

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

STATE OF NEVADA ex rel. NICOLE J. CANNIZZARO, in her official capacity as Senate Majority Leader of the Senate of the State of Nevada; CLAIRE J. CLIFT, in her official capacity as Secretary of the Senate of the State of Nevada; LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION, in its official capacity as the legal agency of the Legislative Department of the State of Nevada; BRENDA J. ERDOES, Esq., in her official capacity as Legislative Counsel and Chief of the Legislative Counsel Bureau, Legal Division, and in her professional capacity as an attorney and licensed member of the State Bar of Nevada; and KEVIN C. POWERS, Esq., in his official capacity as Chief Litigation Counsel of the Legislative Counsel Bureau, Legal Division, and in his professional capacity as an attorney and licensed member of the State Bar of Nevada,

Petitioners,

vs.

THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, in and for CARSON CITY; and THE HONORABLE JAMES TODD RUSSELL, District Judge,

Respondents, and

JAMES A. SETTELMAYER, JOSEPH P. HARDY, HEIDI SEEVERS GANSERT,

Electronically Filed  
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Elizabeth A. Brown  
Clerk of Supreme Court

**Case No.**

Original Action for Writ to  
First Judicial District Court,  
Carson City, Nevada,  
Case No. 19 OC 00127 1B

**PETITIONERS'  
APPENDIX  
VOLUME 1**

SCOTT T. HAMMOND, PETE  
GOICOECHEA, BEN KIECKHEFER,  
IRA D. HANSEN, and KEITH F.  
PICKARD, in their official capacities as  
members of the Senate of the State of  
Nevada and individually,

Real Parties in Interest.

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**PETITIONERS' APPENDIX  
VOLUME 1**

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[by Brenda J. Erdoes, Legislative Counsel and Chief of LCB Legal, on behalf of Defendant State of Nevada ex rel. Nicole Cannizzaro, in her official capacity as Senate Majority Leader]

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

REC'D & FILED

2019 JUL 19 PM 2:38

AUBREY ROWLATT  
CLERK

BY V. Alegria  
DEPUTY

Case No: 190C00187 IB  
Dept. No: II

COMPLAINT

(Arbitration Exemption: Declaratory and Injunctive Relief Sought)

Plaintiffs, by and through their attorneys, ALLISON MacKENZIE, LTD., allege and complain against the above-named Defendants as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiffs, Senators JAMES SETTELMAYER, JOE HARDY, HEIDI GANSERT, SCOTT HAMMOND, PETE GOICOECHEA, BEN KIECKHEFER, IRA HANSEN, and KEITH PICKARD are and were at all times relevant hereto duly elected members of the Senate of the 80<sup>th</sup> (2019) Session of the Nevada Legislature performing their duties in accordance with Article 4 of the Nevada Constitution, including Article 4, Section 1 and Article 4, Section 18(2) of the Nevada Constitution.

2. In the 80<sup>th</sup> (2019) Session of the Nevada Legislature, each of the Plaintiff Senators voted against Senate Bill 542 ("SB 542") and voted against Senate Bill 551 ("SB 551") and all amendments thereto.

3. Each of the Plaintiff Senators identified in Paragraph 1 above is a member of the NEVADA SENATE REPUBLICAN CAUCUS. Collectively, Plaintiff Senators constitute the entire membership of the NEVADA SENATE REPUBLICAN CAUCUS and at all times relevant hereto held enough votes to defeat SB 542 and SB 551 which required a two-thirds vote of the members elected to the Senate to pass pursuant to Article 4, Section 18(2) of the Nevada Constitution.

4. As a result of the actions alleged in this Complaint, Plaintiff Senators and each of them have been injured in fact because the Defendants (except Defendants, NEVADA DEPARTMENT OF TAXATION and NEVADA DEPARTMENT OF MOTOR VEHICLES) acted improperly to nullify Plaintiff Senators' votes against SB 542 and SB 551 and infringe upon and deprive Plaintiff Senators of their power to act. Plaintiff Senators' votes have been adversely affected by said Defendants' actions which directly and materially altered how the votes of individual Senators in the 80<sup>th</sup> Session of the Nevada Legislature effectively determined legislative action.

5. Plaintiff, GREAT BASIN ENGINEERING CONTRACTORS, LLC, is a Nevada limited liability company, duly formed under and qualified to do business pursuant to the laws of the

1 State of Nevada and does conduct its business within the State of Nevada such that it is subject to and  
2 does, in fact, pay the Modified Business Tax ("MBT" or "payroll tax"), which is imposed and collected  
3 by Defendant NEVADA DEPARTMENT OF TAXATION pursuant to NRS Chapter 363B. Plaintiff  
4 GREAT BASIN ENGINEERING CONTRACTORS, LLC is a construction contractor of primarily  
5 civil projects.

6 6. Plaintiff, GOODFELLOW CORPORATION, is a Utah corporation duly qualified and  
7 authorized to do business in the State of Nevada and does conduct its business within the State of  
8 Nevada such that it is subject to and does, in fact, pay the Modified Business Tax ("MBT" or "payroll  
9 tax"), which is imposed and collected by Defendant NEVADA DEPARTMENT OF TAXATION  
10 pursuant to NRS Chapter 363B. Plaintiff GOODFELLOW CORPORATION distributes and sells  
11 rock crushing, construction and mining machinery and related equipment throughout the world and  
12 provides all in-house industry services including custom work, fabrication, parts and electrical  
13 services.

14 7. Plaintiff, KIMMIE CANDY COMPANY, is a Nevada corporation, duly formed under  
15 and qualified to do business pursuant to the laws of the State of Nevada and does conduct its business  
16 within the State of Nevada such that it is subject to and does, in fact, pay the Modified Business Tax  
17 ("MBT" or "payroll tax"), which is imposed and collected by Defendant NEVADA DEPARTMENT  
18 OF TAXATION pursuant to NRS Chapter 363B. Plaintiff Kimmie Candy Company is a state of the  
19 art candy making manufacturer located in Reno, Nevada.

20 8. All individually named Plaintiffs are citizens, residents and taxpayers of the State of  
21 Nevada and are subject to and do pay the technology fee that is imposed and collected by Defendant  
22 NEVADA DEPARTMENT OF MOTOR VEHICLES pursuant to NRS 481.064.

23 9. Defendant, NICOLE CANNIZZARO, is named herein in her official capacity and is  
24 and was at all times relevant hereto a duly elected member of the Senate of the 80<sup>th</sup> (2019) Session of  
25 the Nevada Legislature and the Senate Majority Leader during the 80<sup>th</sup> Session of the Nevada  
26 Legislature, whose official duties include signing bills that have been passed by the Senate in  
27 conformity with the Nevada Constitution. Defendant, NICOLE CANNIZZARO, was the sponsor of  
28 SB 551, and allowed a vote of less than two-thirds of the Senate to approve both SB 542 and SB 551.

10. Defendant, KATE MARSHALL, is named in her official capacity and is and was at all time relevant hereto the duly elected Lieutenant Governor of the State of Nevada acting as President of the Senate during the 80<sup>th</sup> Session of the Nevada Legislature whose official duties include signing bills that have been passed by the Senate in conformity with the Nevada Constitution. Defendant, KATE MARSHALL, deemed SB 542 and SB 551 constitutionally passed with less than a vote of two-thirds of the Senate necessary to approve both SB 542 and SB 551 under the Nevada Constitution.

11. Defendant, CLAIRE J. CLIFT, is named in her official capacity and is and was at all times relevant hereto the Secretary of the Senate during the 80<sup>th</sup> Session of the Nevada Legislature whose official responsibilities include transmitting to the Legal Division for enrollment bills passed by the Senate in conformity with the Nevada Constitution. Defendant, CLAIRE J. CLIFT, deemed SB 542 and SB 551 constitutionally passed with less than a vote of two-thirds of the Senate necessary to approve both SB 542 and SB 551 under the Nevada Constitution.

12. Defendant, STEVE SISOLAK, is named in his official capacity and is and was at all times relevant hereto the duly elected Governor of the State of Nevada whose official responsibilities include approving and signing bills passed by the Legislature in conformity with the Nevada Constitution and to see that the laws of the State of Nevada are faithfully executed. Defendant, STEVE SISOLAK, approved and signed SB 542 and SB 551 with a vote of less than two-thirds of the Senate into law.

13. Defendant, NEVADA DEPARTMENT OF TAXATION, administers the duly enacted tax statutes of the State of Nevada and collects the payroll tax.

14. Defendant, NEVADA DEPARTMENT OF MOTOR VEHICLES, administers the duly enacted statutes involving the technology fee and collects the technology fee.

15. Defendants DOES I-X, inclusive, are not known at this time and are therefore identified by the fictitious designation of DOES I-X. Once the true identities and capacities, whether individual, corporate, associate or otherwise, of Defendants named herein as DOES I-X, inclusive, are known, Plaintiffs will seek leave of this Court to amend this Complaint to insert the true names and capacities of DOES I-X and join said Defendants in this action. Plaintiffs are informed and believe, and thereon

1 allege, that each of the Defendants designated herein as DOE is responsible in some manner for the  
2 events and happenings referred to herein.

3 16. This is an action to challenge the substantive constitutionality of SB 542 and SB 551  
4 as well as the constitutionality of the manner in which each such bill was deemed passed into law.

5 17. This action involves an issue of significant public and statewide importance as it seeks  
6 to uphold and protect the constitutional amendment proposed by citizen ballot initiative adopted and  
7 overwhelmingly approved by Nevada voters in 1994 and 1996. As provided in Article 1, Section 2 of  
8 the Nevada Constitution, political power is inherent in the people. Government only has power from  
9 the consent of the governed, and the residents and citizens of the State of Nevada twice voted strongly  
10 in favor of amending the Nevada Constitution to add the two-thirds requirement, and the two-thirds  
11 requirement has, at least prior to 2019, been applied consistently to legislative bills extending sunsets  
12 by the Nevada Legislature.

13 18. Each of the Plaintiff Senators are the appropriate parties to bring this action as there is  
14 no one else in a better position or who can bring an action to vindicate their votes individually and  
15 collectively against SB 542 and SB 551, which votes were sufficient in number to defeat said bills.  
16 The Plaintiff Senators are capable of fully advocating their position in Court.

17 19. The Plaintiff business taxpayers paying the payroll tax and the individual Plaintiff  
18 citizens, residents and taxpayers paying the technology fee are appropriate parties to litigate this action.  
19 Said Plaintiff businesses, citizens, residents, taxpayers and fee payers may have no other means of  
20 redress to raise the constitutional challenges to SB 542 and SB 551, said constitutional challenges may  
21 not be otherwise raised without their claims for relief set forth in this Complaint, the potential  
22 economic impact from SB 551 alone is approximately \$98.2 million over the biennium and the  
23 economic impact from SB 542 is approximately \$7 million per year, and said Plaintiffs can assist the  
24 Court in developing and reviewing all relevant legal and factual questions.

25 20. The Court has subject matter jurisdiction pursuant to Article 6 of the Nevada  
26 Constitution which vests the judicial power of the State in a court system including the district courts  
27 of the State of Nevada.  
28





- 1           32.     Less than two-thirds of the Senate voted to pass SB 542.
- 2           33.     SB 542 specifically extended the expiration, or sunset, of NRS 481.064 from June 30,
- 3     2020 to June 30, 2022.
- 4           34.     NRS 481.064 provides Defendant NEVADA DEPARTMENT OF MOTOR
- 5     VEHICLES "shall add a nonrefundable technology fee of \$1 to the existing fee for any transaction
- 6     performed by the Department for which a fee is charged."
- 7           35.     The effect of SB 542, therefore, is to create, generate, and increase public revenue from
- 8     July 1, 2020 through June 30, 2022.
- 9           36.     SB 551 is a bill to eliminate the procedure used by Defendant NEVADA
- 10    DEPARTMENT OF TAXATION to reduce the rate of payroll taxes and to extend indefinitely the
- 11    then current rates of said taxes.
- 12          37.     SB 551 was introduced in the Senate by Defendant, NICOLE CANNIZZARO, as an
- 13    Emergency Request on May 27, 2019.
- 14          38.     The Senate voted on SB 551 on June 3, 2019 and the vote was 13 in favor and 8
- 15    opposed. Sections 2, 3, 37 and 39 of SB 551 were effective immediately upon passage and approval.
- 16          39.     Less than two-thirds of the Senate voted to pass SB 551.
- 17          40.     SB 551 specifically impacted the provisions of NRS 363A.110, NRS 363B.130, and
- 18    NRS 360.203 in that it eliminated the computation bases for reducing the payroll tax rates set forth
- 19    therein and extended indefinitely the then current payroll tax rates.
- 20          41.     NRS 360.203, prior to passage and enrollment of SB 551, provided that Defendant
- 21    NEVADA DEPARTMENT OF TAXATION should, before September 30 of each even-numbered
- 22    year, perform a computation, the result of which would dictate whether the rates set forth in NRS
- 23    363A.110 and NRS 363B.130 should be reduced.
- 24          42.     Prior to September 30, 2018, Defendant NEVADA DEPARTMENT OF TAXATION
- 25    performed the computation required by NRS 360.203 and determined that the rates set forth in NRS
- 26    363A.110 and NRS 363B.130 would be reduced.
- 27
- 28

1           43.    On October 11, 2018, Defendant NEVADA DEPARTMENT OF TAXATION  
2 announced that rates under NRS 363A.110 and NRS 363B.130 would be reduced effective July 1,  
3 2019.

4           44.    SB 551 repealed NRS 360.203 and permanently fixed the rates set forth in NRS  
5 363A.110 and NRS 363B.130. SB 551 retroactively nullified the payroll tax rate reduction computed  
6 by Defendant NEVADA DEPARTMENT OF TAXATION required by NRS 360.203 for any fiscal  
7 year beginning on or after July 1, 2015.

8           45.    The effect of SB 551, therefore, is to create, generate, and increase public revenue as a  
9 result of the elimination of scheduled reductions in payroll tax rates and the elimination of the  
10 computation bases for future reductions thereof.

11           46.    Because of Defendant NEVADA DEPARTMENT OF TAXATION's determination  
12 and announcement that payroll tax rates would be reduced effective July 1, 2019, SB 551's permanent  
13 fixing of the rates at higher rates is a change in the computation base of the MBT.

14           47.    Where NRS 360.203, prior to enrollment of SB 551, allowed for reductions in the rate  
15 of payroll tax under the MBT, the repeal thereof constitutes a change in the computation base of said  
16 payroll tax.

17           48.    Notwithstanding an opinion from the Legislative Counsel Bureau ("LCB") on or about  
18 May 8, 2019, at various stages of the Senate's consideration of SB 551 and amendments thereto after  
19 May 8, 2019, LCB's bill documentation showed that two-thirds of the Senate, or 14 Senators, would  
20 have to vote to approve the bill, and at other stages of the Senate's consideration of SB 551, the two-  
21 thirds requirement was removed from LCB's bill documentation for SB 551.

22           49.    Defendant, NICOLE CANNIZZARO's actions on the Senate floor on June 3, 2019  
23 show that if SB 551 did not have support from two-thirds of the Senate, the majority party, of which  
24 she was leader, would pass the bill by simple majority.

25           50.    Neither House by majority referred the SB 542 or SB 551 measures to the people of  
26 the State at the next general election per Article 4, Section 18(3) of the Nevada Constitution.  
27  
28

52. At all times relevant hereto, the 80<sup>th</sup> (2019) Session of the Nevada Legislature had enough money to fund the State's budget without the public revenues created, generated or increased as a result of the changes to the payroll tax adopted by SB 551.

53. The payroll tax rate extended by SB 551 commenced to be imposed by the NEVADA DEPARTMENT OF TAXATION on Nevada taxpayer employers on July 1, 2019. Nevada taxpayer employers will start filing returns and paying the extended payroll tax rate on or before the last day of the month immediately following each calendar quarter. The first calendar quarter for which the payroll tax rate extended by SB 551 will be imposed ends on September 30, 2019 and Nevada taxpayer employers will commence to file returns and remit the payroll taxes due to the NEVADA DEPARTMENT OF TAXATION based on the extended payroll tax rate on or after October 1, 2019.

54. The technology fee extended by SB 542 will be unlawfully collected by the NEVADA DEPARTMENT OF MOTOR VEHICLES commencing July 1, 2020.

FIRST CLAIM FOR RELIEF

### FIRST CLAIM FOR RELIEF

55. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

56. Pursuant to Article 4, Section 18(2) of the Nevada Constitution, an affirmative vote of not fewer than two-thirds of the members elected to each House is necessary to pass every bill which creates, generates, or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or in changes in the computation bases for taxes, fees, assessments and rates.

57. The Defendants failed to require a two-thirds majority vote for passage of SB 542 and SB 551 as required by the Nevada Constitution. Such failure to require the passage of these bills without the required constitutional majority has resulted in the dilution of each of the Plaintiff Senator's votes and the nullification of each of their votes.

58. Plaintiff Senators have been denied their rights to cast an effective vote on SB 542 and SB 551.

60. Plaintiffs have been required to engage the services of counsel to pursue their rights and are entitled to reasonable attorneys' fees and costs of suit.

60. Plaintiffs have been required to engage the services of counsel to pursue their rights and are entitled to reasonable attorneys' fees and costs of suit.

## SECOND CLAIM FOR RELIEF

61. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

62. Plaintiff business taxpayers will not receive the reduction of payroll tax rates as was previously properly enacted by the constitutional two-thirds majority required by Article 4, Section 18(2) of the Nevada Constitution. Revenue of approximately \$98.2 million over the biennium in additional payroll taxes will be generated as a result of the extension of the payroll taxes and change in the computation bases enacted by SB 551 commencing July 1, 2019. The tax as it is imposed upon Plaintiff business taxpayers will deprive Plaintiff business taxpayers of their property without due process of law in violation of the Fourteenth Amendment of the United States Constitution and Article 1, Section 8(5) of the Nevada Constitution.

63. SB 542 eliminated the sunset provision in NRS 461.064 effective July 1, 2020 and individual Plaintiff taxpayers and fee payers will continue to be charged the technology fee unlawfully extended by SB 542 in violation of the two-thirds majority required by the Nevada Constitution. Revenue of approximately \$7 million per year will continue to be generated and collected by Defendant NEVADA DEPARTMENT OF MOTOR VEHICLES. The technology fee as will be imposed upon the individual Plaintiff citizens, residents and taxpayers will deprive said Plaintiffs of their property without due process of law in violation of the Fourteenth Amendment of the United States Constitution and Article 1, Section 8(5) of the Nevada Constitution.

64. Plaintiffs have been required to engage the services of counsel to pursue their rights and are entitled to reasonable attorneys' fees and costs of suit.

///

**THIRD CLAIM FOR RELIEF**

65. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

66. Plaintiffs' rights, status or other legal relations are affected by SB 542 and SB 551 and Plaintiffs seek a declaration of their rights, status or other relations. Declaratory relief pursuant to NRS Chapter 30 is appropriate because it will effectively adjudicate the rights, status or other legal relations of the parties.

67. There exists an actual justiciable controversy between Plaintiffs and Defendants concerning the applicability of Article 4, Section 18(2) of the Nevada Constitution to the voting on and passage of SB 542 and SB 551.

68. Plaintiffs and Defendants have adverse interests, and an actual justiciable controversy exists between them within the jurisdiction of this Court.

69. Plaintiffs have a legally protectable interest in this controversy by virtue of their votes against SB 542 and SB 551 and/or their payment of the extended payroll tax and technology fee deemed enacted without the required two-thirds vote of the Nevada Senate required by the Nevada Constitution.

70. The controversy before this Court is ripe for judicial determination because relevant portions of SB 551 were effective upon passage and approval and imposition of the extended payroll tax rate went into effect on July 1, 2019. Taxpayer employers will be required to report and remit the extended payroll tax to the NEVADA DEPARTMENT OF TAXATION that went into effect July 1, 2019 commencing on October 1, 2019. SB 542 was effective upon passage and approval and the technology fee was extended from July 1, 2020, which occurs before the next legislative session, to June 30, 2022. Plaintiffs seek a declaration from this Court prior to the State of Nevada's collection of the payroll tax and technology fee from taxpayers and fee payers to avoid such taxpayers and fee payers having to seek refunds from the State of Nevada and the State of Nevada having to issue refunds of payroll taxes and technology fees unlawfully collected.

71. Plaintiffs request declarations that (a) SB 542 and SB 551 are bills which create, generate, and/or increase public revenues or changes in the computation bases for taxes, fees,

1 assessments or rates; (b) Article 4, Section 18(2) of the Nevada Constitution required that two-thirds  
2 of the Senate vote to pass both SB 542 and SB 551; (c) the votes of the eight Plaintiff Senators should  
3 be given effect; and (d) the passage, signing, and enrollment of SB 542 and SB 551 must be invalidated  
4 for lack of supporting votes of two-thirds of the Senate as required by Article 4, Section 18(2) of the  
5 Nevada Constitution.

6 72. Plaintiffs have been required to engage the services of counsel to pursue their rights  
7 and are entitled to reasonable attorneys' fees and costs of suit.

8 **FOURTH CLAIM FOR RELIEF**

9 73. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set  
10 forth herein.

11 74. On or after September 30, 2019, the Court must enjoin the enforcement of SB 551 and  
12 prior to July 1, 2020, the Court must enjoin the enforcement of SB 542, and the Court must also enjoin  
13 the NEVADA DEPARTMENT OF TAXATION and NEVADA DEPARTMENT OF MOTOR  
14 VEHICLES, respectively, from collecting any revenues pursuant to the subject revenue provisions of  
15 SB 551 and SB 542 complained of herein.

16 75. If such injunctions are not entered, the Plaintiff Senators will suffer immediate,  
17 irreparable harm in that the votes of said Senators will not be given effect as intended and as required  
18 by Article 4, Section 18(2) of the Nevada Constitution.

19 76. If such injunctions are not entered, Plaintiff taxpayers and fee payers, and all similarly  
20 situated taxpayers and fee payers throughout the State of Nevada, will suffer immediate, irreparable  
21 harm in that (a) they will be deprived of funds through the payment of unlawfully enacted revenue-  
22 raising measures and (b) the Constitutional protections against tax or fee public revenue measures  
23 without the support of two-thirds of both legislative houses will effectively be eliminated.

24 77. Plaintiffs are likely to succeed on the merits of their claims made herein because both  
25 SB 542 and SB 551 are revenue-generating bills and, therefore, clearly require at least the votes of  
26 two-thirds of the Senate for passage.

1 78. Public interest weighs in favor of strict application of the Constitutional two-thirds  
2 requirement for enacting revenue-raising measures, which was added to the Nevada Constitution by  
3 the affirmative vote of the Nevada public in 1994 and 1996.

4 79. Defendants cannot be said to suffer any harm through strict adherence to the Nevada  
5 Constitution while Plaintiffs and the constituents they represent will suffer severe and irreparable harm  
6 if they are deprived of their rights under Article 4, Section 18(2) of the Nevada Constitution.

7 80. Plaintiffs have been required to engage the services of counsel to pursue their rights  
8 under the Nevada Constitution and are entitled to recovery of reasonable attorneys' fees and costs of  
9 suit.

10 **AFFIRMATION**

11 The undersigned hereby affirm that the foregoing document submitted for filing **DOES NOT**  
12 contain the social security number of any person.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs pray for relief as follows:

15 1. For declarations that:

16 a. SB 542 and SB 551 are bills that create, generate, and/or increase public  
17 revenue or changes in the computation bases for taxes, fees, assessments or rates;

18 b. Article 4, Section 18(2) of the Nevada Constitution required that two-  
19 thirds of the Senate vote to pass both SB 542 and SB 551;

20 c. The votes of the eight Plaintiff Senators should be given effect; and

21 d. The passage, signing, and enrollment of SB 542 and SB 551 must be  
22 invalidated for lack of supporting votes of two-thirds of the Senate.

23 2. For a temporary restraining order or a preliminary injunction if necessary effective on  
24 or about September 30, 2019 for SB 551 and effective on or about July 1, 2020 for SB 542 and a  
25 permanent injunction against the enforcement of SB 542 and SB 551.

26 3. For an award of attorneys' fees and costs of suit.

27 4. For such other and further relief as this Court may deem just and proper.

28 ///

ALLISON MacKENZIE, LTD.  
402 North Division Street, P.O. Box 646, Carson City, NV 89702  
Telephone: (775) 687-0202 Fax: (775) 882-7918  
E-Mail Address: law@allisonmackenzie.com

DATED this 19<sup>th</sup> day of July, 2019.

ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
Telephone: (775) 687-0202

By: 

KAREN A. PETERSON, ESQ.  
Nevada State Bar No. 366  
JUSTIN M. TOWNSEND, ESQ.  
Nevada State Bar No. 12293  
Email: [kpeterson@allisonmackenzie.com](mailto:kpeterson@allisonmackenzie.com)  
Email: [jtownsend@allisonmackenzie.com](mailto:jtownsend@allisonmackenzie.com)


Attorneys for Plaintiffs



REC'D & FILED

2019 JUL 22 PM 2:19

AUBREY ROWLATT  
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

THE HONORABLE JAMES  
SETTELMAYER, THE HONORABLE  
JOE HARDY, THE HONORABLE HEIDI  
GANSERT, THE HONORABLE SCOTT  
HAMMOND, THE HONORABLE PETE  
GOICOECHEA, THE HONORABLE BEN  
KIECKHEFER, THE HONORABLE IRA  
HANSEN, AND THE HONORABLE  
KEITH PICKARD, in their official  
capacities as members of the Senate  
of the State of Nevada and  
individually; GREAT BASIN  
ENGINEERING CONTRACTORS, LLC,  
a Nevada limited liability company;  
GOODFELLOW CORPORATION, a  
Utah corporation qualified to do  
business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA, *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO in  
her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
Secretary of the Senate; THE  
HONORABLE STEVE SISOLAK, in his  
official capacity as Governor of the  
State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

CASE NO. 19 OC 00127 1B

Dept. No. 2

ORDER DENYING TEMPORARY  
RESTRAINING ORDER  
WITHOUT PREJUDICE

1 Plaintiffs filed a complaint in which they requested a temporary restraining order  
2 which restrains the enforcement of SB 551. Complaints and motions for temporary  
3 restraining orders are automatically submitted to the Court for decision at the time the  
4 complaint or motion is filed.

5 NRCP 65(b)(1) allows a court to issue a temporary restraining order without  
6 notice only if:

7 A) specific facts in an affidavit or a verified complaint clearly show  
8 that immediate and irreparable injury, loss, or damage will result to the  
9 movant before the adverse party can be heard in opposition; and

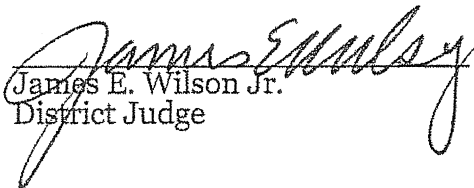
10 (B) the movant's attorney certifies in writing any efforts made to  
11 give notice and the reasons why it should not be required.

12 Plaintiffs' complaint is not verified and did not include an affidavit; the complaint  
13 does not clearly show immediate and irreparable injury, loss, or damage will result to  
14 Plaintiffs before the defendants can be heard in opposition; and Plaintiffs' attorney did  
15 not certify in writing any efforts made to give notice and the reasons why it should not  
16 be required. Therefore the request for a temporary restraining order, based upon the  
17 complaint only, will be denied without prejudice.

18 THE COURT ORDERS:

19 The request for a temporary restraining order, based upon the complaint only, is  
20 denied without prejudice.

21 July 22, 2019.


22   
James E. Wilson Jr.  
District Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the First Judicial District Court of Nevada; that on July 22 2019, I served a copy of this document by placing a true copy in an envelope addressed to

Karen A. Peterson, Esq.  
402 North Division Street  
Carson City, NV 89703

the envelope sealed and then deposited in the Court's central mailing basket in the Court Clerk's Office for delivery to the United States Post Office at 1111 South Roop Street, Carson City, Nevada for mailing.

  
\_\_\_\_\_  
Susan Greenburg  
Judicial Employee

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Attorneys for Plaintiffs

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

REC'D & FILED  
2019 JUL 22 PM 4: 57  
C. COOPER  
AUDREY ROWLATT  
CLERK  
BY \_\_\_\_\_ DEPUTY

Case No: 19 OC 00127-1B

Dept. No: II

PEREMPTORY CHALLENGE  
OF JUDGE

1 PEREMPTORY CHALLENGE OF JUDGE

2 Plaintiffs, THE HONORABLE JAMES SETTELMAYER, THE HONORABLE JOE  
3 HARDY, THE HONORABLE HEIDI GANSERT, THE HONORABLE SCOTT HAMMOND, THE  
4 HONORABLE PETE GOICOECHEA, THE HONORABLE BEN KIECKHEFER, THE  
5 HONORABLE IRA HANSEN, and THE HONORABLE KEITH PICKARD, in their official  
6 capacities as members of the Senate of the State of Nevada and individually; GREAT BASIN  
7 ENGINEERING CONTRACTORS, LLC, a Nevada limited liability company; GOODFELLOW  
8 CORPORATION, a Utah corporation qualified to do business in the State of Nevada; and KIMMIE  
9 CANDY COMPANY, a Nevada corporation, by and through their counsel, ALLISON MacKENZIE,  
10 LTD., and pursuant to Rule 48.1 of the Nevada Supreme Court Rules, does hereby give notice of their  
11 peremptory challenge of the Honorable James E. Wilson, Jr. and request that this matter be assigned  
12 to a remaining judge. The undersigned certifies that no ruling on a contested matter and that no hearing  
13 or trial date is currently pending.

14 AFFIRMATION

15 The undersigned does hereby affirm that the preceding document **DOES NOT** contain the  
16 social security number of any person.

17 DATED this 22<sup>nd</sup> day of July, 2019.

18 ALLISON MacKENZIE, LTD.  
19 402 North Division Street  
20 Carson City, Nevada 89703

21 By: 

22 KAREN A. PETERSON, ESQ.  
23 Nevada State Bar No. 366  
24 JUSTIN M. TOWNSEND, ESQ.  
25 Nevada State Bar No. 12293

26 Attorneys for Plaintiffs

REC'D & FILED

2019 JUL 24 AM 9:19

AUBREY RORLATT  
CLERK

*Aubrey Rorlatt*  
DEPUTY

**In The First Judicial District Court of the State of Nevada  
In and for Carson City**

THE HONORABLE JAMES  
SETTELMAYER, THE HONORABLE JOE  
HARDY, THE HONORABLE HEIDI  
GANSERT, THE HONORABLE SCOTT  
HAMMOND, THE HONORABLE PETE  
GOICOECHEA, THE HONORABLE BEN  
KIECKHEFER, THE HONORABLE IRA  
HANSEN, and THE HONORABLE KEITH  
PICKARD, in their official capacities as  
members of the Senate of the State of Nevada  
and individually; GREAT BASIN  
ENGINEERING CONTRACTORS, LLC, a  
Nevada limited liability company;  
GOODFELLOW CORPORATION, a Utah  
corporation qualified to do business in the  
State of Nevada; and KIMMIE CANDY  
COMPANY, a Nevada corporation,  
Plaintiff,

vs.

STATE OF NEVADA ex rel. THE  
HONORABLE NICOLE CANNIZZARO, in  
her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in the official capacity as  
President of the Senate; CLAIRE J. CLIFT, in  
her official capacity as Secretary of the  
Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION; NEVADA

Case No.: 19 OC 00127 1B

Dept. No. II

**NOTICE OF ASSIGNMENT BY CLERK**

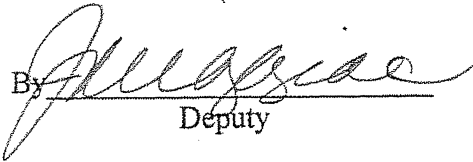
1 DEPARTMENT OF MOTOR VEHICLES;  
2 and DOES I-X, inclusive,  
3 Defendant.

4  
5 A Peremptory Challenge having been filed in the above-entitled action on the  
6 22nd day of July, 2019;

7 NOTICE IS HEREBY GIVEN that said matter is assigned to the HONORABLE  
8 JAMES T. RUSSELL, District Judge.

9 DATED this 24th day of July, 2019.

10 AUBREY ROWLATT, Clerk

11 By   
12 Deputy

13 cc: Karen Peterson ✓  
14 James T. Russell, District Judge  
15 James E. Wilson, Jr., District Judge

16  
17  
18  
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20  
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22  
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25  
H:\ClerkDept\OFFICE FORMS\Notice of Assignment.doc

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5 Email: kpeterson@allisonmackenzie.com  
Email: jtownsend@allisonmackenzie.com

6 Attorneys for Plaintiffs

7  
8  
9 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
10 IN AND FOR CARSON CITY

11 THE HONORABLE JAMES SETTELMEYER,  
12 THE HONORABLE JOE HARDY,  
13 THE HONORABLE HEIDI GANSERT,  
14 THE HONORABLE SCOTT HAMMOND,  
15 THE HONORABLE PETE GOICOECHEA,  
16 THE HONORABLE BEN KIECKHEFER,  
17 THE HONORABLE IRA HANSEN, and  
18 THE HONORABLE KEITH PICKARD,  
19 in their official capacities as members of the  
20 Senate of the State of Nevada and individually;  
21 GREAT BASIN ENGINEERING  
22 CONTRACTORS, LLC, a Nevada limited  
23 liability company; GOODFELLOW  
24 CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

25 Plaintiffs,

26 vs.

27 ///

28 ///

REC'D & FILED

2019 JUL 30 PM 1:59

AUSREY ROWLATT  
CLERK

BY V. Alegria DEPUTY

Case No: 19 OC 00127 1B

Dept. No: I



1 STATE OF NEVADA *ex rel.* THE  
2 HONORABLE NICOLE CANNIZZARO,  
3 in her official capacity as Senate Majority  
4 Leader; THE HONORABLE KATE  
5 MARSHALL, in her official capacity as  
6 President of the Senate; CLAIRE J. CLIFT,  
7 in her official capacity as Secretary of  
8 the Senate; THE HONORABLE STEVE  
9 SISOLAK, in his official capacity as  
10 Governor of the State of Nevada; NEVADA  
11 DEPARTMENT OF TAXATION;  
12 NEVADA DEPARTMENT OF MOTOR  
13 VEHICLES; and DOES I-X, inclusive,

14 Defendants.

15 FIRST AMENDED COMPLAINT

16 (Arbitration Exemption: Declaratory and Injunctive Relief Sought)

17 Plaintiffs, by and through their attorneys, ALLISON MacKENZIE, LTD., allege and complain  
18 against the above-named Defendants as follows:

19 PARTIES, JURISDICTION AND VENUE

20 1. Plaintiffs, Senators JAMES SETTELMAYER, JOE HARDY, HEIDI GANSERT,  
21 SCOTT HAMMOND, PETE GOICOECHEA, BEN KIECKHEFER, IRA HANSEN, and KEITH  
22 PICKARD are and were at all times relevant hereto duly elected members of the Senate of the 80<sup>th</sup>  
23 (2019) Session of the Nevada Legislature performing their duties in accordance with Article 4 of the  
24 Nevada Constitution, including Article 4, Section 1 and Article 4, Section 18(2) of the Nevada  
25 Constitution.

26 2. In the 80<sup>th</sup> (2019) Session of the Nevada Legislature, each of the Plaintiff Senators  
27 voted against Senate Bill 542 ("SB 542") and voted against Senate Bill 551 ("SB 551") and all  
28 amendments thereto.

Each of the Plaintiff Senators identified in Paragraph 1 above is a member of the  
NEVADA SENATE REPUBLICAN CAUCUS. Collectively, Plaintiff Senators constitute the entire  
membership of the NEVADA SENATE REPUBLICAN CAUCUS and at all times relevant hereto  
held enough votes to defeat SB 542 and SB 551 which required a two-thirds vote of the members  
elected to the Senate to pass pursuant to Article 4, Section 18(2) of the Nevada Constitution.

1           4. As a result of the actions alleged in this First Amended Complaint, Plaintiff Senators  
2 and each of them have been injured in fact because the Defendants (except Defendants, NEVADA  
3 DEPARTMENT OF TAXATION and NEVADA DEPARTMENT OF MOTOR VEHICLES) acted  
4 improperly to nullify Plaintiff Senators' votes against SB 542 and SB 551 and infringe upon and  
5 deprive Plaintiff Senators of their power to act. Plaintiff Senators' votes have been adversely affected  
6 by said Defendants' actions which directly and materially altered how the votes of individual Senators  
7 in the 80<sup>th</sup> Session of the Nevada Legislature effectively determined legislative action.

8           5. Plaintiff, GREAT BASIN ENGINEERING CONTRACTORS, LLC, is a Nevada  
9 limited liability company, duly formed under and qualified to do business pursuant to the laws of the  
10 State of Nevada and does conduct its business within the State of Nevada such that it is subject to and  
11 does, in fact, pay the Modified Business Tax ("MBT" or "payroll tax"), which is imposed and collected  
12 by Defendant NEVADA DEPARTMENT OF TAXATION pursuant to NRS Chapter 363B. Plaintiff  
13 GREAT BASIN ENGINEERING CONTRACTORS, LLC is a construction contractor of primarily  
14 civil projects.

15           6. Plaintiff, GOODFELLOW CORPORATION, is a Utah corporation duly qualified and  
16 authorized to do business in the State of Nevada and does conduct its business within the State of  
17 Nevada such that it is subject to and does, in fact, pay the Modified Business Tax ("MBT" or "payroll  
18 tax"), which is imposed and collected by Defendant NEVADA DEPARTMENT OF TAXATION  
19 pursuant to NRS Chapter 363B. Plaintiff GOODFELLOW CORPORATION distributes and sells  
20 rock crushing, construction and mining machinery and related equipment throughout the world and  
21 provides all in-house industry services including custom work, fabrication, parts and electrical  
22 services.

23           7. Plaintiff, KIMMIE CANDY COMPANY, is a Nevada corporation, duly formed under  
24 and qualified to do business pursuant to the laws of the State of Nevada and does conduct its business  
25 within the State of Nevada such that it is subject to and does, in fact, pay the Modified Business Tax  
26 ("MBT" or "payroll tax"), which is imposed and collected by Defendant NEVADA DEPARTMENT  
27 OF TAXATION pursuant to NRS Chapter 363B. Plaintiff KIMMIE CANDY COMPANY is a state-  
28 of-the-art candy making manufacturer located in Reno, Nevada.

1           8. All individually named Plaintiffs are citizens, residents and taxpayers of the State of  
2 Nevada and are subject to and do pay the technology fee that is imposed and collected by Defendant  
3 NEVADA DEPARTMENT OF MOTOR VEHICLES pursuant to NRS 481.064.

4           9. Plaintiff, KEYSTONE CORP., is a Nevada nonprofit corporation, duly formed under  
5 and qualified to do business pursuant to the laws of the State of Nevada. Plaintiff KEYSTONE CORP.  
6 is a political advocacy group whose members conduct business in the State of Nevada and many of its  
7 members are subject to and do, in fact, pay the Modified Business Tax ("MBT" or "payroll tax"),  
8 which is imposed and collected by the Defendant NEVADA DEPARTMENT OF TAXATION  
9 pursuant to NRS Chapter 363B. Plaintiff KEYSTONE CORP., on behalf of its members, seeks to  
10 minimize taxation and regulation of business in the State of Nevada and opposes any form of business  
11 taxes that discourage capital investment and job creation in Nevada.

12           10. Plaintiff, NATIONAL FEDERATION OF INDEPENDENT BUSINESS ("NFIB"), is  
13 a California nonprofit mutual benefit corporation, duly qualified and authorized to do business in the  
14 State of Nevada. NFIB is the nation's leading small business advocacy association, representing  
15 members in Washington, D.C., and all 50 States (including approximately 1,800 in Nevada). Founded  
16 in 1943 as a nonprofit, nonpartisan organization, NFIB's mission is to promote and protect the rights  
17 of its members to own, operate and grow their businesses. The majority of the approximately 1,800  
18 NFIB members in Nevada conduct business within the State of Nevada such that they are subject to  
19 and do, in fact, pay the Modified Business Tax ("MBT" or "payroll tax"), which is imposed and  
20 collected by Defendant NEVADA DEPARTMENT OF TAXATION pursuant to NRS Chapter 363B.  
21 Moreover, NFIB's members in Nevada employ thousands of employees in the state and enter into  
22 thousands of transactions performed by the Defendant NEVADA DEPARTMENT OF MOTOR  
23 VEHICLES for which the technology fee is charged.

24           11. Plaintiff, NEVADA FRANCHISED AUTO DEALERS ASSOCIATION, is a Nevada  
25 nonprofit corporation, duly formed under and qualified to do business pursuant to the laws of the State  
26 of Nevada. Its members conduct business in the State of Nevada and are subject to and do, in fact,  
27 pay the Modified Business Tax ("MBT" or "payroll tax"), which is imposed and collected by the  
28 Defendant NEVADA DEPARTMENT OF TAXATION pursuant to NRS Chapter 363B and its

1 members pay the technology fee imposed and collected by Defendant NEVADA DEPARTMENT OF  
2 MOTOR VEHICLES. Plaintiff NEVADA FRANCHISED AUTO DEALERS ASSOCIATION is a  
3 membership endorsed trade association promoting legislation beneficial to the motor vehicle industry  
4 and opposing discriminating legislation relating to the industry. Plaintiff NEVADA FRANCHISED  
5 AUTO DEALERS ASSOCIATION has over 110 new franchised automobile and truck dealer  
6 members, who employ thousands of employees in Nevada and enter into thousands of transactions  
7 performed by Defendant NEVADA DEPARTMENT OF MOTOR VEHICLES for which the  
8 technology fee is charged. Plaintiff NEVADA FRANCHISED AUTO DEALERS ASSOCIATION  
9 is supportive of the efforts of Defendant NEVADA DEPARTMENT OF MOTOR VEHICLES to  
10 improve and modernize its systems which are used daily by members of NEVADA FRANCHISED  
11 AUTO DEALERS ASSOCIATION and the citizens of Nevada; its opposition to the technology fee  
12 is based on the lack of a two-thirds majority vote required by the Nevada Constitution.

13 12. Plaintiff, NEVADA TRUCKING ASSOCIATION, INC., is a Nevada nonprofit  
14 corporation, duly formed under and qualified to do business pursuant to the laws of the State of  
15 Nevada. Established in 1932, Plaintiff NEVADA TRUCKING ASSOCIATION, INC. is a member  
16 driven organization dedicated to representing the trucking industry, advocating for laws and  
17 regulations that enhance the safety and profitability of the trucking industry in Nevada. Plaintiff,  
18 NEVADA TRUCKING ASSOCIATION, INC. represents over 500 member companies, operating in  
19 both intrastate and interstate commerce, employing thousands of Nevadans. Its members conduct  
20 business in the State of Nevada and are subject to and do, in fact, pay the Modified Business Tax  
21 ("MBT" or "payroll tax"), which is imposed and collected by Defendant NEVADA DEPARTMENT  
22 OF TAXATION pursuant to NRS Chapter 363B and its members pay the technology fee imposed and  
23 collected by Defendant NEVADA DEPARTMENT OF MOTOR VEHICLES. Plaintiff NEVADA  
24 TRUCKING ASSOCIATION, INC.'s members enter into thousands of transactions performed by  
25 Defendant NEVADA DEPARTMENT OF MOTOR VEHICLES for which the technology fee is  
26 charged. Plaintiff NEVADA TRUCKING ASSOCIATION, INC. supports the DMV's modernization  
27 efforts and the application of the technology fee to improve services to its member companies; its  
28

1 opposition to the technology fee is solely based on the lack of a two-thirds majority vote required by  
2 the Nevada Constitution.

3 13. Plaintiff, RETAIL ASSOCIATION OF NEVADA, is a Nevada nonprofit corporation,  
4 duly formed under and qualified to do business pursuant to the laws of the State of Nevada.  
5 Established in 1969, the RETAIL ASSOCIATION OF NEVADA is a trade association that represents  
6 over 2500 members in the retail industry in Nevada, an industry that contributes more than 1 billion  
7 dollars in annual tax revenue and accounts for more than 400,000 jobs in Nevada. The RETAIL  
8 ASSOCIATION OF NEVADA advocates for a strong business environment for Nevada retailers  
9 before the legislative, executive and judicial branches of state and local government throughout  
10 Nevada. Its members conduct business in the State of Nevada and are subject to and do in fact, pay  
11 the MBT which is imposed and collected by Defendant NEVADA DEPARTMENT OF TAXATION  
12 pursuant to NRS Chapter 363B. Moreover, many of its members are subject to and do in fact, pay the  
13 technology fee imposed and collected by Defendant NEVADA DEPARTMENT OF MOTOR  
14 VEHICLES.

15 14. The interests each Plaintiff organization seeks to protect are germane to each  
16 organization's purpose and the claims asserted and the relief requested in this First Amended  
17 Complaint do not require the participation of individual members of said Plaintiff organizations.

18 15. Each Plaintiff organization is authorized to sue pursuant to the laws of the State of  
19 Nevada.

20 16. Defendant, NICOLE CANNIZZARO, is named herein in her official capacity and is  
21 and was at all times relevant hereto a duly elected member of the Senate of the 80<sup>th</sup> (2019) Session of  
22 the Nevada Legislature and the Senate Majority Leader during the 80<sup>th</sup> Session of the Nevada  
23 Legislature. Defendant, NICOLE CANNIZZARO, was the sponsor of SB 551, and allowed a vote of  
24 less than two-thirds of the Senate to approve both SB 542 and SB 551 in violation of the Nevada  
25 Constitution.

26 17. Defendant, KATE MARSHALL, is named in her official capacity and is and was at all  
27 time relevant hereto the duly elected Lieutenant Governor of the State of Nevada acting as President  
28 of the Senate during the 80<sup>th</sup> Session of the Nevada Legislature whose official duties include signing

1 bills that have been passed by the Senate in conformity with the Nevada Constitution. Defendant,  
2 KATE MARSHALL, deemed SB 542 and SB 551 constitutionally passed with less than a vote of two-  
3 thirds of the Senate necessary to approve both SB 542 and SB 551 under the Nevada Constitution.

4 18. Defendant, CLAIRE J. CLIFT, is named in her official capacity and is and was at all  
5 times relevant hereto the Secretary of the Senate during the 80<sup>th</sup> Session of the Nevada Legislature  
6 whose official responsibilities include transmitting to the Legal Division for enrollment bills passed  
7 by the Senate in conformity with the Nevada Constitution. Defendant, CLAIRE J. CLIFT, deemed  
8 SB 542 and SB 551 constitutionally passed with less than a vote of two-thirds of the Senate necessary  
9 to approve both SB 542 and SB 551 under the Nevada Constitution.

10 19. Defendant, STEVE SISOLAK, is named in his official capacity and is and was at all  
11 times relevant hereto the duly elected Governor of the State of Nevada whose official responsibilities  
12 include approving and signing bills passed by the Legislature in conformity with the Nevada  
13 Constitution and to see that the laws of the State of Nevada are faithfully executed. Defendant, STEVE  
14 SISOLAK, approved and signed SB 542 and SB 551 into law with a vote of less than two-thirds of  
15 the Senate in violation of the Nevada Constitution.

16 20. Defendant, NEVADA DEPARTMENT OF TAXATION, administers the duly enacted  
17 tax statutes of the State of Nevada and collects the payroll tax.

18 21. Defendant, NEVADA DEPARTMENT OF MOTOR VEHICLES, administers the duly  
19 enacted statutes involving the technology fee and collects the technology fee.

20 22. Defendants DOES I-X, inclusive, are not known at this time and are therefore identified  
21 by the fictitious designation of DOES I-X. Once the true identities and capacities, whether individual,  
22 corporate, associate or otherwise, of Defendants named herein as DOES I-X, inclusive, are known,  
23 Plaintiffs will seek leave of this Court to amend this First Amended Complaint to insert the true names  
24 and capacities of DOES I-X and join said Defendants in this action. Plaintiffs are informed and  
25 believe, and thereon allege, that each of the Defendants designated herein as DOE is responsible in  
26 some manner for the events and happenings referred to herein.

27 23. This is an action to challenge the constitutionality of SB 542 and SB 551 as well as the  
28 constitutionality of the manner in which each such bill was passed into law.

1           24.     This action involves an issue of significant public and statewide importance as it seeks  
2 to uphold and protect the constitutional amendment proposed by citizen ballot initiative adopted and  
3 overwhelmingly approved by Nevada voters in 1994 and 1996. As provided in Article 1, Section 2 of  
4 the Nevada Constitution, political power is inherent in the people. Government only has power from  
5 the consent of the governed, and the residents and citizens of the State of Nevada twice voted strongly  
6 in favor of amending the Nevada Constitution to add the two-thirds requirement, and the two-thirds  
7 requirement has, at least prior to 2019, been applied consistently to legislative bills extending sunsets  
8 by the Nevada Legislature.

9           25.     Each of the Plaintiff Senators are the appropriate parties to bring this action as there is  
10 no one else in a better position or who can bring an action to vindicate their votes individually and  
11 collectively against SB 542 and SB 551, which votes were sufficient in number to defeat said bills.  
12 The Plaintiff Senators are capable of fully advocating their position in Court.

13           26.     The Plaintiff business taxpayers paying the payroll tax, the individual Plaintiff citizens,  
14 residents and taxpayers paying the technology fee and the Plaintiff organizations are appropriate  
15 parties to litigate this action. Said Plaintiff businesses, citizens, residents, taxpayers, fee payers and  
16 organizations may have no other means of redress to raise the constitutional challenges to SB 542 and  
17 SB 551, said constitutional challenges may not be otherwise raised without their claims for relief set  
18 forth in this First Amended Complaint, the potential economic impact from SB 551 alone is  
19 approximately \$98.2 million over the biennium and the economic impact from SB 542 is  
20 approximately \$7 million per year, and said Plaintiffs can assist the Court in developing and reviewing  
21 all relevant legal and factual questions.

22           27.     The Court has subject matter jurisdiction pursuant to Article 6 of the Nevada  
23 Constitution which vests the judicial power of the State in a court system including the district courts  
24 of the State of Nevada.

25           28.     The Court has personal jurisdiction over Defendants pursuant to Nev. Rev. Stat.  
26 ("NRS") 14.065 because Defendants are residents of the State of Nevada.  
27  
28

1 29. SB 542 and SB 551 were presented, debated, voted on, signed, and enrolled in Carson  
2 City, Nevada. The payroll taxes enacted by SB 551 are collected and remitted to Carson City, Nevada  
3 and the technology fees enacted by SB 542 are collected and remitted to Carson City, Nevada.

4 30. The Governor, Lieutenant Governor, members of the Nevada Senate, Secretary of the  
5 Senate, Nevada Department of Taxation and Nevada Department of Motor Vehicles have offices in  
6 Carson City, Nevada.

7 31. Venue for this action is proper in the First Judicial District Court of the State of Nevada  
8 in and for Carson City, Nevada pursuant to NRS 13.020. The present cause of action arises in Carson  
9 City and Defendants are public officers or departments whose respective offices are required to be  
10 kept in Carson City, Nevada.

#### 11 GENERAL ALLEGATIONS

12 32. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set  
13 forth herein.

14 33. The Nevada Constitution, at Article 4, Section 18(2) provides, in pertinent part:

15 [A]n affirmative vote of not fewer than two-thirds of the members elected  
16 to each House is necessary to pass a bill or joint resolution which creates,  
17 generates, or increases any public revenue in any form, including but not  
limited to taxes, fees, assessments and rates, or changes in the computation  
bases for taxes, fees, assessments and rates.

18 34. During the 80<sup>th</sup> Session of the Nevada Legislature there were seated 21 Senators.

19 35. In order to pass during the 80<sup>th</sup> Session of the Nevada Legislature, any bill that creates,  
20 generates, or increases any public revenue in any form, or changes in the computation bases for taxes,  
21 fees, assessments and rates, the vote of at least fourteen Senators was required.

22 36. SB 542 is a bill to extend the imposition of a technology fee on certain transactions by  
23 the NEVADA DEPARTMENT OF MOTOR VEHICLES set to expire on June 30, 2020.

24 37. SB 542 was introduced in the Senate on May 10, 2019.

25 38. The Senate voted on SB 542 on May 27, 2019 and the vote was 13 in favor and 8  
26 opposed. SB 542 became effective upon passage and approval.

27 39. Less than two-thirds of the Senate voted to pass SB 542.  
28



1 40. SB 542 specifically extended the expiration, or sunset, of NRS 481.064 from June 30,  
2 2020 to June 30, 2022.

3 41. NRS 481.064 provides Defendant NEVADA DEPARTMENT OF MOTOR  
4 VEHICLES "shall add a nonrefundable technology fee of \$1 to the existing fee for any transaction  
5 performed by the Department for which a fee is charged."

6 42. The effect of SB 542, therefore, is to create, generate, and increase public revenue from  
7 July 1, 2020 through June 30, 2022.

8 43. SB 551 is a bill to eliminate the procedure used by Defendant NEVADA  
9 DEPARTMENT OF TAXATION to reduce the rate of payroll taxes and to extend indefinitely the  
10 then current rates of said taxes.

11 44. SB 551 was introduced in the Senate by Defendant, NICOLE CANNIZZARO, as an  
12 Emergency Request on May 27, 2019.

13 45. The Senate voted on SB 551 on June 3, 2019 and the vote was 13 in favor and 8  
14 opposed. Sections 2, 3, 37 and 39 of SB 551 were effective immediately upon passage and approval.

15 46. Less than two-thirds of the Senate voted to pass SB 551.

16 47. SB 551 specifically impacted the provisions of NRS 363A.110, NRS 363B.130, and  
17 NRS 360.203 in that it eliminated the computation bases for reducing the payroll tax rates set forth  
18 therein and extended indefinitely the then current payroll tax rates.

19 48. NRS 360.203, prior to passage and enrollment of SB 551, provided that Defendant  
20 NEVADA DEPARTMENT OF TAXATION should, before September 30 of each even-numbered  
21 year, perform a computation, the result of which would dictate whether the rates set forth in NRS  
22 363A.110 and NRS 363B.130 should be reduced.

23 49. Prior to September 30, 2018, Defendant NEVADA DEPARTMENT OF TAXATION  
24 performed the computation required by NRS 360.203 and determined that the rates set forth in NRS  
25 363A.110 and NRS 363B.130 would be reduced.

26 50. On October 11, 2018, Defendant NEVADA DEPARTMENT OF TAXATION  
27 announced that rates under NRS 363A.110 and NRS 363B.130 would be reduced effective July 1,  
28 2019.

1           51.     SB 551 repealed NRS 360.203 and permanently fixed the rates set forth in NRS  
2     363A.110 and NRS 363B.130. SB 551 retroactively nullified the payroll tax rate reduction computed  
3     by Defendant NEVADA DEPARTMENT OF TAXATION required by NRS 360.203 for any fiscal  
4     year beginning on or after July 1, 2015.

5           52.     The effect of SB 551, therefore, is to create, generate, and increase public revenue as a  
6     result of the elimination of scheduled reductions in payroll tax rates and the elimination of the  
7     computation bases for future reductions thereof.

8           53.     Because of Defendant NEVADA DEPARTMENT OF TAXATION's determination  
9     and announcement that payroll tax rates would be reduced effective July 1, 2019, SB 551's permanent  
10    fixing of the rates at higher rates is a change in the computation base of the MBT.

11          54.     Where NRS 360.203, prior to adoption of SB 551, allowed for reductions in the rate of  
12    payroll tax under the MBT, the repeal thereof constitutes a change in the computation base of said  
13    payroll tax.

14          55.     Notwithstanding an opinion from the Legislative Counsel Bureau ("LCB") on or about  
15    May 8, 2019, at various stages of the Senate's consideration of SB 551 and amendments thereto after  
16    May 8, 2019, LCB's bill documentation showed that two-thirds of the Senate, or 14 Senators, would  
17    have to vote to approve the bill, and at other stages of the Senate's consideration of SB 551, the two-  
18    thirds requirement was removed from LCB's bill documentation for SB 551.

19          56.     Defendant, NICOLE CANNIZZARO's actions on the Senate floor on June 3, 2019  
20    show that if SB 551 did not have support from two-thirds of the Senate, the majority party, of which  
21    she was leader, would pass the bill by simple majority.

22          57.     Neither House by majority referred the SB 542 or SB 551 measures to the people of  
23    the State at the next general election per Article 4, Section 18(3) of the Nevada Constitution.

24          58.     In previous legislative sessions, the Nevada Legislature, including the Senate, has  
25    required a vote of not fewer than two-thirds of the members elected to the Legislature, including the  
26    Senate, to extend the prospective expiration of certain taxes and fees.



1 under the Fourteenth Amendment of the United States Constitution and Article 4 of the Nevada  
2 Constitution.

3 67. Plaintiffs have been required to engage the services of counsel to pursue their rights  
4 and are entitled to reasonable attorneys' fees and costs of suit.

5 **SECOND CLAIM FOR RELIEF**

6 68. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set  
7 forth herein.

8 69. Plaintiff business taxpayers and members of Plaintiff organizations will not receive the  
9 reduction of payroll tax rates as was previously properly enacted by the constitutional two-thirds  
10 majority required by Article 4, Section 18(2) of the Nevada Constitution. Revenue of approximately  
11 \$98.2 million over the biennium in additional payroll taxes will be generated as a result of the  
12 extension of the payroll taxes and change in the computation bases enacted by SB 551 commencing  
13 July 1, 2019. The tax as it is imposed upon Plaintiff business taxpayers and members of Plaintiff  
14 organizations will deprive Plaintiff business taxpayers and members of Plaintiff organizations of their  
15 property without due process of law in violation of the Fourteenth Amendment of the United States  
16 Constitution and Article 1, Section 8(5) of the Nevada Constitution.

17 70. SB 542 eliminated the sunset provision in NRS 461.064 effective July 1, 2020 and  
18 individual Plaintiff taxpayers and fee payers and members of Plaintiff organizations will continue to  
19 be charged the technology fee unlawfully extended by SB 542 in violation of the two-thirds majority  
20 required by the Nevada Constitution. Revenue of approximately \$7 million per year will continue to  
21 be generated and collected by Defendant NEVADA DEPARTMENT OF MOTOR VEHICLES. The  
22 technology fee as will be imposed upon the individual Plaintiff citizens, residents and taxpayers and  
23 members of Plaintiff organizations will deprive said Plaintiffs of their property without due process  
24 of law in violation of the Fourteenth Amendment of the United States Constitution and Article 1,  
25 Section 8(5) of the Nevada Constitution.

26 71. Plaintiffs have been required to engage the services of counsel to pursue their rights  
27 and are entitled to reasonable attorneys' fees and costs of suit.

28 ///

**THIRD CLAIM FOR RELIEF**

72. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

73. Plaintiffs' rights, status or other legal relations are affected by SB 542 and SB 551 and Plaintiffs seek a declaration of their rights, status or other relations. Declaratory relief pursuant to NRS Chapter 30 is appropriate because it will effectively adjudicate the rights, status or other legal relations of the parties.

74. There exists an actual justiciable controversy between Plaintiffs and Defendants concerning the applicability of Article 4, Section 18(2) of the Nevada Constitution to the voting on and passage of SB 542 and SB 551.

75. Plaintiffs and Defendants have adverse interests, and an actual justiciable controversy exists between them within the jurisdiction of this Court.

76. Plaintiffs have a legally protectable interest in this controversy by virtue of their votes against SB 542 and SB 551 and/or the payment of the extended payroll tax and technology fee deemed enacted without the required two-thirds vote of the Nevada Senate required by the Nevada Constitution.

77. The controversy before this Court is ripe for judicial determination because relevant portions of SB 551 were effective upon passage and approval and imposition of the extended payroll tax rate went into effect on July 1, 2019. Taxpayer employers will be required to report and remit the extended payroll tax to the NEVADA DEPARTMENT OF TAXATION that went into effect July 1, 2019 commencing on October 1, 2019. SB 542 was effective upon passage and approval and the technology fee was extended from July 1, 2020, which occurs before the next legislative session, to June 30, 2022. Plaintiffs seek a declaration from this Court prior to the State of Nevada's collection of the payroll tax and technology fee from taxpayers and fee payers to avoid such taxpayers and fee payers having to seek refunds from the State of Nevada and the State of Nevada having to issue refunds of payroll taxes and technology fees unlawfully collected.

78. Plaintiffs request declarations that (a) SB 542 and SB 551 are bills which create, generate, and/or increase public revenues or changes in the computation bases for taxes, fees,

1 assessments or rates; (b) Article 4, Section 18(2) of the Nevada Constitution required that two-thirds  
2 of the Senate vote to pass both SB 542 and SB 551; (c) the votes of the eight Plaintiff Senators should  
3 be given effect; and (d) SB 542 and SB 551 must be invalidated for lack of supporting votes of two-  
4 thirds of the Senate as required by Article 4, Section 18(2) of the Nevada Constitution.

5 79. Plaintiffs have been required to engage the services of counsel to pursue their rights  
6 and are entitled to reasonable attorneys' fees and costs of suit.

7 **FOURTH CLAIM FOR RELIEF**

8 80. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set  
9 forth herein.

10 81. On or after September 30, 2019, the Court must enjoin the enforcement of SB 551 and  
11 prior to July 1, 2020, the Court must enjoin the enforcement of SB 542, and the Court must also enjoin  
12 the NEVADA DEPARTMENT OF TAXATION and NEVADA DEPARTMENT OF MOTOR  
13 VEHICLES, respectively, from collecting any revenues pursuant to the subject revenue provisions of  
14 SB 551 and SB 542 complained of herein.

15 82. If such injunctions are not entered, the Plaintiff Senators will suffer immediate,  
16 irreparable harm in that the votes of said Senators will not be given effect as intended and as required  
17 by Article 4, Section 18(2) of the Nevada Constitution.

18 83. If such injunctions are not entered, Plaintiff taxpayers and fee payers, members of  
19 Plaintiff organizations and all similarly situated taxpayers and fee payers throughout the State of  
20 Nevada, will suffer immediate, irreparable harm in that (a) they will be deprived of funds through the  
21 payment of unlawfully enacted revenue-raising measures and (b) the Constitutional protections against  
22 tax or fee public revenue measures without the support of two-thirds of both legislative houses will  
23 effectively be eliminated.

24 84. Plaintiffs are likely to succeed on the merits of their claims made herein because both  
25 SB 542 and SB 551 are revenue-generating bills and, therefore, clearly require at least the votes of  
26 two-thirds of the Senate for passage.

1 85. Public interest weighs in favor of strict application of the Constitutional two-thirds  
2 requirement for enacting revenue-raising measures, which was added to the Nevada Constitution by  
3 the affirmative vote of the Nevada public in 1994 and 1996.

4 86. Defendants cannot be said to suffer any harm through strict adherence to the Nevada  
5 Constitution while Plaintiffs and the constituents and members they represent will suffer severe and  
6 irreparable harm if they are deprived of their rights under Article 4, Section 18(2) of the Nevada  
7 Constitution.

8 87. Plaintiffs have been required to engage the services of counsel to pursue their rights  
9 under the Nevada Constitution and are entitled to recovery of reasonable attorneys' fees and costs of  
10 suit.

11 **AFFIRMATION**

12 The undersigned hereby affirm that the foregoing document submitted for filing **DOES NOT**  
13 contain the social security number of any person.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs pray for relief as follows:

16 1. For declarations that:

- 17 a. SB 542 and SB 551 are bills that create, generate, and/or increase public  
18 revenue or changes in the computation bases for taxes, fees, assessments or rates;  
19 b. Article 4, Section 18(2) of the Nevada Constitution required that two-  
20 thirds of the Senate vote to pass both SB 542 and SB 551;  
21 c. The votes of the eight Plaintiff Senators should be given effect; and  
22 d. SB 542 and SB 551 must be invalidated for lack of supporting votes of  
23 two-thirds of the Senate.

24 2. For a temporary restraining order or a preliminary injunction if necessary, upon  
25 application or motion, effective on or about September 30, 2019 for SB 551 and effective on or about  
26 July 1, 2020 for SB 542 and a permanent injunction against the enforcement of SB 542 and SB 551.

27 3. For an award of attorneys' fees and costs of suit.

28 4. For such other and further relief as this Court may deem just and proper.


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DATED this 30<sup>th</sup> day of July, 2019.

ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
Telephone: (775) 687-0202

By:

  
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Nevada State Bar No. 366  
JUSTIN M. TOWNSEND, ESQ.  
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Attorneys for Plaintiffs

4811-3479-0046, v. 1



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Attorneys for Plaintiffs

REC'D & FILED

2019 AUG -5 PM 3:26

AUDREY ROWLATT  
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation.

Case No: 19 OC 00127 1B

Dept. No: I

Plaintiffs,

vs.

///

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STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

**ACCEPTANCE AND ACKNOWLEDGEMENT OF SERVICE**

The undersigned hereby accepts service of the following documents: SUMMONS;  
COMPLAINT; ORDER DENYING TEMPORARY RESTRAINING ORDER WITHOUT  
PREJUDICE; PEREMPTORY CHALLENGE OF JUDGE; NOTICE OF ASSIGNMENT BY  
CLERK; FIRST AMENDED SUMMONS; and FIRST AMENDED COMPLAINT, filed in the above  
matter on behalf Defendant, CLAIRE J. CLIFT, in her official capacity as Secretary of the Senate.  
Said service is effective on the date set forth below.

DATED this 31<sup>st</sup> day of JULY, 2019.

BRENDA J. ERDOES  
Legislative Counsel  
KEVIN C. POWERS  
Chief Litigation Counsel  
LEGISLATIVE COUNSEL BUREAU,  
LEGAL DIVISION  
401 South Carson Street  
Carson City, NV 89701

By:   
BRENDA J. ERDOES, ESQ., NSB 3644  
KEVIN C. POWERS, ESQ., NSB 6781

Attorneys for Defendant,  
CLAIRE J. CLIFT, in her official capacity  
as Secretary of the Senate

KAREN A. PETERSON, ESQ.  
Nevada State Bar No. 366  
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Attorneys for Plaintiffs

REC'D & FILED

2019 AUG -5 PM 3:26

AUBREY ROWLATT  
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Case No: 19 OC 00127 1B

Dept. No: I

Plaintiffs,

vs.

///

///

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

**ACCEPTANCE AND ACKNOWLEDGEMENT OF SERVICE**

The undersigned hereby accepts service of the following documents: SUMMONS;  
COMPLAINT; ORDER DENYING TEMPORARY RESTRAINING ORDER WITHOUT  
PREJUDICE; PEREMPTORY CHALLENGE OF JUDGE; NOTICE OF ASSIGNMENT BY  
CLERK; FIRST AMENDED SUMMONS; and FIRST AMENDED COMPLAINT, filed in the above  
matter on behalf Defendant, THE HONORABLE NICOLE CANNIZZARO, in her official capacity  
as Senate Majority Leader. Said service is effective on the date set forth below.

DATED this 31<sup>ST</sup> day of JULY, 2019.

BRENDA J. ERDOES  
Legislative Counsel  
KEVIN C. POWERS  
Chief Litigation Counsel  
LEGISLATIVE COUNSEL BUREAU,  
LEGAL DIVISION  
401 South Carson Street  
Carson City, NV 89701

By: B. J. Erdoes

BRENDA J. ERDOES, ESQ., NSB 3644  
KEVIN C. POWERS, ESQ., NSB 6781

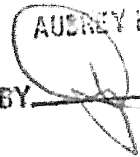
Attorneys for Defendant,  
THE HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority Leader

KAREN A. PETERSON, ESQ.  
Nevada State Bar No. 366  
JUSTIN TOWNSEND, ESQ.  
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Attorneys for Plaintiffs

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AUDREY HOWLATT  
CLERK  
BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
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THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
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CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
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in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Case No: 19 OC 00127 1B

Dept. No: I

Plaintiffs,

vs.

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STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

**ACKNOWLEDGEMENT OF RECEIPT OF DOCUMENTS**

The undersigned hereby acknowledges receipt of copies of the following documents filed in  
the above matter involving Defendants, THE HONORABLE NICOLE CANNIZZARO, in her official  
capacity as Senate Majority Leader; THE HONORABLE KATE MARSHALL, in her official capacity  
as President of the Senate; and CLAIRE J. CLIFT, in her official capacity as Secretary of the Senate:  
SUMMONS; COMPLAINT; ORDER DENYING TEMPORARY RESTRAINING ORDER  
WITHOUT PREJUDICE; PEREMPTORY CHALLENGE OF JUDGE; NOTICE OF ASSIGNMENT  
BY CLERK; FIRST AMENDED SUMMONS; and FIRST AMENDED COMPLAINT.

DATED this 31<sup>st</sup> day of July, 2019.

NEVADA ATTORNEY GENERAL'S OFFICE  
100 North Carson Street  
Carson City, NV 89701


By: Michelle Fournier  
Name: Michelle Fournier  
Title: AA II

IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CARSON CITY

THE HONORABLE JAMES SETTELMAYER, et al,  
Plaintiff(s),  
VS.  
STATE OF NEVADA ex rel., et al,  
Defendant(s),

REC'D & FILED

CASE 2019 AUG 26 10:26 AM

AUDREY ROWLATT  
CLERK  
BY  DEPUTY

**DECLARATION OF SERVICE**

STATE OF NEVADA  
COUNTY OF WASHOE ss:

ROBERT JAMES CLARK, being duly sworn says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to nor interested in the proceedings in which this Affidavit is made.

That Affiant received copy(ies) of the **Summons; Complaint; Order; Peremptory Challenge; Notice; First Amended Summons; First Amended Complaint** On 7/30/2019 and served the same on 7/31/2019 at 11:55 AM by delivery and leaving a copy with:

**Michelle Fournier**, of the office of the Attorney General who stated he/she is authorized to accept service on behalf of STATE OF NEVADA ex rel THE HONORABLE NICOLE CANNIZZARO, in her official capacity as Senate Majority Leader

100 N Carson St, Carson City, NV 89701-4717

**A description of Michelle Fournier is as follows**

Gender	Color of Skin/Race	Hair	Age	Height	Weight
Female	White	Blond	46-50	5'1 - 5'6	121-140 Lbs

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

Affiant does hereby affirm under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on: 8/2/2019

by ROBERT JAMES CLARK

Registration: R -060170

No notary is required per NRS 53.045

X 

ROBERT JAMES CLARK

Registration: R -060170

Reno Carson Messenger Service, Inc #322

185 Martin St

Reno, NV 89509

(775) 322-2424

www.renocarson.com



In the First Judicial District Court of the State of Nevada

in and for Carson City

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

---

**FIRST AMENDED SUMMONS**

**STATE OF NEVADA**



**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil First Amended Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this First Amended Complaint.
2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the First Amended Complaint\*, which could result in the taking of money or property or the relief requested in the First Amended Complaint.
3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

Date: JUL 30 2019, 2019

By   
Deputy Clerk

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within First Amended Summons attached to a copy of the First Amended Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

4849-7467-6638, v. 1

Case No. 1906 001271B

Dept. No. II

In the First Judicial District Court of the State of Nevada  
in and for Carson City

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

**SUMMONS**

**STATE OF NEVADA**

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

**TO THE DEFENDANT:** A civil Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the Complaint\*, which could result in the taking of money or property or the relief requested in the Complaint.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MackENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202



Clerk of Court

By 

Deputy Clerk

Date: JUL 19 2019 ~~2019~~

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the Summons attached to a copy of the Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the Summons attached to a copy of the Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within Summons attached to a copy of the Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CARSON CITY

THE HONORABLE JAMES SETTELMAYER, et al,  
Plaintiff(s),  
VS.  
STATE OF NEVADA ex rel., et al,  
Defendant(s),

REC'D & FILED  
CASE NO: 19 OC 00127 1B  
2019 AUG -5 PM 3:26

AUBREY ROWLATT  
CLERK  
BY \_\_\_\_\_ DEPUTY

DECLARATION OF SERVICE

STATE OF NEVADA  
COUNTY OF WASHOE ss.:

ROBERT JAMES CLARK, being duly sworn says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to nor interested in the proceedings in which this Affidavit is made.

That Affiant received copy(ies) of the **Summons; Complaint; Order; Peremptory Challenge; Notice; First Amended Summons; First Amended Complaint; Acceptance** On 7/30/2019 and served the same on 7/31/2019 at 3:11 PM by delivery and leaving a copy with:

By then and there personally delivering a true and correct copy of the documents into the hands of and leaving with **Brenda Erdoes** whose title is **Administrator**.

Served on behalf of **STATE OF NEVADA ex rel THE HONORABLE NICOLE CANNIZZARO**, in her official capacity as **Senate Majority Leader**

Service Address: **c/o Legislative Counsel Bureau - 401 S Carson St , Carson City, NV 89701-4747**

**A description of Brenda Erdoes is as follows**

Gender	Color of Skin/Race	Hair	Age	Height	Weight
Female	White	Gray /White	56-60	5'1 - 5'6	141-160 Lbs

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

Affiant does hereby affirm under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on: 8/2/2019

by ROBERT JAMES CLARK

Registration: R -060170

No notary is required per NRS 53.045

X

ROBERT JAMES CLARK

Registration: R -060170

Reno Carson Messenger Service, Inc #322

185 Martin St

Reno, NV 89509

(775) 322-2424

www.renocarson.com



In the First Judicial District Court of the State of Nevada

in and for Carson City

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

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**FIRST AMENDED SUMMONS**

**FIRST ADDITIONAL:**

**THE HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader**

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

**TO THE DEFENDANT:** A civil First Amended Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this First Amended Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the First Amended Complaint\*, which could result in the taking of money or property or the relief requested in the First Amended Complaint.

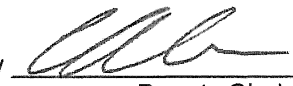
3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

Date: JUL 30 2019, 2019

By   
Deputy Clerk

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**



STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within First Amended Summons attached to a copy of the First Amended Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE** - If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.  
4823-8128-6302, v. 1

Case No. 190C 00127 1B

Dept. No. II

In the First Judicial District Court of the State of Nevada  
in and for Carson City

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

## SUMMONS

### FIRST ADDITIONAL:

**THE HONORABLE NICOLE CANNIZZARO,**  
in her official capacity as Senate Majority  
Leader

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the Complaint\*, which could result in the taking of money or property or the relief requested in the Complaint.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202



Clerk of Court

By 

Deputy Clerk

**JUL 19 2019**

Date: \_\_\_\_\_, ~~2019~~

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the Summons attached to a copy of the Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the Summons attached to a copy of the Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within Summons attached to a copy of the Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

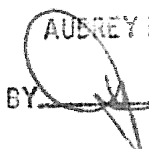
**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CARSON CITY

THE HONORABLE JAMES SETTELMEYER, et al,  
Plaintiff(s),  
VS.  
STATE OF NEVADA ex rel., et al,  
Defendant(s),

REC'D & FILED

CASE NO. 19-000137-25  
2019 AUG 15 09:13 25

AUDREY ROWLATT  
CLERK  
BY  DEPUTY

**DECLARATION OF SERVICE**

STATE OF NEVADA  
COUNTY OF CARSON CITY ss.:

SERWIND NETZLER, being duly sworn says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to nor interested in the proceedings in which this Affidavit is made.

That Affiant received copy(ies) of the **Summons; Complaint; Order; Peremptory Challenge; Notice; First Amended Summons; First Amended Complaint** On 7/31/2019 and served the same on 8/1/2019 at 11:45 AM by delivery and leaving a copy with:

1. Delivering and leaving a copy with **THE HONORABLE KATE MARSHALL**, in her official capacity as President of the **Senatc/o Lieutenant Governor's Office** at c/o **LIEUTENANT GOVERNOR'S OFFICE 101 N Carson St Ste 2 Carson City, NV 89701-4786**

A description of **THE HONORABLE KATE MARSHALL**, in her official capacity as President of the Senatc/o Lieutenant Governor's Office is as follows

Gender	Color of Skin/Race	Hair	Age	Height	Weight
Female	White	Blond	41 - 45	5'7 - 6'0	121-140 Lbs

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

Affiant does hereby affirm under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on: 8/2/2019

by SERWIND NETZLER

Registration: R-2018-05938

No notary is required per NRS 53.045

X

  
SERWIND NETZLER  
Registration: R-2018-05938  
Reno Carson Messenger Service, Inc #322  
185 Martin St  
Reno, NV 89509  
(775) 322-2424  
www.renocarson.com



Order#: C21683 NVPRF411

0059

In the First Judicial District Court of the State of Nevada

in and for Carson City

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

---

**FIRST AMENDED SUMMONS**

**SECOND ADDITIONAL:**

**THE HONORABLE KATE MARSHALL,  
in her official capacity as President  
of the Senate**

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**


**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

**TO THE DEFENDANT:** A civil First Amended Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this First Amended Complaint.
2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the First Amended Complaint\*, which could result in the taking of money or property or the relief requested in the First Amended Complaint.
3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

By   
Deputy Clerk

Date: JUL 30 2019, 2019

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_

By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within First Amended Summons attached to a copy of the First Amended Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.  
4821-8081-1678, v. 1



Case No. 190C001271B

Dept. No. II

In the First Judicial District Court of the State of Nevada  
in and for Carson City

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

## SUMMONS

### SECOND ADDITIONAL:

**THE HONORABLE KATE MARSHALL,  
in her official capacity as President  
of the Senate**

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiffs against you.

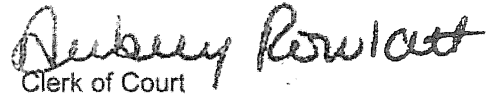
1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the Complaint\*, which could result in the taking of money or property or the relief requested in the Complaint.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

By  \_\_\_\_\_  
Deputy Clerk

Date: JUL 19 2019, ~~2019~~

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the Summons attached to a copy of the Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the Summons attached to a copy of the Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within Summons attached to a copy of the Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE** - If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

4824-1758-2749, v. 1

IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CARSON CITY

THE HONORABLE JAMES SETTELMEYER, et al,  
Plaintiff(s),

VS.

STATE OF NEVADA ex rel., et al,  
Defendant(s),

CASE NO:

2019 AUG -5 PM 3:27  
19 OC 00127 15

AUBREY ROWLATT  
CLERK

BY  DEPUTY

**DECLARATION OF SERVICE**

STATE OF NEVADA  
COUNTY OF WASHOE ss.:

ROBERT JAMES CLARK, being duly sworn says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to nor interested in the proceedings in which this Affidavit is made.

That Affiant received copy(ies) of the **Summons; Complaint; Order; Peremptory Challenge; Notice; First Amended Summons; First Amended Complaint; Acceptance** On 7/30/2019 and served the same on 7/31/2019 at 3:10 PM by delivery and leaving a copy with:

By then and there personally delivering a true and correct copy of the documents into the hands of and leaving with **Brenda Erdoes** whose title is **Administrator**.

Served on behalf of **CLAIRE J. CLIFT**, in her official capacity as **Secretary of the Senate**

Service Address: **c/o Legislative Counsel Bureau - 401 S Carson St , Carson City, NV 89701-4747**

**A description of Brenda Erdoes is as follows**

Gender	Color of Skin/Race	Hair	Age	Height	Weight
Female	White	Gray /White	56-60	5'1 - 5'6	141-160 Lbs

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

Affiant does hereby affirm under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on: 8/2/2019

by ROBERT JAMES CLARK

Registration: R -060170

No notary is required per NRS 53.045

X

  
ROBERT JAMES CLARK

Registration: R -060170

Reno Carson Messenger Service, Inc #322

185 Martin St

Reno, NV 89509

(775) 322-2424

www.renocarson.com



In the First Judicial District Court of the State of Nevada

in and for Carson City

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

---

**FIRST AMENDED SUMMONS**

**THIRD ADDITIONAL:**

**CLAIRE J. CLIFT, in her official capacity  
as Secretary of the Senate**

THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil First Amended Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this First Amended Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the First Amended Complaint\*, which could result in the taking of money or property or the relief requested in the First Amended Complaint.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

Date: JUL 30 2019, 2019

By   
Deputy Clerk

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

RETURN OF SERVICE ON REVERSE SIDE

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within First Amended Summons attached to a copy of the First Amended Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.  
4827-6886-6206, v. 1

Case No. 190C001271B

Dept. No. II

In the First Judicial District Court of the State of Nevada  
in and for Carson City

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

## SUMMONS

### THIRD ADDITIONAL:

**CLAIRE J. CLIFT, in her official capacity  
as Secretary of the Senate**

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the Complaint\*, which could result in the taking of money or property or the relief requested in the Complaint.



3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

By   
Deputy Clerk

Date: JUL 19 2019, ~~2019~~

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the Summons attached to a copy of the Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the Summons attached to a copy of the Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_

By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within Summons attached to a copy of the Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

4819-4847-6061, v. 1

IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CARSON CITY

THE HONORABLE JAMES SETTELMEYER, et al,  
Plaintiff(s),  
VS.  
STATE OF NEVADA ex rel., et al,  
Defendant(s),

REC'D & FILED  
CASE NO: 2019 NC 00127 PM 3:27

AUSREY ROWLAND  
CLERK

BY: [Signature] DEPUTY

DECLARATION OF SERVICE

STATE OF NEVADA  
COUNTY OF WASHOE ss.:

ROBERT JAMES CLARK, being duly sworn says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to nor interested in the proceedings in which this Affidavit is made.

That Affiant received copy(ies) of the **Summons; Complaint; Order; Peremptory Challenge; Notice; First Amended Summons; First Amended Complaint** On 7/30/2019 and served the same on 7/31/2019 at 11:55 AM by delivery and leaving a copy with:

Michelle Fournier, of the office of the Attorney General who stated he/she is authorized to accept service on behalf of THE HONORABLE STEVE SISOLAK, in his official capacity as Governor of the State of Nevada

100 N Carson St, Carson City, NV 89701-4717

A description of Michelle Fournier is as follows

Gender	Color of Skin/Race	Hair	Age	Height	Weight
Female	White	Blond	46-50	5'1 - 5'6	121-140 Lbs

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

Affiant does hereby affirm under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on: 8/2/2019

by ROBERT JAMES CLARK

Registration: R -060170

No notary is required per NRS 53.045

X

[Signature]  
ROBERT JAMES CLARK  
Registration: R -060170  
Reno Carson Messenger Service, Inc #322  
185 Martin St  
Reno, NV 89509  
(775) 322-2424  
www.renocarson.com



In the First Judicial District Court of the State of Nevada

in and for Carson City

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

**FIRST AMENDED SUMMONS**

**FOURTH ADDITIONAL:**

**THE HONORABLE STEVE SISOLAK,  
in his official capacity as Governor  
of the State of Nevada**

///

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil First Amended Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this First Amended Complaint.
2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the First Amended Complaint\*, which could result in the taking of money or property or the relief requested in the First Amended Complaint.
3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202



Clerk of Court

By 

Deputy Clerk

Date: JUL 30 2019, 2019

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within First Amended Summons attached to a copy of the First Amended Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.  
4811-2568-2078, v. 1

Case No. 190C001271B

Dept. No. II

In the First Judicial District Court of the State of Nevada  
in and for Carson City

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

## SUMMONS

### FOURTH ADDITIONAL:

**THE HONORABLE STEVE SISOLAK,  
in his official capacity as Governor  
of the State of Nevada**

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiffs against you.

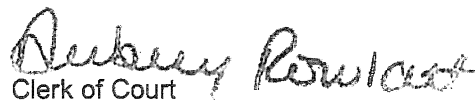
1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the Complaint\*, which could result in the taking of money or property or the relief requested in the Complaint.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

By   
Deputy Clerk

Date: JUL 19 2019 ~~2019~~

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**



STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the Summons attached to a copy of the Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the Summons attached to a copy of the Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within Summons attached to a copy of the Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

4844-8235-9965, v. 1

REC'D & FILED

CASINO AUG 5 5C 001271B

AUBREY ROWLATT  
CLERK

BY ~~\_\_\_\_\_~~ DEPUTY

2



In the First Judicial District Court of the State of Nevada  
in and for Carson City

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

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**FIRST AMENDED SUMMONS**

**FIFTH ADDITIONAL:**

**NEVADA DEPARTMENT OF TAXATION**

///

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil First Amended Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this First Amended Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the First Amended Complaint\*, which could result in the taking of money or property or the relief requested in the First Amended Complaint.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202



Clerk of Court

By 

Deputy Clerk

Date: JUL 30 2019, 2019

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within First Amended Summons attached to a copy of the First Amended Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.  
4817-4715-9966, v. 1

Case No. 190C 001271B

Dept. No. II

In the First Judicial District Court of the State of Nevada  
in and for Carson City

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

**SUMMONS**

**FIFTH ADDITIONAL:**

**NEVADA DEPARTMENT OF TAXATION**

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the Complaint\*, which could result in the taking of money or property or the relief requested in the Complaint.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

By   
Deputy Clerk

Date: JUL 19 2019 ~~2019~~

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

## AFFIDAVIT OF SERVICE (For General Use)

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the Summons attached to a copy of the Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

## NEVADA SHERIFF'S RETURN (For Use of Sheriff of Carson City)

I hereby certify and return that I received the within Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the Summons attached to a copy of the Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_

By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

## AFFIDAVIT OF MAILING (For Use When Service is by Publication and Mailing)

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within Summons attached to a copy of the Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

4815-8049-1421, v. 1



IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CARSON CITY

THE HONORABLE JAMES SETTELMEYER, et al,  
Plaintiff(s),  
VS.  
STATE OF NEVADA ex rel., et al,  
Defendant(s),

REC'D & FILED

2018 AUG -5 PM 3:27  
CASE NO. 19-0C-00427-1B

AUBREY ROWLATT  
CLERK

BY  DEPUTY

**DECLARATION OF SERVICE**

STATE OF NEVADA  
COUNTY OF WASHOE SS:

**ROBERT JAMES CLARK**, being duly sworn says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to nor interested in the proceedings in which this Affidavit is made.

That Affiant received copy(ies) of the **Summons; Complaint; Order; Peremptory Challenge; Notice; First Amended Summons; First Amended Complaint** On 7/30/2019 and served the same on 7/31/2019 at 12:24 PM by delivery and leaving a copy with:

Served to: Heather Walent - Administrator, of the office of the Department of Motor Vehicles, authorized to accept, accepted on behalf of NEVADA DEPARTMENT OF MOTOR VEHICLES service address: c/o Julie Butler, Director 555 Wright Way Carson City, NV 897110001

**A description of Heather Walent is as follows**

Gender	Color of Skin/Race	Hair	Age	Height	Weight
Female	White	Blond	26- 30	5'1 - 5'6	121-140 Lbs

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

Affiant does hereby affirm under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on: 8/2/2019

by ROBERT JAMES CLARK

Registration: R -060170

No notary is required per NRS 53.045

X

  
ROBERT JAMES CLARK  
Registration: R -060170  
Reno Carson Messenger Service, Inc #322  
185 Martin St  
Reno, NV 89509  
(775) 322-2424  
www.renocarson.com



In the First Judicial District Court of the State of Nevada

in and for Carson City

THE HONORABLE JAMES SETTELMAYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada;  
KIMMIE CANDY COMPANY, a Nevada  
corporation; KEYSTONE CORP., a Nevada  
nonprofit corporation; NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS, a California  
nonprofit corporation qualified to do business  
in the State of Nevada; NEVADA FRANCHISED  
AUTO DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA TRUCKING  
ASSOCIATION, INC., a Nevada nonprofit  
corporation; and RETAIL ASSOCIATION  
OF NEVADA, a Nevada nonprofit corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

**FIRST AMENDED SUMMONS**

**SIXTH ADDITIONAL:**

**NEVADA DEPARTMENT  
OF MOTOR VEHICLES**

///

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil First Amended Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this First Amended Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the First Amended Complaint\*, which could result in the taking of money or property or the relief requested in the First Amended Complaint.

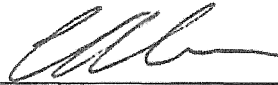
3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202



Clerk of Court

By 

Deputy Clerk

Date: JUL 30 2019, 2019

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF SERVICE**  
**(For General Use)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**NEVADA SHERIFF'S RETURN**  
**(For Use of Sheriff of Carson City)**

I hereby certify and return that I received the within First Amended Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the First Amended Summons attached to a copy of the First Amended Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_ By \_\_\_\_\_ Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT OF MAILING**  
**(For Use When Service is by Publication and Mailing)**

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within First Amended Summons attached to a copy of the First Amended Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE** - If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

4843-4848-0414, v. 1

Case No. 190000127 IB  
Dept. No. II

In the First Judicial District Court of the State of Nevada  
in and for Carson City

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY,  
THE HONORABLE HEIDI GANSERT,  
THE HONORABLE SCOTT HAMMOND,  
THE HONORABLE PETE GOICOECHEA,  
THE HONORABLE BEN KIECKHEFER,  
THE HONORABLE IRA HANSEN, and  
THE HONORABLE KEITH PICKARD,  
in their official capacities as members of the  
Senate of the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation qualified  
to do business in the State of Nevada; and  
KIMMIE CANDY COMPANY, a Nevada  
corporation,

Plaintiffs,

vs.

STATE OF NEVADA *ex rel.* THE  
HONORABLE NICOLE CANNIZZARO,  
in her official capacity as Senate Majority  
Leader; THE HONORABLE KATE  
MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT,  
in her official capacity as Secretary of  
the Senate; THE HONORABLE STEVE  
SISOLAK, in his official capacity as  
Governor of the State of Nevada; NEVADA  
DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

**SUMMONS**

**SIXTH ADDITIONAL:**

**NEVADA DEPARTMENT  
OF MOTOR VEHICLES**

**THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.**

**TO THE DEFENDANT:** A civil Complaint has been filed by the plaintiffs against you.

1. If you wish to defend this lawsuit, you must, within 21 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading in response to this Complaint.

2. Unless you respond, your default will be entered upon application of the plaintiffs, and this Court may enter a judgment against you for the relief demanded in the Complaint\*, which could result in the taking of money or property or the relief requested in the Complaint.

3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. You are required to serve your response upon plaintiffs' attorney, whose address is:

KAREN A. PETERSON, Esq.  
JUSTIN M. TOWNSEND, Esq.  
ALLISON MacKENZIE, LTD.  
402 North Division Street  
Carson City, NV 89703  
(775) 687-0202

  
Clerk of Court

Date: **JUL 19 2019**, 2019

By   
Deputy Clerk

\*Note - When service by publication, insert a brief statement of the object of the action. See Rule 4.

**RETURN OF SERVICE ON REVERSE SIDE**

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

## AFFIDAVIT OF SERVICE (For General Use)

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was on the day when he served the within Summons, over 18 years of age, and not a party to, nor interested in, the within action; that the affiant received the Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, a copy of the Summons attached to a copy of the Complaint.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of person making service

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

## NEVADA SHERIFF'S RETURN (For Use of Sheriff of Carson City)

I hereby certify and return that I received the within Summons on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same upon \_\_\_\_\_, the within named defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to the said defendant, personally, in Carson City, State of Nevada, a copy of the Summons attached to a copy of the Complaint.

\_\_\_\_\_  
Sheriff of Carson City, Nevada

Date: \_\_\_\_\_, 20\_\_\_\_

By \_\_\_\_\_  
Deputy

STATE OF NEVADA )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

## AFFIDAVIT OF MAILING (For Use When Service is by Publication and Mailing)

\_\_\_\_\_, declares under penalty of perjury:  
That affiant is, and was when the herein described mailing took place, over 18 years of age, and not a party to, nor interested in, the within action; that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant deposited in the Post Office at \_\_\_\_\_, Nevada, a copy of the within Summons attached to a copy of the Complaint, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to \_\_\_\_\_, the within named defendant, at \_\_\_\_\_; that there is a regular communication by mail between the place of mailing and the place so addressed.  
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTE -** If service is made in any manner permitted by Rule 4 other than personally upon the defendant, or is made outside the United States, a special affidavit or return must be made.

4834-2670-6077, v. 1

BRENDA J. ERDOES, Legislative Counsel  
Nevada Bar No. 3644  
KEVIN C. POWERS, Chief Litigation Counsel  
Nevada Bar No. 6781  
LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION  
401 S. Carson St.  
Carson City, NV 89701  
Tel: (775) 684-6830; Fax: (775) 684-6761  
E-mail: [kpowers@lcb.state.nv.us](mailto:kpowers@lcb.state.nv.us)  
*Attorneys for Defendants State of Nevada ex rel. Senate Majority Leader  
Nicole Cannizzaro and Secretary of the Senate Claire Clift*

REC'D & FILED  
2019 SEP 16 PM 2:08  
AUBREY J. LITT  
CLERK  
BY Alcario

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY**

THE HONORABLE JAMES SETTELMEYER,  
THE HONORABLE JOE HARDY, THE  
HONORABLE HEIDI GANSERT, THE  
HONORABLE SCOTT HAMMOND, THE  
HONORABLE PETE GOICOECHEA, THE  
HONORABLE BEN KIECKHEFER, THE  
HONORABLE IRA HANSEN, and THE  
HONORABLE KEITH PICKARD, in their official  
capacities as members of the Senate of the State of  
Nevada and individually; et al.,

Plaintiffs,

vs.

STATE OF NEVADA ex rel. THE HONORABLE  
NICOLE CANNIZZARO, in her official capacity  
as Senate Majority Leader; THE HONORABLE  
KATE MARSHALL, in her official capacity as  
President of the Senate; CLAIRE J. CLIFT, in her  
official capacity as Secretary of the Senate; THE  
HONORABLE STEVE SISOLAK, in his official  
capacity as Governor of the State of Nevada;  
NEVADA DEPARTMENT OF TAXATION;  
NEVADA DEPARTMENT OF MOTOR  
VEHICLES; and DOES I-X, inclusive,

Defendants.

Case No. 19 OC 00127 1B  
Dept. No. I

**ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT BY  
DEFENDANTS STATE OF NEVADA EX REL. SENATE MAJORITY LEADER  
NICOLE CANNIZZARO AND SECRETARY OF THE SENATE CLAIRE CLIFT**



1                                    ANSWER TO FIRST AMENDED COMPLAINT

2            Defendants State of Nevada ex rel. Senate Majority Leader Nicole Cannizzaro and Secretary of  
3            the Senate Claire Clift (Legislative Defendants), by and through their counsel the Legal Division of the  
4            Legislative Counsel Bureau under NRS 218F.720, hereby submit their Answer to Plaintiffs' First  
5            Amended Complaint, which was filed on July 30, 2019, and served on the Legislative Defendants on  
6            July 31, 2019.

7                                    ADMISSIONS AND DENIALS OF THE ALLEGATIONS

8                                    PARTIES, JURISDICTION AND VENUE

9            ¶ 1.    The Legislative Defendants admit that Plaintiffs, Senators James Settlemeyer, Joe Hardy,  
10           Heidi Gansert, Scott Hammond, Pete Goicoechea, Ben Kieckhefer, Ira Hansen and Keith Pickard, are  
11           duly elected members of the Nevada Legislature and were members of the Senate during the 80th (2019)  
12           Session of the Nevada Legislature.    The Legislative Defendants lack knowledge or information  
13           sufficient to form a belief about the truth of all other allegations in paragraph 1 of the First Amended  
14           Complaint and deny them.

15           ¶ 2.    The Legislative Defendants admit the allegations in paragraph 2 of the First Amended  
16           Complaint.

17           ¶ 3.    The Legislative Defendants admit that each of the Plaintiff Senators is a member of the  
18           Nevada Senate Republican Caucus.    The Legislative Defendants deny all other allegations in  
19           paragraph 3 of the First Amended Complaint.

20           ¶ 4.    The Legislative Defendants deny the allegations in paragraph 4 of the First Amended  
21           Complaint.

22           ¶ 5.    The Legislative Defendants lack knowledge or information sufficient to form a belief about  
23           the truth of the allegations in paragraph 5 of the First Amended Complaint and deny them.

¶ 6. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 6 of the First Amended Complaint and deny them.

¶ 7. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 7 of the First Amended Complaint and deny them.

¶ 8. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 8 of the First Amended Complaint and deny them.

¶ 9. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 9 of the First Amended Complaint and deny them.

¶ 10. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 10 of the First Amended Complaint and deny them.

¶ 11. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 11 of the First Amended Complaint and deny them.

¶ 12. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 12 of the First Amended Complaint and deny them.

¶ 13. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 13 of the First Amended Complaint and deny them.

¶ 14. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 14 of the First Amended Complaint and deny them.

¶ 15. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 15 of the First Amended Complaint and deny them.

¶ 16. The Legislative Defendants admit that Defendant Nicole Cannizzaro is named in her official capacity, is a duly elected member of the Nevada Legislature, was a member of the Senate during the 80th (2019) Session of the Nevada Legislature, served as the Senate Majority Leader during the 80th (2019) Session of the Nevada Legislature and was the sponsor of SB 551. The Legislative

1 Defendants deny all other allegations in paragraph 16 of the First Amended Complaint.

2 ¶ 17. The Legislative Defendants admit that Defendant Kate Marshall is named in her official  
3 capacity, is the duly elected Lieutenant Governor of the State of Nevada and served as President of the  
4 Senate during the 80th (2019) Session of the Nevada Legislature; and that her official duties include  
5 signing bills passed by the Nevada Legislature. The Legislative Defendants deny all other allegations in  
6 paragraph 17 of the First Amended Complaint.

7 ¶ 18. The Legislative Defendants admit that Defendant Claire Clift is named in her official  
8 capacity and served as the Secretary of the Senate during the 80th (2019) Session of the Nevada  
9 Legislature; and that her official duties include transmitting bills passed by the Nevada Legislature to the  
10 Legislative Counsel for enrollment. The Legislative Defendants deny all other allegations in  
11 paragraph 18 of the First Amended Complaint.

12 ¶ 19. The Legislative Defendants admit that Defendant Steve Sisolak is named in his official  
13 capacity and is the duly elected Governor of the State of Nevada; and that his official duties include  
14 approving and signing bills passed by the Nevada Legislature and seeing that the laws of the State of  
15 Nevada are faithfully executed. The Legislative Defendants deny all other allegations in paragraph 19  
16 of the First Amended Complaint.

17 ¶ 20. The Legislative Defendants admit the allegations in paragraph 20 of the First Amended  
18 Complaint.

19 ¶ 21. The Legislative Defendants admit the allegations in paragraph 21 of the First Amended  
20 Complaint.

21 ¶ 22. The Legislative Defendants lack knowledge or information sufficient to form a belief  
22 about the truth of the allegations in paragraph 22 of the First Amended Complaint and deny them.

23 ¶ 23. The Legislative Defendants deny the allegations in paragraph 23 of the First Amended  
24 Complaint.

1       ¶ 24. The Legislative Defendants admit that at the general elections in 1994 and 1996, Nevada's  
2 voters approved constitutional amendments that added the two-thirds requirement to Article 4,  
3 Section 18 of the Nevada Constitution; and that the constitutional amendments were proposed by a  
4 ballot initiative. The Legislative Defendants deny all other allegations in paragraph 24 of the First  
5 Amended Complaint.

6       ¶ 25. The Legislative Defendants deny the allegations in paragraph 25 of the First Amended  
7 Complaint.

8       ¶ 26. The Legislative Defendants deny the allegations in paragraph 26 of the First Amended  
9 Complaint.

10       ¶ 27. The Legislative Defendants deny the allegations in paragraph 27 of the First Amended  
11 Complaint.

12       ¶ 28. The Legislative Defendants admit that Senate Majority Leader Nicole Cannizzaro and  
13 Secretary of the Senate Claire Clift are residents of the State of the Nevada. The Legislative Defendants  
14 lack knowledge or information sufficient to form a belief about the truth of all other allegations in  
15 paragraph 28 of the First Amended Complaint and deny them.

16       ¶ 29. The Legislative Defendants admit that SB 542 and SB 551 were introduced, debated,  
17 voted on, signed and enrolled in Carson City, Nevada. The Legislative Defendants lack knowledge or  
18 information sufficient to form a belief about the truth of all other allegations in paragraph 29 of the First  
19 Amended Complaint and deny them.

20       ¶ 30. The Legislative Defendants admit that Senate Majority Leader Nicole Cannizzaro and  
21 Secretary of the Senate Claire Clift have offices in Carson City, Nevada. The Legislative Defendants  
22 lack knowledge or information sufficient to form a belief about the truth of all other allegations in  
23 paragraph 30 of the First Amended Complaint and deny them.

1 ¶ 31. The Legislative Defendants admit that Senate Majority Leader Nicole Cannizzaro and  
2 Secretary of the Senate Claire Clift are public officers that keep offices in Carson City, Nevada. The  
3 Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of all  
4 other allegations in paragraph 31 of the First Amended Complaint and deny them.

5 **GENERAL ALLEGATIONS**

6 ¶ 32. The Legislative Defendants admit and deny the allegations incorporated by reference in  
7 paragraph 32 of the First Amended Complaint in the same manner expressly stated by the Legislative  
8 Defendants in paragraphs 1 to 31, inclusive, of this Answer.

9 ¶ 33. The Legislative Defendants admit the allegations in paragraph 33 of the First Amended  
10 Complaint only to the extent the allegations accurately state the text of Article 4, Section 18(2) of the  
11 Nevada Constitution. The Legislative Defendants deny all other allegations in paragraph 33 of the First  
12 Amended Complaint.

13 ¶ 34. The Legislative Defendants admit the allegations in paragraph 34 of the First Amended  
14 Complaint.

15 ¶ 35. The Legislative Defendants admit that during the 80th (2019) Session of the Nevada  
16 Legislature, if a bill required an affirmative vote of not fewer than two-thirds of all the members elected  
17 to the Senate in order to be passed by the Senate, the vote of at least fourteen Senators was required to  
18 pass the bill. The Legislative Defendants deny all other allegations in paragraph 35 of the First  
19 Amended Complaint.

20 ¶ 36. The Legislative Defendants admit the allegations in paragraph 36 of the First Amended  
21 Complaint.

22 ¶ 37. The Legislative Defendants admit the allegations in paragraph 37 of the First Amended  
23 Complaint.

1       ¶ 38. The Legislative Defendants admit the allegations in paragraph 38 of the First Amended  
2 Complaint.

3       ¶ 39. The Legislative Defendants admit that a constitutional majority of all the members elected  
4 to the Senate voted to pass SB 542. The Legislative Defendants deny all other allegations in paragraph  
5 39 of the First Amended Complaint.

6       ¶ 40. The Legislative Defendants admit the allegations in paragraph 40 of the First Amended  
7 Complaint.

8       ¶ 41. The Legislative Defendants admit the allegations in paragraph 41 of the First Amended  
9 Complaint only to the extent the allegations accurately state the text of NRS 481.064. The Legislative  
10 Defendants deny all other allegations in paragraph 41 of the First Amended Complaint.

11       ¶ 42. The Legislative Defendants deny the allegations in paragraph 42 of the First Amended  
12 Complaint.

13       ¶ 43. The Legislative Defendants admit that sections 2, 3, 37 and 39 of SB 551: (1) eliminated a  
14 rate adjustment procedure used by the Department of Taxation to determine whether the rates of certain  
15 payroll taxes should be reduced in future fiscal years under certain circumstances; and (2) did not  
16 change the existing legally operative rates of those payroll taxes but maintained and continued the  
17 existing legally operative rates of those payroll taxes in future fiscal years. The Legislative Defendants  
18 deny all other allegations in paragraph 43 of the First Amended Complaint.

19       ¶ 44. The Legislative Defendants admit the allegations in paragraph 44 of the First Amended  
20 Complaint.

21       ¶ 45. The Legislative Defendants admit the allegations in paragraph 45 of the First Amended  
22 Complaint.

23       ¶ 46. The Legislative Defendants admit that a constitutional majority of all the members elected  
24 to the Senate voted to pass SB 551. The Legislative Defendants deny all other allegations in paragraph

1 46 of the First Amended Complaint.

2 ¶ 47. The Legislative Defendants admit that sections 2 and 3 of SB 551 eliminated certain  
3 provisions of NRS 363A.130 and 363B.110; and that section 39 of SB 551 repealed the provisions of  
4 NRS 360.203. The Legislative Defendants deny all other allegations in paragraph 47 of the First  
5 Amended Complaint.

6 ¶ 48. The Legislative Defendants admit that, before the provisions of NRS 360.203 were  
7 repealed by section 39 of SB 551, NRS 360.203 included a rate adjustment procedure used by the  
8 Department of Taxation to determine whether the rates of certain payroll taxes should be reduced in  
9 future fiscal years under certain circumstances. The Legislative Defendants deny all other allegations in  
10 paragraph 48 of the First Amended Complaint.

11 ¶ 49. The Legislative Defendants lack knowledge or information sufficient to form a belief  
12 about the truth of the allegations in paragraph 49 of the First Amended Complaint and deny them.

13 ¶ 50. The Legislative Defendants lack knowledge or information sufficient to form a belief  
14 about the truth of the allegations in paragraph 50 of the First Amended Complaint and deny them.

15 ¶ 51. The Legislative Defendants admit that section 39 of SB 551 repealed the provisions of  
16 NRS 360.203. The Legislative Defendants deny all other allegations in paragraph 51 of the First  
17 Amended Complaint.

18 ¶ 52. The Legislative Defendants deny the allegations in paragraph 52 of the First Amended  
19 Complaint.

20 ¶ 53. The Legislative Defendants deny the allegations in paragraph 53 of the First Amended  
21 Complaint.

22 ¶ 54. The Legislative Defendants deny the allegations in paragraph 54 of the First Amended  
23 Complaint.

¶ 55. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 55 of the First Amended Complaint and deny them.

¶ 56. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 56 of the First Amended Complaint and deny them.

¶ 57. The Legislative Defendants admit the allegations in paragraph 57 of the First Amended Complaint.

¶ 58. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 58 of the First Amended Complaint and deny them.

¶ 59. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 59 of the First Amended Complaint and deny them.

¶ 60. The Legislative Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 60 of the First Amended Complaint and deny them.

¶ 61. The Legislative Defendants deny the allegations in paragraph 61 of the First Amended Complaint.

### FIRST CLAIM FOR RELIEF

¶ 62. The Legislative Defendants admit and deny the allegations incorporated by reference in paragraph 62 of the First Amended Complaint in the same manner expressly stated by the Legislative Defendants in paragraphs 1 to 61, inclusive, of this Answer.

¶ 63. The Legislative Defendants admit the allegations in paragraph 63 of the First Amended Complaint only to the extent the allegations accurately state the text of Article 4, Section 18(2) of the Nevada Constitution. The Legislative Defendants deny all other allegations in paragraph 63 of the First Amended Complaint.

¶ 64. The Legislative Defendants deny the allegations in paragraph 64 of the First Amended Complaint.



1       ¶ 65. The Legislative Defendants deny the allegations in paragraph 65 of the First Amended  
2 Complaint.

3       ¶ 66. The Legislative Defendants deny the allegations in paragraph 66 of the First Amended  
4 Complaint.

5       ¶ 67. The Legislative Defendants deny the allegations in paragraph 67 of the First Amended  
6 Complaint.

7                                   **SECOND CLAIM FOR RELIEF**

8       ¶ 68. The Legislative Defendants admit and deny the allegations incorporated by reference in  
9 paragraph 68 of the First Amended Complaint in the same manner expressly stated by the Legislative  
10 Defendants in paragraphs 1 to 67, inclusive, of this Answer.

11       ¶ 69. The Legislative Defendants deny the allegations in paragraph 69 of the First Amended  
12 Complaint.

13       ¶ 70. The Legislative Defendants deny the allegations in paragraph 70 of the First Amended  
14 Complaint.

15       ¶ 71. The Legislative Defendants deny the allegations in paragraph 71 of the First Amended  
16 Complaint.

17                                   **THIRD CLAIM FOR RELIEF**

18       ¶ 72. The Legislative Defendants admit and deny the allegations incorporated by reference in  
19 paragraph 72 of the First Amended Complaint in the same manner expressly stated by the Legislative  
20 Defendants in paragraphs 1 to 71, inclusive, of this Answer.

21       ¶ 73. The Legislative Defendants deny the allegations in paragraph 73 of the First Amended  
22 Complaint.

23       ¶ 74. The Legislative Defendants deny the allegations in paragraph 74 of the First Amended  
24 Complaint.

1 ¶ 75. The Legislative Defendants deny the allegations in paragraph 75 of the First Amended  
2 Complaint.

3 ¶ 76. The Legislative Defendants deny the allegations in paragraph 76 of the First Amended  
4 Complaint.

5 ¶ 77. The Legislative Defendants deny the allegations in paragraph 77 of the First Amended  
6 Complaint.

7 ¶ 78. The Legislative Defendants deny the allegations in paragraph 78 of the First Amended  
8 Complaint.

9 ¶ 79. The Legislative Defendants deny the allegations in paragraph 79 of the First Amended  
10 Complaint.

11 **FOURTH CLAIM FOR RELIEF**

12 ¶ 80. The Legislative Defendants admit and deny the allegations incorporated by reference in  
13 paragraph 80 of the First Amended Complaint in the same manner expressly stated by the Legislative  
14 Defendants in paragraphs 1 to 79, inclusive, of this Answer.

15 ¶ 81. The Legislative Defendants deny the allegations in paragraph 81 of the First Amended  
16 Complaint.

17 ¶ 82. The Legislative Defendants deny the allegations in paragraph 82 of the First Amended  
18 Complaint.

19 ¶ 83. The Legislative Defendants deny the allegations in paragraph 83 of the First Amended  
20 Complaint.

21 ¶ 84. The Legislative Defendants deny the allegations in paragraph 84 of the First Amended  
22 Complaint.

23 ¶ 85. The Legislative Defendants deny the allegations in paragraph 85 of the First Amended  
24 Complaint.

¶ 86. The Legislative Defendants deny the allegations in paragraph 86 of the First Amended Complaint.

¶ 87. The Legislative Defendants deny the allegations in paragraph 87 of the First Amended Complaint.

## AFFIRMATIVE DEFENSES

1. The Legislative Defendants plead as an affirmative defense that the First Amended Complaint fails to state a claim upon which relief can be granted.

2. The Legislative Defendants plead as affirmative defenses that Plaintiffs lack capacity to sue and standing; that Plaintiffs have failed to exhaust administrative remedies; that Plaintiffs' claims do not present a justiciable case or controversy; that Plaintiffs' claims are not ripe for adjudication; and that the Court lacks jurisdiction of the subject matter.

3. The Legislative Defendants plead as an affirmative defense that Plaintiffs' claims are barred by the doctrine of immunity, including, without limitation, sovereign immunity, official immunity, legislative immunity, discretionary-function immunity, absolute immunity and qualified immunity.

4. The Legislative Defendants plead as affirmative defenses that Plaintiffs' claims are barred by laches, estoppel and waiver.

5. The Legislative Defendants plead as an affirmative defense that, pursuant to NRS 218F.720, the Legislative Defendants may not be assessed or held liable for any filing or other court fees or the attorney's fees or other fees, costs or expenses of any other parties.

6. The Legislative Defendants reserve their right to plead, raise or assert any additional affirmative defenses which are not presently known to the Legislative Defendants, following their reasonable inquiry under the circumstances, but which may become known to the Legislative Defendants as a result of discovery, further pleadings or the acquisition of information from any other source during the course of this litigation.

1 **PRAYER FOR RELIEF**

2 The Legislative Defendants pray for the following relief:

- 3 1. That the Court enter judgment in favor of the Legislative Defendants and against Plaintiffs on  
4 all claims and prayers for relief directly or indirectly pled in the First Amended Complaint;
- 5 2. That the Court enter judgment in favor of the Legislative Defendants and against Plaintiffs for  
6 the Legislative Defendants' costs and attorney's fees as determined by law; and
- 7 3. That the Court grant such other relief in favor of the Legislative Defendants and against  
8 Plaintiffs as the Court may deem just and proper.

9 **AFFIRMATION**


10 The undersigned hereby affirm that this document does not contain "personal information about  
11 any person" as defined in NRS 239B.030 and 603A.040.

12 DATED: This 16th day of September, 2019.

13 Respectfully submitted,

14 **BRENDA J. ERDOES**  
15 Legislative Counsel

16 By: \_\_\_\_\_

  
17 **KEVIN C. POWERS**  
18 Chief Litigation Counsel  
19 Nevada Bar No. 6781  
20 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION  
21 401 S. Carson St.  
22 Carson City, NV 89701  
23 Tel: (775) 684-6830; Fax: (775) 684-6761  
24 E-mail: [kpowers@lcb.state.nv.us](mailto:kpowers@lcb.state.nv.us)  
*Attorneys for Defendants State of Nevada ex rel.  
Senate Majority Leader Nicole Cannizzaro and  
Secretary of the Senate Claire Clift*

CERTIFICATE OF SERVICE

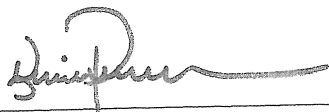
I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the 16th day of September, 2019, pursuant to NRCP 5(b), I served a true and correct copy of the Answer to Plaintiffs' First Amended Complaint by Defendants State of Nevada ex rel. Senate Majority Leader Nicole Cannizzaro and Secretary of the Senate Claire Clift, in the manner noted below, directed to the following:

By United States Mail, postage prepaid,  
addressed to:

KAREN A. PETERSON, ESQ.  
JUSTIN TOWNSEND, ESQ.  
ALLISON MACKENZIE, LTD.  
402 N. Division St.  
Carson City, NV 89703  
*Attorneys for Plaintiffs*

By delivering and leaving it with a clerk at the Office  
of the Attorney General, addressed to:

AARON FORD  
Attorney General  
CRAIG A. NEWBY  
Deputy Solicitor General  
OFFICE OF THE ATTORNEY GENERAL  
100 N. Carson St.  
Carson City, NV 89701  
*Attorneys for Defendants State of Nevada ex rel.  
Governor Steve Sisolak, Lieutenant Governor Kate  
Marshall, Nevada Department of Taxation and  
Nevada Department of Motor Vehicles*



\_\_\_\_\_  
An Employee of the Legislative Counsel Bureau

AARON D. FORD  
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CRAIG A. NEWBY (Bar No. 8591)  
Deputy Solicitor General  
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(775) 684-1108 (fax)  
cnewby@ag.nv.gov

*Attorneys for Executive Defendants*

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR CARSON CITY**

THE HONORABLE JAMES  
SETTLEMAYER, THE HONORABLE  
JOE HARDY, THE HONORABLE HEIDI  
GANSERT, THE HONORABLE SCOTT  
HAMMOND, THE HONORABLE PETE  
GOICOECHEA, THE HONORABLE BEN  
KIECKHEFER, THE HONORABLE IRA  
HANSEN, and THE HONORABLE  
KEITH PICKARD, in their official  
capacities as members of the Senate of  
the State of Nevada and individually;  
GREAT BASIN ENGINEERING  
CONTRACTORS, LLC, a Nevada limited  
liability company; GOODFELLOW  
CORPORATION, a Utah corporation  
qualified to do business in the State of  
Nevada; KIMMIE CANDY COMPANY, a  
Nevada corporation; KEYSTONE CORP.,  
a Nevada nonprofit corporation;  
NATIONAL FEDERATION OF  
INDEPENDENT BUSINESS, a  
California nonprofit corporation qualified  
to do business in the State of Nevada;  
NEVADA FRANCHISED AUTO  
DEALERS ASSOCIATION, a Nevada  
nonprofit corporation; NEVADA  
TRUCKING ASSOCIATION, INC., a  
Nevada nonprofit corporation; and  
RETAIL ASSOCIATION OF NEVADA, a  
Nevada nonprofit corporation,

Plaintiffs,

vs.

STATE OF NEVADA, *ex rel*, THE  
HONORABLE NICOLE CANNIZZARO,

Case No. 19 OC 00127-1B

Dept. No. I

MOTION TO DISMISS

REC'D & FILED  
211 SEP 16 PM 4:50  
BY C. COOPER  
CLERK

1 in her official capacity as Senate Majority  
2 Leader; THE HONORABLE KATE  
3 MARSHALL, in her official capacity as  
4 President of the Senate; CLAIRE J.  
5 CLIFT, in her official capacity as  
6 Secretary of the Senate; THE  
7 HONORABLE STEVE SISOLAK, in his  
8 official capacity as Governor of the State  
9 of Nevada; NEVADA DEPARTMENT OF  
10 TAXATION; NEVADA DEPARTMENT  
11 OF MOTOR VEHICLES; and DOES I-X,  
12 inclusive,

13 Defendants.

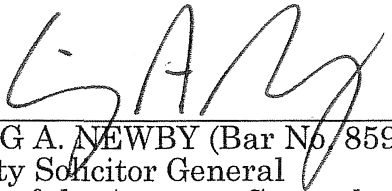
## 14 MOTION TO DISMISS

15 Pursuant to Rule 12, Defendants STATE OF NEVADA, *ex rel*, THE HONORABLE  
16 KATE MARSHALL, in her official capacity as President of the Senate; THE HONORABLE  
17 STEVE SISOLAK, in his official capacity as Governor of the State of Nevada; NEVADA  
18 DEPARTMENT OF TAXATION; and NEVADA DEPARTMENT OF MOTOR VEHICLES  
19 (collectively the "Executive Defendants"), hereby seek dismissal of Plaintiffs' lawsuit.

20 This Motion is made and based upon the following Memorandum of Points and  
21 Authorities, all the papers and pleadings on file herein, and any such argument that the  
22 Court chooses to entertain.

23 DATED this 16th day of September, 2019.

24 AARON D. FORD  
25 Attorney General

26 By:   
27 CRAIG A. NEWBY (Bar No. 8591)  
28 Deputy Solicitor General  
Office of the Attorney General  
100 North Carson Street  
Carson City, NV 89701-4717  
(775) 684-1100 (phone)  
(775) 684-1108 (fax)  
cnewby@ag.nv.gov

*Attorneys for Executive Defendants*

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION AND FACTUAL BACKGROUND

3 The 2019 Legislature passed two bills that maintained existing taxes and fees at  
4 existing rates from the prior fiscal year to future fiscal years. Because neither bill “creates,  
5 generates, or increases” “taxes, fees, assessments and rates,” each bill is constitutional. To  
6 the extent there is any ambiguity requiring interpretation, this Court should interpret the  
7 supermajority provision narrowly with the intent that it apply only to new or increased  
8 taxes, not to the continuation of existing taxes at existing rates from one year to the next.

9 This interpretation is consistent with the history, public policy, and reason for the  
10 supermajority provision, which arose from the following, infamous political promise:

11 **Read my lips: no new taxes!**

12 Vice President George H.W. Bush, at his August 18, 1988 speech accepting  
13 the Republican nomination for President.

14 When President Bush broke this promise, it provoked backlash throughout the  
15 United States. In response, governments attempted amending constitutions to require  
16 supermajority votes for new taxes. Nevada’s supermajority provision for new taxes that  
17 arose from this backlash is the subject of this lawsuit.

18 Former Governor (then-Assemblyman) Jim Gibbons spearheaded the effort to adopt  
19 the supermajority provision, modeling it on similar provisions from other states, including  
20 Oklahoma. The former Governor first tried to add a supermajority provision to the Nevada  
21 Constitution as an Assemblyman in the 1993 Legislature, but failed. At that time, he  
22 conveyed that it “would not impair any existing revenues.” *See AJR 21 Legislative History*  
23 (1993) at 747, attached hereto as **Exhibit A** (emphasis added). As part of the bill  
24 explanation, the provision was limited to efforts “to impose or increase” certain taxes. *Id.*  
25 at 760.

26 Subsequently, the former Governor successfully led the effort to pass the  
27 supermajority provision by initiative in the 1994 election (when he first ran unsuccessfully  
28 for Governor) and the 1996 election (when he successfully ran for Congress). The initiative



1 materials provided to Nevada voters show that the provision was intended for “raising” or  
2 “increasing taxes,” particularly from “new sources of revenue.” See *Nevada Ballot*  
3 *Questions 1994* at Question No. 11; *State of Nevada Ballot Questions 1996* at Question No.  
4 11, collectively attached hereto as **Exhibit B**.

5 As passed, the supermajority provision added to the Nevada Constitution reads as  
6 follows:

7 2. Except as otherwise provided in subsection 3, an affirmative  
8 vote of not fewer than two-thirds of the members elected to each  
9 House is necessary to pass a bill or joint resolution which creates,  
10 generates, or increases any public revenue in any form, including  
but not limited to taxes, fees, assessments and rates, or changes  
in the computation bases for taxes, fees, assessments and rates.

11 NEV. CONST. art. 4, § 18(1).

12 Under significantly different circumstances, the Nevada Supreme Court had the  
13 opportunity to review the supermajority provision. There, the Nevada Supreme Court  
14 recognized that the supermajority provision “was intended to make it more difficult for the  
15 Legislature to pass *new taxes*” or to turn “to *new sources of revenue*.”<sup>1</sup> *Guinn v. Legislature*,  
16 119 Nev. 460, 471 (2003) (emphasis added); see **Exhibit B**.

17 Here, this Court does not face new or increased taxes, much less a constitutional  
18 crisis threatening the education of Nevada’s children. Instead, the Legislature passed two  
19 bills to maintain existing taxes and fees at existing rates into the next fiscal year. Each  
20

---

21 <sup>1</sup> The Nevada Supreme Court previously considered the supermajority provision in  
22 the 2003 *Guinn v. Legislature* cases, specifically its relationship to constitutional provisions  
23 prioritizing public education where the executive and legislative branches were gridlocked  
24 as they related to funding almost immediately prior to the start of the school year. *Guinn*  
25 *v. Legislature*, 119 Nev. 277 (2003) (overturned as to “procedural” and “substantive”  
26 requirements analysis by *Nevadans for Nevada v. Beers*, 122 Nev. 930, 944 (2006)); *Guinn*  
*v. Legislature*, 119 Nev. 460 (2003). This case is not the expedited one faced by the Supreme  
Court in *Guinn*, both as to emergency timing or as a constitutional conflict between co-  
equal branches of government.

27 Here, Plaintiffs have done nothing to expedite consideration of their alleged  
28 “irreparable harm” associated with paying existing taxes at existing rates on or after  
September 30, 2019 or with the dispute amongst different State Senators, notwithstanding  
longstanding threats to file this lawsuit.

1 bill is *plainly constitutional* because neither “creates, generates, or increases” “taxes, fees,  
2 assessments and rates.”

3 To the extent there is any ambiguity requiring interpretation, this Court should  
4 interpret the supermajority provision narrowly in conjunction with the intent that it apply  
5 only to new or increased taxes relative to the prior fiscal year. This is consistent with how  
6 other states, including Oklahoma and Oregon, interpret their equivalent supermajority  
7 provisions. The Legislature’s interpretation under these circumstances, upon the advice of  
8 its counsel, is reasonable and entitled to deference from this Court as the most responsive  
9 branch to the People.<sup>2</sup>

10 Under such circumstances, Defendants seek dismissal of the case.

## 11 **II. LEGAL ANALYSIS**

### 12 **A. Standard of Review**

13 Rule 12(b) governs motions to dismiss, including this one premised on legal  
14 interpretation of the Nevada Constitution. When reviewing a Rule 12(b)(5) motion, a court  
15 reviews *all legal conclusions de novo*, even while recognizing all factual allegations in the  
16 complaint as true and drawing all inferences in the plaintiffs’ favor. *Buzz Stew, LLC v.*  
17 *City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008)(emphasis added). “A  
18 complaint should only be dismissed for failure to state a claim if it appears beyond a doubt  
19 that it could prove *no set of facts*, which, if true, would entitle it to relief.” *Szymborski v.*  
20 *Spring Mountain Treatment Ctr.*, 133 Nev. 638, 641, 403 P.3d 1280, 1283 (2017) (emphasis  
21 added). While generally a court may not consider matters outside the pleading for a Rule  
22 12(b)(5) motion, it may take into account matters of public record, orders, items present in  
23 the record of the case, and any exhibits attached to the complaint when ruling on a motion  
24 to dismiss. *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261  
25 (1993).

---

26  
27  
28 <sup>2</sup> A true and correct copy of the Legislative Counsel Bureau’s May 8, 2019  
memorandum is attached hereto as **Exhibit C**.

1 In Nevada, the constitutionality of a statute is a question of law. *Cornella v. Justice*  
2 *Court*, 132 Nev. —, 377 P.3d 97, 100 (2016) (internal quotation marks omitted).  
3 “Statutes are presumed to be valid, and the burden is on the challenging party to  
4 demonstrate that a statute is unconstitutional.”<sup>3</sup> *Id.* (internal quotation marks omitted).  
5 In interpreting an amendment to our Constitution, courts look to rules of statutory  
6 interpretation to determine the intent of both the drafters and the electorate that approved  
7 it. *Landreth v. Malik*, 127 Nev. 175, 180, 251 P.3d 163, 166 (2011); *Halverson v. Sec’y of*  
8 *State*, 124 Nev. 484, 488, 186 P.3d 893, 897 (2008). Nevada courts first examine the  
9 provision’s language. *Landreth*, 127 Nev. at 180, 251 P.3d at 166. If plain, a Nevada court  
10 looks no further, but if not, “we look to the history, public policy, and reason for the  
11 provision.” *Id.*

12 Moreover, Nevada courts construe statutes, if reasonably possible, so as to be in  
13 harmony with the constitution.” *Cornella*, 377 P.3d at 100 (2016) (internal quotation marks  
14 omitted). Stated differently, Nevada courts “adhere to the precedent that every reasonable  
15 construction must be resorted to, in order to save a statute from unconstitutionality.” *State*  
16 *v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 552 (2010) (internal quotation marks  
17 omitted). “[W]hen a statute is derived from a sister state, it is presumably adopted with  
18 the construction given it by the highest court of the sister state.” *Clark v. Lubritz*, 113 Nev.  
19 1089, 1096–97 n. 6, 944 P.2d 861, 865 n. 6 (1997) (citing *Craig v. Circus-Circus*  
20 *Enterprises*, 106 Nev. 1, 3, 786 P.2d 22, 23 (1990)).

21 Here, neither statute violates the plain terms of the supermajority provision because  
22 neither “creates, generates, or increases” any public revenue from one fiscal year to the  
23 next. Instead, by distinct methods, the statutes maintain existing public revenue at the  
24

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25  
26 <sup>3</sup> The individually named Defendants are not proper parties to this constitutional  
27 challenge, as none are responsible for implementing the statutes for collecting taxes that  
28 Plaintiffs allege cause their harm or are otherwise immune. For example, the Lieutenant  
Governor performed mandatory ministerial duties to sign the bills passed by the Senate  
pursuant to Senate Standing Rule 1. This would warrant further dismissal.

1 same level for taxpayers and Nevada state government between fiscal years. In short, the  
2 statutes comply with the supermajority provision.

3 To the extent Plaintiffs have a different interpretation, this Court should look to “the  
4 history, public policy, and reason” for the supermajority provision. When reviewing this,  
5 back to its origins from former President Bush’s lips, there is no reasonable doubt that the  
6 supermajority provision is intended to apply to new taxes relative to prior years, rather  
7 than continuing existing taxes at existing rates as the 2019 Legislature did. Other states  
8 with similar supermajority provisions have interpreted them the exact same way.

9 Under such circumstances, this Court should defer to the Legislature’s  
10 interpretation, which is consistent with the general legislative power and with how other  
11 states have similarly interpreted these provisions. Ultimately, the Legislature is  
12 accountable for its interpretation to the true sovereign, the People of Nevada, who will  
13 decide whether this interpretation is best for future Legislatures.

14 **B. The Statutes Comply with the Plain Language of the Nevada**  
15 **Constitution**

16 **1. Senate Bill 551 Does not Create, Generate, or Increase Public**  
17 **Revenue**

18 In relevant part, Senate Bill 551 repeals NRS 360.203. A true and correct copy of  
19 Senate Bill 551 as enrolled is attached hereto as **Exhibit D**. When passed by the 2015  
20 Legislature, there was no specific contemporaneous commentary at committee or during  
21 floor session on what was NRS 360.203.<sup>4</sup> Instead, it was part of the overall 2015  
22 Legislature’s efforts to provide greater fiscal stability for Nevada state government,  
23 specifically including public education.

24 As passed, NRS 360.203 required Taxation to calculate combined Commerce Tax,  
25 Modified Business Tax, and Bank Branch Excise Tax revenues. NRS 360.203(1). The  
26 repealed statute next required an apples-to-apples comparison between those revenues and

---

27 <sup>4</sup>Nevada courts may not consider post-enactment statements, affidavits or testimony  
28 from sponsors regarding their intent. *See A-NLV Cab Co. v. State Taxicab Auth.*, 108 Nev.  
92-95-96 (1992).

1 what the Economic Forum had previously estimated for the same fiscal year. NRS  
2 360.203(2). If the Economic Forum overestimated revenues compared to what was actually  
3 collected, nothing happened under the repealed statute.<sup>5</sup> Stated differently, had the  
4 Economic Forum overestimated revenues for Fiscal Year 2018, the repealed statute would  
5 be inapplicable by its terms.<sup>6</sup> If the Economic Forum underestimated revenues relative to  
6 collections by more than 4 percent, the repealed statute provided a mechanism for the  
7 future recalculation of MBT tax rates, such that the underestimated revenue would result  
8 in a potential future decrease for the next fiscal year. NRS 360.203(2).

9 ///

10 ///

11 ///

---

25 <sup>5</sup> See *Elley v. Stephens*, 104 Nev. 413, 416-17 (1988)(standing requires a party to  
26 suffer harm fairly traced to the challenged statute); *Resnick v. Nevada Gaming Com'm*, 104  
27 Nev. 60, 65-66 (1988) (requiring ripeness rather than future potential controversies for a  
court to have a justiciable case).

28 <sup>6</sup> Plaintiffs have not argued that the Economic Forum's tax revenue projections are  
subject to the supermajority provision.

Below is a chart comparing actual versus projected revenue for the three taxes:<sup>7</sup>

	FY 2017 Economic Forum Projection	FY 2017 Actual	FY 2018 Economic Forum Projection	FY 2018 Actual
Commerce Tax	\$203,411,000	\$197,827,208	\$186,046,000	\$201,926,513
MBT (After Tax Credits	\$526,971,540	\$575,232,919	\$525,615,000	\$581,843,729
Bank Branch Excise Tax	\$2,772,000	\$2,785,199	\$2,789,000	\$2,745,343
TOTAL	\$733,154,540	\$775,845,326	\$714,450,000	\$786,515,585

The Economic Forum presumed a downturn in revenue from these three taxes between FY 2017 and FY 2018. Instead, the Modified Business Tax significantly exceeded projections in both fiscal years. Had the projections been more accurate, NRS 360.203 would have remained dormant.

Senate Bill 551 repeals NRS 360.203. *See Ex. D* at § 39. As argued by Plaintiffs, repeal of NRS 360.203 required a supermajority vote because it eliminates a potential future decrease in the MBT tax rates. *See First Amended Complaint* (7/30/2019) at ¶ 43.

<sup>7</sup> The forecast information was derived from *General Fund Revenues – Economic Forum’s Forecast for FY 2017, FY 2018, and FY 2019 Approved at the May 1, 2017, Meeting, Adjusted for Measures Approved by the 2017 Legislature (79<sup>th</sup> Session)*, available at: [https://www.leg.state.nv.us/Division/fiscal/Economic%20Forum/EF%20May%202017%20Forecast%20with%20Legislative%20Adjustments%20\(updated%2011-9-2017\).pdf](https://www.leg.state.nv.us/Division/fiscal/Economic%20Forum/EF%20May%202017%20Forecast%20with%20Legislative%20Adjustments%20(updated%2011-9-2017).pdf) and attached hereto as **Exhibit E**.

The actual information was derived from *General Fund Revenues – Economic Forum May 1, 2019, Forecast, Actual: FY 2016 through FY 2018 and Forecast: FY 2019 through FY 2021, Economic Forum’s Forecast for FY 2019, FY 2020, and FY 2021 Approved at the May 1, 2019 Meeting (80<sup>th</sup> Session)*, available at: [https://www.leg.state.nv.us/Division/fiscal/Economic%20Forum/EF MAY 2019 FORECAST 5-1-2019.pdf](https://www.leg.state.nv.us/Division/fiscal/Economic%20Forum/EF_MAY_2019_FORECAST_5-1-2019.pdf) and attached hereto as **Exhibit F**.

1 In short, Plaintiffs' constitutional claim relies on the Economic Forum's conservative  
2 underestimate of combined tax revenues from the last biennium.

3 In this context, Plaintiffs' claim does not make sense. Repealed NRS 360.203(2)'s  
4 potential tax rate reduction would not have been in effect until July 1, 2019 at the earliest.  
5 NRS 360.203(3). Accordingly, as set forth by the Legislature's counsel in its May 8, 2019  
6 memorandum, Senate Bill 551 maintains the existing tax rate and revenue structure  
7 because any potential tax rate reduction was never effective as a matter of statute. **Ex. C**  
8 at 13.

9 Under these circumstances, Senate Bill 551 does not change existing tax rates for  
10 the Business Plaintiffs. Specifically, Section 37 of Senate Bill 551 makes it clear that the  
11 purpose and intent was "to maintain and continue the existing legally operative rates of  
12 the taxes." **Ex. D.** Great Basin Engineering Contractors, LLC, Goodfellow Corporation,  
13 Kimmie Candy Company, and Keystone Corp. will pay the same MBT tax rate as the last  
14 four fiscal years premised on the same employee wages. Because this does not create,  
15 generate, or increase any public revenue in any form relative to the prior fiscal year, the  
16 Legislature's passage of Senate Bill 551 complies with the plain language of the Nevada  
17 Constitution. The Court should enter judgment in Defendants' favor.

## 18 2. SB 542 Does not Create, Generate, or Increase Public Revenue

19 Senate Bill 542 amends a June 30, 2020 sunset provision for an existing DMV  
20 technology fee, extending it until June 30, 2022. A true and correct copy of Senate Bill 542  
21 as enrolled is attached hereto as **Exhibit G**. Nothing within Senate Bill 542 creates a new  
22 tax. Businesses such as the Business Defendants who have the same number of DMV  
23 transactions will owe the same amount of DMV technology fee as the last biennium, as well  
24 as the first year of this biennium (unaffected by this statute).<sup>8</sup> At most, Senate Bill 542  
25 eliminates a proposed, future end to the DMV technology fee almost one year from today.  
26 Because this does not create, generate, or increase any public revenue in any form relative

---

27 <sup>8</sup> Arguably, Plaintiffs' harm associated with SB 542 is not yet ripe until summer 2020,  
28 when the eliminated sunset provision would have previously taken effect.

1 to the prior fiscal year, the Legislature's passage of Senate Bill 542 complies with the plain  
2 language of the Nevada Constitution. The Court should enter judgment in Defendants'  
3 favor.

4 **C. To the Extent Plaintiffs Argue Differently, the Supermajority**  
5 **Provision should be Interpreted Narrowly to Apply to "New Taxes"**  
6 **Relative to Prior Fiscal Years, Consistent with its History, Public**  
7 **Policy, and Reason for Adoption**

8 **1. The History, Public Policy and Reason behind the**  
9 **Supermajority Provision is No New Taxes**

10 As set forth above, the supermajority provision arose from anti-tax fervor associated  
11 with President Bush's broken promise of "no new taxes." Former Governor Gibbons led the  
12 Nevada charge for the supermajority provision, emphasizing its effect on new or additional  
13 taxes, noting it did not apply to existing taxes. See **Ex. A** at 747, 760. The initiative  
14 information provided to Nevada voters similarly made it clear that they intended the  
15 provision for "raising" or "increasing taxes," particularly from "new sources of revenue."  
16 **Ex. B.** The clear purpose and public policy behind the supermajority provision was to  
17 prevent "new taxes."

18 Prior implementation of Nevada Economic Forum projections is consistent with the  
19 clear intent for the supermajority provision to prevent "new taxes" rather than increased  
20 revenues from existing provisions. Specifically, prior Economic Forum projections relied  
21 upon by the Legislature for budgeting show significant increases in revenue from existing  
22 taxes, including the Commerce Tax and the Branch Bank Excise Tax, presumably based  
23 on Nevada's growing economy. See **Ex. E & F.** These projections has never required  
24 supermajority approval because none creates a "new tax." To the extent this Court believes  
25 it needs to look beyond the plain language of the supermajority provision, it should  
26 interpret the provision relative to fiscal years, such that it can be easily determined  
27 whether a tax "creates, generates, or increases" revenue.<sup>9</sup>

28 <sup>9</sup> Defendants note that there is a second supermajority provision challenge pending  
before the Eighth Judicial District Court. *Morency et al. v. State of Nevada ex rel. Dept. of*  
*Education et al.*, Case No. A-19-800267-C (Nev. 8<sup>th</sup> Jud. Dist. Ct., August 15, 2019). There,  
Defendants contend that elimination of certain tax expenditures for a private school



1           **2.     Other States Interpret Similar Supermajority Provisions Narrowly**  
2           **for No New Taxes**

3           Nevada is not alone when attempting to interpret similar supermajority provisions.

4           For instance, in South Dakota, the supermajority provision applies to the passage of  
5 certain appropriations. S.D. CONST. art. XII, § 2. However, the South Dakota Supreme  
6 Court rejected challenges arguing that reappropriations require a supermajority vote,  
7 noting that the constitutional provision only governs passage of the appropriation, not  
8 repeal or amendment of an existing appropriation. *Apa v. Butler*, 638 N.W. 2d 57, 69-70  
9 (S.D. 2001). Nevada's supermajority provision similarly applies only to passage of a bill,  
10 with no reference to repeal or amendment of a previously approved revenue generator.  
11 Nev. Const. art. IV, § 18(2).

12           In Oklahoma, the supermajority provision applies to the passage of revenue bills by  
13 a three-fourths vote. OKLA. CONST. art. V, § 33. However, the Oklahoma Supreme Court  
14 rejected the applicability of its supermajority provision to a bill including provisions  
15 deleting the "expiration date of specified tax rate levy." *Fent v. Fallin*, 345 P.3d 1113, 1114-  
16 17 n.6 (Okla. 2014). This is consistent with that Court's limitation of the Oklahoma  
17 supermajority provision to bills whose principal object is to raise new revenue and which  
18 levy a new tax in the strict sense of the word. *Okla. Auto Dealers Ass'n*, 401 P.3d 1152,  
19 1153 (Okla. 2017).

20           In Oregon, the supermajority provision applies to the passage of bills for raising  
21 revenue by a three-fifths vote. OR. CONST. art. IV, § 25(2). However, the Oregon Supreme  
22 Court rejected the applicability of eliminating a tax exemption for out-of-state electric  
23 utility facilities was not subject to its constitutional supermajority provision. *City of Seattle*  
24 *v. Or. Dep't of Revenue*, 357 P.3d 979, 980 (Or. 2015).

25  
26           voucher program required a supermajority vote, even though the Legislature ultimately  
27 increased the tax expenditures for the upcoming two fiscal years, resulting in decreased  
28 state revenue. Defendants submit that the outcome of that case would have no effect on  
this case for addressing the constitutionality of the Legislature's interpretation of the  
supermajority provision.

1 None of these other states would apply supermajority provision onto the  
2 continuation of existing taxes and fees through the elimination of a potential future  
3 recalculation clause or the elimination of a not-yet applicable sunset provision. This Court  
4 should similarly interpret Nevada's provision as being inapplicable to these statutes.

5 **3. The Legislature is Entitled to Deference as the Branch Most**  
6 **Accountable to the People**

7 Nevada courts construe statutes, if reasonably possible, so as to be in harmony with  
8 the constitution." *Cornella v. Justice Court*, 132 Nev. —, 377 P.3d 97, 100 (2016)  
9 (internal quotation marks omitted). Stated differently, Nevada courts "adhere to the  
10 precedent that every reasonable construction must be resorted to, in order to save a statute  
11 from unconstitutionality." *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 552 (2010)  
12 (internal quotation marks omitted). The Nevada Constitution "must be strictly construed  
13 in favor of the power of the legislature to enact the legislation under it." *In re Platz*, 60  
14 Nev. 296, 308 (1940). This is particularly true where the Legislature acts upon the opinion  
15 of its Legislative Counsel. *Nev. Mining Ass'n v. Erdoes*, 117 Nev. 531, 540 (2001).

16 Nevada courts do this because of the significant power vested in the Legislature  
17 under the Nevada Constitution, consistent with constitutional requirements for republican  
18 forms of government and majoritarian rule. Specifically, the United States Constitution  
19 guarantees that each State shall have "a Republican Form of Government." U.S. CONST.  
20 art. IV, § 4. Nevada generally requires that "a majority of all of the members elected to  
21 each house is necessary to pass every bill or joint resolution." NEV. CONST. art. 4, § 18(1).  
22 Prior to the 1990s, all bills required majority support.

23 As noted by James Madison in the Federalist Papers:

24 In all cases where justice or the general good might require new  
25 laws to be passed, or active measures to be pursued, the  
26 fundamental principle of free government would be reversed. It  
27 would be no longer the majority that would rule; the power would  
28 be transferred to the minority. Were the defensive privilege  
limited to particular cases, an interested minority might take  
advantage of it to screen themselves from equitable sacrifices to  
the general weal, or in particular circumstances to extort  
unreasonable indulgences.

1 THE FEDERALIST NO. 58, at 397 (James Madison).

2 Here, the People's elected representatives in the State Senate disagree on how to  
3 interpret Nevada's Constitution. Where both interpretations are reasonable and the  
4 majority Legislature relied upon the specific advice of its counsel, this Court should defer  
5 to the Legislature's interpretation. Even if it would not necessarily be this Court's  
6 preferred interpretation, deferring to the Legislature will allow Nevada's true sovereign,  
7 the People, to ultimately decide the wisdom of the 2019 Legislature's decisions.

8 **III. CONCLUSION**

9 This Court should dismiss Plaintiffs' case with prejudice or, in the alternative, award  
10 Defendants summary judgment because the passage of Senate Bill 542 and Senate Bill 551  
11 comply with Article IV, Section 18(2) of the Nevada Constitution.

12 DATED this 16<sup>th</sup> day of September, 2019.

13 AARON D. FORD  
14 Attorney General

15  
16 By: 

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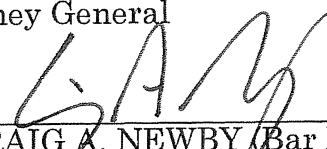
*Attorneys for Executive Defendants*

**AFFIRMATION**

The undersigned does hereby affirm that the preceding document **DOES NOT** contain the social security number of any person.

DATED this 16th day of September, 2019.

AARON D. FORD  
Attorney General

By:   
CRAIG A. NEWBY (Bar No. 8591)  
Deputy Solicitor General

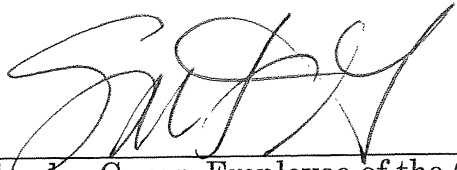
CERTIFICATE OF SERVICE

I hereby certify that I mailed by United States, First Class, the foregoing on the 16<sup>th</sup> day of September, 2019, including service upon the following counsel of record:

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By:

  
Sandra Geyer, Employee of the Office  
of the Attorney General

## INDEX OF EXHIBITS

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A	AJR 21 Legislative History (1993) at 747	18
B	Guinn v. Legislature, 119 Nev. 460, 471 (2003)	8
C	Legislative Counsel Bureau's May 8, 2019 Memorandum	24
D	Senate Bill 551 as enrolled	33
E	Economic Forum's Forecast for FY2017, FY2018, and FY 2019 Approved at the May 1, 2017 Meeting	8
F	Economic Forum May 1, 2019, Forecast Actual: FY2016 through FY2018, and Forecast: FY 2019 through FY 2021, Economic Forum's Forecast for FY 2019, FY 2020, and FY 2021 Approved at the May 1, 2019 Meeting	8
G	Senate Bill 542 as enrolled	1

# **EXHIBIT A**

N E L I S

DETAIL LISTING  
FROM FIRST TO LAST STEP

TODAY'S DATE: Feb. 24, 1994  
TIME : 3:44 pm  
LEG. DAY: 93 Regular  
PAGE : 1 OF 1

1993

AJR 21 By Gibbons TAXATION

Proposes to amend Nevada constitution to require two-thirds majority of each house of legislature to increase certain existing taxes or impose certain new taxes. (BDR C-166)

Fiscal Note: Effect on Local Government: No. Effect on the State or on Industrial Insurance: No.

03/05 25 Read first time. Referred to Committee on Taxation. To printer.  
03/08 26 From printer. To committee.  
03/08 26 Dates discussed in committee: 5/4, 5/20 (DP)  
(\* = instrument from prior session)



ASSEMBLY JOINT RESOLUTION NO. 21--ASSEMBLYMEN GIBBONS, MARVEL, ERNAUT, SCHERER, GREGORY, HUMKE, HELLER, REGAN, HETTRICK, AUGUSTINE, CARPENTER, TIFFANY, LAMBERT, MCGAUGHEY, SCHNEIDER, BONAVENTURA, PETRAK, COLLINS, HALLER, SEGERBLOM AND WENDELL WILLIAMS

MARCH 5, 1993

Referred to Committee on Taxation

SUMMARY--Proposes to amend Nevada constitution to require two-thirds majority of each house of legislature to increase certain existing taxes or impose certain new taxes. (BDR C-166)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

EXPLANATION--Matter in italics is new; matter in brackets [ ] is material to be omitted

ASSEMBLY JOINT RESOLUTION--Proposing to amend the constitution of the State of Nevada to require an affirmative vote of not fewer than two-thirds of the members of each house of the legislature to increase certain existing taxes or impose certain new taxes.

- 1 RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA,
- 2 JOINTLY, That section 18 of article 4 of the constitution of the State of Nevada
- 3 be amended to read as follows:
- 4 [Sec:] *Sec. 18. 1. Every bill, except a bill placed on a consent calendar*
- 5 *adopted as provided in [this section, shall] subsection 3, must be read by*
- 6 *sections on three several days, in each House, unless in case of emergency,*
- 7 *two thirds of the House where such bill [may be] is pending shall deem it*
- 8 *expedient to dispense with this rule [; but the] The reading of a bill by*
- 9 *sections, on its final passage, shall in no case be dispensed with, and the vote*
- 10 *on the final passage of every bill or joint resolution shall be taken by yeas and*
- 11 *nays to be entered on the journals of each House. [; and] Except as otherwise*
- 12 *provided in subsection 2, a majority of all the members elected to each house*
- 13 *[, shall be] is necessary to pass every bill or joint resolution, and all bills or*
- 14 *joint resolutions so passed, shall be signed by the presiding officers of the*
- 15 *respective Houses and by the Secretary of the Senate and clerk of the*
- 16 *Assembly.*
- 17 *2. Except as otherwise provided in this subsection, an affirmative vote of*
- 18 *not fewer than two-thirds of the members elected to each house is necessary to*
- 19 *pass a bill or joint resolution which increases or imposes any tax, in any*
- 20 *form, based upon:*
- 21 *(a) The value of real property;*
- 22 *(b) The retail sale or use in this state of tangible personal property,*



- 1 (c) The receipts, income, assets, capital stock or number of employees of a
- 2 business, including a business engaged in gaming;
- 3 (d) The net proceeds of minerals extracted or any other net proceeds of
- 4 mining;
- 5 (e) The volume, weight or alcoholic content of liquor imported, possessed,
- 6 stored or sold in this state; or
- 7 (f) The number or weight of cigarettes or any other tobacco product pur-
- 8 chased, possessed or sold in this state.
- 9 The requirement of this subsection does not apply to a fee which is imposed on
- 10 the right to use or dispose of property, to pursue a business or occupation or
- 11 to exercise a privilege if the primary purpose of the fee is to reimburse the
- 12 state for the cost of regulating an activity and not to raise the public revenue.
- 13 3. Each House may provide by rule for the creation of a consent calendar
- 14 and establish the procedure for the passage of uncontested bills.

MINUTES OF MEETING  
ASSEMBLY COMMITTEE ON TAXATION

Sixty-seventh Session  
May 4, 1993

The Assembly Committee on Taxation was called to order by Chairman Robert E. Price at 1:25 p.m., Tuesday, May 4, 1993, in Room 332 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda, Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Mr. Robert E. Price, Chairman  
Mrs. Myrna T. Williams, Vice Chairman  
Mr. Rick C. Bennett  
Mr. Peter G. Ernaut  
Mr. Ken L. Haller  
Mrs. Joan A. Lambert  
Mr. John W. Marvel  
Mr. Roy Neighbors  
Mr. John B. Regan  
Mr. Michael A. Schneider  
Mr. Larry L. Spitler

COMMITTEE MEMBERS ABSENT:

Mr. Peter G. Ernaut (Excused)  
Mr. John B. Regan (Excused)  
Mr. Michael A. Schneider (Excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Mr. Ted Zuend, Deputy Fiscal Analyst, Legislative Counsel Bureau

OTHERS PRESENT:

Brian C. Harris, Governor Miller's Office  
Michael J. Griffin, CPA, Deputy Commissioner, Nevada Department of Insurance  
Marie H. Soldo, representing Sierra Health Services  
Robert R. Barengo, representing Humana Insurance of Nevada

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James L. Wadhams, representing the American Insurance Association and Nevada Independent Insurance Agents Association  
Carole Vilaro, Nevada Taxpayers Association  
Steve Stucker, Laughlin Associates, Inc.  
Lewis Laughlin, testifying on behalf of the Nevada Association of Independent Businesses  
Don Merritt, a Nevada citizen  
Jim Fontano, a Carson City resident  
Bonnie James, representing the Las Vegas Chamber of Commerce  
Ned Air, a Nevada citizen

Chairman Price opened the hearing on AB 331 continuing testimony from the Thursday, April 29, 1993, meeting.

ASSEMBLY BILL 331 - Requires annual prepayment of tax on insurance premiums. (BDR 57-1714)

Brian C. Harris, Governor Miller's Office, spoke in support of AB 331. Mr. Harris indicated he had been working with representatives of the industry hopefully to clear up some of the problems with AB 331. Mr. Harris provided committee members with a copy of a proposed amendment to AB 331 attached hereto marked Exhibit C.

Mr. Harris pointed out Commissioner Rankin informed him on page 1 of the proposed amendment (Exhibit C) subsection 2, which had been deleted, needed to be included.

Mr. Harris iterated the new subsection 2 listed in italics provided for the prepayment of the tax to be paid in two portions on March 1st and June 15th of each year. Mr. Harris walk the committee through the amendment section by section.

Michael J. Griffin, CPA, Deputy Commissioner, Nevada Department of Insurance, responded to a question explaining subsection 6 of the proposed amendment (Exhibit C). He conveyed if an insurer was one day late, the interest would be one-thirtieth of the 1.5 percent.

Mr. Spitler asked for clarification with regard to an overpayment. Mr. Griffin articulated if an insurer made an overpayment, the overpayment would be a direct credit against the estimated tax liability the next calendar year. Mr. Griffin responded to another question stating the business did not have the option of having the overpayment returned, it had to be applied against future tax liability. He expanded stating if

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Vice Chairman Williams closed the hearing on AB 331.

Vice Chairman Williams opened the hearing on AJR 21.

ASSEMBLY JOINT RESOLUTION 21 -

Proposes to amend Nevada constitution to require two-thirds majority of each house of legislature to increase certain existing taxes or impose certain new taxes. (BDR C-166)

Ted Zuend, Deputy Fiscal Analyst, Legislative Counsel Bureau, provided committee members with a Bill Explanation for AJR 21 attached hereto marked Exhibit D.

James A. Gibbons, Assembly District 25, spoke as the prime sponsor of AJR 21 which proposed to amend the Nevada Constitution to require a two-thirds majority vote in each house of the legislature to increase certain existing taxes or to impose certain new taxes.

Mr. Gibbons commented AJR 21 was introduced with the idea of public confidence in mind. He stated the public confidence in the legislature and the legislative process was at an all-time low. Elected officials were at the bottom of the wrung on the ladder of public confidence. Mr. Gibbons believed the answer to the problem of public confidence was that the legislature needed to focus on the actual needs of the public rather than the wants of the public. That would require a transformation of the thought process and a transformation that would make the legislature focus more on the responsible utilization of the taxpayer's money.

Mr. Gibbons said it was clear to him that the government did not have a funding problem, but a spending problem. Nevadans wanted public service but did not want to pay for wasteful government. The issue was one of perception and confidence, perception the legislators wastefully spend the public's money. The public lacked the confidence and believed the legislators would raise taxes to cover the sins.

Mr. Gibbons iterated the concepts of economics said taxes always reduced the amount of money that would have been used by the private sector to increase production and thus employment, consequently yielding or fueling the gross national product and increasing overall standards of living. Governments wasted money through inefficiency. The problem would not be solved by better people, by better management, by better systems or by more money because the problem was a structural problem in

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government and the incentives in government were skewed against the public interest.

Mr. Gibbons asserted there were two alternative approaches to balancing government budgets when spending exceeded taxation. The conventional wisdom was first to reduce services or increase taxes; however, Mr. Gibbons suggested there was a third way and that was use government money more wisely and more efficiently. It was a simple household and business concept and strategy; when the income was not there, the expenses should be decreased.

Mr. Gibbons stressed AJR 21 amended the Nevada Constitution to require bills providing for a general tax increase be passed by a two-thirds majority of both houses of the legislature. The resolution would apply to property taxes, sales and use taxes, business taxes based on income, receipts, assets, capital stock or number of employees, taxes on the net proceeds of mines and taxes on liquor and cigarettes.

Mr. Gibbons explained AJR 21 was modelled on constitutional provisions which were in effect in a number of other states. Some of the provisions were adopted recently in response to a growing concern among voters about increasing tax burdens and some of the other provisions dated back to earlier times.

Mr. Gibbons described the provisions in the other states. In Arizona any bill that provided for a net increase in revenues had to be passed by a two-third majority vote of each house. A veto of a tax bill could be overridden by three-fourths majority. In Arkansas any bill to increase property, excise privilege or personal income taxes had to be passed by a three-fourths majority vote. Mr. Gibbons continued illustrating an amendment had recently been enacted to the California Constitution requiring a two-thirds majority vote in each house for new taxes and tax increases and prohibited new taxes on property, sales or transactions involving real property. Mr. Gibbons iterated in Colorado the legislature could, in an emergency, increase taxes by a two-thirds vote in each house. The tax increases had to be submitted to the people for approval at the next election. The same provisions also imposed strict spending limits on state government. Mr. Gibbons revealed in Delaware an increase in a tax or fee had to be approved by a three-fifths majority of each house. Mr. Gibbons said the Florida Constitution required bills that increased the income tax to more than 5 percent of net income had to be approved by a three-fifths majority of each house. In Louisiana a two-thirds majority was required. In Mississippi bills for the assessment of real property had to receive a three-fifths

majority in each house. In Oklahoma the constitution required revenue bills had to be approved by three-fourths of the members of each house. South Dakota required a two-thirds majority for bills increasing income sales and property taxes. Mr. Gibbons said in Delaware in order to secure the confidence of many companies residing there, a two-thirds majority was required in each house to amend its incorporation law. Illinois required a three-fifths majority to pass a law affecting cities with home-rule.

Mr. Gibbons believed a provision requiring an extraordinary majority was a device used to hedge or protect certain laws which he believed should not be lightly changed. AJR 21 would ensure greater stability and preserve certain statutes from the constant tinkering of transient majorities.

Mr. Gibbons addressed some of the anticipated objections. Some will claim AJR 21 would deprive the state of revenues necessary to provide essential state services. Mr. Gibbons conveyed that was not the case. AJR 21 would not impair any existing revenues. It was not a tax rollback and did not impose rigid caps on taxes or spending. Mr. Gibbons thought it would not be difficult to obtain a two-thirds majority if the need for new revenues was clear and convincing. AJR 21 would not hamstring state government or prevent state government from responding to legitimate fiscal emergencies.

Mr. Gibbons examined the voting record for every new tax and increase which would have been affected by AJR 21 for the last three decades. Mr. Gibbons found in most instances the bills obtained a two-thirds majority vote even though a simple majority was required. He referred to an example of research performed, illustrating the voting record on bills, a copy of which is attached hereto marked Exhibit E. Exhibit E illustrated in all but a few instances the tax increases were passed with more than the two-thirds requirement.

Mr. Gibbons concluded by saying the measure did not propose government do less, but actually AJR 21 could permit government to do more. AJR 21 was a simple moderate measure that would bring greater stability to Nevada's tax systems, while still allowing the flexibility to meet real fiscal needs. Mr. Gibbons urged the committee's approval of AJR 21.

Mr. Spitler asked Mr. Gibbons in his research if the other states required similar legislation for approval of a state budget, or if the state remained with a simple majority to approve a budget and the two-thirds or three-fourths majority to

approve the funding mechanism. Mr. Gibbons said his research did not focus on the approval process of the budget. Mr. Gibbons said he would have it researched and produce the information for Mr. Spitler.

Mr. Spitler articulated if one looked at empowerment and on one hand a simple majority declared what the budget should be and on the other hand a super majority declared the funding mechanism, it was actually empowering a smaller group of people not to fund the budget. Mr. Gibbons communicated he would have to do some more research before he could give an informed answer. Mr. Gibbons believed the two should go hand in hand.

Mr. Spitler asked if the other states actually spent less since the imposed legislation. Mr. Gibbons articulated with the depth of research required to answer the question, Mr. Gibbons did not possess that sort of detail.

Mrs. Williams asked Mr. Gibbons if the states he cited had an income tax. Mr. Gibbons said South Dakota and Florida did not have an income tax. Mrs. Williams conveyed when there was an income tax it changed the considerations considerably.

Mrs. Williams was compelled to point out the Ways and Means Committee constantly heard about the waste in government. She suggested the Ways and Means Committee was not looking at waste or wants, but looking at the needs driven by extraordinary growth that far exceeded any other place in the country. There were structural problems other states were not faced with. She pointed out many of the other states mentioned had decreasing populations and did not have the same demands. Mrs. Williams would like to see the waste identified. Mrs. Williams said it was incumbent upon people who thought there was waste to sit in the hearings, listen to the testimony, understand the budgets and what the numbers meant and then make a determination on whether it was waste or want and not need. Mrs. Williams agreed with Mr. Gibbons in that Nevada needed major structural and policy changes.

Mrs. Williams asked Mr. Gibbons if he thought AJR 21 could possibly inhibit structural change by requiring a super majority. Mr. Gibbons respectfully disagreed and said structural change to him meant incentives built into the government structure. AJR 21 did just the opposite and forced the legislature in the decision process to make the structural changes in government itself. Mrs. Williams pointed out the flip side of the coin revealed a minority of people could make sure progress would not occur and change would not occur. Mrs.



Williams said there were always people who were resistant to change. The fact needed to be considered a small minority of people could blockade the ability to move forward and change policy. Mr. Gibbons surmised that was the one avenue that raised a flag in the issue, whether or not one addressed it from the minority standpoint of being able to say no versus the super majority required to say yes on a tax bill.

Mr. Neighbors only had a problem with the concept that the minority might be able to tell the majority exactly what to do. He added none of the other states Mr. Gibbons listed had the growth problems Nevada had. Mr. Neighbors saw one of the problems as telling everyone "we need to diversify" and invite people into the state and then turn around to local government and say "now you provide the service."

Mr. Gibbons again addressed the issue a two-thirds majority allowed for a minority. Mr. Gibbons stressed the purpose of AJR 21 was to identify true tax needs. He referred to Exhibit E stating it was a very rare instance that only less than two-thirds majority vote in both houses was accomplished. That required the legislators to find the broad support by identifying the need for the tax. The vote in Exhibit E showed 90 to 100 percent of the legislators, in a majority of the times, felt compelled to raise taxes. Mr. Gibbons stressed to Mr. Neighbors Florida was indeed a growing state. The demands in Florida, in terms of growth in senior citizens which drove Florida's budget, probably exceeded the state of Nevada in terms of dollar requirements.

Mrs. Williams pointed out Florida probably collected more in taxes to start with. Florida's tax rates were higher, the property taxes were higher generating more revenue. Mr. Gibbons said Florida also did not have 87 percent of the state owned by the federal government, so Florida's property taxes brought in a lot more revenue. Mr. Gibbons said Nevada based its property tax on 13 percent of the state and expected that to run the whole state.

Mr. Marvel referred to Exhibit E stating last session was the only time the two-thirds majority would have made a difference, and it was somewhat fictitious because of the fair share issue. Mr. Gibbons said that was exactly right, and additionally there was one measure that would have required only one more vote to make it two-thirds in the Assembly. Mr. Marvel said in speaking in terms of reality many of the Washoe County people voted against any tax because of the fair share issue.

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Steve Stucker, Laughlin Associates, Inc., spoke in favor of AJR 21. He iterated Laughlin Associates, Inc., was resident agent for some 5,000 corporations in Nevada. Part of Laughlin Associates' business involved the selling of Nevada to businesses in other states. He said many of the businesses did contribute to the tax base in Nevada, many of which did not impact the infrastructure or services provided by Nevada.

Mr. Stucker said many of the businessmen he spoke with were concerned about the stability of the tax structure in Nevada and the appeasement of special interests. He realized some taxes were necessary to provide governmental services, but those which were good for Nevada as a whole ought to be the ones that were considered and not those benefitting the larger special interests.

Mr. Stucker felt the passage of AJR 21 would ensure that a tax was not only necessary, but also would benefit what was perceived to be the vast majority of Nevadans if a two-thirds majority was required. It would also minimize fluctuations in the tax structure.

Mr. Stucker expressed the concern of the businesses was the stability to the tax picture in Nevada. It would allow the businesses to make a little more informed judgments as to whether to move to Nevada as opposed to somewhere else. It had been mentioned the general perception among citizens, as well as those businesses, bureaucracy did not live within its means and the easiest thing to do was to increase taxes rather than to curb spending. He thought AJR 21 would give that message. Laughlin Associates urged the committee's support of AJR 21.

In response to a question from Mr. Spitler, Mr. Stucker said it was not just perception that drew the businesses to Nevada, but whether the tax base was stable without constant fluctuations. Mr. Stucker iterated for Mr. Spitler that Laughlin had a board of directors and was incorporated. Mr. Stucker did not know if Laughlin required a two-thirds vote on authorizing expenditures. Mr. Stucker advised Mr. Spitler when Laughlin's board voted it was spending Laughlin's own money. Mr. Spitler countered stating when he voted he did not believe he was spending someone else's money, but indeed his own as well. Mrs. Williams clarified all of the legislators were taxpayers as well and were subject to the same unhappy circumstances as everyone else.

Lewis Laughlin testified on behalf of the Nevada Association of Independent Businesses (NAIB) in support of AJR 21. NAIB was 765 small independent businesses employing in excess of 10,000

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employees in Nevada. Those businesses and the people that worked for the businesses overwhelmingly supported the proposition that taking money out of their pockets through increased taxes or new taxes should not be easy and only done when it was absolutely clearly and convincingly necessary for the good of all of the people of Nevada and not just some particular powerful special interest or bureaucracy.

Mr. Laughlin conveyed the perception existed on the part of independent business people and on the part of the taxpayers at large that sometimes their money was not taken seriously enough by the government. By passing AJR 21, whether or not it was a perceived problem or the real problem, government would be responding to the needs and the desires of the people to take their money seriously. NAIB supported the proposition there should be some form of tax stability. There had been many changes in Nevada's tax policy. Nevada had not had a tax policy and hopefully passing AJR 21 before new taxes were implemented might force the issue of implementing something stable for tax policy.

Mr. Laughlin said if AJR 21 was passed the prospect of taking more money out of Nevadans' pockets would be less easy and less tempting to those who would benefit by doing so. He stated Nevada would actually need "need" for the money as opposed to "greed" that was contained in certain budgets. Mrs. Williams interjected since there were so many members of the money committee that served on the Taxation Committee, she asked Mr. Laughlin to provide a list of the budgets that contained "greed" and not "need." Mr. Laughlin said he would be happy to send a list as well as suggestions on how to save money in the state budget process. Mr. Laughlin suggested common sense indicated there was some waste in government.

Mr. Laughlin iterated in a ten year period from 1980 to 1990 tax revenues in Nevada increased by 190 percent while revenue increased by only 50.1 percent. Tax revenue exceeded Nevada's growth by 397 percent. Mr. Laughlin urged the committee's support for AJR 21.

Mr. Zuend responded to Vice Chairman Williams stating a study was performed for the Nevada Resort Association by Grant Thornton that cited something to the effect (with regard to sales and property taxes only) each new resident generated approximately \$6,000 in new services, but initially only paid \$900 or \$1,000 in taxes. Mr. Laughlin said it was important to note that the study did not include many fees paid that went into the general revenue. Vice Chairman Williams stated if the

new residents generated the revenue commensurate with moving in, Nevada would not have to be passing bond issues.

Mr. Laughlin informed committee members that a two-thirds vote was not necessary for expenditures of funds within Laughlin Associates. Mr. Laughlin said within the framework of Laughlin Associates the Board of Directors set the general policy and framework for the officers. Laughlin focused on bottom-line results. If the bottom-line results came in, the money would be spent, but if the bottom-line results did not come in, then the money would not be spent.

Don Merritt, a Nevada citizen, testified in support of AJR 21. Mr. Merritt said the committee had a wonderful opportunity to demonstrate to the people of Nevada the committee's concern for money. He iterated knowing two-thirds majority was required in both houses to increase taxes, true need would be addressed. Mr. Merritt indicated he would not oppose a tax increase if it was absolutely necessary and would be willing to pay his share. He stated there were times when temporary taxes were put in place and he believed the temporary taxes were still in place and yet there were current budgetary problems. Mr. Merritt urged the committee to vote in favor of AJR 21.

Jim Fontano, a Carson City resident, voiced concern with regard to taxation and the perception of the citizens with the government. Mr. Fontano testified in support of AJR 21. Mr. Fontano believed passing AJR 21 would assist with the perception of the government the citizens had. He believed the passing of AJR 21 would show some of the citizens the government was concerned.

Mr. Fontano echoed some of the testimony previously heard and added most citizens would agree to go along with a tax increase if there was a real need. Mr. Fontano offered his support for AJR 21.

Carole Villardo, Nevada Taxpayers Association (NTA), testified in support of AJR 21. She echoed most of the testimony already presented to the committee. The NTA supported the bill because since 1988 there had been the need to accomplish structural fiscal reform, both tax-side and budget-side and AJR 21 was just one element in creating tax structural fiscal reform.

Bonnie James, representing the Las Vegas Chamber of Commerce, voiced the Chamber's support for AJR 21. She said most of the citizens did not realize most of the taxes passed out of committee had in fact passed with a two-thirds majority vote.

Assembly Committee on Taxation  
Tuesday, May 4, 1993  
Page: 19

Ned Air, a Nevada citizen, strongly supported AJR 21. Mr. Air said he would like to use AJR 21 as a tool to entice businesses.

Ms. Air addressed Mrs. Williams comments with regard to waste and agreed there were many problems that needed to be met and he sympathized; however, when he drove down a street and saw three guys sitting around a hole talking while one guy was in the hole digging, he perceived that as waste. Mr. Air relayed a story that he believed demonstrated waste. Mr. Air encouraged the committee to do what was needed to gain a better perception from the public. Mr. Neighbors said it was Mr. Air's perception when he drove pass a manhole the employees were wasting time, but OSHA requirements might state there had to be a person standing above the manhole. He pointed out it could also be perception on the part of the citizen.

Vice Chairman Williams closed the hearing on AJR 21.

There being no further business to come before committee, the meeting was adjourned at 3:30 p.m.

RESPECTFULLY SUBMITTED:

  
DIANNE LAIRD  
Committee Secretary

A.J.R. 21  
BILL EXPLANATION

HEARING DATE: May 4, 1993

SUMMARY--Proposes to amend Nevada constitution to require two-thirds majority of each house of legislature to increase certain existing taxes or impose certain new taxes.

Proposes to amend section 18 of article 4 of the Nevada constitution to require a two-thirds majority of each house of the legislature to impose or increase any of the following taxes:

1. Property taxes.
2. Sales and use taxes.
3. Business taxes based upon receipts, income, assets, capital stock or the number of employees.
4. Net proceeds of minerals taxes.
5. Excise taxes on liquor.
6. Excise taxes on cigarettes.

Specifically excludes fees that are used to directly regulate an activity and not to raise revenue from the requirement.

AJR21BE:TAZ/tc  
ASSY TAX BE

EXHIBIT D

760

1991 ASSEMBLY					1991 SENATE				
BILL NO.	YES	NO	A	%		YES	NO	A	%
AB 303 BAT	27	13	2	64.3		13	8	0	61.9
AB 577 BAT	28	14	0	66.7		16	5	0	76.2
AB 686 OPEN- SPACE	34	7	0	81.0		21	0	0	100.0
SB 601 POLICE PROTECT.	42	0	0	100.0		21	0	0	100.0
SB 112 TRANSP	41	0	1	97.6		21	0	0	100.0

1989 ASSEMBLY					1989 SENATE				
BILL NO.	YES	NO	A	%		YES	NO	A	%
AB 940 GENERA- TION	42	0	0	100.0		21	0	0	100.0
AB 704 INSUR- ANCE	25	17	0	59.5		12	8	0	57.1

1987 ASSEMBLY					1987 SENATE				
BILL NO.	YES	NO	A	%		YES	NO	A	%
AB 85 BEEF	41	0	1	97.6		21	0	0	100.0

1985 ASSEMBLY					1985 SENATE				
BILL NO.	YES	NO	A	%		YES	NO	A	%
SB 382	41	0	1	97.6		11	10	0	52.4
SB 203									
AB 555	40	0	2	95.2		20	0	0	95.2
AB 18	41	1	0	97.6		21	0	0	100.0
AB 556	40	0	2	95.2		20	0	0	95.2
AB 397	39	2	0	92.9		19	0	0	90.5
AB 325	41	0	1	97.6		21	0	0	100.0
AB 688	39	1	2	92.9		21	0	0	100.0
AB 502	41	0	0	97.6		20	0	0	95.2
AB 444 LIVESTOCK & SHEEP	42	0	0	100.0		20	0	0	95.2

1983 ASSEMBLY					1983 SENATE				
BILL NO.	YES	NO	A	%		YES	NO	A	%
SB 445	37	5	0	88.1		19	0	1	90.5
AB 191	40	2	0	95.2		20	0	1	95.2
AB 371	40	2	0	95.2		21	0	0	100.0
SB 97	39	3	0	92.9		19	0	2	90.5
AB 496 RESIDEN. CONSTR.	42	0	0	100.0		21	0	0	100.0
SB 170 ROOM	39	2	1	92.9		21	0	0	100.0
AB 256 ROOM	42	0	0	100.0		20	0	1	95.2

EXHIBIT E

761

MINUTES OF MEETING  
ASSEMBLY COMMITTEE ON TAXATION

Sixty-seventh Session  
May 20, 1993

The Assembly Committee on Taxation was called to order by Chairman Robert E. Price at 1:30 p.m., Thursday, May 20, 1993, in Room 332 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda, Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Mr. Robert E. Price, Chairman  
Mr. Rick C. Bennett  
Mr. Peter G. Ernaut  
Mr. Ken L. Haller  
Mrs. Joan A. Lambert  
Mr. John W. Marvel  
Mr. Roy Neighbors  
Mr. John B. Regan  
Mr. Michael A. Schneider  
Mr. Larry L. Spitler

COMMITTEE MEMBERS ABSENT:

Mrs. Myrna T. Williams, Vice Chairman (Excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Mr. Ted Zuend, Deputy Fiscal Analyst, Legislative Counsel  
Bureau

OTHERS PRESENT:

None

Following roll call, Chairman Price opened the hearing on AB 567.

ASSEMBLY BILL 567 - Provides manner of assessing value of certain possessory interests for imposition of property taxes. (BDR 32-779)



Assembly Committee on Taxation  
Thursday, May 20, 1993  
Page, 3

the committee would not discuss the casino entertainment tax today and would wait for the report from Mr. Elges. Some discussion followed, but Chairman Price reiterated a report in full would be given upon the receipt of information from Mr. Elges.

Chairman Price asked for committee action on AJR 21.

ASSEMBLY JOINT RESOLUTION 21 -

Proposes to amend Nevada constitution to require two-thirds majority of each house of legislature to increase certain existing taxes or impose certain new taxes.  
(BDR C-155)

ASSEMBLYMAN MARVEL MOVED DO PASS AJR 21.

ASSEMBLYMAN ERNAUT SECONDED THE MOTION.

THE MOTION CARRIED.

\* \* \* \* \*

Chairman Price asked for committee action on AB 331.

ASSEMBLY BILL 331 - Requires annual prepayment of tax on insurance premiums. (BDR 57-1714)

ASSEMBLYMAN ERNAUT MOVED TO INDEFINITELY POSTPONE AB 331.

ASSEMBLYMAN NEIGHBORS SECONDED THE MOTION.

Chairman Price explained AB 331 was part of the Administration's budget. The committee discussed impact and duration of AB 331.

Mr. Spitler was concerned with AB 331 because the proponents of the bill could not explain what would happen in the next biennium. AB 331 created another "fiscal responsibility that was a vacuum."

Mr. Neighbors added AB 331 would be passed along to the consumer.

Mr. Bennett recalled the hearing on AB 331 and commented he did not think a case was made at the hearing where there was any precedence for AB 331. He agreed with Mr. Spitler about the problem remaining in the next budget span. It was just bad policy. Mr. Bennett would not support AB 331.

# **EXHIBIT B**

**NEVADA**  
**BALLOT QUESTIONS**  
**1994**



A compilation of ballot questions which will appear  
on the November 8, 1994, Nevada  
general election ballot

Issued by  
**CHERYL A. LAU**  
*Secretary of State*

## LEGISLATIVE ENACTMENTS

The joint resolutions on the following pages are measures passed by the Nevada Legislature which placed Questions 1, 2,3,5 and 6 on the 1994 general election ballot. Material within the text in *italics* would if approved by the voters, be new language added to the constitution. Material in brackets would, if approved by the voters, be deleted. The term "66th session" refers to the 1991 Nevada Legislature, where the questions originated. Each of the ballot questions were approved by the 1991 and 1993 Legislature. If the measures are approved by the people, the amendments become part of the Nevada Constitution. The condensation, explanation, arguments and fiscal note of the measure have been prepared by the Legislative members or legislative staff.

Questions 4 and 7 are measures passed by the 1993 Nevada Legislature to amend the Sales and Use Tax Act of 1955. If approved by the voters it will amend the Sales and Use Tax Act.

## INITIATIVE MEASURES

The Initiative measures, questions 8, 9, 10 and 11, are to amend the Nevada Constitution. If approved by the voters at the 1994 General Election, the Secretary of State shall resubmit the proposals to the voters at the 1996 General Election. If approved in 1996, the amendments would become part of the Nevada Constitution. The condensation, explanation, arguments and fiscal note of the measure have been prepared by the Secretary of State, upon consultation with the Attorney General.

## NOTES TO VOTERS

### NOTE NO. 1-

Ballot Questions 4 and 7 relate to Nevada's sales tax. It is important that you understand this tax and the process by which it may be changed. As noted below, only a portion of this tax may be changed by you, the voter.

Nevada's sales tax consists of three separate taxes levied at different rates on the sale and use of personal property in the state. The current total rate is 6.50 percent.

The tax includes:

Tax	Rate
1. The Sales and Use Tax . . . . .	2 Percent
2. The Local School Support Tax . . . . .	2.25 Percent
3. The City-County Relief Tax . . . . .	<u>2.25</u> Percent
Total . . . . .	6.50 Percent

The Sales and Use Tax may be amended or repealed only with the approval of the voters. The Local School Support Tax and the City-County Relief Tax may be amended or repealed by the legislature without the approval of the voters. For the questions on this ballot, however, the legislature has provided that the Local School Support Tax and the City-County Relief Tax will not be amended unless you approve the corresponding amendment to the Sales and Use Tax.

Depending on its population, each county is also authorized to impose an additional tax at a rate of up to 1 percent, subject to the approval of the voters or governing body in that county. These Additional taxes have, in some counties increased the rate of the sales tax above the rate imposed statewide.

### NOTE NO. 2-

Each ballot question includes a FISCAL NOTE that explains only the adverse effect on state and local governments (increased expenses or decreased revenues).

# QUESTION NO. 11

## An Initiative Relating to Tax Restraint

### CONDENSATION (ballot question)

Shall the Nevada Constitution be amended to establish a requirement that at least a two-thirds vote of both houses of the legislature be necessary to pass a measure which generates or increases a tax, fee, assessment, rate or any other form of public revenue?

Yes.....	<input checked="" type="checkbox"/>	283,889
No.....	<input type="checkbox"/>	79,520

### EXPLANATION

A two-thirds majority vote of both houses of the legislature would be required for the passage of any bill or joint resolution which would increase public revenue in any form. The legislature could, by a simple majority vote, refer any such proposal to a vote of the people at the next general election.

### ARGUMENTS FOR PASSAGE

Proponents argue that one way to control the raising of taxes is to require more votes in the legislature before a measure increasing taxes could be passed; therefore, a smaller number of legislators could prevent the raising of taxes. This could limit increases in taxes, fees, assessments and assessment rates. A broad consensus of support from the entire state would be needed to pass these increases. It may be more difficult for special interest groups to get increases they favor. It may require state government to prioritize its spending and economize rather than turning to new sources of revenue. The legislature, by simple majority vote, could ask for the people to vote on any increase.

### ARGUMENTS AGAINST PASSAGE

Opponents argue that a special interest group would only need a small minority of legislators to defeat any proposed revenue measure. Also a minority of legislators could band together to defeat a tax increase in return for a favorable vote on other legislation. Legislators act responsibly regarding increases in taxes since they are accountable to the public to get re-elected. If this amendment is approved, the state could impose unfunded mandates upon local governments. As a tourism based economy with a tremendous population growth, Nevada must remain flexible to change the tax base, if needed. Nevada should continue to operate by majority rule as the Nevada Constitution now provides.

### FISCAL NOTE

**Fiscal Impact-No.** The proposal to amend the Nevada Constitution to require two-thirds vote to pass a bill or joint resolution which creates, generates or increases any public revenue in any form. The proposal would have no adverse fiscal impact to the State.

## FULL TEXT OF THE MEASURE

### Initiative relating to Tax Restraint

The people of the State of Nevada do enact as follows:

That section 18 or article 4 of the constitution of the State of Nevada be amended to read as follows:

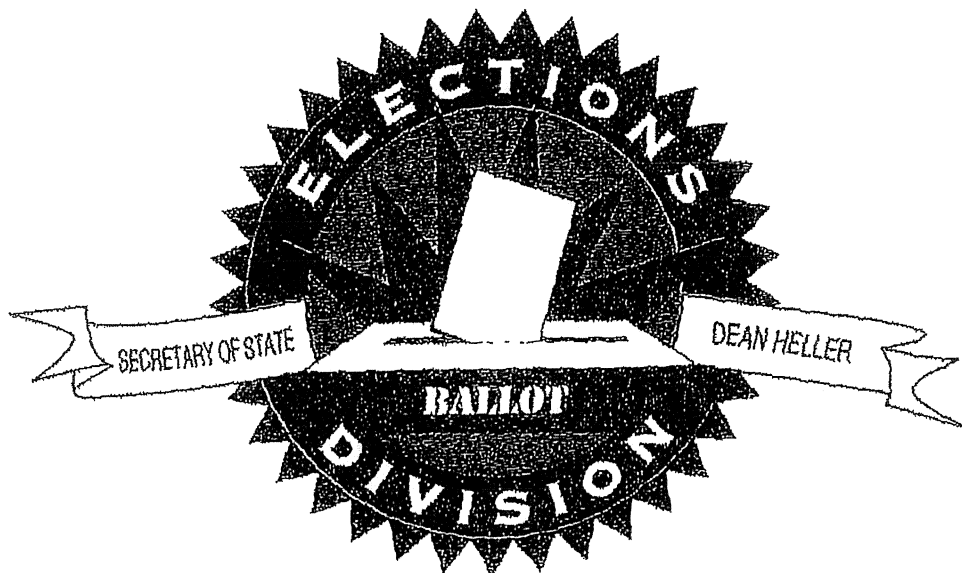
[Sec:] *Sec. 18. 1. Every bill, except a bill placed on a consent calendar adopted as provided in [this section, shall] subsection 4, must be read by sections on three several days, in each House, unless in case of emergency, two thirds of the House where such bill [may be] is pending shall deem it expedient to dispense with this rule. [;but the] The reading of a bill by sections, on its final passage, shall in no case be dispensed with, and the vote on its final passage, shall in no case be dispensed with, and the vote on final passage of every bill or joint resolution shall be taken by yeas and nays to be entered on the journals of each House. [; and] Except as otherwise provided in subsection 2, a majority of all the members elected in each house [shall be] is necessary to pass every bill or joint resolution, and all bills or joint resolutions to passed, shall be signed by the presiding officers of the respective Houses and by the Secretary of State and clerk of the Assembly.*

*2. Except as otherwise provided in subsection 3, an affirmative vote of not fewer than two-thirds of the members elected to each house is necessary to pass a bill or joint resolution which creates, generates, or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates.*

*3. A majority of all of the members elected to each house may refer any measure which creates, generates, or increases any revenue in any form to the people of the State at the next general election, and shall become effective and enforced only if it has been approved by a majority of the votes cast on the measure at such election.*

*4. Each House may provide by rule for the creation of a consent calendar and establish the procedure for the passage of uncontested bills.*

# State of Nevada Ballot Questions 1996



A compilation of ballot questions which will appear  
on the November 5, 1996, General Election Ballot

Issued by  
*Dean Heller*  
Secretary of State

## NOTES TO VOTERS

### Note No. 1

Ballot Questions 13, 14, and 15 relate to Nevada's sales tax. It is important that you understand this tax and the process by which it may be changed. As noted below, only a portion of this tax may be changed by you, the voter, pursuant to the attached ballot questions.

Nevada's statewide sales tax consists of three separate parts levied at different rates on the sale and use of tangible personal property in the state. The current statewide combined rate is 6.50 percent. In addition to these three parts, each county also may impose additional taxes up to a combined rate of 1 percent, subject to the approval of the voters or governing body in that county. These additional taxes have, in seven counties, increased the rate of the sales tax above the 6.5 percent rate imposed statewide.

The tax includes:

TAX	RATE
1. The state Sales and Use Tax . . . . .	2.00 Percent
2. The Local School Support Tax (LSST) . . . . .	2.25 Percent
3. The City-County Relief Tax (CCRT) . . . . .	2.25 Percent
4. Optional local taxes - not more than . . . . .	1.00 Percent

The state Sales and Use Tax may be amended or repealed only with the approval of the voters. The Local School Support Tax (LSST) and the City-County Relief Tax (CCRT) may be amended or repealed by the Legislature without the approval of the voters. For Questions 13 and 14 on this ballot, however, the Legislature has provided that the LSST and the CCRT will not be amended unless you approve the ballot question. Approval of Question 13 or Question 14 will also add an exemption to the optional local taxes. Question 15 addresses the state Sales and Use Tax only; an exemption from the LSST, CCRT, and optional taxes was previously approved in Senate Bill 311 of the 1995 Legislative Session.

### Note No. 2

Each ballot question includes a Fiscal Note that explains only the adverse effect on state and local governments (increased expenses or decreased revenues). Ballot Questions 6 and 12 pertain to the state issuing bonds (borrowing money) that are repaid by state-imposed property tax revenues. It is estimated that current property tax revenues are sufficient to repay the bonds proposed in Questions 6 and 12.

Approved by the Legislative Commission  
March 27, 1996



## QUESTION NO. 11

### An Initiative Relating to Tax Restraint

#### CONDENSATION (ballot question)

Shall the Nevada Constitution be amended to establish a requirement that at least a two-thirds vote of both houses of the legislature be necessary to pass a measure which generates or increases a tax, fee, assessment, rate or any other form of public revenue?

Yes 301,382. ☒

No 125,969. ☐

#### EXPLANATION

A two-thirds majority vote of both houses of the legislature would be required for the passage of any bill or joint resolution which would increase public revenue in any form. The legislature could, by a simple majority vote, refer any such proposal to a vote of the people at the next general election.

#### ARGUMENTS FOR PASSAGE

Proponents argue that one way to control the raising of taxes is to require more votes in the legislature before a measure increasing taxes could be passed; therefore, a smaller number of legislators could prevent the raising of taxes. This could limit increases in taxes, fees, assessments and assessment rates. A broad consensus of support from the entire state would be needed to pass these increases. It may be more difficult for special interest groups to get increases they favor. It may require state government to prioritize its spending and economize rather than turning to new sources of revenue. The legislature, by simple majority vote, could ask for the people to vote on any increase.

#### ARGUMENTS AGAINST PASSAGE

Opponents argue that a special interest group would only need a small minority of legislators to defeat any proposed revenue measure. Also a minority of legislators could band together to defeat a tax increase in return for a favorable vote on other legislation. Legislators act responsibly regarding increases in taxes since they are accountable to the public to get re-elected. If this amendment is approved, the state could impose unfunded mandates upon local governments. As a tourism based economy with a tremendous population growth, Nevada must remain flexible to change the tax base, if needed. Nevada should continue to operate by majority rule as the Nevada Constitution now provides.

## FISCAL NOTE

**Fiscal Impact-No.** The proposal to amend the Nevada Constitution to require two-thirds vote to pass a bill or joint resolution which creates, generates or increases any public revenue in any form. The proposal would have no adverse fiscal impact to the State.

## FULL TEXT OF THE MEASURE

### Initiative relating to Tax Restraint

The people of the State of Nevada do enact as follows:

That section 18 or article 4 of the constitution of the State of Nevada be amended to read as follows:

[Sec:] *Sec. 18. 1. Every bill, except a bill placed on a consent calendar adopted as provided in [this section, shall] subsection 4, must be read by sections on three several days, in each House, unless in case of emergency, two thirds of the House where such bill [may be] is pending shall deem it expedient to dispense with this rule. [;but the] The reading of a bill by sections, on its final passage, shall in no case be dispensed with, and the vote on its final passage, shall in no case be dispensed with, and the vote on final passage of every bill or joint resolution shall be taken by yeas and nays to be entered on the journals of each House. [; and] Except as otherwise provided in subsection 2, a majority of all the members elected in each house [shall be] is necessary to pass every bill or joint resolution, and all bills or joint resolutions to passed, shall be signed by the presiding officers of the respective Houses and by the Secretary of State and clerk of the Assembly.*

*2. Except as otherwise provided in subsection 3, an affirmative vote of not fewer than two-thirds of the members elected to each house is necessary to pass a bill or joint resolution which creates, generates, or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates.*

*3. A majority of all of the members elected to each house may refer any measure which creates, generates, or increases any revenue in any form to the people of the State at the next general election, and shall become effective and enforced only if it has been approved by a majority of the votes cast on the measure at such election.*

*4. Each House may provide by rule for the creation of a consent calendar and establish the procedure for the passage of uncontested bills.*

# **EXHIBIT C**

STATE OF NEVADA  
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING  
401 S. CARSON STREET  
CARSON CITY, NEVADA 89701-4747  
Fax No.: (775) 684-6600

LEGISLATIVE COMMISSION (775) 684-6800  
JASON FRIERSON, *Assemblyman, Chairman*  
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821  
MAGGIE CARLTON, *Assemblywoman, Chair*  
Cindy Jones, *Fiscal Analyst*  
Mark Kimpoto, *Fiscal Analyst*



RICK COMBS, *Director*  
(775) 684-6800

BRENDA J. ERDOBS, *Legislative Counsel* (775) 684-6830  
ROCKY COOPER, *Legislative Auditor* (775) 684-6815  
MICHAEL J. STEWART, *Research Director* (775) 684-6825

May 8, 2019

Legislative Leadership  
Legislative Building  
401 S. Carson Street  
Carson City, NV 89701

Dear Legislative Leadership:

You have asked this office several legal questions relating to the two-thirds majority requirement in Article 4, Section 18(2) of the Nevada Constitution, which provides in relevant part that:

[A]n affirmative vote of not fewer than two-thirds of the members elected to each House is necessary to pass a bill or joint resolution which creates, generates, or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates.

Nev. Const. art. 4, § 18(2).<sup>1</sup>

First, you have asked whether the two-thirds majority requirement applies to a bill which extends until a later date—or revises or eliminates—a future decrease in or future expiration of existing state taxes when that future decrease or expiration is not legally operative and binding yet. Second, you have asked whether the two-thirds majority requirement applies to a bill which reduces or eliminates available tax exemptions or tax credits applicable to existing state taxes.

<sup>1</sup> Article 4, Section 18(2) uses the inclusive phrase “taxes, fees, assessments and rates.” However, for ease of discussion in this letter, we will use the term “state taxes” to serve in the place of the inclusive phrase “taxes, fees, assessments and rates.”

In response to your questions, we first provide pertinent background information regarding Nevada's constitutional requirements for the final passage of bills by the Legislature. Following that, we provide a detailed and comprehensive legal discussion of the relevant authorities that support our legal opinions regarding the application of Nevada's two-thirds majority requirement to your specific legal questions. Finally, we note that the legal opinions expressed in this letter are limited solely to the application of Nevada's two-thirds majority requirement to the specific types of bills directly discussed in this letter. We do not express any other legal opinions in this letter concerning the application of Nevada's two-thirds majority requirement to any other types of bills that are not directly discussed in this letter.

## **BACKGROUND**

### **1. Purpose and intent of Nevada's original constitutional majority requirement for the final passage of bills.**

When the Nevada Constitution was framed in 1864, the Framers debated whether the Legislature should be authorized to pass bills by a simple majority of a quorum under the traditional parliamentary rule or whether the Legislature should be required to meet a greater threshold for the final passage of bills. See Andrew J. Marsh, Official Report of the Debates and Proceedings of the Nevada State Constitutional Convention of 1864, at 143-45 (1866).

Under the traditional parliamentary rule, if a quorum of members is present in a legislative house, a simple majority of the quorum is sufficient for the final passage of bills by the house, unless a constitutional provision establishes a different requirement. See Mason's Manual of Legislative Procedure § 510 (2010). This traditional parliamentary rule is followed by each House of Congress, which may pass bills by a simple majority of a quorum. United States v. Ballin, 144 U.S. 1, 6 (1892) ("[A]t the time this bill passed the house there was present a majority, a quorum, and the house was authorized to transact any and all business. It was in a condition to act on the bill if it desired."); 1 Thomas M. Cooley, Constitutional Limitations 291 (8th ed. 1927).

The Framers of the Nevada Constitution rejected the traditional parliamentary rule by providing in Article 4, Section 18 that "*a majority of all the members elected to each House shall be necessary to pass every bill or joint resolution.*" Nev. Const. art. 4, § 18 (1864) (emphasis added). The purpose and intent of the Framers in adopting this constitutional majority requirement was to ensure that the Senate and Assembly could not pass bills by a simple majority of a quorum. See Andrew J. Marsh, Official Report of the Debates and Proceedings of the Nevada State Constitutional Convention of 1864, at 143-45 (1866); see also Andrew J. Marsh & Samuel L. Clemens, Reports of the 1863 Constitutional Convention of the Territory of Nevada, at 208 (1972).

The constitutional majority requirement for the final passage of bills is now codified in Article 4, Section 18(1), and it provides that “a majority of all the members elected to each House is necessary to pass every bill,” unless the bill is subject to the two-thirds majority requirement in Article 4, Section 18(2). Under the constitutional majority requirement in Article 4, Section 18(1), the Senate and Assembly may pass a bill only if a majority of the *entire membership authorized by law to be elected to each House votes in favor of the bill*. See Marionneaux v. Hines, 902 So. 2d 373, 377-79 (La. 2005) (holding that in constitutional provisions requiring a majority or super-majority of members elected to each house to pass a legislative measure or constitute a quorum, the terms “members elected” and “elected members” mean the entire membership authorized by law to be elected to each house); State ex rel. Garland v. Guillory, 166 So. 94, 101-02 (La. 1935); In re Majority of Legislature, 8 Haw. 595, 595-98 (1892).

Thus, under the current membership authorized by law to be elected to the Senate and Assembly, if a bill requires a constitutional majority for final passage under Article 4, Section 18(1), the Senate may pass the bill only with an affirmative vote of at least 11 of its 21 members, and the Assembly may pass the bill only with an affirmative vote of at least 22 of its 42 members. See Nev. Const. art. 4, § 5, art. 15, § 6 & art. 17, § 6 (directing the Legislature to establish by law the number of members of the Senate and Assembly); NRS Chapter 218B (establishing by law 21 members of the Senate and 42 members of the Assembly).

**2. Purpose and intent of Nevada’s two-thirds majority requirement for the final passage of bills which create, generate or increase any public revenue in any form.**

At the general elections in 1994 and 1996, Nevada’s voters approved constitutional amendments to Article 4, Section 18 that were proposed by a ballot initiative pursuant to Article 19, Section 2 of the Nevada Constitution. The amendments provide that:

Except as otherwise provided in subsection 3, an affirmative vote of not fewer than *two-thirds of the members elected to each House* is necessary to pass a bill or joint resolution which *creates, generates, or increases any public revenue in any form*, including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates.

Nev. Const. art. 4, § 18(2) (emphasis added). The amendments also include an exception in subsection 3, which provides that “[a] majority of all of the members elected to each House may refer any measure which creates, generates, or increases any revenue in any form to the people of the State at the next general election.” Nev. Const. art. 4, § 18(3) (emphasis added).

Under the two-thirds majority requirement, if a bill “creates, generates, or increases any public revenue in any form,” the Senate may pass the bill only with an affirmative vote of at

least 14 of its 21 members, and the Assembly may pass the bill only with an affirmative vote of at least 28 of its 42 members. However, if the two-thirds majority requirement does not apply to the bill, the Senate and Assembly may pass the bill by a constitutional majority in each House.

When the ballot initiative adding the two-thirds majority requirement to the Nevada Constitution was presented to the voters in 1994 and 1996, one of the primary sponsors of the initiative was former Assemblyman Jim Gibbons. See Guinn v. Legislature (Guinn II), 119 Nev. 460, 471-72 (2003) (discussing the two-thirds majority requirement and describing Assemblyman Gibbons as “the initiative’s prime sponsor”).<sup>2</sup> During the 1993 Legislative Session, Assemblyman Gibbons sponsored Assembly Joint Resolution No. 21 (A.J.R. 21), which proposed adding a two-thirds majority requirement to Article 4, Section 18(2), but Assemblyman Gibbons was not successful in obtaining its passage. See Legislative History of A.J.R. 21, 67th Leg. (Nev. LCB Research Library 1993).<sup>3</sup> Nevertheless, because Assemblyman Gibbons’ legislative testimony on A.J.R. 21 in 1993 provides some contemporaneous extrinsic evidence of the purpose and intent of the two-thirds majority requirement, the Nevada Supreme Court has reviewed and considered that testimony when discussing the two-thirds majority requirement that was ultimately approved by the voters in 1994 and 1996. Guinn II, 119 Nev. at 472.

In his legislative testimony on A.J.R. 21 in 1993, Assemblyman Gibbons stated that the two-thirds majority requirement was modeled on similar constitutional provisions in other states, including Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma and South Dakota. Legislative History of A.J.R. 21, *supra* (Hearing on A.J.R. 21 Before Assembly Comm. on Taxation, 67th Leg., at 11-13 (Nev. May 4, 1993)). Assemblyman Gibbons testified that the two-thirds majority requirement would “require a two-thirds majority vote in each house of the legislature to increase certain existing taxes or to impose certain new taxes.” *Id.* However, Assemblyman Gibbons also stated that the two-thirds majority requirement “would not impair any existing revenues.” *Id.* Instead, Assemblyman Gibbons indicated that the two-thirds majority requirement “would bring greater stability to Nevada’s tax systems, while still allowing the flexibility to meet real fiscal

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<sup>2</sup> In Guinn v. Legislature, the Nevada Supreme Court issued two reported opinions—Guinn I and Guinn II—that discussed the two-thirds majority requirement. Guinn v. Legislature (Guinn I), 119 Nev. 277 (2003), *opinion clarified on denial of reh’g*, Guinn v. Legislature (Guinn II), 119 Nev. 460 (2003). In 2006, the court overruled certain portions of its Guinn I opinion. Nevadans for Nev. v. Beers, 122 Nev. 930, 944 (2006). However, even though the court overruled certain portions of its Guinn I opinion, the court has not overruled any portion of its Guinn II opinion, which remains good law.

<sup>3</sup> Available at:  
<https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1993/AJR21.1993.pdf>.

needs” because “Mr. Gibbons thought it would not be difficult to obtain a two-thirds majority if the need for *new revenues* was clear and convincing.” *Id.* (emphasis added). In particular, Assemblyman Gibbons testified as follows:

James A. Gibbons, Assembly District 25, spoke as the prime sponsor of A.J.R. 21 which proposed to amend the Nevada Constitution to *require a two-thirds majority vote in each house of the legislature to increase certain existing taxes or to impose certain new taxes.*

\* \* \*

Mr. Gibbons stressed A.J.R. 21 amended the Nevada Constitution to require bills providing for a general tax increase be passed by a two-thirds majority of both houses of the legislature. The resolution would apply to property taxes, sales and use taxes, business taxes based on income, receipts, assets, capital stock or number of employees, taxes on net proceeds of mines and taxes on liquor and cigarettes.

*Mr. Gibbons explained A.J.R. 21 was modeled on constitutional provisions which were in effect in a number of other states.* Some of the provisions were adopted recently in response to a growing concern among voters about increasing tax burdens and some of the other provisions dated back to earlier times.

\* \* \*

Mr. Gibbons believed a provision requiring an extraordinary majority was a device used to hedge or protect certain laws which he believed should not be lightly changed. A.J.R. 21 would ensure greater stability and preserve certain statutes from the constant tinkering of transient majorities.

Mr. Gibbons addressed some of the anticipated objections. Some will claim A.J.R. 21 would deprive the state of revenues necessary to provide essential state services. Mr. Gibbons conveyed that was not the case. A.J.R. 21 *would not impair any existing revenues.* It was not a tax rollback and did not impose rigid caps on taxes or spending. *Mr. Gibbons thought it would not be difficult to obtain a two-thirds majority if the need for new revenues was clear and convincing.* A.J.R. 21 would not hamstring state government or prevent state government from responding to legitimate fiscal emergencies.

\* \* \*

Mr. Gibbons concluded by saying the measure did not propose government do less, but actually A.J.R. 21 could permit government to do more. A.J.R. 21 was a



*simple moderate measure that would bring greater stability to Nevada's tax systems, while still allowing the flexibility to meet real fiscal needs.* Mr. Gibbons urged the committee's approval of A.J.R. 21.

Legislative History of A.J.R. 21, supra (Hearing on A.J.R. 21 Before Assembly Comm. on Taxation, 67th Leg., at 11-13 (Nev. May 4, 1993) (emphasis added)).

In addition to Assemblyman Gibbons' legislative testimony on A.J.R. 21 in 1993, the ballot materials presented to the voters in 1994 and 1996 also provide some contemporaneous extrinsic evidence of the purpose and intent of the two-thirds majority requirement. Guinn, 119 Nev. at 471-72. The ballot materials informed the voters that the two-thirds majority requirement would make it more difficult for the Legislature to enact bills "raising" or "increasing" taxes and that "[i]t may require state government to prioritize its spending and economize rather than turning to *new sources of revenue*." Nev. Ballot Questions 1994, Question No. 11, at 1 (Nev. Sec'y of State 1994) (emphasis added). In particular, the ballot materials stated as follows:

#### ARGUMENTS FOR PASSAGE

Proponents argue that one way to control the raising of taxes is to require more votes in the legislature before a measure increasing taxes could be passed; therefore, a smaller number of legislators could prevent the raising of taxes. This could limit increases in taxes, fees, assessments and assessment rates. A broad consensus of support from the entire state would be needed to pass these increases. It may be more difficult for special interest groups to get increases they favor. *It may require state government to prioritize its spending and economize rather than turning to new sources of revenue.* The legislature, by simple majority vote, could ask for the people to vote on any increase.

#### ARGUMENTS AGAINST PASSAGE

Opponents argue that a special interest group would only need a small minority of legislators to defeat any proposed revenue measure. Also a minority of legislators could band together to defeat a tax increase in return for a favorable vote on other legislation. Legislators act responsibly regarding increases in taxes since they are accountable to the public to get re-elected. If this amendment is approved, the state could impose unfunded mandates upon local governments. As a tourism based economy with a tremendous population growth, Nevada must remain flexible to change the tax base, if needed. Nevada should continue to operate by majority rule as the Nevada Constitution now provides.

Nev. Ballot Questions 1994, Question No. 11, at 1 (Nev. Sec'y of State 1994) (emphasis added).

Finally, based on Assemblyman Gibbons' legislative testimony on A.J.R. 21 in 1993 and the ballot materials presented to the voters in 1994 and 1996, the Nevada Supreme Court has described the purpose and intent of the two-thirds majority requirement as follows:

The supermajority requirement was intended to make it more difficult for the Legislature to pass *new* taxes, hopefully encouraging efficiency and effectiveness in government. Its proponents argued that the tax restriction might also encourage state government to prioritize its spending and economize rather than explore *new* sources of revenue.

Guinn II, 119 Nev. at 471 (emphasis added).

With this background information in mind, we turn next to discussing your specific legal questions.

### DISCUSSION

You have asked several legal questions relating to the two-thirds majority requirement in Article 4, Section 18(2). First, you have asked whether the two-thirds majority requirement applies to a bill which extends until a later date—or revises or eliminates—a future decrease in or future expiration of existing state taxes when that future decrease or expiration is not legally operative and binding yet. Second, you have asked whether the two-thirds majority requirement applies to a bill which reduces or eliminates available tax exemptions or tax credits applicable to existing state taxes.

To date, there are no reported cases from Nevada's appellate courts addressing these legal questions. In the absence of any controlling Nevada case law, we must address these legal questions by: (1) applying several well-established rules of construction followed by Nevada's appellate courts; (2) examining contemporaneous extrinsic evidence of the purpose and intent of the two-thirds majority requirement when it was considered by the Legislature in 1993 and presented to the voters in 1994 and 1996; and (3) considering case law interpreting similar constitutional provisions from other jurisdictions for guidance in this area of the law.

We begin by discussing the rules of construction for constitutional provisions approved by the voters through a ballot initiative. Following that discussion, we answer each of your specific legal questions.

#### **1. Rules of construction for constitutional provisions approved by the voters through a ballot initiative.**

The Nevada Supreme Court has long held that the rules of statutory construction also govern the interpretation of constitutional provisions, including provisions approved by the

voters through a ballot initiative. See Lorton v. Jones, 130 Nev. 51, 56-57 (2014) (applying the rules of statutory construction to the constitutional term-limit provisions approved by the voters through a ballot initiative). As stated by the court:

In construing constitutions and statutes, the first and last duty of courts is to ascertain the intention of the convention and legislature; and in doing this they must be governed by well-settled rules, applicable alike to the construction of constitutions and statutes.

State ex rel. Wright v. Dovey, 19 Nev. 396, 399 (1887). Thus, when applying the rules of construction to constitutional provisions approved by the voters through a ballot initiative, the primary task of the court is to ascertain the intent of the drafters and the voters and to adopt an interpretation that best captures their objective. Nev. Mining Ass'n v. Erdoes, 117 Nev. 531, 538 (2001).

To ascertain the intent of the drafters and the voters, the court will first examine the language of the constitutional provision to determine whether it has a plain and ordinary meaning. Miller v. Burk, 124 Nev. 579, 590 (2008). If the constitutional language is clear on its face and is not susceptible to any ambiguity, uncertainty or doubt, the court will generally give the constitutional language its plain and ordinary meaning, unless doing so would violate the spirit of the provision or would lead to an absurd or unreasonable result. Miller, 124 Nev. at 590-91; Nev. Mining Ass'n, 117 Nev. at 542 & n.29.

However, if the constitutional language is capable of “two or more reasonable but inconsistent interpretations,” making it susceptible to ambiguity, uncertainty or doubt, the court will interpret the constitutional provision according to what history, reason and public policy would indicate the drafters and the voters intended. Miller, 124 Nev. at 590 (quoting Gallagher v. City of Las Vegas, 114 Nev. 595, 599 (1998)). Under such circumstances, the court will look “beyond the language to adopt a construction that best reflects the intent behind the provision.” Sparks Nugget, Inc. v. State, Dep't of Tax'n, 124 Nev. 159, 163 (2008). Thus, if there is any ambiguity, uncertainty or doubt as to the meaning of a constitutional provision, “[t]he intention of those who framed the instrument must govern, and that intention may be gathered from the subject-matter, the effects and consequences, or from the reason and spirit of the law.” State ex rel. Cardwell v. Glenn, 18 Nev. 34, 42 (1883).

Furthermore, even when there is some ambiguity, uncertainty or doubt as to the meaning of a constitutional provision, that ambiguity, uncertainty or doubt must be resolved in favor of the Legislature and its general power to enact legislation. When the Nevada Constitution imposes limitations upon the Legislature's power, those limitations “are to be strictly construed, and are not to be given effect as against the general power of the legislature, unless such limitations clearly inhibit the act in question.” In re Platz, 60 Nev. 296, 308 (1940) (quoting Baldwin v. State, 3 S.W. 109, 111 (Tex. Ct. App. 1886)). As a result, the language of the Nevada Constitution “must be strictly construed in favor of the

power of the legislature to enact the legislation under it.” Id. Therefore, even when a constitutional provision imposes restrictions and limitations upon the Legislature’s power, those “[r]estrictions and limitations are not extended to include matters not covered.” City of Los Angeles v. Post War Pub. Works Rev. Bd., 156 P.2d 746, 754 (Cal. 1945).

For example, under the South Dakota Constitution, the South Dakota Legislature may pass its general appropriations bill to fund the operating expenses of state government by a majority of all the members elected to each House, but the final passage of any special appropriations bills to authorize funding for other purposes requires “a two-thirds vote of all the members of each branch of the Legislature.” S.D. Const. art. III, § 18, art. XII, § 2. In interpreting this two-thirds majority requirement, the South Dakota Supreme Court has determined that the requirement must not be extended by construction or inference to include situations not clearly within its terms. Apa v. Butler, 638 N.W.2d 57, 69-70 (S.D. 2001). As further explained by the court:

[P]etitioners strongly urged during oral argument that the challenged appropriations from the [special funds] must be special appropriations because it took a two-thirds majority vote of each House of the legislature to create the two special funds in the first instance. Petitioners correctly pointed out that allowing money from the two funds to be reappropriated in the general appropriations bill would allow the legislature to undo by a simple majority vote what it took a two-thirds majority to create. On that basis, petitioners invite this Court to read a two-thirds vote requirement into the Constitution for the amendment or repeal of any special continuing appropriations measure. This we cannot do.

Our Constitution must be construed by its plain meaning: “If the words and language of the provision are unambiguous, ‘the language in the constitution must be applied as it reads.’” Cid v. S.D. Dep’t of Social Servs., 598 N.W.2d 887, 890 (S.D. 1999). Here, the constitutional two-thirds voting requirement for appropriations measures is only imposed on the *passage* of a special appropriation. See S.D. Const. art. XII, § 2. There is no constitutional requirement for a two-thirds vote on the repeal or amendment of an existing special appropriation, not to mention a continuing special appropriation. Generally:

[s]pecial provisions in the constitution as to the number of votes required for the passage of acts of a particular nature . . . are not extended by construction or inference to include situations not clearly within their terms. Accordingly, a special provision regulating the number of votes necessary for the passage of bills of a certain character does not apply to the repeal of laws of this character, or to an act which only amends them.

Apa, 638 N.W.2d at 69-70 (quoting 82 C.J.S. Statutes § 39 (1999) (republished as 82 C.J.S. Statutes § 52 (Westlaw 2019)).

Lastly, in matters involving state constitutional law, the Nevada Supreme Court is the final arbiter or interpreter of the meaning of the Nevada Constitution. Nevadans for Nev. v. Beers, 122 Nev. 930, 943 n.20 (2006) (“A well-established tenet of our legal system is that the judiciary is endowed with the duty of constitutional interpretation.”); Guinn II, 119 Nev. at 471 (describing the Nevada Supreme Court and its justices “as the ultimate custodians of constitutional meaning.”). Nevertheless, even though the final power to decide the meaning of the Nevada Constitution ultimately rests with the judiciary, “[i]n the performance of assigned constitutional duties each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others.” United States v. Nixon, 418 U.S. 683, 703 (1974).

Accordingly, the Nevada Supreme Court has recognized that a reasonable construction of a constitutional provision by the Legislature should be given great weight. State ex rel. Coffin v. Howell, 26 Nev. 93, 104-05 (1901); State ex rel. Cardwell v. Glenn, 18 Nev. 34, 43-46 (1883). This is particularly true when a constitutional provision concerns the passage of legislation. Id. Thus, when construing a constitutional provision, “although the action of the legislature is not final, its decision upon this point is to be treated by the courts with the consideration which is due to a co-ordinate department of the state government, and in case of a reasonable doubt as to the meaning of the words, the construction given to them by the legislature ought to prevail.” Dayton Gold & Silver Mining Co. v. Seawell, 11 Nev. 394, 399-400 (1876).

The weight given to the Legislature’s construction of a constitutional provision involving legislative procedure is of particular force when the meaning of the constitutional provision is subject to any uncertainty, ambiguity or doubt. Nev. Mining Ass’n, 117 Nev. at 539-40. Under such circumstances, the Legislature may rely on an opinion of the Legislative Counsel which interprets the constitutional provision, and “the Legislature is entitled to deference in its counseled selection of this interpretation.” Id. at 540. For example, when the meaning of the term “midnight Pacific standard time,” as formerly used in the constitutional provision limiting legislative sessions to 120 days, was subject to uncertainty, ambiguity and doubt following the 2001 Legislative Session, the Nevada Supreme Court explained that the Legislature’s interpretation of the constitutional provision was entitled to deference because “[i]n choosing this interpretation, the Legislature acted on Legislative Counsel’s opinion that this is a reasonable construction of the provision. We agree that it is, and the Legislature is entitled to deference in its counseled selection of this interpretation.” Id.

Consequently, in determining whether the two-thirds majority requirement applies to a particular bill, the Legislature has the power to interpret Article 4, Section 18(2), in the first instance, as a reasonable and necessary corollary power to the exercise of its expressly granted and exclusive constitutional power to enact laws by the passage of bills. See Nev. Const. art. 4, § 23 (providing that “no law shall be enacted except by bill.”); State ex rel. Torreyson v. Grey, 21 Nev. 378, 380-84 (1893) (discussing the power of the Legislature to

interpret constitutional provisions governing legislative procedure). Moreover, because Article 4, Section 18(2) involves the exercise of the Legislature's lawmaking power, any uncertainty, ambiguity or doubt regarding the application of the two-thirds majority requirement must be resolved in favor of the Legislature's lawmaking power and against restrictions on that power. See Platz, 60 Nev. at 308 (stating that the language of the Nevada Constitution "must be strictly construed in favor of the power of the legislature to enact the legislation under it."). As further explained by the Nevada Supreme Court:

Briefly stated, legislative power is the power of law-making representative bodies to frame and enact laws, and to amend or repeal them. This power is indeed very broad, and, except where limited by Federal or State Constitutional provisions, that power is practically absolute. Unless there are specific constitutional limitations to the contrary, statutes are to be construed in favor of the legislative power.

Galloway v. Truesdell, 83 Nev. 13, 20 (1967).

Finally, when the Legislature exercises its power to interpret Article 4, Section 18(2) in the first instance, the Legislature may resolve any uncertainty, ambiguity or doubt regarding the application of the two-thirds majority requirement by following an opinion of the Legislative Counsel which interprets the constitutional provision, and the judiciary will typically afford the Legislature deference in its counseled selection of that interpretation. With these rules of construction as our guide, we must apply them in the same manner as Nevada's appellate courts to answer each of your specific legal questions.

**2. Does the two-thirds majority requirement apply to a bill which extends until a later date—or revises or eliminates—a future decrease in or future expiration of existing state taxes when that future decrease or expiration is not legally operative and binding yet?**

Under the rules of construction, we must start by examining the plain language of the two-thirds majority requirement in Article 4, Section 18(2), which provides in relevant part that:

[A]n affirmative vote of not fewer than two-thirds of the members elected to each House is necessary to pass a bill or joint resolution which *creates, generates, or increases* any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or *changes in the computation bases* for taxes, fees, assessments and rates.

Nev. Const. art. 4, § 18(2) (emphasis added).

Based on its plain language, the two-thirds majority requirement applies to a bill which “creates, generates, or increases any public revenue in any form.” The two-thirds majority requirement, however, does not provide any definitions to assist the reader in applying the terms “creates, generates, or increases.” Therefore, in the absence of any constitutional definitions, we must give those terms their ordinary and commonly understood meanings.

As explained by the Nevada Supreme Court, “[w]hen a word is used in a statute or constitution, it is supposed it is used in its ordinary sense, unless the contrary is indicated.” Ex parte Ming, 42 Nev. 472, 492 (1919); Seaborn v. Wingfield, 56 Nev. 260, 267 (1935) (stating that a word or term “appearing in the constitution must be taken in its general or usual sense.”). To arrive at the ordinary and commonly understood meaning of the constitutional language, the court will usually rely upon dictionary definitions because those definitions reflect the ordinary meanings that are commonly ascribed to words and terms. See Rogers v. Heller, 117 Nev. 169, 173 & n.8 (2001); Cunningham v. State, 109 Nev. 569, 571 (1993). Therefore, unless it is clear that the drafters of a constitutional provision intended for a term to be given a technical meaning, the court has emphasized that “[t]he Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning.” Strickland v. Waymire, 126 Nev. 230, 234 (2010) (quoting Dist. of Columbia v. Heller, 554 U.S. 570, 576 (2008)).

Accordingly, in interpreting the two-thirds majority requirement, we must review the normal and ordinary meanings commonly ascribed to the terms “creates, generates, or increases” in Article 4, Section 18(2). The common dictionary meaning of the term “create” is to “bring into existence” or “produce.” Webster’s New Collegiate Dictionary 304 (9th ed. 1991). The common dictionary meaning of the term “generate” is also to “bring into existence” or “produce.” Id. at 510. Finally, the common dictionary meaning of the term “increase” is to “make greater” or “enlarge.” Id. at 611.

Based on the normal and ordinary meanings of the terms “creates, generates, or increases” as used in Article 4, Section 18(2), we believe that the two-thirds majority requirement applies to a bill which directly brings into existence, produces or enlarges public revenue in the first instance by imposing new or increased state taxes. However, when a bill does not impose new or increased state taxes but simply maintains the existing “computation bases” currently in effect for *existing* state taxes, we do not believe that the two-thirds majority requirement applies to the bill.

Given the plain language in Article 4, Section 18(2), the two-thirds majority requirement applies to a bill which makes “changes in the *computation bases* for taxes, fees, assessments and rates.” Nev. Const. art. 4, § 18(2) (emphasis added). Based on its normal and ordinary meaning, a “computation base” is a formula that consists of “a number that is multiplied by a rate or [from] which a percentage or fraction is calculated.” Webster’s New Collegiate Dictionary 133 & 271 (9th ed. 1991) (defining the terms “computation” and “base”). In other words, a “computation base” is a formula which consists of a base number,



such as an amount of money, and a number serving as a multiplier, such as a percentage or fraction, that is used to calculate the product of those two numbers.

By applying the normal and ordinary meaning of the term “computation base,” we believe that the two-thirds majority requirement applies to a bill which directly changes the statutory computation bases—that is, the statutory formulas—used for calculating existing state taxes, so that the revised statutory formulas directly bring into existence, produce or enlarge public revenue in the first instance because the existing statutory base numbers or the existing statutory multipliers are changed by the bill in a manner that “creates, generates, or increases any public revenue.” Nev. Const. art. 4, § 18(2). However, when a bill does not change—but maintains—the existing statutory base numbers and the existing statutory multipliers currently in effect for the existing statutory formulas, we do not believe that the bill “creates, generates, or increases any public revenue” within the meaning, purpose and intent of the two-thirds majority requirement because the existing “computation bases” currently in effect are not changed by the bill. Id.

Accordingly, to answer your first question, we must determine whether a bill which extends until a later date—or revises or eliminates—a future decrease in or future expiration of existing state taxes would be considered a bill which *changes* or one which *maintains* the existing computation bases currently in effect for the existing state taxes. In order to make this determination, we must consider several well-established rules of construction governing statutes that are not legally operative and binding yet.

It is well established that “[t]he existence of a law, and the time when it shall take effect, are two separate and distinct things. The law exists from the date of approval, but its operation [may be] postponed to a future day,” People ex rel. Graham v. Inglis, 43 N.E. 1103, 1104 (Ill. 1896). Thus, because the Legislature has the power to postpone the operation of a statute until a later time, it may enact a statute that has both an effective date and a later operative date. 82 C.J.S. Statutes § 549 (Westlaw 2019). Under such circumstances, the effective date is the date upon which the statute becomes an existing law, but the later operative date is the date upon which the requirements of the statute will actually become legally binding. 82 C.J.S. Statutes § 549 (Westlaw 2019); Preston v. State Bd. of Equal., 19 P.3d 1148, 1167 (Cal. 2001). When a statute has both an effective date and a later operative date, the statute must be understood as speaking from its later operative date when it actually becomes legally binding and not from its earlier effective date when it becomes an existing law but does not have any legally binding requirements yet. 82 C.J.S. Statutes § 549 (Westlaw 2019); Longview Co. v. Lynn, 108 P.2d 365, 373 (Wash. 1940). Consequently, until the statute reaches its later operative date, the statute is not legally operative and binding yet, and the statute does not confer any presently existing and enforceable legal rights or benefits under its provisions. Id.; Levinson v. City of Kansas City, 43 S.W.3d 312, 316-18 (Mo. Ct. App. 2001).



Consequently, if an existing statute provides for a future decrease in or future expiration of existing state taxes, that future decrease or expiration is not legally operative and binding yet, and the statute does not confer any presently existing and enforceable legal rights or benefits under its provisions to that future decrease or expiration. Because such a future decrease or expiration is not legally operative and binding yet, we believe that the two-thirds majority requirement does not apply to a bill which extends until a later date—or revises or eliminates—the future decrease or expiration because such a bill does not change—but maintains—the existing computation bases currently in effect for the existing state taxes.

We find support for our interpretation of the plain language in Article 4, Section 18(2) from the contemporaneous extrinsic evidence of the purpose and intent of the two-thirds majority requirement when it was considered by the Legislature in 1993 and presented to the voters in 1994 and 1996.

When interpreting constitutional provisions approved by the voters through a ballot initiative, the court may consider contemporaneous extrinsic evidence of the purpose and intent of the constitutional provisions that was available when the initiative was presented to the voters for approval. See 42 Am. Jur. 2d Initiative & Referendum § 49 (Westlaw 2019) (“To the extent possible, when interpreting a ballot initiative, courts attempt to place themselves in the position of the voters at the time the initiative was placed on the ballot and try to interpret the initiative using the tools available to citizens at that time.”). However, even though the court may consider contemporaneous extrinsic evidence of intent, the court will not consider post-enactment statements, affidavits or testimony from sponsors regarding their intent. See A-NLV Cab Co. v. State Taxicab Auth., 108 Nev. 92, 95-96 (1992) (holding that the court will not consider post-enactment statements, affidavits or testimony from legislators as a means of establishing their legislative intent, and any such materials are inadmissible in evidence as a matter of law); Alaskans for a Common Language, Inc. v. Kritz, 170 P.3d 183, 193 (Alaska 2007) (“Because we must construe an initiative by looking to the materials considered by the voters themselves, we cannot rely on affidavits of the sponsors’ intent.”); 42 Am. Jur. 2d Initiative & Referendum § 49 (Westlaw 2019).

The court may find contemporaneous extrinsic evidence of intent from the legislative history surrounding the proposal and approval of the ballot measure. See Ramsey v. City of N. Las Vegas, 133 Nev. Adv. Op. 16, 392 P.3d 614, 617-19 (2017). The court also may find contemporaneous extrinsic evidence of intent from statements made by proponents and opponents of the ballot measure. See Guinn II, 119 Nev. at 471-72. Finally, the court may find contemporaneous extrinsic evidence of intent from the ballot materials provided to the voters, such as the question, explanation and arguments for and against passage included in the sample ballots sent to the voters. See Nev. Mining Ass’n, 117 Nev. at 539; Pellegrini v. State, 117 Nev. 860, 876-77 (2001).

As discussed previously, based on the legislative testimony surrounding A.J.R. 21 in 1993 and the ballot materials presented to the voters in 1994 and 1996, there is

contemporaneous extrinsic evidence that the two-thirds majority requirement was intended to apply to a bill which directly brings into existence, produces or enlarges public revenue in the first instance by raising “new taxes” or “new revenues” or by increasing “existing taxes.” Legislative History of A.J.R. 21, *supra* (Hearing on A.J.R. 21 Before Assembly Comm. on Taxation, 67th Leg., at 11-13 (Nev. May 4, 1993)); Nev. Ballot Questions 1994, Question No. 11, at 1 (Nev. Sec’y of State 1994). However, the contemporaneous extrinsic evidence also indicates that the two-thirds majority requirement was not intended to “impair any existing revenues.” *Id.*

Furthermore, there is nothing in the contemporaneous extrinsic evidence to indicate that the two-thirds majority requirement was intended to apply to a bill which does not change—but maintains—the existing computation bases currently in effect for existing state taxes. We believe that the absence of such contemporaneous extrinsic evidence is consistent with the fact that: (1) such a bill does not raise new state taxes and revenues because it maintains the existing state taxes and revenues currently in effect; and (2) such a bill does not increase the existing state taxes and revenues currently in effect—but maintains them in their current state under the law—because the existing computation bases currently in effect are not changed by the bill.

Finally, we find support for our interpretation of the plain language in Article 4, Section 18(2) based on the case law interpreting similar constitutional provisions from other jurisdictions. As discussed previously, the two-thirds majority requirement in the Nevada Constitution was modeled on constitutional provisions from other states. Legislative History of A.J.R. 21, *supra* (Hearing on A.J.R. 21 Before Assembly Comm. on Taxation, 67th Leg., at 12-13 (Nev. May 4, 1993)). As confirmed by Assemblyman Gibbons:

Mr. Gibbons explained A.J.R. 21 was modeled on constitutional provisions which were in effect in a number of other states. Some of the provisions were adopted recently in response to a growing concern among voters about increasing tax burdens and some of the other provisions dated back to earlier times.

*Id.* at 12.

Under the rules of construction, “[w]hen Nevada legislation is patterned after a federal statute or the law of another state, it is understood that ‘the courts of the adopting state usually follow the construction placed on the statute in the jurisdiction of its inception.’” Advanced Sports Info. v. Novotnak, 114 Nev. 336, 340 (1998) (quoting Sec. Inv. Co. v. Donnelley, 89 Nev. 341, 347 n.6 (1973)). Thus, if a provision in the Nevada Constitution is modeled on a similar constitutional provision “from a sister state, it is presumably adopted with the construction given it by the highest court of the sister state.” State ex rel. Harvey v. Second Jud. Dist. Ct., 117 Nev. 754, 763 (2001) (“[S]ince Nevada relied upon the California Constitution as a basis for developing the Nevada Constitution, it is appropriate for us to look

to the California Supreme Court's interpretation of the [similar] language in the California Constitution.”).

Consequently, in interpreting and applying Nevada's two-thirds majority requirement, it is appropriate to consider case law from the other states where courts have interpreted the similar supermajority requirements that served as the model for Nevada's two-thirds majority requirement. Furthermore, in considering that case law, we must presume that the drafters and voters intended for Nevada's two-thirds majority requirement to be interpreted in a manner that adopts and follows the judicial interpretations placed on the similar supermajority requirements by the courts from those other states.

In 1992, the voters of Oklahoma approved a state constitutional provision imposing a three-fourths supermajority requirement on the Oklahoma Legislature that applies to “[a]ll bills for raising revenue” or “[a]ny revenue bill.” Okla. Const. art. V, § 33. In addition, Oklahoma has a state constitutional provision, known as an “Origination Clause,” which provides that “[a]ll bills for raising revenue” must originate in the lower house of the Oklahoma Legislature. *Id.* The Oklahoma Supreme Court has adopted the same interpretation for the term “bills for raising revenue” with regard to both state constitutional provisions. *Okla. Auto. Dealers Ass’n v. State ex rel. Okla. Tax Comm’n*, 401 P.3d 1152, 1158 n.35 (Okla. 2017). In relevant part, Oklahoma's constitutional provisions state:

A. *All bills for raising revenue* shall originate in the House of Representatives. The Senate may propose amendments to revenue bills.

\* \* \*

D. *Any revenue bill* originating in the House of Representatives may become law without being submitted to a vote of the people of the state if such bill receives the approval of three-fourths (3/4) of the membership of the House of Representatives and three-fourths (3/4) of the membership of the Senate and is submitted to the Governor for appropriate action. \* \* \*

Okla. Const. art. V, § 33 (emphasis added).

In *Fent v. Fallin*, 345 P.3d 1113, 1114-15 (Okla. 2014), the petitioner claimed that Oklahoma's supermajority requirement applied to a bill which modified Oklahoma's income tax rates even though the effect of the modifications did not increase revenue. The bill included provisions “deleting expiration date of specified tax rate levy.” *Id.* at 1116 n.6. The Oklahoma Supreme Court held that the supermajority requirement did not apply to the bill. *Id.* at 1115-18. In discussing the purpose and intent of Oklahoma's supermajority requirement for “bills for raising revenue,” the court found that:

[T]he ballot title reveals that the measure was aimed only at bills “intended to raise revenue” and “revenue raising bills.” The plain, popular, obvious and natural meaning of “raise” in this context is “increase.” This plain and popular meaning was expressed in the public theme and message of the proponents of this amendment: “No New Taxes Without a Vote of the People.”

Reading the ballot title and text of the provision together reveals the 1992 amendment had two primary purposes. First, the amendment has the effect of limiting the generation of State revenue to existing revenue measures. Second, the amendment requires future bills “intended to raise revenue” to be approved by either a vote of the people or a three-fourths majority in both houses of the Legislature.

Id. at 1117.

Based on the purpose and intent of Oklahoma’s supermajority requirement for “bills for raising revenue,” the court determined that “[n]othing in the ballot title or text of the provision reveals any intent to bar or restrict the Legislature from amending the existing revenue measures, so long as such statutory amendments do not ‘raise’ or increase the tax burden.” Id. at 1117-18. Given that the bill at issue in Fent included provisions “deleting expiration date of specified tax rate levy,” we must presume the court concluded that those provisions of the bill did not result in an increase in the tax burden that triggered the supermajority requirement even though those provisions of the bill eliminated the future expiration of existing state taxes.

In Naifeh v. State ex rel. Okla. Tax Comm’n, 400 P.3d 759, 761 (Okla. 2017), the petitioners claimed that Oklahoma’s supermajority requirement applied to a bill which was intended to “generate approximately \$225 million per year in new revenue for the State through a new \$1.50 assessment on each pack of cigarettes.” The state argued that the supermajority requirement did not apply to the cigarette-assessment bill because it was a regulatory measure, not a revenue measure. Id. at 766. In particular, the state contended that: (1) the primary purposes of the bill were to reduce the incidence of smoking and compensate the state for the harms caused by smoking; (2) any raising of revenue by the bill was merely incidental to those purposes; and (3) the bill did not levy a tax, but rather assessed a regulatory fee whose proceeds would be used to offset the costs of State-provided healthcare for those who smoke, even though most of the revenue generated by the bill was not earmarked for that purpose. Id. at 766-68.

The Oklahoma Supreme Court held that the supermajority requirement applied to the cigarette-assessment bill because the text of the bill “conclusively demonstrate[d] that the primary operation and effect of the measure [was] to raise *new* revenue to support state government.” Id. at 766 (emphasis added). In reaching its holding, the court reiterated the two-part test that it uses to determine whether a bill is subject to Oklahoma’s supermajority

requirement for “bills for raising revenue.” *Id.* at 765. Under the two-part test, a bill is subject to the supermajority requirement if: (1) the principal object of the bill is to raise *new* revenue for the support of state government, as opposed to a bill under which revenue may incidentally arise; and (2) the bill levies a *new* tax in the strict sense of the word. *Id.* In a companion case, the court stated that it invalidated the cigarette-assessment bill because:

[T]he cigarette measure fit squarely within our century-old test for “revenue bills,” in that it both had the primary purpose of raising revenue for the support of state government *and* it levied a *new* tax in the strict sense of the word.

Okla. Auto. Dealers Ass’n, 401 P.3d at 1153 (emphasis added); accord Sierra Club v. State ex rel. Okla. Tax Comm’n, 405 P.3d 691, 694-95 (Okla. 2017).

In 1996, the voters of Oregon approved a state constitutional provision imposing a three-fifths supermajority requirement on the Oregon Legislature, which provides that “[t]hree-fifths of all members elected to each House shall be necessary to pass *bills for raising revenue*.” Or. Const. art. IV, § 25 (emphasis added). In addition, Oregon has a state constitutional provision, known as an “Origination Clause,” which provides that “*bills for raising revenue* shall originate in the House of Representatives.” Or. Const. art. IV, § 18 (emphasis added). The Oregon Supreme Court has adopted the same interpretation for the term “bills for raising revenue” with regard to both state constitutional provisions. Bobo v. Kulongoski, 107 P.3d 18, 24 (Or. 2005).

In determining the scope of Oregon’s constitutional provisions for “bills for raising revenue,” the Oregon Supreme Court has adopted a two-part test that is similar to the two-part test followed by the Oklahoma Supreme Court. Bobo, 107 P.3d at 24. In particular, the Oregon Supreme Court has stated:

Considering the wording of [each constitutional provision], its history, and the case law surrounding it, we conclude that the question whether a bill is a “bill for raising revenue” entails two issues. The first is whether the bill collects or brings money into the treasury. If it does not, that is the end of the inquiry. If a bill does bring money into the treasury, the remaining question is whether *the bill possesses the essential features of a bill levying a tax*.

Id. (emphasis added).

In applying its two-part test in Bobo, the court observed that “not every statute that brought money into the treasury was a ‘bill for raising revenue’ within the meaning of [the constitutional provisions].” Bobo, 107 P.3d at 24. Instead, the court found that the constitutional provisions applied only to the specific types of bills that the framers had in mind—“bills to levy taxes and similar exactions.” *Id.* at 23. Based on the normal and

ordinary meanings commonly ascribed to the terms “raise” and “revenue” in the constitutional provisions, the court reached the following conclusions:

We draw two tentative conclusions from those terms. First, a bill will “raise” revenue only if it “collects” or “brings in” money to the treasury. Second, not every bill that collects or brings in money to the treasury is a “bil[l] for raising revenue.” Rather, the definition of “revenue” suggests that the framers had a specific type of bill in mind—*bills to levy taxes and similar exactions*.

Id. (emphasis added).

After considering the case law from Oklahoma and Oregon, we believe it is reasonable to interpret Nevada’s two-thirds majority requirement in a manner that adopts and follows the judicial interpretations placed on the similar supermajority requirements by the courts from those states. Under those judicial interpretations, we believe that Nevada’s two-thirds majority requirement does not apply to a bill unless it levies new or increased state taxes in the strict sense of the word or possesses the essential features of a bill that levies new or increased state taxes or similar exactions, “including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates.” Nev. Const. art. 4, § 18(2).

Consequently, we believe that Nevada’s two-thirds majority requirement does not apply to a bill which extends until a later date—or revises or eliminates—a future decrease in or future expiration of existing state taxes when that future decrease or expiration is not legally operative and binding yet, because such a bill does not levy new or increased state taxes as described in the cases from Oklahoma and Oregon. Instead, because such a bill maintains the existing computation bases currently in effect for the existing state taxes, it is the opinion of this office that such a bill does not create, generate or increase any public revenue within the meaning, purpose and intent of Nevada’s two-thirds majority requirement because the existing computation bases currently in effect are not changed by the bill.

**3. Does the two-thirds majority requirement apply to a bill which reduces or eliminates available tax exemptions or tax credits applicable to existing state taxes?**

As discussed previously, Article 4, Section 18(2) provides that the two-thirds majority requirement applies to a bill which “creates, generates, or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or *changes in the computation bases for taxes, fees, assessments and rates*.” Nev. Const. art. 4, § 18(2) (emphasis added). Based on the plain language in Article 4, Section 18(2), we do not believe that the two-thirds majority requirement applies to a bill which reduces or eliminates available tax exemptions or tax credits applicable to existing state taxes because such a reduction or

elimination does not change the existing computation bases or statutory formulas used to calculate the underlying taxes to which the exemptions or credits are applicable.

The plain language in Article 4, Section 18(2) expressly states that the two-thirds majority requirement applies to changes in “computation bases,” but it is silent with regard to changes in tax exemptions or tax credits. Nev. Const. art. 4, § 18(2). Nevertheless, under long-standing legal principles, it is well established that tax exemptions or tax credits are not part of the computation bases or statutory formulas used to calculate the underlying taxes to which the exemptions or credits are applicable. Instead, tax exemptions or tax credits apply only after the underlying taxes have been calculated using the computation bases or statutory formulas and the taxpayer properly and timely claims the tax exemptions or tax credits as a statutory exception to liability for the amount of the taxes. See City of Largo v. AHF-Bay Fund, LLC, 215 So.3d 10, 14-15 (Fla. 2017); State v. Allred, 195 P.2d 163, 167-170 (Ariz. 1948); Rutgers Ch. of Delta Upsilon Frat. v. City of New Brunswick, 28 A.2d 759, 760-61 (N.J. 1942); Chesney v. Byram, 101 P.2d 1106, 1110-12 (Cal. 1940). As explained by the Missouri Supreme Court:

The burden is on the taxpayer to establish that property is entitled to be exempt. An exemption from taxation can be waived. Until the exempt status is established the property is subject to taxation even though the facts would have justified the exempt status if they had been presented for a determination of that issue.

State ex rel. Council Apts., Inc. v. Leachman, 603 S.W.2d 930, 931 (Mo. 1980) (citations omitted). As a result, if the taxpayer fails to properly and timely claim the tax exemptions or tax credits, the taxpayer is liable for the amount of the taxes. See State Tax Comm’n v. Am. Home Shield of Nev., Inc., 127 Nev. 382, 386-87 (2011) (holding that a taxpayer that erroneously made tax payments on “exempt services” was not entitled to claim a refund after the 1-year statute of limitations on refund claims expired).

Accordingly, based on the plain language in Article 4, Section 18(2), we do not believe that a bill which reduces or eliminates available tax exemptions or tax credits changes the computation bases used to calculate the underlying state taxes within the meaning, purpose and intent of the two-thirds majority requirement because the existing computation bases currently in effect are not changed by the bill. Furthermore, based on the legislative testimony surrounding A.J.R. 21 in 1993 and the ballot materials presented to the voters in 1994 and 1996, there is nothing in the contemporaneous extrinsic evidence to indicate that the two-thirds majority requirement was intended to apply to a bill which reduces or eliminates available tax exemptions or tax credits. Finally, based on the case law interpreting similar constitutional provisions from other jurisdictions, courts have consistently held that similar supermajority requirements do not apply to bills which reduce or eliminate available tax exemptions or tax credits.

Unlike the supermajority requirements in other state constitutions, the Louisiana Constitution expressly provides that its supermajority requirement applies to “a repeal of an existing tax exemption.” La. Const. art. VII, § 2. Specifically, the Louisiana Constitution states:

The levy of a new tax, an increase in an existing tax, or a repeal of an existing tax exemption shall require the enactment of a law by two-thirds of the elected members of each house of the legislature.

La. Const. art. VII, § 2.

In determining the scope of Louisiana’s supermajority requirement, the Louisiana Court of Appeals explained that the supermajority requirement did not apply to legislation which suspended a tax exemption—but did not repeal the exemption—because “[a] suspension (which is time-limited) of an exemption is not the same thing as a permanent repeal.” La. Chem. Ass’n v. State ex rel. La. Dep’t of Revenue, 217 So.3d 455, 462-63 (La. Ct. App. 2017), *writ of review denied*, 227 So.3d 826 (La. 2017). Furthermore, the court rejected the argument that because the supermajority requirement applied to the prior legislation that enacted the underlying tax levy for which the exemption was granted, the supermajority requirement by necessary implication also had to be applied to any subsequent legislation that suspended the tax exemption. Id. In rejecting that argument, the court stated:

The levy of the initial tax, preceding the decision to grant an exemption, is the manner in which the Legislature raises revenue. Since the tax levy raises the revenues and since the granting of the exemption does not change the underlying tax levy, we find that suspending an exemption is not a revenue raising measure.

Id. at 463.

As discussed previously, Oklahoma’s supermajority requirement applies to “[a]ll bills for raising revenue” or “[a]ny revenue bill.” Okla. Const. art. V, § 33. In Okla. Auto. Dealers Ass’n v. State ex rel. Okla. Tax Comm’n, 401 P.3d 1152, 1153 (Okla. 2017), the Oklahoma Supreme Court was presented with the “question of whether a measure revoking an exemption from an *already levied* tax is a ‘revenue bill’ subject to Article V, Section 33’s requirements.” The court held that the bill was not a bill for raising revenue that was subject to Oklahoma’s supermajority requirement because: (1) the bill did not “levy a tax in the strict sense of the word”; and (2) the “removal of an exemption from an *already levied* tax is different from levying a tax in the first instance.” Id. at 1153-54.

At issue in the Oklahoma case was House Bill 2433 of the 2017 legislative session, which removed a long-standing exemption from the state’s sales tax for automobiles that were otherwise subject to the state’s excise tax. The Oklahoma Supreme Court explained the effect of H.B. 2433 as follows:



In 1933, the Legislature levied a sales tax on all tangible personal property—including automobiles—and that sales tax has remained part of our tax code ever since. In 1935, however, the Legislature added an exemption for automobile sales in the sales-tax provisions, so that automobiles were subject to only an automobile excise tax from that point forward. H.B. 2433 revokes part of that sales tax exemption so that sales of automobiles are once again subject to the sales tax, but only a 1.25% sales tax. Sales of automobiles remain exempt from the remainder of the sales tax levy. H.B. 2433 does not, however, levy any new sales or excise tax, as the text of the measure and related provisions demonstrate.

For example, the sales tax levy can be found in 68 Okla. Stat. § 1354, imposing a tax upon “the gross receipts or gross proceeds of each sale” of tangible personal property and other specifically enumerated items. The last amendment increasing the sales tax levy was in 1989, when the rate was raised to 4.5%. Nothing in H.B. 2433 amends the sales tax levy contained in section 1354; the rate remains 4.5%. Likewise, the levy of the motor vehicle excise tax is found in 68 Okla. Stat. § 2103. That levy has not been increased since 1985, and nothing in H.B. 2433 amends the levy contained in section 2103. *Both before and after the enactment of H.B. 2433, the levy remains the same:* every new vehicle is subject to an excise tax at 3.25% of its value, and every used vehicle is subject to an excise tax of \$20.00 on the first \$1,500.00 or less of its value plus 3.25% of its remaining value, if any.

Okla. Auto. Dealers Ass’n, 401 P.3d at 1154-55 (emphasis added and footnotes omitted).

In determining that H.B. 2433 was not a bill for raising revenue that was subject to Oklahoma’s supermajority requirement, the Oklahoma Supreme Court stated that:

At bottom, Petitioners’ argument is that H.B. 2433 must be a revenue bill because it causes people to have to pay more taxes. But to say that removal of an exemption from taxation causes those previously exempt from the tax to pay more taxes is merely to state the effect of removing an exemption. It does not, however, transform the removal of the exemption into the levy of a tax, and it begs the dispositive question of whether removal of an exemption is the “levy of a tax in the strict sense.” . . . *Yet, despite their common effect (causing someone to have to pay a tax they previously didn’t have to pay), removing an exemption and levying a new tax are distinct as a matter of fact and law. Our Constitution’s restrictions on the enactment of revenue bills are aimed only at those bills that actually levy a tax.* The policy underlying those restrictions is not undercut in an instance such as this, because the original levies of the sales tax on automobile sales were subject to Article V, Section 33’s restrictions.

Okla. Auto. Dealers Ass'n, 401 P.3d at 1158 (emphasis added).

As discussed previously, the Oregon Supreme Court has adopted the same interpretation for the term “bills for raising revenue” with regard to Oregon’s supermajority requirement and its Origination Clause. Bobo v. Kulongoski, 107 P.3d 18, 24 (Or. 2005). In City of Seattle v. Or. Dep’t of Revenue, 357 P.3d 979, 980 (Or. 2015), the plaintiff claimed that the Oregon Legislature’s passage of Senate Bill 495, which eliminated a tax exemption benefitting out-of-state municipalities that had certain electric utility facilities in Oregon, violated Oregon’s Origination Clause because S.B. 495 was a bill for raising revenue that did not originate in the Oregon House of Representatives. However, the Oregon Supreme Court held that S.B. 495’s elimination of the tax exemption did not make it a “bill for raising revenue” that was subject to Oregon’s Origination Clause. Id. at 985-88.

After applying its two-part test from Bobo, the Oregon Supreme Court determined that S.B. 495 was not a bill for raising revenue because by “declaring that a property interest held by taxpayers previously exempt from taxation is now subject to taxation, the legislature did not levy a tax.” City of Seattle, 357 P.3d at 987. The court rejected the taxpayers’ argument that S.B. 495 was a bill for raising revenue because “the burden of increased taxes falls solely on the newly-taxed entities.” Id. at 988. Instead, the court found that:

We think, however, taxpayers’ argument misses the mark because it focuses exclusively on the revenue effect of S.B. 495. As we stated in Bobo, the revenue effect of a bill, in and of itself, does not determine if the bill is a “bill[] for raising revenue.” 107 P.3d at 24 (“If a bill does bring money into the treasury, the remaining question is whether the bill possesses the essential features of a bill levying a tax.”). As we have explained, S.B. 495 repeals taxpayers’ tax exemption as out-of-state municipal corporations and places taxpayers on the same footing as domestic electric cooperatives. The bill does not directly levy a tax on taxpayers.

Id. (footnotes omitted).

After considering the case law from Oklahoma and Oregon, we believe it is reasonable to interpret Nevada’s two-thirds majority requirement in a manner that adopts and follows the judicial interpretations placed on the similar supermajority requirements by the courts from those states. Under those judicial interpretations, we believe that Nevada’s two-thirds majority requirement does not apply to a bill which reduces or eliminates available tax exemptions or tax credits because such a reduction or elimination does not change the existing computation bases or statutory formulas used to calculate the underlying state taxes to which the exemptions or credits are applicable. Consequently, it is the opinion of this office that Nevada’s two-thirds majority requirement does not apply to a bill which reduces or eliminates available tax exemptions or tax credits applicable to existing state taxes.

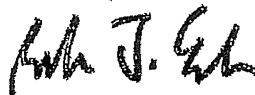
CONCLUSION

It is the opinion of this office that Nevada's two-thirds majority requirement does not apply to a bill which extends until a later date—or revises or eliminates—a future decrease in or future expiration of existing state taxes when that future decrease or expiration is not legally operative and binding yet, because such a bill does not change—but maintains—the existing computation bases currently in effect for the existing state taxes.

It also is the opinion of this office that Nevada's two-thirds majority requirement does not apply to a bill which reduces or eliminates available tax exemptions or tax credits applicable to existing state taxes, because such a reduction or elimination does not change the existing computation bases used to calculate the underlying state taxes to which the exemptions or credits are applicable.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Sincerely,



Brenda J. Erdoes  
Legislative Counsel



Kevin C. Powers  
Chief Litigation Counsel

KCP:dtm  
Ref No 190502085934  
File No, OP\_Erdoes19050413742

# **EXHIBIT D**

EMERGENCY REQUEST of Senate Majority Leader

Senate Bill No. 551—Senator Cannizzaro

CHAPTER.....

AN ACT relating to state financial administration; eliminating certain duties of the Department of Taxation relating to the commerce tax and the payroll taxes imposed on certain businesses; continuing the existing legally operative rates of the payroll taxes imposed on certain businesses; revising provisions governing the credits against the payroll taxes imposed on certain businesses for taxpayers who donate money to a scholarship organization; eliminating the education savings accounts program; making appropriations for certain purposes relating to school safety and to provide supplemental support of the operation of the school districts; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law imposes an annual commerce tax on each business entity whose Nevada gross revenue in a fiscal year exceeds \$4,000,000, with the rate of the commerce tax based on the industry in which the business entity is primarily engaged. (NRS 363C.200, 363C.300-363C.560) Existing law also imposes: (1) a payroll tax on financial institutions and on mining companies subject to the tax on the net proceeds of minerals, with the rate of the payroll tax set at 2 percent of the amount of the wages, as defined under existing law, paid by the financial institution or mining company during each calendar quarter in connection with its business activities; and (2) a payroll tax on other business entities, with the rate of the payroll tax set at 1.475 percent of the amount of the wages, as defined under existing law but excluding the first \$50,000 thereof, paid by the business entity during each calendar quarter in connection with its business activities. (NRS 363A.130, 363B.110, 612.190) However, a business entity that pays both the payroll tax and the commerce tax is entitled to a credit against the payroll tax of a certain amount of the commerce tax paid by the business entity. (NRS 363A.130, 363B.110)

Existing law further establishes a rate adjustment procedure that is used by the Department of Taxation to determine whether the rates of the payroll taxes should be reduced in future fiscal years under certain circumstances. Under the rate adjustment procedure, on or before September 30 of each even-numbered year, the Department must determine the combined revenue from the commerce tax and the payroll taxes for the preceding fiscal year. If that combined revenue exceeds a certain threshold amount, the Department must make additional calculations to determine future reduced rates for the payroll taxes. However, any future reduced rates for the payroll taxes do not go into effect and become legally operative until July 1 of the following odd-numbered year. (NRS 360.203) This rate adjustment procedure was enacted by the Legislature during the 2015 Legislative Session and became effective on July 1, 2015. (Sections 62 and 114 of chapter 487, Statutes of Nevada 2015, pp. 2896, 2955) Since July 1, 2015, no future reduced rates for the payroll taxes have gone into effect and become legally operative based on the rate adjustment procedure. As a result, the existing legally operative rates of the payroll



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taxes are still 2 percent and 1.475 percent, respectively. (NRS 363A.130, 363B.110)

**Section 39** of this bill eliminates the rate adjustment procedure used by the Department of Taxation to determine whether the rates of the payroll taxes should be reduced in any fiscal year. **Section 37** of this bill maintains and continues the existing legally operative rates of the payroll taxes at 2 percent and 1.475 percent, respectively, without any changes or reductions in the rates of those taxes pursuant to the rate adjustment procedure for any fiscal year. **Section 37** also provides that the Department must not apply or use the rate adjustment procedure to determine any future reduced rates for the payroll taxes for any fiscal year. **Sections 2 and 3** of this bill make conforming changes.

Existing law establishes a credit against the payroll tax paid by certain businesses equal to an amount which is approved by the Department and which must not exceed the amount of any donation of money which is made by a taxpayer to a scholarship organization that provides grants on behalf of pupils who are members of a household with a household income which is not more than 300 percent of the federally designated level signifying poverty to attend schools in this State, including private schools, chosen by the parents or legal guardians of those pupils (NRS 363A.130, 363B.110). Under existing law, the Department: (1) is required to approve or deny applications for the tax credit in the order in which the applications are received by the Department; and (2) is authorized to approve applications for each fiscal year until the amount of tax credits approved for the fiscal year is the amount authorized by statute for that fiscal year. Assembly Bill No. 458 of this legislative session establishes that for Fiscal Years 2019-2020 and 2020-2021, the amount authorized is \$6,655,000 for each fiscal year. **Sections 2.5 and 3.5** of this bill authorize the Department to approve, in addition to the amount of credits authorized for Fiscal Years 2019-2020 and 2020-2021, an amount of tax credits equal to \$4,745,000 for each of those fiscal years. **Section 30.75** of this bill: (1) prohibits a scholarship organization from using a donation for which the donor received a tax credit to provide a grant on behalf of a pupil unless the scholarship organization used a donation for which the donor received a tax credit to provide a grant on behalf of the pupil for the immediately preceding scholarship year or reasonably expects to provide a grant of the same amount on behalf of the pupil for each school year until the pupil graduates from high school; and (2) requires a scholarship organization to repay the amount of any tax credit approved by the Department if the scholarship organization violates this provision.

Senate Bill No. 302 (S.B. 302) of the 78th Session of the Nevada Legislature established the education savings accounts program, pursuant to which grants of money are made to certain parents on behalf of their children to defray the cost of instruction outside the public school system. (Chapter 332, Statutes of Nevada 2015, p. 1824; NRS 353B.700-353B.930) Following a legal challenge of S.B. 302, the Nevada Supreme Court held in *Schwartz v. Lopez*, 132 Nev. 732 (2016), that the legislation was valid under Section 2 of Article 11 of the Nevada Constitution, which requires a uniform system of common schools, and under Section 10 of Article 11 of the Nevada Constitution, which prohibits the use of public money for a sectarian purpose. However, the Nevada Supreme Court found that the Legislature did not make an appropriation for the support of the education savings accounts program and held that the use of any money appropriated for K-12 public education for the education savings accounts program would violate Sections 2 and 6 of Article 11 of the Nevada Constitution. The Court enjoined enforcement of section 16 of S.B. 302, which amended NRS 387.124 to require that all money deposited in education savings accounts be subtracted from each school district's quarterly apportionments from the State Distributive School Account. Because the



Court has enjoined this provision of law and the Legislature has not made an appropriation for the support of the education savings accounts program, the education savings accounts program is not operating. **Section 39.5** of this bill eliminates the education savings accounts program. **Sections 30.1-30.7 and 30.8-30.95** of this bill make conforming changes related to the elimination of the education savings accounts program.

**Section 31** of this bill makes an appropriation for the costs of school safety facility improvements. **Section 36.5** of this bill makes an appropriation to provide supplemental support to the operations of the school districts of this State, distributed in amounts based on the 2018 enrollment of the school districts of this State.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** (Deleted by amendment.)

**Sec. 2.** NRS 363A.130 is hereby amended to read as follows:

363A.130 1. ~~{Except as otherwise provided in NRS 360.203, there}~~ **There** is hereby imposed an excise tax on each employer at the rate of 2 percent of the wages, as defined in NRS 612.190, paid by the employer during a calendar quarter with respect to employment in connection with the business activities of the employer.

2. The tax imposed by this section:

(a) Does not apply to any person or other entity or any wages this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) 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 a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this section for that calendar quarter.

4. In determining the amount of the tax due pursuant to this section, an employer is entitled to subtract from the amount calculated pursuant to subsection 1 a credit in an amount equal to 50 percent of the amount of the commerce tax paid by the employer pursuant to chapter 363C of NRS for the preceding taxable year. The credit may only be used for any of the 4 calendar quarters



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immediately following the end of the taxable year for which the commerce tax was paid. The amount of credit used for a calendar quarter may not exceed the amount calculated pursuant to subsection 1 for that calendar quarter. Any unused credit may not be carried forward beyond the fourth calendar quarter immediately following the end of the taxable year for which the commerce tax was paid, and a taxpayer is not entitled to a refund of any unused credit.

5. An employer who makes a donation of money to a scholarship organization during the calendar quarter for which a return is filed pursuant to this section is entitled, in accordance with NRS 363A.139, to a credit equal to the amount authorized pursuant to NRS 363A.139 against any tax otherwise due pursuant to this section. As used in this subsection, "scholarship organization" has the meaning ascribed to it in NRS 388D.260.

**Sec. 2.5.** NRS 363A.139 is hereby amended to read as follows:

363A.139 1. Any taxpayer who is required to pay a tax pursuant to NRS 363A.130 may receive a credit against the tax otherwise due for any donation of money made by the taxpayer to a scholarship organization in the manner provided by this section.

2. To receive the credit authorized by subsection 1, a taxpayer who intends to make a donation of money to a scholarship organization must, before making such a donation, notify the scholarship organization of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. A scholarship organization shall, before accepting any such donation, apply to the Department of Taxation for approval of the credit authorized by subsection 1 for the donation. The Department of Taxation shall, within 20 days after receiving the application, approve or deny the application and provide to the scholarship organization notice of the decision and, if the application is approved, the amount of the credit authorized. Upon receipt of notice that the application has been approved, the scholarship organization shall provide notice of the approval to the taxpayer who must, not later than 30 days after receiving the notice, make the donation of money to the scholarship organization. If the taxpayer does not make the donation of money to the scholarship organization within 30 days after receiving the notice, the scholarship organization shall provide notice of the failure to the Department of Taxation and the taxpayer forfeits any claim to the credit authorized by subsection 1.





3. The Department of Taxation shall approve or deny applications for the credit authorized by subsection 1 in the order in which the applications are received.

4. Except as otherwise provided in subsection 5, the Department of Taxation may, for each fiscal year, approve applications for the credit authorized by subsection 1 until the total amount of the credits authorized by subsection 1 and approved by the Department of Taxation pursuant to this subsection is:

- (a) For Fiscal Year 2015-2016, \$5,000,000;
- (b) For Fiscal Year 2016-2017, \$5,500,000; and
- (c) For each succeeding fiscal year, an amount equal to 110 percent of the amount authorized for the immediately preceding fiscal year.

↳ The amount of any credit which is forfeited pursuant to subsection 2 must not be considered in calculating the amount of credits authorized for any fiscal year.

5. ~~For~~ *Except as otherwise provided in this subsection, in addition to the amount of credits authorized by subsection 4 for Fiscal ~~Year 2017-2018,~~ Years 2019-2020 and 2020-2021,* the Department of Taxation may approve applications for the credit authorized by subsection 1 for ~~that~~ *each of those* fiscal ~~year~~ *years* until the total amount of the credits authorized by subsection 1 and approved by the Department of Taxation pursuant to this subsection and subsection 5 of NRS 363B.119 is ~~is \$20,000,000.~~ *\$4,745,000.* The provisions of paragraph (c) of subsection 4 do not apply to the amount of credits authorized by this subsection and the amount of credits authorized by this subsection must not be considered when determining the amount of credits authorized for a fiscal year pursuant to that paragraph. If, in Fiscal Year ~~2017-2018,~~ *2019-2020 or 2020-2021,* the amount of credits authorized by subsection 1 and approved pursuant to this subsection is less than ~~is \$20,000,000,~~ *\$4,745,000,* the remaining amount of credits pursuant to this subsection must be carried forward and made available for approval during subsequent fiscal years until the total amount of credits authorized by subsection 1 and approved pursuant to this subsection is equal to ~~is \$20,000,000.~~ *\$9,490,000.* The amount of any credit which is forfeited pursuant to subsection 2 must not be considered in calculating the amount of credits authorized pursuant to this subsection.

6. If a taxpayer applies to and is approved by the Department of Taxation for the credit authorized by subsection 1, the amount of the credit provided by this section is equal to the amount approved by the Department of Taxation pursuant to subsection 2, which must



not exceed the amount of the donation made by the taxpayer to a scholarship organization. The total amount of the credit applied against the taxes described in subsection 1 and otherwise due from a taxpayer must not exceed the amount of the donation.

7. If the amount of the tax described in subsection 1 and otherwise due from a taxpayer is less than the credit to which the taxpayer is entitled pursuant to this section, the taxpayer may, after applying the credit to the extent of the tax otherwise due, carry the balance of the credit forward for not more than 5 years after the end of the calendar year in which the donation is made or until the balance of the credit is applied, whichever is earlier.

8. As used in this section, "scholarship organization" has the meaning ascribed to it in NRS 388D.260.

**Sec. 3.** NRS 363B.110 is hereby amended to read as follows:

363B.110 1. ~~{Except as otherwise provided in NRS 360.203, there}~~ **There** is hereby imposed an excise tax on each employer at the rate of 1.475 percent of the amount by which the sum of all the wages, as defined in NRS 612.190, paid by the employer during a calendar quarter with respect to employment in connection with the business activities of the employer exceeds \$50,000.

2. The tax imposed by this section:

(a) Does not apply to any person or other entity or any wages this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) 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 a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this chapter for that calendar quarter.

4. In determining the amount of the tax due pursuant to this section, an employer is entitled to subtract from the amount calculated pursuant to subsection 1 a credit in an amount equal to 50 percent of the amount of the commerce tax paid by the employer pursuant to chapter 363C of NRS for the preceding taxable year. The credit may only be used for any of the 4 calendar quarters immediately following the end of the taxable year for which the commerce tax was paid. The amount of credit used for a calendar quarter may not exceed the amount calculated pursuant to



subsection 1 for that calendar quarter. Any unused credit may not be carried forward beyond the fourth calendar quarter immediately following the end of the taxable year for which the commerce tax was paid, and a taxpayer is not entitled to a refund of any unused credit.

5. An employer who makes a donation of money to a scholarship organization during the calendar quarter for which a return is filed pursuant to this section is entitled, in accordance with NRS 363B.119, to a credit equal to the amount authorized pursuant to NRS 363B.119 against any tax otherwise due pursuant to this section. As used in this subsection, "scholarship organization" has the meaning ascribed to it in NRS 388D.260.

**Sec. 3.5.** NRS 363B.119 is hereby amended to read as follows:

363B.119 1. Any taxpayer who is required to pay a tax pursuant to NRS 363B.110 may receive a credit against the tax otherwise due for any donation of money made by the taxpayer to a scholarship organization in the manner provided by this section.

2. To receive the credit authorized by subsection 1, a taxpayer who intends to make a donation of money to a scholarship organization must, before making such a donation, notify the scholarship organization of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. A scholarship organization shall, before accepting any such donation, apply to the Department of Taxation for approval of the credit authorized by subsection 1 for the donation. The Department of Taxation shall, within 20 days after receiving the application, approve or deny the application and provide to the scholarship organization notice of the decision and, if the application is approved, the amount of the credit authorized. Upon receipt of notice that the application has been approved, the scholarship organization shall provide notice of the approval to the taxpayer who must, not later than 30 days after receiving the notice, make the donation of money to the scholarship organization. If the taxpayer does not make the donation of money to the scholarship organization within 30 days after receiving the notice, the scholarship organization shall provide notice of the failure to the Department of Taxation and the taxpayer forfeits any claim to the credit authorized by subsection 1.

3. The Department of Taxation shall approve or deny applications for the credit authorized by subsection 1 in the order in which the applications are received.

4. Except as otherwise provided in subsection 5, the Department of Taxation may, for each fiscal year, approve

