all be personal income, for the purposes of this tax.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. I have three questions. How have we dealt with direct sellers? If we exempted slot route operators, how would that affect the revenue that we are currently projecting? If we included boxing in the 10 percent as live entertainment as everything else is, how much more would that increase our revenue?

MARK STEVENS:

We do not have the information at our fingertips, the revenue offset, if we exempt slot route operators, nor the revenue generated. We can probably come up with something on boxing. Some of the boxing revenue that is generated is due to broadcast rights on the larger fights. We

have to go in and take a look and estimate what the boxing would do. We can try to do that, but we don't have any information readily at hand.

BRENDA ERDOES:

As to your direct sellers' question, the closest thing in this bill, and what we thought would help with that issue, is page 19, Section 62, line 34 (c). The term business entity does not include "a person who operates a business from his home and earns from that business not more than 66.66 percent average annual wage . . ." Again, that is a computation of base wage that is already made under chapter 612 of NRS. That provision would make you not a business entity for the purposes of this tax.

CHAIRMAN PERKINS:

At this point there are no other questions on the board. I am sure there are additional questions that you are pondering. I would now ask the Attorney General to provide his testimony, and then we will come back to questions for Brenda and Mark.

Let me also indicate to those who are going to sign in, what we are going to do is ask you to address a specific section or sections of the bill. If there are constructive suggestions you can make, that is very helpful to us. If you are just here to say, "I am supportive of taxes or I am not supportive of taxes," that is not the testimony we are looking for. If there is a provision of the bill that you think affects someone inordinately or needs to be corrected, those are the types of things we really need to have presented to us.

Welcome back to our Chambers, Mr. Attorney General. We are glad to have you here. Let me indicate that the Attorney General is not the legal counsel for the Legislature. He is the legal counsel for the Executive Branch of government. However, over the course of the last little while, we have all been dealing with some issues relative to constitutionality; and I have invited the Attorney General and his staff here today so that we can clarify what our beliefs are in terms of the ability to pass a balanced budget, how it might occur, and we are asking Mr. Sandoval if he might offer us that information. Thank you.

BRIAN SANDOVAL, ATTORNEY GENERAL:

Thank you, Mr. Chairman. It is indeed an honor to be back before this illustrious group, in a place where I truly have fond memories. Here with me today is Assistant Attorney General, Ann Wilkinson, and the Special Assistant Attorney General, Jon Andrews. I am here this afternoon to discuss the constitutional requirements relating to the funding of the Distributive School Account. As you are all aware, the Office of the Attorney General serves as legal counsel to the Executive Branch of State Government, and the Legislative Counsel is legal counsel to this Body. Just as the Legislative Counsel has been researching the various legal options available to resolve the issues before you, the Office of the Attorney General has also been reviewing the constitutional provisions related to this situation. Based on our research, the Office of the Attorney General has concluded as follows: As legislators, you have a mandatory constitutional duty under Article 11, Section VI, of the Nevada Constitution to provide for the support and maintenance of the common schools of this state. Additionally, Article 9, subsection 1, of the Nevada Constitution provides that the fiscal year shall commence on the first day of July of each year. Furthermore, Article 9, subsection 2, of the Nevada Constitution provides that the Legislature shall balance the budget by enacting sufficient taxes to defray estimated expenses of the State for each fiscal year. That means this Body has to approve the Distributive School Account and balance the budget by July 1, 2003. Moreover, Article 4, subsection 19, of the Nevada Constitution prohibits the Governor from funding K-12 education in the absence of a specific appropriation by the Legislature for that purpose. Without the passage of the Distributive School Account, there would be no General Fund money available for K-12 education.

Guy Rocha, the State Archivist, has advised me that since 1867 the Nevada Legislature has never failed in its constitutional duty to pass a balanced budget. As a former member of this Body, I appreciate the complexity and difficulty of the decisions before you and respect your commitment to the people of the state of Nevada. I appreciate your time and attention. Thank you, Mr. Chairman.

ASSEMBLYMAN BROWN:

Thank you, Mr. Chairman. I know we previously had sessions that were not limited by 120 days. I am not sure if the Archivist made mention of any budgets being passed after that date. I know some sessions have gone well into July. Are you aware of any facts that have pushed the funding mechanism and the balanced budget past the date of July?

ATTORNEY GENERAL SANDOVAL:

Thank you, Chairman. To you and through you, to Assemblyman Brown. We are aware of the facts and circumstances of that which you have described. We have not researched the legal consequences associated with that.

ASSEMBLYMAN BROWN:

Thank you, Mr. Chairman.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. Just a clarification on that point, having served in those sessions before we were limited to 120 days. Never in the history of the Nevada Legislature, even before there was a time limit, did we not have the budget passed before midnight on June 30. Never. Even when we went past June 30 to consider other measures, which was always done by the required date.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman, and to our esteemed Attorney General. The last and final day of the session, this Body passed a budget about 30 minutes or so after what should have been *sine die*. I know it was extended to 1:00 a.m. I did not vote for the budget because we did not have a tax bill and, of course, there had not even been a tax bill passed out of the Senate. There were 14 Senators holding amendments, so I did not think it would be responsible. Under the circumstances, now that the appropriation budget has been signed by the Governor, had we passed the Distributive School Account first and sent that over to the Governor and kept the appropriation budget, would then the schools be fully funded?

ATTORNEY GENERAL SANDOVAL:

Thank you, Mr. Chairman. To you and through you to Assemblywoman Gibbons. Again, we are aware of that situation and as I outlined in my introductory comments, we are not the counsel to this Body; we are the counsel to the Executive Branch. We have not been asked to opine on this particular issue at this time. I don't believe it would be appropriate to be providing you with a legal opinion on this issue.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. Also, to you and through you, to my colleague from Reno. Yes, that would have been the circumstance if we had passed the DSA and "class size." However, we were still negotiating with the other House and had not settled that legislation in the time we had, unfortunately, and that is part of the reason we have that budget here. I do think it's an oxymoron to use the words "fully-funded education" because it's not, no matter what happens.

ASSEMBLYMAN BROWN:

Thank you, Mr. Chairman. Thank you for recognizing me a second time. I guess, perhaps to the table as well as any experienced member here, I understand, from comments then that we have had, that we have not had a situation where the budget was not approved under all circumstances. It was approved by no later than June 30. I guess the question would be then, was funding always in place, or did that come at a later date? The second part of that question would be, could the school funding be passed prior to that date? But yet we have a 20-day window in which to work out the funding and, or possibly, maybe, some line-item reductions, if that was a possibility at all. Any opinions on that I would appreciate hearing.

CHAIRMAN PERKINS:

Let me ask the Majority Leader to answer your first question. I think the Attorney General would have an opinion on the second.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. With the able assistance of the Chair of Ways and Means, as well as our fiscal staff, we have always passed the revenue to support the budget by the June 30 deadline. With regard to the second answer, it was an emphatic "no." The requirement is that the budget be balanced. That is our constitutional duty, and that is one every Legislature has abided by.

CHAIRMAN PERKINS:

Further questions? If you have a comment you care to make on any of this, Mr. Sandoval, please don't hesitate.

ATTORNEY GENERAL SANDOVAL:

I'm going to stay out of it, Mr. Chairman.

CHAIRMAN PERKINS:

This is an awkward place to have a hearing, so I can't see you and read your body language and that sort of thing. I can't tell who is ready to jump in here. So, if you care to, please interrupt me and we'll make sure that happens.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Chairman. To you and through you, to the Attorney General. First, welcome back to the people's House. It's good to have you here. Secondly, I would like your answer to this question, in terms of the opinion you have just rendered. If we were to do as the Senate has done, pass the DSA, pass the rest of the K-12 education funding, and then, before adjourning this Special Session, pass additional revenue measures and make additional budgetary adjustments, that is after passing the DSA by June 30, would that be an outcome consistent with your opinion with what is constitutional?

ATTORNEY GENERAL SANDOVAL:

Thank you, Mr. Chairman. To you and through you, to Assemblyman Knecht. Again, I'll repeat what I stated previously. This office is not going to opine on how you accomplish balancing the budget, only that you must balance the budget by July 1, 2003. How you get there is the business of this Body.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. Attorney General Sandoval, in your research would it violate the Constitution to pass the DSA without the revenue to support it?

ATTORNEY GENERAL SANDOVAL:

Mr. Chairman, to you and through you, to Majority Leader Buckley. Again, it is the constitutional mandate that this Body balance the budget and, therefore, anything that is passed must be fully funded in order to accomplish that.

ASSEMBLYMAN BROWN:

By July 1?

ATTORNEY GENERAL SANDOVAL:

Mr. Chairman, to you and through you, to Mr. Brown. Again, yes, by July 1.

CHAIRMAN PERKINS:

June 30 at midnight? Thank you, Mr. Attorney General and your staff, for coming to our hearing and providing the information. We do appreciate it.

ATTORNEY GENERAL SANDOVAL:

Thank you, Mr. Speaker, and thank you to the members of this Body.

CHAIRMAN PERKINS:

We do appreciate your time.

Let me now ask Mark and Brenda to come back to see if there are any further questions on the bill as it has been presented.

I appreciated the indulgence of the members, as well. As I have stated a couple of times, this is not the optimal way to hold a committee hearing but I think it has been fruitful for a number of the members and, hopefully, it has been educational for the entire Body.

Moving back to our discussion of Assembly Bill 1, it looks like we have a question from Mr. Geddes.

ASSEMBLYMAN GEDDES:

Thank you, Mr. Chairman. I still have a real problem with the 5,000 seat limit and I understand your explanation and why it is in there, but if it is something that we are concerned about addressing, I don't see any reason whatsoever to cap it at 5,000. If we are going to apply it, I think we should apply it to all. If we are not going to apply it, we shouldn't apply it to any. I would like to see that changed. In looking at the exemptions that we are pulling out from some of the other taxes so that we are not taxing a business twice, there is one thing that occurs to me. If we have a payroll tax and a franchise fee, it would seem to make sense to deduct out that payroll tax from the franchise fee prior to paying the tax. I am thinking of the industry that has quite a few employees and does a lot of revenue that would be paying a lot of payroll tax, then being able to deduct that out of their gross before paying the franchise fee. If we don't do that, it seems we are doing a double tax in that aspect. I am wondering if that is an option that has been considered or if it is one we can consider. Also, in trying to calculate this franchise fee, what would 0.6 percent come out to be right now in the \$21,500 average wage? Would that be \$107.50 per employee and would that replace the \$100 business activity tax?

ASSEMBLYMAN PARKS:

Thank you, Mr. Chairman. The 0.6 percent on \$21,500 equates to \$129 per employee.

CHAIRMAN PERKINS:

If I might speak to one of your other questions, the purpose for going basically half on the employer tax and half on the franchise fee was to recognize the different types of business we have in the state. Some are labor intensive and some are not. As well, it creates more of a broadened business tax if you are capturing both areas. We certainly could exempt out, or use as a deduction, the payroll tax, the employer tax, against the franchise fee. It would just mean that the franchise fee would have to be a significantly higher rate in order for us to balance out. It is balancing one against the other.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. Just for edification, I believe seats over 5,000 would be the Aladdin Theater, the Performing Arts, The Prim Resorts, Desert Arena, MGM-Grand Garden, the Mandalay Events Center, the Las Vegas Motor Speedway, Orleans Arena, Thomas and Mack Center, Sam Boyd Stadium, and Lawlor Events Center. Normally we shouldn't be exempting as much as what we are talking about here, but if you really go back, most of those are also used by our residents. Since they are already doing a tax on the food and beverage in the one case, we didn't want to go back after that. If you think of, at least, Sam Boyd Stadium, Thomas and Mack Center, and Lawlor Events Center, I see more of our residential people dealing with that, but if you want to get rid of the exemption, I don't have a problem with it. My only question is, it says in Section 27, the seats are permanently mounted and cannot or are not intended to be removed temporarily for any single performance. We do currently have some casinos that will set up events because they don't have an actual center built. Would this make sure that they still have to pay based on that?

BRENDA ERDOES:

I don't believe that they would be included if they are temporary. This language was put in here in an attempt to stop someone from changing his or her behavior based on the tax. In other words, if you had 4,000 or 4,500 seats, it was an attempt to make sure you didn't set up another 1,000 or 500 seats to evade the tax. It's sort of which one you want to do; we can describe either situation but I am not sure that you can catch both.

ASSEMBLYWOMAN GIUNCHIGLIANI:

So we would have some that could evade because they have never bothered to build a center and set up in parking lots. There is one in my district that does concerts on a regular basis but it is not permanent seating.

BRENDA ERDOES:

It is not that you would evade, it would be that you would have to pay.

ASSEMBLYWOMAN GIUNCHIGLIANI:

You would pay the 10 percent, but not the food and beverage? Or would you pay?

BRENDA ERDOES:

You would. The exemption is for 5,000 or more permanent seats. We thought that was a pretty static thing. You would want that to get the advantage of the exemption.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Chairman. To you and through you, to the witnesses. I am looking at pages 143 and 144, Sections 233 and 234, which I understand to be intended to be something in lieu of a budget cap provision. Let me make sure that I have the correct understanding. Is this intended to be something in lieu of a budget cap and is there any other kind of budget cap in this bill that I haven't heard about?

MARK STEVENS:

There is no budget cap in the bill that I am aware of. Regarding this particular provision, if General Fund revenues reached 107 percent of the General Fund revenue projection, that would then trigger monies into the Rainy Day Fund and then potentially into the Fund for Tax Accountability.

ASSEMBLYMAN KNECHT:

If I may continue, Mr. Chairman, thank you. Again, to you and through you, to the witnesses. How was the 7 percent margin chosen and why? Why are the reversions excluded in Section 233?

MARK STEVENS:

I am not sure why the 107 percent provision was chosen.

BRENDA ERDOES:

This provision came from the Senate. I believe it was something we brought over in the request to make the two bills as similar as possible. We were asked for the 107 percent, so I do not have the information as to how it was chosen.

MARK STEVENS:

As to why reversions were not included, I would recommend that they would not be. Reversions tend to be one-time in nature. They can occur this year and may not occur next year. It is my own personal opinion that it is appropriate to base it on General Fund revenue and not on reversions.

CHAIRMAN PERKINS:

Mr. Hardy also had some part in the discussions and the creation of this and he may have some additional answers for you.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. To my colleague from Carson City, to answer your question, the 7 percent came about when I recognized the state of Colorado was looking at their "TABOR Amendment," which you are probably well familiar with. Their spending and taxation then was limited to a population and inflation growth, without a little bit of wiggle room. They got into an interesting situation. Look at Assembly Joint Resolution 18 and try in some way to look at the economic growth plus inflation and population. I was trying to do some of that kind of thing myself and the 7 percent came through some understanding of what Colorado was doing and the

reality of what we were trying to do, and get something in place that would feel good. That felt good, therefore that is what I suggested and that is why it is there. Thank you, Mr. Speaker.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Chairman. To you and through you, to the one-half of the “pair-a-docs,” thank you for that explanation. It is helpful. Just for your information, normally the per-person economic growth is more on the order of 2 percent than 7 percent. I think with the explanation, Mr. Chairman, that I have received from the staff and the good doctor, I will be able to pursue a further feel-good discussion with him off-line. I thank you.

CHAIRMAN PERKINS:

I would like to compliment Mr. Hardy, as well, for your pursuit of this in terms of trying to provide some accountability in the bill and I think it has been real helpful for a number of the members.

ASSEMBLYMAN PARKS:

Thank you, Mr. Chairman. In looking back at the work that the Assembly Concurrent Resolution 1 Task Force performed by their calculations, gaming represented approximately 15 percent of Nevada’s economy and it paid approximately 51 percent of the State’s General Fund. Has there been any projection as to how much of the additional tax gaming will pay if Assembly Bill 1 were enacted?

MARK STEVENS:

I have not attempted to go in and calculate the percentage of the revenues that would be increased that the gaming industry would be responsible for. I don’t believe anyone else in our office has done that either.

ASSEMBLYMAN PARKS:

Thank you. I guess I am just looking at it and doing some quick numbers and it would appear that their participation would increase at least from the 15 percent to probably approximately 20 percent. Thank you.

CHAIRMAN PERKINS:

One of the items that came to my attention yesterday that may be helpful to the Body was an article that appeared in USA Today. As you might know, there are a number of states in fiscal crisis. Nevada is not unique in that situation. There were three of the states listed in USA Today whose spending growth actually lagged behind their population and inflation growth. Nevada was one of those three states. We had a population and inflation growth of 43 percent and our spending growth was on the order of 36 or 37 percent. It has been a tribute to Legislatures past, and this Governor and his predecessor, in terms of that 1997-2002 period.

ASSEMBLYMAN PARKS:

Thank you, Mr. Chairman. In looking at these revenues, I know that our intent was to try to implement a broad-based tax as well as to fairly impact all segments of our economy. The issue that draws my attention deals with the percentage of revenue that would be generated from a bank franchise fee. Nevada’s franchise fee would be at 3 percent: in comparison to our adjoining states, Arizona has a rate of 6.98 percent, California has a base rate of 10.84 percent, Idaho has 7.6 percent, Oregon is at 6.6 percent, and I believe Utah is at 5 percent. Financial institutions, according to the Assembly Concurrent Resolution 1 Task Force make up about 7 percent of the economy and I would certainly say that at a rate of \$13 million they probably only generate about 1.50 percent of the revenue that is generated. I think perhaps we might want to closely reexamine that revenue source. Thank you.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Chairman. Several times before in committee, I have brought the issue up regarding the liquor tax. That number has floated around between 50 percent, 75 percent, 89 percent, and I think sometimes it was 100 percent. The 50 percent rate seemed like it made sense because, obviously, we are an exporter of alcohol to some of our border states, specifically Oregon, and some of the smaller communities that are close to some of those borders have an

industry of alcohol purchases. I thought it made sense from a business standpoint to keep it at 50 percent. I would like to put that back to the Body. Also, to my colleague from District 24, who has been talking about the exemption at 5,000 seats, I think we have talked about some of the local residents and our constituents that use these facilities. The Las Vegas Motor Speedway is considering a second major race and we know that the kind of economic impact that can have on southern Nevada is pretty substantial. I think that was one of the reasons we were trying to keep in consideration. It was a good compromise and I would certainly support keeping that exemption in there. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Thank you, Mr. Griffin, and I would like to give notice to the members that we are having a pretty flowing discussion. Please feel free to bring up your comments or questions. As I noted before, it is my goal to try to find areas where we can find agreement rather than disagreement. We can begin there and certainly work on the disagreement so that we might be able to build consensus through using this vehicle and accomplish our constitutional mandate to complete our work here.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Just a note, if I might. I happened to save an article from Governing, February 2003, and in my sick mind I went upstairs and pulled it out. They did an analysis on taxes in all 50 states. They did a ranking on adequacy of revenue, fairness to taxpayers, and management of systems, and Nevada got one star in all three categories. The one star is defined as, "The area under review needs some kind of dramatic reform. Alterations at the margins will not be enough to fix the problems that were identified." They then go on to do a little synopsis, if I might share some of that. It says, "Nevada has long been aware that there is something out of whack with its tax system. 'If you look in the Dictionary under structural deficit,' the state's Director of Administration mused a couple of years ago, 'I guess the State Seal of Nevada ought to be right there by the definition.' One reason is that the State is dependent on tax revenue from its casinos and slot machines and these receipts have been declining since the 1990s. Most of that money does not come from gaming but comes from other sales and use taxes and these have been hard hit, not only by recession but by limitations on taxing Internet sales. Meanwhile, Nevada's fastest growing population requires higher expenditures for schools and social services that the existing structure did not support. The Nevada Constitution forbids a personal income tax and the only business tax currently levied is \$100 per person annual head tax on employees. Most jurisdictions are up against a low property tax cap that was placed in 1981. Cigarette and liquor taxes haven't been increased in nearly two decades. The sales tax base is so narrowly drawn and riddled with exemptions that it covers virtually no service in the State where the economy is almost entirely service-based. All of this combines to create a regressive and dysfunctional tax system."

Today, before we leave, I hope we recall that the whole gist of what we have been trying to deal with since the beginning of the session was to fix this dysfunctional system while making sure that we properly funded what we needed in a fair and equitable manner. There may be tweaking that needs to be done with this bill. I think the questions have given some ideas that were there. At this point, we have an obligation and responsibility to act and it is time that we consider broadening the base, making big businesses currently not paying, pay, and making sure that we have an administration of the tax system that doesn't create the mini-IRS that my colleague was referring to. There is language in here, and hopefully funding that will come about to make the taxation collections much more equitable and much more appropriate for the individuals which are being taxed. I would be happy to give a copy of the article to anyone interested. I think it is quite telling, especially in this time.

ASSEMBLYWOMAN OHRENSCHALL:

Thank you, Mr. Chairman. To you and through you, to Ms. Erdoes. I am still a little confused. Getting back to Section 74, on page 23, would you say that the purpose of including that Schedule E would be to determine, if you read that in conjunction with page 20, Section 68, subsection 2, that any income from five or more rental units, or from any other type of rental

units, would be included as income of a business entity? I guess I am concerned that we haven't defined it tightly enough. Could this be the basis of lawsuits in the future?

BRENDA ERDOES:

On page 20, in regard to the flat exclusion of that rental, I believe that would be read to take that out completely, and then yes, if you had a fifth unit you would be a business under the provision if you filed a Schedule E for the profit and loss. You could also become a business in another way, such as having an office and declaring a business and filing a different form, not just a Schedule E. That is the best answer I can come up with.

ASSEMBLYWOMAN OHRENSCHALL:

To you and through you, Mr. Chairman, to Ms. Erdoes. Then would you say that these two sections mandate that you become a business entity if you rent, say, five or more rental properties, or some other type of property?

BRENDA ERDOES:

If I understand your question, I think the best answer I can give you is that I do not believe in every case where you had five rental units that you would necessarily have to be deemed a business. It would depend on how you conducted your affairs and whether you conducted them as a business. Certainly if you had a real estate office or a property management office, then I believe you would be a business. I can't think of a situation under which with that fifth unit you would not be a business, but I don't want to preclude that possibility simply because I cannot think of the facts to match it.

ASSEMBLYWOMAN OHRENSCHALL:

To you and through you, Mr. Chairman, to Ms. Erdoes. Is that something that perhaps your office might study a bit to see if the wording might need a little tightening, without unduly delaying anything?

BRENDA ERDOES:

I would be happy to.

ASSEMBLYWOMAN OHRENSCHALL:

Thank you.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. First of all, let me say thank you for letting us have this dialog and the entire Body being included. I think this is wonderful and a great opportunity for people to hear our questions and the answers given, on the record.

Since we are getting our feelings out there on this bill, I wanted to let this Body know that, like Mr. Geddes, I had a little heartburn with the 5,000-seat exemption. I felt like the boxing industry should be treated like everyone else. We have not included a hotel-motel occupancy tax. The slot operators had already agreed to pay the 33 percent, so I feel that should not be included in the franchise business tax. Those are my concerns and I wanted to share them with you. Thank you, Mr. Chairman.

ASSEMBLYMAN GOLDWATER:

Thank you, Mr. Chairman. I guess I am reminded of two things. One is that most of this stuff is not new. We have been going over this stuff for four plus months. The second is that we are in this Special Session at a cost of \$50,000 a day to the Nevada state taxpayer. So I am thinking that through this wonderful forum alluded to by Ms. Gibbons, can we find a way to craft some sort of compromise? We can pepper our wonderful staff with questions all day long about any particular thing. This bill has lots of stuff in it that I don't like but that is the nature of compromise, but if we can come up with a bill that we don't like equally, that is what we are trying to do. I would be happy to sit down with Ms. Gibbons and Mr. Geddes and if I can have their commitment, right here, to say if we can fix those couple of issues, if we can tweak the slot route operators' business tax, or if we could tweak the payroll and franchise balance, can we have your commitment that we will get your yes vote on this tax bill? If not, we are wasting your time. You want to open the budget? I brought the whole thing right here. I will open it up

to any page that you ask me to and let's work on whatever cuts you want, but let's do it in the spirit of making a compromise and saving the taxpayers the \$50,000 a day that we're costing them. I am ready to go. I will do it right now.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. I am ready to rock and roll and get the work done. Work with me and I will work with you.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. I have a couple of comments. First, in regard to Ms. Giunchigliani commenting on the Governing article, I saw that article as well, so I did some research after that article and indeed, if you compare tax stability of the state of Nevada, whether you break out the fractions of our tax base or take it as a whole, we are actually more stable than the states around us. The people at Governing judged stability based income tax, and since we don't have an income tax, they think we have a structural deficit as well, even though they didn't use that terminology. They felt income tax was a positive way to judge a state's stability in terms of tax revenue. I would put out to this Body that income tax is killing California right now because as the economy is recovered from 9/11, indeed, sales tax expenditures have come back, people traveling has pretty much come back, and the occupancy rates in Las Vegas, et cetera, are rising. However, California experiences a lack of revenue to this day and it will probably go on for another year or two because of lost carried-forward provisions in income tax. They are still in a world of hurt over the issues that are created by tax stability.

I don't want it to appear that we haven't made some attempt, when this is over, as comments have been made that no one has suggested any cuts or changes. I fully support the Distributive School Account (DSA) and the Class-Size Reduction (CSR) provisions that are included in this bill. I have no problem with them whatsoever. I can't support the Gross Revenue Tax (GRT) portion of this bill, as the franchise fee is simply a gross receipts tax. For me to be able to support this bill, it would have to be eliminated. I have made that statement clear, publicly, multiple times. The tax package is \$1 billion when you implement all of it. I can't support \$1 billion. If you want suggestions, I think we have to cut huge money out of this. Mr. Chairman, I am not going to stand here and waste this Body's time or play games by offering amendment after amendment, trying to make everyone vote no or everybody disagree and go through a huge litany of those things. The fact is, however, for me to support this bill, it would take a significant cut in revenue and it would take elimination of the GRT, which means we would have to implement a different tax.

In addition, this bill, as it exists, has a \$200 million hole built into it, coming into the next biennium, because of the estate tax and \$68 million of one-shot money from the federal government. That would have to be eliminated in some fashion to make this bill acceptable. Again, I can offer all the amendments that I feel the majority will vote down. I can't see wasting the Body's time doing that but I don't want it said that we didn't tell anyone what we disagreed with, or what I disagreed with, and what I think needs to be changed to make it acceptable. With that I have voiced that opinion and I want to make it clear that those are the concerns I have with the bill, as it exists.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I have a couple of comments. Nevada is no California. If you want to look at a wrong way to create a tax structure, let's look at California, but we don't want to be a California. That is not what this bill does. California has a 10.8 percent bank franchise fee. This bill has a 3 percent fee. I think it would be the lowest in the entire western United States. The average on franchise taxes is 5 percent. We don't want to change the character of Nevada where we are one of the lowest taxed states in the nation. We want to have a tax. That is the difference. A \$200 million hole in the budget? No, I don't think it does that. What we are trying to do is to raise enough money so that we don't have to raise taxes again in the next decade. Who in here ever wants to raise taxes again in your legislative career, raise your hand. We are in a committee—raise your hand. No, this is not something we ever want to do again. That, I think, is why we wanted to make sure that the number was enough to fill any potential holes, and to fund K-12 growth. What is going to happen in two to four years? Is Las Vegas going to stop

growing? Are the schools going to continue to need money or just once when we give them this \$200 million—\$300 million for growth? They are not done. They are going to keep growing and we are going to need that additional revenue. That is why I believe that this is a reasonable plan. What does it do? It taxes business, big businesses who pay taxes in every other state, but not here. It taxes banks who are making record levels of profit. It taxes gaming. What is wrong with taxing big business, banks, and gaming? I don't think there is anything wrong with it.

I am like Mr. Goldwater. If you have a problem with a certain issue, let's fix it. The issue Mr. Geddes raised, for example, was a legitimate one. What we are trying to do is get revenue from folks who are already known to play games, like the strip clubs down south. What they do is get out of paying tax on an admission fee by charging \$100 for a soft drink. Do an Internet search. They are very clever. We want to make sure folks who are making lots of money pay their fair share, not sock-it-to-them, just pay their share. That is why we constructed it that way. If there is some way we can fix it to make sure we are not hitting any small venue, let's do it. I am willing to work all night to fix any legitimate concern, but I am afraid you may not be the issue at all because I think you have already said you support funding for schools. The question is, who else is going to break this logjam? We need to. We need to fund schools. We need to do it by June 30 at midnight and we need to go home. It is not going to be done by cutting \$300 million out of this budget. The Governor has said he won't put the budget on the Proclamation, so let's sit down and try to figure it out. There are some additional accountability measures. What is missing? Let's work on it like we did all session on lots of bills, where we fixed them together, because that is the only way we are going to go home. The public is fed up. They don't care whether we are Republicans or Democrats. They think we are wasting time and money. Let's prove them wrong. Let's get these suggestions out right now and let's fix them. Let's fund schools so that we can stop this crisis and let's go home.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Chairman. I will be brief and low-key. I have three points. The first point I would like to make is that this bill would be the first step that would turn Nevada into East California and that is why I will oppose it. My second point is that I think the joining of education funding and the tax measure, which is unprecedented, is an unproductive political game. We have already been down that road once. Everyone knows where we stand. We voted against it. I don't think it is useful. I think a productive thing would be to bring the DSA, which has already passed in the Senate, and that will get us on. My third point is a question, Mr. Chairman. I thought I heard the gentleman from District 10 suggest that we could have discussions at this point on opening the budget and cutting it. If that is the case, then, indeed, we can move forward, but I think that suggestion is also a game because I didn't understand that to be the case. My question to you is, can we, in fact, seriously entertain adjustments to the budget at this point or not? Thank you.

CHAIRMAN PERKINS:

I think there are a number of questions in that dialog. First, let me start with this being the first step to becoming California. I vehemently disagree. Some of the arguments I have heard about any tax that we have talked about, whether it was a gross receipts tax, a net profit tax, or anything in between, whether 3 percent, 5 percent, or a 0.25 percent, or this schedule, or that it is just a foot in the door and the issue will be raised every session after that. Look around you. This is the most difficult thing we have had to get our arms around in my memory. I have heard the characterization that this is just a foot in the door. This is the most difficult thing to do. It is not going to happen on an every-session basis.

Your other suggestion that combining the DSA education-funding bill with a tax bill as unprecedented is absolutely incorrect. It has been done twice in our state's modern history, in 1967 and in 1955, for a whole host of reasons. We just heard from our Attorney General and we have heard from our own Legal Counsel. The prudence in passing the DSA, if we were to do that, due to some recent Supreme Court decisions, it is our understanding that we have no flexibility in terms of sending that bill to the Governor. If we were to have passed it and sent it on to the Governor, and we don't resolve our budget issues, our revenue issues, by June 30 at midnight, we have then not fulfilled our constitutional obligation, that obligation that we all stood here on the first day of session and raised our right hands and swore to uphold. That is

why these are together. I will uncouple them in a heartbeat if you want to vote the revenue plan out first so that we are assured the revenues are there. It is prudent, in my mind, and responsible, so that we don't find ourselves on July 1 having passed education and not having the revenues, and we find ourselves in a situation where we have not fulfilled our constitutional obligation, and we are being sued by the Executive Branch, or the school districts, or somebody like that. That would be the worst-case scenario.

Is it okay for us to discuss the budget? Yes, we can discuss the budget, no question about it. We can discuss anything we care to discuss in our legislative deliberations. It is not on the Proclamation by the Governor. Certainly the Governor would have to be convinced if there was some agreement made, but I can tell you, we have gone back through the votes in the money committees as well. Many of the suggestions that have come up either through the news or in personal conversations over the past weeks and the past month, for that matter, were voted on by many of the folks who have offered the suggestions to cut, voted for, in those committees, either in subcommittee or full committee. It makes a very difficult debate to go back and accept those as legitimate suggestions for cuts. There are a lot of folks in this Body who don't believe there is a full funding of our budget as it is at the level we are talking about. Whether you want to look at university enrollments, or welfare rolls, or whatever, there is that debate. Can these discussions happen? Absolutely, they can happen.

Going back to Mr. Hettrick's comments from earlier, I truly appreciate him not wanting to waste the Body's time and just throw out amendment after amendment to be voted on, but I think it is the dialog we need to have. If there is something out there that we have missed, we should have that dialog. That is my concern. We are here and we have only a handful of days to fulfill our constitutional obligation. We do need to find compromise. It is not my way or the highway, or your way or the highway. We have to find a way to get this done. The people of Nevada deserve no less and it is my encouragement to all of you, either in this setting, or in a personal setting, to have those conversations to find that middle ground. We need to be able to count to two-thirds in this Body and have the two-thirds stand in the state Senate as well. We have the requirement of having it go through both Houses with the same number. I will step back off of my soapbox for a moment and recognize other members.

ASSEMBLYMAN GOLDWATER:

Thank you, Mr. Chairman. To answer my colleague from Carson City, Mr. Knecht, this document that is three volumes did not just show up the other day. It has been available to this Body for its perusal, suggestions, everything, since the last week in January. It is June. My friend from Gardnerville, Mr. Hettrick, suggests he will absolutely not accept a Gross Receipts Tax (GRT). He will absolutely not do something else. That is not compromise. That is not the spirit of compromise. We are wasting \$50,000 a day. I just got a commitment from Ms. Gibbons who said if we can fix her issues, she will vote to let this budget pass. We heard from the Attorney General. There is no choice. This is terrible and there is no choice. We have to pass a balanced budget. If you want to reopen it, I will reopen it. I will open it to any page you want if that can get this fixed. I want to go home. I want to save the taxpayers' money. I need to go back and provide for my own family. It is wrong if you can't tell me what it will take. "No, I absolutely will not do this," is not, "This is what it will take to get there." Those are the questions that need to be answered in this forum. Those are the statements that need to be made. This is what it is going to take to get me there. I have one person, Ms. Gibbons. We need a couple of more to say, "This is what it is going to take." That is reasonable legislating in my opinion, Mr. Chairman.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. By popular demand, or un-demand, I am going to say it anyway. I was hungry about two months ago and went home and realized there was nothing to eat, so I opened a can of pork and beans. The can is a new flip-top version. As I was inspecting the can, I saw that it said, in a big, blue banner with white lettering, "Now with more beans." Now, how do you get more beans in a can with pork and beans? You take out the pork. I looked on the back of the can and it has a cute jogger lady who is all healthy. It says there are seven grams of fiber, 85 percent less fat than eight ounces of yogurt, tasty, wonderful, healthy, now with more beans. We are in a position where we need more beans. I looked at the ingredients of the can and I said,

“Oh my, there is less pork now in a can of pork and beans than there is salt.” That means you can taste the pork but you can’t see it. I look at what we are trying to do and that is what generated my comments about more beans. We need more beans. We have a need in this state for more beans. What do we call people who count money? We call them bean counters. We have those people and now we need more beans for them to count. This is reality. This is what we are doing. We have to get more beans.

Bless your hearts, you have been patient with me and worked with me. I have some things in this bill that I like. I didn’t anticipate seeing such a good bill come before me, but I like this. I understand the comments. If you want to ask me, David, I will say, “Wouldn’t it be nice if we delayed the Rainy Day Account? Wouldn’t it be nice if we postponed the implementation of the Public Employees’ Retirement System Account (PERS)?” It would be down to almost \$800 million in new dollars. You could tweak it with a few little things and we could look at the tax part of that and you would then have something that would still have more beans, still be looking at the hole that we have, and the hole that we are going to have in two years when we don’t have the estate tax. This bill allows some of that to happen. I made a statement some time ago that I would not vote for an Assembly bill. This bill tempts me to vote for it. There are some advantages in this bill. I think we need to work with Mr. Goldwater and make him happy that he brought all that stuff and put it on his desk. We need to figure it out and maybe it is time that we put the Senate in a difficult position. Thank you, Mr. Chairman, for your indulgence.

ASSEMBLYMAN HORNE:

Thank you, Mr. Chairman. Unfortunately, I have not sat in on any money committees. Back in November I told someone that I had asked to sit on a money committee and they said, “somebody was looking out for you.” I want to say being off the committee has been a disadvantage because you get things through a filter. The one thing I did know back in November of last year was that these taxes were going to be necessary. I believe, for the most part, most of this Body is there, but it is painful. One of my Republican colleagues, who will remain nameless, told me, “The problem is you are asking Republicans to vote for this \$800 million in taxes. Do you realize how difficult that will be? It will go against the grain.” This person understood that while we understand it is necessary, they still wanted me to understand how difficult it was to get there. That is legitimate, but I want you to know that it is difficult for all of us. I sit down and look at the figures and I rub my head every time I do that.

Nevada is changing. I grew up in this state and now we are over 2 million people. There is no sign of that trend stopping. It is kind of like an adolescent. Some of you have one in your homes or who has just left. They have to make the transition into adulthood. I have a 16-year-old and I am watching her make the transition. I have to teach her that it is not all about her anymore. She thinks that it is, especially being 16 years old, but it isn’t. It is painful to watch. I am sure it was painful for my mother to watch me. I am sure she wanted a morphine drip watching me move into adulthood, but she had to allow me to do that. I had to move into adulthood and make the tough decisions that have to be made to move into adulthood. You cannot say that we are moving toward being like the next California. That is an option. You can move into adulthood and become a bad adult because you have seen examples of it, but you have also seen examples of good adults. We can see examples of good states.

Nevada is poised to be a leader in this nation. We are poised to be a leader, but to be a leader you have to make tough decisions. It hurts, but you know that it is going to pay off in the long run. We have all made tough decisions in our lifetimes, in everything from school to family. Sometimes the tough decisions paid off; but most times it was great, it didn’t just pay off. You said, “Wow! I am glad I made that decision. It really worked out for me.” That is what this is. We are talking about the future of our state. We are talking about the future of our children, things like a good, higher education. For example, when we are talking about adding law schools and dental schools to our University System, that is what leadership states do. They have those things. They are preparing new leaders for our state and for our nation. We are moving into that realm. K-12 is so important. We all espouse how important our teachers are to our children, but talk is cheap. We need to start showing by our actions how important our schools are, how important our teachers are, and how important our children are. We need to provide them with the tools to do a good job so that they can move on to become those awkward adolescents and to

become those productive adults in our society. While it may be painful at times to move through this process, this is a necessary process. I believe once we make these compromises, as Mr. Goldwater said, we will be able to swallow a little, bitter pill so that we can have a bit of a sweet taste as well. As soon as we do that, we are going to look back one day and we are going to say we did the right thing and we are all going to be better for it and our state is going to be better for it. Thank you.

ASSEMBLYMAN GRIFFIN:

Thank you. I wanted to follow up on something the Majority Leader and the Chairman of Commerce and Labor said. I did tell the Minority Leader that I would be very interested in serving on the money committees and he happily said yes. I think there was some punishment in that, Mr. Hettrick, that we can talk about later. I have obviously been very supportive of this budget and, of course, the necessary taxes to pay for it. I would like to follow up on the comments some of the people have talked about but I don't want this comment to be construed as something that would make anyone else support it. It is a concern that I have heard and maybe it would encourage this discussion to move forward. It is on the issue of Medicaid enrollments. I would throw out as a suggestion, and I don't know if it is possible or not, that we consider an option that if the Medicaid enrollments don't come in to the levels that they have been predicted in this budget, that perhaps the difference, rather than going back into the base budget of Medicaid, maybe it can go into the Rainy Day Fund. I don't know how that would or could work. I don't mean to imply in any way that it would get anyone else's support but it is a complaint that I have heard. I would like to compliment our colleague from Assembly District 20 in Boulder City. I have always wanted to see what the Senate did and vote for a Senate bill, and while I don't love this bill, I think there are some suggestions and some tuning that we need to do to change it. I don't know that I have as many problems with it either. Those are some suggestions, and again, the Rainy Day Fund may be coming down and if that is possible, that is possible. If the issue comes to the discussion table to lower this amount to be sensitive to the growth and Medicaid based on enrollments, that money can go to the Rainy Day Fund so that it doesn't continue to add into the base budget as we go on. I would like to encourage that discussion to be on the table as we move forward tonight. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Thank you, Mr. Griffin. We spent four months training everyone not to call our colleagues by name and now we resolve ourselves into a Committee of the Whole, and nobody will.

ASSEMBLYMAN ARBERRY:

Thank you, Mr. Chairman. I tell you this is like a nightmare and I just woke up. This is to this Body. This took place almost two years ago when the Governor created the tax committee, special group, to decide the taxes that this Body would be looking at this session. I know a lot of you ran your elections saying that you would not raise taxes or support taxes. If you were running for the position that you have been elected to, you would have known that the Governor had created a task force and known that we were going to have this problem before you got here and before you were sworn in. So now, to sit back and say you are not going to vote for taxes because of this reason and that reason, you should have been following the Task Force at that time if you were interested in being an elected official. Now, we come to the part where you are elected, and you were appointed to the Committee on Ways and Means, and you sit there from two weeks into January, starting two weeks early. I took the Speaker to breakfast and begged him not to start two weeks early because I didn't want to come here two weeks early because I felt that two weeks early was not going to make that big of a difference; and here we are almost to July. I love all of you, but I am sick of looking at you.

CHAIRMAN PERKINS:

You should have taken me to dinner.

ASSEMBLYMAN ARBERRY:

I am trying to tell you, on a lighter side, that we had the budgets open every day. Ways and Means met some mornings from 7:00 a.m. to after Floor session started. We tried not

to meet in the evenings because we wanted to give you time with your families so you could rejuvenate your mind. Now you wait until the end of the session. You had opportunities to come before Ways and Means as a constituent. As a member of this Body, you could have sent in anybody you wanted to come in to voice their concerns. We had an open-door policy, but no, you waited until now. At the end of the session we were going to close most of the budgets, and the train left a long time ago. It is gone, it is wrecked and put back together, and we need to make a decision here.

I said I wasn't going to get up and make a speech, but I am trying to tell you, as the Chairman, we gave you an opportunity as members of that committee. You had an opportunity to voice your concerns, and now it is sort of like sitting in the grass and waiting until the end and saying now I am going to jump out of the bushes and let you guys know that I don't like this budget. The Governor brought that budget. I might not agree with everything in that budget, but I have to commend this Governor. He is a Republican and I have been sitting in this House for 20 years and I have served under some Democratic governors, with due respect to them, and we kept putting Band-Aids on to save them, and now this Governor comes along and he says we are no longer going to run this state on Band-Aids, glue, and everything else. This Body knew this and some of you senior-ranking members know that we have been putting Band-Aids on this budget and you never came forth over all these years, you are sitting here saying, all of a sudden, that you don't want to raise taxes? You knew every time you went home and had said you didn't want to raise taxes, you were able to say, "I didn't raise your taxes, constituent."

You knew this was coming someday. As long as you sit in this seat you knew that someday you were going to have to vote for taxes. We don't produce the streets out there that they ride on. We don't produce the highways that they ride on. We give them the money so that the people can sit out there and drive and go from point A to point B. Now, you are here and you have to take the responsibility and vote for some taxes. You have to get off your duff. I know you are going to tell me, "Moose, you are going to get reelected no matter what." No, I face the same constituency that you do. I just go back to my constituency and say, "You know, I bit the bullet and I took it." If they don't want to vote for me, then let someone else sit here. You don't own these seats and I keep telling you that. I don't know what basketball game you go to when you think that you bought these seats. I know you walk, you study, you do everything, but you don't own these seats. When will you guys realize that the people in office in 1972 are no longer here, the people in the 1980s are no longer here? All of you are all new bodies. I don't know if you think you are going to be here in the next 15 or 20 years. You have to understand the state is growing and you have to get off your duff and vote for some taxes.

The state cannot function on the little money that you are trying to get. We get \$130 a day and all of you are complaining but say, "I am not going to vote for a raise." You get \$130 a day because of the people in the past voted for you to get it. If you are so concerned, why don't you go back to 1972 and take that salary. I don't see any of you jumping up and recommending that. I am sick and tired of this. I want to go home. I am tired. I want you to understand that you had an opportunity, you had four months plus two weeks and now we are almost into July. You need to understand that you might not be here and bite the bullet. So what. Let someone else come up here and bite the bullet and if they get voted out, someone else will get voted in. Thank you, Mr. Chairman, and I am sick of it.

ASSEMBLYMAN COLLINS:

Thank you, Mr. Chairman, to you and through you, to the Body, and especially my alumni from Western High School. Brother, that was great. I love you, man. I have been here a long time, too, and it has been fun this afternoon watching some folks vent some emotions, beliefs, feelings, and differences. It is interesting. Some people have their face stuck in their computer and some people are listening. Some people are doing their own thing and some have already made up their minds. I have been in politics, or around it at least, a long time. I watched an uncle on a city council some 28 years ago and I went to a lot of planning commission meetings, and council meetings, and commission meetings, and a lot of times they had already made up their mind. One time I watched 5.5 hours of testimony in opposition to an issue but that council had already made up its mind before they ever let the first person speak. I know some of you have already made up your mind, but I hope you all haven't. I hope some of you still realize you

represent Nevada, and as my colleague said, "This isn't your chair." This isn't my chair. The chair belongs to my constituents and the state of Nevada. I agree wholeheartedly with that.

I want to share a few things. We are like California. Let me tell you something funny. I did a little research on this thing and I want to share several things with you. The Senate has already passed a 3 percent sales and use tax based on the California law with major exemptions including food, fuel for heating, and agriculture implements. We did that after California. We looked at that tax proposal just like California and Utah had. The Senate chose the exemptions Utah had. We were actually the 34th state out of the United States, when there were only 48 states, to pass a sales tax, and it was necessary. I want to read something a former state Senator said to us speaking at a policy meeting attended by all members of the upper House. The Finance Committee Chairman said, "It would be wonderful if we could finance the state from the gaming industry, but I don't think we can. A broadened approach to fiscal policies would be required by growing school demands and increasing government costs." Some of these things I am quoting were said before some of you were born. That was stated in 1955 by Senator Johnson of Ormsby County.

A former Speaker of the House declared flatly, "The Assembly will not vote on a state school support program until a tax is passed." In 1955 Cyril Bastian was the Speaker of the House. The same article said he was one of the most respected members of the lower House in the State Legislature. He said the tax issue was closely tied with another major problem, the need for added state support for schools, because it is the only revenue measure introduced in the session that would raise the added funds required for a greatly augmented state education. Folks who lived here back then, or were going to school like me, had a disorderly school system with a bunch of districts. They combined them and tried to make things better.

In 1955, a long time ago, it was said, "One of the saddest spectacles of the current legislative shenanigans is the lengths to which some members of the Legislature will go to preserve a good deal that exists in their own constituencies. The welfare of the state, its institutions, its agencies, and its children are not nearly so important in the minds of some lawmakers as is the preservation of assessment standards and tax rates that benefit the legislator or his powerful friends. Of course, a situation of that nature is not unique to Nevada, but in this state it assumes major importance because of the magnitude of the problems compared with population and resources that are supposed to be faced by this session. When a low tax rate and an even lower assessment in a particular county becomes more important than the welfare of thousands of Nevada children, lawmaking has indeed reached a new low and the 1955 Session of the Nevada Legislature fits in this political cesspool when measured by either standard." Forty-eight years ago Nevada had to fight like this. Calling each other names, criticizing, and grieving over what kind of tax to pass. Some Republican Senators opposed a personal income tax, which never happened. Clear back in 1955 a real estate transfer tax was proposed. How many years later before we step up and pay the piper?

I told you about the old car that was broken down. We still have to fix that old car. I want to share some of these things because I can show you different years, different statements, and different policies that this state has put off as long as it could. A former Speaker said, "We have a sinking ship in Nevada, a ship which has been sinking at the rate of \$2 million a year." Wouldn't that be nice to only find \$2 million? Realize back then the population of Nevada was only 220,000. They needed to come up with a \$27 million increase in their budget and they went beyond their regular session just like we have. That is what is so unique about this parallel as well. They went six days into overtime. Six extra legislative days to pass a compromise bill that increased gaming taxes and the sales tax was created at 2 cents. The doom-and-gloom forecast from some people was that people would stop coming to Nevada. Well, look around you. They didn't stop coming. Our schools are a little bit better but we are still not taking care of our business right. We did the minimum; we didn't do enough.

Today, it is real simple. The budget is closed. I get a bunch of e-mail that says open the budget. Well, hell no. The budget is closed, and enough of you voted to pass it. The issue right now, so some of our colleagues want to go home can go home, and I can go back and see my grandkids and go make a living, too, is real simple. We pass this budget.

A couple more of these articles talk about a broader tax. The Senator who wanted to have a personal income tax compromised with a couple of colleagues who went with the combined

gaming and sales tax because it broadened the tax base. Today we are faced with the same dilemma, to broaden the tax base. I don't care if you call it a gross receipts tax, a Unified Business Tax (UBT), an ABC, or XYZ. I have been in Nevada a long time. My kid, when he was in the Gifted and Talented Education (GATE) program in the 1980s, had to stop taking P.E. due to a budget crunch because the Legislature in the 1980s wouldn't fund it.

I shouldn't get so emotional. I told you about going to a high school that opened with 2,100 kids that had been built for 900. Maude Frazier, a legislator in 1955 when this school dilemma was being faced by our Legislature, said that 90 percent of the growth problem and the deficiency for funding in schools was in Clark County because of its zooming growth. Think of Clark County in 1955. There were probably 1,000 people a year moving in there and they called it "zooming growth." Well, now we have some real zooming growth. We have to hire about 2,000 teachers in Clark County. Further, Clark County will pay most of your taxes. There are 29 Assembly representatives out of 42 from Clark County. I, for one, really feel hurt when I bring up this issue. The fact is, Clark County subsidizes a lot of the rural counties. I love rural Nevada. I love the whole state. I love going to the fair in Panaca. I love going to White Pine County and riding the train. Winnemucca has a great new indoor facility for equestrian events. We have some real good places in Nevada. Go up to Lake Tahoe and see the clean water. Go down to Genoa and enjoy the prettiness and greenness of Douglas County.

Folks, this tax bill is not onerous, irresponsible, or unacceptable. It is a fact. It is minimal. Folks need to know that. Just think about it. I have been in session five times. How many times have we forgiven the debt to White Pine County for its educational bills? How many times have we taken state dollars that should have been distributed equally to the state budget for the kids in Clark County and Washoe County so the kids in Lincoln County could have a new school? A school that was condemned before anyone got around to saying they needed help? Go down to Schurz, Nevada, and think about that elementary school that was condemned that had been built in 1936. Is it embarrassing that your kids, or your grandkids, could go to a school building that is condemned? The walls are falling down before we step up to the plate and spend a few dollars to fix it. It is really hard to see people that are not caring about the future of Nevada. I get a lot of e-mails from businesses. I own a business with six or eight employees. We will gladly pay another \$1,000 a year, or \$1,500, or whatever this gross receipts tax, or franchise tax is. We will gladly pay it because I know it is going to buy books for schools. I know it is going to put a desk there and a roof over those kids' heads and give them a better education.

It will help welfare. I am going to ask you this question, too. I thought about it several times when I heard the debate about welfare cuts. Since we are a Committee of the Whole, I will ask you to raise your hands. How many of you have been to Bonanza and Rancho? There is a state office there people go to for welfare benefits, for temporary needs. I have been there when they were lined up outside the door to the parking lot and our state employees were working forced overtime, 11 hours a day, with two 15 minute breaks and a lunch break. Forced overtime to see that those people, who were laid off because of 9/11, or some other issue that hits our booming and bust economy in southern Nevada, are taken care of. Most folks didn't give a damn because they aren't registered voters; probably not as high a percentage as some of your other neighborhoods. I have been down there helping people. I was there helping a man who had lived in Nevada for 37 years and was placed in a home because he could no longer be taken care of outside of that nursing facility. They were going to kick him out of that nursing facility because of a problem with an issue over his home being in a trust. They couldn't do a reverse mortgage to transfer the value of that home, which was about 60 years old, to pay for his care. It took me, as a legislator, to intervene so that man could stay in a care facility, after working in Nevada and retiring here after 37 years, to get a few months more decent treatment before he passed away.

We are here to help Nevadans. Anyone who ran for office so that they could sit in this \$700 chair, or speak in this microphone, or have a computer, you ran for the wrong reason. You are here to help Nevadans, little kids, old folks, folks your own age. We are here to help each other.

This tax bill is cut back. Like some have said, it will probably have to be addressed and increased and changed later, and it is not perfect. You know what? We are not perfect. We could probably tweak something here or there, but we are not here to tweak it. You have had four months to tweak it. Let's pass it. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Thank you, Mr. Collins. Let me indicate to our visitors here, we welcome your participation. We enjoy having as many of our constituents as we can in the peoples' House. If you are in the upper gallery and you are on the rail, we will ask you to sit down. It is disconcerting to the members and not safe. As well, if you would please keep your comments, groans, cheers, or otherwise, to yourself, to help us conduct our business. We appreciate your respectfulness in these Chambers and look forward to having continued discussion with you.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Chairman. Thank you for the observation about the need to keep our voices down. I will try to do that. There are a couple of points that have been raised, suggestions, questions, and even virtual accusations. One is the question of whether members of the minority have put forth their position on where they stand and whether we have all just said no to everything. The other point is what is really needed here and what is not. For myself, personally, I would like to address those two issues, if you will indulge me.

CHAIRMAN PERKINS:

Certainly.

ASSEMBLYMAN KNECHT:

During the campaign and thereafter, I did my homework. From doing that homework, I determined that for many years now Nevada has been doing the right thing. Our tax and spending levels at the state and local level have been roughly optimal. It maximizes economic growth and human well-being. I think that is great. It is one of the reasons I came to Nevada. I wanted to preserve that policy, so I have turned my efforts to continuing that policy. In particular, in the primary campaign, as some of the local folks will tell you, when the expected shortfall was small I said no new taxes and no increased taxes. As the expected shortfall grew I could see the trend. I could see the fact as it was then estimated, and, before the election, in order to let people vote for me based on what I felt in my heart, I changed my position expressly. One newspaper in particular reported it at some length. I said increasing taxes is a last resort. We should hold the line and look for cuts. But I have said since before the election, that I was good for certain tax increases because I recognize our structural deficit problems.

Let me tell you about the particulars of the homework in terms of what is needed and what is not. My position throughout has been that since we have long been on the optimal path, and since we have had the right level of spending and revenues throughout the 1990s, we should continue that trajectory, and that to the extent we spend only on the long-term trajectory and to the extent that revenues come up short, we would have to increase them. I was good for that and I said that throughout. I might point out that some members of the majority and some members of the press have misrepresented me on that. They have said that I was still "no new taxes." That is not true and I don't know how many times one has to say it, but I am saying here, on the Floor today, that has not been my position at any time in this session.

Specifically, I have previously said, since we spent \$3.75 billion this biennium, a liberal estimate of what we need the next biennium would be over \$4.3 billion. That would include population growth, inflation, and real economic growth. It would include a modest 4 percent increase in service levels if you estimate real economic growth at 2 percent a year. That would require a \$400 million tax increase and I have said I was good for that if there were no "bad taxes" in the mix. In fact, on day 54 of this session, Assemblyman Hettrick, flanked by the Republicans, almost all of us, and the only ones not there had other commitments, I believe, presented a tax-and-spending program with details of cuts and details of tax measures that would have totaled \$511 million in increased taxes to go along with new revenues so that we could spend what he thought was needed. I stood with him that day and I did so expressly, saying that if we had some procedural and structural reform, like Assembly Joint Resolution 18, then I would be good for the \$511 million, not just the \$400 million. I think that would be a good policy.

Subsequently, today, I have had the benefit of talking further with the Governor's Office and they have suggested the \$3.75 billion, which we spent this biennium, if adjusted to current levels as of July 1, would be a base of \$3.9 billion. In order not to quibble about the technical details

and to give every benefit of the doubt to those who want more spending and more taxes, I said let's concede that and all other minor points. Now let's ask what would be a budget and a tax package that would not only continue current spending levels, adjust them for inflation, adjust them for caseload growth, adjust them for student enrollment, adjust them for population growth, and adjust them for the real growth of our economy. The answer to that is, again, if you increase that \$3.9 billion by 15.3 percent, as a liberal estimate of what would do all that, you would get \$4.5 billion. When you compare that to the adjusted revenue figures of \$3.967 billion, that means that the highest increase that anyone could justify who is talking about something that is needed, something that is reasonable, something that is not excessive, something that continues all current service levels for everybody new, and throws in a little on top of that, the most you can justify is \$533 million. That is the most. I might add, Mr. Hettrick's tax revenues roster that he introduced on day 54, covered \$636 million without going into a gross receipts tax, a Unified Business Tax (UBT), a franchise fee, a bank tax, or any of those unnecessary and unwise ideas. In short, Mr. Chairman, when you get the spending down to a reasonable level, it becomes easy to find reasonable tax packages that will cover it.

The Republicans have been on record, and I have been on record, since day 54 and before, with these facts and we have continuously updated them as I am doing today. It is not fair and it is false to suggest that we really haven't said what is needed and what is excess and that we haven't proposed reasonable cuts. We will be coming out with an updated version of the cuts list this week. It is not fair to say that we haven't done those things. It is not fair to say we just said no. That is not true. We don't need \$870 million, we don't need \$940 million, and we don't need a biannualized \$1 billion. It is damaging to our economy, diminishes human well-being, and we don't need it.

One other thing, along the way, I didn't wait. I introduced Assembly Joint Resolution 18, which is a budget cap. It is the other half of our tax cap. It is a soft cap that would require a two-thirds vote. If Assembly Joint Resolution 18 had been in place it would have prevented the train wreck that has happened here this session. We would have been done by June 2 if we had Assembly Joint Resolution 18 in place or, equivalently, if we had done the right thing. I guess that begs the question, "What is the right thing?" When the people passed the Gibbons bill that constitutionally required a two-thirds vote on a tax bill, what they meant was for the Legislature to consider the constraining factor first, namely taxes, because that is where you need the two-thirds vote. They meant for us to have that debate early and get it on.

Well, Mr. Chairman, as you know, the minority party doesn't control the agenda and therefore we couldn't bring the tax bills early. Only the majority can do that, but the majority didn't do that. The problem that we have is that the majority essentially put the spending first. They wrote the checks knowing that there was no money in the account and they figured that by so doing we could come to the 11th hour, or the 59th minute, and the minority would be presented with a bill for the checks written and told, "You have to make these good." That is not the way any business operates, not the way families operate, and not the way any public body should ever operate. It is completely backwards. That is why we are here today, Mr. Chairman, and that is what needs to be corrected. I have stood up, the Republicans have stood up throughout and we have presented reasonable alternatives, presented cuts, and presented tax ideas. We don't manage the process. They didn't get a fair hearing. Assembly Joint Resolution No. 18 was promised a hearing in Ways and Means and never got one at all. A number of other bills didn't either. We don't manage the process. The reason we are here today is because the process has been mismanaged. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Before I move on to the next member who wishes to speak, I would like to take a couple of issues that you brought up, Mr. Knecht, and take issue with them. First, this has not been a partisan process. The budget we arrived at with the State Senate, which has a Republican majority, was a process of compromise between the parties and between the Houses. As well, I think there was some discussion, or an accusation, as you characterized it, that there were no offers for cuts or presentations of such. Certainly that was done in a press conference on day 54. None of that, in my memory, sitting on the Committee on Ways and Means, occurred in front of the committee for the committee's benefit, or were any of those votes taken differently by any of

the folks participating in that press conference. It is not only the members of the Committee on Ways and Means that had that opportunity. Any member of this Body is afforded that.

Lastly, to suggest that only the majority can bring a tax bill is probably the craziest thing I have heard yet today. Each member of this House has the ability to ask for a bill draft. Each member of the House is afforded that opportunity in multiple numbers. Even after the deadline for bill drafts for the members, we have offered that courtesy for virtually every member through the committee introduction process. If that wasn't good enough, the Speaker's office has five emergency requests and I believe the Minority Leader's office has two emergency requests. Those bills could have been offered at any given time and they were not. I probably have a different remembrance of the history of the last 130 or so days.

Let me, as well, admonish the gallery again. We are trying to have a respectful dialog amongst the members here. The interruptions will make that very difficult.

ASSEMBLYWOMAN CHOWNING:

Thank you, Mr. Chairman. We are in a committee and as such I am making my remarks and questions regarding the bill that is before us, Assembly Bill 1. Mr. Chairman, I would like to address some questions and concerns that I have heard from my home district. In my home district what I have heard in our break and long before is the cry to fund our schools. Every day that we are here we could have purchased 1,000 textbooks that our kids so desperately need. They have asked to please don't cut Medicaid because they may be out on the street from the care center where they need to reside. That is not in Assembly Bill 1. They have asked for no property tax increase. That is not in Assembly Bill 1. They have asked for no sales tax increase. That is not in Assembly Bill 1. They have asked for no increase in registering their vehicle. I would like to point out, in our neighboring states, for a car that is valued at \$15,000, in Arizona it costs \$153 tax, in California it is \$302 tax, which will be effective in October. In our state it is \$137. They have asked that I please, please, keep the classes low. Our students deserve every single break that they can get. My kids, when they went through school, were in classes of 30 to 40 students in first grade. What is in Assembly Bill 1 is keeping the class size in first grade at 16 to 1. I am proud to support that. Our kids deserve that. What is in this bill is an increase in my cost, as a small business owner, to do business. For my husband and me, it will cost us \$10 more a month, \$120 a year. I am proud to pay that and my husband is proud to pay that, because we realize that our kids need their classes to be smaller. I have talked to a lot of business owners in my district as well.

According to a recent *USA Today*, our growth is 43 percent, and yet our spending growth is 37 percent. Our neighboring state of California has a growth of 22 percent and their spending growth is 55 percent. Our other neighboring state, Arizona, has a growth rate of 33 percent and their spending growth is 48 percent. I would say we are not doing so darn bad.

To address the gross receipts tax, I have business owners who said their margin of profit is so low that if we had stayed with the gross receipts tax as originally presented, their increased costs would have been \$50,000 a year. With the franchise tax, which they said they were willing to pay, would be \$10,000 a year. Again, they said that they are willing to pay.

I am keeping my remarks, Mr. Chairman, to Assembly Bill 1. I am proud to support Assembly Bill 1. This is my seventh term in the Legislature. I have served with Republicans and Democrats who every single session have funded a balanced budget and that means that they have voted for taxes. They voted for funding and they voted for the method whereby the funding needed to be accomplished. I am proud of my predecessors and I will be proud again of my fellow colleagues who vote to fund our schools. Mr. Chairman, since we are in a committee and have been in this meeting for approximately four hours now, I would like to know when the Chair would accept a motion of Do Pass for Assembly Bill 1. Whenever the Chair is ready to accept a motion, I will be glad to make it. Thank you.

CHAIRMAN PERKINS:

Thank you, Ms. Chowning. I think from the dialog we have had in the last four hours there is a bit of work left to do.

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Chairman. I am not going to speak to the bill, I guess.

CHAIRMAN PERKINS:

I think the Chair has granted quite a bit of latitude today, so please feel free.

ASSEMBLYMAN ANDERSON:

I am always concerned, however, listening to the dialog that has preceded, particularly the statements of growth and of what has happened in the state. I guess the historian, history, and civics teacher in me sees misunderstanding in what the committee process is all about. I sit on the Committee on Judiciary, a 15-member committee this time. It is larger by far, thanks to you, Mr. Chairman. The Committee on Ways and Means has 14 members. The Committee on Government Affairs has 13 members. We are all tied up in the mornings. I count on the people in Ways and Means to do their job just as you count on the 15 members of Judiciary to do theirs. If there is a criticism of what is happening in this bill, if it rests with the budget that has come out, then that means the Committee on Ways and Means and the Senate Finance Committee, which meets together and starts two weeks before the rest of us, that works hard, did not do its job. I didn't hear that kind of rumble. I did not hear that kind of dialog and our two committee rooms are next door to each other. When people would come out of that committee room that I euphemistically like to call cul-de-sac No. 1 where good bills go to die, because you won't give them money for prisons, or programs in prison, or for other kinds of important programs that we may think need to be done, we know that you did the best job that you could with the dollars that you had. We put our confidence in you doing your job. Here we come to the end of the ride and it is all over, you tell us to open the budget again, to go over it again on a line-to-line basis. The Committee on Ways and Means has already done this for the entire session every day.

I have confidence in my colleague, Mr. Arberry. I have confidence in that 14-member committee. I know that they may not have come out with the perfect budget that I wanted but they did the very best they could with the dollars that were there. They scrutinized each program. I appreciate the euphemism relative to the less pork size can of beans. It is a great story. It still may have the smell of pork in there somewhere and there may be something in there that we haven't found, but I will be darned if I can figure it out because I believe in the committee process. So when I vote to support the budget, I am voting in support of those 14 people having done their job. If I didn't have confidence in them then it is incumbent upon me, as a representative of my constituents, to sit there and look over their shoulder every day. I believe in the work of the committee. That is the reason I can look at this tax bill and have confidence.

I worked on the Committee on Taxation and I heard the justifications behind these spending questions and where the dollars were going to come from. I have been here for 14 years, long enough to listen to the promises made, the cuts that have been made, time and time again, told that we would come back and not just limp out the door. I heard a very resounding statement two years ago that we would be back, looking at real dollars and a change in tax behavior. That was the single greatest challenge facing this legislative Body from day one. Here we stand in a Special Session making believe that those people didn't do their job. I won't accept it. I believe in the budget committee. I believe the budget committee did their job and did scrutinize the legislation. I believe the Committee on Taxation did their job. I think we have a bill here that has been worked out and talked of. There is nothing in here that we have not seen in one form or another. I commend Ms. Chowning. In fact, I, too, am ready to vote, Mr. Chairman.

ASSEMBLYMAN PERKINS:

Thank you, Mr. Anderson. I would also indicate that with the budget, particularly, it ends up being a 21-person committee since we have to reconcile our budget with the State Senate, and the State Senate has a similar makeup in a different proportion than we do in this House.

ASSEMBLYMAN BEERS:

Thank you, Mr. Chairman. The Governmental Accounting Standards Board is the entity that publishes the rules under which governments must publish and prepare their financial statements. For those from the private sector, Financial Accounting System for Business and Education (FASBE) is the companion organization for private groups. Today they released a study showing that Nevada is 13th highest in the country in tax burden. I am no historian, but I look at this 33 percent increase in the scope of state spending and it just has to be the biggest conversion of private sector to public since the Bolshevik Revolution. I do find encouragement

in Mr. Goldwater's promise to look at some revisions to the spending plan. I look forward to helping in that effort.

ASSEMBLYWOMAN LESLIE:

Thank you, Mr. Chairman. I would like to get back to the Goldwater compromise plan, too, because I think we have an obligation to do our work here. I was interested in what Mr. Griffin had to say about Medicaid. I am assuming you are also talking about welfare because what I am hearing out there is that people want to cut the Welfare and Medicaid budget. Since I was the chairman of the subcommittee that worked on that in Ways and Means, I want to let the Body know that those caseloads were reprojected and we, indeed, have already cut over 25 percent of the caseload in Welfare and Medicaid, saving millions of dollars over the Governor's projections. We cut over 130 positions as well. We went through it detail by detail. The caseloads spiked in May and if the caseload projections keep going down, I personally have no objection to putting that money in the Rainy Day Fund. I think there is definitely room where we can work on that. I think we have an obligation to make sure we don't cut any more because these are entitlement programs. If people are poor and lose their jobs, like they did after 9/11 in Las Vegas, I think it is our job to help them. If there is room to work on that, you certainly have my support to do that.

I do, Mr. Chairman, want to address some misinformation about welfare that has been put out there by Mr. Knecht on TALK Radio. It keeps coming back, over and over, that Nevada's welfare benefits are far superior to California's. So, just as part of his education and for the record, Nevada's average welfare cash benefit to families is \$202. California's is \$623. Nevada ranks 44th in the nation in terms of our cash welfare benefits and California ranks 3rd. To compare Nevada to California is impossible. To say that we are going to be attracting, like one of our members said in the paper today, people from California who move here for welfare benefits is absurd. We have to correct that misinformation that is out there.

Finally, I want the members to understand this budget does not increase that case welfare benefit for anyone in Nevada. I wish it did. I wish we didn't have a mother with a child trying to live on \$202 a month. The maximum benefit in Nevada is \$348 a month; the average is \$202 a month. I think we need to raise that, but it is not in the budget. That is not in the budget. The growth in the Welfare budget is caseload growth, not cash benefit. I look forward to working with Mr. Griffin. I would be happy to sit down with any other member of this House, I have offered that to several of you, and go through the Medicaid budget and the Welfare budget line by line and show you what we did. No one came forward with a plan that said, "Let's cut 100 more welfare positions." If you want to come forward with a plan now, let's see it. Let's look at the caseload projections. Let's make sure we do it in a fiscally responsible way. I am certainly open to talk about it. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Thank you, Ms. Leslie. Let me indicate that we have five people that are on the board to speak: Ms. Angle, Ms. Giunchigliani, Mr. Knecht, Mr. Grady, and Ms. Buckley. It is my intention to not have additional discussion today after we get to those members. We have some public testimony that we are going to take and I am hopeful that we can wrap up by about 6:00 p.m. We will undoubtedly be back in these Chambers tomorrow to have additional discussion, and if you have questions that come to mind, I would appreciate it if you would hold them until tomorrow. Let me go to Ms. Angle.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Chairman. I would like to go back to discussing Assembly Bill 1. First of all I would like to say that I have always been consistent in my votes. In fact, in sessions previous to this, there were members of this Body who used to take wagers on how I would vote. I am not on Ways and Means, so I was not able to vote on any of the previous budget items. I would also like to say that 95 percent of my constituents have been e-mailing and calling me, saying this is too much. It is too much tax and it is too much to spend. They want us to let the economy recover and not injure it with new taxes. I was sent here to represent them.

I voted against the first Assembly Bill 1 in the 19th Special Session because the Distributive School Account (DSA) was attached. I don't think we should allow our children to be caught in

the crossfire in these bills. This is an issue of taxation and spending. I think that is where we should keep it. I would like to see the Distributive School Account taken out of that. I voted for the DSA on June 7 and I intend to keep voting for that.

As far as the class-size reduction piece of this bill, in the 1990s I sat before this Body as a school board member, and I asked you not to do that for our school boards or any school boards in the state because it is a nonfunded mandate. Even though we pay for teachers' salaries, we don't pay for the added cost of classrooms, et cetera. It also micromanages local elected officials. Those who are on local boards are most able to decide which classes can be larger, which need to be smaller, which classroom teachers are able to handle a larger class size, and which ones aren't. To insult them by saying that we know their job better is what class-size reduction has done. Also, it is a nightmare for the chief financial officers for each one of those school districts. There is absolutely no scientific evidence that it works, so I would say that if we would just take that piece out, we would save ourselves about \$226 million.

Finally, just to reiterate, I have been consistent in my vote. I have voted no on each one of the 71 fee increases that we have passed this legislative session. I will continue to be consistent in my vote. Thank you, Mr. Chairman.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. Just to kind of reiterate a few things. My colleague from Carson City mentioned that we are on an optimal path here in Nevada regarding our tax situation, because you didn't live here at that time. In 1988 we had a Price-Waterhouse study that was conducted and we have had several studies since then that said our tax structure is not optimal. It is not on a good path and we have an obligation and responsibility to do something about it. The piece of legislation from the Committee on Taxation, and was referred to by the Chairman of the Committee on Ways and Means last session, was actually written by me for the Governor's Task Force. The reason was because I did not want us to come back here again and sit on our duffs and then delay again, not trying to look at the structural deficits that we have and how to improperly broaden the tax base. We tend to defer to committee and defer to committee and defer to committee and never act on it. We have a history of studies that we have never bothered to implement or act on and I think this is one of our opportunities to do that. I welcome the "pork and beans" analogy because it is absolutely correct, but finally, this is one session where I can say that, serving on Ways and Means, we didn't have the pork and I felt much better about that because several of us were usually uncomfortable with those types of actions that were taken. We did, I think, an excellent job in a bipartisan manner, to slash the budget wherever we possibly could without harming the people that we represent.

Not everybody has an affluent neighborhood. Not everybody has a poor neighborhood. We all have a blend. Part of our job is to come up here and make the tough decisions, so part of what we are still trying to accomplish today is how do we close the DSA, the class-size reduction, and finish funding the rest of that government process? Regardless, I guess it is not being heard; the Proclamation does not allow us to go in and cut or reopen the budget. That is not part of the debate today, nor should it be, because that is already come and gone over two weeks ago. I understand not wanting to have the DSA and CSR contained within this; however, you heard from your own Republican Attorney General that the ruling is we must supply a balanced budget. Therefore we have to pass the taxes to fund the program that we have all heard here on the Floor today that you are planning to support.

I am somewhat frustrated though, and I commend my colleague from the Gardnerville/Minden area because he did at least come up with a plan on the 54th day that was referred to by the gentleman from Carson City. However, that was done in a press conference. That tax plan was never presented to the Assembly Committee on Taxation. Never. It was presented to the Senate Republican-controlled Taxation Committee and they chose not to act on it. It never was even brought back here for us to consider discussion-wise, although I do think we took components of Mr. Hettrick's plan and included it in this bill that we are considering today, such as the real estate transfer tax.

You can say what you want but the only Assemblymen that I remember coming before Ways and Means who are not a part of the committee, although the members of the committee could have done that, were Mr. McCleary, who came in to talk to us about the Statewide Management

of Automated Record Transfer (SMART) computer program, Mr. Hardy, and Mr. Goicoechea. Some of you came in and asked for money, and I could go through now and start pulling up the bills that came out for items that had nothing to do with the budget, but I will choose not to do that. There were quite a few individuals who did that. You can't have a little bit of both and come say, "Give me, give me, give me," and then not support the funding for the regular budget, let alone any of the side deals that anyone wants to have. Where were you when you wanted to present these cuts? Where were you when you wanted to come in and criticize the Medicaid budgets? Mr. Beers, you voted for them. It is like last session; you voted for the Dental School, but then went on a show and said, "Oh, that is one area we could cut." That is somewhat hypocritical. If you are going to vote for it, then at least be honest and say you are going to vote for it. I started going through committee votes and found no "no" votes, no "no" votes, no "no" votes, and then on June 2 you are going to, now, not vote for the appropriations. That is hypocritical. We need to get back to the business of doing what we were elected to do. It is hard. Why do you think 23 Democrats should be the ones bailing out the rest of your constituents? Because that is what you are asking us to do when we vote for a tax package. Like I said two weeks ago, it is real easy to come here and say "no." Anybody can vote "no." It takes a lot of courage and leadership to stand up and vote "yes." Sometimes we lose. Do you think I like everything in this budget? No, I don't.

Let's go back to some of the discussion that we had here. In modifying Section 27, let's see if we can get some people together to see if you still have some concerns on the 5,000-seat cap, Mr. Geddes, and see if we can come up with some language that needs to be dealt with. We had discussions on Section 74. Okay, if that Schedule C structure isn't enough, let's take a look at it. But every time you change \$1 amount, you know you are going to have to increase it somewhere else in order to fund the budget. That is what we have to recognize. If we can make it more equitable, that is what we are here today to try to do. The problem is this: where is that vote going to come from? We know we have 23 people and hopefully 3 or 4 others, but because we are hamstrung by the two-thirds vote, where is that courage going to come from? We funded the Appropriations Act and whether we like it or not, we did not fund the schools. Your choice now is this, or you let them go away with nothing come July 1 and then we will be back here again under another crisis. All we are saying is, if we are going to work until 6:00 p.m., let's get a group together after that to see who really wants to actually try to pass a bill. For those of you who came here intending to vote no, and you are going to vote no, no matter what, go home, because at some point that does not do a service to the people that we were elected to represent.

If the people choose to rehire those of us who choose to run for office again, great. If they choose to fire us when we run for office again, great. Life goes on beyond the Legislature, but right now you were elected to do a job. I invite you and anyone else, Mr. Goldwater, or whomever, let's sit down when we take our recess or adjournment and figure out how we can go ahead and actually tax big businesses, gaming, and banks, and not small businesses and everyday people. There is no property tax in this. There is no sales tax increase in here. Let's be honest about who pays the taxes. Is there a fair tax? No. And to minimize the IRS, there is actually language in here to finally allow for electronic transfers. We might actually move into the twenty-first century in Nevada. Those are things that will actually save money and save processing time, especially for the small business people. That is what we have been trying to be aware of throughout this entire session. How do we broaden the base, make it equitable, and make sure that individuals are not overly burdened?

In conclusion, I will refer to Oliver Wendell Holmes, who asserted taxes are what we pay for a civilized society. I would prefer to go home to a civilized society rather than a group of naysayers. Thank you.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Chairman: I rise to respond to two things that have been said about me and about my remarks. I think it is unfortunate that we fall too much into improper ad hominem attacks instead of sticking to the issues, but since they have been made I would like to clarify the record.

First of all, as far as Ms. Giunchigliani's remarks, I didn't have to be here in 1988 to know about the Price-Waterhouse Report. I do know about it and have discussed it since the election.

In particular, my observations on what is optimal has been our spending path. Contrary to the Price-Waterhouse Report, our taxes did keep up for about 15 years after it was issued, so the Price-Waterhouse Report isn't a very sound source to be citing here and it certainly doesn't, in any way, rebut my point about our spending path throughout the 1990s having been optimal. I might add that I voted against the spending measures that have been brought in this session when they were finally brought to me here on the Floor. I might further say that I see no courage in voting for destructively high taxes. People can say self-serving things like, that but it isn't courageous; it is destructive.

As far as Ms. Leslie's remarks about what I said on the radio, let me read to you part of an e-mail I sent to Rusty Humphries. "Rusty, yesterday on your show I mentioned one of the bash-Nevada misrepresentations made by the tax-and-spend crowd. One of the chief Nevada-bashers took issue with my comments and yours today in an e-mail. In case I made any error, I want to reiterate my comments in writing to be clear. My point was that Nevada spends much more per recipient on Medicaid, that is health care for welfare recipients, than any other far west state, in particular, 37 percent more than California." Then I quoted the following figures: "Nevada \$5,647 per recipient per year; Idaho \$5,357; Oregon \$5,315; Arizona \$5,069; Washington \$4,941; and California \$4,171. These figures fully support my point and they show that the Nevada-bashers are wrong. The gentleman who wrote the e-mail is going after me for quoting these figures because he was previously caught by Mr. Beers misleading the Legislature saying that Nevada ranks last in per capita Medicaid spending. His tactics are representative of the Nevada-bashers and the tax-and-spend crowd that wants to turn our state into East California." I concluded, "Your listeners need to know that the Nevada-bashers and the rest of the tax-and-spend crowd play rough. They play hardball with vicious attacks, ad hominem attacks, and misrepresentations as their stock in trade."

Mr. Chairman, I hope we can move beyond this annoying habit and stick to the subject. I have now corrected on the record here, the misrepresentation of what I said. I suggest that the real issue is what I said, not what someone misrepresented what I said. I would like to invite all the members, in the spirit of your suggestions, to join in a more constructive approach in the future than improper and unwarranted ad hominem attacks. Thank you.

ASSEMBLYMAN GRADY:

Thank you, Mr. Chairman. I will try to be very brief. I happen to come from one of the rural areas that is losing a major employer. When I say a major employer, we are losing a company that employs between 80 and 100 people. That does not sound like much to Clark County or Washoe County, but it is devastating to a city of 3,500. We are talking with one of our other major employers from the northern part of Lyon County and they have explained, not only to some of the freshmen legislators that visited their plant in Fernley, but also to the Committee on Taxation, why they left the state of Washington. This is one of the reasons why I have not supported the gross receipts tax, just listening to their stories. We have heard of the problems in Mineral County and other small counties. Lincoln County is roughly 98 percent federal land where there is no tax base. In our area we are fortunate enough that when things are needed, we try to fund some of the things locally with nontax dollars.

As I have discussed with Ms. Giunchigliani a number of times, we in rural Nevada know that Clark County is sending tax money into the rural areas. We would be lost without it and we appreciate it. We are a very conservative area in the four counties I represent; \$860 million or \$1.2 billion is a lot of money and my folks are saying we can't go there. Do we need new taxes? Yes, we do. What is the amount? Mr. Goldwater, I compliment him in saying, "Let's work together." We all want to go home. We are all tired. Mr. Chairman, I compliment you because I think this is the best dialog that I have seen in this House this year and, wearing a previous hat in a previous life, probably in the five sessions where I was on the other side of many of these issues. I look forward to working with Mr. Goldwater and the rest. I think our Minority Leader has some good ideas. We need to talk about them. We need to see where we were going. I don't think this Body for a minute can stand here and try to say we are going to point the finger and we are going to embarrass somebody. That is not going to accomplish anything for anyone. We need to get together and work together and pass something and let's go home. Thank you.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I am not sure where we go from here. To me, the issues are pretty clear. Nevada does not have a broad-based business tax and we need to enact one. It should be lower than all of our western neighborhood states. We should not go down the road of lots of states that are increasing taxes too high. I believe that has been done in this bill: a 3 percent bank franchise. I think it would be foolish for us to tax the people who have been paying all along. I think it would be foolish to increase sales or property taxes. I think we need a big business tax.

There has been a lot of discussion about realistic cuts. To anyone who wants to work on getting a bill so that we can fund our schools so that we can leave, my door is open, along with Mr. Goldwater's and the Speaker's, and anyone else who wants to roll up their sleeves. It probably would make sense for only those folks who are really interested in getting something done to take us up on that offer. I have heard a suggestion that here is a good idea on reducing the amount of money in the bill, let's increase class size. Let's save money out of the budget by adding kids to the classroom. Well, I am not going to do that. I am not going to support making classes, especially in Clark County, which I represent, any bigger than they already are. They are already out of control with two teachers trying to control 35 kids. They are not even complying with our current class-size reduction, much less giving them more flexibility to put more kids in our classrooms. I am not going to go there and I don't think, since this has been brought up many times, that there would be a majority in this Body or in the Senate willing to do that, so if your idea for a cut is increasing class size, I would say you are not realistic because it has already been tried and has failed and there are too many people who don't want to increase class size for kids. It is true on some other ideas. It may sound good to save \$26 million by not funding PERS. Did anyone hear from the firefighters about what that really means? People in this employment plan do not have Social Security. They depend on us to fund it and we are required to fund it. If we don't fund it, we are ignoring our constitutional duty. Some of these ideas sound good in a sound bite but if you are not willing to make sure the idea makes sense, passes constitutional muster, and gets us home, then that is not really realistic. If anybody is willing to work on that, my door is open.

The other part of it, in addition to spending, is what should be the taxing side. There are still some in this Body, both Houses, that say the way to go is to raise sales taxes or every time a home is sold, that is the way to raise taxes. I heard it said in this Chamber today that we don't need a gross receipts tax, a UBT, a net profit, a franchise, we don't need anything. Well, that just means big business doesn't pay. My constituents don't want to pay one dime more in property tax. They don't want to pay one dime more if they go out to dinner or to a movie. They think big business and gaming should pay and that is what they have elected me to do up here, along with all of us. Let's fix the structural problem before June 30. Let's fund our schools. Let's go home.

CHAIRMAN PERKINS:

Thank you, Ms. Buckley. I have a list of names of members of the public who want to testify. Let me first indicate that what we want to do is take your testimony relative to Assembly Bill 1. If there are provisions in the bill, either on the tax side, the education side, any cleanup language, or financial administration issue, we are happy to take your testimony. If your testimony is solely that you do, or do not, want taxes, that is not what we are here to hear. If you have some suggestions on how we can construct this bill better, that is what we need to hear from you.

You will have to testify from this table and come down the center aisle. I am not sure all the people signed in are still here since we have been in a 4 ¾ hour meeting.

RICHARD BUSHNELL:

My name is Richard Bushnell. I am just a citizen. I will try to do this relatively quickly. I am tired and hungry and I need a cigarette. Speaking of cigarettes, I know somewhere it deals with the taxes on cigarettes. That is fine; I can live with that. What I have trouble with is someone out in the parking lot saying they have a tax-free cigarette because they imported it from Switzerland. I will give to Caesar what is Caesar's, if Nevada is my Caesar. I truly support and love this state. Assemblyman Arberry, Assemblywoman Buckley, and Assemblyman Goldwater, you hit the nail right on the head. We need to get this done; \$50,000 a day is unacceptable. I live on \$621 a month and I will give the state of Nevada \$21 a month if it will give my kids, or my grandkids, the education that they need. Thank you for your time.

CLIFF NELLIS:

Hello, my name is Cliff Nellis. I am a very small businessman in the Reno area. Actually, I am a very small businessman. I just wanted to comment on some of the particulars of this bill and maybe ask some questions. First of all, on the sales tax allowance being reduced from 2 percent to 0.5 percent, I wasn't aware that the businesses were actually collecting and retaining 2 percent. I would like to suggest reducing the sales tax instead by 2 percent to 5.25 percent; at least that is what it would be in Washoe County. I don't really see the necessity of the business license fee. It does raise \$17 million but do we really need to start licensing businesses on the state level? I am already licensed by the cities. I went to the Reno City Council about six or seven years ago and asked for a refund because they weren't, and still aren't, maintaining the roads. That damages my vehicles and costs me more money. They were nice but they got around that and never refunded my business license fee.

I have really enjoyed visiting here. This is my second visit. I discovered my representative, Sharron Angle, is a wonderful person. I really wasn't involved much in politics before, but I realize that as a citizen in a democracy it is my responsibility to know what is going on and to become educated, and this has been quite an education. Thank you very much.

The cigarette and liquor taxes are actually taxes on the poor. Do you think the people who have a problem with drinking and smoking cigarettes are going to smoke or drink less? I don't think so. It is going to mean they are going to have less money to feed their children. But on the other hand, maybe it is good to tax things that are "sin" or immoral, if the State determines that it is immoral to smoke cigarettes or drink liquor. I am not sure if the State should try to determine whether things are moral or immoral. In some cases, yes, that is good, like I think killing is not moral. I actually think stealing is not moral and I am going to address that issue in a few minutes.

On these fees, \$18 million, that is quite an increase, but, oh, well, let's go past that one. I agree with eliminating the Business License Tax (BLT) or Business Activity Tax (BAT). I think that is a great idea. I have just a few employees and pay about \$8,000 a year in wages. The problem is adding this 0.6 percent wage tax. What that does, in my opinion, is penalize high-wage employers because they are now paying more tax. The guy is actually willing to fork out more money for his employees to pay them better wages is now being penalized because he is paying a percentage instead of a flat rate of \$25 per employee. I see the low-paying tourism or gaming industry getting off on that one.

I am against the 3 percent bank franchise fee because I know that is just another pass-along tax.

The so-called franchise fee, which is a gross receipts tax, I am totally against. Even though I am a small businessman and I probably won't be affected much by it, it may cost me \$300 a year. I am not selfish and I see all these politicians and these advertisements playing on selfishness. Oh, it is not going to cost me much money; it is going to cost Wal-Mart money. I heard these people out here chanting and saying, "Wal-Mart, take the burden off our back. Make Wal-Mart pay." I don't know where they got their education because, in fact, it is putting the burden on our back because Wal-Mart doesn't pay anything and business doesn't pay anything; it is passed along to the consumer. That is a fact and I hope you folks know that, too. We are paying that tax.

I have been educating myself on what is going on here and I found out that there is a 9 percent projected revenue increase this coming year. I can't figure out why we have to have more money. We have been running this state for years and it has been just fine. Why do we need more? Well, okay, we have a population growth. I have heard Mr. Knecht, who seems to be a very nice man, say, "We are willing to compromise. We are willing to do something." I don't know how things work in committees. I was on a little platform committee for Washoe County and I know you have to have a majority to get things done. The Republicans don't have a majority. You guys can't fool me on that. It is you Democrat folks who have the majority, so it is you who is blocking things from getting things done if anyone is doing that.

I voted for Mr. Guinn the first time around. The second time around I refrained because I was afraid that he was going to turn back on his principles. I have heard this word principles being talked about negatively by certain persons in the Senate but I admire those people who

have principles and stick to them. Mr. Horne, I would advise you to hold to your principles as a Republican.

CHAIRMAN PERKINS:

Mr. Nellis, first, he is a Democrat, and second I am going to ask you to speak to the bill.

CLIFF NELLIS:

I am sorry, Mr. Horne, I apologize. Mr. Beers, thanks for educating me that Nevada is 13th highest in tax burdens including the total tax. I remember reading one time, "Don't let them fool you with the General Fund thing because the casinos pay 51 percent but that is not the whole fund. They don't pay that much."

A couple of other things I would like to suggest to you. I know there has never been an audit on UNLV and I think maybe UNR. Perhaps you should audit these guys and make them accountable.

CHAIRMAN PERKINS:

We already passed that bill.

CLIFF NELLIS:

Good job. What about the Clark County School District?

ASSEMBLYMAN GOLDWATER:

We passed that one, too.

CLIFF NELLIS:

In the state of Colorado they have a 3 percent income tax and a 3 percent sales tax. Why can't we strive to lower the tax burden on the people, the people who work and produce? Just holding the line would be good, but I can't morally accept increasing it. There are a few things I can go along with and if you guys need more money, maybe the entertainment tax and maybe the cigarette and liquor tax and maybe these gaming fees, but please don't increase these other taxes, especially the so-called franchise fee. We elected you and I don't represent any special interests. I am a small business guy and I represent myself but I really do believe I represent common folk like my neighbors and the folks across the street. You guys have those people living around you too, common people who work hard for their money and they have bills to pay. I heard the calculations on this and if you divide this \$1.3 billion tax increase, it comes around to \$450 a person. The people who pay it are the people who work and produce in our economy. I like my neighbor and he has a nicer car than me but I don't go and take it from him. I would consider that immoral and I admonish you, my dear friends, ladies and gentlemen of the Legislature, not to do the same to us. Thank you very much.

CHAIRMAN PERKINS:

Let me address a few things as you walk back to Ms. Angle's seat. The payroll tax was actually promoted by some of the members of the Republican Party in the State Senate. It, however, does have a cap. It is based on capped wages and capped at \$21,500. Anyone who is paying \$40,000, \$50,000, or \$60,000 in wages a year to an employee is only paying at the lower rate, so there is no disincentive above that to continue raises. As it relates to people like banks, and particularly those that do interstate banking, the Wal-Marts, the national retail chains, they will certainly have their profit margin. They will certainly have the amount that they pass through. What we found out during this legislative session in doing pricing comparisons is that they charge the same price in Nevada that they do in California, even though they have 10.8 percent tax. They use regional pricing, so, in essence, Nevadans are helping to pay California's taxes. There are other states where they do pay the taxes. It is America; people should be coming here and live the American dream and make money with the least amount of government intervention possible. We just thought since they are doing business and making money here and consuming our services, that it would also be prudent for them to contribute to the funding of those services. I am not sure about the 9 percent increase. Oftentimes it is an increase over the past year. If you think about 2002, the year 2001 and 9/11 created a significant decrease for us and we are really trying to get back pre-9/11.

Yes, the Republicans are a minority in this House; however, they have a great deal of input. The budget that we arrived at had to be reconciled between the two Houses and the House down the hall has a Republican majority that supported this level of funding. So it was a compromise effort between the parties and between the Houses. It wasn't, as has been characterized, some sort of a steamroll job. It was done out in the open. We do appreciate your testimony. Thank you very much.

WARREN WISH:

Good evening. My name is Warren Wish and though I am a member of the Public Employees Retirement System (PERS) board, I have come before you speaking as an individual. As you can see by my dress, I did not anticipate being able to have this opportunity. I was outside with one of the signs saying, "Save our schools." Before this legislative session, the PERS board reviewed, with our actuarial, the report about the state of the PERS system. At the time, the report indicated that we needed a 1.5 percent increase in the PERS contribution in order to maintain the current standing of the system. As you know, the PERS system is approximately 83 percent funded. It is on course to be fully funded by the year 2024. One of the concerns of the PERS board at the time, knowing the state of Nevada's budget, we asked the actuarial what would be the implications to the system if we did not make the increase at this time. What would happen if we stretched out the number of years until full funding? What would happen if Nevada became fully funded in PERS in 2032 or 2040? The expert testimony given to the PERS board, and I wish George Pyne were here right now giving you more details, was that it would be irresponsible for us as a board to make that kind of recommendation; irresponsible because by adding extra years it would cost millions of dollars. The prudent thing to do, as soon as possible, was for the fund to continue its course, because once it is fully funded then there is integrity in the system. We know that the earning power of those investments will honor the commitment that Nevada has made to all of its public employees, whether police officers, firemen, or teachers, or state workers. Part of their commitment to state service is that if you work those years, we will have a retirement that you have earned. I believe it would be very irresponsible for this Legislature to delay that increase because it only then adds the burden to the generations and to the legislatures of the future. We need you to step up and maintain the integrity of the system. Thank you.

CHAIRMAN PERKINS:

Before I take a motion from the Majority Leader to rise from the Committee of the Whole to our Floor session so that we can adjourn for the day, let me take the prerogative of the Chair to address a couple of issues.

First, I appreciate your point of view, Mr. Knecht. It certainly contributes to our discussion. One of the things I would disagree with you on, though, is perhaps when the Price-Waterhouse Study was done in 1988, we did fine for 15 years. Actually, in 1991 we had a major tax increase in this state that still didn't last us very long. We didn't follow the Price-Waterhouse Study or a couple of other studies in the past and I think our state has suffered for it.

I don't think I will address the PERS issue. It is something we can discuss either tomorrow or in private amongst each other.

As Chair, let me suggest that we continue to be respectful of each other. I think a couple of times we came dangerously close to not being that way, on both sides. I would just admonish the members to have a constructive dialog. It is okay to disagree, but we will do our best to be respectful. In fact, I will demand that we be respectful while we are in this discussion in these Chambers.

Lastly, let me implore you, please, as Mr. Goldwater and others have suggested, if there is something in here that you want to change, something to have happen to get it done, or something that you need to voice your opinion on, my office is open, the Majority Leader's office is open, other offices are open. We can have this dialog and get this done. In fact, it is our duty to get this done. Please take the time and make the effort if there is something that needs to be corrected, for you to come to an affirmative support for this bill or another bill. Please make that effort. We owe it to the citizens of the state to get it done and not be in session longer than we have to be. We have had as many as 27 votes to support a revenue measure in this House. That is one short of 28. It is my belief that the next person, and I am sure there will be

disagreement in this, actually becomes, assuming that we get an appropriate bill done, a hero for this session. That is the person who will have the focus on them. That is the person who will have broken the logjam. That is the person who will have funded education. That is the person who will have sent us home so that we are not spending \$50,000 a day of the taxpayers' money to be here.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 6:05 p.m.

Mr. Speaker presiding.

Quorum present.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Angle, the privilege of the floor of the Assembly Chamber for this day was extended to Cliff Nellis and Kevin L. Child.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Katelyn Barney.

On request of Assemblyman Sherer, the privilege of the floor of the Assembly Chamber for this day was extended to Cody Sherer.

Assemblywoman Buckley moved that the Assembly adjourn until Thursday, June 26, 2003, at 9:00 a.m.

Motion carried.

Assembly adjourned at 6:09 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE SECOND DAY

CARSON CITY (Thursday), June 26, 2003

Assembly called to order at 10:25 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Dear Lord, in past prayers I've asked You to furnish us all with good horses when we get home. I think now, we might all like to have those horses here, so that when we finish this important work we can make a quick getaway.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 25, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 2, 3, 4, 5.

MARY JO MONGELLI

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 2.

Assemblywoman Buckley moved that the bill be referred to the Committee of the Whole.

Motion carried.

Senate Bill No. 3.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 3 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

Senate Bill No. 4.

Assemblywoman Buckley moved that the bill be referred to the Committee of the Whole.

Motion carried.

Senate Bill No. 5.

Assemblywoman Buckley moved that the bill be referred to the Committee of the Whole.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 3.

Bill read third time.

Remarks by Assemblymen Anderson and Giunchigliani.

Roll call on Senate Bill No. 3:

YEAS—41.

NAYS—Angle.

Senate Bill No. 3 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that for the balance of special session all rules be suspended and that all bills passed be immediately transmitted to the Senate.

Motion carried unanimously.

Assemblywoman Buckley moved that the Assembly recess until 1:00 p.m.

Motion carried.

Assembly in recess at 10:38 a.m.

ASSEMBLY IN SESSION

At 1:59 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 1, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Quorum present.

Assembly Bill No. 1 considered.

CHAIRMAN PERKINS:

Let me indicate to those of you who have an interest in providing additional information, it's the Chair's intention not to take public testimony this evening. We have our staff here to provide us a side-by-side comparison of Assembly Bill 1 and Senate Bill 6 for our evening session. We'll have some discussion from the committee, as well. Depending on the pleasure of the

committee, we can take some motions in terms of what we want to change or the direction we want to go. With that, we'll have our staff go through the comparison of the two bills.

BRENDA ERDOES:

Thank you, Mr. Chairman. If you look at the chart you have in front of you, the left column is A.B. 1; the right column is S.B. 6. Going down from Sections 1 to 24 in each of the bills is the payroll tax paid by the employer. The differences between the two taxes are only the rate. The rate in A.B. 1 is 0.6 percent of base wages. The rate in S.B. 6 is 1 percent of base wages. Beyond that, the provisions are the same and the effective date is the same.

On the tax on live entertainment, which starts on page 25 in A.B. 1 and 24.10 in S.B. 6, the rate is the same. As you know, that is continued from the casino entertainment tax at 10 percent. The effective date is the same. The changes to the casino entertainment tax are also the same, so all the way through A.B. 1 and S.B. 6 match.

CHAIRMAN PERKINS:

As we move through this, let me indicate to the committee that if you have questions or want to interrupt at any point, please chime in and we'll try to answer your questions as we get there.

BRENDA ERDOES:

The next tax is the business franchise fee. It is only contained in A.B. 1. It is not contained in S.B. 6. That's the one that applies to all businesses. There is a chart in A.B. 1 that we went over yesterday that has the amounts. It is effective, imposed, as of October 1, 2003. Again, it is not in S.B. 6. The next tax is the franchise tax on financial institutions, and it is in both bills, at 3 percent of the Nevada taxable income, and the provisions are the same in both A.B. 1 and S.B. 6.

Page 2 starts the changes that are added to Nevada Revised Statutes (NRS) 360 that we talked about yesterday. The changes are the same until you get to the increases in the tax on liquor. That is at the bottom of page 2 of this chart. The only difference is that the increases in A.B. 1 are 75 percent and the increases in S.B. 6 are 89 percent. The next tax is the increase on the tax on cigarettes and reducing the collection allowance. The collection allowance is reduced to the same amount, which is 0.5 percent in both bills. In A.B. 1, it's 45 cents a pack, beginning in the first year of the fiscal year; and then it continues in S.B. 6, it's 55 cents per pack increase beginning the first fiscal year and continues, and that is the only difference between the two.

The permit fees are the same for the LSST (Local School Support Tax) and the sales and use tax. The real property transfer tax provisions are the same. Both the provisions for the rate of the new state tax on real property transfer at \$1.30 for each \$500 of value and also the effective date. The only difference in the real property transfer tax is in NRS 375.090, which are the exemptions. It is the second parallel section in both of the bills, so it's Section 139 of A.B. 1 and Section 102 of S.B. 6. The Senate version removes the exemption for educational foundations and university foundations. In A.B. 1, those exemptions to the real property transfer tax are continued; they aren't taken out. Those educational institutions would be exempt from the real property transfer tax.

Both of the bills create the Legislative Committee on Taxation, Public Revenue, and Tax Policy. In A.B. 1, there is a difference in Sections 162 to 168. On S.B. 6, it's Section 125 to 131. The difference is that in S.B. 6, there is an added declaration explaining what the committee is supposed to do. Additionally, many of the duties are either removed or lessened in S.B. 6. The Assembly bill contains the initial package for that committee that the Senate Taxation Committee originated. They both contain the requirement for the Legislative Committee for Local Government, Taxes, and Finance to study exemptions. S.B. 6 contains a state room tax at 1 percent of the gross receipts of the rental of transient lodging effective August 1, 2003. No such tax is contained in A.B. 1.

There is a listing here for you of internal reference changes. Those changes match up to their corresponding section. Basically, they are all there if you look down the list of what is not in A.B. 1. On page 5, you will see that the provisions relating to the State Controller programs are in S.B. 6 but they are not in A.B. 1. Starting with Section 161 of S.B. 6, those are the provisions regarding the \$25 check charge as well as the continuation of the pilot program for collecting debt. Again, those are in S.B. 6 and are not in A.B. 1.

The next thing you see there at the bottom of page 5 is telling you that the class-size reduction provisions are in A.B. 1 and not in S.B. 6. As you go further down, the Distributive School Account (DSA) provisions are also in A.B. 1 and not in S.B. 6. On the last page, there are some further scatterings of the internal references that are necessary for the State Controller provisions. That's why you see in the column for A.B. 1, "no." Other than that, the rest of the bill matches up to be the same.

ASSEMBLYMAN CARPENTER:

Concerning S.B. 6, on page 84, it refers to contractors complying with all laws and paying sales tax. Is that different than what the statute is at the present time?

CHAIRMAN PERKINS:

Which line did you ask about?

ASSEMBLYMAN CARPENTER:

It's page 84, Section 144, on S.B. 6.

BRENDA ERDOES:

This provision is in both bills. I would say there is an obligation on the part of all these contractors to follow these laws that are stated in here. What is different about this provision that is not currently contained in the law, is that this requires a public body who is contracting with a contractor, under chapter 338, has to put in the contract itself that the contractor has agreed to all of these laws. The ramification is that should the contractor not comply with one of those laws, it would be a breach of contract, and there is an additional remedy then over what the public body would have at this time.

ASSEMBLYMAN CARPENTER:

Yes, thank you, Mr. Chairman. Would this then raise the cost of projects that public bodies construct because they have to pay the sales tax on it?

BRENDA ERDOES:

I will let Mark comment on this also. When the Legal Division is looking at things for fiscal impact, we make the assumption that everyone is complying with the law. We don't make an assumption that somebody is not complying with it, so from our perspective there would not be an additional cost.

ASSEMBLYMAN CARPENTER:

I was just wondering. I always thought that when they had a contract for a public building, they didn't have to pay the sales tax on the materials that went into that building, but maybe I was wrong.

BRENDA ERDOES:

This provision wouldn't change that, if there is a provision in the sales tax law that says the contractor has to be a constituent part of the governmental unit before they are relieved of the duty to pay the sales tax. That would be determined based on the Sales and Use Tax law, and this would not have an impact on that.

ASSEMBLYMAN MORTENSON:

Thank you, Mr. Chairman. On the tax on live entertainment, does the Senate version have the 5,000-seat exemption?

BRENDA ERDOES:

Yes, it does, but it does not have the permanent seat language.

ASSEMBLYMAN MORTENSON:

I'm sorry, the permanent what?

BRENDA ERDOES:

The Senate version of live entertainment tax does have the 5,000-seat provision, whereby food and drink are not subject to the 10 percent fee in over 5,000 seats, but there is a difference between the Senate version and the Assembly version in that the Senate version does not contain the language about the permanent seating.

ASSEMBLYMAN MORTENSON:

Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Mark, I know we all have the spreadsheet on Assembly Bill 1. Do we have a similar spreadsheet that describes Senate Bill 6? I think that would be helpful for the members.

ASSEMBLYWOMAN CHOWNING:

Thank you, Mr. Chairman. Perhaps you were asking my same question. When we looked at Assembly Bill 1, we had a chart given to us that told us exactly how much revenue was expected to be generated. We do not have that in front of us for Senate Bill 6, and I think we need that so that we know the changes and the amount of dollars that are expected.

CHAIRMAN PERKINS:

I just want to understand from the Chair. Do the members not have that spreadsheet? We're having copies made and we will have them distributed to the committee.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. In way of apology, I e-mailed everybody a definition of a nonprofit organization, and in further reading of S.B. 6 and A.B. 1, that definition is carried over, A.B. 1, pages 19 and 21. I suspect that our good Legal Legislative Counsel Bureau people are going to make that definition go forth everywhere. With respect to A.B. 1, page 19, Section 62, lines 31, 33, and page 21, Section 68, lines 3 through 5, and, if you're really good at turning pages, S.B. 6, page 28, Section 62, lines 38, 40, and page 39, Section 75.3, lines 37 through 39, the concept would be to make sure that the language carries forward in all of those places. I see a head shaking but I didn't hear the answer.

BRENDA ERDOES:

Yes, if this Body would like to add that definition, we will definitely do that.

ASSEMBLYMAN HARDY:

There is at least one body in here that would like that. Thank you, and may I ask another question, and maybe a conjecture with it?

CHAIRMAN PERKINS:

Certainly.

ASSEMBLYMAN HARDY:

My esteemed Chairwoman of the Health and Human Services Committee, I defer to your knowledge on Disproportionate Share Hospitals (DSH) payments made to hospitals that take care of the indigent. We are in a position where we would like hospitals to take care of the indigent, instead of cherry-picking the Medicaid that pays well and the insurance that pays well. If we exempt hospitals from the collection, if we exempt hospitals that take care of or receive governmental payments, then one of the motivations for a hospital to accept the indigent, and therefore DSH payments, would be to get an exemption from a taxation. The reality would be that we would like the access to care that we need for the indigents who are not insured. I would love to have comments on this from some of my colleagues. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Thank you, Mr. Hardy. Does someone wish to address Mr. Hardy's concern and question?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. Probably what would be most helpful is in Senate Bill 6. There is some sort of exclusion with regard to governmental reimbursements for providers of health care. I've read so many versions. Is that in the Senate bill version?

BRENDA ERDOES:

Yes, but I also thought it was in A.B. 1.

ASSEMBLYWOMAN BUCKLEY:

I thought it was, too. I thought that our lists were identical, and if we are reviewing them side by side, perhaps we could start with a comment on that.

Perhaps while our staff is looking for an exact reference number so we could examine them, I believe, what the discussion in the various committees and bodies was that the payments that were made by governmental bodies would not be included in the definition of revenues as subject to any sort of tax. The further issue of, just because you do indigent care—and you all know this better than I do—federal law requires that hospitals not turn away people just because of their indigent status. This Body has, in its various sessions, worked very diligently, including our Chair of the Health and Human Resources Committee, who served on the interim committee looking at an examination to ensure that hospitals were reimbursed their fair share for taking care of the indigent. The interim committee came up with a formula. I believe University Medical Center was first, Lake Mead second. They ranked them and they came up with a formula. That plan was approved by this entire Body, and so I think we felt very confident in the work of that committee, that we had justly examined and established a policy with regard to DSH, and that the provision in the bill, which excluded the government payments to providers of health care, along with all of that work that had been done in DSH, was a good and fair balance.

BRENDA ERDOES:

We do have the citation. It is on page 25 of A.B. 1. It is on line 40, and it says, “any revenue received by a hospital or a provider of health care from a governmental entity.” That is what would cover the DSH payments.

CHAIRMAN PERKINS:

Thank you, Brenda. Does that answer your question, Mr. Hardy?

ASSEMBLYMAN HARDY:

It answers the question, maybe not to the satisfaction of the hospital which is going to have to pay a licensing fee of \$350,000 annually as well as \$6.2 million in tax for indigent care. I think there is some information we probably need from the industry to look at how this, because they didn't have S.B. 6 and A.B. 1 at the time, is really going to figure out. I have a little wonder still in my head about what that is and would like maybe to have staff look at that particular thing, and see what the balance would be to the hospital, as we further massage this budget. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Thank you, Mr. Hardy. I'm not sure what you're asking, but we will have some sort of analysis created. Let me indicate to the committee, as well, that assuming that we end up with a bill that we can pass out of the Assembly, there is no question in my mind that there will have to be further discussion with the State Senate. They will have some different approach to this than we do. I very rarely advocate the passage of a bill that doesn't meet the requirements of the number of people that it needs to pass by, but in the situation we find ourselves in now, I think that it is prudent, much as we heard from our colleagues down the hall when they sent S.B. 6 to us, that there needed to be further discussion and further tweaking. We will do our best, but in the interest of time, I think part of this will be accomplished, not just in this committee, but I'm sure in further discussions with the State Senate.

ASSEMBLYMAN MABEY:

Thank you, Mr. Chairman. I just want a clarification on the franchise fee in A.B. 1. If a hospital took care of a patient, billed that patient, and they were indigent and could not pay, would they still pay a tax according to their billed charges?

BRENDA ERDOES:

No, this tax is only on revenue actually received. In fact, if there was a bad debt, or anything like that where even if it was counterfeit currency, they can subtract that. So, truly, only the money that they do receive would be taxable.

ASSEMBLYMAN MABEY:

Would that be the same for a physician also?

BRENDA ERDOES:

Yes, for any entity.

ASSEMBLYMAN MORTENSON:

Thank you, Mr. Chairman. There is an increase in the permit. You will see on page 3, "increase permit fee for issuance and renewal of permit for sales and use tax." This is a permit that is given or sold to, or issued to a business for collecting tax and remitting it to the state. Is that the permit we're talking about?

BRENDA ERDOES:

Yes.

ASSEMBLYMAN MORTENSON:

In the past, there hasn't been an annual renewal fee. What is the renewal fee now?

BRENDA ERDOES:

It's a dollar right now, instead of an annual renewal fee. I'm sorry, the way that it works then is not changing; there is a fee if you let that lapse for some reason. The only thing that happens in this bill is that you change \$1 to \$5. But there is currently a renewal for this particular fee and all we're doing in the bill is changing the \$1 to \$5.

ASSEMBLYMAN MORTENSON:

Is the renewal based on the amount of tax collected or is it a flat fee for the tiny business and the big business?

BRENDA ERDOES:

It's a flat fee just for the permit itself, and it doesn't relate to how much of the tax you actually collect.

ASSEMBLYMAN MORTENSON:

The renewal fee is how much? Is this an annual renewal fee?

BRENDA ERDOES:

There are actually several of these fees. In A.B. 1, on page 61, they are for both the sales and use tax, that's the 372 reference and the Local School Support Tax (LSST) which are the 374, but it says that at the time of making an application, the applicant must pay the department a permit fee, which was \$1 but has been changed to \$5, for the permit. The next section says, a seller whose permit has been previously suspended or revoked must pay the departmental fee of \$5, and it was also previously \$1, for the renewal or issuance of the permit.

ASSEMBLYMAN MORTENSON:

Okay, I understand.

BRENDA ERDOES:

That's the kind of renewal it is.

ASSEMBLYMAN MORTENSON:

It is a renewal if it has been forfeited or if you have let it go. Okay, thank you very much.

CHAIRMAN PERKINS:

Thank you, Mr. Mortenson. As I look at the spreadsheet for Senate Bill 6, and compare that to Assembly Bill 1, it appears that the major revenue differences are the amount for cigarettes in the first year being 55 cents in Senate Bill 6 relative to 45 cents in Assembly Bill 1. The liquor increase is 89 percent in Senate Bill 6 and 75 percent in Assembly Bill 1. The room tax is in Senate Bill 6 and not in Assembly Bill 1. The employer tax is at 1 percent of capped wages in Senate Bill 6 and 0.6 percent in Assembly Bill 1. Assembly Bill 1 has a bracketed franchise fee, while Senate Bill 6 does not have such a fee. Let me ask Mark. Does that fairly encapsulate the differences between the two bills, in terms of the taxes that are generating these revenues?

MARK STEVENS:

Yes, Mr. Chairman. There is also a difference in the Secretary of State fees. I believe the annual renewal in the Senate bill is \$125 and in the Assembly bill is \$110, so there is a difference for the Secretary of State fees, but it is not as large as some of the other differences that you had pointed out.

CHAIRMAN PERKINS:

Are the Secretary of State fees in Senate Bill 6, or were they in Senate Bill 2?

MARK STEVENS:

They were in Senate Bill 2. Currently that is the vehicle for the Secretary of State fees.

CHAIRMAN PERKINS:

Thank you. Are there any further questions from the committee?

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Chairman. I have a clarifying question. In Section 77 of Assembly Bill 1, page 25, subsection 4, it says, "Any pass-through revenue of the business entity . . ." Does that include someone who contracts with an agency? My mother is a realtor; she is an independent contractor for a real estate company. The commission goes to the real estate company and then gets distributed to the realtor. I know we have discussed this before, but I don't remember if it was now or if it was three months ago. Thank you.

BRENDA ERDOES:

A normal pass-through for a real estate broker is tied in by the use of the term "pass-through revenue," to Section 66, which is on page 20 of the bill, and if you look at lines 7 through 12, that is where it is covered. "Pass-through revenue means revenue received by a business entity solely on behalf of another in a disclosed agency capacity," and it says specifically, "including revenue received as a broker." That is what would cover that situation.

ASSEMBLYMAN PARKS:

Thank you, Mr. Chairman. I have a question with regards to Section 139 of A.B. 1. On page 67 is the provision dealing with the exemptions with regards to real property transfer tax. The first one was a question that had come up and had been discussed previously, and I was simply inquiring about the intent. I think we were going to go back and take a second look at it to make sure that we got it to say exactly what we want it to say.

CHAIRMAN PERKINS:

Are you looking for a response on that, Mr. Parks?

ASSEMBLYMAN PARKS:

Yes, this would be a question for Ms. Erdoes.

CHAIRMAN PERKINS:

Please restate your question.

ASSEMBLYMAN PARKS:

We made some changes regarding subsection 1 of Section 139, and I know that we had some discussion a couple of days ago about whether or not this was doing exactly what we were hoping it would do. I just wanted to follow up on that.

CHAIRMAN PERKINS:

What is it that you were hoping to do?

ASSEMBLYMAN PARKS:

Well, we found that much of the wording in these exemptions was quite archaic, and sometimes they were even redundant. It had been initially intended to delete that first exemption and we determined that, no, we did not want to delete it. However, we were concerned that the rewording might not do exactly what we had intended it to.

BRENDA ERDOES:

Maybe it would be helpful at this point if I tell you the way that we would interpret subsection 1 now, saying a mere change in the name of the owner of the property, without a change in the ownership interest, would apply solely in cases where the ownership interest didn't change at all, not even in a percentage. For example, when a business changed its name, but the ownership interest didn't change, this would cover a case for an individual whose name changed whether by marriage or in some other way, so that they could get the deed changed so that it reflected the correct name. This would only apply, clearly, where an ownership interest didn't change at all.

ASSEMBLYMAN PARKS:

Thank you. Perhaps I could draw an example. If somebody owned an 80 acre parcel and decided to split it up and develop it and transfer it to a subsidiary corporation, would it exempt them from paying a transfer tax to one of its subsidiary corporations?

BRENDA ERDOES:

I do not believe it would because I believe that would be a change in the ownership interest, even though the companies are perhaps affiliated or one is a subsidiary of the other. It would still be a change in the ownership interest.

ASSEMBLYMAN PARKS:

Thank you.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. I believe when we did the bank franchise tax that it applies only to banks and not mortgage and credit unions, but I'm having difficulty locating the actual language on that. Is it Section 24? I'm currently looking at S.B. 6.

BRENDA ERDOES:

I think that the definitions are the same. In A.B. 1, it's in Section 93.18 for the definition of financial institution. I believe it includes everything that's in Title 55 and Title 56, plus those in chapters 604, 645 B, 645 E, or 649. I think that does include the mortgage companies, but I believe that credit unions are exempt.

ASSEMBLYWOMAN GIUNCHIGLIANI:

This is under subsection 2 then. Okay, thank you.

ASSEMBLYMAN GOLDWATER:

Thank you, Mr. Chairman. Brenda, I'm trying to get my mind around Section 11 in both bills, which is the payroll tax, and I see this cite to Nevada Revised Statutes (NRS) 612.545. So, with the payroll tax, we are using the base wage and capping it at 66. What's not included there is anything over the 66. That sort of caps it there.

BRENDA ERDOES:

That's correct. You report two things; there is a line 3 and a line five. I believe it's line 5 that, if you are an employer, you report your base wage which is that capped wage, which is only up to the 66.66. This provides that you pay 0.6 percent of all of the wages that you report under that line. Therefore, the total amount for each employee that you have, whatever you pay them under that for the base wage, would be subject to the 0.6 percent tax.

ASSEMBLYMAN GOLDWATER:

How does this work, for example, for independent contractors or perhaps employment agencies and temporary agencies and leasing agencies? Will the state have the ability, like the federal government does, to have some sort of reporting mechanism that says, "we paid a person for a service," and are they making sure they claim that wage as independents or any other entity?

BRENDA ERDOES:

The mechanism that is built into this tax is in both bills. It depends on how you report it for the purposes of NRS 612. There isn't anything additional that I know of for this tax. So if they are, for example, not paying unemployment compensation amounts for that person, then they also would not pay the payroll tax. If you are asking if there is anything else built into the tax that would let them catch that, I don't believe there is. We were relying upon the NRS 612 procedure to work.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Chairman. I have two quick questions on the bank franchise tax, and I'm sorry because I know Ms. Giunchigliani just asked this. Are mortgage brokers not included in the bank franchise?

BRENDA ERDOES:

I believe they are included. They are licensed under one of these chapters; I think it's 645.

ASSEMBLYMAN GRIFFIN:

Was Ms. Giunchigliani's concern to exempt them? Okay. It was. Thank you. My question is, and I'm looking at A.B. 1, page 31, Section 93.20, "Nevada taxable income means the amount of the federal taxable income of financial institutions, as adjusted pursuant to Section 93.42 of this act." I'm assuming that is Nevada income only. Is that, again looking at Section 93.42, apportionment of Nevada income? I'm just trying to make sure that we're still exempting all of the revenue that would occur to a financial institution, which occurs outside of the state of Nevada.

BRENDA ERDOES:

Yes, that revenue is exempted. It is actually exempted in two ways. One is by the mechanism that you see here for the apportionment of it. There is an additional provision that says that they cannot tax anything that would be unconstitutional to tax, and there is a commerce clause issue, in most cases, with taxing out-of-state revenue. So, both of those would play together, but basically the apportionment factor here would allow only the in state revenue to be taxable.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Thank you, Mr. Griffin. Are there further comments or questions from the committee?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. I would like to ask Mark to clarify, looking at the taxation revenue options on the spreadsheet, what is the total revenue? Is it \$359.3 million and then \$513.6 million in the second year?

MARK STEVENS:

Are you looking at the Senate sheet?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Correct.

MARK STEVENS:

The total revenue that is estimated to be generated on the Senate sheet is \$359.3 million the first year and \$513.6 million the second year.

ASSEMBLYWOMAN GIUNCHIGLIANI:

So Senate Bill 6 raises \$872.9 million over the biennium?

MARK STEVENS:

\$872.9 million is the projected estimate.

ASSEMBLYMAN GRADY:

Thank you, Mr. Chairman. Regarding A.B. 1, page 62, subsection 4, where it talks about the county recorders may deduct and withhold 0.02 percent for the collection. Then we compare that with S.B. 6, page 46. It has the exact same language but the counties under \$100,000 are allowed 1 percent. I thought that was in both bills, but it has been changed in the Assembly bill.

BRENDA ERDOES:

That is correct. A.B. 1 has a 0.2 percent collection allowance for all counties and S.B. 6 has a bifurcated system for the smaller counties to get 1 percent.

ASSEMBLYWOMAN LESLIE:

Thank you, Mr. Chairman. This is a pretty simple question and I think I know the answer, but I wanted to make sure. In regard to the cigarette tax, you have 45 cents in A.B. 1 the first year and then it says 55 cents further down with a different effective date, but we are only raising it 10 cents between the two years. We are not raising it \$1 over the whole year. It is 45 cents and 55 cents, right?

MARK STEVENS:

In A.B. 1 the cigarette tax would be increased by 45 cents in July of 2003 and an additional 10 cents in July of 2004.

ASSEMBLYWOMAN LESLIE:

Thank you.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. My question is regarding the franchise tax for financial institutions. I know there was some discussion on the other side, as we are talking about S.B. 6, about making the payroll tax the vehicle, taking a financial institution that allegedly would like to look more at a payroll of three times as much as the payroll tax of other businesses. Could I hear some discussion on where that went and if we are entertaining that? Because I still think that the payroll tax is easier to administer and probably has as much income without the franchise tax without having the other 45 bodies and in the 45 computers and the new, improved infrastructure in the state. Where was that in the discussion?

BRENDA ERDOES:

All I can tell you on that is last night the Senate Committee of the Whole had that suggestion made to them by one of the lobbyists, but that change was not included in the motion on which they voted. I didn't hear any discussion of it past the suggestion being made by the lobbyist.

CHAIRMAN PERKINS:

As I recall, Mr. Hardy, in watching the hearing last evening, the representative for that industry asked to have three times the payroll tax drawn against those institutions instead of a separate franchise tax, which was not accepted by the Senate.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you. If I might, Mr. Chairman, I was just going to point out, having watched the same thing, during the discussion it sounded good to offer a 3 percent increase but these were not employee-heavy businesses. Therefore, while it might sound better, they actually were not going to generate the revenue, and down the road, as they had more and more Automated Teller Machines (ATMs) and less and less employees, they would be saving dollars and we still would be impacting negatively more of our community-based banks and actually impacting them negatively versus the larger banks.

ASSEMBLYMAN HARDY:

So did they say it had to be a live employee? Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

It sounds like asking if we had to have a live legislator.

ASSEMBLYMAN MABEY:

Thank you, Mr. Chairman. Regarding the franchise tax for the banks, I have heard from some banks that it is going to hurt them tremendously. I hear about Harley-Davidson and how they are going to lose a thousand jobs here in Carson City and Bank of America is going to lose jobs. I would like to hear some thoughts about that. Perhaps some want to raise this franchise tax on the banks but my concern is that if we lose all these jobs that they say we are going to lose, then it will be a tax that won't be good.

CHAIRMAN PERKINS:

I can offer you my understanding of this issue. We can probably even refer to Chairman Parks of the Committee on Taxation who heard those discussions. At 3 percent it is apparently significantly lower than any of the states around us. I believe in California it is 10.8 percent and other states are 5 or 6 percent. I think Mr. Parks had a chart earlier today or yesterday which he was referring to, so that he could bring that information to the committee. I see him searching his desk for that, and if I talk long enough, perhaps he will find it in time to respond to your question.

ASSEMBLYMAN PARKS:

Thank you, Mr. Chairman. Yes, in the adjoining states, California currently has a tax of 10.84 percent, and I believe an additional 2 percent that is also calculated into it. Arizona is 6.98 percent, Idaho is 7.6 percent, Oregon is 6.6 percent, and Utah is 5 percent. Those are the adjoining states and the rates they currently have.

CHAIRMAN PERKINS:

I think part of the discussion we have had in the past, relative to that particular mystery, is their preference was to be put into the same tax with other industries. It was difficult, if I am remembering the discussion over the 4 ½ months properly, to plug them into any of these proposals that generated what was believed to be their percentage of our economy or the share that they would participate in to fund the state's revenues.

ASSEMBLYMAN MABEY:

If it were true that they would pay the same amount if they paid three times the payroll tax instead of the franchise tax, are you saying that is not true?

CHAIRMAN PERKINS:

I don't know if that is true or not true. I think it would probably start out that way. I think the point Ms. Giunchigliani made was it seems to be an industry that moves more and more toward automation than employee-driven. For that reason it becomes, perhaps over time, an issue that the payroll then doesn't exist if employees don't exist, if I am not mischaracterizing what you were saying, Ms. Giunchigliani.

ASSEMBLYMAN MABEY:

Thank you.

ASSEMBLYMAN GEDDES:

Thank you, Mr. Chairman. Following up on that issue, as well as bringing in the franchise tax, when we are looking at a broad-based business tax, the perspective I am looking from, is that what we are trying to do is get a broad-based business tax. The purpose of it is to look at the services that we are providing the citizens of Nevada as far as education, health care, and mental health. We are looking at the services that we need to provide an individual. In the case of a bank, if it is going more and more toward ATMs, that is less and less people they will employ, making less services that they need from the state. I am not sure that is a negative thing where we need to still be getting money out of them. Similarly, with the franchise fee, if you have

10 employees in the state and you are making \$100 million, I am not sure where it needs to be a higher fee for you to pay versus someone who has 100 employees or 1,000 employees. If we are looking at citizens and services provided to individuals, linking it to individuals makes a lot of sense. I am not sure why that link needs to be made if we are linking it to the actual profit or the amount of money there. Maybe someone would address it from that perspective. If there are more ATMs and less tellers, it doesn't drain state services or mental health, or put more people in the schools, so I am not sure of the relationship there.

CHAIRMAN PERKINS:

My only response would be, just because you have fewer employees doesn't necessarily mean there are fewer services provided to a particular business. For example, ATMs, from my own experience, are a prime spot for a law enforcement response. Often that is where some sort of criminal activity may occur and someone may become a victim. When we pave our roads, when firefighting services are required, or law enforcement services are provided, or even services that we provide here by the State are provided to those various businesses in various capacities, it is not necessarily people-driven or employee-driven. There is some share of responsibility for those services, as well, if they have fewer employees than more.

ASSEMBLYMAN GOLDWATER:

Mr. Chairman, thank you. This is in response to my colleague, Dr. Mabey, regarding one financial institution. I was able to pull up their annual report. Bank of America, for example, in the year 2002, earned, before taxes, \$12.9 billion. In income tax alone they paid \$3.7 billion to the federal and state governments. They increased their annual dividend over the past 25 years at a rate of 12 percent. How that relates to employment in Nevada, if this franchise fee, clearly by those numbers, is a teardrop in the ocean relative to the overall financial picture and how it relates to more or less labor-intensive financial services is very difficult to say. Nothing about the franchise fee would be conclusive and we could probably argue ad nauseam on that particular issue.

CHAIRMAN PERKINS:

I guess if you look at the entire sheet, whether it is a \$75 annual fee for a business license fee or some of the other issues in here, they are not necessarily people-driven. That is certainly policy and philosophical discussion.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Speaker. I think this was asked yesterday, but I can't find it. Are the financial institutions exempt from the franchise fee if we implement the 3 percent?

BRENDA ERDOES:

Yes, they are exempt from the franchise fee, not the payroll.

ASSEMBLYMAN GRIFFIN:

Thank you.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I want to add a little to the conversation about the franchise concept versus a payroll concept. I think one of the issues that you look at in tax policy—and I am trying to remember what they told me a month ago—is fairness in equity and profitability. If someone is earning at a profit level of 50 percent or higher, they are making millions and millions. There is a concept that if you can afford to pay, you will pay your relative share. That is what net profits are based on. That is a concept that is adopted and embraced by 47 other states and it is one that I would vote for tonight, but I don't think that is going to pass this legislative session.

I believe the fairest way to go is to tax someone on their net profits. What, at least, the franchise tax does, is by having it be combined with the payroll, you get at both types of businesses. You get a tax with the franchise on businesses that don't hire a lot of employees but the employees they hire may still have a great demand for services. We see that in some industries, without naming names, that instead of hiring full-time employees with good health

care, they hire part-time employees and offer no health insurance that then take advantage of government health programs or have to go to University Medical Center or Washoe Medical, because they have no health care insurance.

Additionally, those same companies may have the highest possible profits but because they don't operate under the good business sense and practices that most companies do, they end up increasing their profits by not affording people health care insurance. The only way to look at that issue is to have a franchise fee. This franchise fee was reduced so that it is a very small amount, because it is coupled with a payroll tax, and the payroll tax reduces the Business License Tax.

What we are trying to do is achieve some balance and not let those companies who hire people without offering the same benefits that so many good companies do, get a competitive advantage over those Nevada businesses that want to offer healthcare insurance and provide better wages to their employees.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. With all due respect to the Majority Leader, I have to say that I think if we start in that direction and start talking about profits, and whether or not businesses should pay based on profit, then we are going to go to a lot of places where a whole bunch of people in this building don't want to go. I think we need to be very careful there, and I think the same thing is true of talking about wages and benefits paid, and the like, for various employees in various businesses because, in my opinion, tax policies should be based on fairness and equity, and many of the things the Task Force said, including transparency, and a lot more. If we are going to start pulling in individual criteria based on specific businesses, then I think we are opening many businesses up to being subject to changing their level of taxation based on their profitability. That has been turned down, thus far, by this Legislature and I would suggest that we shouldn't be basing our decisions here on a company's profitability.

In some of the states that have franchise fees on banks, the fee matches an income tax on businesses and that is why it is done at that level. That is not what we are talking about doing here. Here we are talking about putting a specific fee, at a much higher rate, on a specific industry. I think the argument that is being proposed is, "Why is it fair to do perhaps payroll only on some businesses, but on others we are going to do payroll and a fee?" I think that is the issue in question. From the information that I have been given, the banks pay an average wage of about \$44,000 compared to many employers in this state who hire a huge number of employees at minimum wage. We can argue all day long if we want to get into specific industry criteria about which groups take the most services. Again, I think if that is the direction we want to go, then we should go there, but if not, then I don't think we should use specific industry data on one group to justify additional taxation. One of the things that needs to be done here is to look at fairness, equity, and ease of collection and not go to something that will take 45 additional employees in the Department of Taxation to hit one industry.

ASSEMBLYMAN GOLDWATER:

Mr. Chairman, I am thrilled to hear the Minority Leader is finally embracing the work of the Task Force. It is thrilling to know that well-thought-out, well-documented work, which did seek equity and fairness, is now something you are looking to embrace. That is thrilling. One way I would like to correct myself, Mr. Chairman, is that we are talking about taxing and taking, and taxing and taking, and I really think of taxation as more of an investment in this state. Companies that pay taxes long term get a better-trained workforce and get better social infrastructure. I am going to start referring to taxes as an investment in the state of Nevada and we will move away from industry-specific citations and just say that certain industries invest in other states and don't invest in Nevada, yet prices for their goods and services seem to be the same. My future citations to taxation will be investments in our state.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I have just a couple of comments. Under both versions of the bills, banks would not pay twice. Every business would pay a small payroll tax and every business would pay a franchise fee. It is just that some businesses will pay a regular franchise fee and some banks will pay the bank franchise because banks are different than most other businesses. I

think our Nevada banks are pretty profitable. That is a good thing. We have free market economy and we want businesses to make money, but when businesses have the ability to pay, they should.

Let's look at a couple of statistics on banks. The average deposits per location nationwide are \$53 million and in Nevada it is \$96 million. The return on assets nationwide is 1.2 percent and in Nevada it is 5.2 percent. The return on equity nationwide is 13.1 percent and in Nevada, it is 33.4 percent. The pretaxed return on assets ratio in 2002 was 1.7 percent nationwide and 8.1 percent in Nevada. The net interest margin nationwide was 3.9 percent and in Nevada was 6.3 percent. The noninterest income to average earning assets in 2002 nationwide was 2.9 percent and in Nevada was 12.0 percent. I could go on and on. The source for this is the Federal Deposit Insurance Corporation (FDIC), Division of Insurance and Research, Call Report and Thrift Financial Report, April 9, 2003. Yet, even with this high profitability, again, we are not trying to do what California does. We are not going for 10.8 percent. What we are trying to do is have everybody pay their fair share.

Banks have made lots of money in Nevada. They have not paid a tax when they have paid a tax in every other state. All we are asking them to do is to finally pay their share in our state. Right now, they get to deduct all taxes they pay to the federal government, but they don't get to deduct the taxes they pay to us, of course, because they don't have to pay any. The other states get the benefit by us not just getting our fair share, and that is what we are trying to rectify in this session of the Legislature. We are trying to broaden the base so that when the economy goes down, we are not so reliant on one industry that we are able to provide a minimal level of services, which makes us proud to live in this state and raise our families.

CHAIRMAN PERKINS:

At this point, having gone through the comparison of A.B. 1 and S.B. 6, and having the dialog we have had, it would be the Chair's intention to work off Senate Bill 6, in the interest of time. If we find the ability to pass a bill out of this House, if we pass a Senate bill and it goes back to the Senate, it would cut our processing time down, because, as we have said before, it most likely will end up in further discussions in a conference committee, or something of the sort. As it relates to Senate Bill 6, the Chair would be interested in hearing your suggestions on changes so that we could continue to have some progress.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Chairman. I want to make sure I understand what you just asked. We are to make suggestions to Senate Bill 6, right?

CHAIRMAN PERKINS:

Yes, the Chair is interested in accepting amendments to Senate Bill 6 so that we can make some progress this evening.

ASSEMBLYMAN GRIFFIN:

If I may suggest, and I know I have made this suggestion repeatedly, but I will refer back to the able work of this Body's Taxation Committee where we, in total detail, went through each line item of all these taxes. When we discussed the alcohol tax I thought there was some compelling testimony for a 50 percent increase. There was some discussion in some of the rural communities that there is an out-of-state market that exists in a pretty steady fashion of alcohol purchases due to the fact that we have a relatively lower tax rate. I would like to amend S.B. 6 to include the alcohol rate at 50 percent. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

We have a motion from Mr. Griffin and a second by Mr. Conklin. Is there discussion on the motion?

ASSEMBLYMAN HETTRICK:

May we have a one-minute recess please?

Chairman Perkins announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 3:12 p.m.

IN COMMITTEE OF THE WHOLE

At 3:15 p.m.

Assemblyman Perkins presiding.

Quorum present.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 3:16 p.m.

Mr. Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 26, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 6.

MARY JO MONGELLI

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 6.

Assemblywoman Buckley moved that the bill be referred to the Committee of the Whole.

Motion carried.

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

Assembly in recess at 3:20 p.m.

ASSEMBLY IN SESSION

At 7:54 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 1 and Senate Bill No. 6, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Quorum present.

Assembly Bill No. 1 and Senate Bill No. 6 considered.

CHAIRMAN PERKINS:

The committee will come back to order. I am going to ask if it's agreeable to the maker of the motion and second, if they would withdraw those at this point. To be more organized, it is my intention to go down the list and take them in order. It would be easier for our staff to keep track.

ASSEMBLYMAN GRIFFIN:

I withdraw my motion for the purpose of proceeding in order.

ASSEMBLYMAN CONKLIN:

I withdraw my second.

CHAIRMAN PERKINS:

Thank you.

ASSEMBLYMAN HETTRICK:

I appreciate you allowing me the one-minute recess. All I wanted to do, for the rest of the Body's clarification, was confirm, which you and the Majority Leader did, that the vote is on the concept of what should be or not be included in a bill and does not necessarily mean anyone is going to support the ultimate bill. It would be on voice votes, as I understand it, using a simple majority. I just want all members to know the idea is to make the best possible bill. We are all working to get something out of here that we can support. If we make it a better bill, it will be easier to do. I would urge everybody to work on making the bill as good as possible.

CHAIRMAN PERKINS:

What we will do is take a motion on each individual provision. Then, when we arrive at the final product, take an overall motion and vote.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. Based on those lines, I would like to take up the first item on our sheet, which is taxes on wages paid by the employer, or better known as the payroll tax. I believe it is referenced throughout Sections 1 to 24, including definitions and so forth. I would suggest that we amend the payroll tax from the 1 percent recommended in S.B. 6, back to the 0.6 percent recommended in A.B. 1.

CHAIRMAN PERKINS:

Ms. Giunchigliani has moved to amend S.B. 6, Sections 1 to 24, from 1 percent of base wages to 0.6 percent of base wages, seconded by Mr. Goldwater. Is there discussion on the motion?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. The whole issue of the payroll tax gave many of us discomfort. With this opportunity to offer compromise, members in our caucus felt we needed a reasonable payroll tax in lieu of the business license tax. We would be helping businesses by not having the additional business license tax. This would be more fair; however, it would not be the cornerstone, or the main tax contained within this legislation, because I believe we still need a broad-based business tax, so that is why the motion I offer still does include a payroll tax, but at a lower amount.

CHAIRMAN PERKINS:

Would it be your intention as we move through the bill that the business license tax, or the "head" tax as it has been referred to, continue to be repealed?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Correct. That would be my intent.

CHAIRMAN PERKINS:

Further comments on the motion?

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. That would increase the number of heads working the number of computers, plus put more reliance on another tax that isn't as easy to administer, as I see it. Is that right?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Could you repeat that? I apologize.

ASSEMBLYMAN HARDY:

The amendment that you are proposing would put a greater burden on other taxes proposed. If we are looking at S.B. 6, you would have a relatively easy-to-implement payroll tax become a tax that is less easy to implement. Therefore, you would be increasing the number of state employees and the number of computer spots to be worked by those employees.

ASSEMBLYWOMAN GIUNCHIGLIANI:

No, I don't believe we would be adding state employees. That budget has already been closed, and we actually have already appropriated \$20 million over the biennium to allow for the Department of Taxation to move into a more computerized system. In fact, that recommendation will actually come forward because we will have open bids on that part of it. It is my understanding there are several businesses that already have a tax program in place, and we may not even have to expend that dollar amount. It has been reserved, if I recall from the first session. So there should not be any impact on both state employee hiring nor on technology because that has already been appropriated. In addition to that, the payroll taxes are already being collected. By recommending the lower amount, I believe there will be further amendments recommended to this Body for consideration that would actually include a broader-based tax which lessens the burden for all businesses, but more equitably spreads it out. So again, we have to remember, any time we make any shifts or adjustments in the dollar amount, it could have an impact on the increase or decrease someplace else. For example, if we don't take a certain amount for a liquor tax, you may have to adjust upwards or downwards in other places. I believe that we need a broad-based tax, and I don't think the payroll tax should be the cornerstone of this piece of legislation. By reducing it, those of us who had a great deal of angst about going to what I perceive as a more regressive tax, are conceding that, but, in addition, I think there will be a recommendation for us to consider a broad-based tax as well.

ASSEMBLYMAN HARDY:

Thank you, Ms. Giunchigliani. I probably have just a difference of opinion. Obviously, as I have stated, by creating a new franchise tax, a new department would be created. The key tax in S.B. 6 would be the payroll tax and the key tax in A.B. 1 would be a combination of payroll tax and franchise tax. If I had my druthers, I would like the franchise tax to be less, if not any, and the payroll tax to be tweaked so that everybody gets an opportunity to do it, and then a 3 percent tax, but that is just addressing the difference of philosophy. Thank you, Mr. Chairman.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I appreciate that and it is exactly the discussion that we are having at this point. I would still argue that going to a higher payroll tax in lieu of a broad-based tax really does allow big businesses to take a walk, and I don't think that it was our legislative intent or charge for this session. Even more importantly, I do believe that we have heard this evening that we do not wish to put further restrictions on businesses to prevent them from locating here or to prevent expansion for business growth. I think a payroll tax will eventually do that if we're not careful with how high it goes. It will become a more regressive tax and actually limit businesses from expanding and hiring additional employees, and I don't think that is what we want to do. That is part of the reason why some of us have accepted the concept, but at a lower rate.

ASSEMBLYMAN HARDY:

To respond, if you're going to "still argue" then I will argue again. I look at the franchise tax as doing exactly that, and it is not as predictable as a salary or a payroll tax. So, I think if I were a business, I would be more interested in having something predictable instead of the franchise. It's a difference in philosophy. Thank you.

ASSEMBLYMAN MABEY:

Thank you, Mr. Chairman. For once Dr. Hardy and I agree, so I would like to have the payroll tax to be the way it was in S.B. 6, for the same reason stated earlier. Thank you.

CHAIRMAN PERKINS:

Are there further comments or questions to the motion? All those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

We are now on the tax on live entertainment, which is the same in both bills.

ASSEMBLYMAN GEDDES:

Thank you, Mr. Chairman. I want to state again that I do not support the exemption on those facilities with greater than 5,000 seats for their food, beverages, and merchandise contained in both bills. I know we're looking into the intent and where things are going on this tax, but I have concerns with it. I also have concerns on how it would apply to nonprofit entities that team up with for-profit entities and some of these definitions. Until that legislative intent is clear, I cannot support this particular tax.

ASSEMBLYWOMAN LESLIE:

Thank you, Mr. Chairman. As I have told Mr. Geddes, I share those concerns. We're waiting for more information from our staff, and we will work on it. Hopefully, by the conference, we will have an answer. Thank you.

CHAIRMAN PERKINS:

We will move on to the business franchise tax, the third item in Section 1. Are there comments or suggestions on that section?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I move that we adopt the franchise tax as contained in A.B. 1.

CHAIRMAN PERKINS:

I have a motion by Ms. Buckley, seconded by Ms. Giunchigliani, to include the business franchise fee from A.B. 1 into S.B. 6. Comments.

ASSEMBLYMAN GEDDES:

Thank you, Mr. Chairman. Sorry to continue to beat this horse. Would the maker of the motion and second, be willing to entertain it without the 5,000 limit, or would the Chair be willing to accept an amendment to remove the 5,000 cap?

CHAIRMAN PERKINS:

There is no 5,000 cap in the franchise tax. Is there further discussion on the motion? All those in favor of the motion, please indicate by saying "Aye." Any opposed? Motion carries.

We are on the franchise tax on financial institutions which is the same in both bills. If you turn to page 2 of your sheets, I am looking at some differences between the two bills. The next difference would be the liquor tax on the bottom of page 2. That is the one that Mr. Griffin brought up earlier. Mr. Griffin did you want to speak to it again?

ASSEMBLYMAN GRIFFIN:

Thank you very much, Mr. Chairman. I don't need to restate the reasons why, but I would like to move that we adopt a rate of 50 percent on alcohol.

CHAIRMAN PERKINS:

Mr. Griffin has moved that the increase in liquor tax in S.B. 6 be changed from 89 percent to 50 percent. Is there a second to the motion? Seconded by Mr. Geddes. Would you please restate your reasoning, Mr. Griffin.

ASSEMBLYMAN GRIFFIN:

I would go back to the testimony that was received in the Assembly Taxation Committee. There are a lot of rural communities, and I think statewide at some level, where we are an exporter of alcohol, and by raising the tax much beyond 50 percent we may see a reduction in sales due to pricing ourselves out of that advantage. Not that I am trying to sound like millions of dollars are small dollars, but in the scheme of this budget, it probably is small dollars; 50 percent is probably the most responsible policy. That was my reason.

ASSEMBLYWOMAN BUCKLEY:

I oppose the motion. I agree with my colleague that it should be lowered. The Senate went with 89 percent and I think that is too high. I would be comfortable with the 75 percent level as we have discussed all session. I think it helps and gives recognition to the concepts brought up by my colleague. It does accomplish some reduction, but not so much as to unbalance it and have us be too far from the Senate in that regard.

ASSEMBLYMAN GEDDES:

I just have to mention I only received three total responses from constituents, including letters, phone calls, and e-mails on this particular tax, which flat-out makes me nervous. I just wanted to add that.

CHAIRMAN PERKINS:

Further comments on the motion? All those in favor of the motion please indicate by saying "Aye." Any opposed? Motion fails.

ASSEMBLYWOMAN BUCKLEY:

I would move that we decrease the amount to 75 percent.

CHAIRMAN PERKINS:

We have a motion by Ms. Buckley, seconded by Mr. Horne, to decrease the 89 percent increase to 75 percent. All those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

The next item is the cigarette tax on page 3 at the top of your list. The difference is A.B. 1 increases by 45 cents per pack the first year and an additional 10 cents to 55 cents per pack the second year. The Senate bill has 55 cents per pack in both years.

ASSEMBLYMAN PARKS:

I move that we amend S.B. 6 to revise the rates to 45 cents additional to 80 cents per pack in the first year of the biennium and 55 cents per pack in the second year of the biennium, which would make it 90 cents per pack.

CHAIRMAN PERKINS:

Mr. Parks has moved that S.B. 6 be amended to reduce the cigarette tax in the first year and similar in the second year to reflect the numbers in A.B. 1. Seconded by Ms. Leslie. Are there comments on the motion? Seeing no comments, all those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I just wanted to clarify the increase was not cumulative. It is 45 cents in the first year and then another 10 cents in the second year. It is not adding together.

CHAIRMAN PERKINS:

The next difference on your sheet is on the bottom of page 3 relative to the real property tax. A.B. 1 exempts the transfers of or to the educational university foundation in subsections 14 and 15 of Section 139. In S.B. 6 those exemptions do not exist. Is there appetite in the Body to address that issue?

ASSEMBLYWOMAN GIUNCHIGLIANI:

I would move that we accept the exemption that is currently in A.B. 1 and amend it into S.B. 6 to allow the University Educational Foundation exemption to remain.

CHAIRMAN PERKINS:

Motion by Ms. Giunchigliani, seconded by Ms. Chowning. If I understand the exemption, it would mean properties that are sold, not gifted, to those particular educational institutions or foundations would then be exempt from the tax. If that correct, Brenda?

BRENDA ERDOES:

The gifted ones would also apply. I had a quick question. There are two exemptions. Are you moving that the educational foundation and the university foundation or just the one?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Both that are currently contained in A.B. 1.

ASSEMBLYMAN GOICOECHEA:

Wouldn't it make more sense if we did that for any government entity be exempted from the transfer tax?

BRENDA ERDOES:

Governmental entities are currently exempted. These are foundations that are treated as private because they are separate foundations and money separated from the governmental money, for example, the University. It is private money that is paid in and not treated as public money in any other way. That is why the exemption was included.

CHAIRMAN PERKINS:

Further comments on the motion? All those in favor of the motion please indicate by saying "aye." Any opposed? Motion carries.

The next difference is in the Legislative Committee on Taxation, Public Revenue, and Tax Policy. Brenda, would you please describe that difference.

BRENDA ERDOES:

There is yet another difference, as Mr. Grady pointed out, in the real property transfer tax. It is not in the chart. I missed it, but there is a difference between S.B. 6. There is a bifurcated system for paying the county recorders for collecting the real property transfer tax. It is 1 percent for the rural counties and 0.2 percent for the larger counties. In A.B. 1 it is 0.2 percent for all of the counties.

ASSEMBLYWOMAN BUCKLEY:

I move that we stay with the original version in A.B. 1, which is the same amount for everyone.

CHAIRMAN PERKINS:

We have a motion by Ms. Buckley, seconded by Mr. Goldwater, to include the provisions from A.B. 1 relative to the real property tax that would create a 0.2 percent allowance to local governments at all levels instead of the 0.2 and 1 percent in S.B. 6.

ASSEMBLYMAN HETTRICK:

I would have to oppose that motion. In the smaller counties, the amount of money is insignificant except for the county that has to collect it. In the big picture of money collected statewide it means almost nothing, but the little counties are going to have to go through the collection process, and 0.2 percent of the amount is almost nothing. I think to put that burden on them without the ability to have some way to pay for it is not right. I would oppose this motion.

CHAIRMAN PERKINS:

I believe there is a clause in S.B. 6 that states, "When requested, the department shall render assistance to the county recorder of a county whose population is less than 30,000 relating to the imposition and collection of the tax imposed by Section 95 of this Act." Does that provide a vehicle by which those counties can seek some relief if the collection allowance does not cover their costs?

BRENDA ERDOES:

It does provide that the Department of Taxation will render assistance to them and does not limit the type of assistance they would get.

CHAIRMAN PERKINS:

Would that take care of some of your concerns or not?

ASSEMBLYMAN HETTRICK:

I appreciate the fact that they can request assistance, but I don't think that will be ongoing. Once we put this in place and they must do it on a regular basis, this does not define what that assistance might be. If it were ongoing cash assistance it might be one thing, but if it is to just go out one time and say, "We'll help you set up a way to do this," and then they have ongoing costs, I don't think it covers it. I think it is better than naught, but I don't think it satisfies the issue I am concerned about.

CHAIRMAN PERKINS:

I'm not sure it would preclude them, on an annual basis, petitioning the Department of Taxation for whatever relief they needed in terms of cost. I don't think this was intended to be a windfall for local governments, but if they had some need, they could certainly petition for it.

ASSEMBLYWOMAN BUCKLEY:

Additionally, I think it is uncontested that the majority of money from the real property transfer tax is going to be raised in Clark County to fund the state. There are a lot of taxes where Clark County pays the lion's share and makes up for the fact that the rurals just can't. We all acknowledge that is the way it is. So, the state is going to receive the lion's share of this money from Clark County, so it seems a little inconsistent to say that the rural counties keep a larger collection allowance than Clark County, although I would be happy to talk to any of my rural colleagues should they be willing to vote for a tax plan and to lower this.

CHAIRMAN PERKINS:

Further comments on the motion? All those in favor of the motion, please indicate by saying "Aye." Any opposed? The Chair is unable to decide. Would the "Ayes" please raise their hands. Would the "Nos" please raise their hands. The motion passes.

The next item, as I mentioned before, is the small difference in the Legislative Committee on Taxation, Public Revenue, and Tax Policy. Brenda, would you please describe that difference.

BRENDA ERDOES:

If you want to look at S.B. 6 on page 68 it basically states, "The Nevada Legislature hereby finds and declares" and it talks about the 19th Special Session and the continuation. That declaration is not contained in A.B. 1. Also, some of the duties are lessened and an extra section is added at the end of the bill, Section 196.3 on page 133, and its separate duties added for the same committee which requires the committee to review and study the impact, if there is one, on imposition of the live entertainment tax on different venues and whether it causes a problem for those venues.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I move to go with the language in A.B. 1. I think this area gives additional accountability based on what is done in the 20th Special Session.

CHAIRMAN PERKINS:

Ms. Giunchigliani has moved to include the language from A.B. 1, instead of language in S.B. 6 concerning the Legislative Committee on Taxation, Public Revenue, and Tax Policy, seconded by Ms. Leslie. Comments on the motion? Seeing none, all those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

The next difference between the two bills is the state room tax on page 4.

ASSEMBLYWOMAN GIBBONS:

As a representative in Washoe County, District 25, where Washoe County has the highest room taxes in the state, I am making a motion to delete the 1 percent gross receipts from the rental of transient lodging.

CHAIRMAN PERKINS:

Ms. Gibbons has moved to delete the room tax from S.B. 6, seconded by Mr. Hardy. Comments on the motion? Seeing none, all those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

Brenda, please point out the next difference.

BRENDA ERDOES:

S.B. 6 has the controller provisions for the \$25 check charge and continuation of the program with the Department of Wildlife and Department of Motor Vehicles for the collection of debt. A.B. 1 does not have those provisions. They are interspersed throughout the bill.

ASSEMBLYMAN ARBERRY:

I move that we delete the personnel and administrative information from NRS 353.1465 down to 353.288 and any provisions related to the State Controller's program.

CHAIRMAN PERKINS:

The differences in the two bills are at 353.213 and Sections 161 to 165 of S.B. 6. Apparently, the motion is to delete Section 148 and Sections 161 to 165 of S.B. 6, seconded by Ms. Giunchigliani. Please clarify that motion for the Body.

ASSEMBLYMAN ARBERRY:

The Ways and Means Committee decided during the hearings not to do this, and now at the end of the second Special Session, S.B. 6 is trying to backdoor the recommendation of the committee. The committee recommended not to do this, so we want to delete it.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Along the lines of Section 148, the language mentioned in the Senate hearing that was very uncomfortable for the committee binds the hands of the Legislature and so this language is recommended for deletion as well.

CHAIRMAN PERKINS:

Are there further comments or questions on the motion? Seeing none, all those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

This point on the sheet is difficult to follow. If you have a recommendation, please indicate.

BRENDA ERDOES:

Class-size reduction provisions starting at Section 194.2 may be the next thing to look at.

ASSEMBLYMAN GOLDWATER:

In an effort to bring S.B. 6 into line with what the Attorney General pointed out is our constitutional duty to pass a balanced budget as well as fund a budget, I would like to move that Sections 194.2 and 194.4, including class-size reduction, as well as 194.6, which includes the distributive school accounts and all accompanying citations, be included in Senate Bill 6.

CHAIRMAN PERKINS:

There is a motion by Mr. Goldwater, seconded by Mr. Williams, to include from A.B. 1, Sections 194.2, 194.4, 194.6, 195.2, and 195.4. Comments on the motion? All those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

The next provision in conflict is on the top of page 6, the State Controller provision in Section 178 of S.B. 6.

ASSEMBLYWOMAN GIUNCHIGLIANI:

This is one more area where State Controller language was added, so I would move that in any of the items on page 6 where there is a difference between A.B. 1 and S.B. 6, we go with the A.B. 1 language, the State Controller provision, Sections 178, 180, 184, 185, 186, and 229.7, to eliminate the original language that was added in those sections.

CHAIRMAN PERKINS:

For clarification, the motion is to delete Sections 178, 180, 184, 185, and 186 from S.B. 6, seconded by Ms. Leslie. Are there comments on the motion? All those in favor of the motion please indicate by saying "aye." Any opposed? Motion carries.

The other differing sections in the two bills would be Sections 227, 229, and 229.7, which are in A.B. 1 and not in S.B. 6.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I move to use the language in A.B. 1 and rectify the differences between the two bills.

CHAIRMAN PERKINS:

Ms. Giunchigliani has moved to include Sections 227, 229, and 229.7 from A.B. 1 into S.B. 6, seconded by Ms. Leslie. Are there comments on the motion? Seeing none, all those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

There are a number of areas in the bills that are fairly large. For structural and organizational sake, we will take those differences. If there are other suggestions from the committee, please bring them up. Did the staff get those motions?

BRENDA ERDOES:

Yes, we did. There is one additional thing. Because there is a problem with the Distributive School Account (DSA) allocation, Mark can tell you the numbers. You may choose to make those changes as well.

MARK STEVENS:

As I indicated yesterday, there was an amendment which needed to be made to authorized amounts in the Distributive School Account bill in A.B. 1, Section 237.3, on page 153 of the bill. In subsection 1, the authorized amount needs to be changed from \$208,890,478 to \$203,448,548 and in subsection 2 the amount of \$147,771,085 needs to be changed to \$142,024,404 to reflect the change in the collection allowance.

CHAIRMAN PERKINS:

Ms. Giunchigliani moves to make the changes presented by Mr. Stevens, seconded by Mr. Goldwater. Are there comments on the motion? All those in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

ASSEMBLYWOMAN GIBBONS:

I move to delete the provision, since the restricted slots are paying the 33 percent and previously agreed to pay, to eliminate them from having to pay the franchise fee. Since they previously agreed to the 33 percent increase, I think it is too punitive to expect them to pay the franchise fee, as well. They were upfront with us and agreed to pay. I appreciate people coming to the table to make it work for us. I don't want to put them completely out of business.

CHAIRMAN PERKINS:

There is a motion by Ms. Gibbons to exclude the restricted gaming licensees from the franchise tax, seconded by Mr. Hettrick. Are there comments on the motion?

ASSEMBLYWOMAN BUCKLEY:

I would oppose the motion. While we certainly can look at this over the next couple of days, if we start giving everybody an exemption, then there is no point in having a tax. While I appreciate they agreed to a lower amount, so did gaming, and we decided to increase that. I think we have decided to increase every tax a little bit more than anybody could say. I don't know if anybody ever says how much they really will pay. I will certainly agree to continue to work with my colleague to look at the language and the exact numbers and how much it would change, but

that means it would lower it. If we are going to stay balanced, we have to raise another one, and I am not sure which one we would have to raise. It still needs more discussion, so I will not be supporting the motion.

ASSEMBLYMAN GOLDWATER:

I have a question for the maker of the motion. I think I could support this motion if it is not a broad exclusion of the franchise tax. I certainly would say that the amount they pay, 33 percent of the gaming tax, would be okay as an exclusion, but certainly not an absolute broad exclusion. What was the motion? Was the intent to exclude only the amount that was paid or a broad exclusion of the franchise tax?

ASSEMBLYWOMAN GIBBONS:

My intent was to delete it from the franchise tax.

CHAIRMAN PERKINS:

Was it all the revenue in those industries or was it just the amount being taxed?

ASSEMBLYWOMAN GIBBONS:

The revenue from the restricted slots.

ASSEMBLYMAN GOLDWATER:

You are saying that people who pay the slot route operators tax would then be excluded entirely from paying the franchise tax, or is your motion the amount of tax that they pay as a special licensee as a slot route operator be excluded from what they would pay in franchise, and anything above that would be subject to the franchise tax?

ASSEMBLYWOMAN GIBBONS:

I would like them to be treated like other businesses being taxed and excluded from the tax previously collected from them, like gaming, for instance.

CHAIRMAN PERKINS:

Does that answer your question, Mr. Goldwater?

ASSEMBLYMAN GOLDWATER:

It leaves a little ambiguity. I would support the motion if we excluded only the amount that they paid in lieu of franchise tax, but everything over that would be subject to the tax. I don't think I understand the motion well enough.

ASSEMBLYWOMAN GIBBONS:

I think you do, and we are on the same page. They pay the 33 percent increase, so whatever they pay on their slot routes would be similar to what gaming receives as a credit.

ASSEMBLYMAN ANDERSON:

I think my esteemed colleague from Reno is trying to say that there would be, on the gross receipts of the business entity from the operation of slot machines, it would be restricted to slot machines and slot machines only. That, I think, would probably garner some level of support. I am not real happy about the idea. I agree with the Majority Leader that if we will begin carving out exemptions, we will be carving them out forever. If that is what your intent is, Ms. Gibbons, rather than from the overall, I think we are okay. I think that is what Mr. Goldwater was looking to, as to whether you are restricting it to the gross receipts from the operation of the slot machines only.

Chairman Perkins announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 8:58 p.m.

IN COMMITTEE OF THE WHOLE

At 9:07 p.m.

Assemblyman Perkins presiding.

Quorum present.

CHAIRMAN PERKINS:

We are discussing the Gibbons/Hettrick motion to exclude the restricted gaming licensees from the franchise tax. Are there further comments on the motion? All those in favor of the motion, please indicate by saying "Aye." Are there any opposed? The Chair is unable to decide. Would the ayes please raise your hands? Would the nays raise your hands, please. The motion fails.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. Staff has agreed to look further at this issue to see what the cost differential was. I think some of the concern was that it would perhaps completely wipe away any obligation of the franchise, but I understand the author's intent and would like to work with her to pursue examination of it to see if it is something that may be looked at in the final package. I want to thank her for bringing it.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. I appreciate the comments from the Majority Leader and I will be happy to work with this Body and help correct the inequities.

CHAIRMAN PERKINS:

Thank you. I think it is pretty clear to all of us that we are far from final product.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Chairman. Would this be an appropriate time to seek an amendment to reinstate the audit of the K-12 systems of the school districts? I believe we passed out Assembly Bill 162, it was amended in the Senate, but I believe ultimately killed. Would it be appropriate to insert that to this bill?

CHAIRMAN PERKINS:

Let me ask Counsel. Brenda, is it germane to the education portions of the bill?

BRENDA ERDOES:

I apologize. I need some further detail on what is contained in that or what the provision is that you want to add.

CHAIRMAN PERKINS:

I believe what he is asking about is we passed Assembly Bill 162, which was the audit of the school districts' K-12 system. The audit provision passed out of the Assembly and died in the Senate. Mr. Griffin is asking if we can amend that into this bill.

ASSEMBLYMAN GRIFFIN:

That is correct. That is the motion.

BRENDA ERDOES:

Thank you. Now I do understand. I believe that would fit constitutionally within one of the subject titles of the state financial administration, so I think you could appropriately amend it into this bill.

ASSEMBLYMAN GRIFFIN:

Should I clarify the motion or is it understood?

CHAIRMAN PERKINS:

Restate it, please.

ASSEMBLYMAN GRIFFIN:

I move that we amend Assembly Bill 162 from the 72nd Legislative Session into Senate Bill 6 of the 20th Special Session.

ASSEMBLYMAN GOLDWATER:

I second the motion.

CHAIRMAN PERKINS:

We have a motion by Mr. Griffin and a second by Mr. Goldwater. Are there any comments on the motion?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I obviously support the motion. I think accountability, along with the revenue, makes sense. I was wondering if, perhaps, we might want to vote on this tomorrow in order to have copies on everyone's desks and distributed to the public.

CHAIRMAN PERKINS:

I am not sure how long Assembly Bill 162 was and what the provisions were. I think everyone is in support of an audit, but I think what the Majority Leader is asking is to first have that language and make sure the people are comfortable with it. Mr. Griffin, do you have a response to that?

ASSEMBLYMAN GRIFFIN:

Sure, if we want to wait until tomorrow, Mr. Chairman, I think that is fine.

CHAIRMAN PERKINS:

There is no desire by the Chair to move this bill this evening, so we have time.

ASSEMBLYMAN HORNE:

Thank you, Mr. Chairman. I support this amendment. I thank Mr. Griffin for bringing it. I can't tell you how many times I had to talk to constituents about this very issue. They have asked me why Assembly Bill 162 had not passed and they were asking for it. I think it is a great idea.

CHAIRMAN PERKINS:

Mr. Griffin, would you mind withdrawing your motion for this evening and bring it back tomorrow?

ASSEMBLYMAN GRIFFIN:

I move to withdraw the motion.

CHAIRMAN PERKINS:

Thank you.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. I would make the motion to redefine the nonprofit definition in Senate Bill 6 to the definition that everyone received via e-mail and was approved by the Legislative staff.

CHAIRMAN PERKINS:

Does Counsel have that amendment?

ASSEMBLYMAN HARDY:

Yes.

BRENDA ERDOES:

Yes, I have that language.

CHAIRMAN PERKINS:

Can you describe it to us, Brenda?

BRENDA ERDOES:

Yes. Currently, with the payroll tax, the nonprofits that are exempted in the provisions of Section 612 are 501(c)3 only. This language would change that so that 501(c) nonprofit corporations would also be exempt from the payroll tax. It would be an amendment to page 2, line 14; the definition of nonprofit would change. Instead of referring to Nevada Revised Statutes (NRS) 121, it would actually provide for nonprofits that have a 501(c) registration and they would all be exempt.

CHAIRMAN PERKINS:

We have a motion from Mr. Hardy to bring that provision into conformity with the rest of the bill. Is there a second? There is a second by Mr. Carpenter. Are there any comments on the motion? All those in favor of the motion please indicate by saying "aye." Are there any opposed? Motion carries.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. I have another motion to amend the hospitals or safety-net providers, which are required to provide care under the federal Emergency Medical Treatment and Active Labor Act, from the business franchise fee. Inasmuch as the cost of health care is going up and hospitals and medical providers of every kind, including nursing homes, are under contracts with different organizations, such as the Culinary Union, when they write a new contract for providing care, for instance in the Las Vegas area, the Culinary contract is going to come up. Any increases in their franchise fee would likely have to be passed on making medical access more expensive, and I don't think that is our intent. I would move that we exempt hospitals that are required as safety-net providers from that as well as recognizing that nursing homes are in a critical state now. I would recommend and move, likewise, that we exempt them from the business franchise tax.

CHAIRMAN PERKINS:

We have a motion by Mr. Hardy and a second by Mr. Mabey. If I understand the motion, it is to basically exempt hospitals and nursing homes from the franchise tax.

ASSEMBLYMAN HARDY:

Correct. Thank you.

CHAIRMAN PERKINS:

Are there any comments on the motion?

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Chairman. I would like to speak in favor of the motion. In Elko we have a for-profit hospital. This hospital put up \$40 million to build a state-of-the-art medical facility and I know that any extra tax we put on them is going to be passed directly to those patients. Right now, it is very difficult to take care of the indigents because the County doesn't have enough funds to fully fund indigent care. I believe any way we can aid these facilities would really help them.

ASSEMBLYMAN COLLINS:

Thank you, Mr. Chairman. I have a question for the maker of the motion. Is that for the indigent care only, or for the full hospital? I think Las Vegas has the world's most profitable hospital in the United States. I just want clarification of the amendment.

ASSEMBLYMAN HARDY:

To answer my colleague's question, yes, this would allow the hospitals to continue to afford to be able to take care of the indigent. Yes, it would apply to the hospitals and nursing homes, recognizing that when you write a contract, you are going to have to figure out how to cover those contracts in the financial world that is happening with medical access to care. This is a critical element. Thank you, Mr. Chairman.

ASSEMBLYMAN COLLINS:

Thank you, Mr. Chairman. I don't believe that we could do it for the whole hospital but maybe we could narrow it down to the indigent care proportion, which is 1 to 2 percent of a hospital's operation. Otherwise, I would like to be exempt because I have a disabled veteran working for me. Get me out of the franchise tax. I don't want to go that far.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. We have to recognize that the hospital is also paying property tax and other fees. If we actually get something here that will pass, they will be paying a payroll tax that will increase and replace the Business Activity Tax (BAT), but obviously be more than the BAT, so, they will have a good share of taxes that they will be paying now and in the future. It will make it more costly for those contracts and for medical access to care. Thank you.

ASSEMBLYMAN GOLDWATER:

Mr. Chairman, thank you. I appreciate Dr. Hardy's motion. There are so many worthy candidates for exemptions. I think this Body is aware of my opposition to exemptions and incentives. I would have to oppose this motion, based on that. I imagine the people who are sitting in these spots in the future are going to propose so many exemptions to this that it won't even be funny. All those nice people sitting in the back of the room are probably going to make a very nice living trying to get those exemptions in, over time. Right now I think we need to get as broad-based a tax as we can get and let them come fight for the exemptions in years to come.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. I am not proposing a license plate to go with this motion. Thank you.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Mr. Chairman. If you would look on page 25 of Assembly Bill 1, revenues that are exempt from the franchise fee include any revenue received by a hospital or provider of health care, from a governmental entity. That would cover DSH payments, Medicaid, et cetera, so they are already exempt for the money they get for indigent and Medicaid patients.

CHAIRMAN PERKINS:

I think Dr. Hardy is suggesting exempting them from the other revenues, as well.

ASSEMBLYMAN MORTENSEN:

Thank you, Mr. Chairman. I, also, agree with Mr. Goldwater. We have, I believe, in Nevada, the highest ratio of for-profit hospitals versus nonprofit hospitals in the nation. I would like to see some incentive for getting some nonprofit hospitals into the state and this might be part of that. I would be against an exemption. There are too many other people who want exemptions.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. I am kind of where you are, Harry, in that if, and this is a scenario, you motivate a for-profit hospital to be a provider for Medicaid indigent care, they may find themselves willing to become more involved with the access to care and be motivated to do that. Yes, there are advantages to increasing fees on everyone, but the reality is we are in a crisis with access to medical care. This is one of the things that will make that more expensive and all of the costs will go up to everybody, including those who are under contract with trade unions and negotiations, should that franchise fee go forth. Thank you.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I oppose the motion. I was trying to look on the Internet quickly for profits for some of the hospitals in Las Vegas, which are astronomical. I recall, from the hospital cost-containment debates, that Columbia Sunrise Hospital had the highest billed charges, I think, in the country. The profits in Las Vegas also were the highest in the country, including states that required them to pay a tax. We can talk philosophy, and Dr. Hardy and I probably agree, that health care has become too much of a business instead of a profession. That has not helped health care. We have what we have and we have health care being a giant for-profit industry. When that industry is making large sums from Nevada and paying taxes in every

other state, but not giving us the benefit of any lower costs, then it is time for those entities to pay their fair share.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. I see where this is going so the maker of the motion is interested in, also, rural Nevada, and I am wondering if there is an appetite to have a population cap attached to this motion. I would be amenable to such.

ASSEMBLYWOMAN LESLIE:

Thank you, Mr. Chairman. I wasn't going to address that issue. I wanted to ask Dr. Hardy if, when he said nursing homes, he meant all long-term care facilities, also? Some of them aren't very good. Were you going to include that in your motion?

ASSEMBLYMAN HARDY:

Yes, I would include nursing homes. It is hard to find a home that can take people and that is one of the major issues of access to care, even long-term care.

ASSEMBLYWOMAN LESLIE:

Would you include the long-term facilities as well?

ASSEMBLYMAN HARDY:

Yes, ma'am.

ASSEMBLYWOMAN LESLIE:

I would definitely be opposed to that. We have some long-term care facilities in this state that are doing an abominable job of serving our elderly. I definitely would not be in favor of giving the whole industry a break.

ASSEMBLYMAN HARDY:

I would be amenable to amending the motion to only the good ones.

ASSEMBLYWOMAN LESLIE:

In my opinion, most of the really good ones are nonprofit ones and are already included in the exemption in the bill.

ASSEMBLYMAN HARDY:

They are all nonprofit. Thank you.

CHAIRMAN PERKINS:

All those in favor of the motion please indicate by saying "aye." Any opposed? Motion failed.

ASSEMBLYMAN BEERS:

I believe all the rest of the organizations that are taxed under this proposal are nothing but groups of hardworking Nevada taxpayers. Each of those groups is subject to eight broad-based business taxes: the Nevada Business Activity Tax, real property tax, personal property tax, unemployment taxes, sales and use taxes, insurance premium tax, federal social security tax, which comes back to our state in the form of retirement benefits, and federal income tax, which comes back to our state in the form of distributions that we get to make in state local government. Therefore, I would move that we exempt all the rest of the organizations from this tax.

CHAIRMAN PERKINS:

The motion dies for lack of a second.

ASSEMBLYMAN HARDY:

I would like to request a roll call on my previous motion, Mr. Chairman.

CHAIRMAN PERKINS:

I would be happy to count the hands but a roll call vote isn't acceptable in a Committee of the Whole.

ASSEMBLYMAN HARDY:

I will accept hands.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I would move that we combine all of these votes into one amendment and we move to amend and do pass Senate Bill 6.

CHAIRMAN PERKINS:

We have a motion by Ms. Buckley to amend and do pass Senate Bill 6, given the previous approved motions. We will still be addressing the K-12 audit tomorrow.

ASSEMBLYMAN HETTRICK:

Was there not other language that we were considering and waiting on? It was my understanding that we were not going to process the bill tonight.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. The only language we were waiting on was Dr. Hardy's and because he sent the amendment in advance we had already cleared it with the Legal Division and had it included.

CHAIRMAN PERKINS:

For my edification, if we do this amend and do pass, there is still at least the K-12 audit to take up tomorrow. I don't think we are asking to have the bill reprinted yet. Is that correct? It is going to be a thick bill and it will have some other adjustments.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. We would have the K-12 amendment to look at tomorrow. Obviously, people may bring more. Additionally, somehow I think for the next couple of days, we may consider a few more. This was just to get the process rolling. We are sitting here at taxpayers' expense and I think it appropriate for us to take a vote tonight.

ASSEMBLYMAN HETTRICK:

I thought, in the motions that were made, we amended Distributive School Account (DSA) into the bill and we did class-size reduction (CSR) as well. If they are both in here, then the bill is complete, as amended. It took motions to amend in DSA and CSR.

CHAIRMAN PERKINS:

I am not sure I understand your point, Mr. Hettrick.

ASSEMBLYMAN HETTRICK:

If the motion is to amend and do pass as a complete motion now, what is being held that we are going to discuss tomorrow?

CHAIRMAN PERKINS:

Perhaps the appropriate motion would be, amend and re-refer to committee.

ASSEMBLYWOMAN BUCKLEY:

No. Mr. Chairman, my intent was, and if I am wrong I could amend my motion, since we are in a Committee of the Whole, it would just be an amend and do pass to report out to the Floor and keep the process moving. Tomorrow we can have amendments on the K-12, which I think everyone in this Body wanted passed during the regular session. Additionally, other members may bring amendments as we begin to get things resolved. There were a couple of issues, for example, at the slot route, where we have asked for numbers to be drawn. We can't slow down the process for every request for information. That doesn't mean it can't be considered or presented to a conference committee. If it is ready by tomorrow perhaps it could be considered tomorrow. I think what we wanted to do was take definite action this evening and actually move this process forward by passing out an actual amend and do pass motion.

Chairman Perkins announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 9:50 p.m.

IN COMMITTEE OF THE WHOLE

At 10:07 p.m.

Assemblyman Perkins presiding.

Quorum present.

Chairman Perkins announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 10:31 p.m.

IN COMMITTEE OF THE WHOLE

At 10:36 p.m.

Assemblyman Perkins presiding.

Quorum present.

CHAIRMAN PERKINS:

Mr. Griffin, I think it would be appropriate to go ahead and take that motion from you tonight. The language can be considered tomorrow if there are concerns.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Chairman. I would move that we amend Senate Bill 6 with the language of Assembly Bill 162 of the 72nd Legislative Session.

CHAIRMAN PERKINS:

We have a motion by Mr. Griffin and a second by Mr. Horne. Seeing no further comments, all those in favor indicate by saying "Aye." Any opposed? Motion carried.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. With that additional motion, I would move that we amend and do pass S.B. 6, with the amendments as previously voted on by the Committee of the Whole.

CHAIRMAN PERKINS:

There is a motion by Ms. Buckley and a second by Ms. Leslie. Are there any comments or questions on that motion? Seeing none, all those in favor please indicate by saying "Aye." Are there any opposed? Motion carried.

ASSEMBLYMAN HARDY:

Thank you, Mr. Speaker. I wanted to clarify with staff if the spending cap was, indeed, kept in S.B. 6.

BRENDA ERDOES:

Yes, it is in Sections 190 and 191. That is the fund for tax accountability in 191 and the section before it is the 107 percent cap.

ASSEMBLYMAN HARDY:

Thank you.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 10:38 p.m.

Mr. Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 1; Assembly Resolutions Nos. 1, 2, and 3.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Ellen Keating, Jerry Keating, and Brad Keating.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Katelyn Barney.

On request of Assemblywoman Gibbons, the privilege of the floor of the Assembly Chamber for this day was extended to Robert Canter.

Assemblywoman Buckley moved that the Assembly adjourn until Friday, June 27, 2003, at 11:00 a.m.

Motion carried.

Assembly adjourned at 10:39 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON

Chief Clerk of the Assembly

THE THIRD DAY

CARSON CITY (Friday), June 27, 2003

Assembly called to order at 2:14 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Dear Lord, in these very difficult times we need Your blessings more than ever. So please, Lord, bless us all.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee of the Whole, to which was referred Senate Bill No. 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RICHARD PERKINS, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Senate Bill No. 6 just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 6.

Bill read second time.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 3.

Amend sec. 4, page 2, by deleting lines 14 and 15 and inserting:

“2. “Nonprofit organization” means a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).”

Amend sec. 11, page 4, line 22, by deleting “I” and inserting “0.6”.

Amend sec. 27, page 17, by deleting line 43 and inserting: *“seats that are permanently mounted and cannot be, or are not intended to be, removed temporarily for any single performance of live entertainment.”*

Amend sec. 30, page 18, by deleting lines 10 and 11 and inserting:

“(a) A corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust and their equivalents organized under the laws of this state or another jurisdiction and any other type of entity that engages in business.”.

Amend sec. 34, page 18, by deleting lines 29 through 32 and inserting: *“Business Form, or its equivalent or successor form, or a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, for the”.*

Amend sec. 36, page 19, by deleting lines 17 and 18 and inserting: *“or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. §”.*

Amend sec. 36, page 19, between lines 23 and 24 by inserting:

“(f) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.”.

Amend the bill as a whole by adding new sections designated sections 58.10 through 58.80, following sec. 58, to read as follows:

“Sec. 58.10. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 58.12 to 58.80, inclusive, of this act.

Sec. 58.12. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 58.14 to 58.28, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 58.14. “Business” means any activity engaged in or caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, to any person or governmental entity.

Sec. 58.16. 1. “Business entity” includes:

(a) A corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust and their equivalents organized under the laws of this state or another jurisdiction and any other type of entity that engages in business; and

(b) A natural person engaging in business if he is deemed to be a business entity pursuant to section 58.42 of this act.

2. The term does not include:

(a) A governmental entity;

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), unless the organization has any taxable income for the purposes of federal income taxation from any unrelated trade or business, as defined in 26 U.S.C. § 513; or

(c) A person who operates a business from his home and earns from that business not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

Sec. 58.18. *“Commission” means the Nevada Tax Commission.*

Sec. 58.20. *“Engaging in business” means commencing, conducting or continuing a business, the exercise of corporate or franchise powers regarding a business, and the liquidation of a business entity which is or was engaging in a business when the liquidator holds itself out to the public as conducting that business.*

Sec. 58.22. *“Gross revenue” means the total amount received or receivable on the use, sale or exchange of property or capital or for the performance of services, from any transaction involving a business entity, without any reduction for the basis of property sold, the cost of goods or services sold, or any other expense of the business entity.*

Sec. 58.24. 1. *“Pass-through revenue” means revenue received by a business entity solely on behalf of another in a disclosed agency capacity, including revenue received as a broker, bailee, consignee or auctioneer, notwithstanding that the business entity may incur liability, primarily or secondarily, in a transaction in its capacity as an agent.*

2. *“Pass-through revenue” includes reimbursement for advances made by a business entity on behalf of a customer or client, other than with respect to services rendered or with respect to purchases of goods by the business entity in carrying out the business in which it engages.*

Sec. 58.26. *“Total amount received or receivable” means the total sum of any money and the fair market value of any other property or services received or receivable, including, without limitation, rents, royalties, interest and dividends, and aggregate net gains realized from the sale or exchange of stocks, bonds, asset-backed securities, investment and trading assets and other evidence of indebtedness.*

Sec. 58.28. *“Total revenue” means gross revenue minus:*

1. *Any revenue which this state is prohibited from taxing pursuant to the Constitution, laws or treaties of the United States or the Nevada Constitution.*

2. *Any revenue received by a natural person from the rental of not more than four residential units.*

3. *Any revenue from the sale of agricultural products at wholesale.*

4. *If a business entity pays a tax on premiums pursuant to title 57 of NRS, the gross revenue of the business entity derived from direct premiums written.*

5. *If a business entity pays a license fee pursuant to NRS 463.370, the total sum of all amounts specifically included by statute in and all amounts specifically excluded by statute from the calculation of that fee for the business entity.*

6. *If a business entity pays a tax on the net proceeds of minerals pursuant to chapter 362 of NRS, the gross yield of the business entity from which those net proceeds are determined.*

7. Any operating revenue of a public utility for the provision of electric, gas, water or sewer service which is operated or regulated by a governmental entity.

8. Any revenue of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), except the gross revenue of the organization from an unrelated trade or business, as defined in 26 U.S.C. § 513.

9. Any revenue from the operation of a vending stand pursuant to NRS 426.640.

10. Any revenue received by a certified disadvantaged business enterprise.

Sec. 58.30. *The Legislature hereby finds and declares that the fee imposed by this chapter on a business entity must not be construed as a fee or tax upon the customers of the business entity, but as a fee which is imposed upon and collectible from the business entity and which constitutes part of the operating overhead of the business entity.*

Sec. 58.32. *The Department shall:*

1. *Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for that purpose.*

2. *Deposit all fees, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.*

Sec. 58.34. 1. *Each person responsible for maintaining the records of a business entity shall:*

(a) *Keep such records as may be necessary to determine the amount of its liability pursuant to the provisions of this chapter;*

(b) *Preserve those records for 4 years or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and*

(c) *Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.*

2. *For the purposes of this section, "record" includes any federal income tax return filed by a business entity with the Internal Revenue Service.*

3. *Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.*

Sec. 58.36. 1. *To verify the accuracy of any return filed or, if no return is filed by a business entity, to determine the amount required to be paid, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person or business entity that may be liable for the fee imposed by this chapter.*

2. *Any person or business entity which may be liable for the fee imposed by this chapter and which keeps outside of this state its books, papers and records relating thereto shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents,*

plus any other actual expenses incurred by the employee while he is absent from his regular place of employment to examine those documents.

Sec. 58.38. The Executive Director may request from any other governmental agency or officer such information as he deems necessary to carry out the provisions of this chapter. If the Executive Director obtains any confidential information pursuant to such a request, he shall maintain the confidentiality of that information in the same manner and to the same extent as provided by law for the agency or officer from whom the information was obtained.

Sec. 58.40. 1. Except as otherwise provided in this section and NRS 360.250, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or the business entity that paid the fee in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to the person who paid the fee or his authorized representative of a copy of any return or other document filed by him pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular business entity or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

(f) Exchanges of information pursuant to subsection 3.

3. The Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

Sec. 58.42. *A natural person engaging in business shall be deemed to be a business entity that is subject to the provisions of this chapter if the person files with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for the business.*

Sec. 58.44. 1. *A quarterly franchise fee is hereby imposed upon each business entity for the privilege of engaging in business in this state at the rate of:*

<i>Annual Total Revenue of Business Entity</i>	<i>Franchise Fee per Calendar Quarter</i>
<i>More than \$0 but less than \$100,000</i>	<i>\$0</i>
<i>\$100,000 or more but less than \$200,000</i>	<i>\$30</i>
<i>\$200,000 or more but less than \$300,000</i>	<i>\$60</i>
<i>\$300,000 or more but less than \$400,000</i>	<i>\$90</i>
<i>\$400,000 or more but less than \$500,000</i>	<i>\$120</i>
<i>\$500,000 or more but less than \$750,000</i>	<i>\$175</i>
<i>\$750,000 or more but less than \$1,000,000</i>	<i>\$240</i>
<i>\$1,000,000 or more but less than \$1,500,000</i>	<i>\$350</i>
<i>\$1,500,000 or more but less than \$2,000,000</i>	<i>\$480</i>
<i>\$2,000,000 or more but less than \$2,500,000</i>	<i>\$620</i>
<i>\$2,500,000 or more but less than \$3,000,000</i>	<i>\$750</i>
<i>\$3,000,000 or more but less than \$4,000,000</i>	<i>\$950</i>
<i>\$4,000,000 or more but less than \$5,000,000</i>	<i>\$1,200</i>
<i>\$5,000,000 or more but less than \$7,500,000</i>	<i>\$1,700</i>
<i>\$7,500,000 or more but less than \$10,000,000</i>	<i>\$2,400</i>
<i>\$10,000,000 or more but less than \$20,000,000</i>	<i>\$3,500</i>
<i>\$20,000,000 or more</i>	<i>\$7,000</i>
<i>plus \$3,500 for each additional \$10,000,000</i>	

2. *The fee for each calendar quarter is due on the last day of the quarter and must be paid on or before the last day of the month immediately following the quarter. The business entity shall estimate its annual total revenue for the fiscal year in which the franchise fee is being paid for the purposes of determining the amount of the franchise fee that is due.*

3. *Upon determination of the actual annual total revenue of the business entity for that fiscal year, the business entity shall reconcile the amount due from franchise fees for the year. If the amount of franchise fees paid exceeds the amount actually due from the business entity, the excess fees must be credited against future franchise fees payable by the business entity. If the amount of franchise fees paid was less than the amount due, the amount due remaining unpaid shall be deemed, for the purposes of NRS 360.417, to*

constitute a failure to pay the fee within the time required pursuant to this section.

4. Each business entity engaging in business in this state shall file with the Department a return on a form prescribed by the Department, together with the remittance of any fee due pursuant to this chapter, on or before the last day of the month immediately following the calendar quarter for which the payment is being made. The form must provide each business entity with an opportunity for account reconciliation.

Sec. 58.46. 1. Except as otherwise provided in this section, the total revenue of a business entity in this state must be computed for each fiscal year based upon the accounting method used by the business entity to compute its income for the purposes of federal income taxation. If a business entity does not regularly use a single accounting method, or if the Department determines that the accounting method used by the business entity does not clearly reflect the total revenue of the business entity in this state, the calculation of that revenue must be made on the basis of such an accounting method as, in the opinion of the Department, clearly reflects the total revenue of the business entity in this state.

2. If a business entity is engaged in more than one type of business, the business entity:

(a) May, in computing its total revenue in this state, use a different accounting method for each of those types of business; and

(b) Shall compute its total revenue in this state for each of those types of business based upon the accounting method used by the business entity to compute its income for that type of business for the purposes of federal income taxation.

3. If a business entity changes the accounting method upon which it computes its income for the purposes of federal income taxation, the business entity shall, before using that method to compute its total revenue in this state, provide the Department with written notification of the change in its accounting method. If:

(a) The business entity or any of its owners, officers, employees, agents or representatives are required, on behalf of the business entity, to obtain the consent of the Internal Revenue Service to the change in its accounting method, the business entity shall include a notarized copy of that consent in its written notification to the Department; or

(b) The business entity is not required to obtain the consent of the Internal Revenue Service to the change in its accounting method, the business entity shall obtain the consent of the Department to the change in its accounting method before using that method to compute its total revenue in this state.

4. If a business entity fails to comply with the provisions of subsections 1 and 2, any required change in the accounting method does not affect the imposition and calculation of any penalty, or the calculation of any additional amount of franchise fees due, pursuant to this chapter.

Sec. 58.48. *In calculating the franchise fee of a business entity pursuant to this chapter, the business entity is entitled to deduct from its total revenue:*

1. *Any revenue upon which this state is prohibited from imposing a franchise fee pursuant to the Constitution or laws of the United States or the Nevada Constitution.*

2. *The amount of any federal, state or local governmental fuel taxes collected by the business entity.*

3. *Any revenue of the business entity attributable to interest upon any bonds or securities of the Federal Government, the State of Nevada or a political subdivision of this state.*

4. *Any pass-through revenue of the business entity.*

5. *Any revenue received as dividends or distributions by a parent organization from the capital account of a subsidiary entity of the parent organization.*

6. *Any revenue received by a hospital or provider of health care from a governmental entity.*

7. *Any cash discounts the business entity allows a purchaser of property, rights or services.*

8. *Any indebtedness to the business entity that is impossible or impracticable to collect and which is written off by the business entity as a bad debt for purposes of federal income taxation.*

9. *Any counterfeit currency received by the business entity for which the business entity is not reimbursed.*

10. *The amount of any payments received by the business entity upon claims for health, casualty or life insurance.*

11. *The cost of all payments made to contractors and subcontractors by a business entity that is in the business of developing improved real property and who sells that improved real property to a person who is not in the business of developing real property. The amount of the deduction must not exceed the gross revenue for the transaction.*

12. *Any promotional allowances by the business entity.*

13. *The gross revenue attributable to damaged or returned merchandise.*

Sec. 58.50. 1. *The Department shall adopt regulations providing for the allocation or apportionment of the liability for franchise fees pursuant to this chapter of business entities engaging in a business both within and outside of this state. The regulations must:*

(a) *Except as otherwise provided in this section, be consistent with the methods of dividing income contained in the Uniform Division of Income for Tax Purposes Act.*

(b) *If the business consists of financial activity, as defined in the Uniform Division of Income for Tax Purposes Act, be consistent with the Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions.*

2. *As used in this section:*

(a) *“Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions” means the provisions of the Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions adopted by the Multistate Tax Commission, as those provisions existed on July 1, 2003.*

(b) *“Uniform Division of Income for Tax Purposes Act” means the provisions of the Uniform Division of Income for Tax Purposes Act approved by the National Conference of Commissioners on Uniform State Laws, as those provisions existed on July 1, 2003.*

Sec. 58.52. *The Department shall, upon application by a business entity engaging in a business both within and outside of this state, reduce the liability of the business entity for franchise fees pursuant to this chapter to the extent required by the Constitution or laws of the United States or the Nevada Constitution, as a result of the tax liability of the business entity to other states and their political subdivisions.*

Sec. 58.54. 1. *If the Department determines, after notice and hearing, that:*

(a) *A business entity and one or more of its affiliated business entities are engaged in the same or a similar type of business; and*

(b) *The primary or a substantial purpose for engaging in that type of business through affiliated business entities is to avoid or to reduce liability for the franchise fees imposed by this chapter,*
the Department shall require the business entity and one or more of its affiliated business entities to file a consolidated return for the purposes of this chapter.

2. *For the purposes of this section:*

(a) *“Affiliated business entity” means a business entity that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, another specified business entity.*

(b) *“Control,” as used in the terms “controls,” “controlled by” and “under common control with,” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a business entity, whether through the ownership of voting securities, by contract or otherwise.*

Sec. 58.56. *Upon written application made before the date on which payment must be made, the Department may for good cause extend by 30 days the time within which a business entity is required to pay the franchise fee imposed by this chapter. If the franchise fee is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the business entity shall pay interest at the rate of 1 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.*

Sec. 58.58. *The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.*

Sec. 58.60. *If the Department determines that any franchise fee, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the business entity or person from which it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must be credited on any amounts then due from the person or business entity under this chapter, and the balance refunded to the person or business entity, or its successors, administrators or executors.*

Sec. 58.62. 1. *Except as otherwise provided in NRS 360.235 and 360.395:*

(a) No refund may be allowed unless a claim for it is filed with the Department within 3 years after the last day of the month immediately following the calendar quarter for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period.

2. *Each claim must be in writing and must state the specific grounds upon which the claim is founded.*

3. *Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.*

4. *Within 30 days after rejecting any claim in whole or in part, the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.*

Sec. 58.64. 1. *Except as otherwise provided in this section and NRS 360.320, interest must be paid upon any overpayment of any amount of the franchise fee imposed by this chapter at the rate of 0.5 percent per month, or fraction thereof, from the last day of the month immediately following the calendar quarter for which the overpayment was made. No refund or credit may be made of any interest imposed upon the person or business entity making the overpayment with respect to the amount being refunded or credited.*

2. *The interest must be paid:*

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the franchise fee or the amount against which the credit is applied.

3. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest on the overpayment.

Sec. 58.66. 1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this state or against any officer of the State to prevent or enjoin the collection under this chapter of the franchise fee imposed by this chapter or any amount of the franchise fee, penalty or interest required to be collected.

2. No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed.

Sec. 58.68. 1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of competent jurisdiction in Carson City, the county of this state where the claimant resides or maintains his principal place of business or a county in which any relevant proceedings were conducted by the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

2. Failure to bring an action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.

Sec. 58.70. 1. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Commission within 30 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

2. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited towards any franchise fees due from the plaintiff.

3. The balance of the judgment must be refunded to the plaintiff.

Sec. 58.72. In any judgment, interest must be allowed at the rate of 6 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.

Sec. 58.74. A judgment may not be rendered in favor of the plaintiff in any action brought against the Department to recover any amount paid when the action is brought by or in the name of an assignee of the business entity

paying the amount or by any person other than the person or business entity which paid the amount.

Sec. 58.76. 1. *The Department may recover a refund or any part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in Carson City or Clark County in the name of the State of Nevada.*

2. *The action must be tried in Carson City or Clark County unless the court, with the consent of the Attorney General, orders a change of place of trial.*

3. *The Attorney General shall prosecute the action, and the provisions of NRS, the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.*

Sec. 58.78. 1. *If any amount in excess of \$25 has been illegally determined, either by the Department or by the person filing the return, the Department shall certify this fact to the State Board of Examiners, and the latter shall authorize the cancellation of the amount upon the records of the Department.*

2. *If an amount not exceeding \$25 has been illegally determined, either by the Department or by the person or business entity filing the return, the Department, without certifying this fact to the State Board of Examiners, shall authorize the cancellation of the amount upon the records of the Department.*

Sec. 58.80. 1. *A person shall not:*

(a) *Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any return or declaration with intent to defraud the State or to evade payment of the franchise fee or any part of the franchise fee imposed by this chapter.*

(b) *Make, cause to be made or permit to be made any false entry in books, records or accounts with intent to defraud the State or to evade the payment of the franchise fee or any part of the franchise fee imposed by this chapter.*

(c) *Keep, cause to be kept or permit to be kept more than one set of books, records or accounts with intent to defraud the State or to evade the payment of the franchise fee or any part of the franchise fee imposed by this chapter.*

2. *Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.”.*

Amend sec. 62, page 28, by deleting lines 29 and 30 and inserting: *“partnership, business trust and their equivalents organized under the laws of this state or another jurisdiction and any other person that”.*

Amend sec. 62, page 28, by deleting lines 38 and 39 and inserting: *“to 26 U.S.C. § 501(c), unless the organization has any taxable income for the purposes of federal income taxation from any unrelated trade or business, as”.*

Amend sec. 62, page 28, by deleting lines 43 through 45 and inserting: *“annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.”*.

Amend sec. 62, page 29, by deleting line 1 and inserting:

“(d) A business whose primary purpose is to create or produce motion pictures. As”.

Amend sec. 65, page 29, line 43, by deleting *“Business,”* and inserting *“Business Form,”*.

Amend sec. 65, page 29, line 45, by deleting *“Loss,”* and inserting *“Loss Form,”*.

Amend sec. 65, page 30, line 1, by deleting *“Farming,”* and inserting *“Farming Form,”*.

Amend sec. 70, page 32, by deleting lines 16 through 45 and inserting:

“Sec. 70. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, franchise fee, contribution or premium or amount of tax, franchise fee, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 362, 364A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, or sections 2 to 24, inclusive, 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act, as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

(a) The facts contained in the return;

(b) Any information within its possession or that may come into its possession; or

(c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.

4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.”

Amend the bill as a whole by adding a new section designated sec. 70.5, following sec. 70, to read as follows:

“Sec. 70.5. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, franchise fee, contribution or

premium or amount of tax, franchise fee, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 362, ~~364A,~~ 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, or sections 2 to 24, inclusive, 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act, as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

- (a) The facts contained in the return;
- (b) Any information within its possession or that may come into its possession; or
- (c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.

4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.”.

Amend sec. 71, page 33, by deleting lines 1 through 17 and inserting:

“Sec. 71. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax or *franchise fee* provided for in chapter 362, 364A, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, or *sections 2 to 24, inclusive, 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act*, or the fee provided for in NRS 482.313, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.”.

Amend the bill as a whole by adding a new section designated sec. 71.5, following sec. 71, to read as follows:

“Sec. 71.5. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax or franchise fee provided for in chapter 362, ~~364A,~~ 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, or sections 2 to 24, inclusive, 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act, or the fee provided for in NRS 482.313, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.”.

Amend sec. 72, page 33, by deleting lines 18 through 37 and inserting:

“Sec. 72. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax or franchise fee imposed pursuant to NRS 361.320 or ~~chapter 361A, 376A, 377 or 377A of NRS, or by~~ chapter 361A, 362, 364A, 369, 370, 372, 372A, 374, 375A, ~~for~~ 375B, 376A, 377 or 377A of NRS, or sections 2 to 24, inclusive, 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act, is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the Department may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must file with the Department a statement under oath setting forth the facts upon which he bases his claim.

3. The Department shall disclose, upon the request of any person:

- (a) The name of the person to whom relief was granted; and
- (b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.”.

Amend the bill as a whole by adding a new section designated sec. 72.5, following sec. 72, to read as follows:

“Sec. 72.5. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax or franchise fee imposed pursuant to NRS 361.320 or chapter 361A, 362, ~~364A,~~ 369, 370, 372, 372A, 374, 375A, 375B, 376A, 377 or 377A of NRS, or sections 2 to 24, inclusive, 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the Department may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must file with the Department a statement under oath setting forth the facts upon which he bases his claim.

3. The Department shall disclose, upon the request of any person:

- (a) The name of the person to whom relief was granted; and
- (b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.”.

Amend sec. 73, page 35, by deleting lines 6 through 8 and inserting: “or chapter 362, 364A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, *or sections 2 to 24, inclusive, 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act*”.

Amend the bill as a whole by adding a new section designated sec. 73.5, following sec. 73, to read as follows:

“Sec. 73.5. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against him which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this state or any political subdivision or agency of this state, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his possession or under his control at the time he received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his possession, under his control or owing by him within the time and in

the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him to continue to transmit payments to the Department or that his duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the State for any indebtedness due pursuant to this chapter, or chapter 362, ~~{364A,}~~ 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, or sections 2 to 24, inclusive, 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.”.

Amend sec. 75.7, page 40, by deleting lines 10 through 13 and inserting: “Business Form, or its equivalent or successor form, a *Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form*, or a *Schedule F (Form 1040), Farm Income and Expenses Form, or its equivalent or successor form*, for the”.

Amend sec. 77, page 41, line 21, by deleting “\$3.72” and inserting “\$3.45”.

Amend sec. 78, page 41, line 28, by deleting “\$3.87” and inserting “\$3.60”.

Amend sec. 78, page 41, line 30, by deleting “\$1.42” and inserting “\$1.30”.

Amend sec. 78, page 41, line 33, by deleting “76” and inserting “70”.

Amend sec. 78, page 41, line 36, by deleting “17” and inserting “16”.

Amend sec. 80, page 42, line 22, by deleting “45” and inserting “40”.

Amend the bill as a whole by adding a new section designated sec. 80.5, following sec. 80, to read as follows:

“Sec. 80.5. NRS 370.165 is hereby amended to read as follows:

370.165 There is hereby levied a tax upon the purchase or possession of cigarettes by a consumer in the State of Nevada at the rate of ~~{40}~~ 45 mills per cigarette. The tax may be represented and precollected by the affixing of a revenue stamp or other approved evidence of payment to each package, packet or container in which cigarettes are sold. The tax must be precollected by the wholesale or retail dealer, and must be recovered from the consumer by adding the amount of the tax to the selling price. Each person who sells cigarettes at retail shall prominently display on his premises a notice that the tax is included in the selling price and is payable under the provisions of this chapter.”

Amend sec. 82, page 43, line 8, by deleting “40” and inserting “35”.

Amend the bill as a whole by adding a new section designated sec. 82.5, following sec. 82, to read as follows:

“Sec. 82.5. NRS 370.260 is hereby amended to read as follows:

370.260 1. All taxes and license fees imposed by the provisions of NRS 370.001 to 370.430, inclusive, less any refunds granted as provided by law, must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall:

(a) As compensation to the State for the costs of collecting the taxes and license fees, transmit each month the sum the Legislature specifies from the remittances made to it pursuant to subsection 1 during the preceding month to the State Treasurer for deposit to the credit of the Department. The deposited money must be expended by the Department in accordance with its work program.

(b) From the remittances made to it pursuant to subsection 1 during the preceding month, less the amount transmitted pursuant to paragraph (a), transmit each month the portion of the tax which is equivalent to ~~{35}~~ 40 mills per cigarette to the State Treasurer for deposit to the credit of the Account for the Tax on Cigarettes in the State General Fund.

(c) Transmit the balance of the payments each month to the State Treasurer for deposit in the Local Government Tax Distribution Account created by NRS 360.660.

(d) Report to the State Controller monthly the amount of collections.

3. The money deposited pursuant to paragraph (c) of subsection 2 in the Local Government Tax Distribution account is hereby appropriated to Carson City and to each of the counties in proportion to their respective populations and must be credited to the respective accounts of Carson City and each county.”

Amend sec. 83, page 43, line 25, by deleting “45” and inserting “40”.

Amend the bill as a whole by adding a new section designated sec. 83.5, following sec. 83, to read as follows:

“Sec. 83.5. NRS 370.350 is hereby amended to read as follows:

370.350 1. Except as otherwise provided in subsection 3, a tax is hereby levied and imposed upon the use of cigarettes in this state.

2. The amount of the use tax is ~~[40]~~ 45 mills per cigarette.

3. The use tax does not apply where:

(a) Nevada cigarette revenue stamps have been affixed to cigarette packages as required by law.

(b) Tax exemption is provided for in this chapter.”.

Amend sec. 95, page 46, by deleting lines 9 through 15 and inserting:

“4. *The county recorder of a county may deduct and withhold from the taxes collected 0.2 percent of those taxes to reimburse the county for the cost of collecting the tax.*”.

Amend the bill as a whole by deleting sec. 102 and inserting:

“Sec. 102. NRS 375.090 is hereby amended to read as follows:

375.090 The ~~[tax]~~ taxes imposed by NRS 375.020 ~~[does]~~ and section 95 this act do not apply to:

1. A mere change in ~~[identity, form or place of organization, such as a transfer between a corporation and its parent corporation, a subsidiary or an affiliated corporation if the affiliated corporation has identical common ownership.]~~ the name of the owner of the property without a change in the ownership interest of the property.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. ~~[A transfer of title to community property without consideration when held in the name of one spouse to both spouses as joint tenants or tenants in common, or as community property.]~~

6.] A transfer of title between spouses, including gifts [-

7. ~~A transfer of title between spouses]~~, or to effect a property settlement agreement or between former spouses in compliance with a decree of divorce.

~~[8.]~~ 6. A transfer of title to or from a trust ~~[, if the transfer is made]~~ without consideration ~~[, and is made to or from:~~

(a) The trustor of the trust;

(b) The trustor’s legal representative; or

(c) A person related to the trustor in the first degree of consanguinity.

As used in this subsection, “legal representative” has the meaning ascribed to it in NRS 167.020.

9.] if a certificate of trust is presented at the time of transfer.

7. Transfers, assignments or conveyances of unpatented mines or mining claims.

~~[10. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the~~

~~property owns 100 percent of the corporation or organization to which the conveyance is made.~~

~~11.]~~ 8. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of consanguinity.

~~12.]~~ 9. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act, if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

~~13.]~~ 10. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

~~14.]~~ 11. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

~~15.]~~ 12. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

~~16. A transfer, assignment or other conveyance of real property to a corporation sole from another corporation sole. As used in this subsection, "corporation sole" means a corporation which is organized pursuant to the provisions of chapter 84 of NRS.]~~

Amend the bill as a whole by deleting sections 126 through 131 and adding new sections designated sections 126 through 131, following sec. 125, to read as follows:

"Sec. 126. *As used in sections 126 to 131, inclusive, of this act, "Committee" means the Legislative Committee on Taxation, Public Revenue and Tax Policy.*

Sec. 127. 1. *There is hereby established a Legislative Committee on Taxation, Public Revenue and Tax Policy consisting of:*

(a) *The Speaker of the Assembly, or a member of the Assembly designated by the Speaker of the Assembly;*

(b) The Minority Leader of the Assembly, or a member of the Assembly designated by the Minority Leader of the Assembly;

(c) The Majority Leader of the Senate, or a member of the Senate designated by the Majority Leader of the Senate;

(d) The Minority Leader of the Senate, or a member of the Senate designated by the Minority Leader of the Senate;

(e) Two members appointed by the Speaker of the Assembly who were members of the Assembly Committee on Taxation during the immediately preceding legislative session; and

(f) Two members appointed by the Majority Leader of the Senate who were members of the Senate Committee on Taxation during the immediately preceding legislative session.

2. The members of the Committee shall elect a Chairman and Vice Chairman from among their members. The Chairman must be elected from one house of the Legislature and the Vice Chairman from the other house. After the initial election of a Chairman and Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the members of the Committee shall elect a replacement for the remainder of the unexpired term.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the convening of the next session of the Legislature.

4. Vacancies on the Committee must be filled in the same manner as the original appointments.

Sec. 128. 1. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

2. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

3. The Committee shall prescribe regulations for its own management and government.

4. Except as otherwise provided in subsection 5, five voting members of the Committee constitute a quorum.

5. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly serving on the Committee.

6. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The

salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

Sec. 129. *The Committee may:*

1. *Review and study:*
 - (a) *The specific taxes collected in this state;*
 - (b) *The implementation of any taxes, fees and other methods for generating public revenue in this state;*
 - (c) *The impact of any changes to taxes, fees and other methods for generating public revenue that result from legislation enacted by the Legislature on the residents of this state and on the businesses located in this state, doing business in this state or considering locating in this state;*
 - (d) *The fiscal effects of any taxes, fees and other methods for generating public revenue;*
 - (e) *Broad issues of tax policy and fiscal policy relevant to the future of the State of Nevada; and*
 - (f) *Any other issues related to taxation, the generation of public revenue, tax policy or fiscal policy which affect this state.*
2. *Conduct investigations and hold hearings in connection with its powers pursuant to this section.*
3. *Contract with one or more consultants to obtain technical advice concerning its review and study.*
4. *Apply for any available grants and accept any gifts, grants or donations and use any such gifts, grants or donations to aid the Committee in exercising its powers pursuant to this section.*
5. *Request that the Legislative Counsel Bureau assist in the research, investigations, hearings, studies and reviews of the Committee.*
6. *Recommend to the Legislature, as a result of its review and study, any appropriate legislation.*

Sec. 130. 1. *If the Committee conducts investigations or holds hearings pursuant to subsection 2 of section 129 of this act:*

- (a) *The Secretary of the Committee or, in his absence, a member designated by the Committee may administer oaths;*
 - (b) *The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of this state, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts; and*
 - (c) *The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.*
2. *If a witness refuses to attend or testify or produce books or papers as required by the subpoena, the Chairman of the Committee may report to the district court by a petition which sets forth that:*
- (a) *Due notice has been given of the time and place of attendance of the witness or the production of the books or papers;*
 - (b) *The witness has been subpoenaed by the Committee pursuant to this section; and*

(c) The witness has failed or refused to attend or produce the books or papers required by the subpoena before the Committee that is named in the subpoena, or has refused to answer questions propounded to him.

The petition may request an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

Sec. 131. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this state. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.”

Amend the bill as a whole by deleting sec. 134 and adding:

“Sec. 134. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sections 136 through 140 and adding:

“Secs. 136-140. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sections 142 and 143 and adding:

“Secs. 142 and 143. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sec. 148 and inserting:

“Sec. 148. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sec. 160 and inserting:

“Sec. 160. NRS 353.288 is hereby amended to read as follows:

353.288 1. The Fund to Stabilize the Operation of the State Government is hereby created as a special revenue fund. Except as otherwise provided in subsections 2 and 3, ~~[each year after the close of the fiscal year and before the issuance of the Controller's annual report the State Controller shall deposit to the credit of the Fund 40 percent of]~~ if the unrestricted balance of the State General Fund, as of the close of the fiscal year, ~~[which remains after subtracting an amount]~~ is equal to ~~[10]~~ 5 percent or more of all appropriations made from the State Government and for the funding of schools ~~[]~~, the Chief of the Budget Division of the Department of Administration shall recommend to the State Board of Examiners an amount of money that should be transferred from the State General Fund to the Fund to Stabilize the Operation of the State Government. The State Board of

Examiners shall consider the recommendation and shall, if it finds that such a transfer should be made, recommend an amount to be transferred to the Interim Finance Committee. If the Interim Finance Committee, after independent determination, finds that such a transfer should and may lawfully be made, the Committee shall by resolution establish the amount and direct the State Controller to transfer that amount from the State General Fund to the Fund to Stabilize the Operation of the State Government. The State Controller shall thereupon make the transfer.

2. The balance in the Fund must not exceed ~~[10]~~ 15 percent of the total of all appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and for the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for the fiscal year in which that revenue will be deposited in the Fund.

3. Except as otherwise provided in this subsection and NRS 353.2735, beginning with the fiscal year that begins on July 1, ~~[1999,]~~ 2003, the State Controller shall, at the end of each quarter of a fiscal year, transfer from the State General Fund to the Disaster Relief ~~[Fund]~~ Account created pursuant to NRS 353.2735 an amount equal to ~~[one half of the interest earned on money]~~ not more than 10 percent of the aggregate balance in the Fund to Stabilize the Operation of the State Government during the previous quarter. The State Controller shall not transfer more than \$500,000 for any quarter pursuant to this subsection.

4. Money from the Fund to Stabilize the Operation of the State Government may be appropriated only:

(a) If the total actual revenue of the State falls short by 5 percent or more of the total anticipated revenue for the biennium in which the appropriation is made; or

(b) If the Legislature and the Governor declare that a fiscal emergency exists.”.

Amend the bill as a whole by deleting sections 161 through 165 and adding:

“Secs. 161-165. (Deleted by amendment.)”.

Amend the bill as a whole by adding new sections designated sections 165.2, 165.4 and 165.6, following sec. 165, to read as follows:

“Sec. 165.2. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts.*

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for that fiscal year.

3. On or before January 1 of each year, the Department shall determine whether each school district has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303.

4. Except as otherwise provided in subsection 5, if the Department determines that a school district has not expended the required minimum amount of money set forth in the notice provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

Sec. 165.4. NRS 387.205 is hereby amended to read as follows:

387.205 1. Subject to the limitations set forth in NRS 387.207 ~~and~~ and section 165.2 of this act, money on deposit in the county school district fund or in a separate account, if the board of trustees of a school district has elected to establish such an account pursuant to the provisions of NRS 354.603, must be used for:

(a) Maintenance and operation of the public schools controlled by the county school district.

(b) Payment of premiums for Nevada industrial insurance.

(c) Rent of schoolhouses.

(d) Construction, furnishing or rental of teacherages, when approved by the Superintendent of Public Instruction.

(e) Transportation of pupils, including the purchase of new buses.

(f) Programs of nutrition, if such expenditures do not curtail the established school program or make it necessary to shorten the school term, and each pupil furnished lunch whose parent or guardian is financially able so to do pays at least the actual cost of the lunch.

(g) Membership fees, dues and contributions to an interscholastic activities association.

(h) Repayment of a loan made from the State Permanent School Fund pursuant to NRS 387.526.

2. Subject to the limitations set forth in NRS 387.207 ~~[.]~~ and section 165.2 of this act, money on deposit in the county school district fund, or in a separate account, if the board of trustees of a school district has elected to establish such an account pursuant to the provisions of NRS 354.603, when available, may be used for:

(a) Purchase of sites for school facilities.

(b) Purchase of buildings for school use.

(c) Repair and construction of buildings for school use.

Sec. 165.6. NRS 387.207 is hereby amended to read as follows:

387.207 1. Except as otherwise provided in this section, in each school year a school district shall spend for ~~[textbooks,] library books and [supplies and materials relating to instruction, including, without limitation,]~~ software for computers ~~[.]~~ an amount of money, expressed as an amount per pupil, that is at least equal to the average of the total amount of money that was expended per year by the school district for those items in the immediately preceding 3 years.

2. Except as otherwise provided in this section, in each school year a school district shall spend for the purchase of equipment relating to instruction, including, without limitation, equipment for telecommunications and for the purchase of equipment relating to the transportation of pupils, an amount of money, expressed as an amount per pupil, that is at least equal to the average of the total amount of money that was expended per year by the school district for those items in the immediately preceding 3 years.

3. Except as otherwise provided in this section, in each school year a school district shall spend for the maintenance and repair of equipment, vehicles, and buildings and facilities an amount of money, expressed as an amount per pupil, that is at least equal to the average of the total amount of money that was expended per year by the school district for those items in the immediately preceding 3 years, excluding any amount of money derived from the proceeds of bonds.

4. A school district may satisfy the expenditures required by subsections 1, 2 and 3 if the school district spends an aggregate amount of money for all the items identified in those subsections that is at least equal to the average of the total amount of money expended by the school district per year for all those items in the immediately preceding 3 years.

5. A school district is not required to satisfy the expenditures required by this section for a school year in which:

(a) The total number of pupils who are enrolled in public schools within the school district has declined from the immediately preceding school year; or

(b) The total revenue available in the general fund of the school district has declined from the immediately preceding school year.”.

Amend sec. 166, page 98, line 20, by deleting “and”.

Amend sec. 166, page 98, by deleting lines 22 through 25 and inserting:

“records public and open to inspection pursuant to NRS 239.010; and

(c) Is exempt from the tax on transfer of real property pursuant to subsection ~~[44]~~ 11 of NRS 375.090.”.

Amend the bill as a whole by adding new sections designated sections 166.2 and 166.4, following sec. 166, to read as follows:

“Sec. 166.2. NRS 391.165 is hereby amended to read as follows:

391.165 1. Except as otherwise provided in subsection 3 ~~[of this section]~~ and except as otherwise required as a result of NRS 286.537, the board of trustees of a school district shall pay the cost for a licensed teacher to purchase one-fifth of a year of service pursuant to subsection 2 of NRS 286.300 if:

(a) The teacher is a member of the Public Employees’ Retirement System and has at least 5 years of service;

(b) The teacher has been employed as a licensed teacher in this state for at least 5 consecutive school years, regardless of whether the employment was with one or more school districts in this state;

(c) Each evaluation of the teacher conducted pursuant to NRS 391.3125 is at least satisfactory for the years of employment required by paragraph (b); and

(d) In addition to the years of employment required by paragraph (b), the teacher has been employed as a licensed teacher for ~~[1 school year]~~ 2 school years at a school within the school district ~~[which, for that school year, carries]~~ during his employment at the school:

(1) Which carried the designation of demonstrating need for improvement ~~[pursuant to NRS 385.367]~~; or

(2) At which at least 65 percent of the pupils who are enrolled in the school are children who are at risk.

The provisions of this paragraph do not require consecutive years of employment or employment at the same school within the school district.

2. Except as otherwise provided in subsection 3, the board of trustees of a school district shall pay the cost for a licensed teacher to purchase one-fifth of a year of service for each year that a teacher ~~[is employed as a teacher at a school within the school district that is described in paragraph (d)]~~ satisfies the requirements of subsection 1.

3. In no event may the years of service purchased by a licensed teacher as a result of subsection 2 of NRS 286.300 exceed 5 years.

4. The board of trustees of a school district shall not:

(a) Assign or reassign a licensed teacher to circumvent the requirements of this section.

(b) Include ~~[-]~~ as part of a teacher's salary ~~[-]~~ the costs of paying the teacher to purchase service pursuant to this section.

5. As used in this section ~~[-, "service"]~~ :

(a) *A child is "at risk" if he is eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.*

(b) *"Service" has the meaning ascribed to it in NRS 286.078.*

Sec. 166.4. NRS 391.165 is hereby amended to read as follows:

391.165 1. Except as otherwise provided in subsection 3 and except as otherwise required as a result of NRS 286.537, the board of trustees of a school district shall pay the cost for a licensed teacher *or licensed school psychologist* to purchase one-fifth of a year of service pursuant to subsection 2 of NRS 286.300 if:

(a) The teacher *or school psychologist* is a member of the Public Employees' Retirement System and has at least 5 years of service;

(b) The teacher *or school psychologist* has been employed as a licensed teacher *or licensed school psychologist* in this state for at least 5 consecutive school years, regardless of whether the employment was with one or more school districts in this state;

(c) Each evaluation of the teacher *or school psychologist* conducted pursuant to NRS 391.3125 is at least satisfactory for the years of employment required by paragraph (b); and

(d) In addition to the years of employment required by paragraph (b) ~~[-, the]~~ :

(1) *The teacher has been employed as a licensed teacher for 2 school years at a school within the school district during his employment at the school:*

~~[(1)]~~ (I) *Which carried the designation of demonstrating need for improvement; or*

~~[(2)]~~ (II) *At which at least 65 percent of the pupils who are enrolled in the school are children who are at risk [-]* ;

(2) *The teacher holds an endorsement in the field of mathematics, science, special education or English as a second language and has been employed for at least 1 school year to teach in the subject area for which he holds an endorsement; or*

(3) *The school psychologist has been employed as a licensed school psychologist for at least 1 school year.*

The provisions of this paragraph do not require consecutive years of employment or employment at the same school within the school district.

2. Except as otherwise provided in subsection 3, the board of trustees of a school district shall pay the cost for a licensed teacher *or school psychologist* to purchase one-fifth of a year of service for each year that a teacher *or school psychologist* satisfies the requirements of subsection 1. *If,*

in 1 school year, a teacher satisfies the criteria set forth in both subparagraphs (1) and (2) of paragraph (d) of subsection 1, the school district in which the teacher is employed is not required to pay for more than one-fifth of a year of service pursuant to subsection 2 of NRS 286.300 for that school year.

3. In no event may the years of service purchased by a licensed teacher or school psychologist as a result of subsection 2 of NRS 286.300 exceed 5 years.

4. The board of trustees of a school district shall not:

(a) Assign or reassign a licensed teacher or school psychologist to circumvent the requirements of this section.

(b) Include ~~[-]~~ as part of a teacher's or school psychologist's salary ~~[-]~~ the costs of paying the teacher or school psychologist to purchase service pursuant to this section.

5. As used in this section:

(a) A child is "at risk" if he is eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.

(b) "Service" has the meaning ascribed to it in NRS 286.078."

Amend sec. 167, page 99, by deleting lines 1 through 3 and inserting:

"(c) Is exempt from the tax on transfers of real property pursuant to subsection ~~[14]~~ 12 of NRS 379.090; and

(d) May allow a president or an administrator of the university".

Amend the bill as a whole by deleting sec. 178 and adding:

"Sec. 178. (Deleted by amendment.)".

Amend the bill as a whole by deleting sec. 180 and adding:

"Sec. 180. (Deleted by amendment.)".

Amend the bill as a whole by deleting sections 184 and 185 and adding:

"Secs. 184 and 185. (Deleted by amendment.)".

Amend the bill as a whole by deleting sec. 186 and adding:

"Sec. 186. (Deleted by amendment.)".

Amend sec. 186.3, page 128, by deleting lines 15 through 17 and inserting:

"2. The provisions of subsection 1 do not apply to a franchise fee imposed pursuant to the provisions of sections 58.12 to 58.80, inclusive, of this act."

Amend the bill as a whole by adding a new section designated sec. 186.4, following sec. 186.3, to read as follows:

"Sec. 186.4. NRS 680B.037 is hereby amended to read as follows:

680B.037 1. Except as otherwise provided in subsection 2, payment by an insurer of the tax imposed by NRS 680B.027 is in lieu of all taxes imposed by the State or any city, town or county upon premiums or upon income of insurers and of franchise, privilege or other taxes measured by income of the insurer.

2. The provisions of subsection 1 do not apply to a *franchise tax or franchise fee* imposed pursuant to the provisions of sections 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act."

Amend sec. 186.5, page 128, by deleting lines 24 and 25 and inserting:

“2. A franchise fee imposed pursuant to sections 58.12 to 58.80, inclusive, of this act.”.

Amend the bill as a whole by adding a new section designated sec. 186.6, following sec. 186.5, to read as follows:

“Sec. 186.6. NRS 687A.130 is hereby amended to read as follows:

687A.130 The Association is exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except:

1. Taxes levied on real or personal property.
2. *A franchise tax or franchise fee imposed pursuant to sections 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act.”.*

Amend sec. 186.7, page 129, by deleting lines 24 and 25 and inserting:

“for a franchise fee imposed pursuant to the provisions of sections 58.12 to 58.80, inclusive, of this act and ad valorem taxes”.

Amend the bill as a whole by adding new sections designated sections 186.8 and 186.9, following sec. 186.7, to read as follows:

“Sec. 186.8. NRS 694C.450 is hereby amended to read as follows:

694C.450 1. Except as otherwise provided in this section, a captive insurer shall pay to the Division, not later than March 1 of each year, a tax at the rate of:

(a) Two-fifths of 1 percent on the first \$20,000,000 of its net direct premiums;

(b) One-fifth of 1 percent on the next \$20,000,000 of its net direct premiums; and

(c) Seventy-five thousandths of 1 percent on each additional dollar of its net direct premiums.

2. Except as otherwise provided in this section, a captive insurer shall pay to the Division, not later than March 1 of each year, a tax at a rate of:

(a) Two hundred twenty-five thousandths of 1 percent on the first \$20,000,000 of revenue from assumed reinsurance premiums;

(b) One hundred fifty thousandths of 1 percent on the next \$20,000,000 of revenue from assumed reinsurance premiums; and

(c) Twenty-five thousandths of 1 percent on each additional dollar of revenue from assumed reinsurance premiums. The tax on reinsurance premiums pursuant to this subsection must not be levied on premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection 1. A captive insurer is not required to pay any reinsurance premium tax pursuant to this subsection on revenue related to the receipt of assets by the captive insurer in exchange for the assumption of loss reserves and other liabilities of another insurer that is under common ownership and control with the captive insurer, if the transaction is part of a plan to discontinue the operation of the other insurer and the intent of the parties to the transaction is to renew or maintain such business with the captive insurer.

3. If the sum of the taxes to be paid by a captive insurer calculated pursuant to subsections 1 and 2 is less than \$5,000 in any given year, the captive insurer shall pay a tax of \$5,000 for that year.

4. Two or more captive insurers under common ownership and control must be taxed as if they were a single captive insurer.

5. Notwithstanding any specific statute to the contrary, except as otherwise provided in this subsection, the tax provided for by this section constitutes all the taxes collectible pursuant to the laws of this state from a captive insurer, and no occupation tax or other taxes may be levied or collected from a captive insurer by this state or by any county, city or municipality within this state, except for a *franchise tax or franchise fee* imposed pursuant to the provisions of sections 24.12 to 24.74, inclusive, or 58.12 to 58.80, inclusive, of this act and ad valorem taxes on real or personal property located in this state used in the production of income by the captive insurer.

6. Ten percent of the revenues collected from the tax imposed pursuant to this section must be deposited with the State Treasurer for credit to the Account for the Regulation and Supervision of Captive Insurers created pursuant to NRS 694C.460. The remaining 90 percent of the revenues collected must be deposited with the State Treasurer for credit to the State General Fund.

7. As used in this section, unless the context otherwise requires:

(a) "Common ownership and control" means:

(1) In the case of a stock insurer, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same member or members.

(2) In the case of a mutual insurer, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

(b) "Net direct premiums" means the direct premiums collected or contracted for on policies or contracts of insurance written by a captive insurer during the preceding calendar year, less the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

Sec. 186.9. Section 58.16 of this act is hereby amended to read as follows:

Sec. 58.16. 1. "Business entity" includes:

(a) A corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust and their equivalents organized under the laws of this state or another jurisdiction and any other type of entity that engages in business; and

(b) A natural person engaging in business if he is deemed to be a business entity pursuant to section 58.42 of this act.

2. The term does not include:

(a) A governmental entity;

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), unless the organization has any taxable income for the purposes of federal income taxation from any unrelated trade or business, as defined in 26 U.S.C. § 513; ~~[or]~~

(c) A person who operates a business from his home and earns from that business not more than $66 \frac{2}{3}$ percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars ~~[;]~~ ; or

(d) *A financial institution that is required to pay a franchise tax pursuant to section 24.38 of this act.*”.

Amend sec. 189, page 131, line 19, after “353.272,” by inserting “364A.160,”.

Amend sec. 189, page 131, line 25, by deleting “364A.160,”.

Amend the bill as a whole by adding new sections designated sections 191.3 and 191.5, following sec. 191, to read as follows:

“Sec. 191.3. 1. The Legislative Auditor shall conduct a performance audit of the school districts in this state with more than 5,000 enrolled students. The performance audit must include issues relating to operational accountability, including, without limitation:

- (a) Financial management;
- (b) Facilities management;
- (c) Personnel management;
- (d) District organization;
- (e) Employee health plans;
- (f) Transportation;
- (g) Alignment of the organization with the needs and expectations of the public;
- (h) Training and development of management staff;
- (i) Establishment of benchmarks for productivity and performance; and
- (j) Examination of unusual or dramatic changes in specific budgetary line items, including, without limitation, legal expenses.

2. The Legislative Auditor shall prepare a final written report for the audit conducted pursuant to subsection 1 and present the report to the Audit Subcommittee of the Legislative Commission not later than February 7, 2005.

3. To the extent that the provisions of NRS 218.737 to 218.890, inclusive, are consistent with the requirements of this section, those provisions apply to the audit conducted pursuant to this section. For the purposes of this subsection, the Clark County School District, Washoe County School District, Carson City School District, Douglas County School District, Elko County School District, Lyon County School District and Nye County School District shall be deemed to be agencies of the State.

4. Upon the request of the Legislative Auditor or his authorized representative, the officers and employees of the Clark County School

District, Washoe County School District, Carson City School District, Douglas County School District, Elko County School District, Lyon County School District and Nye County School District shall make available to the Legislative Auditor any of their books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise and irrespective of their form or location, which the Legislative Auditor deems necessary to conduct the audits required by this section.

Sec. 191.5. 1. The Board of Trustees of the Clark County School District, Washoe County School District, Carson City School District, Douglas County School District, Elko County School District, Lyon County School District and Nye County School District shall, on or before February 15, 2005, give public notice of its intention to form a Business Advisory Council on or before May 15, 2005. Each Board of Trustees shall accept nominations and applications for membership on the Business Advisory Council during the period from March 1 to March 31, 2005.

2. On or before May 15, 2005, each Board of Trustees shall, form a Business Advisory Council. The Board of Trustees shall, from the nominations and applications received, select the members of its Business Advisory Council, appoint the members to terms of 2 years, designate a Chairman and Vice-Chairman from among the members, and designate an employee of the school district to serve as secretary for the Business Advisory Council. The members of the Council shall serve without salary or reimbursement for per diem or travel expenses.

3. The Council shall comply with the provisions of chapter 241 of NRS.

4. The meetings of each such Business Advisory Council must be held at a location within the respective school district and at the date and time determined by the Chairman. In no event may the Chairman set a meeting of the Council during regular school hours within the school district. Each such Business Advisory Council shall:

(a) Review the results of the performance audit conducted by the Legislative Auditor pursuant to section 191.3 of this act, particularly in regards to the school district for which the Council has been appointed.

(b) Work with the appropriate fiscal and administrative staff of the school district to form recommendations based upon the findings of the Legislative Auditor.

(c) On or before January 9, 2007, submit a written report of its findings and recommendations to the Board of Trustees of the school district, and to the Director of the Legislative Counsel Bureau for compilation and transmittal to the Legislature.

5. On or before May 15, 2007, the Board of Trustees of the Clark County School District, Washoe County School District, Carson City School District, Douglas County School District, Elko County School District, Lyon County School District and Nye County School District shall, if appropriate, provide for the continuation of the activities of its Business Advisory Council. The

Board of Trustees may thereafter revise the duties of the Council and provide for its membership as it deems appropriate.”.

Amend sec. 193, page 132, line 41, by deleting “19th” and inserting “20th”.

Amend the bill as a whole by deleting sec. 194 and inserting:

“Sec. 194. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee for allocation to the Legislative Committee on Taxation, Public Revenue and Tax Policy to exercise its powers pursuant to section 129 of this act, including, without limitation, to hire a consultant:

For the Fiscal Year 2003-2004 \$125,000

For the Fiscal Year 2004-2005 \$125,000

2. The Interim Finance Committee may allocate to the Legislative Committee on Taxation, Public Revenue and Tax Policy all or any portion of the money appropriated by subsection 1.

3. The sums appropriated by subsection 1 are available for either fiscal year. Any balance of those sums must not be committed for expenditure after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.”.

Amend the bill as a whole by adding new sections designated sections 194.10 to 194.66, following sec. 194, to read as follows:

“Sec. 194.10. 1. There is hereby appropriated from the State General Fund to the State Distributive School Account the sum of \$108,937,389 for distribution by the Superintendent of Public Instruction to the county school districts for Fiscal Year 2003-2004 which must, except as otherwise provided in sections 194.14 and 194.18 of this act, be used to employ teachers to comply with the required ratio of pupils to teachers, as set forth in NRS 388.700, in grades 1 and 2 and in selected kindergartens with pupils who are considered at risk of failure by the Superintendent of Public Instruction and to maintain the current ratio of pupils per teacher in grade 3. Expenditures for the class-size reduction program must be accounted for in a separate category of expenditure in the State Distributive School Account.

2. Except as otherwise provided in sections 194.14 and 194.18 of this act, the money appropriated by subsection 1 must be used to pay the salaries and benefits of not less than 1,887 teachers employed by school districts to meet the required pupil-teacher ratios in the 2003-2004 school year.

3. Any remaining balance of the sum appropriated by subsection 1 must not be committed for expenditure after June 30, 2004, and must be transferred and added to the money appropriated to the State Distributive School Account pursuant to section 194.12 of this act for the 2004-2005 fiscal year, and may be expended as that money is expended.

Sec. 194.12. 1. There is hereby appropriated from the State General Fund to the State Distributive School Account the sum of \$117,142,553 for distribution by the Superintendent of Public Instruction to the county school districts for Fiscal Year 2004-2005 which must, except as otherwise provided

in sections 194.14 and 194.18 of this act, be used to employ teachers to comply with the required ratio of pupils to teachers, as set forth in NRS 388.700, in grades 1 and 2 and in selected kindergartens with pupils who are considered at risk of failure by the Superintendent of Public Instruction and to maintain the current ratio of pupils per teacher in grade 3. Expenditures for the class-size reduction program must be accounted for in a separate category of expenditure in the State Distributive School Account.

2. Except as otherwise provided in sections 194.14 and 194.18 of this act, the money appropriated by subsection 1 must be used to pay the salaries and benefits of not less than 1,953 teachers employed by school districts to meet the required pupil-teacher ratios in the 2004-2005 school year.

3. Any remaining balance of the sum appropriated by subsection 1, including any money added thereto pursuant to section 194.10 of this act, must not be committed for expenditure after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 194.14. 1. Except as otherwise provided in subsection 2, the board of trustees of each county school district:

(a) Shall file a plan with the Superintendent of Public Instruction describing how the money appropriated by sections 194.10 and 194.12 of this act will be used to comply with the required ratio of pupils to teachers in kindergarten and grades 1, 2 and 3; or

(b) May, after receiving approval of the plan from the Superintendent of Public Instruction, use the money appropriated by sections 194.10 and 194.12 of this act to carry out an alternative program for reducing the ratio of pupils per teacher or to carry out programs of remedial education that have been found to be effective in improving pupil achievement in grades 1, 2 and 3, so long as the combined ratio of pupils per teacher in the aggregate of kindergarten and grades 1, 2 and 3 of the school district does not exceed the combined ratio of pupils per teacher in the aggregate of kindergarten and grades 1, 2 and 3 of the school district in the 2000-2001 school year. The plan approved by the Superintendent of Public Instruction must describe the method to be used by the school district to evaluate the effectiveness of the alternative program or remedial programs in improving pupil achievement.

2. In lieu of complying with subsection 1, the board of trustees of a school district that is located in a county whose population is less than 100,000 may, after receiving approval of the plan from the Superintendent of Public Instruction, use the money appropriated by sections 194.10 and 194.12 of this act to carry out a program in which alternative pupil-teacher ratios are carried out in grades 1 through 5 or grades 1 through 6, as applicable. Alternative ratios for grade 6 may only be approved for those school districts that include grade 6 in elementary school. The alternative pupil-teacher ratios shall not:

(a) Exceed 22 to 1 in grades 1, 2 and 3; and

(b) Exceed 25 to 1 in grades 4 and 5 or grades 4, 5 and 6, as applicable.

3. If a school district receives approval to carry out programs of remedial education pursuant to paragraph (b) of subsection 1 or to carry out alternative pupil-teacher ratios pursuant to subsection 2, the school district shall evaluate the effectiveness of the alternative program. The evaluation must include, without limitation, the effect of the alternative program on:

- (a) Team-teaching;
- (b) Pupil discipline; and
- (c) The academic achievement of pupils.

4. A school district shall submit a written report of the results of the evaluation to the Superintendent of Public Instruction on or before December 1 of each year for the immediately preceding school year. The Superintendent of Public Instruction shall summarize the results of the evaluations and report the findings in an interim report to the Legislative Committee on Education on or before February 16, 2004.

5. On or before February 1, 2005, the Superintendent of Public Instruction shall submit a final written report of the results of the evaluations of alternative class-size reduction programs to the Legislative Bureau of Educational Accountability and Program Evaluation. On or before February 15, 2005, the Legislative Bureau of Educational Accountability and Program Evaluation shall submit a copy of the written report to the Director of the Legislative Counsel Bureau for transmission to the 73rd Session of the Nevada Legislature.

6. The interim report required pursuant to subsection 4 and the final written report required pursuant to subsection 5 must include, without limitation:

- (a) The number of school districts for which an alternative class-size reduction program was approved;
- (b) A description of the approved alternative class-size reduction programs; and
- (c) The effect of the alternative class-size reduction programs on:
 - (1) Team teaching;
 - (2) Pupil discipline; and
 - (3) The academic achievement of pupils.

Sec. 194.16. 1. During the 2003-2005 biennium, a school district that is located in a county whose population is 100,000 or more shall study the current class sizes in the school district for grades 1 to 5, inclusive, to determine whether alternative pupil-teacher ratios may:

- (a) Improve the academic achievement of pupils;
- (b) Decrease pupil discipline; or
- (c) Decrease or eliminate team-teaching in grades 1 and 2.

2. In conducting the study, the school district shall consider the costs that would be associated with carrying out the alternative pupil-teacher ratios, including, without limitation, the:

- (a) Number of additional classrooms needed; and
- (b) Number of additional teachers needed.

3. On or before February 15, 2005, each school district that conducts a study of alternative pupil-teacher ratios pursuant to this section shall submit a written report of its findings concerning alternative pupil-teacher ratios to the:

(a) Director of the Legislative Counsel Bureau for transmission to the 73rd Session of the Nevada Legislature;

(b) Legislative Bureau of Educational Accountability and Program Evaluation; and

(c) State Board of Education.

Sec. 194.18. 1. The money appropriated for class-size reduction pursuant to sections 194.10 and 194.12 of this act:

(a) May be applied first to pupils considered most at risk of failure.

(b) Must not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.

(c) Must not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

2. The money appropriated for class-size reduction pursuant to sections 194.10 and 194.12 of this act must not be distributed to a school district unless that school district has:

(a) Filed with the Department of Education a plan for achieving the required ratio set forth in NRS 388.700; and

(b) Demonstrated that, from resources of the school district other than allocations received from the State Distributive School Account for class-size reduction, a sufficient number of classroom teachers have been employed to maintain the average pupil-teacher ratio that existed for each grade for grades 1, 2 and 3, in that school district for the 3 school years immediately preceding the start of the class-size reduction program in the 1990-1991 school year. In addition, if a school district uses the allocations received from the State Distributive School Account for class-size reduction to carry out an alternative class-size reduction program as set forth in subsection 2 of section 194.14 of this act, a sufficient number of teachers must have been employed to maintain the average pupil-teacher ratio that existed in each grade so reduced, in that school district for the 3 years immediately preceding the implementation of the alternative program.

Sec. 194.20. In no event may the alternative pupil-teacher ratios authorized pursuant to subsection 2 of section 194.14 of this act be carried out beyond the 2003-2005 biennium unless the 73rd Session of the Nevada Legislature determines that the alternative pupil-teacher ratios may be carried out after June 30, 2005.

Sec. 194.22. The basic support guarantee for school districts for operating purposes for the 2003-2004 Fiscal Year is an estimated weighted average of \$4,295 per pupil. For each respective school district, the basic support guarantee per pupil for the 2003-2004 Fiscal Year is:

Carson City	\$4,923
Churchill County	\$5,418
Clark County	\$4,127
Douglas County	\$4,541
Elko County	\$5,307
Esmeralda County	\$9,169
Eureka County	\$3,495
Humboldt County	\$5,362
Lander County	\$4,836
Lincoln County	\$7,943
Lyon County	\$5,553
Mineral County	\$6,012
Nye County	\$5,561
Pershing County	\$6,385
Storey County	\$7,082
Washoe County	\$4,161
White Pine County	\$6,164

Sec. 194.24. 1. The basic support guarantee for school districts for operating purposes for the 2004-2005 Fiscal Year is an estimated weighted average of \$4,424 per pupil.

2. On or before April 1, 2004, the Department of Taxation shall provide a certified estimate of the assessed valuation for each school district for the 2004-2005 Fiscal Year. The assessed valuation for each school district must be that which is taxable for purposes of providing revenue to school districts, including any assessed valuation attributable to the net proceeds of minerals derived from within the boundaries of the district.

3. Pursuant to NRS 362.115, on or before April 25 of each year, the Department of Taxation shall provide an estimate of the net proceeds of minerals based upon statements required of mine operators.

4. For purposes of establishing the basic support guarantee, the estimated basic support guarantees for each school district for the 2004-2005 Fiscal Year for operating purposes are:

<u>School District</u>	Basic Support Guarantee Before <u>Adjustment</u>	Estimated Ad Valorem <u>Adjustment</u>	Estimated Basic Support Guarantee <u>as Adjusted</u>
Carson City	\$4,462	\$643	\$5,105
Churchill County	\$5,094	\$514	\$5,608
Clark County	\$3,328	\$921	\$4,249
Douglas County	\$3,196	\$1,451	\$4,647
Elko County	\$5,004	\$508	\$5,512
Esmeralda County	\$6,596	\$2,987	\$9,583
Eureka County	\$(5,236)	\$9,304	\$4,068
Humboldt County	\$5,006	\$642	\$5,648

Lander County	\$3,741	\$1,328	\$5,069
Lincoln County	\$7,519	\$664	\$8,183
Lyon County	\$5,149	\$593	\$5,742
Mineral County	\$5,792	\$473	\$6,265
Nye County	\$4,888	\$877	\$5,765
Pershing County	\$5,714	\$949	\$6,663
Storey County	\$5,559	\$1,848	\$7,407
Washoe County	\$3,393	\$908	\$4,301
White Pine County	\$5,915	\$482	\$6,397

5. The ad valorem adjustment may be made only to take into account the difference in the assessed valuation and the estimated enrollment of the school district between the amount estimated as of April 1, 2003, and the amount estimated as of April 1, 2004, for the 2004-2005 Fiscal Year. Estimates of net proceeds of minerals received from the Department of Taxation on or before April 25 pursuant to subsection 3 must be taken into consideration in determining the adjustment.

6. Upon receipt of the certified estimates of assessed valuations as of April 1, 2004, from the Department of Taxation, the Department of Education shall recalculate the amount of ad valorem adjustment and the tentative basic support guarantee for operating purposes for the 2004-2005 Fiscal Year by April 15, 2004. The final basic support guarantee for each school district for the 2004-2005 Fiscal Year is the amount, which is recalculated for the 2004-2005 Fiscal Year pursuant to this section, taking into consideration estimates of net proceeds of minerals received from the Department of Taxation on or before April 25, 2004. The basic support guarantee recalculated pursuant to this section must be calculated before May 31, 2004.

Sec. 194.26. 1. The basic support guarantee for each special education program unit that is maintained and operated for at least 9 months of a school year is \$31,811 in the 2003-2004 Fiscal Year and \$32,447 in the 2004-2005 Fiscal Year, except as limited by subsection 2.

2. The maximum number of units and amount of basic support for special education program units within each of the school districts, before any reallocation pursuant to NRS 387.1221, for the Fiscal Years 2003-2004 and 2004-2005 are:

Allocation of Special Education Units

<u>DISTRICT</u>	<u>Units</u>	2003-2004	2004-2005	
		<u>Amount</u>	<u>Units</u>	<u>Amount</u>
Carson City	82	\$2,608,502	84	\$2,725,548
Churchill County	45	\$1,431,495	46	\$1,492,562
Clark County	1,594	\$50,706,734	1,661	\$53,894,467
Douglas County	64	\$2,035,904	65	\$2,109,055
Elko County	80	\$2,544,880	80	\$2,595,760

Esmeralda County	2	\$63,622	2	\$64,894
Eureka County	4	\$127,244	4	\$129,788
Humboldt County	30	\$954,330	30	\$973,410
Lander County	12	\$381,732	12	\$389,364
Lincoln County	17	\$540,787	17	\$551,599
Lyon County	56	\$1,781,416	57	\$1,849,479
Mineral County	12	\$381,732	12	\$389,364
Nye County	47	\$1,495,117	50	\$1,622,350
Pershing County	14	\$445,354	14	\$454,258
Storey County	8	\$254,488	8	\$259,576
Washoe County	491	\$15,619,201	510	\$16,547,970
White Pine County	17	\$540,787	16	\$519,152
Subtotal	<u>2,575</u>	<u>\$81,913,325</u>	<u>2,668</u>	<u>\$86,568,596</u>
Reserved by State				
Board of Education	<u>40</u>	<u>\$1,272,440</u>	<u>40</u>	<u>\$1,297,880</u>
TOTAL	2,615	\$83,185,765	2,708	\$87,866,476

3. The State Board of Education shall reserve 40 special education program units in each fiscal year of the 2003-2005 biennium, to be allocated to school districts by the State Board of Education to meet additional needs that cannot be met by the allocations provided in subsection 2 to school districts for that fiscal year. In addition, charter schools in this state are authorized to apply directly to the Department of Education for the reserved special education program units, which may be allocated upon approval of the State Board of Education.

4. Notwithstanding the provisions of subsections 2 and 3, the State Board of Education is authorized to spend from the State Distributive School Account up to \$181,067 in the Fiscal Year 2003-2004 for 5.69 special education program units and \$190,877 in the Fiscal Year 2004-2005 for 5.88 special education program units for instructional programs incorporating educational technology for gifted and talented pupils. Any school district may submit a written application to the Department of Education requesting one or more of the units for gifted and talented pupils. For each fiscal year of the 2003-2005 biennium, the Department will award the units for gifted and talented pupils based on a review of applications received from school districts.

Sec. 194.28. 1. There is hereby appropriated from the State General Fund to the State Distributive School Account in the State General Fund created pursuant to NRS 387.030:

For the 2003-2004 Fiscal Year \$637,789,627

For the 2004-2005 Fiscal Year \$767,086,697

2. The money appropriated by subsection 1 must be:

(a) Expended in accordance with NRS 353.150 to 353.245, inclusive, concerning the allotment, transfer, work program and budget; and

(b) Work-programmed for the 2 separate Fiscal Years 2003-2004 and 2004-2005, as required by NRS 353.215. Work programs may be revised with the approval of the Governor upon the recommendation of the Chief of the Budget Division of the Department of Administration.

3. Transfers to and from allotments must be allowed and made in accordance with NRS 353.215 to 353.225, inclusive, after separate considerations of the merits of each request.

4. The sums appropriated by subsection 1 are available for either fiscal year or may be transferred to Fiscal Year 2002-2003. Money may be transferred from one fiscal year to another with the approval of the Governor upon the recommendation of the Chief of the Budget Division of the Department of Administration. If funds appropriated by subsection 1 are transferred to Fiscal Year 2002-2003, any remaining funds in the State Distributive School Account after all obligations have been met that are not subject to reversion to the State General Fund must be transferred back to Fiscal Year 2003-2004. Any amount transferred back to Fiscal Year 2003-2004 must not exceed the amount originally transferred to Fiscal Year 2002-2003.

5. Any remaining balance of the appropriation made by subsection 1 for the 2003-2004 Fiscal Year must be transferred and added to the money appropriated for the 2004-2005 Fiscal Year and may be expended as that money is expended.

6. Any remaining balance of the appropriation made by subsection 1 for the 2004-2005 Fiscal Year, including any money added thereto pursuant to the provisions of subsections 3 and 5, must not be committed for expenditure after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 194.30. 1. Expenditure of \$203,448,548 by the Department of Education from money in the State Distributive School Account that was not appropriated from the State General Fund is hereby authorized during the fiscal year beginning July 1, 2003.

2. Expenditure of \$142,024,404 by the Department of Education from money in the State Distributive School Account that was not appropriated from the State General Fund is hereby authorized during the fiscal year beginning July 1, 2004.

3. For purposes of accounting and reporting, the sums authorized for expenditure by subsections 1 and 2 are considered to be expended before any appropriation is made to the State Distributive School Account from the State General Fund.

4. The money authorized to be expended by subsections 1 and 2 must be expended in accordance with NRS 353.150 to 353.245, inclusive, concerning the allotment, transfer, work program and budget. Transfers to and from allotments must be allowed and made in accordance with NRS 353.215 to 353.225, inclusive, after separate consideration of the merits of each request.

5. The Chief of the Budget Division of the Department of Administration may, with the approval of the Governor, authorize the augmentation of the amounts authorized for expenditure by the Department of Education, in subsections 1 and 2, for the purpose of meeting obligations of the State incurred under chapter 387 of NRS with amounts from any other state agency, from any agency of local government, from any agency of the Federal Government or from any other source that he determines is in excess of the amount taken into consideration by this act. The Chief of the Budget Division of the Department of Administration shall reduce any authorization whenever he determines that money to be received will be less than the amount authorized in subsections 1 and 2.

Sec. 194.32. During each of the Fiscal Years 2003-2004 and 2004-2005, whenever the State Controller finds that current claims against the State Distributive School Account in the State General Fund exceed the amount available in the Account to pay those claims, he may advance temporarily from the State General Fund to the State Distributive School Account the amount required to pay the claims, but not more than the amount expected to be received in the current fiscal year from any source authorized for the State Distributive School Account. No amount may be transferred unless requested by the Chief of the Budget Division of the Department of Administration.

Sec. 194.34. The Department of Education is hereby authorized to spend from the State Distributive School Account the sums of \$16,926,569 for the 2003-2004 Fiscal Year and \$17,843,596 for the 2004-2005 Fiscal Year for the support of courses which are approved by the Department of Education as meeting the course of study for an adult standard high school diploma as approved by the State Board of Education. In each fiscal year of the 2003-2005 biennium, the sum authorized must be allocated among the various school districts in accordance with a plan or formula developed by the Department of Education to ensure the money is distributed equitably and in a manner that permits accounting for the expenditures of school districts.

Sec. 194.36. The Department of Education is hereby authorized to provide from the State Distributive School Account the sum of \$50,000 to each of the 17 school districts in each fiscal year of the 2003-2005 biennium to support special counseling services for elementary school pupils at risk of failure.

Sec. 194.38. The amounts of the guarantees set forth in sections 194.22 and 194.24 of this act may be reduced to effectuate a reserve required pursuant to NRS 353.225.

Sec. 194.40. 1. The Department of Education shall transfer from the State Distributive School Account to the school districts specified in this section the following sums for Fiscal Years 2003-2004 and 2004-2005:

<u>School District</u>	<u>2003-2004</u>	<u>2004-2005</u>
Clark County School District	\$4,532,532	\$4,552,361
Douglas County School District	\$1,146,374	\$1,175,848

Elko County School District	\$1,291,907	\$1,295,158
Washoe County School District	<u>\$1,847,128</u>	<u>\$1,913,468</u>
	\$8,817,941	\$8,936,835

2. A school district that receives an allocation pursuant to subsection 1 shall:

(a) Use the money to maintain and continue the operation of a regional training program for the professional development of teachers and administrators established by the school district pursuant to NRS 391.512; and

(b) Use the money to maintain and continue the operation of the Nevada Early Literacy Intervention Program through the regional training program established pursuant to paragraph (a).

3. Any remaining balance of the transfers made by subsection 1 for the 2003-2004 Fiscal Year must be added to the money received by the school districts for the 2004-2005 Fiscal Year and may be expended as that money is expended. Any remaining balance of the transfers made by subsection 1 for the 2004-2005 Fiscal Year, including any money added from the transfer for the previous fiscal year, must not be committed for expenditure after June 30, 2005, and reverts to the State Distributive School Account as soon as all payments of money committed have been made.

Sec. 194.42. 1. The Legislative Bureau of Educational Accountability and Program Evaluation is hereby authorized to receive from the State Distributive School Account to spend for an evaluation of the regional training programs for the professional development of teachers and administrators established pursuant to NRS 391.512:

For Fiscal Year 2003-2004	\$100,000
For Fiscal Year 2004-2005	\$100,000

2. Any remaining balance of the sums authorized for expenditure by subsection 1 for the 2003-2004 Fiscal Year must be added to the money authorized for expenditure for the 2004-2005 Fiscal Year and may be expended as that money is expended. Any remaining balance of the sums authorized for expenditure pursuant to subsection 1 for the 2004-2005 Fiscal Year, including any money added from the authorization for the previous fiscal year, must not be committed for expenditure after June 30, 2005, and reverts to the State Distributive School Account as soon as all payments of money committed have been made.

Sec. 194.44. 1. The Department of Education shall transfer from the State Distributive School Account to the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516 the sum of \$80,000 in each Fiscal Year 2003-2004 and 2004-2005 for additional training opportunities for educational administrators in Nevada.

2. The Statewide Council shall use the money:

(a) To support the goals of Nevada Project LEAD (Leadership in Educational Administration Development), as established through the

Department of Educational Leadership in the College of Education, located at the University of Nevada, Reno. In supporting the goals of Nevada Project LEAD, the Statewide Council shall:

(1) Disseminate research-based knowledge related to effective educational leadership behaviors and skills; and

(2) Develop, support and maintain on-going activities, programs, training and networking opportunities.

(b) For purposes of providing additional training for educational administrators, including, without limitation, paying:

(1) Travel expenses of administrators who attend the training program;

(2) Travel and per-diem expenses for any consultants contracted to provide additional training; and

(3) Any charges to obtain a conference room for the provision of the additional training.

(c) To supplement and not replace the money that the school district, Nevada Project LEAD or the regional training program would otherwise expend for training for administrators as described in this section.

3. Any remaining balance of the transfers made by subsection 1 for the 2003-2004 Fiscal Year must be added to the money received by the Statewide Council for the 2004-2005 Fiscal Year and may be expended as that money is expended. Any remaining balance of the transfers made by subsection 1 for the 2004-2005 Fiscal Year, including any money added from the transfer for the previous fiscal year, must not be committed for expenditure after June 30, 2005, and reverts to the State Distributive School Account as soon as all payments of money committed have been made.

Sec. 194.46. 1. The Department of Education shall transfer from the State Distributive School Account the following sums for remedial education programs for certain schools:

For Fiscal Year 2003-2004	\$5,179,109

For Fiscal Year 2004-2005	\$5,013,874

The money allocated must be used to provide remedial education programs that have been approved by the Department as being effective in improving pupil achievement.

2. A school may submit an application to the Department of Education on or before November 1 of each fiscal year for transmission to the State Board of Examiners for an allocation from the amount authorized by subsection 1 if the school:

(a) Receives a designation as demonstrating need for improvement.

(b) Did not receive a designation as demonstrating need for improvement, but the school failed to meet adequate yearly progress; or

(c) Did not receive a designation as demonstrating need for improvement, but more than 40 percent of the pupils enrolled in the school received an average score below the 26th percentile on all four subjects tested pursuant to NRS 389.015.

3. The Department of Education shall, in consultation with the Budget Division of the Department of Administration and the Legislative Bureau of Educational Accountability and Program Evaluation, develop a form for such applications. The form must include, without limitation, a notice that money received by a school to implement or continue remedial education programs that have been approved by the Department as being effective in improving pupil achievement will be used to implement or continue the programs in a manner that has been approved by the vendor of the remedial program.

4. Upon receipt of an application submitted pursuant to subsection 2, the Department of Education shall review the application jointly with the Budget Division of the Department of Administration and the Legislative Bureau of Educational Accountability and Program Evaluation. The Department of Education shall transmit the application to the State Board of Examiners with the recommendation of the Department of Education concerning the allocation of money based upon each application so received. The State Board of Examiners, or the Clerk of the Board if authorized by the Board to act on its behalf, shall consider each such application and, if it finds that an allocation should be made, recommend the amount of the allocation to the Interim Finance Committee. The Interim Finance Committee shall consider each such recommendation, but is not bound to follow the recommendation of the State Board of Examiners when determining the allocation to be received by a school. In determining the amount of the allocation, the State Board of Examiners and the Interim Finance Committee shall consider:

(a) The total number of pupils enrolled in the school who failed to meet adequate yearly progress;

(b) The percentage of pupils enrolled in the school who failed to meet adequate yearly progress;

(c) The total number of subgroups of pupils, as prescribed by the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., enrolled in the school who failed to meet adequate yearly progress; and

(d) The financial need of the particular school.

5. In addition to the considerations set forth in subsection 4, in determining whether to approve an application for a school that has received an allocation in the immediately preceding year and in determining the amount of the allocation for such a school, the State Board of Examiners and the Interim Finance Committee shall consider whether the school has carried out the program of remedial study for which it received an allocation in a manner that has been approved by the vendor of the remedial program and whether the program has been successful, as measured by the academic achievement of the pupils enrolled in the school on the examinations administered pursuant to NRS 389.015 or 389.550 and any assessments related to the program of remedial study.

6. A school that receives an allocation of money pursuant to this section shall use the money to:

(a) Pay the costs incurred by the school in providing the program of remedial study required by NRS 385.389. The money must first be applied to those pupils who failed to meet adequate yearly progress.

(b) Pay for the salaries, training or other compensation of teachers and other educational personnel to provide the program of remedial study, instructional materials required for the program of remedial study, equipment necessary to offer the program of remedial study and all other additional operating costs attributable to the program of remedial study, to the extent that the training, materials and equipment are those that are approved by the vendor of the remedial program.

(c) Supplement and not replace the money the school would otherwise expend for programs of remedial study.

7. Before a school amends a plan for expenditure of an allocation of money received pursuant to this section, the school district in which the school is located must submit the proposed amendment to the Department of Education to receive approval from the Department of Education, the Budget Division of the Department of Administration and the Legislative Bureau of Educational Accountability and Program Evaluation, or the Interim Finance Committee.

8. The sums authorized for expenditure in subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2005, and reverts to the State Distributive School Account as soon as all payments of money committed have been made.

Sec. 194.48. 1. The Department of Education shall transfer from the State Distributive School Account the following sums for supplemental services or tutoring for pupils in non-Title I schools that failed to meet adequate yearly progress on the examinations administered pursuant to NRS 389.550:

For the Fiscal Year 2003-2004	\$1,000,000

For the Fiscal Year 2004-2005	\$1,500,000

2. The supplemental services or tutoring for which money is provided pursuant to this section must:

(a) Be conducted before or after school, on weekends, during the summer or between sessions in schools with year-round school calendars; and

(b) Be selected by the Department as an approved provider in accordance with the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq.

3. A school may submit an application to the Department of Education on or before November 1 of each fiscal year for transmission to the State Board of Examiners for an allocation from the amount authorized by subsection 1 if the school:

(a) Receives a designation as demonstrating need for improvement; and

(b) Is not receiving money from Title I, 20 U.S.C. §§ 6301 et seq.

4. The Department of Education shall, in consultation with the Budget Division of the Department of Administration and the Legislative Bureau of

Educational Accountability and Program Evaluation, develop a form for such applications.

5. Upon receipt of an application submitted pursuant to subsection 3, the Department of Education shall review the application jointly with the Budget Division of the Department of Administration and the Legislative Bureau of Educational Accountability and Program Evaluation. The Department of Education shall transmit the application to the State Board of Examiners with the recommendation of the Department of Education concerning the allocation of money based upon each application so received. The State Board of Examiners, or the Clerk of the Board if authorized by the Board to act on its behalf, shall consider each such application and, if it finds that an allocation should be made, recommend the amount of the allocation to the Interim Finance Committee. The Interim Finance Committee shall consider each such recommendation, but is not bound to follow the recommendation of the State Board of Examiners when determining the allocation to be received by a school district.

6. A school that receives an allocation of money pursuant to this section shall use the money to:

(a) Provide supplemental services or tutoring that has been selected and approved by the Department of Education.

(b) Pay the costs incurred by the school in providing the supplemental services or tutoring. The money must be applied to those pupils who failed to meet adequate yearly progress.

(c) Pay for the salaries, training or other compensation of teachers and other educational personnel to provide the supplemental services or tutoring, instructional materials required for the program, equipment necessary to offer the program and all other additional operating costs attributable to the program.

(d) Supplement and not replace the money the school district would otherwise expend for supplemental services or tutoring.

7. Before a school amends a plan for expenditure of an allocation of money received pursuant to this section, the school district in which the school is located must submit the proposed amendment to the Department of Education to receive approval from the Department of Education, the Budget Division of the Department of Administration and the Legislative Bureau of Educational Accountability and Program Evaluation, or the Interim Finance Committee.

8. The sums transferred pursuant to subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2005, and reverts to the State Distributive School Account as soon as all payments of money committed have been made.

Sec. 194.50. 1. The Department of Education shall transfer from the State Distributive School Account the following sums for early childhood education:

For the Fiscal Year 2003-2004 \$2,896,583

For the Fiscal Year 2004-2005 \$2,896,583

2. Of the sums transferred pursuant to subsection 1, \$301,000 in each fiscal year of the 2003-2005 biennium must be used for the Classroom on Wheels Program.

3. The remaining money transferred by subsection 1 must be used by the Department of Education for competitive state grants to school districts and community-based organizations for early childhood education programs.

4. To receive a grant of money pursuant to subsections 2 and 3, school districts, community-based organizations and the Classroom on Wheels Program must submit a comprehensive plan to the Department of Education that includes, without limitation:

(a) A detailed description of the proposed early childhood education program;

(b) A description of the manner in which the money will be used, which must supplement and not replace the money that would otherwise be expended for early childhood education programs; and

(c) A plan for the longitudinal evaluation of the program to determine the effectiveness of the program on the academic achievement of children who participate in the program.

5. A school district, community-based organization or Classroom on Wheels Program that receives a grant of money shall:

(a) Use the money to initiate or expand prekindergarten education programs that meet the criteria set forth in the publication of the Department of Education, entitled "August 2000 Public Support for Prekindergarten Education For School Readiness in Nevada."

(b) Use the money to supplement and not replace the money that the school district, community-based organization or Classroom on Wheels Program would otherwise expend for early childhood education programs, as described in this section.

(c) Use the money to pay for the salaries and other items directly related to the instruction of pupils in the classroom.

(d) Submit a longitudinal evaluation of the program in accordance with the plan submitted pursuant to paragraph (c) of subsection 4.

The money must not be used to remodel classrooms or facilities or for playground equipment.

6. The Department of Education shall develop statewide performance and outcome indicators to measure the effectiveness of the early childhood education programs for which grants of money were awarded pursuant to this section. The indicators must include, without limitation:

(a) Longitudinal measures of the developmental progress of children before and after their completion of the program;

(b) Longitudinal measures of parental involvement in the program before and after completion of the program; and

(c) The percentage of participants who drop out of the program before completion.

7. The Department of Education shall review the evaluations of the early childhood education programs submitted by each school district, community-based organization and the Classroom on Wheels Program pursuant to paragraph (d) of subsection 5 and prepare a compilation of the evaluations for inclusion in the report submitted pursuant to subsection 8.

8. The Department of Education shall, on an annual basis, provide a written report to the Governor, Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation regarding the effectiveness of the early childhood programs for which grants of money were received. The report must include, without limitation:

- (a) The number of grants awarded;
- (b) An identification of each school district, community-based organization and the Classroom on Wheels Program that received a grant of money and the amount of each grant awarded;
- (c) For each school district, community based-organization and the Classroom on Wheels Program that received a grant of money:
 - (1) The number of children who received services through a program funded by the grant for each year that the program received funding from the State for early childhood programs; and
 - (2) The average per child expenditure for the program for each year the program received funding from the State for early childhood programs;
- (d) A compilation of the evaluations reviewed pursuant to subsection 7 that includes, without limitation:
 - (1) A longitudinal comparison of the data showing the effectiveness of the different programs; and
 - (2) A description of the programs in this state that are the most effective; and
- (e) Any recommendations for legislation.

9. Any balance of the sums transferred pursuant to subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years and reverts to the State Distributive School Account as soon as all payments of money committed have been made.

Sec. 194.52. 1. The Department of Education shall transfer from the State Distributive School Account the following sums to purchase one-fifth of a year of service for certain teachers in accordance with NRS 391.165:

For the Fiscal Year 2003-2004	\$2,689,206
For the Fiscal Year 2004-2005	\$7,045,056

2. The Department of Education shall distribute the money appropriated by subsection 1 to the school districts to assist the school districts with paying for the retirement credit for certain teachers in accordance with NRS 391.165. The amount of money distributed to each school district must be proportionate to the total costs of paying for the retirement credit pursuant

to NRS 391.165 for each fiscal year. If insufficient money is available from the appropriation to pay the total costs necessary to pay the retirement credit for each fiscal year, the school district shall pay the difference to comply with NRS 391.165.

3. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 194.54. 1. The Department of Education shall transfer from the State Distributive School Account the following sum to purchase one-fifth of a year of service for certain licensed educational personnel in accordance with NRS 391.165:

For the Fiscal Year 2004-2005 \$5,732,643

2. The Department of Education shall distribute the money appropriated by subsection 1 to the school districts to assist the school districts with paying for the retirement credit for certain licensed educational personnel in accordance with NRS 391.165. The amount of money distributed to each school district must be proportionate to the total costs of paying for the retirement credit pursuant to NRS 391.165 for each fiscal year. If insufficient money is available to pay the total costs necessary to pay the retirement credit for each fiscal year, the school district shall pay the difference to comply with NRS 391.165.

3. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 194.56. Of the amounts included in the basic support guarantee amounts enumerated in sections 194.22 and 194.24 of this act, \$64,425,447 for Fiscal Year 2003-2004 and \$66,721,434 for Fiscal Year 2004-2005 must be expended for the purchase of textbooks, instructional supplies and instructional hardware as prescribed in section 194.2 of this act.

Sec. 194.58. All funding remaining in the Fund for School Improvement at the close of Fiscal Year 2002-2003 shall be transferred to the budget for the State Distributive School Account and shall be authorized for expenditure in that account.

Sec. 194.60. The sums appropriated or authorized in sections 194.40 to 194.54, inclusive, of this act:

1. Must be accounted for separately from any other money received by the school districts of this state and used only for the purposes specified in the applicable section of this act.

2. May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.

3. May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

Sec. 194.62. 1. The Department of Education shall transfer from the State Distributive School Account the following sums for special transportation costs to school districts:

For the 2003-2004 school year \$47,715

For the 2004-2005 school year \$47,715

2. Pursuant to NRS 392.015, the Department of Education shall use the money transferred in subsection 1 to reimburse school districts for the additional costs of transportation for any pupil to a school outside the school district in which his residence is located.

Sec. 194.64. There is hereby appropriated from the State General Fund to the State Distributive School Account created by NRS 387.030 in the State General Fund the sum of \$3,152,559 for an unanticipated shortfall in money in Fiscal Year 2002-2003. This appropriation is supplemental to that made by section 4 of chapter 565, Statutes of Nevada 2001, at page 2832 and to that made pursuant to Assembly Bill No. 253 of the 72nd Legislative Session.

Sec. 194.66. Each school district shall expend the revenue made available through this act, as well as other revenue from state, local and federal sources, in a manner that is consistent with NRS 288.150 and that is designed to attain the goals of the Legislature regarding educational reform in this state, especially with regard to assisting pupils in need of remediation and pupils who are not proficient in the English language. Materials and supplies for classrooms are subject to negotiation by employers with recognized employee organizations.”.

Amend sec. 195, page 133, line 13, by deleting: “82, 83 and 89” and inserting: “82 and 83”.

Amend sec. 195, page 133, between lines 20 and 21 by adding:

“5. Sections 80.5, 82.5 and 83.5 of this act do not apply to any taxes precollected pursuant to chapter 370 of NRS on or before June 30, 2004.”.

Amend the bill as a whole by deleting sec. 196.3 and adding a new section designated sec. 196.3, following sec. 196, to read as follows:

“Sec. 196.3. 1. Notwithstanding the provisions of sections 58.12 to 58.80, inclusive, of this act, a financial institution is exempt from the franchise fee imposed pursuant to section 58.44 of this act for the calendar quarter ending on December 31, 2003.

2. As used in this section, “financial institution” means an institution licensed, registered or otherwise authorized to do business in this state pursuant to the provisions of chapter 604, 645B, 645E or 649 of NRS or title 55 or 56 of NRS, a similar institution chartered or licensed pursuant to federal law and doing business in this state or a person conducting loan or credit card processing activities in this state. The term does not include:

(a) A nonprofit organization that is recognized as exempt from taxation pursuant to 26 U.S.C. § 501(c).

(b) A credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act.”.

Amend sec. 198, pages 134 and 135, by deleting lines 33 through 44 on page 134 and lines 1 through 23 on page 135, and inserting:

“Sec. 198. 1. This section and sections 190, 191, 191.3, 191.5, 194.58, 194.64, 194.66 and 196 of this act become effective upon passage and approval.

2. Sections 59, 60, 67, 69, 75 to 80, 81, 82, 83, 84 to 88, inclusive, 90 to 93, inclusive, 98, 101, 112, 114, 116, 125 to 132, inclusive, 144 to 165, inclusive, 168, 172 to 175, inclusive, 177, 178, 180, 184, 185, 186, 188 and 192 to 194, inclusive, 195 and 197 of this act and subsection 1 of section 189 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2003, for all other purposes.

3. Sections 58.10 to 58.80, inclusive, 70, 71, 72, 73, 186.3, 186.5, 186.7 and 196.3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2003, for all other purposes.

4. Sections 1 to 58, inclusive, 61 to 66, inclusive, 68, 70.5, 71.5, 72.5, 73.5, 74, 89, 118 to 124, inclusive, 133, 135, 141, 169, 170, 171, 176, 179, 181, 182, 183, 185.30 to 185.50, inclusive, 186.4, 186.6, 186.8, 186.9 and 196.5 of this act and subsection 2 of section 189 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2004, for all other purposes.

5. Sections 94 to 97, inclusive, 99, 100, 102 to 111, inclusive, 166, 167 and 187 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2004, for all other purposes.

6. Sections 165.2, 165.4, 165.6, 166.2, 194.10, 194.14 to 194.56, inclusive, 194.60 and 194.62 of this act become effective on July 1, 2003.

7. Sections 134, 136 to 140, inclusive, 142 and 143 of this act become effective on August 1, 2003.

8. Sections 80.5, 82.5, 83.5, 166.4 and 194.12 of this act become effective on July 1, 2004.

9. Sections 113, 115 and 117 of this act become effective at 12:01 a.m. on October 1, 2029.

10. Sections 126 to 131, inclusive, of this act expire by limitation on June 30, 2005.

11. Sections 112, 114 and 116 of this act expire by limitation on September 30, 2029.”.

Amend the title of the bill to read as follows:

“AN ACT relating to state financial administration; providing for the imposition and administration of an excise tax on employers based on wages paid to their employees; providing for the imposition and administration of a tax on financial institutions for the privilege of doing business in this state; replacing the casino entertainment tax with a tax on all live entertainment; providing for the imposition and administration of a franchise fee on business entities for the privilege of doing business in this state; eliminating the tax imposed on the privilege of conducting business in this state; revising the taxes on liquor and cigarettes; imposing a state tax on the transfer of real property and revising the provisions governing the existing tax; revising the fees charged for certain gaming licenses; establishing the Legislative Committee on Taxation, Public Revenue and Tax Policy; requiring the Legislative Auditor to conduct performance audits of certain school districts; providing for the formation of Business Advisory Councils; requiring the Department of Education to prescribe a minimum amount of money that each school district must expend each year for textbooks, instructional supplies and instructional hardware; revising provisions governing the purchase of retirement credit for certain educational personnel; apportioning the State Distributive School Account in the State General Fund for the 2003-2005 biennium; making appropriations to the State Distributive School Account for purposes relating to class-size reduction; making various other changes relating to state financial administration; authorizing certain expenditures; making an additional appropriation; providing penalties; and providing other matters properly relating thereto.”.

Assemblywoman Buckley moved the adoption of the amendment.

Remarks by Assemblywoman Buckley.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assemblywoman Buckley moved that the Assembly recess until 5:00 p.m.
Motion carried.

Assembly in recess at 2:20 p.m.

ASSEMBLY IN SESSION

At 6:49 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 6, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Quorum present.

Senate Bill No. 6 considered.

CHAIRMAN PERKINS:

There were a number of concerns in this bill that were raised last night in the late hour that we worked. A couple of those issues are what the amendment that is being passed out to you is addressing. I will ask the Majority Leader to explain to you what is in the proposed amendment.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. In regards to the issue of ensuring that a franchise tax did not unfairly, or doubly, affect any industry, we had, during our entire tax debate, put in measures to ensure they were not cascading or pyramiding. These would occur in two areas. One area is where a contractor received funds, which were then passed to subcontractors, where developers would pay taxes on real property transfer tax and on the revenue received; as well, is the issue where real estate brokers would receive money but only in trust to pass on to someone else. What the amendment does, in its prepared final form, for purposes of saving some time, is to ensure the original intent is clarified. That is the sum and total of this entire amendment and I would urge that the committee support its passage.

CHAIRMAN PERKINS:

That is a motion by Ms. Buckley. Do I have a second? I have a second by Mr. Ocegüera. Are there further remarks to the amendment? All those in favor of Amendment No. 4 to Senate Bill 6 please indicate by saying "Aye." Are there any opposed? Motion carried and the amendment is adopted. We will now need to rise from the Committee of the Whole.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 6:52 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that all rules be suspended and that Senate Bill No. 6 be declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 6.

Bill read third time.

The following amendment was proposed by the Committee of the Whole:
Amendment No. 4.

Amend sec. 58.24, page 29, line 41, by deleting “*includes reimbursement*” and inserting: “*includes*”:

(a) *Revenue that a real estate broker receives pursuant to NRS 645.280 and is required by contract to pay to a licensed real estate broker, broker-salesman or salesman who performed services for that revenue.*

(b) *Reimbursement*”.

Amend sec. 58.48, page 35, by deleting lines 35 through 39 and inserting: “*subcontractors for the portion of any materials or services provided in the development of improved real property, made by a business entity who is:*

(a) *A contractor or subcontractor; or*

(b) *In the business of developing improved real property.*

The amount of the deduction must not exceed the gross revenue of the business entity from the transaction.”.

Amend sec. 58.48, page 35, between lines 42 and 43 by adding:

“*14. Any revenue of the business entity upon which the business entity paid the tax imposed pursuant to section 95 of this act.”.*

Amend sec. 80, page 58, line 4, by deleting “40” and inserting “42.5”.

Amend sec. 80.5, page 58, line 16, by deleting “[40] 45” and inserting “[42.5] 47.5”.

Amend sec. 82, page 59, line 2, by deleting “35” and inserting “37.5”.

Amend sec. 82.5, page 59, line 30, by deleting “[35] 40” and inserting “[37.5] 42.5”.

Amend sec. 83, page 60, line 5, by deleting “40” and inserting “42.5”.

Amend sec. 83.5, page 60, line 14, by deleting “[40] 45” and inserting “[42.5] 47.5”.

Assemblywoman Buckley moved the adoption of the amendment.

Remarks by Assemblywomen Buckley and Chowning.

Potential conflict of interest declared by Assemblywoman Chowning.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assemblywoman Buckley moved that the Assembly recess until 8:30 p.m.

Motion carried.

Assembly in recess at 6:57 p.m.

ASSEMBLY IN SESSION

At 8:41 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Senate Bill No. 6 just returned from the printer, be placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 6.

Bill read third time.

Remarks by Assemblymen Ocegüera, Hardy, Chowning, Brown, Buckley, Giunchigliani, Geddes, Anderson, Griffin, Mortenson, Collins, Knecht, Parks, Goldwater, Carpenter, Hettrick, Williams, McClain, Angle, Horne, Grady, Leslie, and Mr. Speaker.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

Thank you, Mr. Speaker. Before we begin the debate on the merits of this bill, I think it is appropriate to comment on our obligations as legislators. When we arrived here in February, we all stood and raised our right hand, swearing to uphold the Constitution of the State of Nevada. I would like to speak to that obligation. Our Legislative Counsel Bureau offered an opinion that was pretty clear. It said that we needed to pass a balanced budget. As if that wasn't clear enough though, we brought in our own state's Attorney General, and he sat before us and said the same thing, that it was very clear that we needed to pass a balanced budget. He said that if we do not pass a tax package by July 1, the Nevada Legislature will have failed in its constitutional duty to pass a balanced budget.

Mr. Speaker, I believe it's our goal to pass something here. We may have ideological differences. We may have theoretical differences, but if you believe in this process, if you believe that we need to make progress, I think that is really what's important, to get this process going. However imperfect this bill is, we need to get it out of this House, the people's House, for the citizens of this state, so that we can find some common ground and work together. I think if we do that, we can honor the constitutional obligation that we have and we can go home, and pass this budget, whatever that may be. Whether it's what we have here, or what we have seen in the other House, we can honor that constitutional obligation today by voting in the affirmative for this bill. Thank you, Mr. Speaker.

ASSEMBLYMAN HARDY:

Thank you, Mr. Speaker. I would like to share the reasons why I would not vote for this bill, Senate Bill 6. It is not a clean Senate bill. It lacks continuity of definition of nonprofit businesses. It doesn't exempt one of the most critical and tenuous industries, long-term nursing care. It adds to the burden of the hospital, thus being a further driver of increasing healthcare costs in contracts for medical care. It doesn't rely mainly on what I consider the better tax, the business employee tax. It includes too many school districts in the K-12 audit. It sets up an unfunded mandate in the same school district for a business advisory council. It has been hastily done in the crush of time. It funds the Rainy Day Fund without an easy way, such as a two-thirds vote, to get at the money. It taxes businesses that can quickly leave Nevada. It raises taxes, and I am a Republican, and I want to be reelected.

The reasons I will be voting for this bill, Senate Bill 6, are as follows: I believe we have a need to fund K-12 and higher education. I believe we need to care for the poor. I believe we are not currently sound in our state fiscal situation. I believe we are not funding pork, but we need more beans. I believe that we need to balance the budget, although I believe that parts of the budget can be delayed or postponed. I believe that we have included a spending cap that will come into play if the proposed taxes bring in too much. I believe that we have protected, with fences, areas of education, so that our children will have a better chance of having books and

supplies. I believe that, however onerous the franchise tax may be in my estimation, this particular iteration appropriately protects the small business owner and the sole proprietor. I believe that my Democratic colleagues don't like some aspects of this tax program as well. I believe that this tax avoids the double taxation for the construction industry and developers. It taxes cigarettes, alcohol, and strip clubs. It taxes growth with real property transfers. It will meet our constitutional duty to fund education on time. I am a Republican who wants to be reelected. Thank you, Mr. Speaker.

ASSEMBLYWOMAN CHOWNING:

Thank you, Mr. Speaker. I stand in support of Senate Bill 6. As my colleague from Boulder City stated, there are some parts of the bill that I'm not happy with either, but I want to tell you why I'm going to vote for Senate Bill 6. I represent a district that has a lot of working families. I represent a district that has some schools in which 90 percent of the population is limited-English proficient. I represent Luisa, who wants to be a doctor. I'm voting for this for José, who wants to be a carpenter. Both Luisa and José desperately need the literacy specialists, the literacy specialists who are right now being told that they probably would not be able to help Luisa and José, because they have to go back into the classroom and not do what they do best.

I'm also voting for this even though this is going to tax my husband and me in our business in dollars that we've never been taxed before. But you know what, we're going to step up to the plate and we're going to pay these taxes because we're proud to be business citizens who will be supporting folks like Luisa and José.

I'm also voting for this for Daniel Joseph Beasley. Daniel Joseph Beasley, whose birth I proudly proclaimed right here during the 1995 session, is one of my grandchildren. Daniel has speech problems. He is in school in Clark County. No one could understand him because he had such speech problems when he started school in kindergarten. Now, however, people can understand him better. Do you know why? It is because of his speech teacher, who has miraculously helped Daniel. I proudly stand in support of this for all the Daniels, for all of the Luisas, and for all of the Josés. If we do not step up to the plate and make this historical step, for years to come, Daniel, Luisa, and José will not have the literacy specialists, the speech pathologists, or the wonderful teachers to help them. They need these people. Thank you.

ASSEMBLYMAN BROWN:

Thank you, Mr. Speaker. Actually, I have a question as it pertains to one small section of the bill. I was asked for my opinion on a particular portion, and I apologize, Mr. Speaker, but this deals with Amendment No. 4 that we previously approved. I was asked about some of the language. Somebody asked me about some of the construction cascading language, perhaps because I do some legal work in that area. I will disclose to this Body that I do represent contractors. For that person, I'm trying to get a little clarification.

On page 35, Mr. Speaker, the concern was about the following being deductible: "The cost of all payments made to contractors and subcontractors for the portion of any materials or services provided, the development of improved real property." That was the language that this person was asking about. I tried to convey that I thought that meant any work of improvement, meaning tenant improvement work, or any horizontal or vertical construction. I think there was some concern that by using the word development, it meant only a project that goes from raw dirt to full construction and maybe that wouldn't include tenant improvement. I would appreciate if we could establish for the record that it does include all forms of work of improvement to any real property. I would appreciate an opinion if anyone has that information.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. The words would be given their plain meaning. I would concur with my colleague from Henderson that it would not just be raw land to development. It would be the development, meaning the building of improvements, regardless of the stage.

ASSEMBLYMAN BROWN:

Thank you. That was my opinion. Thank you, Mr. Speaker.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. I thought I would just go through the Distributive School Account and remind everybody what's contained within the bill and the class-size reduction. Included in this now, towards the back of the bill near Section 198, is the performance audit of kindergarten through 12th grade. We've funded textbook increases at \$50 per textbook. In addition to that, there is the per pupil funding of \$4,295 in the first year, and \$4,424 in the second year. We funded special education units at \$31,811 for the first year and \$32,447 in the second year. I would remind the Body that this is still underfunded by approximately \$20,000 for each unit. In order to keep teachers at the at risk schools, or at a school in a teacher shortage area, they would earn a retirement credit of one-fifth credit. There is a minor teachers salary increase of 2 percent for each year, and that's because they only got 2 percent over the last four years, which didn't even keep pace with inflation. There is funding for teacher training centers, tutoring people in Title I, early childhood education, and programs including Classrooms on Wheels. There are remediation dollars for students, as well as programs for non-English language learners. There is hold-harmless funding for the rural counties, and the Public Employees' Retirement System (PERS) offset that's required for the increase for this year. In addition to that, we have the class-size reduction contained within the bill. The bill maintains the 1 to 16 teacher-student ratio for first and second grades in the urban areas, and the 1 to 19 ratio in third grade. It allows for flexibility in the rural areas to go to a 1 to 22 ratio. The bill requires a study for the purpose of eliminating team teaching, which is the whole goal of the class-size reduction.

I want to remind you of some things that are not contained in this education budget. There is not one penny for inflation for textbooks, for instructional supplies, or materials. The only thing we funded for inflation was for utilities. I don't know about you, but I know at home the price of everything has gone up and is predicted to go up higher, yet we did not bother to fund for that. Therefore, districts will already be underfunded when they deal with the inflation cost. The bill includes an underfunded health-care plan. We funded it at 10 percent each year, but we had testimony that said right now their increases are actually 18 percent. Consequently, there is already an 8 percent budget shortfall for health-care coverage. We did not include kindergarten class-size reduction. I'll be back next time for that issue, if I'm reelected. Also, there were no additional days added to the school year calendar, yet we've added more standards over the past 15 to 20 years. Although we wanted to add minutes to the workday, additional time did not get included. Finally, increasing the beginning salary to \$30,000 also was not funded.

Those were just some of the things that we grappled with in the first session that we did not include in here, not because they weren't good ideas, but out of respect in argument and compromise. We didn't have the funding at this time to do it.

So, I think that all through this process, and contained within the bill, is what we have attempted to do all along, which is to compromise; but, now we have to act. We have an obligation to fund education. I used this saying when I was coming here years ago, "Education, we want what's right, not what's left." Unfortunately, it seems to be one of the last budgets. As I indicated earlier, if I wasn't still arguing with the Senate, maybe we would have gotten this budget out sooner. But it's always the most difficult, because so many people are concerned with it and we have so many different philosophical debates on this matter. However, this evening we have an opportunity to move forward to make sure that our schools are funded beginning July 1.

You've seen the articles, you've heard from your districts, you've heard from the parents and the students. We have an obligation to act. I don't like everything in this bill. I don't like all the taxes that are in here. Some taxes are too high, some are too low, but I agree with my colleague from Boulder City. There are things you need to wrap your arms around at some point and say, "You know what, I can embrace that; I can live with that." We have an opportunity tonight to make sure that we fund our budget, fund education, and make sure that we take care of the future citizens, the future politicians, and the future leaders of this state.

Nothing that you hear is going to be new this evening. I just hope that everybody has the courage and the leadership to do the right thing. We don't need to stay here any longer. We need to fund our schools. We have year-round schools that are in jeopardy of going to four days. We have summer programs that are going to be cut. The Gifted and Talented Education (GATE) program is at risk for those parents and students. Music programs are at risk. I don't think that

people realize how much goes on in education in the so-called “summer breaks.” The world has changed out there, and we have an obligation to make sure that those young men and women have an opportunity to learn through the whole year. This budget and this tax plan, while imperfect, need to move forward.

We had testimony yesterday from a business community that has said all along, “Tax us.” We listened to them, or at least we attempted to. We’ve made modifications, we’ve made compromises, but now it’s time to show the leadership. It’s not a perfect world. For those of you whom it’s your first time up here, I think the one lesson we all found our first time is that there are not two sides to an issue; you’re lucky if there are only ten sides to an issue. Our responsibility is to sit down and listen, to talk and be passionate, but to also build compromise. Compromise is a strength, not a weakness. This bill represents strength. It represents compromise, and I would urge your consideration no matter if you don’t like everything in the bill. You can’t like everything in every bill. You’ve seen that in the previous sessions. Find some of the good things that you can embrace, and make the right decision. Thank you, Mr. Speaker.

ASSEMBLYMAN GEDDES:

Thank you, Mr. Speaker. I rise in support of this bill. It’s not the perfect bill. It’s not the bill I would love to support. I was born in this state, raised in this state, and educated in this state and I think this is a step in the right direction.

Upon receiving my doctorate, my father was so kind to point out that I’m not a real doctor. I could not say it as well as a real doctor, and I thank my colleague from Boulder City for saying everything that I wanted to say. I’ll just add, ditto.

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Speaker. Obviously, I rise in support of the bill, not that it comes to anybody’s great surprise. I know that it’s easy to talk of courage. On Monday I had the opportunity, along with several of the other members from the Washoe County delegation and my esteemed colleague from Douglas County, to attend the Washoe County School Board meeting. They talked about what their concerns were. I know that we think of our job as being the most difficult in the political world when we’re caught in a situation like we are right now, where every vote is at the lion’s throat. I’m sure that we see it that way, but I know from having watched school boards in action for well over 30 years that they have the most difficult of all jobs. They have to know what’s for lunch, what time kids are going to have recess, and what’s happening in every class, because the parents who ask them those questions are talking about their children. I know from talking to parents when they ask me about their child, they are concerned about what their child is doing in my room and not about what the other 30 are doing. When the newsprint focuses on the Distributive School Fund, it focuses on a very real problem for children and for parents who want to make sure that their children are receiving the very best.

We’ve heard some rhetoric of late about Nevada bashing and about where we are in terms of the raw numbers. I’m reminded of the story that we all probably heard as children about not comparing yourselves to others because there will always be greater and lesser people than you in any situation. So I’m not talking about what’s happening on the other side of this mountain. I’m not talking about where Utah is, where Montana is, or where Oregon and Washington states are. I’m talking about what the needs are for our school districts, for our children, for our people in this state, right here and now. I’m not talking about the political ideology that we would like to hide behind, but about the real needs, the real people, and the real world in which they live. They need to have the assurance of what is going to happen now so that the school districts can operate. I’m supporting this because they need that certainty.

My colleagues need to prepare now for their lesson plans in October and November, because they think two or three months down the road. They need to be thinking about where the children are going to be a year from now. We are long-range planners. That’s what teachers do. We want to make sure that your child gets the very best education, and we will make every dollar count, because they’re our kids too. I beseech you, please, have the courage to do the right thing and support this.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Speaker. Yesterday, when this budget was being discussed in the other House, my very good friend and our colleague, the Senator from District 12, had what I thought was a very interesting comment. He said that when he started this process he knew there was no such thing as a perfect tax bill. Having gone through this process for the last 150 days, he determined that there is no such thing as a good tax bill. I thought that was an interesting comment and I guess, to a certain level, we probably all agree with that. I do think this is a good bill, but I sure wish that I didn't have to vote for it. When we heard this in committee, I, without placing blame on anybody, came up and said, "I didn't create this problem but this problem exists." This problem is not going to go away in two years if the economy improves. This problem exists right now and it has existed for years. It is my responsibility and my opinion to do what I can, despite the political consequences, to fix the problem that we have seen.

I do think it's a good bill. There are elements of it that I don't like. We've discussed them. I just want to say that I appreciate the opportunity to work with the Majority Leader, the Speaker, and others. I appreciate the opportunity to work with Minority Leader as well, to make this a better bill. Again, I appreciate, just in the last few days, being able to come down and put my two cents' worth in and I think this is a better bill because of it, in my opinion. There are still things, at some level, to change. If the opportunity presents itself, I hope to be at that table and help change them. Some of the things that we get out of this bill have never really happened before, such as spending caps. We have all talked about trying to make sure that we can control this to an extent. It is not onerous but there are some spending controls. There are audits of the University System, not in this budget, but that came out of this legislative session. Also, hopefully, audits of our schools will make sure that there is some accountability that the money is being spent well. We were able to fence off some money. Again, these are reforms, principled reforms that we can take back home and show that we changed the way this state does business. I think that, at some level, we are all very proud of this.

I think that this is a lean budget. I actually think that this is a very conservative budget. This is a budget that is \$130 million less than our Governor had suggested. If you go back to the last several sessions of this Legislature, and I have been able to see it as an observer, this is one of the most fiscally conservative Governors in the history of this state. He has looked at every penny in state spending and figured out ways to reduce, to cut, to become more efficient. This budget contains \$130 million less than he originally requested.

As you all know, I am from Henderson. As you also probably know, I grew up in Reno. Not to date myself or the Senate Majority Leader, but he has been my Senator since I was five years old. There is no stronger fiscal conservative in this state. He is constantly, from what I can remember since I was in elementary school—not that I was observing state budgets when I was in elementary school, but you all get the point—has been, I believe, and would default to anybody here who has observed this process, as fiscally conservative as has existed. He supports this budget.

Again, I think this is a good budget. I think that the taxes still leave Nevada as one of the lowest-taxed states in the nation. It certainly leaves Nevada's businesses, specifically its nongaming businesses, as the lowest taxed in the nation. We all have different things that motivate us. The Bible said, I think it's from Matthew, "When thou makes a feast, invite the poor, the blind, and the maimed." I think a feast has been made in this state. This budget doesn't do anything onerous to those feasts, but feasts have been made in this state.

I think we have an obligation to fund this budget. I think this budget is responsible. I think this budget is conservative, and one of the most important things it does is start to address our structural deficit. The first thing I did when I was elected was to call our Fiscal Analyst. I wanted to find out how we got this huge deficit to the tune of hundreds of millions of dollars. How did we get here? He e-mailed me a spreadsheet of Nevada's revenue numbers over the last ten years. The revenues that were coming into this state since 1991 have declined by about 1.5 percent per year on a per capita basis. I think at some level the USA Today article that came out a couple of days ago showing us as one of the few states over the last several years as actually having our expenditures not exceed our growth plus inflation is indicative of that. Again, in the last ten years we have lost 1.5 percent per year. So this budget is being mistakenly identified as a 35 percent increase from the last biennium. This budget really only gets us to 1991 levels, but it

does start to address the nongaming business element of this state and the growth of this state as contributing more to this state's General Fund. As we continue to grow as a state beyond our primary industry, under the current tax structure, the decline will continue. Does this fix all the problems? No, but it does a pretty good job of starting that correction. Therefore, I believe that this is a good, responsible budget and I'm proud to support it. Thank you, Mr. Speaker.

ASSEMBLYMAN MORTENSON:

Thank you, Mr. Speaker. Our state consistently, in polls of business environment, ranks number one, maybe number two in a bad year, maybe number three, but we're always up in the top. That's the business environment, but when you look at social environment and when you look at people environment, we are always at the bottom of the barrel. I have some statistics here, which are going to be disputed, but I received them from the Legislative Counsel Bureau and I trust what I get from the LCB. Nevada ranked 50th in the nation in the amount per capita that the state spent on Medicaid in the year 2000. We ranked 49th in the nation in local welfare spending in the year 2000. Regarding the percentage of people employed by government, and this is surprising to me, Nevada ranks 50th in the nation. We rank 36th in the funding of state arts agencies. We ranked 43rd in the nation for per pupil spending, and one of the consequences of that, we ranked 49th in high school completion rates.

What is the reason for the dismal ratio of our business environment versus our people environment? It's because we don't have the money in government to spend on people. The reason we have the high rating for business is because business pays so little tax here and that's the reason we have so little money to spend for these social amenities for our people. We really need this bill. We need to let business do what they said they want to do. We need business to be the engine that pulls us out of this deep abyss of social ratings where we are always on the bottom. We need to get at least up into the middle, hopefully. We might pull business down a little bit, but it will pull the social ratings up a little bit. Let's balance the business and the social. Thank you, Mr. Speaker.

ASSEMBLYMAN COLLINS:

Thank you, Mr. Speaker. I want to share some more history and some more current events. "The problem of educating Nevada's children has been emphasized in the last three sessions and considerable public support has been built up for a more adequate state program. Thus, nearly every lawmaker in the 1955 session realizes that unless he wants his constituents to stage a full-scale revolt, the school problem must be tackled head-on and funds must be supplied for some kind of a build up." Forty-eight years ago we were in this problem and we are in it again today.

I would like to share some more current numbers concerning the increased budgets. From when we left last session to this session, we've had to cut about \$294 million because of the shortfall in our budget according to a document I received. There is a hiring freeze of 1,600 positions. We've had people complain. Two days ago a guy was here in the balcony booing the last time we were speaking on this. He went back home and called me. I spoke to him, my own constituent. He had spent three hours waiting in line at the Department of Motor Vehicles down on Donovan Way in Clark County. We have a responsibility to the citizens of this state to provide for the opportunity to get a driver's license or a license plate, to get welfare or food stamps, to adopt a child, to drive on a decent road, to get a decent education, and have a book, and a desk, and a chair to sit in. That is an obligation we have to our constituents and that is one of the reasons they elect us. For those of you who are worried about elections, this is not the time to worry about elections. I'm a Nevadan right now. Democrat, Republican, and Independent American are all out the window right now, folks. We're being Nevadans right now. That's what we should be. That's where our hearts should be at as a Nevadan.

With the hiring freeze of the last few years of up to 1,600 employees, we have, so called, saved the state \$620 million in wages at the average of \$40,000 per person. Having to cut budgets, add money to Medicaid, dip into reserves to provide for people who were in need after 9/11, losing nearly a year's worth of normal tax gains and revenue gains because of 9/11 throughout this state, we have already set ourselves back nearly \$300 million. In addition, we've suffered the hiring freezes that have delayed us in providing adequate services. Just a few years ago we closed a mental health facility in Clark County. I can name a ton of things we have not done, not been responsible for, and this is a day that we can rectify that. This, what some people

consider to be a huge tax increase, doesn't even get us back to even, as our colleague from Henderson told you. We're not even getting back to even. We're still in the hole. We're not even getting back to even. It astounds me.

The 2004-2005 Governor's recommended budget that has been mentioned, cuts out 497 jobs next year and 511 the year after. Some of the biggest cuts include 160 people and then 174 people in Human Resources. Those are the folks who take care of children, youth, and family administrations. The Nevada Mental Health Institute is yet another thing that we have big cuts in. We're not taking care of our constituents. We're good to the guy who sends the campaign check, if you want to be political, but let's forget the politics. It's obvious, we're driving a broken-down car and we need to fix it. It needs a major overhaul. We just need to make ourselves whole here.

Going back to history again from the Reno Evening Gazette back in 1955, "The one sound state," it said of Nevada, and on the surface this was true. We were one sound state because we had very powerful federal congressional people who sent lots of federal dollars to Nevada. This was before World War II. Then we got in a bind and all of a sudden we were broke. Nevada has been working deeper into the financial quicksands. The phenomenal population growth of the state brought a host of new problems.

I've got some more research here. In Clark County, since January, 18,600 electric meters were set. That's new growth. That is adults and children. Not all of those adults are going to have health care, so there is going to be more of a burden on our health needs. There are going to be more schools needing to be built, more books to buy, and more teachers to hire. I don't think that this proposal, Senate Bill 6, keeps up with that growth. Just imagine if there just 18,600 new meters. Families are going to move in. If only 27 or 30 percent of those households have kids, that's a bunch of kids. Folks, we're behind the eight ball and I don't know what other way to ask you to be honest with yourself and to ask yourself. Reach into your heart. Think about the folks who live in Nevada: the ones who live in Ely, or Winnemucca, or Hawthorne. Don't just think about the folks down the street from you, or up in the new neighborhoods, if you live in Clark County where 29 of us live. Think about this whole state. Think about the folks in Pahrnagat High School. Look at those kids. The effort that they go through to get their kids to a ball game, or to school, is extreme. A family moved out of Alamo last year and they lost a teacher because the numbers went down. These are some examples of the needs in our state. The brand-new high school in Lund is another example. We paid for that. The folks over there in White Pine couldn't afford it.

We have got to get on the ball, folks. I would encourage you to search your soul, think about Nevada, be a Nevadan and support it, please. Thank you.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks.

I'm obviously allowing quite a bit of latitude on Senate Bill 6, and as long as the debate stays at this level, I think that it's very healthy for this discussion. Therefore, this is sort of a perpetual Order of Business 15.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Speaker. I rise first to repeat and restate my disclosure and declaration that I am a state employee, and when we're done here I will be returning to state service. I don't think this bill affects me any differently than any other state employee, and, therefore, I will be voting on the bill.

As I said in the Committee of the Whole, I support reasonable spending and tax increases and I've been on record doing so throughout this session. Senate Bill 6 includes excessive spending and taxes. It includes particularly, unnecessarily destructive taxes, and so it's contrary to the public interest. Our total growth is 15 percent. Senate Bill No. 6 includes 33 percent, or more than twice the real growth of all factors. It's not a reasonable compromise. Senate Bill No. 6 is profoundly wrong. It does not come close to the balance point, so I will vote against it as a matter of principle. There are no politics, no concern about elections here. I will vote against it as a matter of fidelity to my constituents, two of whom are sitting with me tonight, and to the well-being of everyone in Nevada and my district. Finally, I will vote against it for three

generations of my family, my mother-in-law Christina Jensen, who is in her eighties, my lovely wife Kathy, whom I love dearly and care about her welfare, and finally my daughter Karen, who is almost two years old and who is the future of our family and the future of Nevada. I will be voting for her future and voting against this. It's the right thing to do for her. Thank you, Mr. Speaker.

ASSEMBLYMAN PARKS:

Thank you, Mr. Speaker. I rise in support of this measure. I believe that it is, first of all, both fair and balanced. As we have often heard, no one wants to vote for a tax increase if they don't have to. We have worked on this for five months. We have had a lot of input into this long before this. We are all well aware of the A.C.R. 1 Task Force and the work they have done. These are individuals who put relentless effort into this. They put out a tremendous amount of data, and I certainly hope most of my colleagues have had an opportunity to at least view some of it. It is an extremely impressive amount of work. Prior to that, in the interim of 1999 and 2000, our Governor established the Governor's Fundamental Review. He asked for a lot of people to work on it and a lot of people did come forward. They all gave their efforts, and they attended more than 20 hearings. I know that I served on it, and for those of us who did serve on it, we did so without pay. We found out, just as all of you are well aware, that we are not keeping up with the needs of this community. My colleague from District 42 commented on where we were deficient, where we were from 45 to 50 in rankings. Those are deplorable, especially in a state where we are ranked somewhere between 10 and 17 as far as income. It is just shameful that we should be so low in those other ratings.

No one wanted to impose heavy taxes, and we didn't want to impose taxes that would adversely affect individuals worse than anyone else. That is why we looked for something that was fair and balanced. We struck a medium on that. I know that my colleague from Henderson commented on the fact there were recent ratings and rankings. The other day USA Today had a major article that stated Nevada's fiscal management was good. There was poor, fair, good, and excellent and Nevada was ranked "good." It also stated that state spending grew slower than the population and inflation in the past five years. What were those numbers? Those numbers showed we had inflation and population change of 43 percent, while our spending only grew by 37.1 percent. As my colleague from Henderson stated, I believe that was a 1.2 percent slippage each year. The Tax Foundation Report, that everyone got a copy of, is a nonprofit, nonpartisan research public education organization that monitors taxes and fiscal activities at all levels of government since 1937. Go into that report, check the State Business Climate Index. Where is Nevada? Nevada is ranked No. 3. Go to another chart called Corporate Income Tax Index and Ranking, and Nevada is ranked No. 1.

We have heard, and we have all received tremendous numbers of e-mails about how Nevada is going to fall apart if we so much as implement any kind of a tax. I can tell you from all the ranks I gave you yesterday on the tax rates for banks in adjoining states, we are not even approaching anything that is the average of what these banks are paying. It is just absolutely unbelievable how we are looking at this, and we are just afraid to take any action. Finally, one of the other items that I know that everyone had, and my colleague from District 4 commented on the other day, was also from the Tax Foundation regarding State tax burden. The combined state and local tax burden ranked Nevada as 41st and gave us an 8.9 percent. When we hear about our extreme expenses that are costing us, these are just absolutely not true.

Mr. Speaker, I would like to read just one paragraph out of a letter that I know everyone got today. It is dated today and is written by three individuals: Mr. Kenneth Ladd, Chairman of the Nevada Development Authority and also the president of U.S. Bank; Mr. Donald Snyder, who is the president-elect, Somer Hollingsworth, who is the president and CEO of Nevada Development Authority. In that letter they state, "As we testified before the Governor's Task Force on Tax Policy last fall and before the Senate Taxation Committee early in the 2003 Legislature, the Nevada Development Authority strongly endorses passage of a broad-based business tax provided two critical concepts are incorporated into the state's tax policy. First, Nevada must remain competitive with our neighboring states with whom we compete for new business development. Although we understand we cannot retain our "no business tax" environment, we must be able to promote a low tax environment. We believe the broad-based

business tax proposals being considered would achieve this goal. Second, our state's education system K-12 and Nevada's higher education system must be properly funded." Ladies and Gentlemen, that is what S.B. 6 is trying to do. Thank you, Mr. Speaker.

ASSEMBLYMAN GOLDWATER:

Mr. Speaker, thank you. I appreciate the remarks, and I have to say that I made an offer here a few nights ago. I had the budget ready to go, to open it up for those folks who wanted to open it up. I received one visitor who suggested to me that he was good for \$500 million in taxes, but not \$800 million in taxes. That was the only visit I got, Mr. Speaker. Not a suggestion of what we need to cut, what tax might be added or subtracted or pushed or pulled, or where we can get a vote to make this worthwhile, to say, "Let's make the compromise." Not one of you, when those red lights come on, and we know they will, came to me in the spirit of compromise. That silence, Mr. Speaker, was deafening to me. It spoke a lot about what you think this state is. I think we have three options. We can be a state that provides social services to our citizens at the expense of capitalistic principles. We can be a state that exists to preserve only business interests and simply serve as guardians of the real estate and business infrastructure for businesses, or we can be a combination of the two. Now, if you are a legislator who believes that this state should only exist as a caretaker for our borders and the infrastructure just for business to exist, don't be silent. Stand up and say it. Say it loud and say it proud. You don't care about the social infrastructure of this state? You want it to be only a business-friendly environment? We need to know that, because I can't compromise. I can't work to be both a state that cares for people and for business when the entire motive is simply as a business caretaker.

I said before, and I will repeat again, we cannot let the perfect become an enemy of the good. Secretly, I knew nobody would come to me with any suggested budget cuts or any suggested alternative tax plans or tweaking of this bill. I sat on committees with people who have long supported spending this state's money. Even when we suggested cuts in certain programs, those same people, who now want the budget opened and want a more fiscally conservative budget, voted to put that money right back in. The same people before our committee asking for the state's resources are the same people who are going to push the red button. That is shameful. It is very difficult to deal with that, and in a majority situation, it wouldn't make a difference. I wouldn't have to deal with those kinds of issues. We are not in that situation. We are in a super-majority situation. We are in a situation where the chairman of the Senate Finance Committee for 30 years says, "We need \$800 million plus worth of taxes," and people who have a cumulative 30 days of budget experience say you don't know what you are talking about. They say, "Those are too many taxes; we need less." Does that make sense to you? It doesn't make sense to me. Where do we go from here? I just hope the words, the feelings, the harm that we could do to this state, sinks in a little bit. If nothing else, we can leave with you standing up and saying, "We don't want anything for the people of this state; we want to just be a business state." We want to take care of our business infrastructure. Say it so we can work around that, so those of us who do care about the social infrastructure of this state can find a way to provide for that. We will do it, but we need you to say that you are not interested in that. Say that you are only here to protect corporations that make a ton of money.

I was very interested to hear our representative from Carson City talk about his constituency. I think a lot about his constituency, too. I have a cup of coffee every morning at Comma Coffee, which, by the way, is excellent coffee. When we came up and tried to put this tax plan together, we thought about the options we had. We could tax many different things. There are certainly no new ideas in taxation, but you certainly have some options. Think about it. Here is a single mother working at a business. Her gross revenue is not even anywhere near \$500,000, where the exemption exists. We crafted this tax package so we could avoid a sales tax on her services, a special excise tax on her things, taxing her profits, taxing her gross if it didn't meet a certain criteria. We avoided those small businesses that exist in that constituency. We went for different options. We went for the option to say, "Hey, we want to get large corporations involved in investing in this state because in the end it is okay." The end products are great employees, good road infrastructure, people who buy services. It didn't just happen that these corporations make good money. A lot of people provided an opportunity for them to do so. I think this is our opportunity to provide a good balance between human services and the role of the state in

providing for its citizens, as well as keeping a very positive business environment. I challenge each of you to rise to that and to provide for that as well. Thank you, Mr. Speaker.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. I have to rise in reluctant opposition to Senate Bill 6. I have been in public service for many years. I believe that I have always taken into consideration the people who needed help. I have to oppose this tax plan and this budget because I believe it to be too extreme. The people in my area, and I agree with them, believe that we are already paying too much tax. In our area we talk about education, but we have stepped up to the plate. We have the highest *ad valorem* tax rate of any county in Nevada to provide schools for our children. You talk about big business paying taxes. To me, big businesses don't pay taxes, the consumer pays taxes. The customers pay taxes. I believe that any tax that we increase in such a degree is going to be passed on to those least able to pay, that is the people on fixed incomes and the elderly. People on fixed incomes tell me they can't afford to pay any more taxes. I think that in this tax bill, in order to get the big boys, Wal-Mart and the banks, what we have done is put a terrific tax burden on the small businessman, which I am. It has been very tough to maintain a business in my community of Elko. The gold prices went down, miners were laid off, services that were supplying the miners had to lay off workers. In my business we had to lay off. My wife and I have to live on the savings that we were able to save many years ago. Our business does not make money because we try to provide the best we can for our employees. Our employees stay with us for years and years. We try to treat them right. I just have to say that I think this tax burden is too great on the ordinary citizen and the small businessman. I believe that we can provide for those social services and those people that we need to take care of, and the kids that we need to educate. We can cut this budget, cut this tax down to where it is not so extreme. We will then provide for a better Nevada. Thank you, Mr. Speaker.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Speaker. First, I want to thank the Speaker, the Majority Floor Leader, and other members of the majority party in this House for meeting with others and me today. We did explore the opportunity to make adjustments that both parties in this House could agree to in an attempt to reach some kind of a compromise that would allow us to support Senate Bill 6. We discussed a list of reductions to the enhancements in this budget that we hoped a majority of the people in here could tolerate to make a package that was acceptable, a package that wouldn't hurt the small businesses like that of my colleague from Elko, one that wouldn't hurt the working people in the state of Nevada because they will ultimately pay these taxes. We can say that big business will pay, but the reality is, in the end, consumers pay all taxes.

I, too, could quote a lot of numbers. We all choose numbers that make our arguments sound good. I could do that as well as the rest. I will only pick a couple. Think about a billion-dollar tax increase. Think about a gross receipts tax. Before a business makes a profit, before they pay their employees, before they pay the federal tax or their employees' health insurance that we all are so worried about taking care of, they would have to pay gross receipts tax. I don't think that is beneficial to getting companies to provide health insurance and hire more people. All of us here support funding for education. Who does not support funding for education? It is unfortunate that this tax bill is tied to education funding, but it is a reality. We all know why it is, and we are not going to complain about it. It is just unfortunate that it has to come to that.

We heard about the oath that we all took when we came in here. We took an oath to support the Constitution of the State of Nevada, and I believe the United States of America, if I am not mistaken. That oath requires that this Legislature pass a balanced budget, not that any one of us must give up our right to do what we believe is right for the people of this state. It says the Legislature must pass a balanced budget. That means a compromise. That means we must work together to get this job done. Not that those of us who think this plan is too much are in any way obligated to have to vote for anything. We have a right to bring our belief to this Body, just as every one of you sitting in these chairs does, and vote our belief. We intend to do that. We are all here to do our duty. That could be accomplished today by a 3 percent cut in this proposed budget that has a billion dollar increase, and is a \$5 billion total. A simple 3 percent and a few reasonable taxes and we would be walking out of here tonight with a balanced budget, with

schools funded, with class-size reduction funded, with all the services that everyone cares about funded, for 3 percent of \$5 billion dollars.

We are here to do the right thing. I heard that we are here to support corporate America. I have to admit I resent that a little bit. I have six grandkids growing up in this state. Some are already in public school; the others will be. I care, I assure you, as much about those kids and their education as any of you do about the kids you care about. To imply that I am in any way trying to hurt them is wrong. With that, Mr. Speaker, I simply say that we all tried; you tried; the Majority Leader tried; everyone has tried to do what is right and to imply that anyone who is voting against this for his or her beliefs is wrong. I can't support this because it is too much, and I believe it will ultimately hurt Nevada. I will not mortgage my grandkids' future.

ASSEMBLYMAN WILLIAMS:

Thank you, Mr. Speaker. I rise in strong, absolute, and unwavering support of Senate Bill 6. We can talk about what we could have done in February, March, April, and May in making cuts, but it is too late for that. Quite frankly, Mr. Speaker, we are up against a wall. There is no more time for drafting another bill or doing anything differently. What we are faced with is the rate of change we have done in this Body. If the rate of change on the outside exceeds the rate of change on the inside, the end is near. To my colleagues, Mr. Speaker, I want to say to them that the end is very near. The education that we received in this state should be questioned as well. I have always been taught that education of the head with no sensitivity of the heart makes for a very, very singular dimensional individual: The kind of individual who once they get to where we are, will look back on others and say, "Why don't those people get themselves together?" The kinds of individuals who say, "Why don't those children read better?" The kinds of individuals who say, "Why don't those children act better?" The kinds of individuals who say, "Why don't those teachers teach better?" The kinds of individuals who say, "Why don't parents come around the school and participate better, and why aren't those test scores better?" Quite frankly, Mr. Speaker, my mother used to say, "If you know better, you will do better." I think all of us at this point, regardless of what happens, think about the time that is left in this Special Session. It is time for us to do better.

To all those people who are talking about leadership in their campaigns and leadership on this Floor, I say, blessed is the leader who seeks the best for those he serves. Leadership is not about your position; leadership is about action. The children and the parents in this state don't care about your position. What they care about, Mr. Speaker, is our action. A real leader will face the music regardless of what tune is played. Quite frankly, the real dance starts when the music stops. The music, my colleagues, has now stopped. It is easy to talk about statistics where Nevada ranks third in the dropout rate, and how poorly our children are doing in test scores. Children need love especially when they don't deserve it. You can talk about where we need to go or how our children are not doing well, but those are the children who really need our love tonight. Here we are sitting very comfortably in these \$700 chairs, as my colleague from District 7 said. We are like ships sitting in a harbor. Go out to the lake and you will see them sitting out there, safe and pretty. Pretty names, colors, and slogans are on them. But that is not what ships are built for. Ships are not built to sit in harbors. Ships are built to go out and sail on sunny days, stormy days, in tough, turbulent weather and smooth weather. Ships are built to go out and do what ships do: sail. We are sitting here as ships in the harbor. It is time for us to take those cute slogans off, take those cute words off our chairs and go out and sail and lift our anchor to save the children of Nevada.

Mr. Speaker, the children of Nevada need us at this hour. You can talk about 1 percent, 2 percent, 3 percent, 10 percent being cut; now is the opportunity to save what we know needs to be saved in our state. I urge my colleagues to vote for this bill. Push the green button to make a child in Nevada smile. Push the red button to make a child in Nevada cry. I urge you to vote for Senate Bill 6.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Mr. Speaker. I wasn't going to get up and speak on this, but I feel compelled because I work with a lot of seniors. I don't know if people realize but the senior population is going to outstrip the K-12 population in the next couple of years. We have seniors moving in from every state of the union. They move here without family support, and they need the safety

net that we don't provide. Let me give you a couple of examples of what we managed to squeak through in the budget this year. We managed to get some money to raise the Senior Rx program from 7,500 to 12,000 seniors. We have 350,000 seniors in this state, and we are going to have more. We have almost 200,000 veterans. We managed to get 108 additional slots in the Community Home-Based Initiative Program (CHIP) in allowing for assisted living models. We do not provide any caregiver support whatsoever. I hear from seniors all the time asking what we offer seniors in Nevada. Well, I am sorry we don't offer much in Nevada. What I am trying to say is there are lots and lots of issues. Our senior population is growing; we have the aging in place, and we have our newcomers. We also have that huge population in the senior growth between the 75- and the 90-year-olds that is not going to go down in the next few years. Those are the people we need to have a safety net for. This budget provides minimal help for seniors. This tax package will provide a stable tax base from this point. We can, hopefully, be able to improve these programs, take care of our seniors, which we are all going to be some day.

I understand our K-12 education program, and I support it fully. I support the entire budget that we worked on for months and months. I just want people to realize we have a crisis in our senior population. This tax package will provide a stable tax base so we can address those problems as they arise in the next decade.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Speaker. I feel that we are standing on the precipice of a historical time in the history of our state. Senate Bill 6 represents the largest expansion of state government in the history of our state. Tonight, I have sitting with me a teacher from Las Vegas. He came this afternoon to tell me to hold on tight. This isn't about education. This isn't about kids and school. This is about the largest expansion of government in this state's history. This is about taxes that are going to cost a family of four \$1,000 extra per year. I have families in my district that don't want government services worth \$1,000 a year. They want the \$1,000 in their pocket to take care of their children, their family, so that mom doesn't have to go to work. I rise in opposition to this bill not because I don't support children; I love children. I spent 25 years as an educator in this state. I have told you some of the problems I have with the bill. One of them is that we are still promoting a gross receipts tax. This is very hard on businesses. We are giving a pay raise to our teachers, but we are also giving it to administrators and everybody else. We say we need to put money into the classroom; well, let's do that. We say we don't want to micromanage other government entities and yet with class-size reduction that is exactly what we do. We are saying to school districts and their elected boards, "We don't think you can do a good job. We think we can do your job better." So reluctantly, I rise in opposition once more to a bill that I think we saw in the first Special Session, Assembly Bill 1. Here it is again in Senate Bill 6. Thank you, Mr. Speaker.

ASSEMBLYMAN HORNE:

Thank you, Mr. Speaker. I rise in support of Senate Bill 6 and as you all heard me say the other night, I believe that Nevada sits poised for a very, very bright future. It bothers me that many people here don't see this as an investment in Nevada's future. It is an investment in our future. We choose now that we are moving toward a better Nevada. We hear things from my colleague, the Minority Whip, about \$1,000 per family, and how they don't want that in government services. Unfortunately, many people probably don't want those in government services until it is time that they need those services. You don't get to pick and choose when you are going to lose your job unless you are self-employed. Even then it is questionable because the services you provide may all dry up. You may need services one day. Your heart might go bad right after that, and you might need Medicaid. Let's hope that the services are there when you need them. I can tell you now, a lot of times it is a struggle for those who need it now. They can't get it. They have to jump through all kinds of hoops to do it. Government services have to "rob Peter to pay Paul" to take care of the people of the state. We shouldn't be there.

Everyone on both sides is thinking about our future. I challenge you to be a steward of our future. If you are so worried about becoming the next California or being taxed beyond oblivion, then be a steward. Take the step now, because everyone knows we have to. It is not in question. It is hard but you have to take it. Take the step, then stick around. Whether or not you are elected, stick around to make sure we are heading in the direction we're supposed to be heading.

I can tell you now that doing nothing, pushing this red button, doesn't get us there. It doesn't get us there. Even those of you who have concerns that this is too big, it doesn't get us there. You still know we have to move, and pushing the red button keeps us right here. We can't be here anymore. We just can't be here anymore. Sometimes you have to run through the fire. You get burned, but you will die in the burning house if you do not get out. We have to move forward. The time is now. Be a steward of our future.

There are many of you here who know that I have been studying for the bar exam. To tell you the sacrifices that I have made, leaving a comfortable career with the airlines to make that jump to go back to school was very tough, but I did it. While my wife will beat me upon the head and shoulders when she hears this, if I have to take the Bar again in February, I will be okay with that, if we are moving in the right direction. I heard some of you say that you have multiple generations in this state. Mr. Minority Leader, I have all the respect for you, I really do, but all I have heard in the area of compromise is, "If you only do it our way we can get beyond this." What I have seen is there has been compromise throughout this whole session and including this Special Session, and we have made these compromises. If we are fortunate enough to pass this tonight we know that there will still be more compromises to be made. There will be. But we have to move on, and we have to do it now. I can take the Bar again in February or next July or the year after that, but the children of this state cannot wait until next year. They cannot. The people who need the services that the state provides, they can no longer wait until next year. We have to act now. That is why we are here, and I urge your support in passing this bill. Thank you.

ASSEMBLYMAN GRADY:

Thank you, Mr. Speaker. I had not intended to speak tonight, but looking around this hall, I first want to say that I am extremely proud to be part of the freshman class that we have this year. I guess at my age, I consider myself a seasoned freshman because I had the honor and privilege to kick around these halls for five sessions wearing the blue badge. I think I learned quite a bit. Part of the problem that we are facing tonight has not been created in the last two years. It has probably been created in the last 10 or 12 years, or longer. I am really sorry to say that in prior sessions I sat in on the Taxation Committee with the chairman being very proud to call it a "nontaxation committee." I hate to say it, but I think we are paying somewhat for that this year because we are trying to make up a deficit that has been accumulating over many years. That is unfortunate, but it is true. That is why we are here. That is why we are trying to fill this big black hole. I, like the Minority Leader, have grandchildren. I would rather be in Winnemucca tonight at my granddaughter's fifth birthday, but I am here. I have seven grandkids, and I want every one of them to have the best education that they can possibly have. Maybe we cannot correct everything in one or two years, but I think we made the start. I, too, am sorry that we did not come to the compromise that we had all hoped to come to, so we could go home. I do not know a person in here who would like to stay here tomorrow. I think we would all like to go home, but unfortunately, some of us have to vote for our constituents, our conscience, and what we feel we need to do. I am sad to say that I will be one of those that will press the red button. Thank you, Mr. Speaker.

ASSEMBLYWOMAN LESLIE:

Thank you, Mr. Speaker. I rise in support of Senate Bill 6. Over the last few days I have talked to many of the colleagues who have indicated they're going to be voting "no" tonight, to ask them what is it that we can do to make them vote "yes." Many said, "Well, for me the bottom line is \$705 million. I cannot go above that. That is the number the Governor threw out. I just can not vote for a tax above \$705 million." Some people said, "My number is \$636 million." Somebody said, "I cannot go above \$500 million." Somebody said, "Well, maybe if we get to \$790 million I could do it." Since we heard a lot of testimony the other night about the cuts that had been proposed, and I don't have the list of the new cuts the Minority Leader has been working on, I went back to his March 27 plan, and I pulled up the notes on my computer that I had made when that plan was presented in a press conference and later to the Senate. I took a look at some of those things again to see if they had been discussed in committee and what we had done about them. Of course, the notes that I personally made were mostly about education and human services because those are the two areas that I think have been underfunded in our budget for many, many, many years.

It was an interesting list. The Minority Leader suggested we delete \$68 million in university funding. We fund the university funding formula at 80.29 percent. We chose not to do that after a lot of debate in the money committees, and we went with the Governor's budget of 86 percent. The Minority Leader's plan suggested that we cut almost \$43 million out of class-size flexibility. We would have no funding for student growth. We would have more kids in classrooms, and we chose not to do that. The Minority Leader's plan also suggested millions of dollars in cuts in the Distributive School Account (DSA), including things like cutting the textbook money that the Governor put in at \$50 per child to \$25 per child. We decided not to cut the textbook money in half. He suggested we cut full-day kindergarten. We did. Many of us reluctantly agreed to that compromise in the money committees. He suggested we cut stipends for high impact teachers and teachers at at-risk schools. We worked very hard to find another way. The Senate Majority Leader was actually on the Senate Human Resources subcommittee that I chaired, which was very scary for me all session, having to chair that committee with him in the room. We did work hard, and we came up with another way to do stipends that actually saved the state some money.

In terms of human services, the Minority Leader suggested \$28.8 million cuts in welfare; not Medicaid, welfare. This would have given us a flat welfare projection with no growth. What we ended up doing, as I mentioned the other night, was actually cutting caseloads by over 25 percent after we did the new welfare projections. Also, saving the state \$18.5 million net, after we fixed a \$13 million mistake in the Governor's budget where they had over-allocated the welfare funds. So, actually we did more than the Minority Leader suggested. We ended up, if you add in that over-allocation figure, of cutting welfare \$31.5 million.

The Minority Leader suggested in his March cut plan that we eliminate Family-to-Family. That is a program that serves all newborns. We chose not to do that. We did roll it into the Family Resource budget and saved some administration dollars. The Minority Leader's spending cut plan suggested that we not expand Senior Rx. We chose not to do that, which would have saved \$5 million. We chose not to do that. We did not want to have a longer waiting list for seniors who need prescription care. It was suggested that we cut \$1 million in the personal attendant care services. As my colleague from Las Vegas talked about, we agreed not to do that. We thought longer waiting lists for the most severely disabled in our state was simply not acceptable. A suggestion was made that we cut \$1.8 million in funding for personal assistance services for seniors. We decided not to do that because that would have left more seniors in long-term care. A suggestion was made that we cut \$307,000 for a program called Family Preservation that actually gives small cash payments to families who keep their mentally retarded relatives in their home and take care of them instead of costing the state a whole lot more by putting those people into long-term care. We chose not to do that. It was suggested that we save \$4.5 million by leaving our mentally retarded citizens on waiting lists or in out-of-state programs. We chose not to do that. That was the Olmstead Supreme Court decision to try to bring those people back home. We chose to take care of them. It was suggested \$228,000 in cuts at Rural Mental Health Clinics where there would be more waiting lists. We chose not to do that either. We have one of the highest rural suicide rates in the nation. We think it is high time that we spend more money treating mental health needs in rural Nevada.

I am almost done; I won't go on and on. I just have a couple more. A suggestion was made to cut \$1.6 million in early intervention programs for children 0 to 3 years of age. We chose not to do that because this would affect children with developmental delays such as autism, who would have to wait even longer for services. The federal law says we have 45 days to do an initial evaluation for these kids. At the time I wrote this in March, we were at 138 days. We are going to get sanctioned by the feds if we do not improve those services, so we chose not to do that either. And finally, the suggestion was made to cap enrollment in Nevada Check Up, our program that helps provide insurance to low-income kids who do not have insurance. We could have saved \$5 million there, but what would that have done? It would mean that more kids would have to go to hospital emergency rooms and get the most expensive health care on the planet.

Finally, there were two suggestions in the tax plan that I wrote down as enhancements. One was to add \$4 million to privatize Summit View Youth Correctional Center, our prison in southern Nevada for the most chronic youth offenders. We chose not to privatize and instead eliminated that enhancement and went with the state-run facility. Finally, there was one

enhancement we did agree to in the Public Safety Subcommittee. We did add, as the Minority Leader requested, \$3.9 million to restore the Indiana program so we can help keep methamphetamine under control in rural Nevada.

This budget that 65 percent of us passed in both Houses does not do justice to the needs of our citizens. I know that. It was a very good compromise with the Senate. We fought long and hard over it. We came to the compromise that you all know very well now. It is heading Nevada down the path that we need to go to get us out of 51st, 50th, 49th place. We did not agree with many of the budget cuts that the Minority Leader suggested because we felt that it hurt the very people that we were sent here to represent, so we did not do that.

Finally, Mr. Speaker, my colleague to the right of me and I have been sharing e-mails all day from some of the people in our district. A few people actually live in our districts and sent us "Don't raise taxes," messages and we have a little thing going where we respond to them and explain our position. Both of us by the end of today have had people we've actually converted to our cause, who, after they understand some of the things I have outlined here tonight, have e-mailed us back at the end and said, "You know what, you convinced me. We do need to raise taxes for our state. We want you to tax big business and banks to help Nevada get on the road that it needs to be, and we support you." Thank you, Mr. Speaker.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Speaker, for recognizing me a second time. One of the reasons I chose not to use numbers was, as I told you, because you can use the numbers to say whatever you want. The reality of the situation was the budget that I proposed included the Governor's current budget and all of the maintenance, which means estimated or projected caseload growth all funded in the maintenance, every bit of it. Every cut that you just heard mentioned was a reduction of an enhancement of a program that was not yet funded or in existence, or people caseloads not yet being funded in any way. So these were merely reductions of enhancements that were proposed in this budget. They were not cuts of anybody. All of the maintenance was included in everything that I proposed. Thank you again, Mr. Speaker, for the second recognition.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. My colleague from Elko, who I enjoy so much working with over the years, talked about his constituents having to pay too much and the ad valorem rates in the Elko area are too high. He did not want to do anything to hurt the mines that are so important to that area. All are valid concerns and all are reasons to support this bill. This bill does not raise property taxes. This bill does not hurt our constituents who are paying too much. It does not raise their sales taxes. It is supported by mines, construction, and by major industries. It does not have so many of the taxes that were rejected because they hurt people: taxes levied every time someone gets their hair cut, every time they get their lawn mowed. It creates for the first time a business tax on big business, banks, and raises a tax on gaming. That is what this bill does.

My colleagues have made numerous arguments tonight that taxes are passed on. There are certain taxes that can be guaranteed to be passed on. Those are sales taxes, things we didn't put in this budget because we do not want them passed on to the average person who is already paying them in this state. We have heard evidence throughout these last five months that businesses pay taxes in every other state but they do not pay them here. We are not getting price breaks based on the break they are getting here, and the bottom line is we have known for two decades that we are too big now to just rely on gaming.

We do not want to tax at a high rate. We want to still have one of the lowest tax rates around, and that is what this bill does. It creates a business tax for the first time at a low rate that will ensure all the needs of our state are met. There were complaints about the franchise tax that is paid regardless of profits. Well, so is payroll. Do you get a break on your payroll tax because you do not make a profit? Do you get a break when you pay for gas if you did not make a profit that year? No, taxes do not work that way. The reason a franchise tax was placed in this bill along with payroll was to create a fair and balanced tax plan. It's called horizontal equity. It means that you do not want to tax businesses that have high labor costs. You do not want to penalize them just because they employ people. We want businesses to employ people. We want to attract those kinds of businesses, and it makes no sense to hit a business harder just because they employ people. That is why you have both. You have a tax that is going to get at businesses

that are doing very well and do not employ many people, as well as a complimentary tax to make it fair to all. That is why you have both. Having a balanced bill with both payroll and franchise hits every part of the economy, which makes it fairer.

My colleagues also argue this is the biggest expansion, the biggest tax increase in Nevada's history. Well, they are right, but that is because we never taxed business before. We have never had a broad-based business tax. It is no clue as to why people now will have to start paying and why it is a large number, because no one had to pay anything before. My colleague, the Minority Leader, talked about how we have to be reasonable; we have to compromise. All he is seeking is reduction of enhancements. Well, you know, what is a reduction of an enhancement? That means seniors who are on the waiting list for Senior Rx do not get help with prescription drugs. It means one of the most successful programs in recent history for health care, Nevada Check Up—which helps children of the working poor whose parents are working and willing to pay their co-pays and enrollment fee—even though we estimate that there are 80,000, we can't help any more of them. Reduction of enhancement sounds like a great budget term, but what it means is that people can't get medications at our mental health clinics because we are still at a level that was less than 1991 when Governor Miller had to cut the budget because we did not have a business tax. These reductions of enhancements hurt people in our state.

We are here at a unique time. We all received a letter from the Superintendent of Schools. Some school districts have placed a hold on hiring teachers; more than 1,800 teaching vacancies exist across the state. School districts are unable to extend these offers because of our budget impasse. Highly qualified teachers cannot be hired, which puts us out of compliance with No Child Left Behind; disruptions for multi-track schools that are in session now; schools being forced to use long-term substitutes; and Gifted And Talented Education (GATE), the only thing that gets my child's interest in fourth and fifth grades, is being cut. I get calls asking, "What about literacy? It's a shame that our best kids aren't being stimulated." But, what about kids that won't even get the help to be able to read? We want higher standards for test scores, but we are going to cut back on literacy specialists because we can't reach a decision. That is unacceptable.

My colleague, the Minority Leader, said, "We are willing to compromise; we want to be reasonable, but the number has to be lower." You know, we have a process here where we bring bills to committees. We may lose, but that is the process. To have a press conference 45 days into session is not enough. I believe that we have to keep going and that is why, this afternoon, I went to the Minority Leader's office to say, "Does anybody want to talk about a compromise?" We had a good discussion, and I was not told to go away. We had a discussion. We threw things out on the table, and, at times, I felt we were right there because what we were saying is, "This is too important not to agree." What can we do? What can we give you? But, if the answer is, "The only way we are going to agree is if we cut kids off health insurance and do not expand Senior Rx," I am sorry, that is just not going to do it. My colleague, the Minority Leader, said, "I won't mortgage my grandchildren's future to support this bill." Well, I won't balance the budget on the backs of children and seniors so I can shield some businesses from finally beginning to pay one of the lowest taxes in the country. I won't do it.

We have to act. We have to act tonight. I think that the outcome is predetermined, but I implore any of you to step forward and do the right thing and get us 28 votes to continue this process. My door will remain open to anyone who votes for this bill, or who does not vote for this bill, that is willing to solve this impasse right now. Otherwise, we are in court on Tuesday, and schools continue to be in disarray. You have an option right now to prevent that from happening. That is the way this should be solved. You know, I am sorry that the ultimate number came out being a little higher than you wanted it to be. I have lost battles in this Legislative Body before and when you lose you do not shut down schools. You do not shut down government. You try to do your best to the very last minute to improve that bill and you come back the next time and you fight even harder. You make that first bill draft request an effort to change things the way you believe Nevada should be run. You do not take your ball and go home, and you do not shut down schools.

Potential conflict of interest declared by Assemblymen Knecht and Brown.
Roll call on Senate Bill No. 6:

YEAS—27.

NAYS—Andonov, Angle, Beers, Brown, Carpenter, Christensen, Goicoechea, Grady, Gustavson, Hettrick, Knecht, Mabey, Marvel, Sherer, Weber—15.

Senate Bill No. 6 having failed to receive a two-thirds majority, Mr. Speaker declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the vote whereby Senate Bill No. 6 was lost be rescinded.

Remarks by Assemblywoman Buckley.

Motion carried.

Assemblywoman Buckley moved that Senate Bill No. 6 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bills Nos. 1 and 3.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Angle, the privilege of the floor of the Assembly Chamber for this day was extended to Robert A. Yeary.

On request of Assemblyman Knecht, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Keeton and Kaye Keeton.

Assemblywoman Buckley moved that the Assembly adjourn until Saturday, June 28, 2003, at 11:00 a.m.

Motion carried.

Assembly adjourned at 10:37 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE FOURTH DAY

CARSON CITY (Saturday, June 28, 2003)

Assembly called to order at 3:48 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Beverly Mobley.

Let us pray. Dear Lord, we come before You today with open hearts. We ask that You fill them with Your strength, Your guidance and wisdom for each individual. We ask, too, for understanding amongst ourselves.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Senate Bill No. 6 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 6.

Bill read third time.

Roll call on Senate Bill No. 6:

YEAS—27.

NAYS—Andonov, Angle, Beers, Brown, Carpenter, Christensen, Goicoechea, Grady, Gustavson, Hettrick, Knecht, Mabey, Marvel, Sherer, Weber—15.

Senate Bill No. 6 having failed to receive a two-thirds majority, Mr. Speaker declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the vote whereby Senate Bill No. 6 was lost be rescinded.

Motion carried.

Assemblywoman Buckley moved that Senate Bill No. 6 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Collins, the privilege of the floor of the Assembly Chamber for this day was extended to Ashlynd Baker.

Assemblywoman Buckley moved that the Assembly adjourn until Sunday, June 29, 2003, at 11:00 a.m.

Motion carried.

Assembly adjourned at 3:57 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE FIFTH DAY

CARSON CITY (Sunday), June 29, 2003

Assembly called to order at 5:26 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblymen Goldwater, Hardy, and Williams, who were excused.

Prayer by the Chaplain, Beverly Mobley.

Dear Lord, Your gift of summer is upon us with its warmth and clear heavens. Thank You, Lord. Each day we pledge together as one nation. Today, we pray as one body for clarity of purpose and advocacy of togetherness.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

Assemblywoman Buckley moved that the Assembly adjourn until Monday, June 30, 2003, at 10:00 a.m.

Motion carried.

Assembly adjourned at 5:30 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE NINETEENTH DAY

CARSON CITY (Sunday), July 13, 2003

Assembly called to order at 2:47 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Assemblyman Bernie Anderson.

Excerpted from the poem "One" by Cheryl Sawyer, 2001.

"As the soot and dirt and ash rained down, we became one color. As we carried each other down the stairs of the burning building, we became one class. As we lit candles of waiting and hope, we became one generation. As the firefighters and police officers fought their way into the inferno, we became one gender. As we fell to our knees in prayer for strength, we became one faith. As we whispered or shouted words of encouragement, we spoke one language. As we gave our blood in lines a mile long, we became one body. As we mourned together the great loss, we became one family. As we cried tears of grief and loss, we became one soul. As we retell with pride of the sacrifice of our heroes, we became one people. We are one color, one class, one generation, one gender, one faith, one language, one body, one family, one soul, one people. We are the power of One. We are united." We are Nevadans. We are Americans. Let us then pray for peace and guidance in the days ahead.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 6, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Senate Bill No. 6 considered.

CHAIRMAN PERKINS:

Just as a point of information for the members of the committee, over the past week the Minority Leader, others, and myself have had several meetings with the other House to talk about ways to resolve the situation we find ourselves in and find resolution to this issue in terms of funding education and having a balanced budget. At this point, we will offer further amendment to Senate Bill 6.

ASSEMBLYWOMAN BUCKLEY:

Mr. Chairman, may we have a one-minute recess so we can distribute summaries of the proposed amendments.

Chairman Perkins announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 2:52 p.m.

IN COMMITTEE OF THE WHOLE

At 3:05 p.m.

Assemblyman Perkins presiding.

Quorum present.

CHAIRMAN PERKINS:

The Committee will come back to order. I want to make sure everyone has the summary and revenue sheet that goes with the proposed amendment. Will the Majority Leader please walk us through the summary?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. The summary is fairly self-explanatory, and Mark Stevens is here to add any elaboration or to assist with any questions. I will run through it briefly. What the proposed amendment to S.B. 6 would do is first, decrease the rate of the payroll tax to 0.5 percent of capped wages. It would increase the banking franchise tax to 4 percent. It would make various changes with regard to the live entertainment tax. This section has received the most collaboration over the past week and a half. There were a number of concerns about the live entertainment tax, which intend to be remedied by these suggestions.

First, like many of the other changes on here, it changes the effective date because, obviously, we cannot change it effective July 1, 2003.

Additionally, it lowers the proposed live entertainment tax for facilities with seats over 7,500 not affiliated with a gaming establishment. In the previous iteration it was at 10 percent including food and drink, and that was thought to be just too high after further comparison of comparable arenas. This lowers it to 5 percent while still expanding the casino entertainment tax to increase the seat capacity there from 2,750 up to 7,500. It would still capture Celine Dion, for example, but it would reduce the tax on events at say Thomas and Mack, a rodeo, and the like. Additionally, there were changes made to the nongaming establishment live entertainment venues. What those would do is try to hit the higher admission charge for those entertainment facilities, but keep it lower for facilities of less than 300. An example would be if a small bar wants to offer a live band with a cover charge, they would not be taxed at the higher end, but if you had a strip club for example, like some of the new strip clubs in Las Vegas, it would be taxed at the higher amount.

The business franchise tax fee would be changed to ensure that nonprofits were not included. This is clarification to ensure that the revenue from unrelated trades was included. This was requested by the nonprofit credit unions that thought the language was not clear enough. This would be remedied in the amendment. Additionally, it protects the smallest business whose total revenue is less than \$500,000. Now they would be excluded altogether from any sort of fee. Again, on the business license fee it would eliminate the proposed extension of the fee to a nonprofit that has taxable income from an unrelated trade. The liquor tax is reduced to 50 percent. The cigarette tax reduced to 45 percent. It authorizes the county recorder to retain a higher collection allowance for the real property transfer tax. Legal and staff have suggested a number of cleanup amendments which are included in number 10, eliminating some miscellaneous, obsolete references to actions taken in previous legislative sessions. For example, there is a provision about the status of newspaper carriers/delivery people. They no longer collect revenue in Nevada. It is all done through centralized billing.

There were some other obsolete references that they felt it was necessary to clarify. Additionally, the other item of significance is the overall number of the package has been reduced in response to requests, negotiations, and collaborations between members. The \$30 million put in the Rainy Day Fund has been eliminated. Additionally, the compliance audit has been reprojected and with those changes and eliminating the Secretary of State fees, which are contained in S.B. 2 and not S.B. 6, the total value of this revenue package, as contained in S.B. 6, is \$788,800,000. That is the sum and substance of the changes being recommended, and I urge your support.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. I have a couple of questions, if I may, please, on clarification for the members on S.B. 2's resident agent fees. I believe what the Majority Leader told us was that A.B. 536's resident agent fees are going to be contained separately, but would be included in the total revenue package. Is that correct?

CHAIRMAN PERKINS:

Mr. Hettrick, it was said that should that bill pass, then, certainly, the revenues would be up, but there is no certainty that the bill will pass.

ASSEMBLYMAN HETTRICK:

I wanted to clarify that the intention was to pass that bill in the fees, but it's in a separate bill and would obviously have to be voted out, so the intent is that bill would be included in the total funding.

CHAIRMAN PERKINS:

That would be the intention. If that bill fails to pass, then we will have to find some differences in the budget to arrive at \$788,800,000.

ASSEMBLYMAN HETTRICK:

A second question if I may, on two points of the banking franchise fees. First, it is raised to 4 percent and then in 2(c), is it now applying to the gross revenue of the financial institution from its entire operations as a financial institution?

CHAIRMAN PERKINS:

I asked that question myself this morning of Legal, and basically I was told that is the way to come up with an apportionment percentage. It's not on a gross revenue tax basis. That is how the percentage for apportionment is determined, based upon total revenues throughout other states as well, if they operate in multistates. That question concerned me also.

ASSEMBLYMAN HETTRICK:

I understand, Mr. Chairman. I wanted to clarify that, indeed, this is still only on Nevada revenue and not on all of their operations. Thank you for clarifying that. Thank you.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Chairman. My first question, in S.B. 6 we included the Distributive School Account and also class-size reduction, and I am wondering if those are still contained within S.B. 6 as we are amending it now?

CHAIRMAN PERKINS:

That's correct. This amendment does not remove the Distributive School Account or class-size reduction from S.B. 6.

ASSEMBLYWOMAN ANGLE:

Then, I have a point of clarification. In our Constitution, Article 4, Section 17, says we can only deal with one subject per bill. I'm wondering how we reconcile the combining of Distributive School Account education and class-size reduction funding with taxation? How do those two things go together in the same bill? Do we not need two separate bills as the Senate has passed over to us?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. While that has nothing to do with the amendment that we are considering, may I point out again this Special Session, our Legal Division has found that it clearly met the one-subject rule, or else they would not have allowed us to combine them. Secondly, the Attorney General came right here in our Chambers and told us that it would be impermissible to pass school funding, the appropriations for it, without the revenue to support it. It would be like writing a check when you know there is no money in the bank to pay for it. That's why it was combined.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. On Section 190, the 107 per cent spending cap, I am trying to understand what that would mean vis-à-vis, and I ask the Majority Leader to clarify. The intent was to have monies that exceeded 107 per cent of what was asked for. If more monies came in, then those monies would revert from a special fund back into the General Fund to supplant or replace taxation. The wording is not clear to me as to what really happens, or if we are able to use or spend that money in a different way.

CHAIRMAN PERKINS:

Actually, Mr. Hardy, we had that discussion last Saturday with the Minority Leader and others, and there was concern about a potential future hole.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. This was brought up at some of the meetings we had, and there was a concern that if we directed anything over 7 percent immediately to the Rainy Day Fund, there was no way to get it out. Therefore, knowing that we have some nonrecurring revenue that is included within the existing budget, we would be putting money into the Rainy Day Fund and could create a hole in the next legislative session that could have been filled should there be excess revenue by using some of this money to fill it. After some discussion, we felt it was prudent to offer the opportunity to fill the hole for the nonrecurring funds before we move to put money into a savings account that we could not touch, so that is why we decided to change this language.

ASSEMBLYMAN BEERS:

Thank you, Mr. Chairman. If I could draw everyone's attention to page 13 of the bill, we're amending lines 41 and 42. This goes back to apportionment of a multiple-state entity's national income to Nevada.

CHAIRMAN PERKINS:

S.B. 6?

ASSEMBLYMAN BEERS:

Yes, Senate Bill 6 page 13, lines 41 and 42, is being amended on page 2 of the amendment, midpage. This is where we are changing it so the apportionment method is going to be the amount of revenue derived from Nevada customers of that organization, divided by that organization's national revenue. My question is that one of those companies, sitting on the fence watching what we do, is going to bring 250 jobs to Henderson, and that is John Deere Tractors, a lending operation. That would be an operation that would presumably have very little income generated from Nevada customers, but would still have 250 people in Nevada servicing customers from out of state. As I understand, they would pay very little of this income tax because their income is derived by Nevada employees servicing customers that are out of state. Do I understand this correctly?

CHAIRMAN PERKINS:

I believe you do. We will have Legal Counsel answer your questions specifically. It is the same question I asked this morning. In essence, they are trying to find an apportion formula for Nevada-based revenues. This formula is better phrased than the formula used before. We will have that question answered for you. While we're waiting, are there other comments or questions from the committee?

To recap what is in the proposed amendment, there is a reduction in the employer payroll tax; an increase in the banking franchise tax; clarification language in the live entertainment tax; further exemption for small businesses on the business franchise fee so no business entity whose revenue is less than \$500,000 would pay that; the business license fee is clarified because of obsolete language; the liquor tax is at 50 percent; cigarette tax is 45 cents, down from what is currently in the bill; the real property transfer tax has a definite date of implementation; the nonrestricted gaming license fee, the implementation date has been moved back one month because of the timing of this meeting; removes \$30 million in the Rainy Day Fund; restates the 7 percent cap; if we receive more revenues than projected, it can be used for nonrecurring revenue; and additional technical corrections.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. Just for clarification, is the \$500,000 for every business not included as part of the tax?

CHAIRMAN PERKINS:

Just the businesses making under \$500,000 are excluded from the tax.

ASSEMBLYWOMAN GIBBONS:

So if the business made \$505,000, then they would pay the tax?

CHAIRMAN PERKINS:

That's correct. Previous iterations of the bill started taxation as low as \$100,000 and we have exempted businesses that make up to \$500,000.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. Back to the question of my colleague to my left, we have some clarification from Legal that your statement was correct. That is the model utilized by most states in apportioning income and also the one that was viewed as the most fair by those representing our own Nevada banks, and that is why that formula was being utilized.

CHAIRMAN PERKINS:

Mr. Beers, does that answer your question?

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Chairman. Do we have any idea on raising the banking fee by 4 percent, what that might do to the financial institutions coming to Nevada or leaving? Were banking people part of this discussion on what happens?

CHAIRMAN PERKINS:

My recollection of the discussions for most of this session—and certainly I am not an authority on financial institutions—is if this was not the lowest, then it is one of the lowest in the country. If that's a consideration for financial institutions, then we won't have "priced" ourselves out of the market. It is certainly an institution-by-institution decision that's always a decision point when someone decides to locate a business to the state. I think it is one of the reasons why we have tried to keep all the rates, as it relates to business in this bill, as low as possible, particularly with surrounding states, but be competitive with virtually any state. So, the short answer is "No," I don't specifically, but we held those numbers as low as possible.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. Maybe I'll just remind people that Arizona has a 6.9 percent franchise fee, California 10.8, Idaho 7.6, Oregon 6.6, and Utah 5.0. This 4 percent recommendation should have no impact and, in fact, it will prevent Nevadans currently paying to subsidize other states that keep their money here, and it still will be one of the lowest. A recent newspaper stated Bank of America is expanding in Las Vegas and, in fact, unveiling a new branch design. In *Business Week*, there was an article on June 13, 2003, that quoted one of their Chairs saying, "In 2002, we deemed it an awful year because Bank of America earnings only leaped 36 percent to \$9.25 billion, ranking it number five among the world's corporations." I

don't think we have any problem with having Bank of America and some of these larger banks that aren't paying a dime in Nevada start paying under this piece of legislation.

ASSEMBLYMAN BROWN:

Thank you, Mr. Chairman. In that regard, if I may, I had an interesting conversation on the airplane—and I haven't had the chance to verify this—with a gentleman from the state of Utah. We were discussing taxes, and he stated, in query to a financial-institution industry-specific tax, "Was there such a franchise tax or industry-specific tax?" The gentleman commented, "There was no such tax in Utah." I have not had the chance to verify that. I would like to look at that. I am wondering, perhaps, if there is a response from somebody who has looked at whether that is a general business tax of 5 percent in the state of Utah or if that is an industry-specific tax. For those other states cited, are those general business taxes at those rates or are they industry-specific to financial institutions? Thank you, Mr. Chairman.

ASSEMBLYMAN PARKS:

Thank you, Mr. Chairman. In response to my colleague from Henderson, in the state of Utah it is a general business tax that is applied to all businesses and corporations, including financial institutions. Thank you.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Chairman. I have discussed this matter with the executive in charge of Harley Davidson Finance here in Carson City, the largest private employer in our town. I am informed that first, because of what we're doing here, they have put any expansion on hold; and second, they are reconsidering whether they will remain here. Third, because of the nature of their business, it is very easy to move anywhere. It doesn't have to go to Utah, doesn't have to go to California. That's why it's not there because California, Arizona, et cetera, have unduly high taxes on this industry. Nevada attracts these institutions, these employers, these jobs, precisely because we don't have these onerous taxes. They can go to Wyoming. They can go to South Dakota. They can go to Delaware. They can go anywhere. They can even go offshore if we want to chase them away with this kind of tax. Thank you, Mr. Chairman.

ASSEMBLYMAN BEERS:

Thank you, Mr. Chairman. Following up on the discussion with Mr. Brown and Ms. Giunchigliani, the 4 percent in this bill, as I understand it, is being applied against gross. All the other general business taxes, like Utah's 6 percent are applied against net income. In a tight banking business with a 3 percent profit margin, a 4 percent of gross would conceivably drive them actually in a loss position. I want to make sure that we're not comparing net income tax rates with rates on gross receipts.

ASSEMBLYWOMAN BUCKLEY:

It is on net. I will have Legal explain further.

BRENDA ERDOES, LEGISLATIVE COUNSEL:

Section 24, 3a, will tell you that the tax itself is on the net income. It's actually on the Nevada net income of the bank. The gross revenue information that you see there in the definition applies only for the apportionment formula. It does not apply to the imposition of the tax itself.

ASSEMBLYMAN BEERS:

So we are apportioning based on the gross revenue but taxing the net income?

CHAIRMAN PERKINS:

That's correct.

BRENDA ERDOES:

The actual rate of the tax of 4 percent is against the Nevada taxable income. That is the net income. You find the numerator and the denominator based on gross revenue, and that fraction is applied to the total taxes to come to the Nevada share of that.

ASSEMBLYMAN BEERS:

So we apply that percentage to the net income on that corporation's form 1120 for its national operations?

BRENDA ERDOES:

Yes, once it has been apportioned to Nevada. Only the portion of the net income that is apportioned to Nevada based on the formula, based on the gross.

ASSEMBLYMAN BEERS:

For a corporation, the 1120 comes down to a taxable net income figure, then we take the Nevada business divided by the national business as the percentage, times the 1120's net income?

BRENDA ERDOES:

Basically, that's the way it works. There is a little bit of room built in for the Department of Taxation to make sure that the apportionment works correctly, but that's the way it would work.

ASSEMBLYMAN BROWN:

Thank you, Mr. Chairman, for recognizing me a second time. Perhaps to the Chairman of Taxation, I was wondering about the comparisons recited to the states of Utah, California, Arizona, Oregon, and Idaho, and frankly I am bothered by the fact that Utah was represented as a franchise tax. It wasn't a franchise tax. I am very interested in the comparison between the states cited here. Does California have a franchise tax? Does Arizona have a banking franchise tax? Does Oregon have a banking franchise tax? Does Idaho have a banking franchise tax? If we're going to get comparisons, I would like to see "apples-to-apples," so if we have a response to that I would very much appreciate it.

ASSEMBLYMAN PARKS:

Thank you, Mr. Chairman. In response to my colleague from Henderson, I would say the states of Arizona, California, Idaho, and Oregon, the rates explained by our colleague from District 9 all have specific financial institution franchise taxes. With regard to Utah, as it was explained to me, they are included in the 5 percent calculations of corporate taxes paid by a general corporation. So it is not specifically identified, and looking at the 2003 State Tax Handbook for the State of Utah shows it being a corporate franchise and corporate gross receipts-type tax. It is listed as a franchise tax and it is listed as 5 percent of Utah taxable income with a minimum of \$100. If I might also comment, we constantly hear about South Dakota and why South Dakota is popular for having financial institutions. I might indicate that banks and financial corporations pay a 6 percent net income tax on the first \$100,000,000 of revenue. Thank you.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Mr. Chairman. A moment ago we were referring to Secretary of State fees, and we bring in anywhere from \$100,000,000 to \$150,000,000, depending on the passage of A.B. 536. In the Secretary of State fees, 80 percent are foreign corporations that register here or through resident agents registering their businesses in Nevada. I'm just wondering, what do we have in the form of exemptions, or do we exempt parts of that particular industry or those organizations that want to register their patents or copyrights in Nevada?

CHAIRMAN PERKINS:

Is your question, "Are there exemptions in the Secretary of State fees for those businesses?" I don't know the answer to that, but that is not in the bill that is before us right now. That will be in Senate Bill 2.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. I'm looking at the health-care industry inasmuch as the long-term care units are de facto, nonprofit organizations, and one-third of which have been in bankruptcy or getting close to one of those chapters leading there. I am looking at the long-term care and do not see any protection for them; that may be an oversight. I do see the school audits still in place full-force and wondered if there was discussion to decrease those, as well as the unfunded

mandate that I consider in the Business Advisory Council, Section 191, likewise on the nonprofits, on their definitions, Sections 60 and 58, page 30, S.B. 6, second reprint. Have we changed all of those nonprofit clauses throughout the bill, or are we still at the same language in S.B. 6 second reprint? Thank you, whoever would like to help me.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. First, with regard to the nonprofit corporations and their treatment, the Legal Division worked diligently to ensure that 501(c) nonprofits were not going to be subject to payroll and franchise taxes, and we would not change our long-standing Nevada tradition of not taxing nonprofit organizations. With regard to nursing homes, they did not receive a special exemption. With your comment last time, we double-checked and it is interesting that of all the long-term entities now operating in Nevada, only two in the entire state of Nevada are owned by Nevada businesses. The rest have now been taken over by the large out-of-state corporations. Because of all the difficulties in the field, we are hoping that through the passage of the bill of my colleague from Assembly District 10, that we will be able to achieve some funding and get an additional 50 percent federal match by that industry solution and, by his sponsoring of that bill, be able to help out the nursing home industry. I think that was all the questions I followed.

ASSEMBLYMAN HARDY:

School audits in Section 191.5, do we really want to include all of those school districts and the Business Advisory Council in Section 191, as well, which will create an unfunded mandate. If we were going to suggest something, I would suggest looking at a population cap that would get at least a county that we're close to and a county where I live and try to limit the audits necessary in the school districts.

CHAIRMAN PERKINS:

They are still in the bill. Mr. Goldwater, do you want to address one of those points?

ASSEMBLYMAN GOLDWATER:

Thank you, Mr. Chairman. Dr. Hardy, that was Assembly Bill 162 and I think this has passed, unanimously. It is not an unfunded mandate. It is going to be done by the Legislative Auditor. There was discussion on whether or not there would be an audit firm hired outside of either the school district or the Legislature, and that was too high a price tag. The Legislative Auditor, with an additional appropriation, represented to this Legislature that he could handle it. It is not as comprehensive as in other school districts, as it will be in probably two of the major ones; but there are certain issues in those school districts that I think our Legislative Auditor will focus on, so it is worth including them in this mandate to pick up on some of the facilities' issues in some of the districts, as well as some of the transportation issues in some of the other districts. Including the Business Advisory Council was something that proponents of the measure felt was very important, to connect what was happening in taxation and what was happening at the district. For a great many people there was a chasm between understanding what was happening administratively, the needs of the education system in this state, and the people who are going to end up paying for it, which are the big businesses in this state. If, somehow, we could have these people meet on a regular basis and understand some of the issues, hopefully that communication process and that understanding and the chasm will be breached.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. I guess I have a philosophic difference in the Business Advisory Council for all of the school districts that are targeted. I think that some of the smaller school districts eat, live, and breath with the people who are involved with the school districts and I do not see the need to have a Business Advisory Council for, perhaps, 15 out of the 17 school districts. I think that creates another meeting, another group, and another set of time frames for someone to go to and takes away from their duties that would be better spent in the school. I would leave it at that. Thank you.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. On page 7 of the amendment, would the live entertainment charge apply to grocery stores that have slot machines and, if for example, they were doing a promotion for the Fourth of July and had a live Dixie band out front and they were selling ribs and hot dogs, or whatever, would they be responsible for paying an entertainment tax?

CHAIRMAN PERKINS:

Only if they do ribs and hot dogs.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I was thinking I have been going to the wrong grocery store. On the top of page 7, the first paragraph, you can see our staff drafted wording to specifically not apply to those more limited gaming establishments, such as grocery stores, which are limited in their number of slot machines. It indicates that, as used by the section, it's licensed for less than 51 slots, less than 6 games, or any combination within those limits. It was to exempt the small folks such as a grocery store or other places with a smaller number of slots, but staff advises me not under 300, so that we could be specific in our application.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. Does the bill still include mortgage brokers under financial institutions?

ASSEMBLYWOMAN BUCKLEY:

That is not being changed in this amendment.

ASSEMBLYMAN MARVEL:

Thank you, Mr. Chairman. I would like to follow up my colleague's question from District 22's question to the Chairman of the Committee on Taxation. I was satisfied with the answer regarding Utah, but regarding the franchise taxes, do the other surrounding states have a general franchise fee, or an industry-specific for banks?

ASSEMBLYMAN PARKS:

Thank you, Mr. Chairman. In response to Mr. Marvel, the individual states, with the exception of Utah, surrounding Nevada, all have industry-specific bank franchise taxes. Utah is the only one that has a tax that is included in its general business tax.

ASSEMBLYMAN MARVEL:

Do they have general franchise taxes otherwise, in other states, or just the industry specific for banking?

ASSEMBLYMAN PARKS:

Yes, Mr. Marvel, they do have specific business or franchise-type taxes in addition to their financial franchise taxes. It is only that the other four states specifically enumerate them separately. Utah does not. It is included in the other statutes in the state of Utah.

ASSEMBLYMAN MARVEL:

But there are franchise taxes spread among the various industries, right?

ASSEMBLYMAN PARKS:

That is correct.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I would move that we adopt the amendment, and amend and do pass S.B. 6.

CHAIRMAN PERKINS:

We have a motion by Ms. Buckley and a second by Mr. Goldwater. Are there any comments or questions on the motion? All those in favor of the motion please indicate by saying "Aye." Are there any opposed? Motion carries. The amendment is adopted.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. Given the situation of the negotiations that have gone on over the last week, and given the headline in the paper saying that it may not be easy to reach an agreement, even with a simple majority, I would like to move that this Body request a bill draft for a continuing resolution to fund education. I believe we should, at least, have that draft in hand so if we come to an impasse here that for some reason can't be moved, we fund education and move on. I think that is our responsibility and we would all agree to that. So, I would like to move that we request a bill draft for a continuing resolution to fund education.

CHAIRMAN PERKINS:

We have a motion from Mr. Hettrick, seconded by Ms. Angle. I would just suggest to the Body that, if we can come to a resolution, a continuing resolution would not be necessary. I think that we've been ordered back here to get our work done expeditiously, and I have some optimism after the discussions we've had with the Senate, that we will be able to conclude our work very quickly.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. To you and through you, to my colleague, the Minority Leader, I have some very practical concerns about that. One of the things that we are trying to do this session is to make some improvements to our education system. I understand that we are allocating about \$229 million additionally to fund education. That includes textbooks, a 2 percent salary increase, and the like. Additionally, we have at least approximately a \$200 million hole in the budget based on 9/11. We need that amount just to keep the other services going, so, as a practical matter, I don't want to give the school districts what we gave them last time. I want to give them enough to keep up with growth, and to pay a measly 2 percent increase. I think if we do anything with a continuing resolution or with our entire bill, we should raise the teacher salary increase to 3 or 4 percent, so that we are keeping our qualified teachers. How does that work when we are in such a deficit situation? What does that do to the school district when they need to extend offers, and all we are doing is funding by previous rates? Wouldn't we be better served in this Body to continue to work towards two-thirds in both Houses for a budget that makes sense and at least keeps up with growth in education? I see a continuing resolution as taking a step backwards. I guess what I was going to say, because this kind of took me by surprise, maybe we should wait till Wednesday before we do that; but you know what, that's accepting failure. That is unacceptable. We need to come up with this budget, and we need to fund it so that the school districts can finally make their offers and get qualified teachers in every classroom. We should not accept defeat. Our children don't deserve it.

ASSEMBLYMAN COLLINS:

Thank you, Mr. Chairman. I want to say that I do not agree with the Minority Leader. I want to share a story with you. Many of you know how to golf, and you know about golfing and hitting a ball to the hole. This story is about a famous golfer, Arnold Palmer. He was at a championship golf tournament and was walking up to the tee, and his caddy walked up and said, "Mr. Palmer, watch out for the water trap on the right and the rough on the left." Mr. Palmer turned to the caddy and said, "I don't want you to tell me anything except the distance from here to the hole. I don't want any distractions about the rough on the right or the trap on the left. I just want to get to the goal." The point is, as the Majority Leader just said, let's work towards passing a bill tonight, let the Senate pass it tomorrow, and let's get the work done. We don't need anything else that distracts from that, whether it's a sand trap or a resolution to paint the building. Let's just stick to passing this budget and this education plan, and that is all that anybody here should be focused on, besides eating, sleeping, and keeping yourself alive. Thank you.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. I totally agree, and we know that there is a simple majority requirement to pass a bill out of here. I have real concerns whether or not that bill will be passed in the Senate. I believe we ought to address reality. This is conditional. It would be sitting there if we need it. Certainly, this Body would have to vote on it. If this Body doesn't agree to it then

that's fine. Should we just wait? I think not. If we prefer, we could go to a bill, and I believe there is some agreement on most of the taxes that are included here, and if the Body prefers, I don't think we would have a problem with a bill that would fund education and a portion of the taxes. I'm trying to make sure, and I believe this Body as a whole, is trying to make sure that education gets funded. This is not a grandstand or a ploy, this is just reality. We ought to take care of the contingency that may arise and not wait until it is upon us. That was the purpose for this request.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Chairman. First, I want to say welcome back to Mr. Collins. We are glad to see you are well, and apparently your stories have switched from cars to golf and that's an improvement. Secondly, if we took the viewpoint that Mr. Collins espouses, no one would ever buy insurance. What the Minority Leader is proposing is a prudent insurance policy. I think we should show that prudence and adopt it as he proposed. Thank you, Mr. Chairman.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. I understand what the Minority Leader is attempting, and I appreciate it because I do understand that there is a commitment here for education. I don't think anyone would argue that. However, we all made a commitment to be here today, and when I was called back here, instead of doing my yard work, I came here with optimism. That optimism is to say that we can get the job done. I agree with our Majority Leader. I still think that we should do this with more than a two-thirds vote because that's what this business has always done. We've always looked beyond partisan politics and done the right thing. I just fear that a constitutional provision at this point, or a continuing amendment or resolution will allow those who have been a no vote all along to continue to hold us hostage and divert the issue of trying to bring about resolution. That's our job. We've got time. We can move this amendment. We can move a bill to the Senate. I think that the Senators, once they have a piece of legislation that is as reasonable as I think this is. This bill is reasonable and it's fair. It treats grandparents and moms and dads and aunts and uncles and kids alike. No one got a sales tax, and no one got a property tax. We're trying to simply deal with corporations that are not paying their fair share now.

I would call on us to get this resolved in the next two days because, at least for those of us from southern Nevada, we have until the 15th to put our Gifted and Talented Education (GATE) teachers and our specialists back in the classroom. We cannot afford to wait any longer, and I think we have the ability and the wherewithal to get this accomplished. While I appreciate the motion, hopefully we won't need a continuing resolution. When you are doing negotiations, and I used to negotiate, you try to get to a win-win, ladies and gentlemen. We are trying to make everybody feel good about what they are doing. Everybody will have a little pain, but it is a win-win, and I think that ought to be our focus tonight and tomorrow. Let's get the job done and go home so that we can take care of our families and our businesses as well.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Chairman. I, too, support the idea of doing a continuing resolution for education because, as my colleague from the south stated, the 15th isn't that far away. We're only two days away, and I think we need to give them at least that assurance that we're going to go forward with education, and that they can go ahead and do their hiring. They may not be able to do it at the levels that we would like. We have a bill before us, S.B. 5; we could pass that out as well. This is, at least, a stopgap measure, and I would like to see us make the Bill Draft Request available so that if we need it, we have it.

CHAIRMAN PERKINS:

The Chair's view is that if we need to do something we can do it fairly quickly. I think that if it's looked at as something that we are going to do instead of what we are doing today, we won't get our real work done. It won't take very long to put one together if we have to; but if we focus on our work at hand, I think we will be fine. In that regard, I don't think that a continuing resolution would be necessary today.

ASSEMBLYMAN GOLDWATER:

That was exactly what I was going to ask the Chair. How long would it take? Thank you.

ASSEMBLYMAN BEERS:

Thank you, Mr. Chairman. Assemblywoman Giunchigliani has twice stated that these corporations would end up paying zero. I guess I am kind of curious. I am somewhat handicapped, as I did not sit on the Committee of Taxation; but I was under the impression that these companies all pay the Nevada business activity tax, the Nevada real property tax on its land and buildings, the Nevada personal property tax on equipment and furnishings, the Nevada unemployment tax, the Nevada sales and use taxes on their purchases for things not for resale, the Nevada insurance premium tax that is among the highest in the nation, the federal social security tax which comes back to Nevada in the form of benefit checks for the retired and disabled, and Federal income tax that comes back to Nevada in the form of grants to state and local governments to pay for roads, welfare, schools, and things like that. Have they been exempted?

CHAIRMAN PERKINS:

Are there further remarks to the motion? All those in favor of the motion please indicate by saying aye. Are there any opposed? Motion fails.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 3:57 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Senate Bill No. 6 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 6.

Bill read third time.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 7.

Amend sec. 11, page 4, line 31, by deleting "0.6" and inserting "0.5".

Amend sec. 24.18, page 8, by deleting lines 38 through 44 and inserting:

"Sec. 24.18. 1. *Except as otherwise provided in subsection 2, "financial institution" means:*

(a) *An institution licensed, registered or otherwise authorized to do business in this state pursuant to the provisions of chapter 604, 645B, 645E or 649 of NRS or title 55 or 56 of NRS, or a similar institution chartered or licensed pursuant to federal law and doing business in this state;*

(b) *Any other person conducting loan or credit card processing activities in this state; and*

(c) *Any other bank, bank holding company, national bank, savings association, federal savings bank, trust company, credit union, building and loan association, investment company, registered broker or dealer in securities or commodities, finance company, dealer in commercial paper or*

other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this state.

2. *The term does not include.”.*

Amend sec. 24.18, page 9, line 1, by deleting “1.” and inserting “(a)”.

Amend sec. 24.18, page 9, line 3, by deleting “2.” and inserting “(b)”.

Amend sec. 24.20, page 9, by deleting lines 5 through 16 and inserting:

“Sec. 24.20. “Gross revenue” means the total amount of the money and the value of any other consideration received or receivable by a financial institution which the financial institution is required to report for the purposes of federal income taxation.”.

Amend sec. 24.38, page 11, line 25, by deleting “3” and inserting “4”.

Amend sec. 24.46, page 13, lines 38 and 40, by deleting “income” and inserting “revenue”.

Amend sec. 24.46, page 13, by deleting lines 41 and 42 and inserting: “institution from its entire operation as a financial institution.”.

Amend sec. 27, page 18, by deleting lines 3 through 18 and inserting:

“Sec. 27. “Admission charge” means the total amount, expressed in terms of money, of consideration paid for the right or privilege to have access to a facility where live entertainment is provided.”.

Amend sec. 31, page 18, line 35, after “463.0169.” by inserting: “The term does not include a licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits.”.

Amend sec. 36, page 19, by deleting lines 10 through 41 and inserting:

“Sec. 36. 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this state where live entertainment is provided. If the live entertainment is provided at a facility with a maximum seating capacity that is:

(a) Less than 7,500, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.

(b) At least 7,500, the rate of the tax is 5 percent of the admission charge to the facility.

2. Amounts paid for gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer are not taxable pursuant to this section.

3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.

4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include

such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.

5. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this state is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum seating capacity that is less than 300.

(e) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

(f) Live entertainment that is provided at a trade show.

(g) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(h) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

(i) Live entertainment provided in the common area of a shopping mall.

6. As used in this section:

(a) "Facility" means any area or premises where live entertainment is provided and for which consideration is collected for the right or privilege of entering that area or premises.

(b) "Maximum seating capacity" means, in the following order of priority:

(1) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

(2) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

(3) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided."

Amend sec. 38, page 20, lines 29 and 30, by deleting "*shall, jointly,*" and inserting:

"shall:

(a) Jointly,".

Amend sec. 38, page 20, between lines 32 and 33, by inserting:

“(b) Upon request, assist the other agency in the collection of that tax.”.

Amend sec. 39, page 20, line 33, by deleting “1. Each” and inserting:

“1. Except as otherwise provided in this section:

(a) Each”.

Amend sec. 39, page 20, line 38, by deleting “2.” and inserting “(b)”.

Amend sec. 39, page 20, between lines 41 and 42, by inserting:

“2. The Board or the Department, if it deems it necessary to ensure payment to or facilitate the collection by the State of the tax imposed by section 36 of this act, may require reports to be filed not later than 10 days after the end of each calendar quarter.”.

Amend sec. 39, page 20, line 43, by deleting “month” and inserting “period”.

Amend sec. 41, page 21, by deleting line 19 and inserting:

“(b) Preserve those records for:

(1) At least 5 years if the taxpayer is a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; or

(2) At least 4 years if the taxpayer is not a licensed gaming establishment or until any”.

Amend sec. 44, page 23, by deleting line 19 and inserting: “establishment is taking any action”.

Amend sec. 44, page 23, by deleting lines 25 and 26 and inserting: “licensed gaming establishment is taking any action with the intent to defraud the State or to evade”.

Amend sec. 44, page 23, line 30, by deleting: “paid for live entertainment”.

Amend sec. 44, page 23, by deleting line 32 and inserting: “upon the taxable liability of business entities that”.

Amend sec. 45, page 23, by deleting lines 36 and 37 and inserting:

“(a) Is unable to collect all or any part of an admission charge which was included in the taxable receipts reported”.

Amend sec. 45, page 24, by deleting lines 8 and 9 and inserting:

“3. If a taxpayer collects all or any part of an admission charge for which he claimed a credit on a return for a”.

Amend sec. 45, page 24, by deleting lines 12 and 13 and inserting:

“(a) The amount collected in the admission charges reported pursuant to paragraph (a) of subsection 1;”.

Amend sec. 48, page 25, line 20, by deleting “month” and inserting “reporting period”.

Amend sec. 49, page 25, line 37, by deleting “the month” and inserting: “the reporting period”.

Amend sec. 57, page 28, line 13, by deleting “Any” and inserting “1. Any”.

Amend sec. 57, page 28, between lines 17 and 18 by inserting:

“2. As used in this section, “licensed gaming establishment” includes a licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits.”.

Amend sec. 58.16, page 29, by deleting lines 13 through 15 and inserting: *“to 26 U.S.C. § 501(c); or”.*

Amend sec. 58.28, page 30, by deleting lines 33 through 38 and inserting: *“8. Any revenue from the operation of a vending stand”.*

Amend sec. 58.28, page 30, line 40, by deleting *“10.”* and inserting *“9.”*

Amend sec. 58.44, page 33, line 16, by deleting *“\$100,000”* and inserting *“\$500,000”.*

Amend sec. 58.44, page 33, by deleting lines 17 through 20.

Amend sec. 58.48, page 35, by deleting lines 23 through 25 and inserting: *“5. Any revenue received:*

(a) As dividends or distributions by a parent organization from the capital account of a subsidiary entity of the parent organization; or

(b) As payments between:

(1) A parent organization and a wholly owned subsidiary entity of the parent organization; or

(2) The wholly owned subsidiary entities of a parent organization.”.

Amend sec. 58.48, page 36, between lines 5 and 6, by inserting:

“15. Any revenue of the business entity from the sale or distribution of gasoline or any other motor vehicle fuel.”.

Amend sec. 58.50, page 36, line 6, by deleting *“1.”.*

Amend sec. 58.50, page 36, by deleting lines 10 through 26 and inserting: *“regulations must be consistent with the methods of dividing income contained in the provisions of the Uniform Division of Income for Tax”.*

Amend sec. 62, page 41, by deleting lines 20 through 22 and inserting: *“to 26 U.S.C. § 501(c).”.*

Amend sec. 63, page 42, by deleting lines 13 and 14 and inserting *“newspaper.”.*

Amend the bill as a whole by adding a new section designated sec. 64.5, following sec. 64, to read as follows:

“Sec. 64.5. The Department shall deposit all money it receives pursuant to sections 61 to 66, inclusive, of this act in the State Treasury for credit to the State General Fund.”.

Amend sec. 75.3, page 55, by deleting lines 25 through 27 and inserting: *“26 U.S.C. § 501(c);”.*

Amend sec. 77, page 57, line 8, by deleting *“\$3.45”* and inserting *“\$2.93”.*

Amend sec. 78, page 57, line 15, by deleting *“\$3.60”* and inserting *“\$3.08”.*

Amend sec. 78, page 57, line 17, by deleting *“\$1.30”* and inserting *“\$1.12”.*

Amend sec. 78, page 57, line 20, by deleting *“70”* and inserting *“60”.*

Amend sec. 78, page 57, line 23, by deleting *“16”* and inserting *“14”.*

Amend sec. 80, page 58, line 9, by deleting “42.5” and inserting “40”.

Amend the bill as a whole by deleting sec. 80.5 and adding:

“Sec. 80.5. (Deleted by amendment.)”.

Amend sec. 82, page 59, line 7, by deleting “37.5” and inserting “35”.

Amend the bill as a whole by deleting sec. 82.5 and adding:

“Sec. 82.5. (Deleted by amendment.)”.

Amend sec. 83, page 60, line 7, by deleting “42.5” and inserting “40”.

Amend the bill as a whole by deleting sec. 83.5 and adding:

“Sec. 83.5. (Deleted by amendment.)”.

Amend sec. 95, page 62, line 39, after “of” by inserting “the”.

Amend sec. 95, page 62, by deleting lines 41 and 42 and inserting:

“4. *The county recorder of a county:*

(a) *Whose population is 100,000 or more may deduct and withhold from the taxes collected 0.2 percent of those taxes to reimburse the county for the cost of collecting the tax.*

(b) *Whose population is less than 100,000 may deduct and withhold from the taxes collected 1 percent of those taxes to reimburse the”.*

Amend sec. 167, page 111, line 33, by deleting “and”.

Amend sec. 174, page 118, by deleting lines 36 and 37 and inserting: “pursuant to this section if:

(a) *The establishment is licensed for less than 51 slot”.*

Amend sec. 174, page 118, line 39, by deleting the italicized period.

Amend sec. 174, page 119, line 9, after the closed bracket by inserting: “; or

(b) *The facility in which the live entertainment is provided has a maximum seating capacity that is at least 7,500.”.*

Amend sec. 174, page 119, between lines 24 and 25 by inserting:

“(f) *Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.*

(g) *Live entertainment that is provided or occurs at private meetings or dinners attended by members of a particular organization or by a casual assemblage and the purpose of the event is not primarily for entertainment.*

(h) *Live entertainment presented in a common area of a shopping mall.”.*

Amend sec. 186.4, page 138, line 13, by deleting “or” and inserting “or”.

Amend sec. 186.9, page 142, by deleting lines 3 through 6 and inserting: “pursuant to 26 U.S.C. § 501(c); ~~for~~”.

Amend the bill as a whole by adding new sections designated sections 188.3 through 188.7, following sec. 188, to read as follows:

“Sec. 188.3. Section 58 of Assembly Bill No. 553 of the 72nd Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 58. 1. If projections of the ending balance of the State General Fund fall below the amount estimated by the ~~[2003]~~ Nevada Legislature for Fiscal Year 2003-2004 or 2004-2005, the Director of the Department of Administration shall report this information to the State Board of Examiners.

2. If the State Board of Examiners determines that the ending balance of the State General Fund is projected to be less than \$60,000,000 for Fiscal Year 2003-2004 or 2004-2005, the Governor, pursuant to NRS 353.225, may direct the Director of the Department of Administration to require the State Controller or the head of each department, institution or agency to set aside a reserve of not more than 15 percent of the total amount of operating expenses or other appropriations and money otherwise available to the department, institution or agency.

3. A reserve must not be set aside pursuant to this section unless:

(a) The Governor, on behalf of the State Board of Examiners, submits a report to the Legislature, or, if the Legislature is not in session, to the Interim Finance Committee, stating the reasons why a reserve is needed and indicating each department, institution or agency that will be required to set aside a reserve; and

(b) The Legislature or Interim Finance Committee approves the setting aside of the reserve.

Sec. 188.5. Section 61 of Assembly Bill No. 553 of the 72nd Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 61. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$12,500,000 in Fiscal Year 2003-2004 and \$20,000,000 in Fiscal Year 2004-2005 for information technology and additional operational costs that may be required by the Department of Taxation or other state agency to implement or modify the collections of State General Fund revenues . ~~[approved by the 72nd Session of the Nevada Legislature.]~~

2. If the Department of Taxation or other state agency determines that additional resources are necessary for information technology or additional operational costs related to subsection 1 the State Board of Examiners shall consider the request and recommend the amount of the allocation, if any, to the Interim Finance Committee.

3. The Interim Finance Committee is not required to approve the entire amount of an allocation recommended pursuant to subsection 2 or to allocate the entire amount appropriated in subsection 1.

4. The sums appropriated by subsection 1 are available for either fiscal year. Any balance of those sums must not be committed for expenditure after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 188.7. Section 1 of Senate Bill No. 243 of the 72nd Session of the Nevada Legislature is hereby amended to read as follows:

Section 1. ~~[1. There is hereby appropriated from the State General Fund to the Fund to Stabilize the Operation of State Government created by NRS 353.288 the sum of \$30,000,000.~~

~~2.]~~ Notwithstanding the provisions of NRS 353.235:

~~[(a)]~~ 1. Upon receipt of the projections and estimates of the Economic Forum required by paragraph (d) of subsection 1 of NRS 353.228 to be

reported on or before December 1, 2004, the Interim Finance Committee shall project the ending balance of the State General Fund for Fiscal Year 2004-2005, using all relevant information known to it.

~~[(b)]~~ 2. Except as otherwise provided in ~~[(paragraph (e))]~~ subsection 3, there is hereby contingently appropriated from the State General Fund to the Fund to Stabilize the Operation of State Government created by NRS 353.288 the amount, if any, by which the projection required by ~~[(paragraph (a))]~~ subsection 1 exceeds the amount of the ending balance of the State General Fund for Fiscal Year 2004-2005 as estimated by the ~~[(2003 Legislature]~~.

~~[(e)]~~ Nevada Legislature.

3. The amount of any appropriation pursuant to ~~[(paragraph (b))]~~ subsection 2 must not exceed ~~[(\$20,000,000.)]~~ \$50,000,000.”.

Amend sec. 189, page 143, by deleting lines 28 through 31 and inserting:

“Sec. 189. 1. NRS 353.272, 364A.160, 375.025 and 375.075 are hereby repealed.

2. NRS 463.4001, 463.4002, 463.4004, 463.4006, 463.4008, 463.4009 and 463.4015 are hereby repealed.

3. NRS 364A.010, 364A.020, 364A.030, 364A.040, 364A.050,”.

Amend sec. 190, page 143, by deleting line 39 and inserting:

“Sec. 190. Notwithstanding the provisions of NRS 353.288:”.

Amend sec. 190, page 144, by deleting lines 2 through 20 and inserting: “sources to the State General Fund as projected by the Nevada Legislature for the applicable fiscal year; and

(b) The total amount of all applicable contingent appropriations enacted for the 2003-2004 Fiscal Year and the 2004-2005 Fiscal Year by the Nevada Legislature for which the conditions for the contingent appropriations were satisfied.

2. Any excess amount of revenue determined pursuant to subsection 1 must be used as follows:

(a) An amount estimated by the Interim Finance Committee to pay for expenditures that will occur in the next biennium for which the corresponding expenditures in the current biennium were paid or are to be paid from a source other than the State General Fund, but for which the alternative source of revenue likely will not be available or will not be received during the biennium, must be used to replace previously used nonrecurring revenue. This amount must be accounted for separately in the State General Fund.

(b) The remaining excess amount of revenue must be transferred to the Fund to Stabilize the Operation of the State Government created by NRS 353.288, in such an amount that does not cause the balance in the Fund to exceed the limitation on that balance set forth in NRS 353.288.

(c) Any remaining excess amount of revenue must be transferred to the Fund for Tax Accountability created pursuant to section 191 of this act.”.

Amend the bill as a whole by deleting sec. 193 and adding:

“Sec. 193. (Deleted by amendment.)”.

Amend sec. 194.56, page 165, line 16, by deleting “194.2” and inserting “165.2”.

Amend sec. 195, page 166, by deleting lines 13 through 26 and inserting:

“1. Section 173 of this act does not apply to any taxes precollected pursuant to chapter 463 of NRS on or before the effective date of that section.

2. Sections 80, 82 and 83 of this act do not apply to any taxes precollected pursuant to chapter 370 of NRS on or before the effective date of those sections.

3. Sections 77, 78 and 172 of this act do not affect the amount of any license fees or taxes due for any period ending on or before July 31, 2003.

4. Sections 26 to 58, inclusive, of this act apply to any taxable admission charge that is collected pursuant to the provisions of those sections on or after January 1, 2004.

5. Section 144 of this act do not apply to any contracts made before the effective date of that section.”.

Amend sec. 196, page 166, line 27, by deleting “2” and inserting “3”.

Amend the bill as a whole by adding a new section designated sec. 196.1, following sec. 196, to read as follows:

“Sec. 196.1. Notwithstanding the provisions of section 165.2 of this act, the Department of Education, the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau shall carry out the provisions of subsections 1 and 2 of that section for fiscal year 2003-2004 as soon as practicable after the effective date of that section.”.

Amend sec. 196.3, page 166, by deleting lines 39 through 45 and inserting:

“2. As used in this section:

(a) Except as otherwise provided in paragraph (b), “financial institution” means:

(1) An institution licensed, registered or otherwise authorized to do business in this state pursuant to the provisions of chapter 604, 645B, 645E or 649 of NRS or title 55 or 56 of NRS, or a similar institution chartered or licensed pursuant to federal law and doing business in this state;

(2) Any other person conducting loan or credit card processing activities in this state; and

(3) Any other bank, bank holding company, national bank, savings association, federal savings bank, trust company, credit union, building and loan association, investment company, registered broker or dealer in securities or commodities, finance company, dealer in commercial paper or other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this state.

(b) “Financial institution” does not include:”.

Amend sec. 196.3, page 167, line 1, by deleting “(a)” and inserting “(1)”.

Amend sec. 196.3, page 167, line 3, by deleting “(b)” and inserting “(2)”.

Amend sec. 196.5, page 167, by deleting line 7 and inserting: “institution on or after November 1, 2003.”.

Amend sec. 196.5, page 167, line 13, after “(a)” by inserting: ““Financial institution” has the meaning ascribed to it in section 24.18 of this act.

(b)”.

Amend sec. 196.5, page 167, line 15, by deleting “(b)” and inserting “(c)”.

Amend the bill as a whole by adding a new section designated sec. 196.7, following sec. 196.5, to read as follows:

“Sec. 196.7. The Legislative Committee on Taxation, Public Revenue and Tax Policy established by the provisions of section 127 of this act shall:

1. Review and study:

(a) The impact, if any, that the imposition of the tax on live entertainment imposed pursuant to section 36 of this act has had on revenue received by the state and local governments from special events conducted in this state.

(b) Whether promoters of special events are contracting with entities in other states to hold the special events in those other states as a result of the imposition of the tax.

(c) The loss of revenue, if any, from special events resulting from the imposition of the tax.

(d) The feasibility and need for exempting such special events from the tax.

(e) Standards and procedures that may be adopted for determining whether special events should be exempt from the tax and the qualifications for such an exemption.

2. Submit a report of the results of its review and any recommendations for legislation to the 73rd Session of the Nevada Legislature.”.

Amend sec. 198, pages 167 and 168, by deleting lines 31 through 45 on page 167 and lines 1 through 31 on page 168, and inserting:

“Sec. 198. 1. This section and sections 59, 60, 67, 69, 75, 75.3, 75.7, 76, 80, 82, 83, 86, 87, 88, 90 to 93, inclusive, 98, 101, 112, 114, 116, 125 to 132, inclusive, 144 to 165, inclusive, 168, 173, 178, 188 to 188.7, inclusive, 190 to 193, inclusive, 194.10, 194.14 to 194.56, inclusive, 194.60, 194.62, 195, 196, 196.1, 196.7 and 197 of this act and subsection 1 of section 189 of this act become effective upon passage and approval.

2. Sections 194.58 and 194.64 of this act become effective upon passage and approval and apply retroactively to June 30, 2003.

3. Sections 165.2, 165.4, 165.6, 166.2, 194 and 194.66 of this act become effective upon passage and approval and apply retroactively to July 1, 2003.

4. Sections 77, 78, 79, 81, 84, 85, 172, 174, 175 and 177 of this act and subsection 2 of section 189 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On August 1, 2003, for all other purposes.

5. Sections 58.10 to 58.80, inclusive, 70, 71, 72, 73, 186.3, 186.5, 186.7 and 196.3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2003, for all other purposes.

6. Sections 24.10 to 24.74, inclusive, 185.30 to 186, inclusive, 186.4, 186.6, 186.8, 186.9 and 196.5 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On November 1, 2003, for all other purposes.

7. Sections 1 to 24, inclusive, 25 to 58, inclusive, 61 to 66, inclusive, 68, 70.5, 71.5, 72.5, 73.5, 74, 89, 94 to 97, inclusive, 99, 100, 102 to 111, inclusive, 118 to 124, inclusive, 133 to 143, inclusive, 166, 167, 169, 170, 171, 176 and 179 to 185, inclusive, of this act and subsection 3 of section 189 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2004, for all other purposes.

8. Sections 80.5, 82.5, 83.5, 166.4, 187 and 194.12 of this act become effective on July 1, 2004.

9. Sections 113, 115 and 117 of this act become effective at 12:01 a.m. on October 1, 2029.

10. Sections 126 to 131, inclusive, of this act expire by limitation on June 30, 2005.

11. Sections 112, 114 and 116 of this act expire by limitation”.

Assemblywoman Buckley moved the adoption of the amendment.

Remarks by Assemblymen Buckley and Brown.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. We have already heard, just a few minutes ago, the details of the bill. I would like to add just a couple of additional pieces of information that would serve to answer some members' questions. Our very able staff has e-mailed me some additional information that members might find useful. From Ted Zuend, according to the table from the Federation of the Tax Administrators, most states do have a separate bank franchise tax. Many, however, are taxed at the same rate as their corporate income tax, and so, that's where I believe that relationship comes from. According to his quick research, only about four seem to have it just taken care of in their Corporate End Tax. The rest do have a separate bank franchise tax, including Delaware. I just wanted to include that additional information.

ASSEMBLYMAN BROWN:

Thank you, Mr. Speaker. I, too, was just checking online. It does appear that of the states that were compared, Arizona has a corporate income tax of 6.698 percent, and a bank income

franchise, or whatever we would call it, that is identical. Oregon's corporate income tax is 6.6 percent and a bank tax of 6.6 percent. Idaho has a corporate income tax of 7.6 percent with a bank tax of the same, 7.6 percent. Utah has a corporate income tax of 5 percent, and a bank tax of 5 percent. California wins the prize. Its corporation tax is 8.84 percent and the bank tax is the same, plus 2 percent, at 10.84 percent.

My concern is that we are using mere semantics here, calling it a franchise tax. I think California is the only one that really impacts their banks any differently than any other corporation in their state. Unless anyone can shed any light on it, that's what I deduce from the information before me. Thank you, Mr. Speaker.

Amendment adopted.

Bill ordered reprinted, re-engrossed, and to third reading.

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

Assembly in recess at 4:03 p.m.

ASSEMBLY IN SESSION

At 4:16 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Senate Bill No. 6, just returned from the printer, be placed on the General File.

Motion carried.

Assemblywoman Buckley moved that the reading of Histories be dispensed with for this legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 6.

Bill read third time.

Remarks by Assemblymen Buckley, Hettrick, Carpenter, Goldwater, Knecht, Giunchigliani, Hardy, Mortenson, Brown, Beers, Christensen, Collins, Horne, Mabey, and Gibbons.

Mr. Speaker requested the privilege of the Chair for the purpose of making remarks.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I think I will keep my speech rather short since I have given an overview of the bill several times. Senate Bill 6 does a number of things. It funds education for our state and makes improvements to education that will ensure that our schools keep even with growth and begin to improve. The bill raises revenue in a number of different ways, including enacting a small tax, 0.5 percent on payroll, and a franchise tax, as well as the bank franchise tax as suggested to us by the Senate. Additionally, it expands the casino/live entertainment tax and

by primarily passing on those revenues collected from tourists taking in our shows. In my opinion, it is a fair and balanced way to more fully be able to fund the state's budget.

We have a choice when we look at new taxes. We can try to hit the everyday Nevada taxpayer or we can, instead, impose a small business tax. My colleague a few seats down said earlier that Nevada businesses already pay sales taxes and other taxes. Certainly, if they own property, they pay property taxes. They pass sales taxes on to our constituents and to us. Nevada, unlike most other states, doesn't have a broad-based business tax because we have traditionally relied on gaming and mining. Gaming can afford to pay more and they will under this bill. They would pay under the gross revenue tax, the payroll tax, their noncasino revenue, the franchise tax, and from the tourists who go to casinos. It is time that big businesses began to pay a little bit in Nevada in terms of a broad-based business tax.

What this bill does is try to make it fair and equitable. It does not mirror anywhere near the levels in nearby conservative states such as Utah and Arizona. I don't compare to California because they are so out of whack that I don't think it is a good comparison for Nevada. It is a small but equitable way to have Nevada businesses finally begin to pay the taxes they pay in every other state to the state of Nevada to support our needs, whether it is education, human services, or to make sure that families with members who are mentally ill are just able to get into the mental health clinics. Our state has lagged behind in every area, whether mental health funding, treating individuals with disabilities, or education. I am tired of us always being last in the nation in every category, when we can keep up and climb out of the basement by just making our companies pay less than they are paying in every other state. I think it is the right thing to do and I think it is time for Nevada to take this step.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Speaker. I have to rise in opposition to the bill. It is regrettable that the education portion is attached here, but we understand why it is. All of us support education. That has been well-documented and I won't go into it anymore. I think your amendment today improves the bill in some senses and makes it worse in others. I still have the problem that we are creating, I believe, taxes that will have a chilling effect on the business environment and job creation in the state of Nevada. Unfortunately, we have to create the Nevada IRS to collect these taxes. For those reasons, Mr. Speaker, I still have to oppose this bill as written. Thank you.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. I have to rise in opposition to this bill. One thing that really concerns me is right now Nevada is ranked either second or third in the business climate to bring companies into Nevada. I know out in the rurals we are trying desperately to bring in new business and I am afraid that this is going to really hurt. I don't know if anyone has ever sat down and tried to figure out where we are going to be with these new taxes. I am no lover of banks, but I don't want to drive them out of here. When I was a young shepherd and cowboy, I had to borrow a lot of money. I am afraid if they hadn't been around, instead of being kind of successful, I would still be doing what I had done with my first job, shoveling coal. I have a little concern about this deal.

ASSEMBLYMAN GOLDWATER:

Mr. Speaker, thank you. I rise in support of this bill. I can tell you, as someone who has worked in financial services and studied business most of my professional life, we won't drive banks out. Wherever there are deposits, banks will be. They are less and less in the rurals, not because of taxes, but because of the lack of a deposit base. Additionally, the members have heard me argue on this Floor many times about economic development and redevelopment, and the way we give away our existing tax base for the purposes of economic development. I think the main argument I have heard so far regarding Senate Bill 6 is that it somehow will create a devastating or bad business climate for Nevada. I would wholeheartedly disagree. I have empirical evidence to suggest that I am correct.

When businesses are surveyed as to why they locate any particular place, taxes are on that list. However, it is nowhere near the top of the list. What kind of thing do businesses look for when they relocate, or stay in a particular area? Number one is workforce and education. Do we have an educated workforce? We have always touted around here that we are trying to be the

next Silicon Valley. Silicon Valley isn't the lowest-taxed place in the United States of America, not even close. Their taxes are huge. On one hand we are saying we don't want to be the next California, yet we want to turn into the next Silicon Valley. It doesn't make sense. Why was Silicon Valley successful? They turned out university graduates from some of the most prestigious universities. Their school system was excellent. There are a number of cultural institutions nearby. These are the things that will attract businesses to Nevada. Our good University System is funded by taxes. Our good K-12 education system and educated workforce are funded by these business taxes. These are the businesses that we want to move to Nevada.

Anyone, as my bosses have always told me, can sell on price. If you are selling the cheapest thing in the world, anyone can sell it. Selling Nevada on quality, which is what we are trying to do here, is what we are going to have to do. We are going to have to change our sales pitch for this state, no doubt about it. We are going to have to change it to say, "If you want good workers for your companies, banks, and computer companies, locate to Nevada, because our test scores are great. Our K-12 educations are wonderful. Our University is turning out excellent graduates." This is what Senate Bill 6 does. This is the business climate we want to create for Nevada's future.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Speaker. A couple of years ago I moved here. I moved my family here from Silicon Valley after having lived there for four years and having worked there off and on for over a dozen years. I went to school at one of those universities. Contrary to the Nevada-bashing that we are last in everything that is good and first in everything that is bad, I came here, as do many people, for the quality of life. I came for the many different benefits. As someone who has lived there, I guarantee you Nevada is much better. One of the reasons it is better is because of its tax and regulatory climate. I am happy to be here. I look forward to staying here, living the rest of my life here, and raising my children here. If we pass this bill today we are taking the first step into turning Nevada into East California. That is not why I came here. What we are also doing is killing a major business, the largest private employer in Carson City. What we are doing is not passing reasonable tax increases and reasonable spending increases, but grossly excessive tax and spending increases. To the extent that we need to pass taxes, what we will be doing is passing the most onerous kind of tax: the specific-industry franchise tax, the gross receipts tax and its variations. We don't need to do that. We all know, every one of us, that there are broad-based business taxes that could attract the support of my colleagues and myself in the minority but they haven't been allowed to be brought up here. For those reasons, Mr. Speaker, I will be voting against this bill.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. When we started this session we were asked to raise taxes on just about everything. We did allow and had a wonderful process of openness, as we have always had in this Body, regarding taxes, budgets, and anything else that came up that had nothing to do with anything half the time. We still discussed it and talked about it. We were asked to tax people's videos, movies, and golf. We were asked to raise sales taxes. We were asked to look at property taxes. We were also asked to adopt a broad-based business tax that would begin to make corporations currently not paying, pay their fair share. That is what Senate Bill 6 does. It is a reasonable, fair bill that allows our constituents to not have to go into their own pockets. When they open their property tax bill, there will not be an increase in it because of this bill. When they go to purchase food, there will not be an additional sales tax. When they go to buy diapers, there will not be sales tax that we have added. Prescription drugs will not be taxed. Families can take their children to movies and to family activities. They can go to amusement parks and they will not be taxed. I know it is easy to focus on what we don't like, but why not focus on what we do like.

This bill is a compromise. It is one that does not hit the everyday person. It is one that makes sure gaming begins to pay more, banks pay where they don't pay currently, and for once, we will capture that franchise fee from banks. Right now our constituents are paying the same fees that are being charged in other states, but that money is going to schools in Utah. That money is going to schools in Arizona and Idaho. All we are saying is, pay the lowest amount, pay it here in Nevada first, and make sure our schools are funded with it. We are just asking people to step

up to the plate, not unreasonably, but in a fair and equitable manner. That is all S.B. 6 does. Try to find something that you like in it rather than just focusing on one piece that you don't care about. Let's do the people's business, do it the right way, and let's do it in partnership like we always have. I came across a quotation from Eleanor Roosevelt, "Learn from the mistakes of others because we can't live long enough to make them all ourselves." I am hoping maybe today we can learn from some of our mistakes that we have done in the past sessions and do the right thing. Let's fund our schools. Let's put in a fair and equitable tax base. Let's go home. Thank you, Mr. Speaker.

ASSEMBLYMAN HARDY:

Thank you, Mr. Speaker. I do like education. I do like Democrats and Republicans who can vote for taxes. I do like the fact that these taxes will fund schools. I do like a majority vote. I do like the Senate. I do like consensus that will come out of this. Thank you, Mr. Speaker.

ASSEMBLYMAN MORTENSON:

Thank you, Mr. Speaker. All of us near the beginning of the session received a letter from the Chairman and CEO of MGM, Terri Lanni. I would like to expound on what my colleague from Assembly District 10 said. Terri Lanni, in his letter to all the legislators said, "I am curious to know how many businesses we have already scared away by being 49th in the United States for educating our children." It seems we are low, or close to it, in any other number of other important social measures. Yes, we are number two or three in business, but when are we going to start to try to raise the social measures and get us up from the bottom of the barrel? If we have businesses that move here simply because they can have very low taxes, then maybe we just don't want those businesses. Let's pass some taxes that will help people and not worry about the businesses.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker, for recognizing me a second time. I want to respond a little bit to some of the debate. As we all know, any member can bring up any sort of bills that they want during this legislative process. There was a comment that this tax plan is grossly excessive. It is the most modest of tax increases to business of all of our surrounding states. The lowest. We did that deliberately because we recognize that Nevada businesses do not need grossly excessive increases to their taxes. In regard to creating industry-specific taxes, we didn't do that except for financial institutions, which is done separately in almost every other state in the nation because they are so unique in the revenue they bring in. With regard to suppression of economic development, no one wants that. We want to attract as many businesses as possible to the urban and rural areas. How intriguing that the head of the Nevada Development Authority urged us to create a broad-based business tax for the very reasons cited by my colleague in Assembly District 10. Some say we don't want to pass this bill because we don't want to create a Nevada IRS. I am sorry to inform everyone, but we already have one. We just call it the Nevada Department of Taxation.

I guess that last thing I want to add is, you can't be called a Nevada-basher for wanting to improve Nevada. I didn't move to Nevada 2 years ago; I moved here 23 years ago. I got my first job as a maid at the MGM Hotel. I made a pretty good wage for being just out of school. I was real smart then. I said, "I am 18. I am sick of school. I am never going back to school." So I moved to Las Vegas and I got a job as a maid at the MGM. It was a pretty good job. It paid well. Did I ever anticipate that 23 years later I would be the first female Majority Leader in the history of the state of Nevada? No. Nevada gave me that opportunity. It gave every one of us an opportunity to succeed in our business, with our families, and with our public service. It is not bashing Nevada to say I want my children to get a good education. It is not bashing Nevada to say I want a constituent with a mentally ill child to be able to get medication. That is wanting the same success that we have been able to achieve for everyone we represent. That is caring for Nevada, not bashing Nevada.

ASSEMBLYMAN BROWN:

Thank you, Mr. Speaker. I, too, wish to respond to a couple of comments that have been made. First of all, some of the comments from the Assemblywoman from District 9 focused on

what most of us would call regional pricing, the Wal-Mart argument. I have no problem seeing them pay taxes, but to suggest that a broad-based business tax is synonymous with making, solely, regional pricing-based businesses pay taxes is not accurate in my mind.

As I was driving here today from the airport to Carson City, I was looking at some of the businesses that would be impacted. First, I noticed Meeks Lumber on the left hand. It is a home improvement-type store. They will pay on this tax. I don't think they are involved in regional pricing as a local business. Many of us have frequented Adele's. They will pay. They, I am sure, do not have a regional type pricing. I often bought dollar gifts for my daughters at the Dollar Tree Store as I left Carson City and I think that they probably do not pay based upon regional pricing. These locations, I am confident, at least if they have the philosophy or the ability that I would with my particular business, will pass that on. They keep saying it is all about the margin. If the market will bear it, the price will be increased. Maybe that is not going to happen at Wal-Mart or Target, but how many big-box stores do we have in Nevada? 100? 200? I don't know, but I am confident that we have 10,000 to 20,000 businesses, and these are all going to be impacted. To the extent possible, that is going to be passed on right to the individual. So the comments that we are trying not to hit regular Nevadans I don't think bears out. I am sure there may be some instances where the market may not bear it and they may pay out some of their profits.

In regard to comments made by the Majority Leader, I would give the following response. I would concede that 1/4 of 1 percent of the gross business, or the 1/8 as we have additionally discussed, is very modest. However, we have also heard it stated from this floor that 47 other states have a similar tax. I think we had one other state that has a similar gross receipts tax. It is possible that under this tax scheme a corporation could pay 100 percent of what would have been a profit tax, because we measure it on the gross. They make nothing. If I have a small business, I would have no problem paying 1/4 of 1 percent. That is not an issue. But we all know there are business cycles and business entities that operate on a very small margin and 1/4 of 1 percent of their gross could be a very significant number.

For the purpose of accuracy I make those comments. I would also, Mr. Speaker, make a comment or two about some statements that the Assemblywoman from District 6 made, with regard to education. In its original form, S.B. 6 is a tax bill. I am not prepared to vote on this tax bill based upon my fiscal philosophy on state spending. The Constitution says that each bill should have one subject. The Senate abided by that. I don't think we are charging, necessarily, that Body with issuing bad checks by passing both those bills out. It would be equally as simple a matter to just sit on the school funding rather than combining it with this bill. I think that is unfortunate.

There have been, certainly, allegations in past Floor statements that anybody who presses the red button is opposed to education and anybody who presses the green button favors education. I came from a family that didn't have much. I was number seven of eight kids. I have made that statement before. "If you want a bike, David, that is great, but you have to find a way to fund it. If you want a college education, David, that is great, but you need to find out how you are going to fund that." At one time during college I worked three jobs to pay my way through. Now I am being told I am anti-education. I resent that just a little bit. I have a daughter in public school. I would do nothing to jeopardize her education. I fully support the education section of this bill, but I believe in my principles and my philosophies. I am not stating here that folks who press the green button are wrong and I am right, but those are my core principles and I am going to abide by them. I think it is unfortunate the bills have been combined. I hope it is not just a political fiction that we have to combine the two; I think they could be separated. I will be voting no. Thank you, Mr. Speaker.

ASSEMBLYMAN BEERS:

Thank you, Mr. Speaker. I wanted to mention that I find the absence of a property tax in this bill a rather hollow victory. We already raised the property tax in Section 20 of Senate Bill 507, six weeks ago. Thank you, Mr. Speaker.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Mr. Speaker. As I have been represented by the Minority Leader, my comments have been minimal as we have been here in Special Sessions going through these bills. I think

now might be the appropriate time to share some of my thoughts, in particular to S.B. 6, and a lot of the dialog that has been happening here in this great room. I found it interesting that earlier in the week some groups had referred to me as one of the “mean fifteen.” I thought it was interesting because as I campaigned, and as I have been here, I have done all that I can to deliver on my campaign promises. As I campaigned, I told people that I believed in a very lean and very accountable government. In everything that I did in representing them, I would be working on a lean and accountable government. I wish they had called me one of the “lean and mean fifteen,” because that would have been an honor.

We have also talked in this room about profitability and which companies are profitable. Banks seem to be the target right now. I like banks. I have actually worked in banking, so I understand their business model. I am glad that banks are profitable. I am glad that a lot of other companies are profitable. I would encourage all of us to consider how we talk about that so that we don’t make Nevada a target or that this Legislature, in the future, might be looking for profitable targets to go after for its revenue.

In regards to other comments made about me, and perhaps my colleagues as well, not to make this personal but I thought it was interesting, a colleague had said that I am here only to protect the businesses within Nevada’s borders. That may be. Perhaps I am. For those who have thought that about me, I would say I don’t think that is a bad thing to say about someone, and I actually took that as a credit, because I realize every one of my constituents who has a job gets that from the business where they have that job. Thank goodness they have a job so that they can eat. When it comes to constituent will, I feel nobody knows, and maybe someone would argue this with me, as I have represented my views and my district, keep in mind that nobody knows Assembly District 13 better than me right now.

This tax plan has been referred to as an investment. I have also worked in that arena. Every time I have worked with a client in regard to their investment, it was voluntary. Taxation is anything but voluntary. I understand what people who make this representation are referring to, in businesses and people being willing to step up for their state. It seems like nearly everyone in this state has both a business and are constituents. I like what a wise man once said, “Men should not run faster than they have strength.” Moderation and balance are valuable assets, in particular when you are dealing with the laws of financial structure. When you think you are standing in a battleship, but you are really standing in a canoe, especially right now when we are maybe still in a little bit of an economic recession, maybe we are out of the recession, but, nevertheless, we are on the heels of a recession, and with a very aggressive state budget, what we are talking about here puts us in a precarious place, particularly where it deals with business development, which is something I feel I know very well. I haven’t gone through a whole lot of surveys because I actually meet with a number of those companies which are relocating or which have other business interests here. I know why they come here. Where I live it doesn’t look like Newport Beach, but there is a tremendous amount of economic opportunity and I am glad to play a role in continuing that.

My personal feeling, and the reason why I have stood up and said that this budget is aggressive and that I wanted to see it opened and the price tag come down and looking at it like buying a car, my suggestion would have been to hold off on buying the Porsche. Many people have told me that now that I am here, I have to fix this problem and I am working on it. If we want to catch up for inaction in the past and bring the price down, to me that meant let’s not just go out and get a lousy car instead of getting the Porsche, let’s just get a great BMW at half the price. I tremendously respect the colleagues that I have had the opportunity to serve with here. My views are conservative. I believe there are tax plans and structures that could have helped us accomplish the goal. I feel like this one is still considerably more aggressive than I and my constituents would like to see. Therefore, to the surprise of everyone, I will be voting no. Thank you for letting me share those thoughts, Mr. Speaker.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks.

Thank you, Mr. Christensen. I am going to ask the remaining members to speak to the bill and not make campaign speeches, please. Mr. Collins.

ASSEMBLYMAN COLLINS:

Thank you, Mr. Speaker. I want to speak to the need for this legislation.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks.

Mr. Collins, I am going to ask you to stay with Senate Bill 6, please.

ASSEMBLYMAN COLLINS:

Yes, Senate Bill 6. I am supportive of Senate Bill 6. There are lots of reasons for doing that. We need this bill. I had better not tell you then that I rode my horse across District 13 on the north side, and sighted my rifle on the west side before my colleague that represents it now was ever born. I know that district probably as well as he does, but I won't say that. I am sorry, Mr. Speaker.

This bill is a very conservative approach to the needs of Nevada. Having been here five terms, we have cut things and we are trying to replace part of them. I urge my colleagues to support this legislation. Thank you.

ASSEMBLYMAN HORNE:

Thank you, Mr. Speaker. I stand in support of this bill. I think it is important to remember that we are trying to balance. Everyone here agrees that education is important. Everyone also agrees that business is important to the state of Nevada. We want to bring new businesses here, but as has been said before, basically to ask a business to move to the state of Nevada and say please come here because we have a pretty close to average school system, is not a good selling point. We are trying to provide our state with a better education system. Our franchise tax, in particular, that everyone here has issues with, is 1/10 of 1 percent. It is the lowest in the nation. In my opinion, these are baby steps to moving toward where we need to be. I stand in support of this because, right now, our budget isn't that of a large or fancy sports car or luxury car. It is that of an old, used, beat-up car that you buy at one of those car lots with second-and-third chance financing. That is where we are now. It hurts in order to move up and we need to move up. We need to get a better car to transport our children to the future. Then we can have those students graduate with a quality education, not only from our K-12 but also our higher education, as our colleague from District 10 stated earlier. I stand in support of this bill and I hope that you will too. Thank you.

ASSEMBLYMAN MABEY:

Thank you, Mr. Speaker. It is an honor for me to stand and speak in front of this Body. It has been a great experience being here for five months now. I have learned to appreciate each one of you. My concern with the bill is that I think it will tip the balance. I agree that we need to pay more. I actually want to pay more taxes, but I don't want our state to pay the amount that this bill will raise.

As a self-employed businessperson, \$500,000 seems like a lot of gross revenue, but our costs are often near that. You are going to end up taxing people who hardly make any money; whereas in our state, according to a survey, there are almost 2,000 state employees who make more than \$100,000. That is about 2 percent of the workforce. Under this they won't pay any tax. There could be a self-employed businessperson that might make \$20,000 and he is going to pay this tax and the state employee won't pay any tax. Mr. Lanni, who my colleague from District 42 mentioned, makes well over \$1 million. His company that he works for will pay a tax, but he won't pay a tax. The self-employed businessperson has to pay for his own retirement. A government employee has the Public Employees' Retirement System (PERS) account. They get 2.5 percent times their number of years in the system, up to 75 percent of their salary if they work for 35 years. A self-employed businessperson doesn't have that. He doesn't have his health insurance paid for. I don't think this is balanced. It is against the businessperson and specifically the self-employed businessperson.

The other thing that surprises me is how we exempt the insurance company. It is said that they already pay a 3.5 percent insurance premium. I bet you not one of them pays a 3.5 percent insurance premium themselves; we pay it. When I pay my \$100,000 malpractice insurance it doesn't say \$96,500 plus 3.5 percent, it says \$100,000. I pay that. When you pay your

automobile insurance or your health insurance you pay the 3.5 percent. I don't understand why the insurance companies are exempt. In my opinion they should pay on their profits just like anyone else would under this bill. I want to raise our taxes. My five kids have all gone to public school. I went to public school. I really want to vote for a tax. I do, but I can't vote for this one. Thank you, Mr. Speaker.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks.

I want to take the privilege of the Chair to make two specific points. First, to the distinguished member from Carson City, we have begged for offers of different types of taxation over the past few weeks. In fact, we spent a number of hours with the Minority Leader and others, trying to find what would work best. Secondly, the other comment that I think was somewhat directed at me, to my colleague from Henderson, it was my decision to combine the bills upon advice of Counsel. It was easy for the Senate to send us those bills separately because they had another House yet to pass. That is why I think they felt the comfort in sending them separately. It was on advice of Counsel that we did that.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. I apologize. Would someone of this Body explain a little bit about Section 29? How limited or how broad is this committee of legislators in revealing taxes? Will they be able to know what people gross? That gives me some concern. If someone would address that, I would appreciate it. I am sorry to ask it at this late date.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks.

Can you indicate a page number for us?

ASSEMBLYWOMAN GIBBONS:

Page 86, Section 29, line 18. The part I am concerned with is on line 34, "conduct investigation and hold hearings in connection with its powers pursuant to this section." I think that is a lot of power for legislators to be involved in reviewing taxes, so I want to hear from someone, maybe the Chairman of Taxation.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. To you and through you to my colleague. It would be the same rules that would apply to every other legislative committee. We have, first of all, no business, as well as no right, to do independent investigations of people's earnings. This would be a general committee to look at any of the taxes raised, whether there are any unintended consequences, whether there need to be recommendations to the next Legislature for changes, and that sort of thing. It is not to be an investigation into any sort of private holdings. That would be improper and not in keeping with our legislative protocol.

Roll call on Senate Bill No. 6:

YEAS—26.

NAYS—Andonov, Angle, Beers, Brown, Carpenter, Christensen, Goicoechea, Grady, Gustavson, Hardy, Hettrick, Knecht, Mabey, Marvel, Sherer, Weber—16.

Senate Bill No. 6 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Hettrick rose to a point of order regarding the constitutionality of the passage of Senate Bill No. 6.

Mr. Speaker ruled against the point of order declaring passage of Senate Bill No. 6 was correct (*Pursuant to Guinn v. Legislature, et al., 119 Nev., Adv. Op. 34 at 16*).

Assemblyman Hettrick appealed Mr. Speaker's decision and requested a roll call vote on the Speakers decision to the point of order.

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

Assembly in recess at 5:04 p.m.

ASSEMBLY IN SESSION

At 5:14 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblyman Hettrick's motion for a roll call vote was not sustained.

Assemblywoman Buckley moved that the Assembly adjourn until the call of the Speaker.

Motion carried.

Assembly adjourned at 5:15 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE TWENTY-SECOND DAY

CARSON CITY (Wednesday) July 16, 2003

Assembly called to order at 5:14 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Assemblywoman Buckley moved that the Assembly adjourn until Thursday, July 17, 2003, at 2 p.m.

Motion carried.

Assembly adjourned at 5:17 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE TWENTY-THIRD DAY

CARSON CITY (Thursday) July 17, 2003

Assembly called to order at 3:44 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblymen Andonov, Goldwater, and Mabey, who were excused.

Prayer by the Chaplain, Beverly Mobley.

Let us pray. Thank you, Lord, for all of Your blessings, our health, our family, our friends, for understanding, for compassion, for joy, for love.

As it reads in Psalm 86: "Make glad the soul of Thy servant; For to Thee, O Lord, I lift up my soul. For Thou, Lord, art good, and ready to forgive; and abundant in loving-kindness to all who call upon Thee."

Tomorrow and any days that You give us, Lord, we will remember that it is Your gentle hand that gives us guidance, courage, wisdom, humor, forgiveness, and hope.

For the light of tomorrow is the directional for us all.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 2, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Quorum present.

Senate Bill No. 2 considered.

CHAIRMAN PERKINS:

You have before you Senate Bill No. 2, which was sent to us some days ago. Because of the language in it referring to the 72nd Legislative Session, we have to do a minor amendment to the bill. I will call on Mr. Anderson to explain the bill and its amendment.

ASSEMBLYMAN ANDERSON:

Mr. Chairman, do you want an explanation of the bill in its entirety and the amendment, or just the amendment?

CHAIRMAN PERKINS:

I think it suffices for the committee to understand this is the Secretary of State fees bill that we dealt with during the regular session and if you would just describe the amendment to the committee that would be helpful.

ASSEMBLYMAN ANDERSON:

If you will note on page 10, Section 14, of Senate Bill No. 2, line 30, there is a reference to Senate Bill No. 124 “of this session,” and that would be the 72nd Legislative Session. Where those references are found throughout the bill, they need to be clarified. Those references are also located on the same page, line 38, and on page 28, Section 42, lines 31 and 39. On page 138 we need to make the section reflective of the new effective date of the bill, which would be September 1, 2003, for implementation, if it were to move forward. It is really straightforward. This is internal documentation.

CHAIRMAN PERKINS:

Are there any comments from the committee on the amendment of the bill? Mr. Anderson, will you make the motion for amend and do pass?

ASSEMBLYMAN ANDERSON:

Mr. Chairman, I make the motion that we amend and do pass S.B. 2.

CHAIRMAN PERKINS:

We have a motion by Mr. Anderson and a second by Mr. Manendo. Are there any comments or questions on the motion? The motion is amend and do pass with the amendment you have before you on Senate Bill No. 2. All those in favor of the motion please indicate by saying aye. Are there any opposed? Motion carries, and we have an amend and do pass for Senate Bill No. 2.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 3:51 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Committee of the Whole, to which was referred Senate Bill No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RICHARD PERKINS, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 2 declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 2.

Bill read third time.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 10.

Amend sec. 14, page 10, line 30, by deleting "*this session*," and inserting: "*the 72nd Session of the Nevada Legislature*,".

Amend sec. 14, page 10, line 38, by deleting "*this session*," and inserting: "*the 72nd Session of the Nevada Legislature*,".

Amend sec. 42, page 28, line 31, by deleting "*this session*," and inserting: "*the 72nd Session of the Nevada Legislature*,".

Amend sec. 42, page 28, line 39, by deleting "*this session*," and inserting: "*the 72nd Session of the Nevada Legislature*,".

Amend sec. 208, page 138, by deleting lines 4 through 28 and inserting:

"Sec. 208. 1. This section and sections 189 to 195, inclusive, and 203 of this act become effective on September 1, 2003.

2. Sections 1 to 188, inclusive, 196 to 202, inclusive, and 204 to 207, inclusive, of this act become effective:

(a) Except as otherwise provided in paragraph (b) or (c), on November 1, 2003.

(b) On January 1, 2004, for the purpose of requiring a resident agent who desires to resign to file a statement of resignation for each artificial person formed, organized, registered or qualified pursuant to the provisions of title 7 of NRS for which the resident agent is unwilling to continue to act as the resident agent for the service of process.

(c) On January 1, 2004, for the purpose of requiring a resident agent to file a certificate of name change of resident agent if the name of the resident agent is changed as a result of a merger, conversion, exchange, sale, reorganization or amendment."

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

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

Assembly in recess at 3:54 p.m.

ASSEMBLY IN SESSION

At 4:05 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Senate Bill No. 2, just returned from the printer, be placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 2.

Bill read third time.

Remarks by Assemblymen Anderson and Buckley.

Roll call on Senate Bill No. 2:

YEAS—36.

NAYS—Angle, Gustavson—2.

EXCUSED—Andonov, Goldwater, Hardy, Mabey—4.

Senate Bill No. 2 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that KTNV: Josh Hudson; KVBC: Ben Correa, be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chambers, and that they be allowed use of appropriate broadcasting facilities.

Motion carried.

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

Assembly in recess at 4:16 p.m.

ASSEMBLY IN SESSION

At 6:52 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblywoman Buckley moved that the Assembly adjourn until Friday, July 18, 2003, at 9:00 a.m.

Motion carried.

Assembly adjourned at 6:53 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE TWENTY-FOURTH DAY

CARSON CITY (Friday) July 18, 2003

Assembly called to order at 11:06 a.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Hardy, who was excused, and Assemblymen Andonov, Christensen, and Sherer, who were absent.

Prayer by the Chaplain, Beverly Mobley.

Let us pray. Dear Lord, You have seen us challenged with difficult decisions and seen us joyful with rewards of accomplishment. With Your strength, we persevere through the toilsome; with Your humility we delight in meritorious prosperity. We look with hope and reliance to those among us who lead, who teach, who learn, who endeavor to improve. And we pray that You enlighten us so that we go forward with thoughtfulness and appreciation for each other.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering bill drafts, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Quorum present.

Bill Draft Requests (BDR) 32-46, 32-47, and 32-48 considered.

CHAIRMAN PERKINS:

Since we don't have BDRs printed, what you are going to get to look at is an actual bill. I wanted to explain that because normally you would have a bill draft request in front of you, but instead we will have the actual bill form, assuming the Committee of the Whole approves the bill drafts.

ASSEMBLYWOMAN BUCKLEY:

Yes, thank you, Mr. Chairman. It would have killed an additional number of trees to do it twice, as well as burning out our staff even more than they are already burned out. Would you like me to proceed with talking about the bill drafts?

CHAIRMAN PERKINS:
Please.

ASSEMBLYWOMAN BUCKLEY:

The first bill draft request is the one that we alluded to yesterday. It involves the passive revenue generators. I think it's important to move out a few more bills for an additional consideration and this would be the first one.

CHAIRMAN PERKINS:

We have a motion by Mrs. Buckley for a BDR to pass revenue generators we discussed yesterday. Basically, that's changing the collection allowances and I believe they have been somewhat noncontroversial. Motion seconded by Mr. Manendo. All those in favor of the bill draft requests please signify by saying "Aye." Any opposed? The motion carries. Mrs. Buckley, can you, for our record, indicate the points in the bill draft request.

ASSEMBLYWOMAN BUCKLEY:

The number, or the points being changed?

CHAIRMAN PERKINS:

Which collection allowances are being changed.

ASSEMBLYWOMAN BUCKLEY:

Yes, thank you, Mr. Chairman. It would reduce the cigarette stamp fee allowance to 0.5, reduce other tobacco allowances to 0.5, reduce the liquor tax allowance to, again, the same 0.5, as well as reduce the sales tax allowance to 0.5. These are fees that retailers are allowed to keep out of our sales taxes and liquor taxes, and the like. Now that we have moved to electronic collection and the burden is not so high, these concepts have been discussed as ways to generate additional money for schools.

I move that we introduce BDR 32-47, Assembly Bill No. 2.

CHAIRMAN PERKINS:

You have heard the motion. Mrs. Buckley's motion was for the introduction of BDR 32-47, which would then become Assembly Bill 2. Seconded by Mrs. Chowning. All those in favor of that motion please indicate by saying "Aye." Are there any opposed? Motion carries.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. I would then move the introduction of BDR 32-48, which would become Assembly Bill 3.

CHAIRMAN PERKINS:

It has been moved by Mrs. Buckley and seconded by Mr. Ocegüera for the introduction of BDR 32-48. All those in favor of that motion please indicate by saying "Aye." Are there any opposed? Motion carries.

ASSEMBLYWOMAN BUCKLEY:

Lastly, Mr. Chairman, I would move for the introduction of BDR 32-46.

CHAIRMAN PERKINS:

It is moved by Mrs. Buckley and seconded by Mr. Ocegüera for the introduction of BDR 32-46, which would then become Assembly Bill 4. All those in favor of the motion please indicate by saying "Aye." Are there any opposed? Motion carries. We now have all three bill draft requests.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 11:18 a.m.

Mr. Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Assembly Bill No. 2—AN ACT relating to taxation; providing for the imposition and administration of a franchise tax on financial institutions for the privilege of doing business in this state; increasing the taxes on liquor and cigarettes; increasing the license fees charged for certain gaming establishments and manufacturers of interactive gaming systems; making various changes to the provisions governing the Fund to Stabilize the Operation of the State Government; changing the Disaster Relief Fund into an account in the Fund to Stabilize the Operation of the State Government; making various other changes relating to state financial administration; making technical corrections to certain previously enacted provisions; reducing the amount previously appropriated to the Interim Finance Committee for allocation to the Department of Taxation; repealing an appropriation made to the Fund to Stabilize the Operation of the State Government during a previous session; requiring the identification of state programs for the treatment of alcohol and drug abuse and state funded local programs and the development of a coordination proposal; providing penalties; and providing other matters properly related thereto.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

By the Committee of the Whole:

Assembly Bill No. 3—AN ACT relating to state financial administration; providing for the imposition and administration of a franchise tax on business entities based on the amount of their Nevada taxable income; providing for the imposition and administration of an excise tax on employers based on wages paid to their employees; replacing the casino entertainment tax with a tax on all live entertainment; eliminating the tax imposed on the privilege of conducting business in this state; imposing a state tax on the transfer of real property and revising the provisions governing the existing tax; revising the fees charged for a state license for the restricted operation of slot machines; establishing the Legislative Committee on Taxation, Public Revenue and Tax Policy; making an additional appropriation; providing penalties; and providing other matters properly relating thereto.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

By the Committee of the Whole:

Assembly Bill No. 4—AN ACT relating to state financial administration; requiring the Nevada Tax Commission to adopt regulations for the electronic submission of returns to the Department of Taxation and the payment of taxes, fees, interest and penalties using credit cards, debit cards and electronic transfers of money; reduces various allowances for the collection of sales and use taxes and taxes on intoxicating liquor and cigarettes; requiring a business that purchases tangible personal property for storage, use or other consumption in this state to register with the Department of Taxation at the time it obtains a business license; requiring an executive agency to submit to the Chief of the Budget Division of the Department of Administration the number of positions within the agency that have been vacant for a certain time and the reasons for each vacancy; authorizing the Securities Division of the Office of the Secretary of State to waive the enforcement of provisions governing the sale of securities; imposing certain additional fees for the privilege of selling securities in this state; and providing other matters properly relating thereto.

Assemblyman Ocegüera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 4 be considered engrossed, declared and emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Assembly Bill No. 4.

Bill read third time.

Remarks by Assemblymen Perkins, Giunchigliani, and Buckley.

Assemblywoman Buckley requested that her remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I just wanted to note for the record that this would raise, over the biennium, with just the passive revenue generators, \$31.035 million. In addition to the \$44 million passed yesterday, that would bring the approximate total to \$75 million.

Roll call on Assembly Bill No. 4:

YEAS—38.

NAYS—None.

ABSENT—Andonov, Christensen, Sherer—3.

EXCUSED—Hardy.

Assembly Bill No. 4 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 2 with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Quorum present.

Assembly Bills Nos. 2 and 3 considered.

CHAIRMAN PERKINS:

We will start with Assembly Bill 2.

ASSEMBLYWOMAN BUCKLEY:

Yes, thank you, Mr. Chairman. These taxes are ones that we have discussed all session long. What A.B. 2 contains is an increase in a cigarette tax to \$.50, an increase to the liquor tax at 75 percent, an increase on gaming at 0.5 percent, as well as a 4 percent bank franchise fee. These are items that have been considered in many other bills in many different sessions. We thought that since we have now had success in grouping two and raising the revenue we need for schools in a piecemeal fashion, maybe this might give us another piece.

CHAIRMAN PERKINS:

Comments or questions from the committee? Let's take a quick recess.

Mr. Chairman announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 11:27 a.m.

IN COMMITTEE OF THE WHOLE

At 11:35 a.m.

Assemblyman Perkins presiding.

Quorum present.

CHAIRMAN PERKINS:

Are there other questions or comments from the committee?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. There was a question about how much A.B. 2 would raise. I want to address that. The total in fiscal year 2003-2004 is \$124,593,000. The second year is \$161,647,000. The total would be \$286,240,000.

CHAIRMAN PERKINS:

Thank you. As well, the committee should note that there are no education provisions in this bill. It's been voiced on quite a few occasions that the decoupling may have a positive effect on our actions here. So taking that as a concept, we are working here to find some progress. It is the Chair's intention that if this bill should pass, then the next thing we would do is take up the class-size reduction bill because this bill would cover the amount that it would cost. We would fulfill our constitutional mandate of a balanced budget as we move forward, then we can take up another bill and see if we can make some additional progress. In an effort to find progress, that is why you see the bill in its fashion in front of you. Are there further comments or questions from the committee?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Chairman. I would also point out that everyone in this House, Democrat or Republican alike, except for maybe three people, have been on record as saying that they would support tax increases. I think the concerns have come down to what dollar amount would people actually support, be it \$704 million, \$636 million, or \$511 million. This gives everyone an opportunity then to not only fund and uncouple the class-size reduction, but it gives him or her an opportunity to really vote for a smaller tax package, which has been part of the concern. All along, every person has said they would support the largest tax increase, whether it is \$500 million, \$600 million, or \$700 million. This is an attempt to try to see if we can help individuals grapple with that concern because no one in here says we don't need taxes. I think that is part of the concern we have had all along. I think this is a real opportunity to give us an option. This is broken up. If you look at A.B. 2, this is the cigarette and liquor tax; you will also have an opportunity to finally increase gaming taxes, which I know the public has totally supported, and there is a 4 percent bank franchise fee, which is a common fee charged throughout the United States and we would still be the lowest in our region as far as bank franchises. At some point we have to stop shielding these corporations and these banks from paying their fair share. This bill, I think, gives you that opportunity, so I would encourage my colleagues who had a concern about going for \$600 million or \$700 million to take a look at this. This, in sincerity, gives you what you have been asking for. It uncouples class-size reduction from the bill. It gives you a lower dollar amount to be able to attribute unless you tax both gaming and banks. Thank you, Mr. Chairman.

CHAIRMAN PERKINS:

Thank you, Ms. Giunchigliani. Are there further comments or questions from the committee? What is the pleasure of the committee? There is a motion by Ms. Buckley for a do pass, seconded by Ms. Giunchigliani. Are there any comments or questions on the motion? Seeing none, all in favor of the motion please indicate by saying "Aye." Any opposed? Motion carries.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 11:41 a.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Committee of the Whole, to which was referred Assembly Bill No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RICHARD PERKINS, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 2 be considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

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

Assembly in recess at 11:44 a.m.

ASSEMBLY IN SESSION

At 11:53 a.m.

Mr. Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 2

Read third time.

Remarks by Assemblymen Brown, Giunchigliani, Griffin, Leslie, Buckley, Knecht, Goldwater, Angle, Mabey, Gustavson, Carpenter, Parks, and Mr. Speaker.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Everybody should have a summary of the Bill Draft Request on his or her desk. This is the same provision that has been in the revenue bills that we've considered this session. I can have the Chairman of Taxation go through these provisions if anybody cares to, but, in essence, you have the electronic submission, bringing us into the twenty-first century. Also, there is the change in the collection allowances by the retailers. Are there questions or comments on the bill?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. I would also point out that in, addition, is the transitory trailer bill for the language to correct the timelines for the implementations of the Secretary of State's fees.

ASSEMBLYWOMAN BUCKLEY:

Yes, thank you, Mr. Speaker. I just wanted to note for the record that this would raise, over the biennium, with just the pass of revenue generators, \$31,035,000. So, in addition to the \$44 million passed yesterday, this would bring the approximate total to \$75 million.

ASSEMBLYMAN BROWN:

Thank you, Mr. Speaker. In regard to the bill pending before us, these are my feelings. The process we are engaged in, personally, encourages me. I think certainly there are taxes supported by the whole of this Body that are undisputed, and we should move forward with them. I think by decoupling some of these we move that process forward. I am currently working on a law case involving a \$200,000 dispute and \$40,000 is undisputed, and we're probably going to get a payment on that. We have \$160,000 where there is some dispute. Our claim may not be as strong as I would like it to be, but we do have some legitimate claims. We think if we can get that undisputed portion paid, probably both parties are going to be a lot more willing to look at the balance of that claim and be much more reasonable in the negotiations. I think this is a step forward.

My personal opinion is we know where the "dog fight" is in this match. It's in the broad based business tax or any type of income-based tax. Assembly Bill 2 certainly contains a portion of that in the franchise tax on financial institutions. I had a constituent e-mail me and say, "Boy, I'm going to check and see what bank boards you serve on." About the closest I get to banks is standing in the teller line with everyone else. I don't have any particular interest in financial institutions. At least from my interactions with and my understanding of financial institutions, I think we have a set of institutions that are willing to "step up." I think they are willing to "step up" on a stepped-up basis over and above what otherwise would be imposed upon a general business community. If you have someone who is willing to do that, it is incumbent upon us to

work with them on something to appease some of their concerns, but I don't think that the franchise tax does that. I know there have been agreements on paying a multiple of the payroll or a multiple of the business activities tax. I think those are worthy things to work on. We know we have some institutions that would bring headquarters to Nevada and create jobs here, and that is something we should take into consideration in improving and diversifying our economy and business community in the state of Nevada. Again, I appreciate what we're doing. There are other taxes that are not in dispute in A.B. 3.

My personal feeling is let's pile all those, which would be a substantial amount, into one of these bills and let's leave the bills that require the greatest attention and compromise for a final bill. Let's get some of this undisputed stuff out from under us. I feel badly that maybe this might not succeed because it has a bank franchise tax in it. There is no reason why we can't get some of these taxes out, because they are undisputed. That is my position. If the Speaker is willing to look at that type of a motion then I would certainly be happy to make such a motion. Thank you, Mr. Speaker.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. I appreciate the comments that have been made. What we are offering is a mixture, so you have an opportunity to tax gaming and out-of-state corporations—not your constituents, not small businesses. Bank of America's net income was \$9.2 billion and across the nation they paid \$3.2 billion in taxes and not one dime of the tax was paid in Nevada. Wells Fargo's net income after taxes was \$5.7 billion. They paid \$3.1 billion in taxes and none of these taxes were paid in Nevada. The bill before you gives you the opportunity to tax gaming and banks and not your constituents. That's the option here. We don't have time to wait. You all got the e-mail from the Nevada School Board Association. Nye County has voted to delay opening their schools. This is your opportunity to join us, as we have always worked together in the past. Let's do the right thing for schools in this state, for small businesses in this state, and for the everyday, average citizen who will not be impacted under this legislation. Join us. This is our opportunity to once again work together in the bipartisan spirit that we have always enjoyed in this Legislative Body, at least during my tenure. Please, I implore you, do the right thing.

ASSEMBLYMAN BROWN:

Thank you, Mr. Speaker, for recognizing me a second time. My response to that would merely be, we certainly have alternatives to laying similar numbers upon those organizations and entities, as the good Assemblywoman has just mentioned, but it does not have to be that particular method. There is a method that may be more agreeable and would gain that type of support, and we could join. I am not saying we can't at this moment, and I am not representing any members of this Body. It certainly would gain that support if it were in another form. Thank you, Mr. Speaker.

ASSEMBLYMAN GRIFFIN:

Thank you, Mr. Speaker. I want to echo my colleague from Green Valley and my colleague from Las Vegas. Obviously, I have been on record a few times now in favor of the bank franchise tax. Going through the committee process I understand why, in my opinion, it is good tax policy. For the same reasons that you mention, we are in a crisis. We are in a crisis, if I can use your words, whether for a franchise tax or a unique payroll tax on banking institutions. For the purpose of trying to find the votes, I realize there are policy reasons why payroll may not be acceptable on banks versus why a franchise tax may not be acceptable on banks. If we agree to do this in pieces, and I agree with my colleague from Green Valley, this is a good step. I think we need to find something that gets us out of here. I know that is everybody's opinion, and if we can have the discussion on this particular issue now, I would appreciate it, Mr. Speaker. Let's try to figure out how to get this piece done. I would appreciate some comments. Thank you, Mr. Speaker.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Thank you, Mr. Griffin. I think that's why we are using somewhat of an unorthodox manner to try and get something done.

ASSEMBLYWOMAN LESLIE:

Thank you, Mr. Speaker. I rise in support of A.B. 2. I have a question for my colleague from Henderson. The alternative method that you're talking about is double payroll, triple payroll. Does any other state tax banks that way? I haven't heard about it. If they don't, then what is so different about Nevada that we can't have a franchise tax or business tax when all the surrounding states in the region have one? I honestly just do not understand the objection.

ASSEMBLYMAN BROWN:

Thank you, Mr. Speaker. I don't believe that is the case. If the industry is in favor of that, I do believe administration and compliance is much easier through that type of method. It is a very simple calculation versus using a more serious accounting method as I believe would be necessary using gross receipts and then apportioning for the state, et cetera. Again, my feeling is, if the money satisfies one group of voters in this Body and they are willing to step up to that and a method satisfies another group of this Body, then to me, we're done. Let's find the dollar amount and go with it. Thank you.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. We received an announcement that Nye County is going to delay the opening of schools for two weeks. Today, if we don't pass a bill, the Gifted and Talented Education (GATE), literacy, and computer programs for Clark County will be shut down. All of the other school districts are cutting programs and are unable to hire. Why would we stop the passage of this bill because we want the banks to pick out the method they would be taxed? I don't get that. Every other state that has a bank tax uses a franchise tax. It's not easier to create something new that has never been tried before. It's riskier. If the only reason to do it is because the banks get to pick what tax they want, why don't we just shut this place down; let every industry come in here and say how much they're willing to pay and how they're willing to pay it. Let's just abdicate our responsibilities and say, "Special interests come on in. You get to pick how it's going to work." I don't understand what we're doing here.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Speaker. I would like to echo the comments of the gentleman from District 22. I think there is a way to do this. A.B. 2, as it stands, is definitely not the way to do it. Nevada has many banking and finance jobs in great part because of the reasonable tax regime they face here. These are great jobs, in fact, and are a real boon to the Nevada economy. Also, the banking and finance institutions are some of our best corporate citizens.

These jobs are mobile. They can leave and go elsewhere at almost any time. We have a good chance to gain more of these jobs, or to lose the ones we already have depending on how we vote on this bill, which is destructive as it stands. Let's be real clear here. The answer to the two members of the majority who raised questions is the surrounding states are irrelevant because we're in competition for these jobs with the states that have no banking franchise fee at all. That's the relevant standard here. A vote for this bill will keep jobs from coming here, and it will drive away existing jobs. I want to make it very clear, if we pass this bill as it stands we will lose thousands of jobs that would otherwise come here and maybe a thousand we already have or more. A vote for this bill will harm our economy and our people and it will add to welfare rolls and other public spending.

If you want those bad results, then vote for this bill. A vote against A.B. 2 will keep jobs here and attract new jobs to the state. A vote against A.B. 2 will grow our economy and benefit all our people. It will keep down welfare rolls and public costs. For all these reasons, unless A.B. 2 is amended to contain a tax on banks and financial institutions that is reasonable, it can still raise the same money, but it has to be of a reasonable nature. Unless it is amended, I will vote against it. Let me close by saying, Mr. Speaker, it is cynical and wrong to say that those of us who support reasonable taxes and spending have been asking for something like this. We have been clear all along that there are two important tax issues: the amount and the kinds of taxes. This bill in its current form with a franchise fee cynically continues the pattern of bringing unacceptable and destructive taxes. It is a continuation of the mismanagement that has been the problem throughout this year, and that is another reason I will vote against it if it's not amended. Thank you, Mr. Speaker.

ASSEMBLYMAN GOLDWATER:

Mr. Speaker, thank you. Fascinating, fascinating discussion. Let's take what we know and what we don't know. This is what we know. What we know is Bank of America said Wednesday it plans to open 19 new banking centers in the Las Vegas area by 2005, including 7 this year, out of 500 new branches across the country in jurisdictions with a far greater tax burden than we have in Nevada, with or without this franchise tax. We do know that. Speculation that the financial industry might up and leave is purely speculation. We don't know that. We do know there are a number of jobs we will lose should we not pass this particular tax. Important jobs in Clark County. For example, teachers who are excellent citizens, who are fine contributors to the community will not get jobs should we not enact this bank franchise tax. That we know for sure. So why are we suggesting inaction on what we don't know rather than acting on what we know? I can't find an answer to that.

The other thing I can't find an answer to is for my colleague's questions from Washoe County. Is it because of a threat of job migration, a threat of industry migration? We know very well that industries are migrating to and from and in and out of Nevada for a plethora of reasons. The reasons they are leaving Nevada is because the schools aren't as good as they are in other areas. The universities aren't as good. The social infrastructure is bad. Why are you not rushing to protect those businesses from leaving for those reasons? Why are we not standing up protecting that? Job migration will occur with or without taxes. Taxes are a factor; they are not the sole factor. I would like to ask you openly, are we not enacting the bank franchise because it is difficult to administer? Mr. Speaker, it is an open question to those who are opposed to this. They will tax banks, but it is difficult to administer. I would like to hear a response, anything as to why this is not good.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Speaker. I would like to go along with my colleague, and say let's look at those things we know or don't know. I rise in opposition to A.B. 2. First of all, we do know these institutions aren't losing their bricks and sticks. It's not the bank branches that are moving. It's their back-office jobs that are moving. Jobs that only need a computer terminal are moving. They are not going to take Nevadans with them. Over 2,000 jobs in those back offices now paying property taxes and sales taxes are not going to be leaving Nevada; they are going to be staying here on unemployment. Those jobs are not going to Utah or Arizona. They are going to Wyoming or farther.

Secondly, I would like to talk a little bit about education. We have offered several times to pass the Distributive School Account (DSA). Let's pass a continuing resolution to fund at current levels, or at least, let's pass the constitutional minimum that our Constitution requires. Let's just pass that out. We could do that now and fund education at the constitutional minimum. Finally, I would like to say we need to amend this bill. I have considerations beyond the gross receipts tax I see in this bill and that's the tobacco tax. When we raise that tax we will actually have less revenue coming in from tobacco. When that happens, the funding for our Millennium Scholarships goes down. The less money we have coming in from that revenue source the less we have for education, so I would ask you to consider these things. I strongly oppose this bill. Thank you, Mr. Speaker.

ASSEMBLYMAN GRIFFIN:

Thank you for recognizing me again, Mr. Speaker. To continue my last comments, I would answer the question the Majority Leader presented to this Body, "Why do it this way? Why consider doing this at the industry's preference?" I would say, going back to my experience over the last 170 days, the criticisms of the franchise tax are greatly exaggerated. I think the criticism of using a payroll mechanism as a way to finance the banks is also somewhat exaggerated. I don't know the answer to the question, other than to say the reason why you might want to consider this is because it just might pass. I don't know that. I think we can assume that with this particular language, it won't pass. If Nye County is delaying its school for two weeks, that's what is being said now. It may get worse, it may get better, and it's going to apply to Clark County and several other counties. I don't know if it's the best tax policy, but it may be worthy of the discussion we're having right now. It's great because it just might pass. That

would be the only answer I could come up with for “Why would we do it that way?” Thank you, Mr. Speaker.

ASSEMBLYMAN MABEY:

Thank you, Mr. Speaker. The Assistant Minority Leader took the words right out of my mouth. I, like my colleague from Green Valley, have no dog in this fight. I don’t go to a bank but once every five years and write about two checks each year, thanks to my good wife. So, my interaction with banks is minimal, but my little daughter at school doesn’t care where she gets the \$50 million. If the bank wants to give \$50 million, or whatever they have agreed to as a payroll tax or franchise tax, she doesn’t care. She just wants to go to school. She’s one of those kids that love school. If the banks want to give it in a certain way and it will get the bill out of here, then I think that’s what we should do. Thank you.

ASSEMBLYMAN GUSTAVSON:

Thank you, Mr. Speaker. I do have a question directly to the bill. I would address it the Majority Leader if she has an answer or anyone else who might.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Please direct your question to the Chair, and I will find an answer for you.

ASSEMBLYMAN GUSTAVSON:

We would all like to pass a bill and get out of here and fund education. There is no question about that. We have been debating this franchise tax and gross receipts tax and different types of income taxes. If this is going to hold up the bill, maybe we should take a look at removing that from this particular bill and putting it in Assembly Bill 3. The Majority Leader gave the figures of how much this would raise for fiscal year 2003-2004. My question is, how much would this raise if we were to remove the franchise tax from A.B. 2 so we could move on with this bill?

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

The reduction in the amount would be about \$17.6 million, as listed on the sheet and implemented in the second year of the biennium.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. We have heard the debate that the reason we shouldn’t support a bank franchise fee and instead should deal with a payroll tax is because it is hard to do. I would suggest that creating a bank payroll tax—no state has a payroll tax in the United States—will indeed create a mini-IRS for those of you who are concerned about that part of it. The franchise tax is the common way of doing business throughout the United States for banks. Now, where are they going to migrate to, Wyoming? Well, good luck in the wintertime as far as I’m concerned. On that point, let’s see, where are they going to go, Alabama? They pay 6.5 percent there, not the 4 percent we’re recommending. Alaska pays anywhere between 1 and 9.4 percent. Are they going to Arizona? They would pay 6.968 percent; California, 10.84 percent; Colorado, closest to us, 4.63 percent. Where are they going to migrate? I heard words in the hall last week by the banking lobby. The first day they said, “We’re going to lose 200 jobs.” The very next day it was 4,000 jobs. I’m not sure how that ratio was worked out. No matter, I’m tired of those types of bogus threats. They are going to automate. They are going to continue to automate. That’s why they are opening branch offices rather than actual large buildings; that is why they will have Starbucks located nearby. They want to look like retail stores. The reason they want to choose payroll is because they will be downsizing. They are now, even without a franchise tax, so they can automate. So, they want to pick a tax that they very well know will decrease.

More importantly, it comes down to who is shielding whom? We have too many people serving in this Legislature in both Houses who sit on bank boards. I was so ignorant I did not even know you got paid to serve on bank boards. There are some people who are paid to attend a meeting, simply to attend a meeting, \$30,000 to \$40,000 per year to serve on a bank board. So, just whom are we shielding here, folks? This is ridiculous. My colleague from District 10 is

quite correct. If you're worried about losing jobs, worry about the teachers and support personnel and the administrators who cannot sign a contract. No matter what we do here today, you have 600 teachers who cannot sign a contract in Clark County. You have an opportunity to tax gaming in this bill. Those choosing to vote "no" on it, you are also giving gaming a pass, and I think, shame on us because we should make them pay more. We should not continue to hit the one or two industries that currently pay in this state at the expense of the other industries. Take a look at this again. Think more closely about it. We will be able to at least start moving forward. You asked to have this uncoupled. We're giving you what you asked for; now step up to the plate.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. I think for the first time in the session, we have a chance to make a compromise. Whatever the arguments are, one side and the other on the banking franchise fee, I think we must realize that it's not going to pass. We can amend this bill and get three parts out and have three parts left that will pass. We need to fund the schools. We know that. We can get three parts out and bring in substantial monies. There are other parts of the tax bill that will also pass. We can compromise to get the bank franchise fee out for the people who have their heels dug in on it. Later a payroll tax, or whatever tax can be amended, and have an opportunity to do another tax or two. I think this is the way to go, and then we can fund the schools. We can argue about the ones in disagreement later. We need to support the schools, and I think that's the way to do it. This is a unique opportunity for us to compromise. Sure, we will all have to give in to get the schools open and keep them open, as we should be doing. This gives us that opportunity. Amend this bill to take the bank franchise fee out, get the others added, and argue later. Thank you, Mr. Speaker.

ASSEMBLYMAN KNECHT:

Thank you, Mr. Speaker, for recognizing me a second time. I have three quick points. This bill, especially as it stands, cannot be about school funding. The total revenue that would be raised by this bill, as it stands, is \$286 million; yet only \$17 million of that is included in the bank tax. Therefore, the claim that if the bank tax is taken out, we can't fund schools with the remaining \$269 million doesn't pass the lab test. This is not about school funding at all. We have indicated, I might add, a willingness to consider other taxes on banking.

Second, Mr. Speaker, the proponents of this bill, as it stands, have studiously ignored South Dakota, which along with Wyoming is one of those states that doesn't have a bank franchise fee. South Dakota has long hosted bank jobs, and I personally am willing to bet that if we pass this bill, we will see an exodus of hundreds and thousands of jobs from Nevada to South Dakota. That is what this is all about. It is a question of whether we're going to get and keep thousands of jobs or whether we're going to lose them. That is what people are voting for. If you vote for this bill, as it stands, you're voting to chase those jobs out. If you vote against it, and if you want to amend it so we can get the \$269 million and pass a reasonable banking tax, then you're voting to keep the jobs.

Let me finally say, this is ultimately about compromise. When we talk about \$17 million out of \$286 million, we're talking about less than 7 percent of the revenues. Anyone who is serious about compromise, anyone who really wants to fund education, anyone who really wants to do the right thing will make the compromise to get 93 percent of this out and get \$269 million in new revenues so we can fund education and move forward, and then find a bank tax that works. Thank you, Mr. Speaker.

ASSEMBLYMAN PARKS:

Thank you, Mr. Speaker. I would like to address the comment we have constantly heard that banks will all go to South Dakota. I think we all know there are a tremendous number of financial institutions in South Dakota. Citibank has its largest credit card processing center in South Dakota. Two days ago, after hearing this repeatedly, I asked one of the bank representatives a question. The question I put directly to him was, "Tell me why all financial institutions will abandon Nevada and go to South Dakota if we were to institute a tax, impose some kind of a bank or financial excise tax?" I said, "Given the fact the rate in South Dakota starts at 6 percent, what makes South Dakota, other than its wonderful winters, so enticing that

banks are interested and willing to relocate to South Dakota where they start off paying 6 percent on net income of \$400 million or less?" It is on a staircase, so it does decline as the amount of net income increases, but it is a fairly substantial amount when you look at \$400 million as the first tier. To this day, I still haven't gotten an answer. I was told I would get an answer in a matter of hours. I would say it has been over 48 hours, and I still haven't gotten an answer. Thank you.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. As many of us have heard, the federal court has issued a decision in the lawsuit. While it may be unusual procedure, I would like Brenda Erdoes, Legislative Legal Counsel, to announce the decision during this discussion, as it may change how people view the vote. I would call a one-minute recess to allow her to make the announcement.

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

Assembly in recess at 12:28 p.m.

ASSEMBLY IN SESSION

At 12:31 p.m.

Mr. Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Remarks by Assemblymen Buckley, Carpenter, and Mr. Speaker.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. Even with that ruling, I would still like to have two-thirds for every single bill passing this Legislature. My good friend from Elko said, "Let's compromise." We have compromised on bills for the ten years I have been here and done it well. We achieved better results as a result of give and take. This session, on this issue, I don't see where there has been any give, with regard to the minority side. What is it? "We don't like bank franchise tax, so you give in. Don't do it." There are policy reasons for our concern. What a payroll does on banks is help the big guys to the detriment of the little guys. Let's say you have a brand-new start-up bank. They start by doing one branch and emphasize customer service and so they have a high payroll. They are just starting out so their loans aren't that high, they are making very little income, and they have high payroll costs. But the big guys can, and do, outsource, automate, and are making money hand over fist and yet all you are looking at is payroll without any regard to profitability. How many times this session have I heard, "Oh, a small franchise fee is terrible. It taxes someone without regard to whether they make a profit." Well, that is what a payroll would do on a bank. I guess what I come back to is there are policy reasons. It is risky. It is not done in any other state. The only thing I have heard articulated is, "Well, the banks want it that way." That perplexes me. When it is risky and not done on ability to pay, I don't understand that rationale at all.

Compromise means give and take. All I keep hearing is, no, no to the Gross Revenue Tax (GRT), no to our efforts to fix the GRT, no to the "Oreo" plan, no to a franchise fee, no to net profits, and no to the number already approved by the Legislature as a whole. I hear, "Gee, we are sorry some of our members on the Committee on Ways and Means never even voted no in a subcommittee, but we are still going to insist that the number get lower." Where is the give here? I haven't seen any give and take. I would meet anybody in the middle, anybody at all. I have said that all session long and I still say it. Certainly there can be an appeal next week to the Nevada Supreme Court for a petition of rehearing. Certainly it can go to the United States

Supreme Court. That can happen, but I think the chances are pretty unlikely. We can do the right thing, right here. We can meet in the middle, pass the bill by two-thirds, make the courts irrelevant, and make the people begin to respect our process again. That is what kills me. The Legislature, I am sure, is the least respected branch of government now. The average person on the street doesn't know who is right or who is wrong; they think we are squabbling children. All hell is going to break loose in the next 30 days. If Nye County is already pushing back their school start date by two weeks, all hell is going to break loose. As a parent who has a child in school, I can just imagine what those parents are going to say. I am truly ashamed of all of us. Everybody, get off your high horses. Let's come up with something that makes sense. It doesn't mean you get it all one way. We give on one and you give on one. Let's get this thing done. You can't win on everything. Neither side can. You pick one and I'll pick one. Let's do it right now.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. Sitting by the Majority Leader for ten sessions in the Committee on Judiciary, sometimes she wins and sometimes I lose. Sometimes I win and sometimes she loses. All I can say is this argument perplexes me, too. There are people on both sides who have great arguments. I know if we take the bank franchise fee out we can pass the other three. I think there are two or three other taxes that we can pass that will fund education. That is what we need. I have three grandchildren and I don't want to see them out of school. I don't know where we will end up. I don't know if we will have a bank franchise fee or payroll tax fee; or if there are enough sheep in Nevada, maybe we can tax them. We don't have many sheep left. I think if we can amend this bill, get that out, let people argue, something will happen here. We need to get enough money, as I see it, to fund education. This goes a long way and there are two or three other ones that we can do and then we can argue about the other things. That is the way I see it.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. The bottom line is we have to fund a number. We agree on certain taxes in this Body; that is everybody but two. So we could agree on a number of them. We have ten left and we probably agree on seven of them. The bottom line is we need to agree on all of them and we needed to do it a month ago. We can't argue later. We need to do it today. We shouldn't go home until this is done. I am ashamed to go home when this isn't done. I put it right back at you. If we do a franchise tax on banks, what will you give? I didn't hear you give one. That is what we have to do. You can't say, "No broad-based tax on business. We want banks our way. We want the number our way." You have to give on one or the other. I will give. You tell me what you would give.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. This is kind of interesting. As I see it, and we have been talking in our caucus for a long time, \$704 million is the number. That is what the Governor asked for in what I call his "Bible," the little book he handed out when he made his speech here. The other day I was reading the Senate plan and it called for \$804 million. If we can arrive at \$704 million of new money, I think that gives the Governor what he wanted. In addition to that, I think we received about \$100 million from the federal government. That gives \$100 million more than he asked for.

In the Senate bill, I think they were going to double the Business Activity Tax (BAT) tax, or the tax on employees. When you double the tax it hurts the little person who has to depend on a lot of labor to run their business. If we reduce the amount down to \$704 million, then we can reduce the BAT tax to \$50. That means we would be paying 50 percent more than we are now. I am willing to do that to see my grandkids in school. It leaves a little more that you can argue with about whether it is banks being treated the same as the rest of us, or you can come up with a magic formula that everybody can agree to.

I think that is kind of where we are and it seems to me the increase from last session's budget to this session's budget is a large amount. It is an amount that quite a lot of people in Nevada don't agree with, and a lot of people in Nevada do agree. If we can reduce the budget a little bit we can satisfy everybody. Then we can take it back to the voters and they will decide whether the next session we have people in the Assembly who want to pass another billion dollar tax increase, or maybe they think like me, that we should not grow government quite so much. I

know we have to make some kind of a compromise now, and that is where I am coming from. Ms. Majority Leader, I do appreciate you, and this has been quite a discussion maybe we should have had in private. However, it has been out in front of the world, so here we are. That is my idea, reduce this budget down to where we can all kind of agree, and go home.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Mr. Carpenter, I know this is a bit unusual, but it seems to be the best dialog we have had in a little while, so I am interested in continuing it.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I have heard the magical number \$704 million, which was the Governor's rollup costs for what it would take to fund government at the same level. If you add in \$54 million for pay raises, \$40 million for textbooks, and the \$30 million for the teachers' Public Employees Retirement System (PERS) contribution, that gives us \$828 million, and that is what is in this bill right now. If you take out what has already been passed, these two bills are \$776 million. The *Review-Journal* reported this morning that the Assembly Republican caucus said in order to reach their number, they had to cut the salary increases for teachers, the salary increases for state employees, Senior Rx, and Nevada Check Up, as well as \$40 million in the University System. I don't know whether that is the \$704 million or the \$636 million, or the \$511 million, but maybe we should put those numbers up on a board and say, "Who wants to cut the teachers' salaries?" Raise your hand if you want to cut the teachers' salaries. Right now. If it means cutting the budget and getting to a lower number, raise your hand. Everybody is willing to say \$704 million, but no one is willing to make the cut to get there. What is the next number? Who wants to cut Senior Rx? Raise your hand. Getting kids off health insurance, Nevada Check Up? Raise your hand. The salary increases for the state employees, do you want to cut them? What are we talking about here? You can't pick a number from the air. The cuts have real consequences.

We have been working in good faith. Someone said the number had to come down so we said, "Why don't we cut out the Rainy Day Fund? It is risky, we have nothing in the bank, but okay, if we can fund schools today, let's do it." So we did that. We knocked down \$5 million from the Department of Taxation so that we can defer their computer program. Any cut that we have talked about that made sense, even though we thought it wasn't a good idea, we would do to fund schools. We have said our door is open, but when you talk about the things on this list, no one will publicly say they support it. So what is the answer? "Oh, let the Governor do it." That makes a lot of sense. It is our job to do it, not the Governor's. What are we going to tell the Governor? "Oh, you cut Senior Rx. You cut the pay increases." I don't want to show everyone that is how you get to a lower number. You want a lower number? You want the companies to pick the way they are taxed? I will give on one of them. I will give on something, but, you know, it is a two-way street. It isn't, "We go home if you do it all my way."

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. I think that there is room to make these reductions. We don't have to cut Senior Rx, but maybe there is some room to cut a little bit out of a lot of programs. I was a county commissioner for years and we had to cut our budgets and they still have to do that. I think we can do it if we sit down and it won't hurt anyone. I know with that big of a budget and that big of an increase, we can cut the money down to get to the magic number of \$704 million. I think if we put people in the room who understand these numbers, we can come up with that. That is what I think we really should do.

ASSEMBLYWOMAN BUCKLEY:

Well, we kind of did that. The bottom line is, there are three things that cost a lot of money that are being funded in this budget: K-12 education, Human Resources, and the University System. Prisons are also included, but those are the big-ticket items. If you want to get to that level of cuts, you have to take some cuts out of those. That is the bottom line. Ask staff to prepare a list of things that we could cut to get to the \$704 million and on just about every list, it is the teachers' salary increases, Senior Rx, or it is Nevada Check Up. This is because those were

the things we were so behind in that it took money to get us to a starting level. The other thing on the list was the Las Vegas psychiatric hospital. That kills us down there. We have had ten beds for years. We are still not to the level where we were when Governor Miller cut it in 1991. They kill our community. It is awful. Mentally ill people go to the emergency rooms because we don't have a bed for them. That is how bad things are down south. I go back to my people and say, "You are the ones who pay the lion's share of the taxes, yet we don't even have beds for the mentally ill."

Getting back to the tit-for-tat, if we remove the bank franchise fee, would you vote for a net profits tax on other companies? Would you vote for a franchise fee on other companies? In the same argument about payroll, you didn't like the double Business Activity Tax (BAT), but a straight, capped payroll is a BAT; \$100 for a BLT equals a 0.47 percent rate on a capped payroll. What you are doing is making people pay taxes based on how many people they hire, even where they make no profit. That is what a straight payroll is. So why would we do that for the banks? Regardless of the ability to profit, I am going to tax you on your labor costs. Still, if we had to give on one, even though it makes no sense, we need everyone. I don't mean to pick on my good friend from Elko, but we need everyone to be willing to give. Who is willing?

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. I said I am willing to pay 50 percent more on the payroll tax. I am willing to pay the 33 percent more on my few slot machines, providing my wife doesn't take them out. I am willing to pay the increase in the annual fee to register my business. It is \$25 now for lifetime, but I am willing to pay the \$100. In the bill we just passed, I think the one we just passed, when we figure out our sales tax, we get to take off a penny and a quarter. We reduced it down to half a penny. I am willing to do that. As a small businessman, I am stepping up to the plate. If you have some way to get Wal-Mart and other big business, without killing me, I am willing to do it. I don't know how you can, because we have some kind of deal in this country that says taxes have to be equal between all people. I am willing to sit down and come up with these reductions and try to make this thing work. I think there is a way to do it; \$5 billion is a lot of money and if we can't take a small percentage out of that, 3 percent or whatever it is, I think we need to do this so that we can go home. Maybe we won't even touch the programs you mentioned, Senior Rx and the others, but we have to be able to sit in a room and look at all these things and try to hammer them out and see what we can do. I am more than willing to do that. I will admit I am not an expert on the budget and I would much rather sit next to you in the Committee on Judiciary with our friend from Sparks. It has been more fun and more enlightening. I think our caucus has good people and I think your caucus has good people. I think we can come out with something and we can get out of here. Thank you, Mr. Speaker.

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

Assembly in recess at 12:53 p.m.

ASSEMBLY IN SESSION

At 2:13 p.m.

Mr. Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Remarks by Assemblymen Buckley, Giunchigliani, Brown, Arberry, Beers, Goldwater, and Mr. Speaker.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

When we went into recess we were on General File considering Assembly Bill 2.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. After consultation with you and the Minority Leader, it appears that not one member of the Minority Caucus is willing to support a bank franchise fee. Accordingly, this vote will fail again. So, I would like to move that this bill, Assembly Bill No. 2, be placed on the Chief Clerk's Desk.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. I do not want to speak to the motion, although I do agree with it. Under Order of Business 15, I wanted to try to summate where we are. All session we've heard an issue of a number. Actually, we didn't. Our colleague from District 10 actually put it very well. Why don't we just put together, based on the discussion that was going on here, a bipartisan committee to take a look at the budget? Why don't we have that committee hear presentations from all of the directors and personnel? They could go through that and make changes. Why don't we invite public testimony to provide pros and cons? Why don't we listen to the lobbyists? Why don't we make a recommendation and then get the other House, in a bipartisan manner, to sit down and do the same thing and come to an agreement? Oh, that's what we just spent four months doing. We've already done that.

Now today we're back here debating the \$704 million, or the \$636 million, or the \$511 million. Every time we think we have it resolved, it is really all about what kind of taxes people want to support to fund whatever is in the budget, but I guess my sense of frustration comes from the disrespect towards the committees of Ways and Means and Senate Finance after all the work that they did during the regular session for 120 days. The Majority Leader mentioned that there had been suggested cuts that have been noted in the newspaper, so I thought that I should just give a scenario.

The University and Community College System was recommended to have a cut of about \$44 million, if I remember from the article. Well, I looked back, and starting on February 26, we had a budget hearing and no recommendations were made to reduce the funding by the Assembly Republicans. On April 10, we had a joint subcommittee. Only the Senator from District 1 requested that staff find a way to fund dental school equipment. No recommendations were made by the Assembly Republicans to reduce funding. On April 29, there were budget closings in a joint committee, with no recommendations made by the Assembly Republicans to reduce funding. On May 14, there were budget closings in Ways and Means. The only member to vote no was the Minority Leader, and he indicated it was because of his concerns regarding the future funding and the loss of the estate tax with the University and Community College System of Nevada (UCCSN). On May 16, there were budget closings in the Joint Committee of Senate Finance and Ways and Means. The motion of the Assembly to concur with the actions of the Senate, regarding funding of the Fire Service Academy in Carlin, had only three no votes, which were myself, our colleague from District 10, and our colleague from District 4. No recommendations were made on how to reduce the funding by the Assembly Republicans.

Now I could go to the Senior Rx program, the prescription drug program, which was also mentioned in the newspaper. On February 11, there were no recommendations made on reductions. On April 3, there were no recommendations made. On April 24, concern was expressed that the tobacco settlement funds would be used up eventually, depleting the Senior Rx program. The Minority Leader suggested an amendment to reserve \$300,000 out of the General Fund, and the committee voted with him to amend that. That was the only suggestion. On May 14 budget closings, there was a motion to approve the subcommittee and it received all "yes" votes. The Minority Leader thanked our colleague from District 27, and the members of the committee, for obtaining maximum funding for Douglas County's Suicide Prevention Program.

I could go on and on, but I think that shows the picture. The process works. If people chose not to avail themselves with that process, then that's their mistake; but it worked; the budget number that was agreed on by both Houses was not at issue at any time during those

proceedings. I'm frustrated to still be sitting here. I have lost count of what day of the Special Session it is, and we're still being floated this bogus idea that the number makes a difference. Now, if that's the case, rather than cutting prescriptions for seniors and health benefits for kids, we could cut into the rural drug court. We could cut into the youth community services. We could cut into the Nevada Department of Investigation (NDI) that was begged for, or the Narcotics Drug Task Force, but we didn't, because we are all one state. At this point, it is very frustrating, because as one state, we funded rural county initiatives. We funded northern Nevada initiatives. We did it because we are state representatives.

Now here we are again debating whether or not a bogus number is the issue or the type of tax is the issue, and I would submit to you that whatever type of taxes are implemented by this Body—and I believe something will be implemented—the overwhelming majority, I might even suggest two-thirds of those taxes will come from southern Nevada in order to subsidize the remainder of the state. So, if we from southern Nevada are willing to step up to the plate and say, "Here's what we believe should be taxed, we like taxes that don't impact our constituents and do not hurt small business, but go after small banks." And this is our opportunity. You know we understand that the majority of the money is coming from southern Nevada, but we're willing to pay that. Yet we still have individuals digging their heels in, saying, "I won't go beyond this number. I won't support this particular tax." You're not even going to pay it. How many banks do you have in rural Nevada that are going to pay the 4 percent? I'll tell you, the majority of them—no, two-thirds of them—are going to come from southern Nevada. Regardless of what happens here, it is time to stop shielding these corporations. Let's step up to the plate and get on with the business of the people. We have an opportunity to resolve this matter today. Time is of the essence, and I beg you to do this because it is the best thing for schools and for kids and for their parents. We cannot hold them hostages any longer.

ASSEMBLYMAN BROWN:

Thank you, Mr. Speaker. I have just a couple of comments in response to our colleague from Assembly District 9. When I came here, I had never heard of something called the core group. I understood that the process is that Assembly Ways and Means and Senate Finance really do the work. I got into it a little way and learned from somebody who had been here a bit longer. The real work gets done in the core group meetings. I kind of thought that was fascinating because I think that most of this is supposed to be open to the public. I think it is interesting that you can plump up budgets. You can cut, butcher, or do whatever behind closed doors in the core group meetings. My understanding of what happened in those core group meetings is that representatives from each caucus were invited to that. I believe that we made representations as to what our caucus wanted to fund, and it was a significantly lower number. From that point on, I understand that we were not necessarily invited until the last meeting, when we reiterated that we have nobody at \$900 million, three or four above \$800 million, and then we are scattered below that, with some being clustered around \$704 million. I think that was the breakdown.

In my personal opinion, you resolve the tension between the two-thirds and the simple majority by doing the following. When you know that you are going to, whether it is inflate a budget or if the budget on its own rises to such a level that it must receive new taxes, at that point it becomes incumbent on the majority, or those that control a simple majority vote and the spending, to then sit down during the process. In this situation I would say that really is in the core group meeting, where most members have represented to me that the work really gets done. You work through it and you find the compromise at that time. That did not happen and I think it was a breakdown in the process. Notwithstanding the fact that on day 54, notice went out to the world that at least 19 standing in this caucus represented that we believe \$511 million is the number. I think that is very significant. I think that action should have been taken at that point, and I don't think it happened.

I've got to make a comment, also, about the education issue. It's been stated that this is all about funding education and I guess at this point it is, because we're talking about very practical realities. At the same time, money is fungible. Fungible means that you can kind of mix it up. If one goes in, at a later date you can pull it out and it has the same value. Certainly, had the education budget gone out first, we would not be having this discussion. Even if the Distributive School Account (DSA) went out at this time, the first dollars, in my opinion, would go to

education, and we would not have this discussion. Now, I know there have been comments that we cannot do that, and I think some of those are legitimate, according to the Constitution, but we've got other problems with the Constitution at this point. I do think that if it were passed, the first dollars would go to education, and that would take us out of the crisis. I feel badly that it was not the first budget out. I still have not received sufficient explanation as to why education did not go out first.

There are also comments in regard to the fact that the number is bogus. I don't believe that's the case. Also, it's been stated that it is really about the method. I can represent, at least for myself, that I have concerns about the number and the method. I will tell you that there is an interconnection there because the number facilitates the need for certain methods. If we are at \$704 million, there may be an impact as to what is needed. I'm not saying that I have all of that resolved. I think that we can move forward and I think we are moving in the right direction. Frankly, as I have mentioned before, we have certain numbers that are undisputed in taxes that probably can pass with a two-thirds majority vote, such as the bank franchise fee with \$17 million, or the profits tax at \$68 million or \$70 million. There are other taxes that, frankly, probably ought to go out of here with a two-thirds vote. If we can get them out of here, we ought to do this. I'm not sure what our course of action is going to be here, but if S.B. 6 is going into some kind of conference committee, we ought to pass it out in an undisputed way so that if there is any kind of challenge, it's reduced to a minimum in the future. Those are just the thoughts of one Assemblyman, Mr. Speaker, and I will finish with that. Thank you for your time.

ASSEMBLYMAN ARBERRY:

Thank you, Mr. Speaker. I need to clarify something that was said by my colleague from the Henderson area. He was bringing up this issue about the core group. The core group is not a secret order of the Legislature. We do not meet to create and secretly discuss issues in this Body, and make secret decisions. There are 42 of us in here, and look at us now. The 42 of us can't really get that much done because everyone has their own mind and their own brain to use in thinking about and feeling about these issues. So, the core group comes together when we have issues that are on the table that we cannot resolve as a group. As a person who has been on the money committee for many years, listening to someone who has never been on the money committee or ever set foot in the committee, say that this is some sort of secret order the way it appears, offends me.

Mr. Speaker, there is also this big issue about education. The reason why the other budgets close so smoothly is because we have a distinction between the Ways and Means Committee and its subcommittees, and the Senate Finance Committee and its subcommittees. We did this on purpose to cut down on a lot of the debate and the arguments that we used to have in the olden days. The way the two committees used to come together was that we would sit across the table from each other, have the two chairmen look at each other and yell at each other, and then leave and walk out. We realized that we needed to come up with a better system, so the two Houses got together and decided to have subcommittees made up within the two money committees to break down the delusion and make the decisions that we need to make in order to bring it back to the committee body as a whole. Each committee respects what their subcommittees report back with. There are some things that we do not all agree with. As the Chairman, I don't agree with what some of my subcommittee chairmen come back with, but I respect the decision of the subcommittees, and that's the way the process is. It works. It was a decision that we made to cut down on wasted time. Now that we are limited to 120 days, we arrive here two weeks before you ever even get here. You come in here fresh, and we are already tired, and now we're all still here.

I take it to heart when all of you mistrust us. To all of you who don't sit on the committee, Republicans or Democrats, your party, your friends, and your colleagues work their butts off to deliver a balanced budget the best way we know how. Now you come down to this point in time and make it appear that we did not make any good decisions. I had no idea it was going to come down to this. If I had known during the first two weeks, when I left home, moved into a house at twelve o'clock at night, saying, "I'm too old to be doing this," I'm not sure I would have done it. I'm 50 years old, and I had to move into a house at twelve o'clock at night, carrying boxes, so that I can crank it up here and do what's right for the state. I take on that responsibility because I

run for election all the time. Now we find out that we're still here on July 18, discussing the same issues with a lot of this Body who do not even sit on the committee. So, we take that to heart when you sit here and tell us what we do and what we don't do. We don't micromanage the budget.

We respect what the agencies come in and tell us, but when there are issues that you and your parties have concerns about, we look at those issues. We make decisions about those issues. If there is an issue that is hard-core, we do not pass it. The body gets together. When I say body, I mean the Committee of Ways of Means. Everybody voices his or her concerns. There was no "ram and jam" in this budget. The whole idea was to try to balance the budget. We tried to do that with the prisons, and we tried to do that with welfare. It may look like that went pretty smoothly, but it wasn't that smooth. The way it looks to you, when we lay it on the table for this Body, is that everything was perfect. We had our discussion, our likes and our dislikes, and everybody did not agree with the welfare budget. Everyone didn't agree with the prison budget, but we weren't about to let the prisoners out. We weren't about to let little kids starve. We weren't about to do that.

Then it came down to the Distributive School Account (DSA), which was the last thing. You guys sit here and you ask why we let the DSA be the last thing. It was the last thing on the table because we could not come to an agreement on it. We didn't pick and choose putting education and kids on the line like this. It was a decision that we, what you call the core group, the Senate Majority Leader, the Speaker, the Majority Leader, and myself sat down and said, "What can we do to resolve this so that we will not be here until July 18?" We couldn't even come up with a decision when we talked about the DSA that we could take back to the body of the Republicans. The Minority Leader was in these meetings, too. We were asking, "When you take it back to your body, what can you live with?" Here we are talking about the same thing, the DSA.

Now, can you imagine all of us sitting in one little room? We can't even get together in one big room and come up with any decisions. So, I take offense to that, as Chairman of the committee, when we worked our butts off to try to give you a balanced budget with the minimum amount of dollars. We didn't pad that budget. We didn't sneak anything extra into the budget, like we normally do at the end of a session when you're sleeping. We didn't slide anything special in, because we realized that we could not do that this time. We didn't have the money. We didn't have the wherewithal to do that. So, when you sit here and think that we made an extra, extra budget so that we can pad it, we did not. It's not padded. It just provides a little bit to make sure that we can take care of the Nevadans.

My colleague alluded to this earlier, and some days I have fought against the north-south issue, and I'm the one always leading the pack when it comes to a north-south issue. I try to draw the line in the sand and say, "I understand the rural problems, because I've got the rural brothers." When my colleague from Battle Mountain comes to me with a rural issue, I understand and I sympathize, because I'm from a community which is small like a rural area. We understand those things, and when he says that he needs something for his area, we bust our butts trying to get it for him. It is vice versa, because he asks me what I need down in Las Vegas. We know it comes from the same pool of dollars.

So, we need to stop this and stop saying there is a core group. The core group, like I said, is not some special group, or some guru group that comes together and says this is what we are going to do to the legislators, and they don't have a clue. That is not happening. We are trying to get us out of here, and we find that the fewer people who are discussing it, the easier it is to come up with a decision. We did not slide anything behind your back. We just said that this is what we have on the table. We want to deal with class-size reduction and we want to get the schools open properly. So, Mr. Speaker, with all due respect, I don't like the idea of somebody painting a picture that this core group is some secret group. We are not a secret group. We are just trying to get the work of the people done at a nice pace.

ASSEMBLYMAN BEERS:

Thank you, Mr. Speaker. I must say this feels a little less smooth to me than it does for my colleague from District 7. Let's not lose sight of the fact that this is a one-third increase in the scope of our state government spending.

ASSEMBLYMAN GOLDWATER:

Mr. Speaker, thank you. The Chairman of Ways and Means is very eloquent. I don't even think I should be giving this speech because I think our colleague from Sparks should. If you can think of a better process to do this budget that doesn't include a core group or budget hearing, to address the wants of the people and the means in which we do it, that would be great. Democracy itself is not even close to perfect, but you have to respect the process. If you can come up with a better way, I would love to hear from you, Assemblymen, on the best way to corral 63 competing interests, personalities, wants, and means, represented in a republic. While we are on the subject of the process, where are we going from here? It is fascinating to me that we are going to absolutely excuse four months of budget work from people who weren't there. I sat on that committee and never once was anyone in there, except for the members and the people from the agencies. It is audacious to say that you know better and you know the number, to say the least.

I like the number "3 percent;" 3 percent, if we remember, is what the Governor required his agency heads to cut before he suggested this budget. He said, "Don't come in here and suggest anything above, and, in fact, cut." We are suggesting a cut beyond what Governor Guinn required of his agency department heads.

The Assemblywoman from District 9 suggested we have already gone through a budget process. The gentleman from Elko suggested that we start all over again. That is fine. Let's look at the revenue side of things. I have a good idea on how to come up with something logical regarding taxes. We will form a study group made up of some of the brightest minds. We will put together as much credible data as possible. We will open these hearings up to the public, and we will state what our assumptions and methods are, listen to public testimony, and then put together a report. Oh, we did that? Here is the report. Current services with no increase in programs, at least \$700 million in 2002. You want it fair and easy to administer? What do you want it to be? It is all grounded in reason and logic. It is voluminous. It is well done and thought out. It takes into account employment and desire for economic growth. It is all there. Nobody has challenged this report, its inputs or methods.

There has been an increase in spending of 30 percent, a third more. I will tell you this: health care costs, a major piece of the state budget, increased 40 percent on average nationwide. Malpractice premiums were a major factor in driving the increase in the cost of health care, as were prescription drugs. If we built a fence around this state and never added another citizen, our health care spending and a third of our budget would have grown by 40 percent alone. There is no magic number that says this is wasteful spending. We have thrown out the budget process, because clearly we are not respecting the work. We have thrown out logic and reason on how to arrive at a revenue number. We don't realize what we are really doing is undermining the form of government that we all fell in love with, which is democracy.

What is going to happen from here? We have undermined republic government. Will we address revenue problems in the future? Yes. We won't see it in this Body, though. We will see it in ballot boxes and media campaigns. You want to see California? It is going to be California and every one of you participated in that. You made it that way. I want this in the record because I want to look back in ten years, realizing what we have done, which is undermine the republic form of government of representation. We will destroy this state because things will be on the ballot. That is the only way things will get done. That is not the best thing in the world. The legislatures of the future won't be looked at to solve problems; they will be looked through, to correct whatever misdeeds are going to direct democracy. It is not good. If you have a better idea on how to do it, I would love to hear it, but that is the process. I hope we can respect the process and know what we have done and are continuing to do to this state, and hopefully it is not too late to change it.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bill No. 2 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, July 18, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 4, Amendment No. 11, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 10 to Senate Bill No. 2.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendments Nos. 3, 4, 7 to Senate Bill No. 6.

MARY JO MONGELLI
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 4.

The following Senate amendment was read:

Amendment No. 11.

Amend the bill as a whole by renumbering sections 21 and 22 as sections 22 and 23 and adding a new section designated sec. 21, following sec. 20, to read as follows:

“Sec. 21. Section 208 of Senate Bill No. 2 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 208. 1. This section and sections 188.1 to 195, inclusive, and 203 of this act become effective on September 1, 2003.

2. Sections 1 to 188, inclusive, 196 to 202, inclusive, and 204 to 207, inclusive, of this act become effective:

(a) Except as otherwise provided in paragraph (b) or (c), on November 1, 2003.

(b) On January 1, 2004, for the purpose of requiring a resident agent who desires to resign to file a statement of resignation for each artificial person formed, organized, registered or qualified pursuant to the provisions of title 7 of NRS for which the resident agent is unwilling to continue to act as the resident agent for the service of process.

(c) On January 1, 2004, for the purpose of requiring a resident agent to file a certificate of name change of resident agent if the name of the resident agent is changed as a result of a merger, conversion, exchange, sale, reorganization or amendment.”.

Amend sec. 22, page 11, by deleting lines 10 through 12 and inserting:

“Sec. 23. 1. This section and sections 1, 2, 3, 8, 9, 10, 12, 13, 15, 16, 17 and 22 of this act become effective upon passage and approval.

2. Sections 11 and 14 of this act become effective upon passage and approval and apply retroactively to July 1, 2003.

3. Sections 4 to 7, inclusive, of this act become effective on August 1, 2003.

4. Sections 18 to 21, inclusive, of this act become effective upon”.

Assemblywoman Buckley moved that the Assembly concur in the Senate amendment to Assembly Bill No. 4.

Remarks by Assemblywoman Buckley.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Buckley moved that the Assembly do not recede from its action on Senate Bill No. 6, Assembly Amendment No. 7, that a conference be requested, and that Mr. Speaker appoint a first Conference Committee consisting of five members to meet with a like committee of the Senate.

Remarks by Assemblywoman Buckley.

Motion carried.

Assemblywoman Buckley moved that the Assembly do not recede from its action on Senate Bill No. 6, Assembly Amendment No. 4, that a conference be requested, and that Mr. Speaker appoint a first Conference Committee consisting of five members to meet with a like committee of the Senate.

Remarks by Assemblywoman Buckley.

Motion carried.

Assemblywoman Buckley moved that the Assembly do not recede from its action on Senate Bill No. 6, Assembly Amendment No. 3, that a conference be requested, and that Mr. Speaker appoint a first Conference Committee consisting of five members to meet with a like committee of the Senate.

Remarks by Assemblywoman Buckley.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Buckley, Goldwater, Parks, Hettrick, and Geddes as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 6.

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

Assembly in recess at 2:48 p.m.

ASSEMBLY IN SESSION

At 2:49 p.m.

Mr. Speaker presiding.

Quorum present.

REMARKS FROM THE FLOOR

Assemblywoman Buckley requested that her remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. One of our colleagues almost didn't come in today because of the death of a beloved neighbor. When she was comforting the neighbor's beloved spouse who was left behind, she was told to, "Get back to the Legislature. You represent us. We love you and you need to do what is right for our kids." Dr. Ross Tappan was 53 years old and an anesthesiologist. He was described by my colleague as a beloved husband, father, neighbor, honorable citizen, talented sportsman, and dedicated physician. My colleague was shocked at how he was lost. He was blessed with so much and left such a great legacy. My colleague wanted us to remember the great man that he was and the great family that he had, and that they would say, "Don't worry about comforting us. Go back to the Legislature and do what is right because you represent us, and we need to resolve this for the schools. The schools are more important than you helping us."

Assemblywoman Buckley moved that the Assembly adjourn until Saturday, July 19, 2003, at 12:00 noon, and that it do so in the memory of Dr. Ross Tappan.

Motion carried.

Assembly adjourned at 2:51 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE TWENTY-FIFTH DAY

CARSON CITY (Saturday) July 19, 2003

Assembly called to order at 11:01 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblymen Christensen and Hardy, who were absent.

Prayer by the Chaplain, Beverly Mobley.

Let us pray. Dear Lord, together, we, as a body, are whole. Individually, we are a part of the whole, but the body is not complete without the spirit. We pray, Lord, that you lift our spirit, nourish our spirit, and strengthen our spirit, with joy, kindness, and thankfulness, so that we, as individuals, may bring integrity to the whole.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 5, with Assemblyman Perkins as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblyman Perkins presiding.

Quorum present.

Senate Bill No. 5, Assembly Amendment No. 12 considered.

CHAIRMAN PERKINS:

You should have S.B. 5 in your bill books and there should be a proposed amendment distributed to the committee as well.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Chairman. As all of us are aware, we need to end this legislative session and fulfill our constitutional duties to schools. The consideration of Senate Bill 5 is another step forward to try to reach that goal. The amendment to Senate Bill 5 we have in front of us does a number of things. It amends Senate Bill 5, first of all, which is the Distributive School Account bill. It also modifies some of the tax decisions that have been made. It does this by rearranging the taxes, and secondly, by reducing the amount of taxes required in S.B. 6. I'll review those major changes.

First, it changes the capped payroll tax in S.B. 6 to a modified business tax. It does this in several ways. It changes the idea away from a headtax and moves to consider all of the gross wages of a business. Under the old payroll tax, a business would be charged \$210 for each employee whether the employee was a dishwasher or Chief Executive Officer (CEO) or, tonight

it seems appropriate, a highly paid lobbyist. Under this plan, the real wages of everyone are included. It gives businesses that offer health insurance a dollar-for-dollar deduction. It lowers the rate to 0.85 percent the first year down to 0.65 percent the second and following years, and eliminates the business license tax, or the existing head tax. It fixes the live entertainment tax to what we agreed to previously. They are the exact same changes. As you recall, we made several good suggestions on how to improve this tax by lowering it, primarily for stadiums of over 7,500 seats.

The next important thing this amendment does is to add the class-size reduction bill. It lowers the taxes on cigarettes to 50 cents, liquor to 50 percent. It removes the room tax and reduces taxes by removing the Rainy Day Fund's \$30 million. It removes \$5 million from the Department of Taxation in Section 63 and makes several of the technical changes that Legal has found through their very diligent work this legislative session, to make sure everything conforms with its own internal references and to make sure the language is the best it can be. This bill is effective upon the passage of SB 6 and enables this Body to do a couple of very important things tonight: fund the Distributive School Account, fund class-size reduction, and do it by lowering the taxes already approved in SB 6, which is still pending before this Body. I would urge this Body's support.

ASSEMBLYWOMAN GIBBONS:

Thank you, Mr. Chairman. I just want to clarify S.B. 6 is the original version passed by the Senate, not the one this Body passed.

CHAIRMAN PERKINS:

We voted yesterday, if you recall, to not recede from the Assembly amendments, but we have not yet sent that bill to the Senate. If this amendment passes and Senate Bill 5 is amended, then we would send this bill to the Senate. Once they pass Senate Bill 5, then the Assembly could rescind its action whereby it did not recede from its amendments and then recede from those amendments. The two bills would fit together and fund education and provide the revenue stream for our state. Are there further questions or comments from the committee?

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. In Section 63 it appears that we have stricken the \$30 million appropriated to the General Fund in the previous section. It shows on page 53, Section 188.7, we are striking Section 1 where we appropriate the \$30 million to the Rainy Day Fund. But, when we go to the next page, 54, it shows the amount of the appropriation must not exceed \$50 million. Are we now setting it up so we automatically put the whole \$50 million in for the second year of the biennium?

CHAIRMAN PERKINS:

Mark, can you respond to the question, please?

MARK STEVENS, ASSEMBLY FISCAL ANALYST:

The \$50 million is contingently appropriated if the amount in subsection 1 exceeds the amount of ending fund balance in the State General Fund in fiscal year 2004-2005, as estimated by the Nevada Legislature. So, if there were sufficient funding to allow the trigger to go off at the end of the current biennium, then \$50 million would be appropriated to the Rainy Day Fund. If there weren't sufficient monies, the \$50 million appropriation would not be made.

CHAIRMAN PERKINS:

If the money came in above what is projected, would it go into the Rainy Day Fund, but only up to the \$50 million level?

MARK STEVENS:

Correct.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Chairman. The 7 percent is in the fashion of how we did this before. I see 7 percent on page 55, but I'm trying to read this as fast as I can.

CHAIRMAN PERKINS:

Mark, can you explain to the committee if the two fit together and provide the same language that this committee has dealt with before?

MARK STEVENS:

On page 55(a), it says, "One hundred seven percent of the total revenue from all sources to the State General Fund as projected by the Nevada Legislature for the applicable fiscal year," and in (b), any amounts contingently appropriated, which would include the \$50 million Rainy Day Fund. Then, there are other places where the money above 107 percent would go, listed further down the page. I am happy to go through those if you would like me to.

ASSEMBLYMAN HETTRICK:

I am just trying to make sure this language works. I think on page 55 it does what we discussed, which is anything above 107 percent over the budget, then the money would take care of "one-shot" money. That's the way I read it, "alternative source of revenue will likely not be available or will not be received during the biennium must be used to replace previously used nonrecurring revenue." That is what we talked about, but the way it looks on page 54, it says if at the end of the year it's over the amount estimated by the Legislature, then there is an appropriation that must not exceed \$50 million. It appears to me the two are in conflict.

CHAIRMAN PERKINS:

If the initial money comes in over projections, up to \$50 million goes into the Rainy Day Fund, then over 7 percent, it goes in to cover the holes that you spoke of earlier, the one-shot nonrecurring money; then back to the Rainy Day Fund; then back to the Tax Refund Fund. The first trigger, if you will, would go into the Rainy Day Fund up to \$50 million. Mark, what would be 7 percent of the General Fund? Maybe that will put it into perspective for us.

MARK STEVENS:

I would have to calculate it to be sure, but it would be a little over \$150 million

CHAIRMAN PERKINS:

So it would be from the first \$150 million that the \$50 million would come from to go into the Rainy Day Fund, and then when we hit the 7 percent trigger, then it goes to the other. It sounds to me that they are not in conflict with each other.

ASSEMBLYMAN HETTRICK:

I understand what it's saying, Mr. Chairman, and I appreciate the explanation. I think the intent of what we were trying to do was to say that we ought to take any money initially that was over, if we were fortunate enough to generate a surplus, and put it toward the nonrecurring revenue hole that we know exists, which is about \$200 million, and then we would allow it, as I understood it, to go to the Rainy Day Fund to be saved at the rate of \$30 million. Now, what we're doing is to take the first \$50 million that would trigger, so it would go immediately and not be subject to the 7 percent at all. Then, we would have to get 7 percent over which is another \$150 million, before we could put money toward the \$200 million hole which would take \$350 million plus the \$50 million, or \$400 million.

CHAIRMAN PERKINS:

I think that was the case before, but now we were reducing the appropriation by \$30 million. So originally it would have been a \$30 million portion in the Rainy Day Fund with an additional \$20 million; now it would shoot up to \$50 million. I don't think it's inconsistent with what we did before; it's just that now we're backing out \$30 million in appropriations directly to the Rainy Day Fund, so this is now refilling it before we get to the 7 percent portion.

ASSEMBLYMAN HETTRICK:

I will quit with this, Mr. Chairman. I understand what's happening, I guess, but that's not the way I understood it. I thought the discussion we had was that we ought to fill the hole first, and then go to the Rainy Day Fund as the second part of what's on page 55 because the hole is the nonrecurring revenue and we're going to put it away in the Rainy Day Fund where we can't get

to it. So maybe it was my misunderstanding, but that was the way I understood we were going to do this.

CHAIRMAN PERKINS:

I think it was my understanding that the first money that came in over the 7 percent threshold would not go directly to the Rainy Day Fund, as it had previously been directed, and then would be available to fill the hole first. Are there other questions or comments from the committee? I want to make sure you have plenty of opportunity to ask our staff the questions you need to get answered.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Speaker. On page 19, Section 66, I have two or three questions. The first is a point of clarification. In part (d) of Section 66, subsection 2, it says, "Be accompanied by a fee of \$125." What is that fee currently?

ASSEMBLYWOMAN BUCKLEY:

\$75.

ASSEMBLYWOMAN ANGLE:

So that is an increase of \$50?

ASSEMBLYWOMAN BUCKLEY:

It is, but the other fees in the bill have been decreased by a much larger amount such that the net impact of this bill is lowering fees, lowering appropriations, and that's why it doesn't need a two-thirds, anticipating your next question.

ASSEMBLYWOMAN ANGLE:

Actually my next question was on page 32, in Section 39, subsection 2, part (c). I was wondering if you could explain to me this definition of, "a person who operates a business from his home and earns from that business not more than 66 2/3 percent of the average annual wage, as computed" Tell me how that would relate to those home businesses—we have had this discussion many times during the regular session—such as the Avon lady. So, who is this person who operates this business from his home?

CHAIRMAN PERKINS:

You spoke to it. It is actually to exempt the Avon person, the Amway person, and the other type of home jobs those types of folks do. It was the wage chosen to create a threshold so they could operate without being subject to that tax.

ASSEMBLYWOMAN ANGLE:

So if a person like that did make more than this, then they would be subject to this; is that correct?

CHAIRMAN PERKINS:

That is correct.

ASSEMBLYWOMAN ANGLE:

My final question is on page 33, Section 40.5, subsection 2(d), this is the tax on employees, is that correct? They were paying \$25, now they're paying \$125.

CHAIRMAN PERKINS:

I believe this is the state business license fee.

MARK STEVENS:

The business license fee is currently a one-time fee of \$25. I believe The Executive Budget recommended an annual fee of \$100. This amount has gone up and down a variety of times, and in this particular amendment the annual fee would be \$125.

ASSEMBLYWOMAN ANGLE:

How is that different from Section 66, my first question, where it says, "must be accompanied by a fee of \$125," and I was told it went up from \$75 and here we have it at \$25. Are these different fees?

MARK STEVENS:

It's one and the same. The \$75 fee was the amount originally in S.B. 6 that has been increased to \$125, and there are a couple of different sections in the amendment where the \$125 annual business license fee is included. Brenda could probably explain better than I why it needs to be in multiple sections of the bill, but it is the same fee.

ASSEMBLYWOMAN ANGLE:

So we increased it to \$75 in S.B. 6, and now we're increasing it to \$125. Is that correct?

MARK STEVENS:

Currently, it is a one-time \$25 fee for a business. This amendment would increase that to an annual fee of \$125.

ASSEMBLYWOMAN ANGLE:

Thank you very much, Mr. Chairman.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Chairman. As I understood it, and you can correct me if I'm wrong, I thought the annual fee was going to be \$75 and in here we're increasing it to \$125. So doesn't that make it a fee increase that would have to be a two-thirds vote?

CHAIRMAN PERKINS:

Brenda, please answer that for us.

BRENDA ERDOES, LEGISLATIVE COUNSEL:

This amendment, if it is finally adopted in S.B. 5, will not have the effect of actually increasing the fee. Once the amendment is passed in S.B. 5, it will amend Senate Bill 6. It will not become effective on its own, and it will not make any of these increases on its own. It will only make these increases or revise the provisions of S.B. 5. In fact, the revenue it generates will actually be less than the revenue it currently generates. Beyond that, the two-thirds is not required during this Special Session by the Supreme Court's order in the Writ of Mandamus issued to you.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Chairman. It would seem to me under S.B. 6 we would be paying \$75 a year, but under this amendment it's \$125. I think it is an increase to the people who will be paying it. Overall it may not be, but there is no question that to raise it from \$75 to \$125 makes it a \$50 increase to the people who have to pay it for the annual business license fee.

BRENDA ERDOES:

There is no question that S.B. 6 increases the amount of the fee. Currently, without the amendment, it increased from \$25 to \$75 and with this amendment it would increase to \$125. Once this amendment is adopted, if you adopt it, this bill will not increase the fee on its own. It only amends sections of S.B. 6. In other words, if S.B. 5 were to be passed as amended, and then S.B. 6 didn't pass, the fee would not be increased. These sections only become effective if Senate Bill 6 becomes effective. Then again, the other part of the two-thirds is that the Supreme Court has sent this Body a Writ of Mandamus directing it to operate expeditiously under a simply majority rule, so that takes away the two-thirds, pursuant to the Supreme Court.

ASSEMBLYWOMAN BUCKLEY:

If I could add a practical comment, I think we've wanted to keep the business license fee as low as possible. One of the things that happens, of course, since we have to balance the budget, is every time you try to lower one tax, Fiscal staff goes back to a couple of taxes to balance it all out to make sure it all adds up. One of the other important goals, I think, besides keeping the

business license fee low, was to keep any sort of modified business tax or employer tax that folks are going to be paying as low as possible. The bill that came across in S.B. 6 was 1 percent of capped wages, or \$215 for each employee you have. This version is the work of a number of people in this Body in both Houses who have been working on it for weeks to come up with a fairer scheme. What that does is enable the other tax to be reduced. For example, in S.B. 6, the total amount in FY2004 was \$128 million. This reduces it to \$117 million. In the second year, FY2005, the tax was \$199 million. This reduces it to \$188 million. For all of those small businesses that might have been impacted in a worse scenario in S.B. 6 because they are paying on their employees regardless of profitability, we were able to lower that substantially by reducing the pay rate.

You always have to balance which one is it better to lower, but it seems to most folks who have been working on this that it's better to get the broad-based tax as low as possible because that's the one that's going to hurt small businesses rather than a one-time fee. No one likes paying \$50 more for a fee, but in relationship to the counties, for example, when they do business licenses, at least in Clark County, they're paying \$200 just for a business license. If you're looking at a one-time fee to the small business employer versus having to pay on every employee, every month, it seemed that getting the rate lower across the board made sense. I would be happy to hear arguments about it, but that's what most of our colleagues had said.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Chairman. That may be true or may not be true. We would have to take our own specific businesses and apply what this first rate would be. There is no question in my mind that in S.B. 6 it was \$75 and now we're amending it in S.B. 5 to go to \$125. I have heard so much rhetoric about getting to the big guys, and this certainly doesn't get to the big guys, but it does get to the small people, who have to pay the \$125, and Wal-Mart, who will have to pay \$125. I guess I have a little problem with that. As far as the other part, we could calculate it to our own individual businesses. I would have felt much better if this would have been left at \$75 like it was in S.B. 6. Thank you.

ASSEMBLYMAN BEERS:

Thank you, Mr. Chairman. I just wanted clarification. In the absence of the Supreme Court ruling that we don't need two-thirds, would this require two-thirds?

BRENDA ERDOES:

I do not believe it would, because of two factors. One is that this bill does not increase revenue on its own. If it was passed and signed by the Governor, unless S.B. 6 passes, which actually does increase the revenue, this bill would not have any effect. Additionally, the overall effect of S.B. 6 by this amendment is that the total revenue goes down. It actually reduces the amount of revenue that would be raised by S.B. 6.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Chairman. On page 17, Section 26 (a), it has the definition of employee. For clarification purposes, I am wondering if a sole proprietor would be included in this having to pay the tax we put on employees. Am I reading that right?

BRENDA ERDOES:

This is the definition of "employee." It is the definition that would apply for the business to pay wages to this person as an employee and then the amount of the wages paid totally by the employer are calculated. If your question goes to whether this person, who is defined in the definition of "employee," would pay, the answer is no.

ASSEMBLYWOMAN ANGLE:

Thank you, but for example, if I have a business and I am my own employee and I am paying myself a wage out of that business, will I have to pay this fee, as my own employee and employer?

BRENDA ERDOES:

Yes, you would if you are an employee of your business, but if you are not, then you would not. It goes back to the provisions of chapter 612 for the unemployment compensation. If you are paying unemployment compensation for yourself from your business, as an employee, then you would also pay under this. If you are not paying for unemployment compensation under chapter 612, because you are not an employee of your business, then you would not be covered by this tax either.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Chairman.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Chairman. I hate to talk about this, but it is very important, I think, to small business. The way it is written in Section 11, is that a gross on the total wages you pay or just the \$21,500 that we have been hearing so much about? It is on page 2, Section 11, where it says, "hereby impose an excise tax on each employer at the rate of 0.85 percent of the wages, as defined in NRS 612.190, paid by the employer during a calendar quarter with respect to employment." Is that on the total gross wages or just on the \$21,500 that we have been hearing so much about?

ASSEMBLYWOMAN BUCKLEY:

This is a modification of the \$21,500 that we have been hearing so much about. What this does is attempt to take out some of the inequities of that. The \$21,500 required you to pay \$215 per employee, per head, regardless of your profitability. So if you're a small business, a comic store, for example, you are paying the same as one of our lobbyists with a secretary. You are both paying \$215. What this does, instead, is look at a more modified business tax where you look at all wages and then you lower the rate. In addition, it gives a credit for a health-care deduction. One of the arguments all along has been that there are businesses that require more government services, so why are we treating them similarly as businesses that do not have many employees, or that have employees who need services? What this does is reward those employers who offer health-care coverage by giving them a deduction. It does indeed modify the payroll tax idea and changes it to one that is seen as more progressive and fair.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Chairman. Yes, I understand that and I don't have a problem with that. However, I just did a little figuring here, and I think it is right. A person who was earning \$10 an hour, they get about \$20,000 a year, so if we multiply the 0.85, I think we come up with about \$170. If you are trying to pay your employees more than a minimum wage, then we do have to pay quite a bit more. I guess if you are only going to pay minimum wage you might have a lower fee than the \$100 that we are paying now, but if you try to pay a higher wage to people, then you are going to be paying more. I just wanted to point that out.

CHAIRMAN PERKINS:

That rate drops to 0.65 in the second year of the biennium. It would be 0.65 in perpetuity. It will decrease in the second half of the biennium.

ASSEMBLYWOMAN BUCKLEY:

Mr. Chairman, one other thing to add, as well. Most employers who are paying more than minimum wage and pay a good salary, also offer health care. In addition to the rate of 0.65, as opposed to 1 percent in the capped version, would reduce it the further amount, it would then be reduced a further amount by virtue of any health-care benefits that were paid. Some economists see this as being a better model.

ASSEMBLYMAN OCEGUERA:

Thank you, Mr. Chairman. I move that we amend and do pass.

CHAIRMAN PERKINS:

We have a motion by Mr. Ocegüera, seconded by Mr. Atkinson, to amend and do pass Senate Bill No. 5, using Amendment No. 12. Is there any discussion on the motion? All those in favor of the motion please indicate by saying "Aye". Are there any opposed? Motion carries unanimously.

On motion of Assemblywoman Buckley, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 11:41 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Committee of the Whole, to which was referred Senate Bill No. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RICHARD PERKINS, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Senate Bill No. 5, just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 5.

Bill read second time.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 12.

Amend the bill as a whole by renumbering sections 6 through 29 as sections 75 through 98 and adding new sections designated sections 6 through 74, following sec. 5, to read as follows:

"Sec. 6. Section 4 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 4. "*Employer*" means any employer who is required to pay a contribution pursuant to NRS 612.535 for any calendar quarter, except an Indian tribe, nonprofit organization or political subdivision. For the purposes of this section:

1. "*Indian tribe*" includes any entity described in subsection 10 of NRS 612.055.

2. "*Nonprofit organization*" means a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

3. "*Political subdivision*" means any entity described in subsection 9 of NRS 612.055.

Sec. 7. Section 11 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 11. 1. *There is hereby imposed an excise tax on each employer at the rate of 0.85 percent of the wages, as defined in NRS 612.190, paid by the employer during a calendar quarter with respect to employment.*

2. *The tax imposed by this section must not be deducted, in whole or in part, from any wages of persons in the employment of the employer.*

3. *Each employer shall, on or before the last day of the month immediately following each calendar quarter for which the employer is required to pay a contribution pursuant to NRS 612.535:*

(a) *File with the Department:*

(1) *A return on a form prescribed by the Department; and*

(2) *A copy of any report required by the Employment Security Division of the Department of Employment, Training and Rehabilitation for determining the amount of the contribution required pursuant to NRS 612.535 for any wages paid by the employer during that calendar quarter; and*

(b) *Remit to the Department any tax due pursuant to this chapter for that calendar quarter.*

4. *Except as otherwise provided in subsection 5, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant this section any amount authorized pursuant to this section that is paid by the employer for health insurance or a health benefit plan for its employees in the calendar quarter for which the tax is paid. The amounts for which the deduction is allowed include:*

(a) *For an employer providing a program of self-insurance for its employees, all amounts paid during the calendar quarter for claims, direct administrative services costs, including such services provided by the employer, and any premiums paid for individual or aggregate stop-loss insurance coverage. An employer is not authorized to deduct the costs of a program of self-insurance unless the program is a qualified employee welfare benefit plan pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.*

(b) *The premiums for a policy of health insurance or reinsurance for a health benefit plan for its employees.*

(c) *Any amounts paid by an employer to a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) for participation in an employee welfare benefit plan.*

(d) *Such other similar payments for health care or insurance for health care for employees as are authorized by the Department.*

5. *An employer may not deduct from the wages upon which the excise tax is imposed pursuant this section:*

(a) *Amounts paid for health care or premiums paid for insurance for an industrial injury or occupational disease for which coverage is required pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or*

(b) *Any payments made by employees for health care or health insurance or amounts deducted from the wages of employees for such care or insurance.*

6. *An employer claiming the deduction allowed pursuant to subsection 4 shall submit with the return filed pursuant to subsection 3 proof of the amount paid in the calendar quarter that qualifies for the deduction. If the amount of the deduction exceeds the amount of reported wages, the excess amount may be carried forward to the following calendar quarter until the deduction is exhausted.*

7. *As used in this section, “employee welfare benefit plan” has the meaning ascribed to it in 29 U.S.C. § 1002.*

Sec. 8. Section 24.18 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 24.18. 1. *Except as otherwise provided in subsection 2, “financial institution” means:*

(a) *An institution licensed, registered or otherwise authorized to do business in this state pursuant to the provisions of chapter 604, 645B, 645E or 649 of NRS or title 55 or 56 of NRS, or a similar institution chartered or licensed pursuant to federal law and doing business in this state;*

(b) *Any other person conducting loan or credit card processing activities in this state; and*

(c) *Any other bank, bank holding company, national bank, savings association, federal savings bank, trust company, credit union, building and loan association, investment company, registered broker or dealer in securities or commodities, finance company, dealer in commercial paper or other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this state.*

2. *The term does not include:*

(a) *A nonprofit organization that is recognized as exempt from taxation pursuant to 26 U.S.C. § 501(c).*

(b) *A credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act.*

Sec. 9. Section 24.20 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 24.20. *“Gross revenue” means the total amount of the money and the value of any other consideration received or receivable by a financial institution which the financial institution is required to report for the purposes of federal income taxation.*

Sec. 10. Section 24.46 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 24.46. *The Department shall adopt regulations providing for the allocation or apportionment to this state of the tax liability of a financial institution pursuant to this chapter. If the federal taxable income of a financial institution is derived from business conducted both within and*

outside this state, whether or not the financial institution is physically present in another state or is subject to another state's jurisdiction to impose a tax on the financial institution, the apportionment factor for determining the tax liability of the financial institution derived from business conducted by it in this state must consist of a fraction, the numerator of which is the gross revenue of the financial institution from customers whose address is within this state, and the denominator of which is the gross revenue of the financial institution from its entire operation as a financial institution.

Sec. 11. Section 27 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 27. *"Amount paid for live entertainment" means:*

1. *If the live entertainment is provided at a facility with a maximum seating capacity of less than 7,500, the total amount, expressed in terms of money, of consideration paid for admission into the facility and for food, refreshments and merchandise purchased at the facility.*

2. *If the live entertainment is provided at a facility with a maximum seating capacity of at least 7,500, the total amount, expressed in terms of money, of consideration paid for admission into the facility.*

Sec. 12. Section 30 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 30. 1. *"Business entity" includes:*

(a) *A corporation, partnership, proprietorship, business association and any other person engaging in business.*

(b) *A natural person engaging in a business if he is deemed to be a business entity pursuant to section 34 of this act.*

2. *The term does not include a governmental entity.*

Sec. 13. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto new sections designated sections 30.3 and 30.7, following sec. 30, to read as follows:

Sec. 30.3. *"Facility" means:*

1. *Any area or premises where live entertainment is provided and for which consideration is collected for admission into that area or those premises if the live entertainment is provided at:*

(a) *An establishment that is not a licensed gaming establishment; or*

(b) *A licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits.*

2. *Any area or premises where live entertainment is provided if the live entertainment is provided at any other licensed gaming establishment.*

Sec. 30.7. *"Game" has the meaning ascribed to it in NRS 463.0152.*

Sec. 14. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto new sections designated sec. 32.3 and 32.7, following section 32, to read as follows:

Sec. 32.3. *"Maximum seating capacity" means, in the following order of priority:*

1. *The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;*

2. *If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or*

3. *If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.*

Sec. 32.7. *“Slot machine” has the meaning ascribed to it in NRS 463.0191.*

Sec. 15. Section 33 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 33. *“Taxpayer” means:*

1. *If live entertainment that is taxable under this chapter is provided at a licensed gaming establishment, the person licensed to conduct gaming at that establishment.*

2. *Except as otherwise provided in subsection 3, if live entertainment that is taxable under this chapter is not provided at a licensed gaming establishment, the owner or operator of the facility where the live entertainment is provided.*

3. *If live entertainment that is taxable under this chapter is provided at a publicly owned facility or on public land, the person who collects the taxable receipts.*

Sec. 16. Section 34 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 34. *A natural person engaging in a business shall be deemed to be a business entity that is subject to the provisions of this chapter if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, or a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, for the business.*

Sec. 17. Section 36 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 36. 1. *Except as otherwise provided in this section, there is hereby imposed an excise tax on all amounts paid for live entertainment at the follow rates:*

(a) *If the live entertainment is provided at a facility with a maximum seating capacity of less than 7,500, 10 percent of the amount paid for live entertainment.*

(b) *If the live entertainment is provided at a facility with a maximum seating capacity of at least 7,500, 5 percent of the amount paid for live entertainment.*

2. Amounts paid for gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer are not taxable pursuant to this section.

3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.

4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.

5. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this state is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum seating capacity of less than 300.

(e) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum seating capacity of less than 300.

(f) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

(g) Live entertainment that is provided at a trade show.

(h) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(i) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

(j) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

Sec. 18. Section 38 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 38. 1. The Board shall:

(a) Collect the tax imposed by this chapter from taxpayers who are licensed gaming establishments; and

(b) Adopt such regulations as are necessary to carry out the provisions of paragraph (a). The regulations must be adopted in accordance with the provisions of chapter 233B of NRS and must be codified in the Nevada Administrative Code.

2. The Department shall:

(a) Collect the tax imposed by this chapter from all other taxpayers; and

(b) Adopt such regulations as are necessary to carry out the provisions of paragraph (a).

3. For the purposes of:

(a) Subsection 1, the provisions of chapter 463 of NRS relating to the payment, collection, administration and enforcement of gaming license fees and taxes, including, without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and enforcement of the taxes imposed by this chapter to the extent that those provisions do not conflict with the provisions of this chapter.

(b) Subsection 2, the provisions of chapter 360 of NRS relating to the payment, collection, administration and enforcement of taxes, including, without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and enforcement of the taxes imposed by this chapter to the extent that those provisions do not conflict with the provisions of this chapter.

4. To ensure that the tax imposed by section 36 of this act is collected fairly and equitably, the Board and the Department shall:

(a) Jointly, coordinate the administration and collection of that tax and the regulation of taxpayers who are liable for the payment of the tax.

(b) Upon request, assist the other agency in the collection of that tax.

Sec. 19. Section 39 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 39. 1. Except as otherwise provided in this section:

(a) Each taxpayer who is a licensed gaming establishment shall file with the Board, on or before the 24th day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Board.

(b) All other taxpayers shall file with the Department, on or before the last day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Department.

2. The Board or the Department, if it deems it necessary to ensure payment to or facilitate the collection by the State of the tax imposed by section 36 of this act, may require reports to be filed not later than 10 days after the end of each calendar quarter.

3. *Each report required to be filed by this section must be accompanied by the amount of the tax that is due for the period covered by the report.*

4. *The Board and the Department shall deposit all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.*

Sec. 20. Section 41 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 41. 1. *Each person responsible for maintaining the records of a taxpayer shall:*

(a) *Keep such records as may be necessary to determine the amount of the liability of the taxpayer pursuant to the provisions of this chapter;*

(b) *Preserve those records for:*

(1) *At least 5 years if the taxpayer is a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; or*

(2) *At least 4 years if the taxpayer is not a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and*

(c) *Make the records available for inspection by the Board or the Department upon demand at reasonable times during regular business hours.*

2. *The Board and the Department may by regulation specify the types of records which must be kept to determine the amount of the liability of a taxpayer from whom they are required to collect the tax imposed by this chapter.*

3. *Any agreement that is entered into, modified or extended after January 1, 2004, for the lease, assignment or transfer of any premises upon which any activity subject to the tax imposed by this chapter is, or thereafter may be, conducted shall be deemed to include a provision that the taxpayer required to pay the tax must be allowed access to, upon demand, all books, records and financial papers held by the lessee, assignee or transferee which must be kept pursuant to this section. Any person conducting activities subject to the tax imposed by section 36 of this act who fails to maintain or disclose his records pursuant to this subsection is liable to the taxpayer for any penalty paid by the taxpayer for the late payment or nonpayment of the tax caused by the failure to maintain or disclose records.*

4. *A person who violates any provision of this section is guilty of a misdemeanor.*

Sec. 21. Section 44 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 44. 1. *If:*

(a) *The Board determines that a taxpayer who is a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the*

Board shall establish an amount paid for live entertainment upon which the tax imposed by this chapter must be based.

(b) The Department determines that a taxpayer who is not a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Department shall establish an amount paid for live entertainment upon which the tax imposed by this chapter must be based.

2. The amount established by the Board or the Department pursuant to subsection 1 must be based upon the tax liability of business entities that are deemed comparable by the Board or the Department to that of the taxpayer.

Sec. 22. Section 48 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 48. 1. *Except as otherwise provided in NRS 360.235 and 360.395:*

(a) No refund may be allowed unless a claim for it is filed with:

(1) The Board, if the taxpayer is a licensed gaming establishment; or

(2) The Department, if the taxpayer is not a licensed gaming establishment.

A claim must be filed within 3 years after the last day of the month following the reporting period for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Board or the Department within that period.

2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.

3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.

4. Within 30 days after rejecting any claim in whole or in part, the Board or the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

Sec. 23. Section 49 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 49. 1. *Except as otherwise provided in this section and NRS 360.320, interest must be paid upon any overpayment of any amount of the tax imposed by this chapter in accordance with the provisions of section 38 of this act.*

2. If the overpayment is paid to the Department, the interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

3. *If the Board or the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Board or the Department shall not allow any interest on the overpayment.*

Sec. 24. Section 60 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 60. (Deleted by amendment.)

Sec. 25. Section 62 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 62. 1. *"Business" includes:*

(a) *A corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust and their equivalents organized under the laws of this state or another jurisdiction and any other person that conducts an activity for profit; and*

(b) *The activities of a natural person which are deemed to be a business pursuant to section 65 of this act.*

2. *The term does not include:*

(a) *A governmental entity.*

(b) *A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).*

(c) *A person who operates a business from his home and earns from that business not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.*

(d) *A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.*

Sec. 26. Section 63 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 63. 1. *"Employee" includes:*

(a) *A natural person who receives wages or other remuneration from a business for personal services, including commissions and bonuses and remuneration payable in a medium other than cash; and*

(b) *A natural person engaged in the operation of a business.*

2. *The term includes:*

(a) *A partner or other co-owner of a business; and*

(b) *Except as otherwise provided in subsection 3, a natural person reported as an employee to the:*

(1) *Employment Security Division of the Department of Employment, Training and Rehabilitation;*

(2) *Administrator of the Division of Industrial Relations of the Department of Business and Industry; or*

(3) *Internal Revenue Service on an Employer's Quarterly Federal Tax Return (Form 941), Employer's Monthly Federal Tax Return (Form 941-M), Employer's Annual Tax Return for Agricultural Employees (Form 943) or any equivalent or successor form.*

3. *The term does not include:*

(a) *A business or an independent contractor that performs services on behalf of another business.*

(b) *A natural person who is retired or otherwise receiving remuneration solely because of past service to the business.*

(c) *A newspaper carrier or the immediate supervisor of a newspaper carrier who is an independent contractor of the newspaper.*

(d) *A natural person who performs all of his duties for the business outside of this state.*

4. *An independent contractor is not an employee of a business with which he contracts.*

Sec. 27. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto a new section designated sec. 64.5, following sec. 64, to read as follows:

Sec. 64.5. *The Department shall deposit all money it receives pursuant to sections 61 to 66, inclusive, of this act in the State Treasury for credit to the State General Fund.*

Sec. 28. Section 65 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 65. *The activity or activities conducted by a natural person shall be deemed to be a business that is subject to the provisions of sections 61 to 66, inclusive, of this act if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for the business.*

Sec. 28.5. Section 66 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 66. 1. *Except as otherwise provided in subsection 8, a person shall not conduct a business in this state unless he has a business license issued by the Department.*

2. *An application for a business license must:*

(a) *Be made upon a form prescribed by the Department;*

(b) *Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business;*

(c) *Declare the estimated number of employees for the previous calendar quarter;*

(d) *Be accompanied by a fee of \$125; and*

(e) *Include any other information that the Department deems necessary.*

3. *The application must be signed by:*

(a) *The owner, if the business is owned by a natural person;*

(b) *A member or partner, if the business is owned by an association or partnership; or*

(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.

4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.

5. A person who has been issued a business license by the Department shall submit a fee of \$125 to the Department on or before the last day of the month in which the anniversary date of issuance of the business license occurs in each year, unless the person submits a written statement to the Department, at least 10 days before the anniversary date, indicating that the person will not be conducting business in this state after the anniversary date.

6. The business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

7. For the purposes of sections 61 to 66, inclusive, of this act, a person shall be deemed to conduct a business in this state if a business for which the person is responsible:

(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this state; or

(c) Pays wages or other remuneration to a natural person who performs in this state any of the duties for which he is paid.

8. A person who takes part in a trade show or convention held in this state for a purpose related to the conduct of a business is not required to obtain a business license specifically for that event.

Sec. 29. Section 67 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 67. (Deleted by amendment.)

Sec. 30. Section 70 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 70. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 362, 364A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, or sections 24.12 to 24.74, inclusive, of this act, as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

(a) The facts contained in the return;

(b) Any information within its possession or that may come into its possession; or

(c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.

4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

Sec. 31. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto a new section to be designated as section 70.5, following section 70, to read as follows:

Sec. 70.5. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 362, ~~[364A,]~~ 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, or sections 2 to 24, inclusive, or 24.12 to 24.74, inclusive, of this act, as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

- (a) The facts contained in the return;
- (b) Any information within its possession or that may come into its possession; or
- (c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.

4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

Sec. 32. Section 71 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 71. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 364A, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, *or sections 24.12 to 24.74, inclusive, of this act*, or the fee provided for in NRS 482.313, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 33. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto a new section to be designated as section 71.5, following section 71, to read as follows:

Sec. 71.5. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, ~~364A,~~ 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, *or sections 2 to 24, inclusive, or 24.12 to 24.74, inclusive, of this act*, or the fee provided for in NRS 482.313, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 34. Section 72 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 72. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax imposed pursuant to NRS 361.320 or ~~chapter 361A, 376A, 377 or 377A of NRS, or by~~ chapter 361A, 362, 364A, 369, 370, 372, 372A, 374, 375A, ~~or~~ 375B, 376A, 377 or 377A of NRS, *or sections 24.12 to 24.74, inclusive, of this act*, is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the Department may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must file with the Department a statement under oath setting forth the facts upon which he bases his claim.

3. The Department shall disclose, upon the request of any person:

- (a) The name of the person to whom relief was granted; and
- (b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

Sec. 35. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto a new section to be designated as section 72.5, following section 72, to read as follows:

Sec. 72.5. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax imposed pursuant to NRS 361.320 or chapter 361A, 362, ~~[364A,]~~ 369, 370, 372, 372A, 374, 375A, 375B, 376A, 377 or 377A of NRS, or sections 2 to 24, inclusive, or 24.12 to 24.74, inclusive, of this act, is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the Department may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must file with the Department a statement under oath setting forth the facts upon which he bases his claim.

3. The Department shall disclose, upon the request of any person:

- (a) The name of the person to whom relief was granted; and
- (b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

Sec. 36. Section 73 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 73. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against him which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this state or any political subdivision or agency of this state, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer,

department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his possession or under his control at the time he received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of $\frac{1}{2}$ and transmit to the Department all such credits, other personal property $\frac{1}{2}$ or debts in his possession, under his control or owing by him within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him to continue to transmit payments to the Department or that his duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the State for any indebtedness due pursuant to this chapter, or chapter 362, 364A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS , *or sections 24.12 to 24.74, inclusive, of this act* from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 37. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto a new section to be designated as section 73.5, following section 73, to read as follows:

Sec. 73.5. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against him which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this state or any political subdivision or agency of this state, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his possession or under his control at the time he received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his possession, under his control or owing by him within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him to continue to transmit payments to the Department or that his duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the State for any indebtedness due pursuant to this chapter, or chapter 362, ~~{364A,}~~ 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, or sections 2 to 24, inclusive, or 24.12 to 24.74, inclusive, of this act from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 38. Section 75 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 75. (Deleted by amendment.)

Sec. 39. Section 75.3 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 75.3. NRS 364A.020 is hereby amended to read as follows:

364A.020 1. "Business" includes:

(a) A corporation, partnership, proprietorship, *limited-liability company*, business association, *joint venture*, *limited-liability partnership*, *business trust and their equivalents organized under the laws of this state or another jurisdiction* and any other ~~[similar]~~ organization that conducts an activity for profit;

(b) The activities of a natural person which are deemed to be a business pursuant to NRS 364A.120; and

(c) A trade show or convention held in this state in which a business described in paragraph (a) or (b) takes part, or which a person who conducts such a business attends, for a purpose related to the conduct of the business.

2. ~~{The term includes an independent contractor.~~

~~3.}~~ The term does not include:

(a) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c);

(b) A governmental entity; ~~{or}~~

(c) *A person who operates a business from his home and earns from that business not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars; or*

(d) A business that creates or produces motion pictures. As used in this paragraph, “motion pictures” has the meaning ascribed to it in NRS 231.020.

Sec. 40. Section 75.7 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 75.7. NRS 364A.120 is hereby amended to read as follows:

364A.120 The activity or activities conducted by a natural person shall be deemed to be a business that is subject to the provisions of this chapter if the person files with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss from Business Form, or its equivalent or successor form, *a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form*, or a Schedule F (Form 1040), Farm Income and Expenses Form, or its equivalent or successor form, for the activity or activities.

Sec. 40.5. Section 76 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 76. NRS 364A.130 is hereby amended to read as follows:

364A.130 1. Except as otherwise provided in subsection ~~[6,]~~ 8, a person shall not conduct a business in this state unless he has a business license issued by the Department.

2. ~~[The]~~ An application for a business license must:

(a) Be made upon a form prescribed by the Department;
(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business;
(c) Declare the estimated number of employees for the previous calendar quarter;

(d) Be accompanied by a fee of ~~[\$25,]~~ \$125; and

(e) Include any other information that the Department deems necessary.

3. The application must be signed by:

(a) The owner, if the business is owned by a natural person;
(b) A member or partner, if the business is owned by an association or partnership; or

(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.

4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer’s authority must be attached to the application.

5. *A person who has been issued a business license by the Department shall submit a fee of \$125 to the Department on or before the last day of the month in which the anniversary date of issuance of the business license occurs in each year, unless the person submits a written statement to the Department, at least 10 days before the anniversary date, indicating that the person will not be conducting business in this state after the anniversary date.*

6. *The business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.*

7. For the purposes of this chapter, a person shall be deemed to conduct a business in this state if a business for which the person is responsible:

(a) Is ~~[incorporated]~~ *organized* pursuant to ~~[chapter 78 or 78A]~~ title 7 of NRS ~~[7]~~, *other than a business organized pursuant to chapter 82 or 84 of NRS;*

(b) Has an office or other base of operations in this state; or

(c) Pays wages or other remuneration to a natural person who performs in this state any of the duties for which he is paid.

~~[6.]~~ 8. A person who takes part in a trade show or convention held in this state for a purpose related to the conduct of a business is not required to obtain a business license specifically for that event.

Sec. 41. Section 77 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 77. NRS 369.174 is hereby amended to read as follows:

369.174 Each month, the State Controller shall transfer to the Tax on Liquor Program Account in the State General Fund, from the tax on liquor containing more than 22 percent of alcohol by volume, the portion of the tax which exceeds ~~[\$1.90]~~ \$2.93 per wine gallon.

Sec. 42. Section 78 of Senate Bill No. 6 of the 20th Special Session is hereby amended to read as follows:

Sec. 78. NRS 369.330 is hereby amended to read as follows:

369.330 Except as otherwise provided in this chapter, an excise tax is hereby levied and must be collected respecting all liquor and upon the privilege of importing, possessing, storing or selling liquor, according to the following rates and classifications:

1. On liquor containing more than 22 percent of alcohol by volume, ~~[\$2.05]~~ \$3.08 per wine gallon or proportionate part thereof.

2. On liquor containing more than 14 percent up to and including 22 percent of alcohol by volume, ~~[75 cents]~~ \$1.13 per wine gallon or proportionate part thereof.

3. On liquor containing from one-half of 1 percent up to and including 14 percent of alcohol by volume, ~~[40]~~ 60 cents per wine gallon or proportionate part thereof.

4. On all malt beverage liquor brewed or fermented and bottled in or outside this state, ~~[9]~~ 14 cents per gallon.

Sec. 43. Section 79 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 79. (Deleted by amendment.)

Sec. 43.5. Section 80 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 80. NRS 370.165 is hereby amended to read as follows:

370.165 There is hereby levied a tax upon the purchase or possession of cigarettes by a consumer in the State of Nevada at the rate of ~~[17.5]~~ 42.5 mills per cigarette. The tax may be represented and precollected by the affixing of a revenue stamp or other approved evidence of payment to each

package, packet or container in which cigarettes are sold. The tax must be precollected by the wholesale or retail dealer, and must be recovered from the consumer by adding the amount of the tax to the selling price. Each person who sells cigarettes at retail shall prominently display on his premises a notice that the tax is included in the selling price and is payable under the provisions of this chapter.

Sec. 44. Section 81 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 81. (Deleted by amendment.)

Sec. 44.3. Section 82 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 82. NRS 370.260 is hereby amended to read as follows:

370.260 1. All taxes and license fees imposed by the provisions of NRS 370.001 to 370.430, inclusive, less any refunds granted as provided by law, must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall:

(a) As compensation to the State for the costs of collecting the taxes and license fees, transmit each month the sum the Legislature specifies from the remittances made to it pursuant to subsection 1 during the preceding month to the State Treasurer for deposit to the credit of the Department. The deposited money must be expended by the Department in accordance with its work program.

(b) From the remittances made to it pursuant to subsection 1 during the preceding month, less the amount transmitted pursuant to paragraph (a), transmit each month the portion of the tax which is equivalent to ~~{12.5}~~ 37.5 mills per cigarette to the State Treasurer for deposit to the credit of the Account for the Tax on Cigarettes in the State General Fund.

(c) Transmit the balance of the payments each month to the State Treasurer for deposit in the Local Government Tax Distribution Account created by NRS 360.660.

(d) Report to the State Controller monthly the amount of collections.

3. The money deposited pursuant to paragraph (c) of subsection 2 in the Local Government Tax Distribution Account is hereby appropriated to Carson City and to each of the counties in proportion to their respective populations and must be credited to the respective accounts of Carson City and each county.

Sec. 44.7. Section 83 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 83. NRS 370.350 is hereby amended to read as follows:

370.350 1. Except as otherwise provided in subsection 3, a tax is hereby levied and imposed upon the use of cigarettes in this state.

2. The amount of the use tax is ~~{17.5}~~ 42.5 mills per cigarette.

3. The use tax does not apply where:

(a) Nevada cigarette revenue stamps have been affixed to cigarette packages as required by law.

(b) Tax exemption is provided for in this chapter.

Sec. 45. Sections 84 to 88, inclusive, of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are hereby amended to read as follows:

Secs. 84-88. (Deleted by amendment.)

Sec. 46. Sections 90 to 93, inclusive, of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are hereby amended to read as follows:

Secs. 90-93. (Deleted by amendment.)

Sec. 47. Section 102 of Senate Bill No. 6 of the 20th Special Session is hereby amended to read as follows:

Sec. 102. NRS 375.090 is hereby amended to read as follows:

375.090 The ~~tax~~ taxes imposed by NRS 375.020 ~~does~~ and section 95 of this act do not apply to:

1. A mere change in ~~identity, form or place of organization, such as a transfer between a corporation and its parent corporation, a subsidiary or an affiliated corporation if the affiliated corporation has identical common ownership,~~ the name of the owner of the property without a change in the ownership interest of the property.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. ~~A transfer of title to community property without consideration when held in the name of one spouse to both spouses as joint tenants or tenants in common, or as community property.~~

6. A transfer of title between spouses, including gifts ~~to~~

7. ~~A transfer of title between spouses~~, or to effect a property settlement agreement or between former spouses in compliance with a decree of divorce.

8. 6. A transfer of title to or from a trust ~~if the transfer is made~~ without consideration ~~and is made to or from:~~

(a) The trustor of the trust;

(b) The trustor's legal representative; or

(c) A person related to the trustor in the first degree of consanguinity.

As used in this subsection, "legal representative" has the meaning ascribed to it in NRS 167.020.

9. ~~if a certificate of trust is presented at the time of transfer.~~

7. Transfers, assignments or conveyances of unpatented mines or mining claims.

~~[10. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.~~

~~[12.]~~ 8. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of consanguinity.

~~[12.]~~ 9. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act, if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

~~[13.]~~ 10. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

~~[14.]~~ 11. A transfer to an educational foundation. As used in this subsection, “educational foundation” has the meaning ascribed to it in subsection 3 of NRS 388.750.

~~[15.]~~ 12. A transfer to a university foundation. As used in this subsection, “university foundation” has the meaning ascribed to it in subsection 3 of NRS 396.405.

~~[16. A transfer, assignment or other conveyance of real property to a corporation sole from another corporation sole. As used in this subsection, “corporation sole” means a corporation which is organized pursuant to the provisions of chapter 84 of NRS.]~~

Sec. 48. Section 126 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 126. *The Nevada Legislature hereby finds and declares that:*

1. *The 20th Special Session of the Nevada Legislature has responded to concerns for the provision of additional state revenue by enacting several measures that affect the burden on taxpayers in this state.*

2. *The Nevada Legislature must continue to be responsive to the requirements of a growing school population and the needs of the people of*

this state, and in order to accomplish these goals must provide itself with timely and accurate information regarding the effects of the measures it has enacted.

3. It is the intent of the Nevada Legislature to create a legislative committee to study the effects of the measures it has enacted with regard to both the resulting revenue and the resulting expenses, and to report the information it obtains for use at the next regular session of the Nevada Legislature.

Sec. 49. Section 134 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 134. (Deleted by amendment.)

Sec. 50. Sections 136 to 140, inclusive, of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are hereby amended to read as follows:

Secs. 136-140. (Deleted by amendment.)

Sec. 51. Sections 142, 143 and 144 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are hereby amended to read as follows:

Secs. 142-144. (Deleted by amendment.)

Sec. 52. Sections 146, 147 and 148 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are hereby amended to read as follows:

Secs. 146-148. (Deleted by amendment.)

Sec. 53. (Deleted.)

Sec. 54. Sections 161 to 165, inclusive, of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are hereby amended to read as follows:

Secs. 161-165. (Deleted by amendment.)

Sec. 55. Section 166 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 166. NRS 388.750 is hereby amended to read as follows:

388.750 1. An educational foundation:

- (a) Shall comply with the provisions of chapter 241 of NRS;
- (b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010; and
- (c) Is exempt from the tax on transfer of real property pursuant to subsection ~~{14}~~ 11 of NRS 375.090.

2. An educational foundation is not required to disclose the names of the contributors to the foundation or the amount of their contributions. The educational foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "educational foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated exclusively for the purpose of supporting one or more kindergartens, elementary schools, junior high or middle schools or high schools, or any combination thereof;

(b) Formed pursuant to the laws of this state; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 56. Section 167 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 167. NRS 396.405 is hereby amended to read as follows:

396.405 1. A university foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the tax on transfers of real property pursuant to subsection ~~[14]~~ 11 of NRS 375.090; and

(d) May allow a president or an administrator of the university or community college which it supports to serve as a member of its governing body.

2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his contribution or any information which may reveal or lead to the discovery of his identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated exclusively for the purpose of supporting a university or a community college;

(b) Formed pursuant to the laws of this state; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 57. Section 174 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 174. NRS 463.401 is hereby amended to read as follows:

463.401 1. In addition to any other license fees and taxes imposed by this chapter, a casino entertainment tax equivalent to 10 percent of all amounts paid for admission, food, refreshments and merchandise is hereby levied, except as *otherwise* provided in subsection 2, upon each licensed gaming establishment in this state where ~~[music and dancing privileges or any other]~~ *live* entertainment is provided to the patrons ~~[in a cabaret, nightclub, cocktail lounge or casino showroom in connection with the serving or selling of food or refreshments or the selling of any merchandise.]~~ *of the licensed gaming establishment.* Amounts paid for gratuities directly or indirectly remitted to employees of the licensee or for service charges, including those imposed in connection with use of credit cards or debit cards, that are collected and retained by persons other than the licensee are not taxable pursuant to this section.

2. A licensed gaming establishment is not subject to tax pursuant to this section if:

(a) The establishment is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits ~~;~~

~~(b) The entertainment is presented in a facility that would not have been subject to taxation pursuant to 26 U.S.C. § 4231(6) as that provision existed in 1965;~~

~~(c) The entertainment is presented in a facility that would have been subject to taxation pursuant to 26 U.S.C. § 4231(1), (2), (3), (4) or (5) as those provisions existed in 1965; or~~

~~(d) In other cases, if:~~

~~(1) No distilled spirits, wine or beer is served or permitted to be consumed;~~

~~(2) Only light refreshments are served;~~

~~(3) Where space is provided for dancing, no charge is made for dancing;~~
and

~~(4) Where music is provided or permitted, the music is provided without any charge to the owner, lessee or operator of the establishment or to any concessionaire.] ; or~~

(b) The facility in which the live entertainment is provided has a maximum seating capacity that is at least 7,500.

3. The tax imposed by this section does not apply to ~~[merchandise]~~ :

(a) Live entertainment that this state is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Merchandise sold outside the facility in which the live entertainment is presented, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

(c) Any live entertainment that is provided by or entirely for the benefit of a nonprofit organization that is recognized as exempt from taxation pursuant to 26 U.S.C. § 501(c).

(d) Live entertainment that is provided at a trade show.

(e) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(f) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(g) Live entertainment that is provided or occurs at private meetings or dinners attended by members of a particular organization or by a casual assemblage and the purpose of the event is not primarily for entertainment.

(h) Live entertainment presented in a common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

4. The tax imposed by this section must be paid by the licensee of the establishment.

5. *As used in this section, “live entertainment” means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present.*

Sec. 58. Section 178 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 178. (Deleted by amendment.)

Sec. 59. Section 180 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 180. (Deleted by amendment.)

Sec. 60. Sections 184 and 185 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are hereby amended to read as follows:

Secs. 184 and 185. (Deleted by amendment.)

Sec. 61. Section 186 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 186. (Deleted by amendment.)

Sec. 62. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto a new section to be designated as section 186.9, following section 186.7, to read as follows:

Sec. 186.9. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. There is hereby imposed an excise tax on each employer at the rate of ~~[0.85]~~ 0.65 percent of the wages, as defined in NRS 612.190, paid by the employer during a calendar quarter with respect to employment.

2. The tax imposed by this section must not be deducted, in whole or in part, from any wages of persons in the employment of the employer.

3. Each employer shall, on or before the last day of the month immediately following each calendar quarter for which the employer is required to pay a contribution pursuant to NRS 612.535:

(a) File with the Department:

(1) A return on a form prescribed by the Department; and

(2) A copy of any report required by the Employment Security Division of the Department of Employment, Training and Rehabilitation for determining the amount of the contribution required pursuant to NRS 612.535 for any wages paid by the employer during that calendar quarter; and

(b) Remit to the Department any tax due pursuant to this chapter for that calendar quarter.

4. Except as otherwise provided in subsection 5, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant this section any amount authorized pursuant to this section that is paid by the employer for health insurance or a health benefit plan for its employees in the calendar quarter for which the tax is paid. The amounts for which the deduction is allowed include:

(a) For an employer providing a program of self-insurance for its employees, all amounts paid during the calendar quarter for claims, direct administrative services costs, including such services provided by the employer, and any premiums paid for individual or aggregate stop-loss insurance coverage. An employer is not authorized to deduct the costs of a program of self-insurance unless the program is a qualified employee welfare benefit plan pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

(b) The premiums for a policy of health insurance or reinsurance for a health benefit plan for its employees.

(c) Any amounts paid by an employer to a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) for participation in an employee welfare benefit plan.

(d) Such other similar payments for health care or insurance for health care for employees as are authorized by the Department.

5. An employer may not deduct from the wages upon which the excise tax is imposed pursuant this section:

(a) Amounts paid for health care or premiums paid for insurance for an industrial injury or occupational disease for which coverage is required pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or

(b) Any payments made by employees for health care or health insurance or amounts deducted from the wages of employees for such care or insurance.

6. An employer claiming the deduction allowed pursuant to subsection 4 shall submit with the return filed pursuant to subsection 3 proof of the amount paid in the calendar quarter that qualifies for the deduction. If the amount of the deduction exceeds the amount of reported wages, the excess amount may be carried forward to the following calendar quarter until the deduction is exhausted.

7. As used in this section, "employee welfare benefit plan" has the meaning ascribed to it in 29 U.S.C. § 1002.

Sec. 62.5. Section 187 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 187. Section 66 of this act is hereby amended to read as follows:

Sec. 66. 1. Except as otherwise provided in subsection 8, a person shall not conduct a business in this state unless he has a business license issued by the Department.

2. An application for a business license must:

- (a) Be made upon a form prescribed by the Department;
- (b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business;
- (c) Declare the estimated number of employees for the previous calendar quarter;
- (d) Be accompanied by a fee of \$125; and
- (e) Include any other information that the Department deems necessary.

3. The application must be signed by:

- (a) The owner, if the business is owned by a natural person;
- (b) A member or partner, if the business is owned by an association or partnership; or
- (c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.

4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.

5. A person who has been issued a business license by the Department shall submit a fee of \$125 to the Department on or before the last day of the month in which the anniversary date of issuance of the business license occurs in each year, unless the person submits a written statement to the Department, at least 10 days before the anniversary date, indicating that the person will not be conducting business in this state after the anniversary date. *A person who fails to submit the annual fee required pursuant to this subsection in a timely manner shall pay a penalty in the amount of \$125 in addition to the annual fee.*

6. The business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

7. For the purposes of sections 61 to 66, inclusive, of this act, a person shall be deemed to conduct a business in this state if a business for which the person is responsible:

- (a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;
- (b) Has an office or other base of operations in this state; or
- (c) Pays wages or other remuneration to a natural person who performs in this state any of the duties for which he is paid.

8. A person who takes part in a trade show or convention held in this state for a purpose related to the conduct of a business is not required to obtain a business license specifically for that event.

Sec. 63. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto a new sections to be designated as sections 188.3, 188.5 and 188.7, following section 188, to read as follows:

Sec. 188.3. Section 58 of Assembly Bill No. 553 of the 72nd Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 58. 1. If projections of the ending balance of the State General Fund fall below the amount estimated by the ~~[2003]~~ Nevada Legislature for Fiscal Year 2003-2004 or 2004-2005, the Director of the Department of Administration shall report this information to the State Board of Examiners.

2. If the State Board of Examiners determines that the ending balance of the State General Fund is projected to be less than \$60,000,000 for Fiscal Year 2003-2004 or 2004-2005, the Governor, pursuant to NRS 353.225, may direct the Director of the Department of Administration to require the State

Controller or the head of each department, institution or agency to set aside a reserve of not more than 15 percent of the total amount of operating expenses or other appropriations and money otherwise available to the department, institution or agency.

3. A reserve must not be set aside pursuant to this section unless:

(a) The Governor, on behalf of the State Board of Examiners, submits a report to the Legislature, or, if the Legislature is not in session, to the Interim Finance Committee, stating the reasons why a reserve is needed and indicating each department, institution or agency that will be required to set aside a reserve; and

(b) The Legislature or Interim Finance Committee approves the setting aside of the reserve.

Sec. 188.5. Section 61 of Assembly Bill No. 553 of the 72nd Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 61. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$12,500,000 in Fiscal Year 2003-2004 and ~~[\$20,000,000]~~ \$15,000,000 in Fiscal Year 2004-2005 for information technology and additional operational costs that may be required by the Department of Taxation or other state agency to implement or modify the collections of State General Fund revenues approved by the 72nd Session of the Nevada Legislature.

2. If the Department of Taxation or other state agency determines that additional resources are necessary for information technology or additional operational costs related to subsection 1, the State Board of Examiners shall consider the request and recommend the amount of the allocation, if any, to the Interim Finance Committee.

3. The Interim Finance Committee is not required to approve the entire amount of an allocation recommended pursuant to subsection 2 or to allocate the entire amount appropriated in subsection 1.

4. The sums appropriated by subsection 1 are available for either fiscal year. Any balance of those sums must not be committed for expenditure after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 188.7. Section 1 of Senate Bill No. 243 of the 72nd Session of the Nevada Legislature is hereby amended to read as follows:

Section 1. ~~{1. There is hereby appropriated from the State General Fund to the Fund to Stabilize the Operation of State Government created by NRS 353.288 the sum of \$30,000,000.~~

~~2.}~~ Notwithstanding the provisions of NRS 353.235:

~~{(a)}~~ 1. Upon receipt of the projections and estimates of the Economic Forum required by paragraph (d) of subsection 1 of NRS 353.228 to be reported on or before December 1, 2004, the Interim Finance Committee shall project the ending balance of the State General Fund for Fiscal Year 2004-2005, using all relevant information known to it.

~~[(b)]~~ 2. Except as otherwise provided in ~~[paragraph (c)]~~ subsection 3, there is hereby contingently appropriated from the State General Fund to the Fund to Stabilize the Operation of State Government created by NRS 353.288 the amount, if any, by which the projection required by ~~[paragraph (a)]~~ subsection 1 exceeds the amount of the ending balance of the State General Fund for Fiscal Year 2004-2005 as estimated by the ~~[2003 Legislature]~~.

~~(c)]~~ Nevada Legislature.

3. The amount of any appropriation pursuant to ~~[paragraph (b)]~~ subsection 2 must not exceed ~~[\$20,000,000.]~~ \$50,000,000.

Sec. 64. Section 189 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 189. 1. NRS 353.272, 364.160, 375.025 and 375.075 are hereby repealed.

2. NRS 463.4001, 463.4002, 463.4004, 463.4006, 463.4008, 463.4009 and 463.4015 are hereby repealed.

3. NRS 364A.010, 364A.020, 364A.030, 364A.040, 364A.050, 364A.060, 364A.070, 364A.080, 364A.090, 364A.100, 364A.110, 364A.120, 364A.130, 364A.135, 364A.140, 364A.150, 364A.151, 364A.152, 364A.1525, 364A.170, 364A.175, 364A.180, 364A.190, 364A.230, 364A.240, 364A.250, 364A.260, 364A.270, 364A.280, 364A.290, 364A.300, 364A.310, 364A.320, 364A.330, 364A.340, 364A.350, 463.401, 463.402, 463.403, 463.404, 463.4045, 463.405, 463.4055 and 463.406 are hereby repealed.

Sec. 65. Section 190 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 190. Notwithstanding the provisions of NRS 353.288:

1. After the close of the 2003-2004 Fiscal Year and after the close of the 2004-2005 Fiscal Year, the Interim Finance Committee shall determine the amount, if any, by which the total revenue from all sources to the State General Fund, excluding reversions to the State General Fund, exceeds:

(a) One hundred seven percent of the total revenue from all sources to the State General Fund as projected by the Nevada Legislature for the applicable fiscal year; and

(b) The total amount of all applicable contingent appropriations enacted for the 2003-2004 Fiscal Year and the 2004-2005 Fiscal Year by the Nevada Legislature for which the conditions for the contingent appropriations were satisfied.

2. Any excess amount of revenue determined pursuant to subsection 1 must be used as follows:

(a) An amount estimated by the Interim Finance Committee to pay for expenditures that will occur in the next biennium for which the corresponding expenditures in the current biennium were paid or are to be paid from a source other than the State General Fund, but for which the alternative source of revenue likely will not be available or will not be

received during the biennium, must be used to replace previously used nonrecurring revenue. This amount must be accounted for separately in the State General Fund.

(b) The remaining excess amount of revenue must be transferred to the Fund to Stabilize the Operation of the State Government created by NRS 353.288, in such an amount that does not cause the balance in the Fund to exceed the limitation on that balance set forth in NRS 353.288.

(c) Any remaining excess amount of revenue must be transferred to the Fund for Tax Accountability created pursuant to section 191 of this act.

Sec. 66. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto a new section designated sec. 191.3, following sec. 191, to read as follows:

Sec. 191.3. 1. The Legislative Auditor shall conduct a performance audit of the Clark County School District. The performance audit must include issues identified in the Preliminary Performance Audit Survey conducted pursuant to section 46 of chapter 570, Statutes of Nevada 2001, at page 2867. These issues include, but are not limited to:

- (a) Financial management;
- (b) Facilities management;
- (c) Personnel management;
- (d) District organization; and
- (e) Employee health plans.

2. The Legislative Auditor shall conduct a performance audit of the Washoe County School District. The performance audit must include issues identified in the Preliminary Performance Audit Survey conducted pursuant to section 46 of chapter 570, Statutes of Nevada 2001, at page 2867. These issues include, but are not limited to:

- (a) Financial management;
- (b) Facilities management;
- (c) Personnel management; and
- (d) Transportation.

3. The Legislative Auditor shall prepare a final written report for each of the audits conducted pursuant to subsections 1 and 2 and present the reports to the Audit Subcommittee of the Legislative Commission not later than February 7, 2005.

4. To the extent that the provisions of NRS 218.737 to 218.890, inclusive, are consistent with the requirements of this section, those provisions apply to the audits conducted pursuant to this section. For the purposes of this subsection, the Clark County School District and the Washoe County School District shall be deemed to be agencies of the State.

5. Upon the request of the Legislative Auditor or his authorized representative, the officers and employees of the Clark County School District and the Washoe County School District shall make available to the Legislative Auditor any of their books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise and irrespective of

their form or location, which the Legislative Auditor deems necessary to conduct the audits required by this section.

Sec. 67. Section 193 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 193. (Deleted by amendment.)

Sec. 68. Section 194 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 194. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee for allocation to the Legislative Committee on Taxation, Public Revenue and Tax Policy to exercise its powers pursuant to section 130 of this act, including, without limitation, to hire a consultant:

For the Fiscal Year 2003-2004 \$125,000

For the Fiscal Year 2004-2005 \$125,000

2. The Interim Finance Committee may allocate to the Legislative Committee on Taxation, Public Revenue and Tax Policy all or any portion of the money appropriated by subsection 1.

3. The sums appropriated by subsection 1 are available for either fiscal year. Any balance of those sums must not be committed for expenditure after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 69. Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto new sections designated sections 194.10 through 194.22, following sec. 194, to read as follows:

Sec. 194.10. 1. There is hereby appropriated from the State General Fund to the State Distributive School Account the sum of \$108,937,389 for distribution by the Superintendent of Public Instruction to the county school districts for Fiscal Year 2003-2004 which must, except as otherwise provided in sections 194.14 and 194.18 of this act, be used to employ teachers to comply with the required ratio of pupils to teachers, as set forth in NRS 388.700, in grades 1 and 2 and in selected kindergartens with pupils who are considered at risk of failure by the Superintendent of Public Instruction and to maintain the current ratio of pupils per teacher in grade 3. Expenditures for the class-size reduction program must be accounted for in a separate category of expenditure in the State Distributive School Account.

2. Except as otherwise provided in sections 194.14 and 194.18 of this act, the money appropriated by subsection 1 must be used to pay the salaries and benefits of not less than 1,887 teachers employed by school districts to meet the required pupil-teacher ratios in the 2003-2004 school year.

3. Any remaining balance of the sum appropriated by subsection 1 must not be committed for expenditure after June 30, 2004, and must be transferred and added to the money appropriated to the State Distributive School Account pursuant to section 194.12 of this act for the 2004-2005 Fiscal Year, and may be expended as that money is expended.

Sec. 194.12. 1. There is hereby appropriated from the State General Fund to the State Distributive School Account the sum of \$117,142,553 for

distribution by the Superintendent of Public Instruction to the county school districts for Fiscal Year 2004-2005 which must, except as otherwise provided in sections 194.14 and 194.18 of this act, be used to employ teachers to comply with the required ratio of pupils to teachers, as set forth in NRS 388.700, in grades 1 and 2 and in selected kindergartens with pupils who are considered at risk of failure by the Superintendent of Public Instruction and to maintain the current ratio of pupils per teacher in grade 3. Expenditures for the class-size reduction program must be accounted for in a separate category of expenditure in the State Distributive School Account.

2. Except as otherwise provided in sections 194.14 and 194.18 of this act, the money appropriated by subsection 1 must be used to pay the salaries and benefits of not less than 1,953 teachers employed by school districts to meet the required pupil-teacher ratios in the 2004-2005 school year.

3. Any remaining balance of the sum appropriated by subsection 1, including any money added thereto pursuant to section 194.10 of this act, must not be committed for expenditure after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 194.14. 1. Except as otherwise provided in subsection 2, the board of trustees of each county school district:

(a) Shall file a plan with the Superintendent of Public Instruction describing how the money appropriated by sections 194.10 and 194.12 of this act will be used to comply with the required ratio of pupils to teachers in kindergarten and grades 1, 2 and 3; or

(b) May, after receiving approval of the plan from the Superintendent of Public Instruction, use the money appropriated by sections 194.10 and 194.12 of this act to carry out an alternative program for reducing the ratio of pupils per teacher or to carry out programs of remedial education that have been found to be effective in improving pupil achievement in grades 1, 2 and 3, so long as the combined ratio of pupils per teacher in the aggregate of kindergarten and grades 1, 2 and 3 of the school district does not exceed the combined ratio of pupils per teacher in the aggregate of kindergarten and grades 1, 2 and 3 of the school district in the 2000-2001 school year. The plan approved by the Superintendent of Public Instruction must describe the method to be used by the school district to evaluate the effectiveness of the alternative program or remedial programs in improving pupil achievement.

2. In lieu of complying with subsection 1, the board of trustees of a school district that is located in a county whose population is less than 100,000 may, after receiving approval of the plan from the Superintendent of Public Instruction, use the money appropriated by sections 194.10 and 194.12 of this act to carry out a program in which alternative pupil-teacher ratios are carried out in grades 1 through 5 or grades 1 through 6, as applicable. Alternative ratios for grade 6 may only be approved for those school districts that include grade 6 in elementary school. The alternative pupil-teacher ratios shall not:

- (a) Exceed 22 to 1 in grades 1, 2 and 3; and
- (b) Exceed 25 to 1 in grades 4 and 5 or grades 4, 5 and 6, as applicable.

3. If a school district receives approval to carry out programs of remedial education pursuant to paragraph (b) of subsection 1 or to carry out alternative pupil-teacher ratios pursuant to subsection 2, the school district shall evaluate the effectiveness of the alternative program. The evaluation must include, without limitation, the effect of the alternative program on:

- (a) Team teaching;
- (b) Pupil discipline; and
- (c) The academic achievement of pupils.

4. A school district shall submit a written report of the results of the evaluation to the Superintendent of Public Instruction on or before December 1 of each year for the immediately preceding school year. The Superintendent of Public Instruction shall summarize the results of the evaluations and report the findings in an interim report to the Legislative Committee on Education on or before February 16, 2004.

5. On or before February 1, 2005, the Superintendent of Public Instruction shall submit a final written report of the results of the evaluations of alternative class-size reduction programs to the Legislative Bureau of Educational Accountability and Program Evaluation. On or before February 15, 2005, the Legislative Bureau of Educational Accountability and Program Evaluation shall submit a copy of the written report to the Director of the Legislative Counsel Bureau for transmission to the 73rd Session of the Nevada Legislature.

6. The interim report required pursuant to subsection 4 and the final written report required pursuant to subsection 5 must include, without limitation:

- (a) The number of school districts for which an alternative class-size reduction program was approved;
- (b) A description of the approved alternative class-size reduction programs; and
- (c) The effect of the alternative class-size reduction programs on:
 - (1) Team teaching;
 - (2) Pupil discipline; and
 - (3) The academic achievement of pupils.

Sec. 194.16. 1. During the 2003-2005 biennium, a school district that is located in a county whose population is 100,000 or more shall study the current class-sizes in the school district for grades 1 to 5, inclusive, to determine whether alternative pupil-teacher ratios may:

- (a) Improve the academic achievement of pupils;
- (b) Decrease pupil discipline; or
- (c) Decrease or eliminate team-teaching in grades 1 and 2.

2. In conducting the study, the school district shall consider the costs that would be associated with carrying out the alternative pupil-teacher ratios, including, without limitation, the:

- (a) Number of additional classrooms needed; and
- (b) Number of additional teachers needed.

3. On or before February 15, 2005, each school district that conducts a study of alternative pupil-teacher ratios pursuant to this section shall submit a written report of its findings concerning alternative pupil-teacher ratios to the:

- (a) Director of the Legislative Counsel Bureau for transmission to the 73rd Session of the Nevada Legislature;
- (b) Legislative Bureau of Educational Accountability and Program Evaluation; and
- (c) State Board of Education.

Sec. 194.18. 1. The money appropriated for class-size reduction pursuant to sections 194.10 and 194.12 of this act:

- (a) May be applied first to pupils considered most at risk of failure.
- (b) Must not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.
- (c) Must not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

2. The money appropriated for class-size reduction pursuant to sections 194.10 and 194.12 of this act must not be distributed to a school district unless that school district has:

- (a) Filed with the Department of Education a plan for achieving the required ratio set forth in NRS 388.700; and
- (b) Demonstrated that, from resources of the school district other than allocations received from the State Distributive School Account for class-size reduction, a sufficient number of classroom teachers have been employed to maintain the average pupil-teacher ratio that existed for each grade for grades 1, 2 and 3, in that school district for the 3 school years immediately preceding the start of the class-size reduction program in the 1990-1991 school year. In addition, if a school district uses the allocations received from the State Distributive School Account for class-size reduction to carry out an alternative class-size reduction program as set forth in subsection 2 of section 194.14 of this act, a sufficient number of teachers have been employed to maintain the average pupil-teacher ratio that existed in each grade so reduced, in that school district for the 3 years immediately preceding the implementation of the alternative program.

Sec. 194.20. In no event may the alternative pupil-teacher ratios authorized pursuant to subsection 2 of section 194.14 of this act be carried out beyond the 2003-2005 biennium unless the 73rd Session of the Nevada Legislature determines that the alternative pupil-teacher ratios may be carried out after June 30, 2005.

Sec. 194.22. Notwithstanding the provisions of section 1 of this act, the Department of Education, the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel

Bureau shall carry out the provisions of subsections 1 and 2 of that section for Fiscal Year 2003-2004 as soon as practicable after the effective date of that section.

Sec. 70. Section 195 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 195. The provisions of:

1. Section 173 of this act does not apply to any taxes precollected pursuant to chapter 463 of NRS on or before the effective date of that section.

2. Sections 80, 82 and 83 of this act do not apply to any taxes precollected pursuant to chapter 370 of NRS on or before the effective dates of those sections.

3. Sections 77, 78 and 172 of this act do not affect the amount of any license fees or taxes due for any period ending on or before July 31, 2003.

4. For a licensed gaming establishment that is exempt from the payment of the casino entertainment tax imposed by NRS 463.401 before September 1, 2003, but is required to pay that tax on and after that date, sections 174 and 175 of this act apply to any taxable receipts that are collected pursuant to those sections on and after September 1, 2003, and before January 1, 2004.

5. Sections 26 to 58, inclusive, of this act apply to any taxable receipts that are collected pursuant to the provisions of those sections on or after January 1, 2004.

6. Section 144 of this act do not apply to any contracts made before the effective date of that section.

Sec. 71. Section 196 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 196. The provisions of subsection 3 of section 189 of this act do not:

1. Affect any rights, duties or liability of any person relating to any taxes imposed pursuant to:

(a) Chapter 364A of NRS for any period ending before January 1, 2004.

(b) NRS 463.401 before January 1, 2004.

2. Apply to the administration, collection and enforcement of any taxes imposed pursuant to:

(a) Chapter 364A of NRS for any period ending before January 1, 2004.

(b) NRS 463.401 before January 1, 2004.

Sec. 72. Section 196.3 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 196.3. The Legislative Committee on Taxation, Public Revenue and Tax Policy established by the provisions of section 128 of this act shall:

1. Review and study:

(a) The impact, if any, that the imposition of the tax on live entertainment imposed pursuant to section 36 of this act has had on revenue received by the state and local governments from special events conducted in this state.

(b) Whether promoters of special events are contracting with entities in other states to hold the special events in those other states as a result of the imposition of the tax.

(c) The loss of revenue, if any, from special events resulting from the imposition of the tax.

(d) The feasibility and need for exempting such special events from the tax.

(e) Standards and procedures that may be adopted for determining whether special events should be exempt from the tax and the qualifications for such an exemption.

2. Submit a report of the results of its review and any recommendations for legislation to the 73rd Session of the Nevada Legislature.

Sec. 73. Section 196.5 of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 196.5. 1. The franchise tax imposed by section 24.38 of this act applies to any Nevada taxable income earned by a financial institution on or after November 1, 2003.

2. Notwithstanding the provisions of section 24.38 of this act, the tax return and remittance of the tax required pursuant to section 24.38 of this act for any taxable year ending before November 1, 2004, is due on January 15, 2005.

3. As used in this section:

(a) "Financial institution" has the meaning ascribed to it in section 24.18 of this act.

(b) "Nevada taxable income" has the meaning ascribed to it in section 24.22 of this act.

(c) "Taxable year" has the meaning ascribed to it in section 24.24 of this act.

Sec. 74. Section 198 of Senate Bill No 6 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 198. 1. This section and sections 60, 67, 69, 75, 75.3, 75.7, 76, 79 to 88, inclusive, 90 to 93, inclusive, 98, 101, 112, 114, 116, 125 to 132, inclusive, 134, 136 to 140, inclusive, 142 to 165, inclusive, 168, 173, 178, 180, 184, 185, 186, 188 to 188.7, inclusive, 190 to 193, inclusive, 195, 196, 196.3 and 197 of this act and subsection 1 of section 189 of this act become effective upon passage and approval.

2. Sections 194, 194.10 and 194.14 to 194.22, inclusive, of this act become effective upon passage and approval and apply retroactively to July 1, 2003.

3. Sections 77, 78, 172 and 177 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On August 1, 2003, for all other purposes.

4. Sections 174 and 175 of this act and subsection 2 of section 189 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On September 1, 2003, for all other purposes.

5. Sections 94 to 97, inclusive, 99, 100, 102 to 111, inclusive, 166 and 167 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2003, for all other purposes.

6. Sections 24.10 to 24.74, inclusive, 70, 71, 72, 73, 185.30 to 185.50, inclusive, 186.3, 186.5, 186.7 and 196.5 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On November 1, 2003, for all other purposes.

7. Sections 1 to 24, inclusive, 25 to 58, inclusive, 59, 61 to 66, inclusive, 68, 70.5, 71.5, 72.5, 73.5, 74, 89, 118 to 124, inclusive, 133, 135, 141, 169, 170, 171, 176, 179, 181, 182 and 183 of this act and subsection 3 of section 189 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2004, for all other purposes.

8. Sections 186.9, 187 and 194.12 of this act become effective on July 1, 2004.

9. Sections 113, 115 and 117 of this act become effective at 12:01 a.m. on October 1, 2029.

10. Sections 126 to 131, inclusive, of this act expire by limitation on June 30, 2005.

11. Sections 112, 114 and 116 of this act expire by limitation on September 30, 2029.”.

Amend sec. 10, page 10, line 37, by deleting “\$208,890,478” and inserting “\$203,448,548”.

Amend sec. 10, page 10, line 41, by deleting “\$147,771,085” and inserting “\$142,024,404”.

Amend sec. 14, page 12, lines 6 and 7 by deleting: “6 and 7” and inserting: “75 and 76”.

Amend sec. 23, page 20, line 38, by deleting: “6 and 7” and inserting: “75 and 76”.

Amend sec. 25, page 21, lines 3 and 4, by deleting: “15 to 22,” and inserting: “84 to 91,”.

Amend sec. 29, page 21, by deleting lines 38 through 42 and inserting:

“Sec. 98. 1. This section and sections 93, 96 and 97 of this act become effective upon passage and approval and apply retroactively to June 30, 2003.

2. Sections 1 to 4, inclusive, 75 to 92, inclusive, and 94 and 95 of this act become effective on July 1, 2003.

3. Sections 6 to 74, inclusive, become effective on July 17, 2003, only if Senate Bill No. 6 of this session is signed by the Governor and becomes effective after that date.

4. Section 5 of this act becomes effective on July 1, 2004.”.

Amend the title of the bill to read as follows:

“AN ACT relating to state financial administration; making appropriations for the support of the Class Size Reduction program; requiring the Department of Education to prescribe a minimum amount of money that each school district must expend each year for textbooks, instructional supplies and instructional hardware; requiring that a certain amount of money must be withheld from the basic support allocation to a school district if the school district does not expend the required amount; revising provisions governing the purchase of retirement credit for certain teachers; requiring the boards of trustees of school districts to purchase retirement credit for certain school psychologists under certain circumstances; apportioning the State Distributive School Account in the State General Fund for the 2003-2005 biennium; authorizing certain expenditures; providing for a final adjustment following the close of a fiscal year; making various other changes concerning the administration of money for public schools; making appropriations; making various changes to Senate Bill No. 6 of this session before that bill becomes effective to revise the provisions of that bill regarding various new, replaced and increased taxes and the administration of taxes and state finances; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes related to state financial administration. (BDR 32-8)”.

Assemblywoman Buckley moved the adoption of the amendment.

Remarks by Assemblymen Buckley, Carpenter, Hettrick, Collins, and Mr. Speaker.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. This amendment improves the bill and allows us to move forward with the Distributive School Account and the Class-size Reduction Account without having to vote for new taxes, a cry around this building. It greatly improves things by replacing the payroll tax with a modified business tax, health care reductions, and makes the changes that we have been discussing here this last hour.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. I have a couple of other questions on the amendment. It seems in the amendment all of the taxes on alcohol and wine are being increased; so I am wondering, how is it a decrease if we are increasing each one of them?

ASSEMBLYWOMAN BUCKLEY:

Because we did decrease them; we did not increase them. In Senate Bill 6, the original version, liquor was at 89 percent and now it is 50 percent. That would be a decrease. Additionally, cigarettes were at 55 cents and now they are at 50 cents. Across-the-board we tried to lower every tax and we were able to do so by lowering the appropriations, as well. The whole goal of this exercise is to come up with the most fair and balanced amendment we can.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. If I had time to look at Senate Bill 6 and find out how this all works, I guess I could figure it all out with my lame brain, but right now, I can't. Thank you.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

We have other folks who are going to speak, so I think you have time to compare the amendment to the bill.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Speaker. I understood the explanation from before and at the time agreed, but now I am sitting here wondering, S.B. 6 is not passed and not law, so we are not reducing the current law, we are adding a new tax. S.B. 6 is not law, so how is it that because we are lowering it from S.B. 6 we are not raising taxes?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. As our Legal Counsel explained, this only becomes effective if S.B. 6 passes. So S.B. 6 is the bill that would require a two-thirds vote if our Supreme Court had not ruled that way. That imposes the taxes. What this bill does is lower the amount and move forward with the appropriations for the Distributive School Account (DSA) and Class Size Reduction (CSR). What it also does is, if we approve this bill and then we recede from Senate Bill 6, and the Senate concurs in this and we like these changes, like lowering taxes, like passing the DSA, like passing the CSR, we go home. We could stay here all night, do it now, and have it done by 12:00 tomorrow. We can avoid a lengthy conference committee and we can try to reverse some of the damage that has been done to our schools and, hopefully, schools will start on time. That is our option. Right here, right now, let's get it done.

ASSEMBLYMAN COLLINS:

Thank you, Mr. Speaker, to you and through you to the members of this Body. We are still on July 19. This is the day my father was born 76 years ago. I would have enjoyed it much more to be there, than here. As a small businessman in southern Nevada, for my friend from Elko and those of you who have employees, I had some numbers checked. It was calculated that an employee who made \$60,000, and on the small gross that my small company does, which is under \$1 million, under the quarter of a cent gross tax that was aimed at large businesses, our company would have had an increase in the tax plan presented a few weeks ago of around \$1,000. From the figures I have just done now on the payroll tax, it would be about \$2,000, which would be twice as much from the small businessman. The point I would like to make is, I am going to willingly vote for this and support it, because if we don't, I can just imagine the janitors locking classrooms and double-crowding other classrooms because of the shortages of teachers. We have a chance to do this in a fair way tonight because this is the best way to go. I urge your support.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Assembly in recess at 11:50 p.m.

ASSEMBLY IN SESSION

At 12:24 a.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that all rules be suspended and that Senate Bill No. 5 be declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 5.

Bill read third time.

Remarks by Assemblymen Buckley and Hettrick.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I will be brief, since we have discussed this for the past two hours now. This bill contains the Distributive School Account (DSA) needed to allocate money to our schools. It contains the Class-size Reduction authorization program. It modifies taxes, lowers them, and reduces the general amount of taxes that need to be raised. It would be one of the last pieces in order to ensure that schools could be funded and this legislative session could close.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Speaker. As much as I would like to vote for this bill, I am uncomfortable. I am not going to speak for the rest of the members in my caucus. I don't know how they will vote on this, but I will tell you that I remain uncomfortable with the tie to Senate Bill 6, the bill being effective based on the rescinding action, the impact of the two-thirds rules, and the Supreme Court decisions. I will take the risk that I have to do what I believe is right, in terms of this, based on not voting for the DSA, as much as I would like to. That is all I had to say, Mr. Speaker. Thank you.

Roll call on Senate Bill No. 5:

YEAS—26.

NAYS—Andonov, Angle, Beers, Brown, Carpenter, Goicoechea, Grady, Gustavson, Hettrick, Knecht, Mabey, Marvel, Sherer, Weber—14.

ABSENT—Christensen, Hardy—2.

Senate Bill No. 5 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblywoman Buckley moved that the Assembly adjourn until Sunday, July 20, 2003, at 10:00 a.m.

Motion carried.

Assembly adjourned at 12:29 a.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE TWENTY-SEVENTH DAY

CARSON CITY (Monday) July 21, 2003

Assembly called to order at 4:20 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Beverly Mobley.

Let us pray. Lord, we ask that You stay beside us along the path through Your garden of wisdom and let us feel the growth within us. We read in Proverbs 2, "For the Lord gives wisdom; from his mouth come knowledge and understanding; He stores up sound wisdom for the upright; He is a shield to those who walk in integrity, guarding the paths of justice and preserving the way of his saints." We pray that You give us the strength to always have faith in the hope of tomorrow.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

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

Assembly in recess at 4:23 p.m.

ASSEMBLY IN SESSION

At 4:26 p.m.

Mr. Speaker presiding.

Quorum present.

REMARKS FROM THE FLOOR

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I think most people know the Senate is now taking up a bill as we speak. The plan is to wait for that bill. If the bill is successful and passes, we will consider it as soon as it is sent down. If not, we will recede from the amendments on Senate Bill 6, and basically, leave. There are a couple of other bills that passed both Houses and died in the conference report process that are being drafted and sent back to us. They are being delivered, so we will take those up when they come over. I think what the Speaker's plan for us is to stay in the Chambers, in recess, because if the bill doesn't get down here soon, we are just going to act on Senate Bill 6. As much fun as we've had all legislative session, we've all had quite enough. With that, Mr. Speaker, I leave it to you.

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

Assembly in recess at 4:28 p.m.

ASSEMBLY IN SESSION

At 6:21 p.m.

Mr. Speaker presiding.

Quorum present.

COMMUNICATIONS

MESSAGES FROM THE GOVERNOR

OFFICE OF THE GOVERNOR

CARSON CITY, NEVADA 89701, July 21, 2003

THE HONORABLE RICHARD D. PERKINS, *Speaker of the Assembly*, Nevada State Legislature, Legislative Building, 401 S. Carson St., Carson City, Nevada 89701

Speaker Perkins and Members of the Nevada State Assembly:

Section 9 of Article V of the Nevada Constitution provides that the Governor may request the Legislature, when convened in Special Session, to consider matters other than those set forth in the call.

Legislative Counsel has presented a letter to the Office of the Governor requesting "a technical conflicts and corrections bill be included in a list of matters that may be considered by the Legislature during the 20th Special Session of the Nevada Legislature." With this letter, I am exercising my constitutional authority to bring additional legislative business to your attention for consideration during the Special Session. I authorize you to make technical corrections to the following legislation from the 72nd Session of the Nevada Legislature: Assembly Bills 55, 192, 388, 490, 493, 541, 555, and Senate Bills 78, 100, 147, 183, 200, 233, and 250.

Best wishes in your deliberations.

Sincerely,

KENNY GUINN

Governor of Nevada

OFFICE OF THE GOVERNOR

CARSON CITY, NEVADA 89701, July 21, 2003

THE HONORABLE RICHARD D. PERKINS, *Speaker of the Assembly*, Nevada State Legislature, Legislative Building, 401 S. Carson St., Carson City, Nevada 89701

Speaker Perkins and Members of the Nevada State Assembly:

Section 9 of Article V of the Nevada Constitution provides that the Governor may request the Legislature, when convened in Special Session, to consider matters other than those set forth in the call.

Legislative Leadership has requested several additional legislative bills be considered during the 20th Special Session [of] the Nevada Legislature. Therefore, with this letter, I am exercising my constitutional authority to bring additional legislative business to your attention for consideration during the Special Session. I hereby authorize you to consider several matters from the 72nd Session of the Nevada Legislature: Assembly Concurrent Resolution 19, Assembly Bills 163 and 40, and Senate Bills 188, 229, 243, 249, 258, 306, and 447.

Best wishes in your deliberations.

Sincerely,

KENNY GUINN

Governor of Nevada

OFFICE OF THE GOVERNOR

CARSON CITY, NEVADA 89701, July 21, 2003

THE HONORABLE RICHARD D. PERKINS, *Speaker of the Assembly*, Nevada State Legislature, Legislative Building, 401 S. Carson St., Carson City, Nevada 89701

Speaker Perkins and Members of the Nevada State Assembly:

Section 9 of Article V of the Nevada Constitution provides that the Governor may request the Legislature, when convened in Special Session, to consider matters other than those set forth in the call.

Legislative Leadership has requested that three additional legislative bills from the 72nd Session of the Nevada Legislature be considered during the 20th Special Session. Therefore, with this letter, I am exercising my constitutional authority to bring additional legislative business to your attention for consideration during the Special Session. I hereby authorize you to consider the following matters from the 72nd Session of the Nevada Legislature: Assembly Bills 271 and 554 and Senate Bills 355, 357, and 505.

Best wishes in your deliberations.

Sincerely,

KENNY GUINN

Governor of Nevada

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee of the Whole:

Assembly Concurrent Resolution No. 2—Directing the Legislative Commission to conduct an interim study of telecommunication services in this state.

Assemblyman Goldwater moved the adoption of the resolution.

Remarks by Assemblyman Goldwater.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOLDWATER:

Mr. Speaker, thank you. This was a result of deliberations with the telecommunications industry. If we can recall, what was S.B. 400 and the issues were related to incumbent local exchange carriers and competitive local exchange carriers, as well as the Public Utilities Commission and their relationship with the Federal Communications Commission. There were a number of issues that arose that, quite frankly, no one had the answers to. At the urging of the consumer advocate and the industry, particularly the competitive local exchange companies, we felt a study was most assuredly in order to reach some conclusions on a number of market factors including competition in the market place and whether or not true competition really existed. It's a very important legislative study. It's one I think many groups from government and the private sector are anxious to commit resources to, and I know your Commerce Committee urged adoption.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Assembly Bill No. 5—AN ACT relating to statutes; making technical corrections to certain measures approved by the 72nd Session of the Nevada Legislature; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 5 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 6—AN ACT relating to public bodies; prohibiting certain public bodies from voting on an item on the agenda until public comment has been allowed on the item under certain circumstances; revising provisions governing notice of meetings of public bodies; requiring certain public bodies to post the minutes of a public meeting on the Internet; requiring certain public bodies to make and retain an audio recording of a public meeting; providing that certain meetings and hearings regarding prisoners and persons on parole or probation are not subject to the open meeting law but must be open to the public; requiring that a member of certain agencies be present at a workshop of the agency concerning a proposed regulation of the agency, if practicable; authorizing a board of trustees of a general improvement district to increase the compensation of the trustees under certain circumstances; authorizing the board of trustees of a general improvement district to adopt and enforce regulations regarding the date on which a charge for services provided by the district becomes delinquent; making certain changes regarding the merger, consolidation or dissolution of certain general improvement districts; revising the manner in which certain information regarding property taxation be made available to the public; requiring that meetings of certain professional licensing boards be held at locations with certain technological capacity; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 6 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 7—AN ACT relating to minority groups; creating the Nevada Commission on Minority Affairs; prescribing the duties of the Commission; requiring the Director of the Department of Administration to provide certain staff assistance to the Commission under certain circumstances; creating the Regional Business Development Advisory Council for Clark County; prescribing the powers and duties of the Council; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 7 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 8—AN ACT making appropriations to the University of Nevada, Reno, for certain expenses of the Pediatric Diabetes and Endocrinology Center at the School of Medicine, to the University of Nevada School of Medicine for its residency program and to the Health Division of the Department of Human Resources for distribution to the Fighting Aids in Our Community Today (FACT) organization for expenses related to the provision of certain HIV/AIDS services; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 8 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 9—AN ACT relating to the Nevada National Guard; authorizing the Board of Regents of the University of Nevada to waive the registration fees and other fees for certain members of the Nevada National Guard during the 2003-2005 biennium; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 9 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 10—AN ACT relating to financial practices; providing a penalty for a person who willfully offers into evidence as genuine certain fraudulent records or who willfully destroys or alters certain records under certain circumstances; increasing the penalty for certain securities violations; extending the civil and criminal statutes of limitations for certain securities violations; excluding the performance of certain internal audits pertaining to certain gaming licensees by certain independent accountants; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 10 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 11—AN ACT relating to health care; revising various provisions relating to subsidies for malpractice insurance of certain providers of prenatal care; establishing the Nevada Office of Rural Health within the University of Nevada School of Medicine to administer matters relating to the delivery of health care services to rural and frontier areas in this state; establishing the Area Health Education Center Program within the University of Nevada School of Medicine to support education and training programs for certain students, residents and practitioners providing health care services in medically underserved areas in this state; establishing the Medical Education Council of Nevada within the University of Nevada School of Medicine to ensure that Nevada has an adequate, well-trained health care workforce to meet the needs of the residents of this state; revising various provisions relating to the administration of the Nevada Health Service Corps; making various changes concerning the use of certain money received by the University of Nevada School of Medicine; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 11 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 12—AN ACT making an appropriation to the Governor for support of the Nevada Commission for National and Community Service; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 12 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING.

Assembly Bill No. 5.

Bill read third time.

Remarks by Assemblywoman Buckley.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. For the press, who are not usually here, this is what we normally do when we're not doing exciting issues like taxes. This is the technical correction bill. What this does is resolve the technical inconsistencies in conflicts between bills that are passed. It includes such exciting measures as Section 1, amending paragraph (b) of subsection 1 of Section 1 of A.B. 192 by changing the language which indicates the Department of Motor Vehicles (DMV) approves the final design of special license plates. The change was made because of the creation of the Commission on Special License Plates contained in A.B. 358 of the 2003 Session. So I will spare you all and not read the Floor explanation of the bill. Instead, I had it copied and delivered to everyone on the Floor. It contains nothing but the technical corrections, and I urge your support.

Roll call on Assembly Bill No. 5:

YEAS—42.

NAYS—None.

Assembly Bill No. 5 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bill No. 7 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 7.

Bill read third time.

Remarks by Assemblymen Williams, Angle, Anderson, Giunchigliani, Chowning, and Mr. Speaker.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYMAN WILLIAMS:

Thank you, Mr. Speaker. This legislation was brought to us during the session from various sources such as the Urban Chamber of Commerce in Las Vegas, but the Clark County government was the main focus behind this bill. They are already trying to do some of these things. This is a council that is spearheaded by Clark County, and they have been doing good work with this. We think this legislation will encourage other entities within Clark County to also participate. It's all on a volunteer basis. I urge my colleagues to support it.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Speaker. I have just a few questions. It says there is an effect on local government. I wonder what that effect would be? What the monetary effect is? It also says there's one on the state. I would like to know what that is. Since this is applicable to Clark County, I don't see the population restriction. Is that in there as well?

ASSEMBLYMAN WILLIAMS:

Thank you, Mr. Speaker. To you and through you to my colleague from the north. There is no population stipulation in the bill because the bill, even in the summary, stipulates Clark County. This is solely something that is happening in Clark County. The summary of the bill creates the Nevada Commission on Minority Affairs and creates the original Business Development Advisory Council for Clark County. So the Business Council will solely be administered and done in Clark County. Clark County is already doing this particular thing. The cost indicated to

your Government Affairs Committee, Mr. Speaker, was a very small amount; something they felt they could do. The other portion of the bill creating the Nevada Commission on Minority Affairs was not in the original bill addressed in the Government Affairs Committee. This was brought to us, I assume, from the Governor's Office. So, I'm not sure if there is any fiscal impact. It says "yes" here, but I'm not sure what that impact would be. The bill brought to us had the Clark County portion, and Clark County said the cost is something they intend to incur. Thank you, Mr. Speaker.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Thank you, Mr. Williams. Ms. Angle, does that answer your question?

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Speaker. I believe my question is not dissimilar from the concerns raised by my colleague from Washoe County, but after hearing the Chairman of Education's explanation I'm somewhat comfortable. I just want to reassure myself that the statewide Minority Affairs Commission is not just relegated to Clark County affairs. It is indeed a statewide council and its intent is to make sure statewide issues are addressed, and it's not subject to just one region of this state.

ASSEMBLYMAN WILLIAMS:

Thank you, Mr. Speaker. To you and through you to my colleague from Sparks. I guess one of the pitfalls of serving nine terms is you get what's called Alzheimer's, but now I do remember. The costs incurred with the Minority Commission were stated to be the costs if members had to travel from one part of the state to the other. The intent of this Commission is to address statewide "minority" affairs and issues. This is not limited to Clark County. Only the Business Development Council was limited to Clark County. The answer to my colleague from Sparks is "yes," it will be statewide and it will address issues in communities that wish to participate statewide. Thank you, Mr. Speaker.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. The Chairman of Education addressed it, but I would refer my colleague from Reno to Section 9. The other fiscal impact could have been that the Department of Administration, "... shall provide assistance to the Commission, as the Governor deems appropriate." However, they may also apply and receive gifts, grants, and contributions to offset those costs. Back to the reference in Section 3, they may be reimbursed for travel but not compensated for actually attending the meetings.

ASSEMBLYWOMAN CHOWNING:

Thank you, Mr. Speaker. I also would like to refer members to Section 7, which does indeed spell out that this Commission will study statewide matters affecting social and economic welfare and well-being of minorities residing in the state. I stand in support of this bill. This Commission will serve a great purpose by studying these matters statewide and by giving recommendations to the Governor of proposed legislation. The members will be serving at no compensation, so if they do ask for reimbursement for their travel, et cetera, then certainly the fiscal impact would be minimal.

Roll call on Assembly Bill No. 7:

YEAS—42.

NAYS—None.

Assembly Bill No. 7 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bill No. 8 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 8.

Bill read third time.

Remarks by Assemblymen Buckley, Mabey, Giunchigliani, and Goldwater.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYMAN MABEY:

Thank you, Mr. Speaker. I have a question on Section 1, page 2, number 2, "any balance of the sum appropriated by subsection 1 must not be committed for expenditure after June 30, 2003." So does that mean that all the funds that would go to Section 1, since it's already July 21, won't go to those areas? Thank you.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. That would be my understanding of it because the timelines have already come, so that \$44,000 will now revert. The second section would still be in place.

ASSEMBLYMAN GOLDWATER:

Mr. Speaker, thank you. Just for your information, and I'm not sure if it applies here, in Assembly Concurrent Resolution 2, the telecommunications study, I was reading the study after we passed it and found a typo. That typo was in the number. It referred to S.B. 440 and not to S.B. 400. I e-mailed our Legislative Counsel Bureau who said it was a typo, and hopefully we can correct it before it gets enrolled. I don't know if that's the same story here, Dr. Mabey. It possibly could be. I'll send that question down right away.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Just to clear that up, my colleague from Assembly District 10 is noting for the record on a bill we have already voted on or that we have coming up and needs to be corrected. It has nothing to do with this piece of legislation and because it does state that any balance of the sum appropriated must not be committed for expenditure after June 30; because we've been here this long that money will not be appropriated now.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

We just got a call from Legal. If there are technical corrections, they will make them in enrollment. Further comments and questions on A.B. 8?

Roll call on Assembly Bill No. 8:

YEAS—28.

NAYS—Andonov, Angle, Beers, Carpenter, Christensen, Geddes, Griffin, Gustavson, Hardy, Hettrick, Knecht, Mabey, Marvel, Weber—14.

Assembly Bill No. 8 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bill No. 10 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 10.

Bill read third time.

Remarks by Assemblymen Goldwater, Angle, and Anderson.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOLDWATER:

Mr. Speaker, thank you. A.B. 10 is a reprint of what was A.B. 163, which was a joint effort between Secretary of State Dean Heller, and myself, in order to strengthen our state's securities laws to prevent corporate fraud and abuse. Additionally, it was greatly improved upon by my colleague from Elko, who raised the statutory level for fining midlevel people who are white-collar corporate criminals. That was much appreciated and improves the bill greatly. It was voted for unanimously in this Assembly and got lost in the Senate in the waning days, so we look forward to your continued support.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Speaker. Just a point of clarification, it's my understanding that the effect of this on the state would be increased penalties. Is that correct or is there something else that I'm missing? Thank you, Mr. Speaker.

ASSEMBLYMAN GOLDWATER:

Mr. Speaker, thank you. To you and through you to my colleague from Washoe County. The effect on the state is noted on page 2, paragraph 28. We changed this from a category C felony to a category B felony and when we make changes to our statutes in the criminal code it has an impact on our prison projections. There are very few of these cases prosecuted and all indications were that this would not have a material effect on our prison system unless we start getting very aggressive. So there was no testimony to indicate there would be much of an impact on the prisons.

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Speaker. I was going to remind the members of the Judiciary Committee, who heard this bill and increased this particular section, that it did come out of the committee with full support.

Roll call on Assembly Bill No. 10:

YEAS—42.

NAYS—None.

Assembly Bill No. 10 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 6:52 p.m.

ASSEMBLY IN SESSION

At 10:06 p.m.

Mr. Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Assembly Bill No. 13—AN ACT relating to governmental financial administration; revising provisions relating to the securities in which local governments may invest; providing for expanded oversight by the State Treasurer concerning the collateral that must be maintained by financial institutions to secure certain deposits of public money made by state and local governmental entities; making various other changes concerning the duties of the State Treasurer; revising the limitation on the total amount of revenue that may be paid to a redevelopment agency in certain smaller municipalities; providing civil penalties; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 13 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 14—AN ACT relating to tobacco; revising the duties and rights of manufacturers and distributors of cigarettes; revising the duties of the Department of Taxation; providing civil and criminal penalties; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 14 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

By the Committee of the Whole:

Assembly Bill No. 15—AN ACT relating to making appropriations to the Department of Cultural Affairs for expenses relating to the continued operation of the Southern Nevada Office of the Nevada Humanities Committee and for the creation of a Nevada Online Encyclopedia; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 15 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bill No. 6 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblywoman Buckley.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I move that A.B. 6 be placed on the Chief Clerk's desk. We had a number of questions from members in the Body.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 9.

Bill read third time.

Roll call on Assembly Bill No. 9:

YEAS—42.

NAYS—None.

Assembly Bill No. 9 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 11.

Bill read third time.

Roll call on Assembly Bill No. 11:

YEAS—42.

NAYS—None.

Assembly Bill No. 11 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 12.

Bill read third time.

Roll call on Assembly Bill No. 12:

YEAS—42.

NAYS—None.

Assembly Bill No. 12 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 13.

Bill read third time.

Roll call on Assembly Bill No. 13:

YEAS—42.

NAYS—None.

Assembly Bill No. 13 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 14

Bill read third time.

Remarks by Assemblymen Hardy, Ohrenschall, and Mr. Speaker.

Potential conflict of interest declared by Assemblywoman Ohrenschall.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYMAN HARDY:

Thank you, Mr. Speaker. Did this used to be Assembly Bill 460?

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Yes.

ASSEMBLYMAN HARDY:

If it were A.B. 460, is there a video arcade and a childcare facility and smoking somewhere hidden in here that made it through both Houses and just had to do a conference committee to get that approved?

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I don't know the answer to that question. We will stand at ease and look through the bill for you.

ASSEMBLYMAN HARDY:

Thank you. I couldn't find it. Thank you, Mr. Speaker.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bill No. 14 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 15.

Bill read third time.

Roll call on Assembly Bill No. 15:

YEAS—35.

NAYS—Angle, Beers, Carpenter, Gustavson, Hettrick, Sherer, Weber—7.

Assembly Bill No. 15 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, July 21, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 7.

MARY JO MONGELLI
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 7.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 7 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 7.

Bill read third time.

Roll call on Senate Bill No. 7:

YEAS—41.

NAYS—Griffin.

Senate Bill No. 7 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 10:24 p.m.

ASSEMBLY IN SESSION

At 11:22 p.m.

Mr. Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, July 21, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 8.

MARY JO MONGELLI

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Assembly Bill No. 16—AN ACT relating to county finances; authorizing the imposition of a fee on certain rental cars in certain larger counties to finance a performing arts center and facility for providing vocational training in culinary skills; authorizing the issuance of revenue bonds for certain of those projects; providing for the collection, distribution and use of the fee; authorizing such a county to revise certain schedules of fees, rates, charges and taxes to ensure the payment of certain revenue bonds of the county; and providing other matters properly relating thereto.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 16 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

Senate Bill No. 8.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 8 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 8.

Bill read third time.

Remarks by Assemblymen Marvel, Angle, Arberry, Beers, and Mr. Speaker.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYMAN MARVEL:

Thank you, Mr. Speaker. It is with great reluctance that I will probably support S.B. 8, particularly since I think there has been a tremendous breakdown in the negotiations we have been discussing all day. What's most important is we are in a constitutional crisis. It is possible we could pass this bill without a two-thirds majority, certainly. I think our responsibility as legislators is we must uphold the Constitution. I think it raises too much tax and the appropriations are too high, but if we are going to do the business of the State of Nevada, I reluctantly say I will vote for this bill. Thank you.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Speaker. Just some points of clarification. I, of course, haven't had much of a chance to read this bill. In Section 156, is this Committee on Taxation going to be an interim committee or one that will be set up during the regular session? Secondly, as I'm reading this, it's going to biennialize to more than \$900 million a year, \$471.9 million each year after the first year of the biennium. Is that right? Also, is it we have total biennium revenue of \$836 million for this next biennium but our need is only \$810 million? Just some clarification, please.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Relative to the Tax Committee, it will be an interim committee. If I recall, in the back of the bill, you will find a sunset date for it as well. It's to follow the taxes during this interim to understand the impact on our state. There might be recommendations for corrections in the next session. Relative to your second question, I don't know the answer to that. Perhaps Mr. Arberry or staff can answer the question. The questions are, "What is the biennialized number and what is the total levy for this tax bill?"

ASSEMBLYMAN ARBERRY:

Thank you, Mr. Speaker. To you and through you to my colleague who has posed the questions, \$811 million is the budget amount figure.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Further comments or questions to the bill?

ASSEMBLYMAN BEERS:

Thank you, Mr. Speaker; \$811 million is the budget amount. My understanding is the Senate added an additional liquor tax to the amount of tax to be raised, making it \$836 million for the biennium. Annualized it is \$943.8 million. Is that correct?

ASSEMBLYMAN ARBERRY:

Thank you, Mr. Speaker. To you and through you to my colleague, my understanding from staff is the number worked up was \$836 million generated in fiscal year 2003, but we are short \$17 million in gaming in 2003.

Roll call on Senate Bill No. 8:

YEAS—28.

NAYS—Andonov, Angle, Beers, Brown, Carpenter, Christensen, Goicoechea, Grady, Gustavson, Hettrick, Knecht, Mabey, Sherer, Weber—14.

Senate Bill No. 8 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 11:35 p.m.

ASSEMBLY IN SESSION

At 11:46 p.m.

Mr. Speaker presiding.

Quorum present

Assemblyman Hettrick rose to a point of order objecting to the passage of Senate Bill No. 8 under Article IV, Section 17 [Nevada Constitution], which does not permit combining of two different topics in one bill.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I had a couple of comments. Rule 241 of Mason's Legislative Manual says that a point of order must be raised before the irregularity or occasion for raising the point of order has been passed. Additionally, the one-subject rule has been clearly ruled upon by the courts and our Legal Counsel. The general topic is state financial administration, which clearly allows the subject matters in the bill.

Mr. Speaker ruled Assemblyman Hettrick's request was out of order, as Senate Bill No. 8 had already been transmitted to the Senate.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Speaker. I regret that I came down and was honest with everybody and said I intended to do a point of order. The bill was immediately transmitted and a recess was called before I could make my point of order, and then you rule me out of order. I shouldn't have been so honest. I regret that I was.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

In response to that, Mr. Hettrick, it wasn't the recess that caused the bill to be transmitted. We made that blanket motion at the beginning of the Special Session for all bills to be immediately transmitted, so it was not any type of procedural snafu that we were trying to buy some time. It was merely transmitted upon the vote.

Assemblywoman Angle appealed Mr. Speaker's decision to rule against Mr. Hettrick's point of order objection to the passage of Senate Bill No. 8.

Assemblymen Angle, Knecht, and Beers requested a roll call vote on Assemblywoman Angle's appeal of the decision of the Chair.

Roll call on Assemblywoman Angle's appeal of the decision of the Chair:

YEAS—25.

NAYS—Andonov, Angle, Beers, Brown, Carpenter, Christensen, Geddes, Goicoechea, Grady, Griffin, Gustavson, Hettrick, Knecht, Mabey, Marvel, Sherer, Weber—17.

Mr. Speaker's decision sustained.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I apologize to the Minority Leader if there was some sense that we were doing something inappropriate.

ASSEMBLYMAN HETTRICK:

Thank you, Mr. Speaker. I want to thank you for allowing us to take the vote and I appreciate it.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, July 21, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 9, 10.

MARY JO MONGELLI

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 9.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 9 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

Senate Bill No. 10.

Assemblywoman Buckley moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 10 considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Assembly Bill No. 16.

Bill read third time.

Roll call on Assembly Bill No. 16:

YEAS—29.

NAYS—Andonov, Angle, Beers, Brown, Carpenter, Christensen, Grady, Gustavson, Hettrick, Knecht, Mabey, Weber—12.

NOT VOTING—Pierce.

Assembly Bill No. 16 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 9.

Bill read third time.

Remarks by Assemblymen Chowning and Angle.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN CHOWNING:

Thank you, Mr. Speaker. Senate Bill 9, which in the regular session was Senate Bill 355, is an excellent bill that continues the protection on franchisees of motor vehicles for recreational vehicle dealers, and I urge your support.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Speaker. I, again, would like to ask what the effect on local government and the effect on state government is, since we don't have a fiscal note here. Could you explain that?

ASSEMBLYWOMAN CHOWNING:

Thank you, Mr. Speaker. Another wonderful provision of this bill is that if a manufacturer is trying to take away a dealership's business and the dealer fights for their rights and wins in court, then this bill says that the Department of Motor Vehicles must, in their hearings, grant those expenses to the dealership. So there is a duty that the state Department of Motor Vehicles has to perform, which is nothing that they have not had to perform before. They have to do this with automobile dealerships and now they will have to with recreational vehicle dealerships, so the impact is very minimal. It is exactly the same as it was before.

Roll call on Senate Bill No. 9:

YEAS—42.

NAYS—None.

Senate Bill No. 9 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 11:58 p.m.

ASSEMBLY IN SESSION

At 12:03 a.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bill No. 14 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Buckley moved to suspend Assembly Standing Rule No. 45, pertaining to requests for drafting of bills, resolutions, or amendments.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 14.

Bill read third time.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 16.

Amend the bill as a whole by adding a new section designated sec. 24.5, following sec. 24, to read as follows:

“Sec. 24.5. NRS 202.2491 is hereby amended to read as follows:

202.2491 1. Except as otherwise provided in subsections 5 and 6 and NRS 202.24915, the smoking of tobacco in any form is prohibited if done in any:

(a) Public elevator.

(b) Public building.

(c) Public waiting room, lobby or hallway of any:

(1) Medical facility or facility for the dependent as defined in chapter 449 of NRS; or

(2) Office of any chiropractor, dentist, physical therapist, physician, podiatric physician, psychologist, optician, optometrist or doctor of Oriental medicine.

(d) Hotel or motel when so designated by the operator thereof.

(e) Public area of a store principally devoted to the sale of food for human consumption off the premises.

(f) Child care facility.

(g) Bus used by the general public, other than a chartered bus, or in any maintenance facility or office associated with a bus system operated by any regional transportation commission.

(h) School bus.

(i) *Video arcade.*

2. The person in control of an area listed in paragraph (c), (d), (e) ~~[(f)]~~ or (g) of subsection 1:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) May designate separate rooms or portions of the area which may be used for smoking, except for a room or portion of the area of a store described in paragraph (e) of subsection 1 if the room or portion of the area:

(1) Is leased to or operated by a person licensed pursuant to NRS 463.160; and

(2) Does not otherwise qualify for an exemption set forth in NRS 202.24915.

3. The person in control of a public building:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) Shall, except as otherwise provided in this subsection, designate a separate area which may be used for smoking. A school district which prohibits the use of tobacco by pupils need not designate an area which may be used by the pupils to smoke.

4. The operator of a restaurant with a seating capacity of 50 or more shall maintain a flexible nonsmoking area within the restaurant and offer each patron the opportunity to be seated in a smoking or nonsmoking area.

5. A business which derives more than 50 percent of its gross receipts from the sale of alcoholic beverages or 50 percent of its gross receipts from gaming operations may be designated as a smoking area in its entirety by the operator of the business.

6. The smoking of tobacco is not prohibited in:

(a) Any room or area designated for smoking pursuant to paragraph (b) of subsection 2 or paragraph (b) of subsection 3.

(b) A licensed gaming establishment. A licensed gaming establishment may designate separate rooms or areas within the establishment which may or may not be used for smoking.

7. ~~[The person in control of a child care facility shall not allow children in any room or area he designates for smoking pursuant to paragraph (b) of subsection 2. Any such room or area must be sufficiently separate or ventilated so that there are no irritating or toxic effects of smoke in the other areas of the facility.]~~

~~8.]~~ As used in this section:

(a) "Child care facility" means an establishment ~~[licensed pursuant to chapter 432A of NRS to provide care for 13 or more children.]~~ *operated and maintained to furnish care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children. The term does not include the home of a natural person who provides child care.*

(b) "Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

(c) “Public building” means any building or office space owned or occupied by:

(1) Any component of the University and Community College System of Nevada and used for any purpose related to the System.

(2) The State of Nevada and used for any public purpose, other than that used by the Department of Corrections to house or provide other services to offenders.

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

If only part of a building is owned or occupied by an entity described in this paragraph, the term means only that portion of the building which is so owned or occupied.

(d) “School bus” has the meaning ascribed to it in NRS 483.160.

(e) *“Video arcade” means a facility legally accessible to persons under 18 years of age which is intended primarily for the use of pinball and video machines for amusement and which contains a minimum of 10 such machines.”.*

Amend sec. 26, page 9, line 25, after “inclusive,” by inserting “24.5”.

Amend the title of the bill, third line, after “Taxation;” by inserting: “prohibiting smoking in certain video arcades and child care facilities;”.

Assemblywoman Buckley moved the adoption of the amendment.

Remarks by Assemblywoman Buckley.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. This was originally included in the bill and got left out.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, July 21, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 5, 10.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 8, Amendment No. 14, and respectfully requests your honorable body to concur in said amendment.

MARY JO MONGELLI

Assistant Secretary of the Senate

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

Assembly in recess at 12:06 a.m.

ASSEMBLY IN SESSION

At 12:07 a.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that Assembly Bill No. 14, just returned from the printer, be placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 14.

Bill read third time.

Remarks by Assemblymen Carpenter, Anderson, and Williams.

Assemblywoman Angle requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CARPENTER:

Yes, thank you, Mr. Speaker. I have a concern in regard to the child care facility portion. It's very hard to find people to take care of children these days. As I read this, if you are taking care of five or more children, there can be no smoking at that facility. At the end of this amendment it says, "The term does not include the home of a natural person who provides child care." I don't know whether that makes an exception for those people or not. I know people who are taking care of five children, and if you can't smoke in any part of that home, I think it is going to make it very difficult for some people to find child care. So I have a real concern without an explanation. I think things like this should be brought to a full public hearing. They need to know what the consequences of such a bill might be. Thank you, Mr. Speaker.

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Speaker. The concerns of my colleague from Elko County are common. We've heard a debate of this particular issue in the past, and when the amendment was presented originally, I raised those concerns and was assured that it would make an exception. I know that this is a particularly burdensome problem in smaller communities, where a family may use their home as a child care facility during the day; and later, when the home is back in use of the family members, when the children are not there, smoking will take place. The use of the statement, "the home of a natural person," means such homes would be excluded. This bill is referring to a child care facility that is professional in nature, that is, a freestanding building that has no other purpose. There would be no smoking in those facilities where the children might be present, but by use of the term "natural person," the specifics of that type of home would be excluded.

ASSEMBLYMAN WILLIAMS:

Thank you, Mr. Speaker. I think that, also, the City of North Las Vegas is the only city that does not do their own licensing of their child care facilities. The state does it for them, but in all the other jurisdictions, if you have six or more children, in one jurisdiction it's five or more, you have to have a license. Those who are not licensed, with a smaller number of children, would not fall under this requirement, but if you are required to have a license, you would have to follow that. It would not prevent keeping children in their home if you have the lesser number.

Roll call on Assembly Bill No. 14:

YEAS—41.

NAYS—Carpenter.

Assembly Bill No. 14 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REMARKS FROM THE FLOOR

Assemblywoman Ohrenschall requested her remarks be entered into the Journal.

ASSEMBLYWOMAN OHRENSCHALL:

Mr. Speaker, on the final vote on Assembly Bill 14, I inadvertently pushed the green button instead of the yellow button to abstain. As you will recall, before the vote, I disclosed a potential conflict of interest and said I would not be voting in order to avoid the appearance of impropriety. My intention was to abstain. Because the bill was immediately transmitted to the Senate, we cannot correct the vote. I know that my "yes" vote did not effect the outcome of the bill, which passed almost unanimously, 41-1. Therefore, I would like this statement included in the Journal for this legislative day to make clear my intentions. Thank you.

Assembly in recess at 12:13 a.m.

ASSEMBLY IN SESSION

At 12:49 a.m.

Mr. Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, July 22, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 9, 11, 12, 13, 15.

MARY JO MONGELLI

Assistant Secretary of the Senate

UNFINISHED BUSINESS

Assembly Bill No. 8.

The following Senate amendment was read:

Amendment No. 14.

Amend section 1, page 2, line 2, by deleting "2003," and inserting "2005,".

Amend sec. 4, page 2, by deleting lines 39 through 42 and inserting:

"Sec. 4. This act becomes effective upon passage and approval and applies retroactively from and after July 1, 2003."

Assemblywoman Buckley moved that the Assembly concur in the Senate amendment to Assembly Bill No. 8.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Senate Bill No. 10.

Bill read third time.

Roll call on Senate Bill No. 10:

YEAS—26.

NAYS—Angle, Beers, Brown, Carpenter, Christensen, Geddes, Goicoechea, Grady, Griffin, Gustavson, Hettrick, Knecht, Mabey, Marvel, Sherer, Weber—16.

Senate Bill No. 10 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, July 22, 2003

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 7, 16.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 2.

MARY JO MONGELLI

Assistant Secretary of the Senate

REMARKS FROM THE FLOOR

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Speaker. I wanted to announce to those of you who have been paying attention to this, one of the reasons why I am in trouble is because I am not in Colorado today to welcome my new grandson into the world. He was born this evening at 6:42, is 7 lbs. 5 oz., 21 inches in length, and named Connor Eric Lindloff. Even though I don't get to be there with them, my daughter is doing well and my wife has told me, if I don't get home soon, my life will be very, very short, so I hope we can dispatch with this. There is at least a little Anderson blood that is going to still be in circulation in the world.

ASSEMBLYMAN KNECHT:

Mr. Speaker, I move that we adjourn today in memory of Col. Elgin L. Hushbeck, Sr., U.S. Air Force, Retired, who passed from us last Friday. "Red," as he was known to all, was a 13-year resident of Carson City and Nevada. He and his wife, Trudy, were leading citizens and public servants of Carson City and our state. Colonel Hushbeck was a member of the "greatest generation," serving his country in World War II, the Berlin Airlift, and the Korean conflict, as well as for a number of years after the war.

Following his military service, he had a long career in business and public service, and he and Trudy found time for world travel. He was also a degreed electrical engineer. Red and Trudy had four children and numerous grandchildren and great-grandchildren. As his son said at yesterday's memorial service, Col. Hushbeck's life was all about the most important things: family, friends, and country.

Col. Hushbeck will be buried tomorrow with full military honors at the Northern Nevada Veteran's Memorial Cemetery in Fernley. Carson City, Nevada, America, and all of us are richer for his life and sad for his passing. We extend our love and comfort to Trudy and the family, and we thank Red for all he gave us.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I would like to take a moment to talk about Ron Mason, who passed away on July 6, 2003. For most of you who have been around a little while, Ron was a very familiar face in these halls. He was hired originally for Media Services, but we discovered that he was a multitasking person, and he ended up doing all of the woodworking in the Legislature. If you showed him a picture, he could make it. He had an incredibly diverse background. He was a Vietnam Veteran and a recipient of the Purple Heart. He played college football and was drafted by the New York Jets. He was truly an example of someone with an incredible array of talents, and he ended up at the Legislature, displaying his talents and working for us. He passed away very, very suddenly. I think he was diagnosed with leukemia on a Friday and passed away

by Monday. It was so sad. I have a brochure here from his service that talks about his life, and if you did not meet him, look at the picture and you will know who he was, because he was always around our halls. So, as we wait for our committees, I would like to have a moment of silence in honor of his wife of 19 years, Michelle, and his children.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I know it's hard to believe that we have come to the end of this year's legislative session, or season of sessions, but before we appoint the committees to notify the Governor and the Senate, I want to ask you all to join me in thanking Mark Stevens, particularly, and his staff for the extraordinary work that they have done. I can't begin to describe their time and effort, and the number crunching that they have done through the night, a hundred million different times on all the different plans that have come on the spur of the moment. They have really kept the process moving for us. He has an extraordinary staff working for him. We are very proud, very honored, and very thankful to have Mark working for us in this House. As much as all of us have made sacrifices from our families, I know that has happened to him as well. Whether it comes down to the family issues, vacations missed, or all sorts of other things, when we are here, our staff is stuck here working for us, so please help me thank Mark and his staff.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. I think we all, in our life, have had experiences working for good bosses and for bad bosses, and I think that we would be unanimous in selecting the type of boss that we are. We are awful. We can't just agree on what we want and ask for it once; we get things drafted again, again, and again. When we leave at night, we say that this is the plan and then by 7:00 a.m., it's not the plan. People don't mind working hard if they know where they are going. We have never known where we were going this entire session.

I just wanted to take the opportunity to thank all of our staff. I thank our Front Desk staff. It is hard enough for us to wait around to start a 12:00 p.m. Floor session at 11:00 p.m., but for our staff who wait around all day, we thank you very much. For our support staff who has stayed and for all of the folks who have put bill drafts together, we thank you. We also want to give a special thanks to Brenda Erdoes, Jan Needham, Kim Morgan, and Steve Coburn. We are so sorry about what we have put you through. All I can say is that vacation starts tomorrow, or as soon as you can get out. We are truly blessed to have your intellect, your compassion, and your dedication to this process and to us. You are appreciated every day, and the only thing most of us can't figure out is how you keep so calm and how you are so nice to us day after day. We truly appreciate all that you have done for us. We send thanks to all of your staff, because we know that there is a team behind you. Even though they may not have direct contact, one-on-one, with us, we know how much you depend on them. So our thanks go to you and all of your staff, and to all of those folks in the building that we don't see, but who make this place function. Please know that we appreciate everything that you have done for this institution.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Thank you, Ms. Buckley. One last thank you from me is that I want to thank each and every one of you for having the interest in public service. This Citizen's Legislature works for the state of Nevada. It really does work. This has been a long, very difficult session. Many of you have made sacrifices personally and professionally. As we opened this session, there were a lot of folks who came before us. I'm still awed every time I walk into this room, for what it means and because of the things that we do here for the people of the state of Nevada. I want to personally thank the Minority Leader and our Democratic team as well. Most especially, I want to thank the Majority Leader, who carried all the heavy timber for me. We make a great team for a whole lot of reasons and there is no way that we could have arrived at this place today without your efforts, and I want to thank you from the bottom of my heart. But to everybody in this room, I thank you for your service. It's been a pleasure, most of the time. Hopefully, we will remember this somewhat fondly.

ASSEMBLYMAN MORTENSON:

Thank you, Mr. Speaker. I just want to relate a little story. When I was a kid of about five years old, I had great aspirations. I didn't want to become a policeman or fireman, or even the President of the United States. I wanted to become Batman. I had a lot of worries, though. I worried that I would become real practical, like my dad did, and just grow up, get a job, and raise a family. Guess what happened? I did just that very thing, but I want to say that I have some redemption in my life. I did revert back to those impractical, childish dreams. I became a legislator, and I just want to say that I feel good about it right in my heart.

Mr. Speaker appointed Assemblymen Buckley, Hettrick, and Ocegüera as a committee to wait upon His Excellency, Governor Kenny Guinn, Governor of the State of Nevada, and to inform him that the Assembly was ready to adjourn *sine die*.

Mr. Speaker appointed Assemblymen Arberry, Griffin, and Anderson as a committee to wait upon the Senate and to inform that honorable body that the Assembly was ready to adjourn *sine die*.

A committee from the Senate, consisting of Senators McGinnis, Tiffany, and Wiener, appeared before the Bar of the Assembly and announced that the Senate was ready to adjourn *sine die*.

Assemblywoman Buckley reported that her committee had informed the Governor that the Assembly was ready to adjourn *sine die*.

Assemblyman Arberry reported that his committee had informed the Senate that the Assembly was ready to adjourn *sine die*.

Assemblywoman Buckley moved that the Twentieth Special Session of the Assembly of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried.

Assembly adjourned at 1:31 a.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON
Chief Clerk of the Assembly

THE SIXTH DAY

CARSON CITY (Monday), June 30, 2003

Assembly called to order at 8:07 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Collins, who was excused.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Dear Lord, the cowboys always had a good saying when things got bad. You know, when the pickup wouldn't start or the horse threw a shoe or just about anything that went wrong. They said, "Well, we better cowboy up," and with that they went on and did the best they could. So today, Lord, please bless us and help us to "cowboy up."

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblyman Perkins:

Assembly Resolution No. 4—Acknowledging that the Nevada Legislature has the constitutional duty to provide for the support and maintenance of the schools in this state and determining the appropriate amount of the appropriations for their support and maintenance.

WHEREAS, The Supreme Court of the United States has stated that education "fulfills a most fundamental obligation of government to its constituency" and is "perhaps the most important function of state and local governments"; and

WHEREAS, Ensuring the effectiveness of the schools in this state is vital to the success of Nevada's children, Nevada's residents and the economy of this state; and

WHEREAS, Sections 2 and 6 of Article 11 of the Nevada Constitution require the Nevada Legislature to provide for a uniform system of common schools and to provide for their support and maintenance, in addition to other means provided, by legislative appropriation from the State General Fund; and

WHEREAS, Section 19 of Article 4 of the Nevada Constitution prohibits the expenditure of money from the State Treasury without a legislative appropriation, and legal authority in this state requires that money appropriated by the Nevada Legislature for one purpose may not be used for any other purpose; and

WHEREAS, The Nevada Legislature therefore has a constitutional duty to appropriate money to provide for the support and maintenance of the schools in this state for the next two fiscal years; and

WHEREAS, Both Houses of the Nevada Legislature have found that the amount of the proposed appropriations from the State General Fund to the State Distributive School Account and for class-size reduction as set forth in the second reprint of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is the appropriate amount for the support and maintenance of the schools in this state and for class-size reduction; and

WHEREAS, Both Houses of the Nevada Legislature have found that the policies on education as set forth in the second reprint of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are the policies on education of the Nevada Legislature; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA That the Assembly hereby acknowledges its constitutional duty to provide for the support and maintenance of the schools in this state; and be it further

RESOLVED, That the Assembly hereby determines that the amount of the proposed appropriations from the State General Fund to the State Distributive School Account and for class-size reduction as set forth in the second reprint of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature is the appropriate amount for the support and maintenance of the schools in this state and for class-size reduction; and be it further

RESOLVED, That the Assembly finds that the policies on education as set forth in the second reprint of Senate Bill No. 6 of the 20th Special Session of the Nevada Legislature are the policies on education of the Nevada Legislature; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Supreme Court of Nevada for consideration in any litigation related to the issues concerning the duty of the Nevada Legislature to provide for the support and maintenance of the schools in this state.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblywomen Buckley and Angle.

Mr. Speaker requested the privilege of the Chair to make remarks.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker. Since it appears that we will not be able to get one additional vote to support our tax plan this evening, and since it appears that the Governor will be filing an action in the Supreme Court at 12:01 a.m. this coming morning, we thought it important that the Supreme Court have some intent. The intent is set forth very clearly in the Resolution. We have a duty to fund our educational system. This House has already decided on the appropriate amounts for support and the policies that should be in place for education. That is set forth in the second reprint of Senate Bill No. 6. We want this intent very clear should this matter be considered by the Supreme Court and ultimately acted upon. While it is my hope that we do our job, not them, I think it is important that we have a strong statement in support of education for their review.

ASSEMBLYWOMAN ANGLE:

Thank you, Mr. Speaker. I have a question. We have S.B. 5 on our desks, which is the Distributive School Account. If we want to send a strong message supporting education, why don't we just pass out S.B. 5?

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

We are speaking to the Resolution, Mrs. Angle.

ASSEMBLYWOMAN ANGLE:

I thought I was asking a question about the Resolution. The Resolution contains what is here in S.B. 5. I'm wondering why we are considering a Resolution instead of a bill we already have.

Resolution adopted.

REMARKS FROM THE FLOOR

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Would it be appropriate to respond under Order of Business 15, to respond to my colleague's question? Thank you. Now that we are under the appropriate order of business, I'd love to answer that question. I believe it was made very clear by the Attorney General, on our duties under the Constitution, that we cannot pass an education budget without the revenue to support it. That would be like writing a check when we know we don't have the money in our account.

Mr. Speaker requested the privilege of the Chair for the purpose of making the following remarks:

With the permission of the Body, I would let you know that in consultation with the Majority Leader, it appears we are at a spot this evening where we cannot, as the Resolution stated, complete our constitutional duty. We have conferred and will continue to confer. We will watch the action in front of the Supreme Court, as difficult as that might be, and then we will continue to work on some way to find resolution in both Houses of this Legislature so that we can complete our constitutional duty. If the Body will offer me their permission, I have a few remarks before we adjourn.

I, Richard Perkins, do solemnly swear that I will support, protect, and defend the Constitution and government of the United States, and the Constitution and government of the state of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any state notwithstanding, and that I will well and faithfully perform all the duties of the office of State Assembly, on which I am about to enter; so help me God.

Five months ago, like all of you, I raised my right hand and swore this oath in this very Chamber. In the past few days, I have had the occasion to reread this oath and the parts of the Nevada Constitution that prescribe it, and I have yet to find any equivocation, a single condition, political asterisk, or footnote to the plain and direct nature of its intent. Nowhere does this oath say, "unless I disagree" or "except when I feel strongly that my cause or my issue supersedes or takes precedence over our Constitution." It simply says, "I solemnly swear to support, protect, and defend our Constitution, so help me God." You and I, as a condition of taking our seat in this Body, swore this unambiguous pledge in front of our citizens, our colleagues, and before the Supreme Court Chief Justice.

Similarly, our Constitution is plain and direct in its intent and direction on the matters before us today. Article 9, Section 2, states: "The Legislature shall provide by law for an annual tax sufficient to defray the estimated expenses of the state for each fiscal year; and whenever the expenses of any year exceed the income, the Legislature shall provide for levying a tax sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year or two years." Article 11, Section 6, of the Constitution states: "In addition to other means provided for the support and maintenance of said university and common schools, the Legislature shall provide for their support and maintenance by direct legislative appropriation from the General Fund, upon the presentation of budgets in the manner required by law."

Five months ago we swore to uphold the Constitution of this state. I contend to you that our duty is clear, the Constitution is direct and our oaths solemn. The Constitution is a document to be read and executed in its entirety. It is not a menu from which we pick and choose. And yet, by our own action and inaction, we have done only half the job. We've passed parts of a budget, tinkered with pieces of an appropriation plan, but we have failed to well and faithfully execute the entire responsibility to which we are sworn. In this case, a job half done is nothing more than a job left unfinished.

In the past few days, there has been a great deal of discussion about our constitutional obligations, all of which proceed from that oath we took as legislators. As votes have failed, negotiations have stalled, and, occasionally, tempers have flared, we have had almost as much

debate about the meaning of the law as we have had about the budget or the taxes necessary to fund that budget. We have argued about the precise meaning of a balanced budget and the effect that requirement has on legislation to implement it. We have discussed our obligation to fund education—when, how, and at what level, and have, at times, accused one side or the other of “holding our children hostage.” And perhaps most obviously, we have been focused, not just recently but for the past five months, on the constitutional provision requiring any bill that increases taxes to be passed with a two-thirds vote. Some have railed against the requirement; others have defended it. In this House and the other, there has even been dispute about what the voters meant or envisioned when they imposed a two-thirds requirement upon us.

There can be no question that Nevadans sent a message: that spending the public’s money is not to be taken lightly. Our citizens have made it clear that they expect us to give due deliberation before we enact or raise any tax, but in imposing that obligation upon us, they did not absolve us of our other obligations. We are not released of our duty to fund education. We are not free from our mandate to balance this state’s budget, and most importantly, we are still sworn to fulfill that oath we took five months ago.

I ask this Body: How can we not do our duty as legislators? How can we not pass a balanced budget, leaving our schools unfunded, and jeopardizing programs that serve the very citizens to whom we swore our oaths? How can we expect our citizens to follow the law, when we, the state’s lawmakers, do not?

I know that each of you here takes these duties of office, and of conscience, with gravity. Although I have at times hoped and tried to sway some among you to a different course of action, I did so with respect for your principles and your reasons. I know we have philosophical differences; those differences should, and can still, make us a stronger and better Legislative Body. I hope that we have not become so entrenched that we have forgotten that politics is, after all, the art of compromise.

Let me remind you how the Governor, the other House, and the leadership in this House has attempted to compromise this past five months, and perhaps more importantly, in the last 24 hours. If you recall back to the beginning of our legislative session there are many numbers that have come up: a billion dollars; \$989 million as the Governor’s budget proposed; \$860 million as the two money committees came together in some sort of compromise; \$704 million is a number that has been used; \$536 million is a number that has been used; 3 percent of the budget is a number that has been used. The Governor’s proposal had a gross receipts tax, an amusement tax, property tax, tripled the business license tax, liquor and cigarette taxes, gaming tax, slot route tax, and a business license fee. The Governor’s taskforce on taxes had the state activity tax, the gross receipts tax, restricted slot tax, gaming tax, liquor and cigarettes tax, property tax, amusement tax, Secretary of State fees, passive revenue generators, a business license fee, and a business license tax at \$140. Senate Bill 6, as it came out of the Senate, had passive revenue generators, sin taxes, business license fee, deleted the business license tax, Secretary of State fees, live entertainment tax, room tax, gaming tax, slot tax, real estate transfer tax, a bank franchise tax, and a payroll tax. A.B. 1, which was amended into S.B. 6, had passive revenue generators, the cigarette and liquor taxes, the business license fee, deleted the business license tax, Secretary of State fees, live entertainment tax, gaming tax, restricted slot tax, real estate transfer tax, a bank franchise tax, some payroll tax, and some franchise tax. We have had a Gross Receipts Tax (GRT), a Unified Business Tax (UBT), a net profits, the “Oreo tax,” a franchise tax, a payroll tax.

We have compromised every step of the way. We have provided opportunities for accountability. We have an audit of the University and Community College System of Nevada. We amended into this bill an audit of our K-12 system. We have a tax oversight committee that was to monitor what we did this session and how it impacted our state. We had a cap on revenue. I have even offered to let people write their own accountability language for the bill. What we wouldn’t do in this House was to go to a straight payroll tax because of our belief that it was inequitable. We wouldn’t cut directly to \$704 million because we arrived at a number of \$860 million and to get to \$704 million, in our belief, created hardships for Nevadans. We arrived at \$860 million through compromise, through both money committees, a Republican Senate, and a Democrat Assembly. Senate Republicans, Senate Democrats, Assembly Democrats, and actually, in this House, ultimately, we are one vote short. In the last 24 hours

we have met with a number of people. We have worked hard, ladies and gentlemen. We were here until very late last night. I believe all of us were trying to accomplish what we needed to for our state. We arrived at a number of \$783 million. You may see that as somewhere about halfway between \$704 million and \$860 million. And yet, we were still not able to resolve our differences.

In resolving our differences, that does not mean that you must compromise your principles, but neither does it mean that we should compromise the future of our children or our state by refusing to agree to any position other than our own. It simply means that the whole must outweigh even the sum of its individual parts. These past few weeks, while we have argued about the meaning of the law, we have not been alone. We are not the only Nevadans arguing and speculating about constitutional obligations, and the most basic question of all, what happens next. In homes and businesses throughout this state, our efforts and the votes we cast are watched closely. Some of us may talk about the e-mails we receive, the calls that support our position, and the letters that urge us to hold firm in that position. But there are many more, the vast majority of Nevadans, who do not write or call. We should not assume that their silence is affirmation, nor even apathy. Our school districts, our teachers, and the many Nevadans who rely on state services watch and wait. They have no choice but to watch and wait.

We in this Chamber, however, do have a choice. We can choose to uphold the oath we swore in this very Chamber, an oath that in turn requires us to provide for our children's education and to pass a balanced budget, or we can relinquish that duty to others. So, make no mistake about what you are about to do, the realm you are about to enter, and the precedent you are prepared to set. This job cannot be half done. We cannot go home and say, with a shrug, "We tried." We must leave here secure in the knowledge that we lived up to our oath of office, so help us God.

Assemblywoman Buckley moved that the Assembly, in conformance with Section 15 of Article 4 of the Constitution of the State of Nevada, with the consent of the Senate, adjourn until the call of the Speaker.

Motion carried.

Assembly adjourned at 8:28 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: JACQUELINE SNEDDON

Chief Clerk of the Assembly

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Remarks from the floor re A.B. 2, 237; S.B. 6, 208; S.B. 8, 307.

Roll call vote requested on motion re Appeal of ruling against Point of Order objection, 308.

BROWN, DAVID F., Assemblyman from Clark County, No. 22 District—

Committee Appointments—

Select—

State Revenue and Education Funding, 3.

Potential Conflict of Interest re S.B. 6, 173.

Remarks from the floor re A.B. 2, 224, 225, 226, 235; S.B. 6, 158, 203, 207.

BUCKLEY, BARBARA E., Assemblywoman from Clark County, No. 8 District—

Committee Appointments—

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Inform Governor Assembly organized, 2.

Inform Governor Assembly ready to adjourn *sine die*, 317.

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Do not recede from action on S.B. 6, Amendment No. 3, 240; S.B. 6, Amendment No. 4, 240; S.B. 6, Amendment No. 7, 240.

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Rescind action on S.B. 6, 173, 174.

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CARPENTER, JOHN C., Assemblyman from Elko, Humboldt (Part) Counties, No. 33 District—

Remarks from the floor re A.B. 2, 229, 231, 232, 233; A.B. 14, 313; S.B. 5, 289; S.B. 6, 166, 205.

CHOWNING, VONNE S., Assemblywoman from Clark County, No. 28 District—

Committee Appointments—

Select—

State Revenue and Education Funding, 3.

Potential Conflict of Interest re S.B. 6, 156.

Remarks from the floor re A.B. 7, 299; S.B. 6, 158; S.B. 9, 309.

CHRISTENSEN, CHAD, Assemblyman from Clark County, No. 13 District—
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COLLINS, TOM, Assemblyman from Clark County, No. 1 District—
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215; S.B. 3, 69; S.B. 5, 290; S.B. 6, 155; S.B. 7, 305; S.B. 8, 306;
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GEDDES, JASON, Assemblyman from Washoe County, No. 24 District—
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GIBBONS, DAWN, Assemblywoman from Washoe County, No. 25 District—

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GIUNCHIGLIANI, CHRIS, Assemblywoman from Clark County, No. 9 District—

Committee Appointments—

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State Revenue and Education Funding, 3.

Remarks from the floor re A.B. 2, 224, 225, 228, 234; A.B. 7, 299; A.B. 8, 300; S.B. 6, 159, 206.

GOLDWATER, DAVID E., Assemblyman from Clark County, No. 10 District—

Absences, excused, 176, 214.

Committee Appointments—

Conference re S.B. 6, 240.

Select—

State Revenue and Education Funding, 3.

Remarks from the floor re A.B. 2, 227, 238; A.B. 8, 300; A.B. 10, 301; A.C.R. 2, 294; S.B. 6, 165, 205.

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GRADY, TOM, Assemblyman from Lyon, Storey, Carson City (Part), Churchill (Part) Counties, No. 38 District—

Committee Appointments—

Select—

State Revenue and Education Funding, 3.

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GRIFFIN, JOSH, Assemblyman from Clark County, No. 29 District—

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Select—

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GUSTAVSON, DONALD G. (DON), Assemblyman from Washoe County, No. 30 District—

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HARDY, JOE, Assemblyman from Clark County, No. 20 District—

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HETTRICK, LYNN C., Assemblyman from Douglas, Carson City (Part), Washoe (Part) Counties, No. 39 District—

Committee Appointments—

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KNECHT, RON, Assemblyman from Carson City (Part), Washoe (Part) Counties, No. 40 District—

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LESLIE, SHEILA, Assemblywoman from Washoe County, No. 27 District—

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Special—

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MABEY, GARN, Assemblyman from Clark County, No. 2 District—

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MAJORITY WHIP, ASSISTANT—*See Manendo, Mark A.*

MAJORITY WHIP, ASSISTANT—*See Leslie, Sheila.*

MAJORITY WHIP—*See Anderson, Bernard.*

MARVEL, JOHN W., Assemblyman from Humboldt (Part), Lander (Part), Washoe (Part) Counties, No. 32 District—

Committee Appointments—

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MCCLAIN, KATHY, Assemblywoman from Clark County, No. 15 District—

Committee Appointments—

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State Revenue and Education Funding, 3.

Remarks from the floor re S.B. 6, 167.

MCCLEARY, BOB, Assemblyman from Clark County, No. 11 District—

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MINORITY WHIP—*See Brown, David F.*

MINORITY WHIP—*See Angle, Sharron E.*

MORTENSON, HARRY, Assemblyman from Clark County, No. 42 District—

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OCEGUERA, JOHN, Assemblyman from Clark County, No. 16 District—

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OHRENSCHALL, GENIE, Assemblywoman from Clark County, No. 12 District—

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PARKS, DAVID R., Assemblyman from Clark County, No. 41 District—

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PERKINS, RICHARD D., Assemblyman from Clark County, No. 23 District—

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Inform Senate Assembly ready to adjourn *sine die*, 317.

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Rules on Point of Order re passage of S.B. 6 (*Pursuant to Guinn v. Legislature, et al. 119 Nev. Adv. Op 34 at 16*).

PIERCE, PEGGY, Assemblywoman from Clark County, No. 3 District—

Committee Appointments—

Select—

State Revenue and Education Funding, 3.

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ASSEMBLY STANDING RULES
AND THE
JOINT STANDING RULES OF THE
SENATE AND ASSEMBLY
OF THE
TWENTIETH SPECIAL SESSION
OF THE
LEGISLATURE OF THE STATE OF NEVADA

2003

ASSEMBLY STANDING RULES

I. APPLICABILITY

Rule No. 1. Generally.

The Rules of the Assembly for the 20th Special Session of the Legislature are applicable only during the 20th Special Session of the Legislature.

[Statutes of Nevada 2003, 20th Special Session, 317]

II. OFFICERS AND EMPLOYEES

Rule No. 2. Speaker of the Assembly.

1. All officers of the Assembly are subordinate to the Speaker in all that relates to the prompt, efficient and correct discharge of their official duties under the Speaker's supervision.

2. Possessing the powers and performing the duties described in this rule, the Speaker shall:

(a) Take the chair at the hour to which the Assembly will be meeting, call the members to order and, upon the appearance of a quorum, proceed to business.

(b) Preserve order and decorum and have general direction of the Chamber of the Assembly and the approaches thereto. In the event of any disturbance or disorderly conduct therein, order the same to be cleared.

(c) Decide all questions of order, subject to a member's right to appeal to the Assembly. On appeal from such decisions, the Speaker has the right, in the Speaker's place, to assign the reason for the decision.

(d) Have the right to name any member to perform the duties of the chair, but such substitution must not extend beyond one legislative day.

(e) If the Assembly resolves itself into a Committee of the Whole, preside as Chairman of the Committee or name a Chairman to preside thereover and call him to the chair.

(f) Have the power to accredit the persons who act as representatives of the news media and assign them seats.

(g) Sign all bills and resolutions passed by the Legislature as provided by law.

(h) Sign all subpoenas issued by the Assembly.

(i) Receive all messages and communications from other departments of the government and announce them to the Assembly.

(j) Represent the Assembly, declare its will and in all things obey its commands.

(k) Vote on final passage of a bill or resolution, but the Speaker shall not be required to vote in ordinary legislative proceedings except where the

Speaker's vote would be decisive. In all yea and nay votes, the Speaker's name must be called last.

3. If a vacancy occurs in the office of Speaker, through death, resignation or disability of the Speaker, the Speaker Pro Tempore shall temporarily and for the period of vacancy or disability conduct the necessary business of the Assembly.

4. If a permanent vacancy occurs in the office of Speaker, the Assembly shall select a new Speaker.

[Statutes of Nevada 2003, 20th Special Session, 317]

Rule No. 3. Reserved.

Rule No. 4. Reserved.

Rule No. 5. Reserved.

Rule No. 6. Reserved.

The next rule is 10.

III. meetings

Rule No. 10. Reserved.

Rule No. 11. Open Meetings.

All meetings of the Assembly and its committees must be open to the public.

[Statutes of Nevada 2003, 20th Special Session, 318]

Rule No. 12. Motion to Rise Committee of the Whole.

A motion that the Committee of the Whole rise is always in order, and must be decided without debate.

[Statutes of Nevada 2003, 20th Special Session, 318]

The next rule is 20.

IV. DECORUM AND DEBATE

Rule No. 20. Points of Order.

If any member, in speaking or otherwise, transgresses the rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if called to order by a member, such member shall immediately state the point of order. If the point of order be sustained by the presiding officer, the member shall not be allowed to proceed; but if it be not

sustained, then he shall be permitted to go on. Every such decision from the presiding officer shall be subject to an appeal to the House; but no discussion of the question of order shall be allowed unless an appeal be taken from the decision of the presiding officer.

[Statutes of Nevada 2003, 20th Special Session, 319]

Rule No. 21. Portable Electronic Communication Devices.

1. A person who is within the Assembly Chambers shall not engage in a telephone conversation via the use of a portable telephone.

2. Before entering the Assembly Chambers, any person who possesses a portable electronic communication device, such as a pager or telephone, that emits an audible alert, such as a ringing or beeping sound, to signal an incoming message or call shall turn the audible alert off. A device that contains a nonaudible alert, such as a silent vibration, may be operated in a nonaudible manner within the Assembly Chambers.

[Statutes of Nevada 2003, 20th Special Session, 319]

Rule No. 22. Reserved.

Rule No. 23. Reserved.

The next rule is 30.

V. QUORUM, VOTING, ELECTIONS

Rule No. 30. Manner of Voting.

1. The presiding officer shall declare all votes, but the yeas and nays must be taken when called for by three members present, and the names of those calling for the yeas and nays must be entered in the Journal by the Chief Clerk.

2. The presiding officer shall call for yeas and nays by a division or by a roll call, either electronic or oral.

3. When taking the yeas and nays on any question, the electronic roll call system may be used, and when so used shall have the force and effect of any roll call under these rules.

4. When taking the yeas and nays by oral roll call, the Chief Clerk shall take the names of members alphabetically, except that the Speaker's name must be called last.

5. The electronic roll call system may be used to determine the presence of a quorum.

6. The yeas and nays must not be taken with the electronic roll call system until all members present are at their desks. The presiding officer may vote at the rostrum.

7. Only a member who is physically present within the Assembly Chambers may cast a vote in the Assembly.

8. A member shall not vote for another member on any roll call, either electronic or oral. Any member who votes for another member may be punished in any manner deemed appropriate by the Assembly.

[Statutes of Nevada 2003, 20th Special Session, 319]

Rule No. 31. Reserved.

Rule No. 32. Announcement of the Vote.

1. A member may change his vote at any time before the announcement of the vote if the voting is by voice, or at any time before the votes are electronically recorded if the voting is conducted electronically.

2. The announcement of the result of any vote shall not be postponed.

[Statutes of Nevada 2003, 20th Special Session, 320]

Rule No. 33. Voting by Division.

Upon a division and count of the Assembly on any question, no person without the bar shall be counted.

[Statutes of Nevada 2003, 20th Special Session, 320]

The next rule is 39.

VI. LEGISLATIVE BODIES

Rule No. 39. Committee of the Whole.

1. All bills and resolutions may be referred to the Committee of the Whole.

2. All amendments proposed by the Committee:

(a) Must first be approved by the Committee.

(b) Must be reported by the Chairman to the Assembly.

3. The minutes of the Committee's meeting must be entered in the final Journal.

[Statutes of Nevada 2003, 20th Special Session, 320]

Rule No. 40. Standing Committee.

The standing committee of the Assembly is the Select Committee on State Revenue and Education Funding.

[Statutes of Nevada 2003, 20th Special Session, 320]

Rule No. 41. Appointment of Committees.

All committees must be appointed by the Speaker, unless otherwise directed by the Assembly. The Speaker shall determine the appropriate number of members for each committee and shall designate the chairman and vice chairman of each committee.

[Statutes of Nevada 2003, 20th Special Session, 320]

Rule No. 42. Committee Action.

1. The committee shall have meetings in accordance with the direction of the Assembly leadership. A quorum of the committee is a majority of its appointed members and may transact business except as limited by this rule.

2. Except as limited by this rule, a simple majority of those present may move, second and pass a motion by voice vote.

3. Definite action on a bill or resolution will require a majority of the entire committee.

4. A two-thirds majority of the entire committee is required to reconsider action on a bill or resolution.

5. The chairman shall vote on all final action regarding bills or resolutions.

6. No member of the committee may vote by proxy under any circumstances.

7. A committee shall not take a vote on the question of whether to exercise its statutory authority to issue a legislative subpoena unless the chairman has informed the Speaker of the intention of the committee to consider such a question.

[Statutes of Nevada 2003, 20th Special Session, 320]

Rule No. 43. Subcommittees.

Subcommittees made up of committee members may be appointed by the chairman to consider and report back on specific subjects or bills.

[Statutes of Nevada 2003, 20th Special Session, 321]

Rule No. 44. Reserved.**Rule No. 45. Request for Drafting of Bill, Resolution or Amendment.**

Except as otherwise provided in this rule, the Legislative Counsel shall not honor a request for the drafting of a bill, resolution or amendment to be introduced in the Assembly, unless it is submitted by the Select Committee on State Revenue and Education Funding, the Committee of the Whole, a conference committee or the Governor. The Speaker may request the drafting of one bill for the 20th Special Session of the Legislature without seeking additional approval.

[Statutes of Nevada 2003, 20th Special Session, 321]

Rule No. 46. Committee Action on Reports.

Committee reports must be adopted at a committee session actually assembled and meeting as a committee with a quorum present. Every committee vote on a matter pertaining to a bill or resolution must be recorded. The vote may be taken by roll call at the discretion of the chairman.

[Statutes of Nevada 2003, 20th Special Session, 321]

Rule No. 47. Committee Records.

The chairman of each committee shall keep, or cause to be kept, a complete record of the committee proceedings in which there must be entered:

1. The time and place of each meeting;
2. The attendance and absence of members;
3. The names of all persons appearing before the committee, with the names of persons, firms, corporations or associations in whose behalf such appearance is made; and
4. The subjects or measures considered and action taken.

[Statutes of Nevada 2003, 20th Special Session, 321]

Rule No. 48. Disposition of Committee Records.

All minutes, records and documents in the possession of committees and their chairmen must be filed in the offices of the Legislative Counsel Bureau upon adjournment sine die.

[Statutes of Nevada 2003, 20th Special Session, 321]

Rule No. 49. Committee Hearings.

1. The presence of a quorum of the committee is desirable but not required to conduct a public hearing. At the discretion of the chairman, members of the committee may attend, participate in and, if applicable, vote during the hearing via simultaneous telephone or video conference.

2. Public hearings are opened by the chairman, who announces the subject under consideration and provides for those wishing to address the committee to be heard. These persons shall rise in an order determined by the chairman, address the chair and furnish their names, addresses and firms or other organizations represented. Committee members may address the chairman for permission to question the witness.

[Statutes of Nevada 2003, 20th Special Session, 321]

Rule No. 50. Reserved.**Rule No. 51. Reserved.****Rule No. 52. Reserved.**

The next rule is 60.

VII. RULES GOVERNING MOTIONS

A. PROCEDURE

Rule No. 60. Entertaining.

No motion may be debated until it is distinctly announced by the presiding officer. If desired by the presiding officer or any member, the motion must be reduced to writing and be read by the Chief Clerk before the motion is debated. A motion may be withdrawn by the maker at any time before amendment or before the motion is put to vote.

[Statutes of Nevada 2003, 20th Special Session, 322]

Rule No. 61. Reserved.

Rule No. 62. Reserved.

B. PARTICULAR MOTIONS

Rule No. 63. Reserved.

Rule No. 64. Reserved.

Rule No. 65. Indefinite Postponement.

When a question is postponed indefinitely, the same question must not be considered again during the 20th Special Session of the Legislature and the question is not subject to a motion for reconsideration.

[Statutes of Nevada 2003, 20th Special Session, 322]

Rule No. 66. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution does not take precedence over any other subsidiary motion. If the motion is carried, it shall be considered equivalent to the rejection of such bill or resolution.

[Statutes of Nevada 2003, 20th Special Session, 322]

Rule No. 67. Division of Question.

Any member may call for a division of the question, which shall be divided, if it comprehends propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the Assembly. A motion to strike out being lost shall preclude neither amendment nor a motion to strike out and insert. A motion to strike out and insert shall be deemed indivisible.

[Statutes of Nevada 2003, 20th Special Session, 322]

Rule No. 68. To Reconsider.

No motion to reconsider a vote is in order.

[Statutes of Nevada 2003, 20th Special Session, 323]

The next rule is 80.

VIII. DEBATE**Rule No. 80. Speaking on Question.**

No member shall speak more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

[Statutes of Nevada 2003, 20th Special Session, 323]

Rule No. 81. Previous Question.

The previous question shall be put only when demanded by three members. The previous question shall not be moved by the member last speaking on the question.

[Statutes of Nevada 2003, 20th Special Session, 323]

Rule No. 82. Privilege of Closing Debate.

The author of a bill, a resolution or a main question shall have the privilege of closing the debate, unless the previous question has been sustained.

[Statutes of Nevada 2003, 20th Special Session, 323]

The next rule is 90.

IX. CONDUCT OF BUSINESS**A. RULES AND PROCEDURE****Rule No. 90. Mason's Manual.**

The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern the Assembly and its committees in all cases in which they are applicable and in which they are not inconsistent with the Rules and orders of the Assembly for the 20th Special Session of the Legislature, and the Joint Rules of the Senate and Assembly for the 20th Special Session of the Legislature.

[Statutes of Nevada 2003, 20th Special Session, 323]

Rule No. 91. Rescission, Change or Suspension of Rule.

No rule or order of the Assembly for the 20th Special Session of the Legislature may be rescinded or changed without a vote of two-thirds of the members elected, and one day's notice being given of the motion therefor;

but a rule or order may be suspended temporarily by a vote of two-thirds of the members present.

[Statutes of Nevada 2003, 20th Special Session, 323]

Rule No. 92. Notices of Bills, Topics and Public Hearings.

1. Except as otherwise provided in subsection 3, all committees shall provide adequate notice of public hearings on bills, resolutions or other topics which are to come before the committees. The notice must include the date, time, place and agenda to be covered. To the extent practicable, the notice must be posted conspicuously in the legislative building, appear in the daily history and be made available to the news media. The daily history must include the most current version of the notice that is available at the time the daily history is created and an informational statement informing the public where more current information, if any, regarding such notices may be found.

2. The noticing requirements of this rule may be suspended for emergency situations but only after approval by a two-thirds vote of a committee.

3. Subsection 1 does not apply to:

(a) Committee meetings held on the floor of the Assembly during a recess;
or

(b) Conference committee meetings.

[Statutes of Nevada 2003, 20th Special Session, 323]

Rule No. 93. Reserved.

Rule No. 94. Privilege of the Floor and Lobbying.

No person, except Senators, former Assemblymen and state officers, may be admitted at the bar of the Assembly, except by special invitation on the part of some member; but a majority may authorize the Speaker to have the Assembly cleared of all such persons. No person may do any lobbying upon the floor of the Assembly at any time, and it is the duty of the Sergeant at Arms to remove any person violating any of the provisions of this rule.

[Statutes of Nevada 2003, 20th Special Session, 324]

Rule No. 95. Material Placed on Legislators' Desks.

All papers, letters, notes, pamphlets and other written material placed upon an Assemblyman's desk shall contain the signature of the Legislator requesting the placement of such material on the desk or shall contain a designation of the origin of such material. This rule does not apply to books containing the legislative bills and resolutions, the legislative daily histories, the legislative daily journals or Legislative Counsel Bureau material.

[Statutes of Nevada 2003, 20th Special Session, 324]

Rule No. 96. Peddling, Begging and Soliciting.

1. Peddling, begging and soliciting are strictly forbidden in the Assembly Chamber, and in the lobby, gallery and halls adjacent thereto.

2. No part of the Assembly Chamber may be used for, or occupied by signs or other devices for any kind of advertising.

3. No part of the hallways adjacent to the Assembly Chambers may be used for or occupied by signs or other devices for any kind of advertising for commercial or personal gain. Notices for nonprofit, nonpartisan, civic or special legislative events may be posted in a designated area of the hallways adjacent to the Assembly Chambers with the approval of the Chief Clerk.

[Statutes of Nevada 2003, 20th Special Session, 324]

Rule No. 97. Petitions and Memorials.

Petitions, memorials and other papers addressed to the Assembly shall be presented by the Speaker, or by a member in the Speaker's place. A brief statement of the contents thereof shall be made by the introducer. They shall not be debated on the day of their being presented, but shall be on the table, or be referred, as the Assembly shall determine.

[Statutes of Nevada 2003, 20th Special Session, 324]

Rule No. 98. Request of Purpose.

A member may request the purpose of a bill or joint resolution upon its introduction.

[Statutes of Nevada 2003, 20th Special Session, 325]

Rule No. 99. Remarks.

It shall be in order for members to make remarks and to have such remarks entered in the Journal.

[Statutes of Nevada 2003, 20th Special Session, 325]

Rule No. 100. Precedence of Parliamentary Authority.

The precedence of parliamentary authority in the Assembly is:

1. The Constitution of the State of Nevada.

2. The Statutes of the State of Nevada.

3. The Rules of the Assembly for the 20th Special Session of the Legislature and the Joint Rules of the Senate and Assembly for the 20th Special Session of the Legislature.

4. Mason's Manual of Legislative Procedure.

[Statutes of Nevada 2003, 20th Special Session, 325]

Rule No. 101. Reserved.**Rule No. 102. Privileged Questions.**

Privileged questions have precedence of all others in the following order:

1. Motions to fix the time to which the Assembly shall adjourn.

2. Motions to adjourn.
 3. Questions relating to the rights and privileges of the Assembly or any of its members.
 4. A call of the House.
 5. Motions for special orders.
- [Statutes of Nevada 2003, 20th Special Session, 325]

Rule No. 103. Reserved.

B. BILLS

Rule No. 104. Reserved.

Rule No. 105. Substitute Bills.

A substitute bill shall be deemed and held to be an amendment, and treated in all respects as such. However, a substitute bill may be amended after its adoption, in the same manner as if it were an original bill.

[Statutes of Nevada 2003, 20th Special Session, 325]

Rule No. 106. Skeleton Bills.

The introduction of skeleton bills is not authorized.

[Statutes of Nevada 2003, 20th Special Session, 325]

Rule No. 107. Reserved.

Rule No. 108. Reserved.

Rule No. 109. Reading of Bills.

The presiding officer shall announce at each reading of a bill whether it be the first, second or third reading. The first reading of a bill shall be for information. If there is objection, the question shall be, "Shall the bill be rejected?" If the question to reject fails to receive a majority vote by the members present, or if there is no objection, the bill shall take the proper course. No bill shall be referred to a committee until after the first reading, nor amended until after the second reading.

[Statutes of Nevada 2003, 20th Special Session, 326]

Rule No. 110. Second Reading and Amendment of Bills.

1. All bills must be read the second time after which they are reported by committee. Upon second reading, Assembly bills reported without amendments shall be placed on the General File and Senate bills reported without amendments shall be placed on the General File. Committee amendments reported with bills shall be considered upon their second reading, and such amendments may be adopted by a majority vote of the members present. Any amendment which is numbered, copied and made

available to all members must be moved and voted upon by number unless any member moves that it be read in full. Assembly bills so amended must be reprinted, engrossed and placed on the General File. Senate bills so amended must be reprinted, then engrossed or reengrossed, as applicable, and placed on the General File.

2. Only amendments proposed by the Select Committee, the Committee of the Whole or a conference committee may be considered on the floor of the Assembly. Such a motion to amend may be adopted on the floor of the Assembly by a majority vote of the members present. Bills so amended on second reading must be treated the same as bills with amendments proposed by a committee. Any bill so amended upon the General File must be reprinted and then engrossed or reengrossed, as applicable.

3. The reprinting of amended bills may be dispensed with only in accordance with the provisions of law.

[Statutes of Nevada 2003, 20th Special Session, 326]

Rule No. 111. Consent Calendar.

1. A committee may by unanimous vote of the members present report a bill with the recommendation that it be placed on the consent calendar. The question of recommending a bill for the consent calendar may be voted upon in committee only after the bill has been recommended for passage and only if no amendment is recommended.

2. The Chief Clerk shall maintain a list of bills recommended for the consent calendar. The list must be printed in the daily history and must include the summary of each bill and the date the bill is scheduled for consideration on final passage.

3. At any time before the presiding officer calls for a vote on the passage of the consent calendar, a member may give written notice to the Chief Clerk or state orally from the floor of the Assembly in session that he requests the removal of a particular bill from the consent calendar. If a member so requests, the Chief Clerk shall remove the bill from the consent calendar and transfer it to the second reading file. A bill removed from the consent calendar may not be restored to that calendar.

4. During floor consideration of the consent calendar, members may ask questions and offer explanations relating to the respective bills.

5. When the consent calendar is brought to a vote, the bills remaining on the consent calendar must be read by number and summary and the vote must be taken on their final passage as a group.

[Statutes of Nevada 2003, 20th Special Session, 326]

Rule No. 112. Reserved.

Rule No. 113. General File.

All bills reported to the Assembly, after receiving their second readings, must be placed upon a General File, to be kept by the Chief Clerk. Bills must

be taken from the General File and acted upon in the order in which they were reported, unless otherwise specially ordered by the Assembly. But engrossed bills shall be placed at the head of the file, in the order in which they are received. The Chief Clerk shall post a daily statement of the bills on the General File, setting forth the order in which they are filed and specifying the alterations arising from the disposal of business each day. The Chief Clerk shall likewise post notices of special orders as made.

[Statutes of Nevada 2003, 20th Special Session, 327]

Rule No. 114. Reserved.

Rule No. 115. Reserved.

Rule No. 116. Reserved.

Rule No. 117. Reserved.

C. RESOLUTIONS

Rule No. 118. Treated as Bills—Joint Resolutions.

The procedure of enacting joint resolutions must be identical to that of enacting bills. However, joint resolutions proposing amendments to the Constitution must be entered in the Journal in their entirety.

[Statutes of Nevada 2003, 20th Special Session, 327]

Rule No. 119. Reserved.

D. ORDER OF BUSINESS

Rule No. 120. Order of Business.

The Order of Business must be as follows:

1. Call to Order.
2. Reading and Approval of Journal.
3. Presentation of Petitions.
4. Reports of the Standing Committees.
5. Reports of the Committee of the Whole.
6. Communications.
7. Messages from the Senate.
8. Motions, Resolutions and Notices.
9. Introduction, First Reading and Reference.
10. Consent Calendar.
11. Second Reading and Amendment.
12. General File and Third Reading.
13. Unfinished Business of Preceding Day.
14. Special Orders of the Day.

15. Remarks from the Floor, limited to 10 minutes.
[Statutes of Nevada 2003, 20th Special Session, 327]

Rule No. 121. Reserved.

Rule No. 122. Reserved.

Rule No. 123. Reserved.

Rule No. 124. Reserved.

Rule No. 125. Reserved.

Rule No. 126. Reserved.

Rule No. 127. Reserved.

Rule No. 128. Reserved.

The next rule is 140.

X. MISCELLANEOUS

Rule No. 140. Reserved.

Rule No. 141. Use of the Assembly Chamber.

The Assembly Chamber shall not be used for any public or private business other than legislative, except by permission of the Assembly.

[Statutes of Nevada 2003, 20th Special Session, 328]

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JOINT STANDING RULES OF THE SENATE AND ASSEMBLY OF THE 20TH SPECIAL SESSION

APPLICABILITY OF JOINT RULES

Rule No. 1. Generally.

The Joint Rules for the 20th Special Session of the Legislature are applicable only during the 20th Special Session of the Legislature.

[Statutes of Nevada 2003, 20th Special Session, 309]

CONFERENCE COMMITTEES

Rule No. 2. Procedure Concerning.

1. In every case of an amendment of a bill, or joint or concurrent resolution, agreed to in one House, dissented from in the other, and not receded from by the one making the amendment, each House shall appoint a committee to confer with a like committee to be appointed by the other; and the committee so appointed shall meet publicly at a convenient hour to be agreed upon by their respective chairmen and announced publicly, and shall confer upon the differences between the two Houses as indicated by the amendments made in one and rejected in the other and report as early as convenient the result of their conference to their respective Houses. The report shall be made available to all members of both Houses. The whole subject matter embraced in the bill or resolution shall be considered by the committee, and it may recommend recession by either House, new amendments, new bills or resolutions, or other changes as it sees fit. New bills or resolutions so reported shall be treated as amendments unless the bills or resolutions are composed entirely of original matter, in which case they shall receive the treatment required in the respective Houses for original bills, or resolutions, as the case may be.

2. The report of a conference committee may be adopted by acclamation, and such action may be considered equivalent to the adoption of amendments embodied therein. The report is not subject to amendment. If either House refuses to adopt the report, or if the first conference committee has so recommended, a second conference committee may be appointed. No member who served on the first committee may be appointed to the second.

3. There shall be but two conference committees on any bill or resolution. A majority of the members of a conference committee from each House must be members who voted for the passage of the bill or resolution.

[Statutes of Nevada 2003, 20th Special Session, 309]

MESSAGES

Rule No. 3. Procedure Concerning.

1. Proclamations by the Governor convening the Legislature in extra session shall, by direction of the presiding officer of each House, be read immediately after the convening thereof, filed and entered in full in the Journal of proceedings.

2. Whenever a message from the Governor is received, the Sergeant at Arms will announce: "Mr. President, or Mr. Speaker, the Secretary of the Governor is at the bar." The Secretary will, upon being recognized by the presiding officer, announce: "Mr. President, or Mr. Speaker, a message from His Excellency, the Governor of Nevada, to the Honorable, the Senate or Assembly," and hand same to the Sergeant at Arms for delivery to the Secretary of the Senate or Chief Clerk of the Assembly. The presiding officer will direct any message from the Governor to be received, read and entered in full in the Journal of proceedings.

3. Messages from the Senate to the Assembly shall be delivered by the Secretary or Assistant Secretary, and messages from the Assembly to the Senate shall be delivered by the Chief Clerk or Assistant Chief Clerk.

[Statutes of Nevada 2003, 20th Special Session, 310]

NOTICE OF FINAL ACTION

Rule No. 4. Communications.

Each House shall communicate its final action on any bill or resolution, or matter in which the other may be interested, by written notice. Each such notice sent by the Senate must be signed by the Secretary of the Senate, or a person designated by the Secretary. Each such notice sent by the Assembly must be signed by the Chief Clerk of the Assembly, or a person designated by the Chief Clerk.

[Statutes of Nevada 2003, 20th Special Session, 310]

BILLS AND JOINT RESOLUTIONS

Rule No. 5. Signature.

Each enrolled bill or joint resolution shall be presented to the presiding officers of both Houses for signature. They shall, after an announcement of their intention to do so is made in open session, sign the bill or joint resolution and their signatures shall be followed by those of the Secretary of the Senate and Chief Clerk of the Assembly.

[Statutes of Nevada 2003, 20th Special Session, 310]

Rule No. 6. Joint Sponsorship.

1. A bill or resolution introduced by a committee of the Senate or Assembly may, at the direction of the chairman of the committee, set forth

the name of a committee of the other House as a joint sponsor, if a majority of all members appointed to the committee of the other House votes in favor of becoming a joint sponsor of the bill or resolution. The name of the committee joint sponsor must be set forth on the face of the bill or resolution immediately below the date on which the bill or resolution is introduced.

2. The Legislative Counsel shall not cause to be printed the name of a committee as a joint sponsor on the face of a bill or resolution unless the chairman of the committee has signed his name next to the name of the committee on the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 4.

3. Upon introduction, any bill or resolution that sets forth the names of primary joint sponsors must be numbered in the same numerical sequence as other bills and resolutions of the same House of origin are numbered.

4. Once a bill or resolution has been introduced, a primary joint sponsor or nonprimary joint sponsor may only be added or removed by amendment of the bill or resolution. An amendment which proposes to add or remove a primary joint sponsor must not be considered by the House of origin of the amendment unless a statement requesting the addition or removal is attached to the copy of the amendment submitted to the front desk of the House of origin of the amendment. If the amendment proposes to add or remove a committee as a primary joint sponsor, the statement must be signed by the chairman of the committee. A copy of the statement must be transmitted to the Legislative Counsel if the amendment is adopted.

5. An amendment that proposes to add or remove a primary joint sponsor may include additional proposals to change the substantive provisions of the bill or resolution or may be limited only to the proposal to add or remove a primary joint sponsor.

[Statutes of Nevada 2003, 20th Special Session, 310]

PRINTING

Rule No. 7. Ordering and Distribution.

Each House may order the printing of bills introduced, reports of its own committees, and other matter pertaining to that House only; but no other printing may be ordered except by a concurrent resolution passed by both Houses. Each Senator is entitled to the free distribution of four copies of each bill introduced in each House, and each Assemblyman to such a distribution of two copies. Additional copies of such bills may be distributed at a charge to the person to whom they are addressed. The amount charged for distribution of the additional copies must be determined by the Director of the Legislative Counsel Bureau to approximate the cost of handling and postage for the entire session.

[Statutes of Nevada 2003, 20th Special Session, 311]

RESOLUTIONS

Rule No. 8. Types, Usage and Approval.

1. A joint resolution must be used to:
 - (a) Propose an amendment to the Nevada Constitution.
 - (b) Ratify a proposed amendment to the United States Constitution.
 - (c) Address the President of the United States, Congress, either House or any committee or member of Congress, any department or agency of the Federal Government, or any other state of the Union.
2. A concurrent resolution must be used to:
 - (a) Amend these joint rules.
 - (b) Request the return from the Governor of an enrolled bill for further consideration.
 - (c) Resolve that the return of a bill from one House to the other House is necessary and appropriate.
 - (d) Express facts, principles, opinion and purposes of the Senate and Assembly.
 - (e) Establish a joint committee of the two Houses.
 - (f) Direct the Legislative Commission to conduct an interim study.
3. A concurrent resolution or a resolution of one House may be used to:
 - (a) Memorialize a former member of the Legislature or other notable or distinguished person upon his death.
 - (b) Congratulate or commend any person or organization for a significant and meritorious accomplishment.

[Statutes of Nevada 2003, 20th Special Session, 311]

VETOES

Rule No. 9. Special Order.

Bills which have passed a previous Legislature, and which are transmitted to the Legislature next sitting, accompanied by a message or statement of the Governor's disapproval, or veto of the same, shall become the subject of a special order; and when the special order for their consideration is reached and called, the said message or statement shall be read, together with the bill or bills so disposed or vetoed; and the message and bill shall be read in the Senate by the Secretary of the Senate and in the Assembly by the Chief Clerk of the Assembly, without interruption, consecutively, one following the other, and not upon separate occasions; and no such bill or message shall be referred to any committee, or otherwise acted upon, save as provided by law and custom; that is to say, that immediately following such reading the only question (except as hereinafter stated) which shall be put by the Chair is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such vetoed bill without the same

shall have first been read, from the first word of its title to and including the last word of its final section; and no motion shall be entertained after the Chair has stated the question save a motion for “The previous question,” but the merits of the bill itself may be debated.

[Statutes of Nevada 2003, 20th Special Session, 312]

ADJOURNMENT

Rule No. 10. Limitations and Calculation of Duration.

1. In calculating the permissible duration of an adjournment for 3 days or less, the day of adjournment must not be counted but the day of the next meeting must be counted, and Sunday must not be counted.

2. The Legislature may adjourn for more than 3 days by motion based on mutual consent of the houses or by concurrent resolution. One or more such adjournments may be taken to permit a committee or the Legislative Counsel Bureau to prepare the matters respectively entrusted to them for the consideration of the Legislature as a whole.

[Statutes of Nevada 2003, 20th Special Session, 312]

EXPENDITURES FROM THE LEGISLATIVE FUND

Rule No. 11. Manner of Authorization.

Except for routine salary, travel, equipment and operating expenses, no expenditures shall be made from the Legislative Fund without the authority of a concurrent resolution regularly adopted by the Senate and Assembly.

[Statutes of Nevada 2003, 20th Special Session, 313]

RECORDS OF COMMITTEE PROCEEDINGS

Rule No. 12. Duties of Secretary of Committees and Director.

1. Each committee shall cause a record to be made of the proceedings of its meetings.

2. The secretary of a committee shall:

(a) Label each record with the date, time and place of the meeting and also indicate on the label the numerical sequence in which the record was made;

(b) Keep the records in chronological order; and

(c) Deposit the records immediately following the final adjournment of the Special Session of the Legislature with the Director of the Legislative Counsel Bureau.

3. The Director of the Legislative Counsel Bureau shall:

(a) Index the records;

(b) Make the records available for accessing by any person during office hours under such reasonable conditions as he may deem necessary;

(c) Maintain a log as a public record containing the date, time, name and address of any person accessing any of the records and identifying the records accessed; and

(d) Retain the records for two bienniums and at the end of that period keep some form or copy of the record in any manner he deems reasonable to ensure access to the record in the foreseeable future.

[Statutes of Nevada 2003, 20th Special Session, 313]

LIMITATIONS ON REQUESTS FOR DRAFTING OF LEGISLATIVE MEASURES

Rule No. 13. Germaneness Required for Amendments.

1. The Legislative Counsel shall not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution.

2. For the purposes of this Rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general, single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.

[Statutes of Nevada 2003, 20th Special Session, 313]

CONTINUATION OF LEADERSHIP OF THE SENATE AND ASSEMBLY DURING THE INTERIM BETWEEN SESSIONS

Rule No. 14. Tenure and Performance of Statutory Duties.

1. Except as otherwise provided in subsections 2 and 3, the tenure of the President Pro Tem, Majority Leader and Minority Leader of the Senate and the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader of the Assembly extends during the interim between regular sessions of the Legislature.

2. The Senators designated to be the President Pro Tem, Majority Leader and Minority Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session of the Legislature if the Senator formerly holding the respective position is no longer a Legislator.

3. The Assemblymen designated to be the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session.

[Statutes of Nevada 2003, 20th Special Session, 314]

POLICY AND PROCEDURES REGARDING SEXUAL HARASSMENT

Rule No. 15. Maintenance of Working Environment; Procedure for Filing, Investigating and Taking Remedial Action on Complaints.

1. The Legislature hereby declares its intention to maintain a working environment which is free from sexual harassment. This policy applies to all Legislators and lobbyists. Each member and lobbyist is responsible to conduct himself or herself in a manner which will ensure that others are able to work in such an environment.

2. In accordance with Title VII of the Civil Rights Act, for the purposes of this rule, “sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of a person’s employment;

(b) Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or

(c) Such conduct has the purpose or effect of unreasonably interfering with a person’s work performance or creating an intimidating, hostile or offensive working environment.

3. Each person subject to these rules must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following noninclusive list provides illustrations of conduct that the Legislature deems to be inappropriate:

(a) Verbal conduct such as epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments;

(b) Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;

(c) Physical conduct such as unwanted touching, blocking normal movement or interfering with the work directed at a person because of his sex;

(d) Threats and demands to submit to sexual requests to keep a person’s job or avoid some other loss, and offers of employment benefits in return for sexual favors; and

(e) Retaliation for opposing, reporting or threatening to report sexual harassment, or for participating in an investigation, proceeding or hearing conducted by the Legislature or the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission,

↳when submission to such conduct is made either explicitly or implicitly a term or condition of a person’s employment or submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person or such conduct has the purpose or effect of

unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

4. A person may have a claim of sexual harassment even if he has not lost a job or some other economic benefit. Conduct that impairs a person's ability to work or his emotional well-being at work constitutes sexual harassment.

5. If a Legislator believes he is being sexually harassed on the job, he may file a written complaint with:

- (a) The Speaker of the Assembly;
- (b) The Majority Leader of the Senate; or
- (c) The Director of the Legislative Counsel Bureau, if the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate.

↪The complaint must include the details of the incident or incidents, the names of the persons involved and the names of any witnesses.

6. Except as otherwise provided in subsection 7, the Speaker of the Assembly or the Majority Leader of the Senate, as appropriate, shall refer a complaint received pursuant to subsection 5 to a committee consisting of Legislators of the same House. A complaint against a lobbyist may be referred to a committee in either House.

7. If the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate, the Director of the Legislative Counsel Bureau shall refer the complaint to the Committee on Elections, Procedures and Ethics of the Assembly or the Committee of the Whole of the Senate, as appropriate. If the Speaker of the Assembly or the Majority Leader of the Senate is a member of one of these committees, the Speaker or the Majority Leader, as the case may be, shall not participate in the investigation and resolution of the complaint.

8. The committee to which the complaint is referred shall immediately conduct a confidential and discreet investigation of the complaint. As a part of the investigation, the committee shall notify the accused of the allegations. The committee shall facilitate a meeting between the complainant and the accused to allow a discussion of the matter, if both agree. If the parties do not agree to such a meeting, the committee shall request statements regarding the complaint from each of the parties. Either party may request a hearing before the committee. The committee shall make its determination and inform the complainant and the accused of its determination as soon as practicable after it has completed its investigation.

9. If the investigation reveals that sexual harassment has occurred, the Legislature will take appropriate disciplinary or remedial action, or both. The committee shall inform the complainant of any action taken. The Legislature will also take any action necessary to deter any future harassment.

10. The Legislature will not retaliate against a person who files a complaint and will not knowingly permit any retaliation by the person's supervisors or coworkers.

11. The Legislature encourages a person to report any incident of sexual harassment immediately so that the complaint can be quickly and fairly resolved.

12. Action taken by a complainant pursuant to this rule does not prohibit the complainant from also filing a complaint of sexual harassment with the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission.

13. All Legislators and lobbyists are responsible for adhering to the provisions of this policy. The prohibitions against engaging in sexual harassment and the protections against becoming a victim of sexual harassment set forth in this policy apply to employees, Legislators, lobbyists, vendors, contractors, customers and visitors to the Legislature.

14. This policy does not create any enforceable legal rights in any person.

[Statutes of Nevada 2003, 20th Special Session, 314]

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20TH SPECIAL SESSION, 2003

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C E R T I F I C A T E

STATE OF NEVADA

ASSEMBLY CHAMBER

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SS.

This is to certify that the foregoing Journal of the Assembly, published in this volume, is a true, full, and correct copy of the original Journal of the Assembly of the Twentieth Special Session of the Legislature of the State of Nevada, held in 2003.



Speaker of the Assembly



Chief Clerk of the Assembly