No. 81924

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE LEGISLATURE OF THE STATE OF NEVADA; THE STATE OF NEVADA DEPARTMENT OF TAXATION; AND THE STATE OF NEVADA DEPARTMENT OF MOTOR VEHICLES,

Appellants/Cross-Respondents,

v.

THE HONORABLE JAMES A. SETTELMEYER; THE HONORABLE JOE HARDY; THE HONORABLE HEIDI SEEVERS GANSERT; THE HONORABLE SCOTT T. HAMMOND; THE HONORABLE PETE GOICOECHEA; THE HONORABLE BEN KIECKHEFER; THE HONORABLE IRA D. HANSEN; THE HONORABLE KEITH F. 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,

Respondents/Cross-Appellants

On Appeal from the First Judicial District Court of the State of Nevada, Carson City
No. 19 OC 00127 1B

JOINT APPENDIX
Volume III of VII
(JA000474-000674)

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DATE	DOCUMENT DESCRIPTION	VOLUME	PAGE NOS.
08/05/2019	Acceptance and Acknowledgement of Service (Secretary of the Senate Clift)	I	83-84
08/05/2019	Acceptance and Acknowledgement of Service (Senate Majority Leader Cannizzaro)	I	85-86
08/05/2019	Acknowledgement of Receipt of Documents (Attorney General's Office)	I	81-82
11/12/2019	Affidavit of James Settelmeyer	II	418-422
11/03/2020	Amended Notice of Appeal (Executive Department-Defendants)	VII	1328-1381
09/16/2019	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	I	87-100

07/19/2019	Complaint	I	1-14
08/05/2019	Declarations of Service (7 total)	I	32-80
10/12/2020	Executive Defendants' and Defendant-Intervenor Nevada Legislature's Joint Motion for Stay Pending Appeal	VI	1222-1235
11/10/2020	Executive Defendants' and Defendant-Intervenor Nevada Legislature's Reply Supporting Joint Motion for Stay Pending Appeal	VII	1382-1390
08/18/2020	Executive Defendants' Appendix to Reply (Volumes I-II)	III	474-602
08/21/2020	Executive Defendants' Joinder to Legislative Defendants' Countermotion for Summary Judgment	III	671-674
08/18/2020	Executive Defendants' Reply Supporting Motion to Dismiss and Opposition to Plaintiffs' Motion for Summary Judgment	II	457-473
09/04/2020	Exhibits 1-12 in support of Plaintiffs' Reply in Support of Motion for Summary Judgment; and Opposition to Legislative Defendants' and Legislature's Counter-Motion for Summary Judgment	IV-V	725-1056
07/30/2019	First Amended Complaint	I	15-31
12/26/2019	Legislature's Answer to First Amended Complaint	II	445-456
08/19/2020	Legislative Defendants' Opposition and Counter-Motion for Summary Judgment	III	603-670
09/15/2020	Legislative Defendants' Reply in Support of Counter-Motion for Summary Judgment	V	1076-1100
11/06/2019	Nevada Legislature's Motion to Intervene as Defendant	II	382-417

	to Legislative Defendants' and Legislature's Counter-Motion for Summary Judgment (Including Affidavit of Jennifer McMenomy and Affidavit of Senator James Settelmeyer		
09/08/2020	Plaintiffs' Supplement to Reply in Support of Motion for Summary Judgment; and Opposition to Legislative Defendants' and Legislature's Counter-Motion for Summary Judgment (Including Exhibit 13)	V	1057-1075
10/08/2020	Plaintiffs' Notice of Entry of Order After Hearing on September 21, 2020 and Final Judgment	VI	1192-1213
09/16/2019	State's Motion to Dismiss	I	101-224

RESPECTFULLY SUBMITTED this 11th day of March, 2021.

AARON D. FORD
Attorney General

By: /s/ *Craig Newby*
CRAIG A. NEWBY
Deputy Solicitor General
Attorney for Executive Defendants

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 11th day of March, 2021, I served a copy of the foregoing JOINT APPENDIX, by electronic service to:

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FIRST JUDICIAL DISTRICT COURT OF NEVADA

IN AND FOR CARSON CITY

THE HONORABLE JAMES SETTLEMEYER, *et al.*,

Plaintiffs,

vs.

STATE OF NEVADA, *ex rel.*, THE HONORABLE NICOLE CANNIZZARO, *et al.*,

Defendants.

Case No. 19 OC 00127 1B

Dept. No. I

Hearing Date: September 21, 2020
Hearing Time: 1:30 p.m.

APPENDIX TO DEFENDANTS' SUPPLEMENTAL AUTHORITY BATES STAMPED PAGES 01-25 Volume I

Description	Page Range
Exhibit H- Senate Daily Journal (4/18/2019)	01-05
Exhibit I- Senate Finance Committee Minutes (5/29/2019)	06-25

DATED: August 18, 2020.

AARON D. FORD
Attorney General

By: [signature] for
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 18th day of August, 2020, I served a true and correct copy of the foregoing **APPENDIX TO DEFENDANTS' SUPPLEMENTAL AUTHORITY BATES STAMPED PAGES 01-25 Volume I**, by regular U.S. Mail to:

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NEVADA LEGISLATURE

Eightieth Session, 2019

SENATE DAILY JOURNAL

THE SEVENTY-FOURTH DAY

CARSON CITY (Thursday), April 18, 2019

Senate called to order at 11:46 a.m.
President Marshall presiding.
Roll called.
All present.
Prayer by the Chaplain, Staff Chaplain Peggy Locke.

We give You thanks, O Lord, God Almighty, the One who is, who was, and who is to come. We pray and give thanks, today, for our government and community leaders throughout our great State. We pray that You, O Lord, will give those in authority wisdom in every decision that needs to be made. Give them discernment and help them to continue to be strong and effective leaders. May they lead and govern with integrity, humility and compassion.

We pray for every Senator, their staff and families. We pray for Your peace, protection and provision for each family represented here today. We pray Your blessing on all our military and their families as well.

Ephesians 3:20: Now to Him who is able to do exceedingly abundantly above all that we ask or think, according to the power that works in us, to Him be glory in the church by Christ Jesus to all generations, forever and ever.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Education, to which was referred Senate Bill No. 89, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MOISES DENIS, *Chair*

Madam President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 182, 207, 242, 340, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Remarks by Senator Ratti.

This amendment deletes Sections 4 through 8, which would have expanded the scope of the prescription drug monitoring program and authorized the Division of Public and Behavioral Health of the Department of Health and Human Services to access the program for certain purposes related to public health.

Amendment adopted.

Senator Woodhouse moved that the bill be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

Bill ordered reprinted, re-engrossed and to the Committee on Finance.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cancela moved that all necessary rules be suspended, that the reprinting of Senate Bill No. 201 be dispensed with, that the Secretary be authorized to insert Amendment No. 551 adopted by the Senate, and that the bill be placed on the General File and considered next.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 201.

Bill read third time.

Remarks by Senators Cancela, Settelmeyer, Seevers Gansert, Pickard, Kieckhefer and Harris.

SENATOR CANCELA:

Senate Bill No. 201 does three things. First, it codifies the Military Lending Act into State law. The Military Lending Act was passed in 2006. At the time, the Department of Defense believed, and said at the passage of the law, that the biggest challenge to national security was the financial instability created by payday lenders to military lenders. As a result, the Department of Defense worked to craft a law setting the interest rate for military members at 36 percent and set a number of other regulations about where lenders could be housed and how lenders could loan to military members. Senate Bill No. 201 codifies that language into State law.

The second thing Senate Bill No. 201 does is authorize entities that offer deferred deposit loans, title loans and high interest loans to be part of an electronic enforcement system of current laws. In 2018, FID did an audit of these types of lenders and found approximately a third were out of compliance with current law. In the audit's recommendations was the idea of creating electronic enforcement for current laws. This bill creates this electronic enforcement mechanism for current laws governing short-term, high-interest loans.

The third thing the bill does is allow lenders to distribute information, created by the State, to help people in financially troubling times. This allows distribution of information on how to negotiate hospital bills through the State; access food stamps, how to get on welfare and give as many options as possible for people dealing with financially precarious situations.

SENATOR SETTELMEYER:

I appreciate the work on this bill and agree with the concept that the Military Lending Act should be in the bill. It looks like the concept of the safe harbor has been added back into the bill. I am concerned because the fee should be outside of the percentage cap so it is not applied, thereby taking away the margin and taking people out of business. We need to determine these industries are either lawful and leave them alone or decide we do not like them and get rid of them. We continue to come back to this subject. I am bothered by the subject of taking a fee and having it paid to an outside vendor. I have not seen this done before in this Legislative Body. This circumvents the concept of the tax restraint initiative, and I will be opposing this bill.

SENATOR SEEVERS GANSERT:
I too agree with the majority of this bill, especially the Military Lending Act, but I have never seen an example where the State does not collect a fee, do an RFP and then contract within an agency. In this case, that process is circumvented. There is an RFP process, but the fee is not determined in the bill; it is up to the contractor, and the money does not come to the State. I have not seen where a contract like this is set up versus establishing a fee, receiving the fee, completing an RFP process, contracting with an organization and paying the organization based on the money we have and the work they will do. I will vote against this bill because this is a precedent-setting way of contracting with an entity and keeping a fee outside the normal purchasing process.

SENATOR PICKARD:
I agree with the statements of my colleagues from Districts 15 and 17. I question the wisdom of adopting federal law when it already supersedes State law and is unnecessary to repeat. I am opposed to this bill.

SENATOR CANCELA:
The federal law has been rolled back in the last year. The Consumer Fraud and Protection Bureau (CFPB) has made decisions to dismantle consumer protections built up for decades. The language in the bill is meant to ensure those protections, which have been in place for almost 15 years, for service members, their families and dependents stay in place. This is important. There was the option to reference the federal rule, which has changed quite a bit. The bill instead copies the federal language of the Military Lending Act.

In 1994, and followed again in 1996, a ballot initiative was adopted amending Section 18 of Article 4 of the Nevada Constitution. The language reads: "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." That language is important because the question becomes does the bill create, generate or increase any public revenue? Those words, based on the words of statutory interpretation, have to be taken at their literal meaning. The text of the bill does not create, generate or increase a fee. It authorizes FID to contract with a private entity to create a database. In the creation of that database, FID is authorized to negotiate a fee that will never become public revenue. It is part a contract lenders will enter into with the private entity that manages the database. The money never becomes public revenue; it goes between the lender and the database management company. This is important because it ensures the money never enters into public coffers. There are other states that are doing something similar and putting money into public revenue. That is not the intention here because of what my colleague pointed out about the thin revenue lines that exist for some of these entities. We are not looking to profit, rather, we are looking to ensure our laws are enforced to the best of FID's abilities and that requires electronic communication and 21st century technology. The fee that would be negotiated would only go between the lender and the vendor chosen to create the database.

SENATOR KIECKHEFER:
I appreciate the explanation and do not dispute that the bill does what the sponsor has said; it keeps money out of the hands of the State as this would trigger a two-thirds vote to pass the bill. This is an interesting work-around as this bill would have had support for a two-thirds vote. Are we going to start down the road of saying this is going to be State public policy and we are going to contract a vendor to implement that public policy but to avoid having to have a super-majority of the Legislature to do that, we are going to allow private entities to start collecting fees on our behalf rather than the State doing it and paying for them? It is a creative work-around and I do not dispute that it is legal, but it is inappropriate.

SENATOR PICKARD:
First, it seemed we were adopting the Military Lending Act. In this version it seems we are not. I would like some clarity on that please. Is the fee to be collected by the third party mandatory? Will every lender, in order to lend in this State have to pay it, or will they be able to contract

around that? If every lender is required to pay the fee and that fee pays for a government program, it is a tax and is inappropriate.

SENATOR CANCELA:
The Military Lending Act statute has not been repealed. The rules surrounding the statute have been repealed by the CFPB. In the bill, some sections refer directly to the Military Lending Act and others take language from the Military Lending Act and copy it into statute. The Military Lending Act is referred to in Nevada Revised Statutes but it is not codified. This bill codifies the language by copying it and referencing it in statute. This database system has been created in 13 other states. In all states where the database was enacted, the short-term, high-interest industry continued to operate. In some states, it did better.

SENATOR HARRIS:
I would like to thank my colleague from District 10 for literally cutting out the middleman and saving the State the administrative costs related to collecting the fee and remitting it to the vendor.

SENATOR PICKARD:
Are lenders going to be able to contract around or will this be a mandatory fee everyone will pay?

SENATOR CANCELA:
Lenders would have to use the database as the enforcement tool for current law. Should they chose to contract around or not participate in the electronic enforcement of current laws, they would be out of compliance and subject to penalties for not complying with current laws.

SENATOR SETTELMEYER:
From the testimony we heard, Alabama, Delaware, Florida, Illinois, Indiana, Kentucky, Michigan, North Dakota, Oklahoma, South Carolina, Virginia, Washington and Wisconsin have this database, and only one state has the funds paid directly to a vendor. In all other states, the money goes directly to the state.

Roll call on Senate Bill No. 201:
YEAS—13.
NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Senate Bill No. 201 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bill No. 65.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Cancela, the privilege of the floor of the Senate Chamber for this day was extended to Sylvia Antuna, Maria Balicanta, Glenna Bolster, Kathleen Broda, Lori Brust, Brent Buccambuso, Ashley Cabral, Victor Chicas, Charetzayda Gonzalez Del Valle, Maria Delgado, Veronica Estrada, Teodora Garcia, Vivian Gray, Jay Griffith, Victor Juarez-Rivera, Stella Kalaoram, Donna Kelly, Rory Kuykendall, Maria Landeros, Juston Larsen, Ericka Legazpi-Duran, Sergio Manzano, Maria Martinez, Sandra Martinez, Juan Ocampo, Rocio Puente and former

Senate adjourned at 7:29 p.m.

Approved:

KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate

Def Exhibit 05

MINUTES OF THE
SENATE COMMITTEE ON FINANCE

Eightieth Session
May 29, 2019

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

COMMITTEE MEMBERS PRESENT:

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

GUEST LEGISLATORS PRESENT:

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

STAFF MEMBERS PRESENT:

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

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

OTHERS PRESENT:

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

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

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

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

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

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

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

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

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

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

MICHAEL PELHAM (Director, Government and Community Affairs, Nevada Taxpayers Association):
I echo the comments of Mr. Moradkhan and Mr. Wachter. We oppose S.B. 135.

NICK VANDER POEL (Reno Sparks Chamber of Commerce):
I echo the previous comments in opposition to S.B. 135.

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

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

SENATOR NICOLE J. CANNIZZARO (Senatorial District No. 6):
I am here to present S.B. 551, The Safe and Supportive Schools Act along with a mock-up of Proposed Amendment No. 6051 (Exhibit R) and some conceptual amendments (Exhibit S). I will read a prepared statement (Exhibit T) to present the bill.

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

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

SENATOR CANNIZZARO:
Yes.

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

SENATOR CANNIZZARO:
A $2 million appropriation would fund 500 seats for Pre-K.

SENATOR WOODHOUSE:
We typically allocate $8,000 per seat.

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

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

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

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

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

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

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

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

RUSSELL GUINDON (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):
Based on the Economic Forum's May 1, 2019, forecast and the assumption of the lower rates occurring, we calculate that if we maintain the current rates, the State will generate approximately $48.2 million in FY 2020 and approximately $50 million in FY 2021, a total of approximately $98.2 million over the biennium.

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

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

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

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

SENATOR CANNIZZARO:
The provisions should be the same.

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

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

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

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

ERIC JENG (Director of Civic Engagement, Asian Community Development Council):
The top issues for the Asian-American and Pacific Islander Community are health care and public education. The Community is comprised of people from

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

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

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

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

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

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

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

ALEXANDER MARKS (Nevada State Education Association):
I will read additional remarks from the NSEA statement in support of S.B. 551, Exhibit U.

MR. CALLAWAY:
The Las Vegas Metropolitan Police Department supports the bill and the amendment, Exhibit R. Lifting the tax sunset is critical for our agency and for public safety.

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

MR. CALLAWAY:
That is correct.

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

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

SENATOR KIECKHEFER:
That is why I supported A.B. 443.

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

MIKE CATHCART (City of Henderson):
We support S.B. 551 and the proposed amendment, Exhibit R. We particularly support sections 23, 24, 25 and 28 which lift the sunset on the More Cops

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

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

MR. EDWARDS:
We support S.B. 551.

MICHAEL RAMIREZ (Las Vegas Police Protective Association):
We support S.B. 551.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. VANDER POEL:
Ann Silver, CEO of the Reno Sparks Chamber, issued the following statement.

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

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

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

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

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

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

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

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

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

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

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

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

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

Remainder of page intentionally left blank; signature page to follow.

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

RESPECTFULLY SUBMITTED:

_____
Steven Jamieson,
Committee Secretary

APPROVED BY:

_____
Senator Joyce Woodhouse, Chair

DATE: _____

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

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

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FIRST JUDICIAL DISTRICT COURT OF NEVADA

IN AND FOR CARSON CITY

THE HONORABLE JAMES SETTLEMEYER, *et al.*,

Plaintiffs,

vs.

STATE OF NEVADA, *ex rel.*, THE HONORABLE NICOLE CANNIZZARO, *et al.*,

Defendants.

Case No. 19 OC 00127 1B

Dept. No. I

Hearing Date: September 25, 2020
Hearing Time: 1:30 p.m.

APPENDIX TO DEFENDANTS' SUPPLEMENTAL AUTHORITY BATES STAMPED PAGES 26-125 Volume II

Description	Page Range
Exhibit J-Senate Daily Journal (6/3/2019)	26-125

DATED: August 18, 2020.

AARON D. FORD
Attorney General

By: _____ for
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 18th day of August, 2020, I served a true and correct copy of the foregoing **APPENDIX TO DEFENDANTS' SUPPLEMENTAL AUTHORITY BATES STAMPED PAGES 26-125 Volume II**, by regular U.S. Mail to:

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NEVADA LEGISLATURE

Eightieth Session, 2019

SENATE DAILY JOURNAL

THE ONE HUNDRED AND TWENTIETH DAY

CARSON CITY (Monday), June 3, 2019

Senate called to order at 11:23 a.m.
President Marshall presiding.
Roll called.
All present.
Prayer by Senator Seevers Gansert.

We are so blessed to all be here, today, on this great Nevada morning with the sun shining, and it is finally warm. We are blessed to be working as colleagues on behalf of the citizens who have entrusted us to do the work to make Nevada a better place. We are blessed to have families that support us. We are blessed to have an abundance in our lives, and today, we will make some final decisions. It has been a long 120 days, and I know everyone is exhausted. I know we have done a lot of good work together, and I know that is what is expected of us. So, please give us strength on this final day to make good decisions on behalf of the citizens of Nevada.

Thank You to our friends and family for supporting us. Thank You for the staff here, today, who have done tremendous work in these long days and long hours.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ratti moved that Assembly Bills Nos. 541, 542, 543, 445, 527 be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

Senator Ratti moved that Senate Bills Nos. 303, 440 be taken from the General File and placed at the top of the General File on the next Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 65.

Bill read third time.

Def Exhibit 26

Remarks by Senator Goicoechea.

Senate Bill No. 65, as amended, appropriates total Highway Funds of $82,333 in Fiscal Year 2020 and $58,083 in Fiscal Year 2021 to the Department of Motor Vehicles to fund travel and operating expenses for Department mobile traveling teams to provide driver license and identification services in the City of West Wendover and the City of Caliente. The bill, as amended, also appropriates Highway Funds of $12,437 in Fiscal Year 2020 to the Department for the creation of an electronic connection between the City of West Wendover's City Hall and the Department to allow vehicle registration services to be performed by the City. This act becomes effective upon passage and approval and for the purpose of performing any preparatory administrative tasks, and on July 1, 2019, for all other purposes.

Roll call on Senate Bill No. 65:

YEAS—21.

NAYS—None.

Senate Bill No. 65 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 443.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 443 makes a General Fund appropriation of $1.5 million to the Aging and Disability Services Division of the Department of Health and Human Services to increase the reimbursement rate for congregate and home-delivered meals to $3.20 for food-insecure persons who are over 60 years of age. I please urge your support.

Roll call on Senate Bill No. 443:

YEAS—21.

NAYS—None.

Senate Bill No. 443 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 546.

Bill read third time.

Remarks by Senator Dondero Loop.

Under existing law, the Department of Motor Vehicles is required to contract with certain counties for the collection of certain fuel taxes by the Department on behalf of the counties. Senate Bill No. 546 clarifies the charge by the Department is a commission.

Roll call on Senate Bill No. 546:

YEAS—21.

NAYS—None.

Senate Bill No. 546 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 551.

Bill read third time.

The following amendment was proposed by Senator Cannizzaro:

Amendment No. 1120.

SUMMARY—Revises provisions relating to state financial administration. (BDR 32□1286)

AN ACT relating to state financial administration; ~~[revising provisions governing the administration of certain taxes authorized by the Clark County Crime Prevention Act of 2016 and the Clark County Sales and Use Tax Act of 2005; providing for certain proceeds from the taxes authorized by the Clark County Sales and Use Tax Act of 2005 to be used to employ and equip additional school police officers in the Clark County School District; removing the prospective expiration of the Clark County Sales and Use Tax Act of 2005 and amendments and other provisions relating thereto;]~~ 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; making appropriations for certain purposes relating to school safety ~~[, early childhood education and Zoom and Victory schools;]~~ 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 authorizes the Board of County Commissioners of Clark County to impose a sales and use tax in Clark County to employ and equip additional police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department. (Clark County Sales and Use Tax Act of 2005) A police department is prohibited from spending the proceeds of the tax unless the expenditure has been approved by a designated body and only if the use will not replace or supplant existing funding for the police department. (Section 13 of chapter 249, Statutes of Nevada 2005, as amended by chapter 497, Statutes of Nevada 2011, p. 3158) Section 10 of this bill authorizes 50 percent of the proceeds of the tax in excess of the amount collected during Fiscal Year 2018-2019 to be transferred each month to the Clark County School District for the purposes of employing and equipping additional school police officers. Sections 1, 4-9, 11-22, 26 and 27 of this bill make conforming changes to impose generally similar requirements on the Clark County School District as are imposed on police departments that receive proceeds of the tax.~~

~~The Clark County Sales and Use Tax Act of 2005 is set to expire on October 1, 2025. (Section 23 of chapter 249, Statutes of Nevada 2005, p. 917) Sections 23-25 and 28 of this bill remove the prospective expiration of the Act and amendments thereto, thereby authorizing the imposition of such a tax in Clark County after October 1, 2025.]~~

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 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.

~~[Sections 29-33 of this bill make appropriations for certain purposes relating to school safety. Specifically, section 29 of this bill makes an appropriation for the costs of public schools to retain social workers or other licensed mental health workers. Section 30 of this bill makes an appropriation for the costs of employing and equipping additional school resource officers or school police officers.]~~ 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 3.3 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 3.7 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 at least 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.

Section 31 of this bill makes an appropriation for the costs of school safety facility improvements. ~~[Section 32 of this bill makes an appropriation for the costs of providing threat assessments and trainings and providing mobile crisis response team services in certain counties. Section 33 of this bill makes an appropriation to support the implementation of a program of social, emotional and academic development throughout the public schools of this State. Additionally, section 34 of this bill makes an appropriation for early childhood education programs in public schools. Finally, sections 35 and 36 of this bill make appropriations to provide supplemental funding for the Zoom and Victory schools programs to increase the number of schools served by such programs and supplement the services provided at such schools.~~

~~Section 38 of this bill declares that the provisions of this bill are not severable and that a judicial declaration of invalidity of any portion of this bill shall be deemed to invalidate all provisions of this bill. Section 40 of this bill expressly expires by limitation all provisions of this bill upon such a judicial declaration of invalidity.]~~ 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.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 360.200 is hereby amended to read as follows:~~

~~360.200 The Department may exercise [the]:~~

~~*1. The* specific powers enumerated in this chapter [and, except] *or any other law; and*~~

~~*2. Except* as otherwise provided [by] *in this chapter or any other* law, [may exercise] general supervision and control over the entire revenue system of the State, including, *without limitation,* the administration of the provisions of chapter 397, Statutes of Nevada 1955, as amended [(NRS] *and codified in* chapter 372 [).] *of NRS, or any special legislative act authorizing or providing for such administration by the Department.]*~~ (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 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. ~~[In]~~ *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 ~~[$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 ~~[$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 ~~[$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. 3.3. 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 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. 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 363A.139 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 ~~[$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 ~~[$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. 3.7. NRS 388D.270 is hereby amended to read as follows:

388D.270 1. A scholarship organization must:

(a) Be exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).

(b) Not own or operate any school in this State, including, without limitation, a private school, which receives any grant money pursuant to the Nevada Educational Choice Scholarship Program.

(c) Accept donations from taxpayers and other persons and may also solicit and accept gifts and grants.

(d) Not expend more than 5 percent of the total amount of money accepted pursuant to paragraph (c) to pay its administrative expenses.

(e) Provide grants on behalf of pupils who are members of a household that has a household income which is not more than 300 percent of the federally designated level signifying poverty to allow those pupils to attend schools in this State chosen by the parents or legal guardians of those pupils, including, without limitation, private schools. The total amount of a grant provided by the scholarship organization on behalf of a pupil pursuant to this paragraph must not exceed $7,755 for Fiscal Year 2015-2016.

(f) Not limit to a single school the schools for which it provides grants.

(g) Except as otherwise provided in paragraph (e) ~~[.]~~ *and subsection 6,* not limit to specific pupils the grants provided pursuant to that paragraph.

2. The maximum amount of a grant provided by the scholarship organization pursuant to paragraph (e) of subsection 1 must be adjusted on

July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On May 1 of each year, the Department of Education shall determine the amount of increase required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each scholarship organization of the adjusted amounts. The Department of Education shall also post the adjusted amounts on its Internet website.

3. A grant provided on behalf of a pupil pursuant to subsection 1 must be paid directly to the school chosen by the parent or legal guardian of the pupil.

4. A scholarship organization shall provide each taxpayer and other person who makes a donation, gift or grant of money to the scholarship organization pursuant to paragraph (c) of subsection 1 with an affidavit, signed under penalty of perjury, which includes, without limitation:

(a) A statement that the scholarship organization satisfies the requirements set forth in subsection 1; and

(b) The total amount of the donation, gift or grant made to the scholarship organization.

5. Each school in which a pupil is enrolled for whom a grant is provided by a scholarship organization shall maintain a record of the academic progress of the pupil. The record must be maintained in such a manner that the information may be aggregated and reported for all such pupils if reporting is required by the regulations of the Department of Education.

6. *A scholarship organization shall not use a donation for which the taxpayer received a tax credit pursuant to NRS 363A.139 or 363B.119 to provide a grant pursuant to this section on behalf of a pupil unless the scholarship organization used a donation for which the taxpayer received a tax credit pursuant to NRS 363A.139 or 363B.119 to provide a grant pursuant to this section on behalf of the pupil for the immediately preceding school year or reasonably expects to be able to provide a grant pursuant to this section on behalf of the pupil in at least the same amount for each school year until the pupil graduates from high school. A scholarship organization that violates this subsection shall repay to the Department of Taxation the amount of the tax credit received by the taxpayer pursuant to NRS 363A.139 or 363B.119, as applicable.*

7. The Department of Education:

(a) Shall adopt regulations prescribing the contents of and procedures for applications for grants provided pursuant to subsection 1.

(b) May adopt such other regulations as the Department determines necessary to carry out the provisions of this section.

~~[7.]~~ *8.* As used in this section, "private school" has the meaning ascribed to it in NRS 394.103.

Sec. 4. ~~[NRS 354.603 is hereby amended to read as follows:~~

~~354.603 1. The board of trustees of any county school district, the board of hospital trustees of any county hospital or the board of trustees of any consolidated library district or district library may establish and administer separate accounts in:~~

~~(a) A bank whose deposits are insured by the Federal Deposit Insurance Corporation;~~

~~(b) A credit union whose deposits are insured by the National Credit Union Share Insurance Fund or by a private insurer approved pursuant to NRS 678.755; or~~

~~(c) A savings and loan association or savings bank whose deposits if made by the State, a local government or an agency of either, are insured by the Federal Deposit Insurance Corporation, or the legal successor of the Federal Deposit Insurance Corporation,~~

~~↵ for money deposited by the county treasurer which is by law to be administered and expended by those boards.~~

~~2. The county treasurer shall transfer the money to a separate account pursuant to subsection 1 when the following conditions are met:~~

~~(a) The board of trustees of the county school district, the board of hospital trustees of the county hospital or the board of trustees of the consolidated library district or district library adopts a resolution declaring an intention to establish and administer a separate account in accordance with the provisions of this section.~~

~~(b) The board of trustees of the county school district, the board of hospital trustees of the county hospital or the board of trustees of the consolidated library district or district library sends a certificate to the county treasurer, the county auditor, the board of county commissioners and, in the case of the board of trustees of the county school district, to the Department of Education, attested by the secretary of the board, declaring the intention of the board to establish and administer a separate account in accordance with the provisions of this section.~~

~~(c) The board of hospital trustees of the county hospital or the board of trustees of the consolidated library district or district library submits monthly reports, listing all transactions involving the separate account, to the county treasurer, the county auditor and the board of county commissioners. The reports must be certified by the secretary of the board. In addition, the board shall give a full account and record of all money in such an account upon request of the board of county commissioners.~~

~~3. The separate account of the board of trustees of the county school district established under the provisions of this section must be composed of:~~

~~(a) The county school district fund . [; and]~~

~~(b) The county school district building and sites fund.~~

~~*(c) Any other fund authorized or required by law.*~~

~~4. The separate account established by the board of county hospital trustees is designated the county hospital fund.~~

~~5. The separate account of the board of trustees of the consolidated library district or district library established under the provisions of this section must be composed of:~~

~~(a) The fund for the consolidated library or district library, as appropriate; and~~

~~(b) The capital projects fund of the consolidated library or district library, as appropriate.~~

~~6. No expenditures from an account may be made in excess of the balance of the account.~~

~~7. Such an account must support all expenditures properly related to the purpose of the fund, excluding direct payments of principal and interest on general obligation bonds, and including, but not limited to, debt service, capital projects, capital outlay and operating expenses.~~

~~8. The board of county commissioners, if it determines that there is clear evidence of misuse or mismanagement of money in any separate account, may order the closing of the account and the return of the money to the county treasury to be administered in accordance with existing provisions of law. The board of trustees of the county school district, the board of hospital trustees of the county hospital or the board of trustees of the consolidated library district or district library is entitled to a hearing before the board of county commissioners.]~~ (Deleted by amendment.)

Sec. 5. ~~[NRS 387.175 is hereby amended to read as follows:~~

~~387.175 [The] *1. Except as otherwise provided in this section, the* county school district fund is composed of:~~

~~[1.] *(a)* All local taxes for the maintenance and operation of public schools.~~

~~[2.] *(b)* All money received from the Federal Government for the maintenance and operation of public schools.~~

~~[3.] *(c)* Apportionments by this State as provided in NRS 387.124.~~

~~[4.] *(d)* Any other receipts, including gifts, for the operation and maintenance of the public schools in the county school district.~~

~~*2. If the board of trustees of a county school district is allotted any money to employ and equip additional school police officers pursuant to any special legislative act, the money must be:*~~

~~*(a) Deposited in the appropriate fund in the manner required by the special legislative act; and*~~

~~*(b) Used only for the purposes authorized by the special legislative act.]~~ (Deleted by amendment.)

Sec. 6. ~~[NRS 387.180 is hereby amended to read as follows:~~

~~387.180 [The] *1. Except as otherwise provided in this section, the* board of trustees of each county school district shall pay all moneys received by it for school purposes into the county treasury at the end of each month to be placed to the credit of the county school district fund or the county school district buildings and sites fund as provided for in this chapter, except when~~

~~the board of trustees of a county school district has elected to establish and administer a separate account under the provisions of NRS 354.603.~~

~~*2. If the board of trustees of a county school district is allotted any money to employ and equip additional school police officers pursuant to any special legislative act, the money must be:*~~

~~*(a) Deposited in the appropriate fund in the manner required by the special legislative act; and*~~

~~*(b) Used only for the purposes authorized by the special legislative act.]*~~

(Deleted by amendment.)

Sec. 7. ~~[Section 13 of the Clark County Crime Prevention Act of 2016, being chapter 1, Statutes of Nevada 2016, 30th Special Session, at page 9, is hereby amended to read as follows:~~

~~Sec. 13. 1. A body designated pursuant to subsection 1 of section 12 of this act that approves an expenditure pursuant to section 12 of this act shall, for the relevant period, submit to the Department the reports required by this section, which must include, without limitation, the information required by this section and such other information relating to the administration of the provisions of this act as may be requested by the Department.~~

~~2. A body designated pursuant to subsection 1 of section 12 of this act shall submit the reports required by this section on or before:~~

~~(a) February 15, for the 3-month period ending on the immediately preceding December 31;~~

~~(b) May 15, for the 3-month period ending on the immediately preceding March 31;~~

~~(c) August 15, for the 3-month period ending on the immediately preceding June 30;~~

~~(d) November 15, for the 3-month period ending on the immediately preceding September 30; and~~

~~(e) August 15, for the 12-month period ending on the immediately preceding June 30.~~

~~3. Each report submitted pursuant to this section must be submitted on a form provided by the Department, which must be the same form as the form provided for the relevant report required by section 13.5 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as added by chapter 545, Statutes of Nevada 2007, at page 3422, and amended [by chapter 497, Statutes of Nevada 2011, at page 3160,]~~ *from time to time thereafter,* ~~and must include, with respect to the period covered by the report:~~

~~(a) The total amount of the allocation received by the respective police department from the proceeds of the tax authorized by subsection 1 of section 9 of this act. [;]~~

~~(b) A detailed description of the use of the money allocated to the police department, including, without limitation:~~

~~(1) The total expenditures made by the police department from the allocation. [;]~~

~~(2) The total number of police officers hired by the respective police department, the number of those officers that are filling authorized, funded positions for new officers and demographic information regarding those officers reported in a manner consistent with the current policies of the respective police department concerning the reporting of such information. [; and]~~

~~(3) A detailed analysis of the manner in which each expenditure:~~

~~(I) Conforms to all provisions of this act; and~~

~~(II) Does not replace or supplant funding or staffing levels, which existed before October 1, 2016, for the respective police department. [;]~~

~~(c) An analysis of the manner in which each expenditure is being used to prevent crimes and the effectiveness of each expenditure in preventing crimes. [; and]~~

~~(d) Any other information required to complete the form of the report.~~

~~4. The Metropolitan Police Committee on Fiscal Affairs shall:~~

~~(a) Prepare and submit separate reports as required by this section for the expenditures approved from the allocations received by the Las Vegas Metropolitan Police Department pursuant to paragraphs (a) and (b), respectively, of subsection 3 of section 9 of this act; and~~

~~(b) In addition to all other information required by this section, include in each report submitted pursuant to this section evidence that the expenditures from allocations received by the Las Vegas Metropolitan Police Department pursuant to paragraph (a) of subsection 3 of section 9 of this act are not offsetting, supplanting, replacing or otherwise reducing the amount of money allocated to the Las Vegas Metropolitan Police Department pursuant to paragraph (b) of subsection 3 of section 9 of this act for expenditure on law enforcement and crime prevention in the resort corridor.~~

~~5. The Department may review and investigate the reports submitted pursuant to this section and any expenditure of any proceeds from the tax authorized by subsection 1 of section 9 of this act.]~~ (Deleted by amendment.)

Sec. 8. ~~[The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 5.5, immediately following section 5, to read as follows:~~

~~*Sec. 5.5. "Board of Trustees" means the Board of Trustees of the Clark County School District.]*~~ (Deleted by amendment.)

Sec. 9. ~~[The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by~~

~~adding thereto a new section to be designated as section 8.5, immediately following section 8, to read as follows:~~

~~*Sec. 8.5. "School police officer" means a person who is employed or appointed to serve as a school police officer in the Clark County School District pursuant to NRS 391.281.]~~ (Deleted by amendment.)

Sec. 10. ~~[The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 12.5, immediately following section 12, to read as follows:~~

~~*Sec. 12.5. 1. During Fiscal Year 2019-2020 and during each fiscal year thereafter, the Department shall determine whether the total amount of the proceeds received from any sales and use tax imposed pursuant to this act during the preceding month exceeds the proceeds received from such a tax during the corresponding month of Fiscal Year 2018-2019. If the proceeds received in the current fiscal year:*~~

~~*(a) Do not exceed the proceeds received from the corresponding month of Fiscal Year 2018-2019, the amount determined by the State Controller pursuant to paragraph (b) of subsection 3 of section 14 of this act must be transferred as provided in paragraph (c) of subsection 3 of section 14 of this act.*~~

~~*(b) Do exceed the proceeds received from the corresponding month of Fiscal Year 2018-2019:*~~

~~*(1) The sum of the amount determined by the State Controller pursuant to paragraph (b) of subsection 3 of section 14 of this act received from such a tax during the corresponding month of Fiscal Year 2018-2019 and 50 percent of the excess must be transferred as provided in paragraph (c) of subsection 3 of section 14 of this act.*~~

~~*(2) Fifty percent of the excess must be transferred to the Clark County School District for the purpose of employing and equipping additional school police officers pursuant to this section.*~~

~~*2. Except as otherwise provided in subsection 3, the Board of Trustees shall not approve the expenditure of the proceeds received by the School District pursuant to this section unless the expenditure:*~~

~~*(a) Is used to employ and equip additional school police officers;*~~

~~*(b) Conforms to all provisions of this act; and*~~

~~*(c) Will not replace or supplant existing funding to employ and equip school police officers.*~~

~~*3. If the Board of Trustees contracts with the Las Vegas Metropolitan Police Department for the provision and supervision of police services pursuant to NRS 391.281:*~~

~~*(a) The Board of Trustees shall, in the terms of the contract, provide for the transfer to the Las Vegas Metropolitan Police Department of the proceeds received by the School District pursuant to this section; and*~~

~~*(b) The body designated pursuant to section 13 of this act to approve expenditures by the Las Vegas Metropolitan Police Department shall not approve the expenditure of the proceeds received by the School District pursuant to this section unless the expenditure:*~~

~~*(1) Is used to employ and equip additional school police officers;*~~

~~*(2) Conforms to all provisions of this act; and*~~

~~*(3) Will not replace or supplant existing funding to employ and equip school police officers.]*~~ (Deleted by amendment.)

Sec. 11. ~~[Section 2 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended to read as follows:~~

~~Sec. 2. *1.* The Legislature hereby finds and declares that:~~

~~[1.] *(a)* Nevada continues to be the fastest growing state in the nation, with the overwhelming majority of this population growth occurring in Clark County, which adds 6,000 to 7,000 new residents each month;~~

~~[2.] *(b)* The increase in the number of police officers to protect the residents of Clark County has not kept pace with the explosive growth in the numbers of these residents, so, while the nation as a whole averages 2.5 police officers for each 1,000 residents, the current ratio in Clark County is now only 1.7 police officers for each 1,000 residents;~~

~~[3.] *(c)* The crime rate in Clark County is increasing, and so is the time it takes for police officers to respond when a resident reports a crime, while the very real threat of terrorism means that police now must assume added responsibilities for homeland security;~~

~~[4.] *(d)* A majority of the voters in Clark County approved at the November 2, 2004, General Election Advisory Question No. 9, indicating their support for an increase in the sales tax of up to one-half of 1 percent for the purpose of employing and equipping more police officers to protect the residents of Clark County;~~

~~[5.] *(e)* It is intended that 80 percent of any additional police officers employed and equipped pursuant to this act be assigned to uniform operations for marked patrol units in the community and for the control of traffic; *and*~~

~~[6.] *(f)* It is further intended that each police department that receives proceeds from any sales and use tax imposed pursuant to this act *and allocated among the police departments within Clark County pursuant to section 9 of this act* establish a program that promotes community participation in protecting the residents of the community that includes, without limitation:~~

~~[(a)] *(1)* A written policy of the department that sets forth its position on providing law enforcement services oriented toward the involvement of residents of the community;~~

~~[(b)] *(2)* The provision of training for all police officers employed by the department that includes, without limitation, training related to:~~

~~[(1)] *(I)* Methods that may be used to analyze, respond to and solve problems commonly confronted by police officers in the community;~~

~~[(2)] *(II)* The cultural and racial diversity of the residents of the community;~~

~~[(3)] *(III)* The proper utilization of community resources, such as local housing authorities, public utilities and local public officials, that are available to assist in providing law enforcement services; and~~

~~[(4)] *(IV)* Issues concerning not only the prevention of crime, but also concerning improving the quality of life for the residents of the community; and~~

~~[(c)] *(3)* The formation of partnerships with the residents of the community and public and private agencies and organizations to address mutual concerns related to the provision of law enforcement services.~~ ~~[;~~

~~*7.* A]~~

~~*2. The Legislature hereby further finds and declares that:*~~

~~*(a) The Clark County School District is one of the largest school districts in the nation when measured either by enrollment or geographic area, and its enrollment of over 320,000 pupils generally ranks as the fifth largest school district by enrollment in the nation and its geographic area of almost 8,000 square miles generally ranks as the seventh largest school district by geographic area in the continental United States;*~~

~~*(b) A safe and secure environment in the public schools and other facilities in the Clark County School District is necessary and essential for the School District to fulfill its educational mission and successfully teach, instruct and educate the pupils enrolled in the School District;*~~

~~*(c) There are substantial dangers and threats to the safety of the public schools and other facilities in the Clark County School District, such as school violence, illegal weapons, illicit drugs and inappropriate and unlawful sexual conduct, that have become more frequent and severe, more difficult to police and more challenging in terms of providing effective and timely responses by the limited and overextended resources of the school police officers in the School District; and*~~

~~*(d) It is therefore necessary and essential for the protection of the safety of the public schools and other facilities in the Clark County School District to employ and equip additional school police officers in the School District as provided by this act.*~~

~~*3. The Legislature hereby further finds and declares that a* general law cannot be made applicable to the purposes, objects, powers, rights,~~

~~privileges, immunities, liabilities, duties and disabilities provided in this act because of [the] :~~

~~*(a) The* demographic, economic and geographic diversity of the local governments [of] *and school districts in* this State [, the] ; *and*~~

~~*(b) The special and* unique growth patterns , [occurring in Clark County and the special] financial conditions [experienced] *and dangers and threats to the safety of the public in Clark County and the safety of the public schools and other facilities* in the *Clark* County [related to] *School District, and the corresponding challenges in providing effective and timely police protection under those special and unique circumstances, which:*~~

~~*(1) Are not reasonably comparable to anywhere else in this State; and*~~

~~*(2) Create* the *ongoing* need to employ and equip more [police officers; and~~

~~8. The] :~~

~~*(I) Police officers for the protection of the safety of the public in Clark County, as the most populous county in this State; and*~~

~~*(II) School police officers for the protection of the safety of the public schools and other facilities in the Clark County School District, as the largest school district in this State in terms of enrollment and one of the largest school districts in the nation in terms of enrollment and geographic area.*~~

~~*4. The Legislature hereby further finds and declares that the* powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act *must* comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.]~~ (Deleted by amendment.)

Sec. 12. ~~[Section 3 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:~~

~~Sec. 3. Except as otherwise provided in this act or unless the context otherwise requires, terms used or referred to in this act have the meanings ascribed to them in chapter 374 of NRS, as from time to time amended, but the definitions in sections 4 to [8,] *8.5,* inclusive, of this act, unless the context otherwise requires, govern the construction of this act.]~~ (Deleted by amendment.)

Sec. 13. ~~[Section 9 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:~~

~~Sec. 9. 1. The Board may enact an ordinance imposing a local sales and use tax *pursuant to this act. If the Board enacts or has enacted such an ordinance, the proceeds received from the tax authorized*~~

~~*pursuant to this section must be used* to employ and equip additional [police].~~

~~*(a) Police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department.*~~

~~*(b) School police officers for the Clark County School District pursuant to section 12.5 of this act.*~~

~~2. Before enacting such an ordinance, the Board shall hold a public hearing to present its plan for implementing the local sales and use tax.~~

~~3. The proceeds *received* from the tax authorized pursuant to this section, including interest and other income earned thereon, must be:~~

~~(a) Allocated *as follows:*~~

~~*(1) Subject to the limitations set forth in section 12.5 of this act,* among the police departments within the County in the same ratio that the population served by each department bears to the total population of the County. As used in this [paragraph,] *subparagraph,* "population" means the estimated annual population determined pursuant to NRS 360.283.~~

~~*(2) To the Clark County School District pursuant to section 12.5 of this act.*~~

~~(b) Used only as approved pursuant to section *12.5 or* 13 of this act and only for the purposes set forth in this section *or section 12.5 of this act* unless the Legislature changes the use. [The]~~

~~*4. If the Board wants to change the uses for the proceeds received from the tax and allocated among the police departments within the County, the* Board shall, before submitting to the Legislature any request to change the uses for [the] *such* proceeds *received* from the tax, submit an advisory question to the voters of the County pursuant to NRS 295.230, asking whether the uses for [the] *such* proceeds *received* from the tax should be so changed. The Board shall not submit such a request to the Legislature if a majority of the voters in the County disapprove the proposed change.]~~ (Deleted by amendment.)

Sec. 14. ~~[Section 13 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as amended by chapter 497, Statutes of Nevada 2011, at page 3158, is hereby amended to read as follows:~~

~~Sec. 13. 1. A police department shall not expend proceeds received from any sales and use tax imposed pursuant to this act *and allocated among the police departments within the County pursuant to section 9 of this act* unless the expenditure has been approved by the body designated pursuant to this section for the approval of expenditures of that police department. The body designated pursuant to this section must approve the expenditure of the proceeds by the police department if it determines that:~~

~~(a) The proposed use of the money conforms to all provisions of this act; and~~

~~(b) The proposed use will not replace or supplant existing funding for the police department.~~

~~2. The body designated to approve an expenditure for:~~

~~(a) The Boulder City Police Department is the City Council of the City of Boulder City;~~

~~(b) The Henderson Police Department is the City Council of the City of Henderson;~~

~~(c) The Las Vegas Metropolitan Police Department is the Metropolitan Police Committee on Fiscal Affairs;~~

~~(d) The Mesquite Police Department is the City Council of the City of Mesquite; and~~

~~(e) The North Las Vegas Police Department is the City Council of the City of North Las Vegas.~~

~~3. In determining that a proposed use meets the requirement set forth in paragraph (b) of subsection 1, a body designated pursuant to subsection 2 must find that either:~~

~~(a) The amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department; or~~

~~(b) The amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is less than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department and the body projects a decrease in its receipt of revenue in that fiscal year from consolidated taxes and property taxes of more than 2 percent from its base fiscal year.~~

~~4. If a body designated pursuant to subsection 2 makes a finding pursuant to subsection 3, the body shall adopt a resolution setting forth the finding and the reasons therefor. If the finding is made pursuant to paragraph (b) of subsection 3, the finding must include, without limitation, all facts supporting the projection of a decrease in revenue.~~

~~5. If a body designated pursuant to subsection 2 does not make a finding pursuant to subsection 3 for a fiscal year on or before July 1 of that fiscal year, the body shall retain the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act *and allocated among the police departments within the County pursuant to section 9 of this act* in the special revenue fund created by the body pursuant to section 17 of this act for use pursuant to this section. Any other body designated pursuant to subsection 2 which makes a finding pursuant to subsection 3 for that fiscal year may apply to the County~~

~~Treasurer requesting approval for the use by the police department for which the other body approves expenditures of any portion of those proceeds in accordance with the provisions of this section.~~

~~6. The County Treasurer, upon receiving a request pursuant to subsection 5 and proper documentation of compliance with the provisions of this section, shall provide written notice to the designated body which failed to make a finding pursuant to subsection 3 that it is required to transfer from the special revenue fund created by the body pursuant to section 17 of this act to the County Treasurer such amount of the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act *and allocated among the police departments within the County pursuant to section 9 of this act,* as approved by the County Treasurer for use by the designated body that submitted the request.~~

~~7. Notwithstanding the provisions of subsection 3 of section 17 of this act, a designated body that receives written notice from the County Treasurer pursuant to subsection 6 shall transfer all available required money to the County Treasurer as soon as practicable following its receipt of any portion of the proceeds. Upon receipt of the money, the County Treasurer shall transfer the money to the designated body that submitted the request, which shall deposit the money in the special revenue fund created by that designated body pursuant to section 17 of this act.~~

~~8. As used in this section, "base fiscal year" means, with respect to a body designated pursuant to subsection 2, Fiscal Year 2009-2010, except that:~~

~~(a) If, in any subsequent fiscal year, the amount approved for expenditure by the body for that subsequent fiscal year for the support of the police department, not including any money received or expended pursuant to this act, exceeds by more than 2 percent the amount approved for expenditure in Fiscal Year 2009-2010, the base fiscal year for that body becomes the most recent of such subsequent fiscal years.~~

~~(b) If the base fiscal year is revised pursuant to paragraph (a) and, in any subsequent fiscal year, the amount approved for expenditure by the body for that subsequent fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or less than the amount approved for expenditure in Fiscal Year 2009-2010, the base fiscal year for that body becomes Fiscal Year 2009-2010 but is subject to subsequent revision pursuant to paragraph (a).~~] (Deleted by amendment.)

Sec. 15. ~~[Section 13.3 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as added by chapter 1, Statutes of Nevada 2013, 27th Special Session, at page 2, is hereby amended to read as follows:~~

~~Sec. 13.3. 1. The provisions of paragraph (b) of subsection 1 and subsections 3 to 8, inclusive, of section 13 of this act do not apply to any expenditure of proceeds *received* from any sales and use tax imposed pursuant to this act on or after July 1, 2013, but before July 1, 2016 [.] , *and allocated among the police departments within the County pursuant to section 9 of this act.*~~

~~2. In addition to the requirements of section 13.5 of this act:~~

~~(a) The periodic reports required by that section must include, with respect to the period covered by the report, a separate detailed description of the expenditure of any proceeds *received* from the sales and use tax imposed pursuant to this act *and allocated among the police departments within the County pursuant to section 9 of this act* as a result of the provisions of subsection 1; and~~

~~(b) A governing body that is required to submit a report pursuant to section 13.5 of this act shall submit a copy of the separate detailed description required by paragraph (a) for the period covered by the report to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee on or before the date by which the governing body is required to submit the report for that period to the Department pursuant to section 13.5 of this act.]~~ (Deleted by amendment.)

Sec. 16. ~~[Section 13.5 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as amended by chapter 497, Statutes of Nevada 2011, at page 3160, is hereby amended to read as follows:~~

~~Sec. 13.5. 1. Any governing body that has approved expenditures pursuant to section *12.5 or* 13 of this act shall submit to the Department the periodic reports required pursuant to this section and such other information relating to the provisions of this act as may be requested by the Department.~~

~~2. The reports required pursuant to this section must be submitted:~~

~~(a) On or before:~~

~~(1) February 15 for the 3-month period ending on the immediately preceding December 31;~~

~~(2) May 15 for the 3-month period ending on the immediately preceding March 31;~~

~~(3) August 15 for the 3-month period ending on the immediately preceding June 30; and~~

~~(4) November 15 for the 3-month period ending on the immediately preceding September 30; and~~

~~(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.~~

~~3. Each report must be submitted on a form provided by the Department and include, with respect to the period covered by the report:~~

~~(a) The total proceeds received by the respective police department *or the Clark County School District, as applicable,* from the sales and use tax imposed pursuant to this act. [;]~~

~~(b) A detailed description of the use of the proceeds, including, without limitation:~~

~~(1) The total expenditures made by the respective police department *or the Clark County School District, as applicable,* from the sales and use tax imposed pursuant to this act. [;]~~

~~(2) The total number of police officers hired by the police department [and] *or the total number of school police officers hired by the Clark County School District, as applicable,* the number of those officers that are filling authorized, funded positions for new officers [;] *within the respective police department or the Clark County School District, as applicable,* and *demographic information regarding those officers reported in a manner consistent with the current policies of the respective police department or the Clark County School District, as applicable, concerning the reporting of such information.*~~

~~(3) A detailed analysis of the manner in which each expenditure:~~

~~(I) Conforms to all provisions of this act; and~~

~~(II) Does not replace or supplant funding which existed before October 1, 2005, for the police department [; and] *or which existed before July 1, 2019, for school police officers for the Clark County School District, as applicable.*~~

~~(c) Any other information required to complete the form for the report.~~

~~4. The Department may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section *12.5 or* 13 of this act.]~~ (Deleted by amendment.)

Sec. 17. ~~[Section 14 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as amended by chapter 387, Statutes of Nevada 2009, at page 2097, is hereby amended to read as follows:~~

~~Sec. 14. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.~~

~~2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.~~

~~3. [The] *Except as otherwise provided in section 12.5 of this act, the* State Controller, acting upon the collection data furnished by the Department, shall monthly:~~

~~(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund 1.75 percent of all fees, taxes, interest~~

~~and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax.~~

~~(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).~~

~~(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.~~] (Deleted by amendment.)

Sec. 18. ~~[Section 15 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 916, is hereby amended to read as follows:~~

~~Sec. 15. The Department may redistribute any proceeds *received* from the tax, interest or penalty collected pursuant to this act which is determined to be improperly distributed [,] *to the respective police departments within the County or the Clark County School District,* but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department obtains knowledge of the improper distribution.~~] (Deleted by amendment.)

Sec. 19. ~~[Section 16 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 16. 1. The County Treasurer shall deposit money received from the State Controller pursuant to [paragraph (c) of subsection 3 of] section *12.5 or* 14 of this act into the County Treasury for credit to a fund created for the use of the proceeds *received* from the tax authorized by this act.~~

~~2. The fund of the County created for the use of the proceeds *received* from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.~~

~~3. The County Treasurer upon receipt of the money remitted to him or her pursuant to this section shall distribute it to the appropriate accounts in accordance with the allotments established pursuant to section 9 *or 12.5* of this act.~~] (Deleted by amendment.)

Sec. 20. ~~[Section 17 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 17. 1. *To carry out the provisions of this act:*~~

~~*(a)* The City Treasurers of Boulder City, Henderson, Mesquite and North Las Vegas and the Las Vegas Metropolitan Police Department shall deposit the money received from the County Treasurer pursuant to [subsection 3 of] section 16 of this act into a special revenue fund created for the use of the proceeds *received* from the tax authorized by~~

~~this act [.] *and allocated among the police departments within the County pursuant to section 9 of this act.*~~

~~*(b) If, pursuant to NRS 387.170, the Board of Trustees:*~~

~~*(1) Has elected to establish and administer a separate account as the County School District Fund pursuant to NRS 354.603, the Board of Trustees shall:*~~

~~*(I) Create a special revenue fund for the use of the proceeds received from the tax authorized by this act and allocated to the Clark County School District pursuant to section 12.5 of this act; and*~~

~~*(II) Deposit the money received from the County Treasurer pursuant to section 16 of this act into the special revenue fund.*~~

~~*(2) Has not elected to establish and administer a separate account as the County School District Fund pursuant to NRS 354.603, the County Treasurer shall:*~~

~~*(I) Create a special revenue fund for the use of the proceeds received from the tax authorized by this act and allocated to the School District pursuant to section 12.5 of this act; and*~~

~~*(II) Deposit the money received by the County Treasurer pursuant to section 16 of this act into the special revenue fund.*~~

~~2. Each special revenue fund created for the use of the proceeds *received* from the tax authorized by this act pursuant to subsection 1 must be accounted for as a separate fund and not as a part of any other fund.~~

~~3. Interest earned on a special revenue fund created pursuant to subsection 1 must be credited to the fund. The money in each such fund must remain in the fund and must not revert to the County Treasury *or the County School District Fund, as applicable,* at the end of any fiscal year.~~] (Deleted by amendment.)

Sec. 21. ~~[Section 20 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 20. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the Department may act for and on behalf of the County [.] *or the Clark County School District, as appropriate for the proceeding.]* (Deleted by amendment.)

Sec. 22. ~~[Section 21 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 21. 1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any other law and the limitations imposed by this act do not affect the powers conferred by any other law.~~

~~2. This act must not be construed to prevent the exercise of any power granted by any other law to the County *or the Clark County*~~

~~*School District, as applicable,* or any officer, agent or employee of the County [.] *or the Clark County School District, as applicable.*~~

~~3. This act must not be construed to repeal or otherwise affect any other law or part thereof [.] *, except that if there is any conflict between the specific provisions of this act and the general provisions of any other law or part thereof, the specific provisions of this act control.*~~

~~4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.~~

~~5. If any provision of this act, or application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.]~~ (Deleted by amendment.)

Sec. 23. ~~[Section 23 of chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 23. [1.] This act becomes effective:~~

~~[(a)] *1.* Upon passage and approval for the purposes of enacting ordinances and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~[(b)] *2.* On October 1, 2005, for all other purposes.~~

~~[2. This act expires by limitation on October 1, 2025.]]~~ (Deleted by amendment.)

Sec. 24. ~~[Section 23 of chapter 545, Statutes of Nevada 2007, at page 3428, is hereby amended to read as follows:~~

~~Sec. 23. 1. This section and sections 3 to 22, inclusive, of this act become effective:~~

~~(a) Upon passage and approval for the purposes of enacting ordinances and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~(b) On October 1, 2007, for all other purposes.~~

~~2. Sections 1 and 2 of this act become effective on October 1, 2007 .[, and expire by limitation on October 1, 2025.]~~

~~3. Sections 3 to 22, inclusive, of this act expire by limitation on October 1, 2027.]~~ (Deleted by amendment.)

Sec. 25. ~~[Section 28 of chapter 387, Statutes of Nevada 2009, at page 2104, is hereby amended to read as follows:~~

~~Sec. 28. 1. This section and sections 4, 18 and 27 of this act become effective upon passage and approval.~~

~~2. Sections 2, 3, 5, 6, 7, 9, 11 to 16, inclusive, and 19 to 26, inclusive, of this act become effective on July 1, 2009.~~

~~3. Section 17 of this act becomes effective on July 1, 2011.~~

~~4. [Section 20 of this act expires by limitation on September *30, 2025.*~~

~~5.] Section 25 of this act expires by limitation on September 30, 2027.~~

~~[6.] 5. Sections 7 and 9 of this act expire by limitation on September 30, 2029.~~

~~[7.] 6. Sections 8 and 10 of this act become effective on October 1, 2029.]~~ (Deleted by amendment.)

Sec. 26. ~~[Section 3.5 of chapter 1, Statutes of Nevada 2013, 27th Special Session, at page 3, is hereby amended to read as follows:~~

~~Sec. 3.5. 1. If the increase in the rate of the tax authorized by section 3 of this act is enacted pursuant to that section, the County Treasurer of Clark County shall not make any allotment to a police department pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005 of any portion of the proceeds of the increase *allocated among the police departments within Clark County pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005*, unless the County Treasurer is satisfied that the police department will meet the requirements of subsection 1 of section 3.7 of this act.~~

~~2. If the County Treasurer determines pursuant to subsection 1 that an allotment will not be made to a police department, any other police department may apply to the County Treasurer requesting approval for the use by the requesting police department of the unused allotment. If the County Treasurer is satisfied that the requesting police department will meet the requirements of subsection 1 of section 3.7 of this act, the County Treasurer shall make the requested allotment to the requesting police department.]~~ (Deleted by amendment.)

Sec. 27. ~~[Section 3.7 of chapter 1, Statutes of Nevada 2013, 27th Special Session, at page 3, is hereby amended to read as follows:~~

~~Sec. 3.7. 1. A police department shall not expend any portion of an allotment made to it by the County Treasurer pursuant to section 3.5 of this act to employ and equip additional police officers unless:~~

~~(a) The police department employs and equips an equal number of police officers in unfilled budgeted positions for police officers using money other than the proceeds of the increase in the rate of the tax authorized by section 3 of this act [;] *and allocated among the police departments within Clark County pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005;* or~~

~~(b) If, based on the number of budgeted positions for police officers in the police department for the 2013-2014 fiscal year, the police department does not have a sufficient number of unfilled budgeted positions for police officers to match all of the positions that are available for funding with the proceeds of the increase in the rate of the tax authorized by section 3 of this act [,] *and allocated among the police departments within Clark County pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005*, the police department applies~~

~~for and is granted a waiver from the requirements of paragraph (a) by the Committee on Local Government Finance.~~

~~2. The Committee on Local Government Finance shall, on or before September 1 of each year, submit a report to the Legislative Commission that sets forth the number of waivers granted by the Committee pursuant to this section during the immediately preceding fiscal year and the reasons for each such waiver.~~] (Deleted by amendment.)

Sec. 28. ~~[Section 4 of chapter 1, Statutes of Nevada 2013, 27th Special Session, at page 3, is hereby amended to read as follows:~~

~~Sec. 4. This act becomes effective upon passage and approval. [and expires by limitation on October 1, 2025.]~~] (Deleted by amendment.)

Sec. 29. ~~[1. There is hereby appropriated from the State General Fund to the School Safety Account the sum of $2,500,000 for the Fiscal Year 2019-2020.~~

~~2. The Department of Education shall transfer money from the appropriation made by subsection 1 to school districts and charter schools for block grants for contract or employee social workers or other licensed mental health workers in schools with identified needs. The money must not be used for administrative expenditures of the Department of Education.~~

~~3. For purposes of the allocations of sums for the block grant program described in subsection 2, eligible licensed social workers or other mental health workers include the following:~~

~~(a) Licensed Clinical Social Worker;~~

~~(b) Social Worker;~~

~~(c) Social Worker Intern with Supervision;~~

~~(d) Clinical Psychologist;~~

~~(e) Psychologist Intern with Supervision;~~

~~(f) Marriage and Family Therapist;~~

~~(g) Mental Health Counselor;~~

~~(h) Community Health Worker;~~

~~(i) School Based Health Centers; and~~

~~(j) Licensed Nurse.~~

~~4. The money appropriated by subsection 1 must be expended in accordance with NRS 353.150 to 353.246, inclusive, concerning the allotment, transfer, work program and budget. Transfers to and allotments from must be allowed and made in accordance with NRS 353.215 to 353.225, inclusive, after separate consideration of the merits of each request.~~

~~5. Any remaining balance of the transfer made by subsection 2 for Fiscal Year 2019-2020 may be carried forward for Fiscal Year 2020-2021, must not be committed for expenditure after June 30, 2021, and does not revert to the State General Fund.~~] (Deleted by amendment.)

Sec. 30. ~~[1. There is hereby appropriated from the State General Fund to the School Safety Account the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $1,500,000~~

~~For the Fiscal Year 2020-2021 ..... $4,000,000~~

~~2. The Department of Education shall transfer from the appropriation made by subsection 1 to provide grants to public schools to employ and equip school resource officers or school police officers in schools with identified needs on the basis of data relating to school discipline, violence, climate and vulnerability and the ability of the public school to hire school resource officers or school police officers. The money must not be used for administrative expenditures of the Department of Education.~~

~~3. The money transferred pursuant to subsection 2:~~

~~(a) Must be accounted for separately from any other money received by the school districts and charter schools of this State and used only for the purposes specified in subsection 2.~~

~~(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.~~

~~(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.~~

~~4. Any remaining balance of the sums transferred by subsection 1 for Fiscal Year 2019-2020 and Fiscal Year 2020-2021 must not be committed for expenditure after June 30 of each fiscal year and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, for each fiscal year respectively.]~~ (Deleted by amendment.)

Sec. 31. 1. There is hereby appropriated from the State General Fund to the School Safety Account the ~~[sum of $17,500,000 for the Fiscal Year 2020-2021.]~~ following sums:

For the Fiscal Year 2019-2020 ..... $8,340,845

For the Fiscal Year 2020-2021 ..... $8,404,930

2. The Department of Education shall transfer from the appropriation made by subsection 1 to provide grants utilizing a competitive grant process based on demonstrated need, within the limits of legislative appropriation, to school districts ~~[in counties whose population is less than 100,000]~~ and to charter schools for school safety facility improvements.

3. Any remaining balance of the appropriation made by subsection 1 ~~[,]~~ for Fiscal Year 2019-2020 must be added to the money appropriated for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.

Sec. 32. ~~[1. There is hereby appropriated from the State General Fund to the School Safety Account the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $145,000~~
~~For the Fiscal Year 2020-2021 ..... $145,000~~

~~2. The money appropriated by subsection 1 must be used by the Department of Education to provide threat assessments and trainings and to provide mobile crisis response team services in counties whose population is less than 100,000.~~

~~3. Any remaining balance of the money appropriated by subsection 1 for Fiscal Year 2019-2020 and Fiscal Year 2020-2021 must not be committed for expenditure after June 30 of each fiscal year and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, for each fiscal year respectively.]~~ (Deleted by amendment.)

Sec. 33. ~~[1. There is hereby appropriated from the State General Fund to the School Safety Account the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $2,000,000~~
~~For the Fiscal Year 2020-2021 ..... $2,700,000~~

~~2. The money appropriated by subsection 1 must be used by the Department of Education to support the implementation of a program of social, emotional and academic development throughout the public schools in this State, including, without limitation, the development and implementation of a strategic plan to carry out full implementation of such programs within 5 years.~~

~~3. Any remaining balance of the transfer made by subsection 1 for Fiscal Year 2019-2020 must be added to the money transferred for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the transfer made by subsection 1 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.]~~ (Deleted by amendment.)

Sec. 34. ~~[1. There is hereby appropriated from the State General Fund to the Other State Education Programs Account in the State General Fund the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $2,000,000~~
~~For the Fiscal Year 2020-2021 ..... $2,000,000~~

~~2. The Department of Education shall use the money appropriated by subsection 1 for competitive state grants to school districts and charter schools for early childhood education programs.~~

~~3. Any remaining balance of the sums transferred by subsection 1 for Fiscal Year 2019-2020 and Fiscal Year 2020-2021 must not be committed for expenditure after June 30 of each fiscal year and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, for each fiscal year respectively.]~~ (Deleted by amendment.)

Sec. 35. ~~[1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $15,875,000~~
~~For the Fiscal Year 2020-2021 ..... $15,875,000~~

~~2. The Department of Education shall use the amount determined in subsection 1 to carry out the provisions of section 1 of Senate Bill No. 467 of this session by providing supplemental grants of money to the State Public Charter School Authority and the school districts to include additional schools within the program created by section 1 of Senate Bill No. 467 of this session and supplement the services provided at such schools. The board of trustees of a school district and the State Public Charter School Authority may submit an application to the Department on a form prescribed by the Department.~~

~~3. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2019-2020 must be added to the money transferred for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the transfers made pursuant to subsection 2 for Fiscal Year 2020-2021, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.]~~ (Deleted by amendment.)

Sec. 36. ~~[1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $15,875,000~~
~~For the Fiscal Year 2020-2021 ..... $15,875,000~~

~~2. The Department of Education shall use the amount determined in subsection 1 to carry out the provisions of section 2 of Senate Bill No. 467 of this session by providing supplemental grants of money to the State Public Charter School Authority and the school districts to include additional schools within the program created by section 2 of Senate Bill No. 467 of this session and supplement the services provided at such schools. The board of trustees of a school district and the State Public Charter School Authority may submit an application to the Department on a form prescribed by the Department.~~

~~3. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2019-2020 must be added to the money transferred for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the transfers made pursuant to subsection 2 for Fiscal Year 2020-2021, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.]~~ (Deleted by amendment.)

Sec. 36.5. 1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 the following sums:

For the Fiscal Year 2019-2020 ..... $35,081,155
For the Fiscal Year 2020-2021 ..... $36,848,070

2. The Department of Education shall transfer the sums of money identified in this subsection from the Account for Programs for Innovation and the Prevention of Remediation to the school districts for block grants for the purpose of providing supplemental support to the operation of the school districts. The amount to be transferred for the fiscal year shown is:

	2019-2020	2020-2021
Carson City School District	$631,574	$663,384
Churchill County School District	255,461	268,328
Clark County School District	25,892,878	27,197,012
Douglas County School District	458,566	481,662
Elko County School District	772,986	811,919
Esmeralda County School District	5,551	5,831
Eureka County School District	21,379	22,456
Humboldt County School District	273,189	286,949
Lander County School District	78,860	82,832
Lincoln County School District	76,533	80,388
Lyon County School District	681,887	716,231
Mineral County School District	42,868	45,027
Nye County School District	410,922	431,619
Pershing County School District	53,244	55,925
Storey County School District	34,229	35,953
Washoe County School District	5,294,592	5,561,262
White Pine County School District	96,435	101,292

3. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2019-2020 must be added to the money transferred for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must be used for the purpose identified in subsection 2 and does not revert to the State General Fund.

Sec. 37. 1. The Legislature hereby finds and declares that the purpose and intent of this act is to maintain and continue the existing legally operative rates of the taxes imposed pursuant to NRS 363A.130 and 363B.110, at 2 percent and 1.475 percent, respectively, without any changes or reductions in the rates of those taxes pursuant to NRS 360.203, as that section existed before the effective date of this act, for any fiscal year beginning on or after July 1, 2015.

2. Notwithstanding any other provisions of law, in order to accomplish and carry out the purpose and intent of this act:

(a) Any determinations or decisions made or actions taken before the effective date of this section by the Department of Taxation pursuant to NRS 360.203, as that section existed before the effective date of this section:

(1) Are superseded, abrogated and nullified by the provisions of this act; and

(2) Have no legal force and effect; and

(b) The Department shall not, under any circumstances, apply or use those determinations, decisions or actions as a basis, cause or reason to reduce the rates of the taxes imposed pursuant to NRS 363A.130 and 363B.110 for any fiscal year beginning on or after July 1, 2015.

Sec. 38. ~~[Notwithstanding any other provisions of law, the Legislature hereby finds and declares that:~~

~~1. The provisions of this act are not severable; and~~

~~2. If any provisions of this act, or any applications thereof to any persons, things or circumstances:~~

~~(a) Are declared invalid by a court of competent jurisdiction in any judicial proceedings; and~~

~~(b) Any available appeals, petitions or other methods of review concerning the judicial proceedings have been exhausted under the rules governing the judicial proceedings,~~

~~such a judicial declaration of invalidity shall be deemed to invalidate the other provisions of this act, whether or not the other provisions of this act can be saved and given effect without the provisions or applications declared invalid by the court, and the invalidation of the other provisions of this act pursuant to this section becomes effective on the date on which the judicial declaration of invalidity becomes final and is no longer subject to any available appeals, petitions or other methods of review under the rules governing the judicial proceedings.]~~ (Deleted by amendment.)

Sec. 39. NRS 360.203 is hereby repealed.

Sec. 40. 1. This section ~~[,]~~ and sections ~~[1 to 28, inclusive,]~~ 2, 3, 37 ~~[, 38]~~ and 39 of this act become effective upon passage and approval.

2. Sections ~~[29 to 36, inclusive,]~~ 2.5, 3.3, 3.7, 31 and 36.5 of this act become effective on July 1, 2019.

~~[3. If the provisions of this act are invalidated as provided in section 38 of this act, this act expires by limitation on the date on which the invalidation of the provisions of this act becomes effective as provided in section 38 of this act.]~~

TEXT OF REPEALED SECTION

360.203 Reduction of rate of certain taxes on business under certain circumstances; duties of Department.

1. Except as otherwise provided in subsection 4, on or before September 30 of each even-numbered year, the Department shall determine the combined revenue from the taxes imposed by chapters 363A and 363B of NRS and the commerce tax imposed by chapter 363C of NRS for the preceding fiscal year.

2. Except as otherwise provided in subsection 4, if the combined revenue determined pursuant to subsection 1 exceeds by more than 4 percent the amount of the combined anticipated revenue from those taxes for that fiscal year, as projected by the Economic Forum for that fiscal year pursuant to

paragraph (e) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year, the Department shall determine the rate at which the taxes imposed pursuant to NRS 363A.130 and 363B.110, in combination with the revenue from the commerce tax imposed by chapter 363C of NRS, would have generated a combined revenue of 4 percent more than the amount anticipated. In making the determination required by this subsection, the Department shall reduce the rate of the taxes imposed pursuant to NRS 363A.130 and 363B.110 in the proportion that the actual amount collected from each tax for the preceding fiscal year bears to the total combined amount collected from both taxes for the preceding fiscal year.

3. Except as otherwise provided in subsection 4, effective on July 1 of the odd-numbered year immediately following the year in which the Department made the determination described in subsection 1, the rates of the taxes imposed pursuant to NRS 363A.130 and 363B.110 that are determined pursuant to subsection 2, rounded to the nearest one-thousandth of a percent, must thereafter be the rate of those taxes, unless further adjusted in a subsequent fiscal year.

4. If, pursuant to subsection 3, the rate of the tax imposed pursuant to NRS 363B.110 is 1.17 percent:

(a) The Department is no longer required to make the determinations required by subsections 1 and 2; and

(b) The rate of the taxes imposed pursuant to NRS 363A.130 and 363B.110 must not be further adjusted pursuant to subsection 3.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senators Cannizzaro, Settelmeyer, Hammond, Hansen, Hardy, Pickard and Ratti.

SENATOR CANNIZZARO:

Amendment No. 1120 to Senate Bill No. 551 does several things to change the language of that bill. It removes the provisions included in the original bill relating to the use and sales tax for Clark County or what is commonly referred to as a "More Cops" tax sunset. It also still includes the provisions for the Modified Business Tax (MBT) buy down, and allocates the approximately $100 million in funds from the MBT buy down to various items within school spending. Specifically, the amendment provides that approximately $16.7 million would be allocated for school safety; approximately $72 million would be allocated for school districts through the Account for Programs for Innovation and the prevention of remediation for block grants, for supplemental support for each of the school districts; and it adds, over the biennium, $9.5 million to fund current recipients who receive Opportunity Scholarships.

SENATOR SETTELMEYER:

There is no stamp on this amendment requiring this be a two-thirds vote. There was discussion last night in the Committee meeting that it would have this stamp requiring a two-thirds vote. I would like to know about this.

SENATOR CANNIZZARO:

You are correct; this would include a two-thirds stamp. It would be appropriated onto the bill once legal has reprinted it. It does not appear on the amendment, just as it did not appear on the amendment discussed last night, but that is the intent of the amendment.

SENATOR SETTELMEYER:
That is not how the process works. I am confused as to why this is not in the amendment at this time if it will be in the bill.

SENATOR CANNIZZARO:
On the front page of Amendment No. 1120 to Senate Bill No. 551, there is a small box with tiny print that says, "Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of S.B. 551..." and lists Sections 2, 3, 37 and 39.

SENATOR SETTELMEYER:
I appreciate the discussion on the two-thirds. I am confused by the way the process has been going this Session on the Constitution. The citizens of Nevada clearly stated anything that raises revenue in any form requires two-thirds. I look at other bills we did such as one related to the Department of Motor Vehicles, and it did not have a two-thirds when clearly it moved the sunset. We looked at an Assembly bill that raised the MBT, and it also did not have a two-thirds. The original version of this bill did not have a two-thirds and now we are saying it does, so I am bothered by that fact. The Constitution is not something that can be easily changed by pencil. Because of that, I object to this concept.

SENATOR HAMMOND:
The new amendment is confusing to me because the language looks as if it has not changed. This amendment changes considerable what the parents of the Opportunity Scholarships are used to and what they are going to be able to do. I will speak to that later. I object to the amendment.

SENATOR HANSEN:
I am not on the Committee to deal with this, and I just saw the amendment minutes ago. It mentions it replaces Amendment No. 1097. Did Amendment No. 1097 have the two-thirds requirement included?

SENATOR CANNIZZARO:
The reason for the replacement is that last night, the amendment came out as a Committee amendment. This is a personal amendment since that amendment was not adopted following the Committee Do Pass vote last night.

SENATOR HANSEN:
I heard the two-thirds requirement was put back into the bill, and now it has been pulled out. Is there an amendment missing, or was there never a two-thirds requirement in this bill? In the MBT process, was there ever an amendment that took the two-thirds requirement off or put it back in?

SENATOR CANNIZZARO:
Last night, in the Senate Committee on Finance, during the hearing and work session on Senate Bill No. 551, there was an amendment proposed and originally adopted by the Committee. That is the amendment to which you refer, Amendment No. 1097, which was going to be placed on the bill. Due to time constraints, the bill was pulled from Committee with a Do Pass and no amendment. The amendment you are looking at is the exact same amendment. The difference is, Amendment No. 1120 is a personal amendment on behalf of myself rather than the Committee amendment, which would have been Amendment No. 1097. This amendment, as indicated by the box at the top of Amendment No. 1120 on the front page, says it will add a two-thirds requirement to the bill.

SENATOR HARDY:
Section 36.5 provides supplemental support for the operation of the school districts. Sections 31, 32, 33 and Section 38 are being deleted. This is deleting the Zoom and Victory schools. Is that a new amendment to delete the Zoom and Victory schools and then proposing supplemental support that can be used however wanted, including going back to the Zoom and Victory schools?

SENATOR CANNIZZARO:
You are correct. The bill as originally drafted had money going to the Zoom and Victory programs. That has been amended and certain portions of those funds are now being directed to a block grant that would allow for supplemental support as the districts see needed. Part of the reason for this was to allow greater flexibility for those school districts to take care of the needs they may have.

SENATOR HARDY:
Does it specifically allow them to use that supplemental money for the Zoom and Victory schools?

SENATOR CANNIZZARO:
No, these monies would not go directly to Zoom and Victory schools.

SENATOR PICKARD:
Has the "More Cops" sunset extension been removed, and will it ultimately sunset as originally scheduled?

SENATOR CANNIZZARO:
Those provisions are removed from this bill; however, I believe there is another piece of legislation that addresses this concern.

SENATOR HANSEN:
It says in the amendment that it replaces Amendment No. 1097. No one can find a copy of Amendment No. 1097. I would like to know what we are replacing and would like to have a copy of that amendment. I would like more than an explanation; I would like to be able to read the amendment. Is there a physical copy of Amendment No. 1097?

SENATOR RATTI:
That amendment was adopted in Committee. Last night you may recall, we rescinded that amendment. This means it never made it to the bill. The only difference between the two amendments, cross my heart and hope to die, is that the original amendment had the Committee's name on it, and this amendment has my colleague to my right's name on it because we are past the Committee process and to the place where it has to be an individual amendment. That is the only difference.

SENATOR HANSEN:
I appreciate that explanation, but this is an example of why, when we have things in this mad rush at the last second, it is a problem. We should be able to see all of these things, as should the press and members of the public. The fact we are doing this, on an important bill, in literally the last few hours and having amendment after amendment, is poor legislating.

Amendment adopted.
Bill read third time.

Senator Cannizzaro moved that the Senate take a brief recess.
Motion carried.

Senate in recess at 11:46 a.m.

SENATE IN SESSION

At 11:47 a.m.
President Marshall presiding.
Quorum present.

Remarks by Senators Cannizzaro, Seevers Gansert, Settelmeyer, Hammond, Kieckhefer, Pickard and Hardy.

SENATOR CANNIZZARO:

I rise in strong support of Senate Bill No. 551. Throughout this Legislative Session and in the Committee hearing, we discussed the provisions of Senate Bill No. 551. There is not a person in this Chamber who would disagree we have an upmost obligation to ensure we are putting funding towards education; we must do everything we can to ensure we are putting funding towards education.

A few days ago, I rose on the Floor of this Senate in strong support of one of the many things we are doing to improve education in this State. I would like to remind the Body that I speak as someone who, but for the opportunity to get an education, would not be here with all of you. My parents worked hard every day to make sure we had a roof over our heads and food on the table. The one thing my parents told me, was if I went to school, got an education and worked hard, I could do anything I wanted. The one thing I wanted to do more than anything in life was to be a lawyer; it is what I wanted to do since I could remember, and because I was able to get a good education and had teachers in the classroom who cared about me, I was able to do that. However, kids like me who have parents who do not have an education and have no other opportunity except that presented to them through an education, cannot succeed if we, in this Body, do not take it very seriously to fund education and put money where it belongs.

Over the course of this Legislative Session we have done that; we have put more money in education than ever has been put in education in a very long time. That is going to make a difference for students. We have been diligent in ensuring we keep that in the forefront of our minds as we look at the structures around our education funding; around how we support our students; around how we support our teachers; and how we ensure every kid gets the same opportunities I had. It is not, however, complete, and that is what Senate Bill No. 551 does.

Senate Bill No. 551 recognizes that yes, we can say we have done enough, we can walk away from this Legislative Session and say we have done enough with everything we have done, but for me, that is not good enough. For me, that is not good enough because we have an opportunity to take a funding source that will exist in the future and put it towards education. If that is not what we are here to do, then I am not sure why we are here at all. I understand there are other things that accompany the idea of voting for Senate Bill No. 551, but when we are willing to work together to ensure we are putting forth smart policy, that should be in the forefront. Senate Bill No. 551 is going to provide not only additional funds for school safety—where we know we can spend it appropriately—but it is also going to allow students who were given Opportunity Scholarships to remain on those scholarships for the duration of their education. More importantly, it is going to put more money into school districts, which we know is going to ensure we are putting education first.

I could not stand on this Floor in more support of something this Session. Education funding for me, being able to affect and being able to stand here and say we are putting students and teachers first, is the foundation of why I stand on the Floor of this Senate. Senate Bill No. 551 is absolutely the right thing to do for Nevadans and for students. I urge this Body's support.

SENATOR SEEVERS GANSERT:

I stand among my colleagues on the Senate Floor with a message for them, but also for the citizens, voters and the taxpayers of Nevada; we are accountable to you. You trust us to make decisions that affect our schools, your job security and your quality of life. It is an honor and a privilege to serve you; you elected us to represent you in order to get the people's work done.

In response to Governor's Sisolak's State of the State address, Republicans pledged to find common ground with our colleagues and join together for a common purpose to address immediate and long-term concerns for the common good, and we have. We joined our colleagues to prioritize education.

We enjoy a budget surplus, not a deficit. The Economic Forum forecast over $600 million more in revenue than the last Biennial Budget. We worked with fiscal staff and, as of this morning, we have confirmed that there remains $100 million of unallocated funds. Again, over $100 million of unallocated funds. Over a week ago, Senate Republicans proposed to require all unallocated funds

available during the last days of Session be allocated for education, our joint priority, education. We proposed to safeguard our students by fully funding school safety. We added funds to the Read by Three program and pre-K, and we continued current levels of funding for Nevada's Opportunity Scholarship program. We have been transparent in our work and our proposals, and we will continue to be accountable and transparent in our work.

While this bill includes education, there is no transparency included regarding why more money is needed, especially when fiscal staff has confirmed there are unappropriated funds available to fully cover what is contemplated in this legislation. We agree. We support education. We prioritize education, but we know Nevadans need more transparency in this process and an accounting of why more funds are required. I cannot support Senate Bill No. 551.

SENATOR SETTELMEYER:

I rise in opposition to Senate Bill No. 551. The process this bill has gone through is a subject we have been talking about since the first day of Session. This bill is about one thing, the Constitutional question asked a long time ago. We had a good debate on the amendment, and I appreciate that. I disagree on the process; this type of bill should be discussed. We adjourned the Senate Committee on Finance at 11:47 and came behind the bar at 12:30. I question that this bill could not have been processed for those reasons.

We have an increase in revenue of over $125 million in surplus at this point. If we wish to accomplish the goals of this bill, we could make that decision now and have our priorities. I have sat with leadership and tried to figure out the priorities and where the current money goes so we can have that discussion. That is what this bill is about, it is about the funds. We would like to know where the funds we have spent have gone and if more funds are necessary. In the past, I have indicated I am willing to have that discussion. I do not feel that discussion happened, and for those reasons, I oppose Senate Bill No. 551.

SENATOR HAMMOND:

I rise in opposition to the bill. We looked at the amendment. The rescinded amendment we heard in Committee last night was not friendly to Opportunity Scholarships and did not allow for the addition of siblings. I am trying to process the new amendment to see if that is still in place or if it allows for additional students to be added to the program. The language in subsection 6 does not allow transfer of funds from one entity to another, and I am concerned about that. If one entity is running out of funds and a child is receiving an Opportunity Scholarship, it does not appear to allow the student who is running out of funds to go to a different organization to get additional funds to remain in their school of choice. We have many great schools coming online, both in Las Vegas and eventually in the north, schools like Crystal Ray a highly anticipated and an innovative school model that will be opening in North Las Vegas this summer with a mission to exclusively serve low-income students. It is likely they will not be able to serve as many students as we had previously thought with these scholarship levels.

My colleague from District 15 stated we have looked at and talked about the numbers, and know the money is there. We should be fully funding the program, not cutting the legs out from under those who are in the program or would like to get into it, especially the siblings of those who are in the program so parents do not have to make a decision about where their children go to school. This would allow siblings to go to the same school as the program grows. This is about allowing children to get into schools where they feel they will get the right education and feel safe from whatever conditions they are leaving. For those reasons, I cannot support this shortsighted aspect of funding education. We have repeatedly pointed out that we have a surplus of $100 million we can tap into to fully fund the programs we are discussing. I cannot support this bill.

SENATOR KIECKHEFER:

Senate Bill No. 551 deals with many things on which we agree. I share my colleague's priority on putting the funding that is available to us into our K-12 education system. I think you would be hard-pressed to find someone on the Floor of this Senate who disagrees. We have the resources to do so, and I urge us to focus those resources in that way. I have been clear since before this Legislative Session started that I would not support a proposal to eliminate the trigger on the Modified Business Tax (MBT) buy down.

I have never been accused of being a no-new-taxes firebrand. The other night, the Senate Democrat's Twitter feed pointed out all the times I voted to raise taxes for education. I am proud of my record supporting education in our State. That included 2015, when another party was in charge of this process, and we raised $1 billion in new money to fund education. Senate Bill No. 483 raised additional money for education that included the Commerce Tax, a dollar a pack on cigarettes, business license fees and a substantive increase in the Modified Business Tax (MBT). When we imposed this in 2015, we lowered the threshold for who had to pay it from $85,000 in quarterly payroll to $50,000 in quarterly payroll and captured more and smaller businesses into the MTB. We also increased the rate from 1.17 percent to 1.475 percent. We captured more Nevada small businesses into paying this tax and raised the rate. We also incorporated mining into the upper tier to ensure they were included in the process.

As we were looking at the process to increase education funding, we also recognized we were raising taxes on many small businesses while simultaneously creating the Commerce Tax to generate new money from the largest businesses in our State. While we struggled with this, because no one wants to raise taxes on small business, we felt it was the appropriate move at the time because we were not certain what the revenues were going to be from the Commerce Tax. The Modified Business Tax was a way to counterbalance that. The decision was made that when Commerce Tax revenues came in above projection, we would give relief to the small businesses being hit by the increase in the MBT, particularly the lowering of the floor from $85,000 a quarter to $50,000 a quarter payroll. That was intentional, and it was done for a purpose. It was critical to finding the votes and putting the votes together for the package included in the bill to fund education in our State. That intention was true at the time and remains true today. The proposal to eliminate it is what prevents me from voting for this bill. From an expenditure perspective, we have the money to fund what is being proposed in this bill without the elimination of the Modified Business Tax buy down. I suggest we do so.

SENATOR PICKARD:

Although there have been many points included in Senate Bill No. 551 upon which we have agreed, the bill has unfortunately been divisive from the start, and it should not have been. In this Body, there are 13 in the majority and 8 in the minority, but I want to speak for a moment to the 13 other people. You told us in 1994 and 1996 that you wanted a higher threshold for tax increases; I am with you. You told us you wanted to make schools safer, particularly in light of more recent events; I am with you. You told us you wanted Opportunity Scholarships to give the most needed and deserving students an opportunity for success they could not have otherwise; I am with you. You told us you wanted cooperation and bipartisanship and not the divisiveness we see in Washington D.C.; I am with you. Unfortunately, only the group of 8 seems to be with you now. Everyone but apparently the group of 13 says this bill falls short.

Indeed, as my colleague from District 15 has eloquently put forth, we have a surplus, and we can do this without raising taxes. The Majority has used the bill on several occasions to hold our children hostage, putting their safety in the crossfire of political gamesmanship. They have bluffed with more cops on the street, and we have called them on it. Now, they are trying to stuff this education funding bill with a tax increase. They have stuffed so much pork into this turkey that it is coming out the beak. We have 12 hours to go to do better for students, parents and teachers. I urge my colleagues to do the right thing and vote this bill down and demand a clean education funding bill.

SENATOR HARDY:

I stand dismayed. If I were to do the math and come up with one party who has $100 million of unallocated funds, I would invite the Executive Branch, the Majority party and the fiscal people to get in the same room and figure out what we do and do not have. If we have $100 million in unallocated funds, and I look at the amount we are using in supplemental funds of approximately $72 million, we have the opportunity to have even more money to use if we find a need for it. There are two issues: one is the amount of money, and one is where the money goes. If we are looking for a larger amount, where does it go and what does it go toward? These are rational things to consider. If we have this disagreement, I think we can come to some kind of agreement. We do not have to have a winner and a loser.

I have voted for taxes before; I admit it, and I have admitted it to my party. The taxes went to something, and I felt good about where they went. I do not feel badly about doing the Opportunity Scholarships, and I do not feel badly about funding education; we need to. I find it curious we are writing the Modified Business Tax buy down. I do not think I need to break my word by now voting for something I said I did not want to do in 2015 when I voted for the raise in the Commerce Tax. We are riding the wrong horse with the Modified Business Tax buy down. We are riding a horse that is richer than we realize by some rational fiscal calculations. We need to get in the same room and come to an agreement. I hope that happens fairly soon.

SENATOR CANNIZZARO:

One of the more interesting things is the characterization that we somehow have a budget surplus in this State, that somehow, we are funding everything with such revenue streams, and we are flush with cash to pay for every little want and wish for which anyone could hope. I can assure this Body, that is not the case. What has happened this Session is our Finance and Ways and Means Chairs, along with their dedicated committee members who we appreciate, have done a remarkable job to ensure we are spending very fiscally responsibly. That has resulted in some leftover money in the budget, but to be sure, it is not a surplus that will fund education long term. Either we can sit here and say that today, in this moment, there may be some money to put into education; we can say we believe in funding education long term because that need does not go away, or we are just arguing semantics. There is no budget surplus to the extent it will continue to fund education for the long term and moving into the biennium. I urge my colleagues to consider that when looking at the substance of Senate Bill No. 551 and what we are asking.

One of the more interesting things that happened at the hearing was the notion of the Modified Business Tax and the buy down. There seems to be a lot of opposition to that. Most of the individuals who testified on behalf of businesses that are paying this tax testified this is not a tax they had an issue paying. Some even testified they would like it to be higher. The idea we are going to now stand on principle because we should not be rolling this tax back because there is not a need, or we can just cut back on things like Medicaid, food for the elderly, aging and disability services, health and human services or any number of things in that giant budget to fund education in the very short term, is misguided. I cannot stand for that. I especially cannot stand for it when the objection of individuals who are paying the tax is that it should have been a two-thirds. I have heard that, and I have considered it.

What this bill does is say we understand that. If this is the concern, we are meeting you halfway. If it is not the concern, I am not sure what the concern is. We have the sunset of a tax that has been sunsetted time and time again. The idea that we found education had such a need that we were going to do this as part of a tax package, and now are not recognizing this need still exists to the extent we would be willing to again sunset a tax we have sunsetted multiple times, is beyond my comprehension. It might be the case we are going to choose to say we no longer need this because we now find ourselves with money that is one-time or cannot fund education in the long term, and are going to go back to a conversation about how this tax would sunset and we believe in it, but the need and reason why this tax exists is still there. If the need is still there, we have an obligation to fund it.

If we are talking about a two-thirds requirement on the front of a bill so we can ask for a two-thirds vote, we are asking for a two-thirds vote from our colleagues. We are meeting them halfway. We are hearing that concern and saying we can work in a bipartisan manner. We can work with them to say the money will go to education. We can say we will work with them to say we want them to join us in seeing that through. If that is not the issue, the only issues I have heard are that there is a budget surplus, which is wholly inaccurate, and that they do not want to extend the tax. This is a choice between giving corporate tax breaks, funding education or ensuring a funding stream that will continue and not just in the very short term. For a State in which everyone recognizes this is important, that education funding is important, I just do not understand.

In this position, in all of our positions, we have to make decisions; that is why we are here. The decision on this is easy. It is not to stand on semantics. It is not to say we believe we can continue to say there are different reasons why, or we do not want to increase revenue to the State because of a tax buy down we voted for in the past and people do not mind paying. We can stand here and say there was a budget surplus because we have managed to take money and not fund some things

and have made difficult choices about where to put that money, or we can say we recognize there is a way we can fund education in a smart and efficient manner. I think that is absolutely the decision this Body is being asked to make. We can either chose to give corporate tax breaks, or we can chose to fund education. We are meeting you halfway to do that. I urge my colleagues' support.

Senators Brooks, Parks and Scheible moved the previous question.
Motion carried.

Senators Settelmeyer, Pickard and Hammond requested a roll call vote on Senators Brook's, Park's and Scheible's motion.
Roll call on Senator Brook's, Park's and Scheible's motion.
YEAS—13.
NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.
Motion carried.

The question being on the passage of Senate Bill No. 551.
Roll call on Senate Bill No. 551.
YEAS—13.
NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Senate Bill No. 551 having failed to receive a two-thirds majority, Madam President declared it lost.
Senator Denis moved that the action whereby the bill was lost be reconsidered.
Motion carried.

Senator Cannizzaro moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 12:15 p.m.

SENATE IN SESSION

At 12:30 p.m.
President Marshall presiding.
Quorum present.

Senator Cannizzaro moved that the action whereby Amendment No. 1120 to Senate Bill No. 551 was adopted be rescinded.
Motion carried.
Bill read third time.
The following amendment was proposed by Senator Cannizzaro:
Amendment No. 1121.
SUMMARY—Revises provisions relating to state financial administration. (BDR 32□1286)
AN ACT relating to state financial administration; ~~[revising provisions governing the administration of certain taxes authorized by the Clark County~~

~~Crime Prevention Act of 2016 and the Clark County Sales and Use Tax Act of 2005; providing for certain proceeds from the taxes authorized by the Clark County Sales and Use Tax Act of 2005 to be used to employ and equip additional school police officers in the Clark County School District; removing the prospective expiration of the Clark County Sales and Use Tax Act of 2005 and amendments and other provisions relating thereto;]~~ 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 ~~[, early childhood education and Zoom and Victory schools;]~~ 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 authorizes the Board of County Commissioners of Clark County to impose a sales and use tax in Clark County to employ and equip additional police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department. (Clark County Sales and Use Tax Act of 2005) A police department is prohibited from spending the proceeds of the tax unless the expenditure has been approved by a designated body and only if the use will not replace or supplant existing funding for the police department. (Section 13 of chapter 249, Statutes of Nevada 2005, as amended by chapter 497, Statutes of Nevada 2011, p. 3158) Section 10 of this bill authorizes 50 percent of the proceeds of the tax in excess of the amount collected during Fiscal Year 2018-2019 to be transferred each month to the Clark County School District for the purposes of employing and equipping additional school police officers. Sections 1, 4-9, 11-22, 26 and 27 of this bill make conforming changes to impose generally similar requirements on the Clark County School District as are imposed on police departments that receive proceeds of the tax.~~

~~The Clark County Sales and Use Tax Act of 2005 is set to expire on October 1, 2025. (Section 23 of chapter 249, Statutes of Nevada 2005, p. 917) Sections 23-25 and 28 of this bill remove the prospective expiration of the Act and amendments thereto, thereby authorizing the imposition of such a tax in Clark County after October 1, 2025.]~~

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 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.

~~[Sections 29-33 of this bill make appropriations for certain purposes relating to school safety. Specifically, section 29 of this bill makes an appropriation for the costs of public schools to retain social workers or other licensed mental health workers. Section 30 of this bill makes an appropriation for the costs of employing and equipping additional school resource officers or school police~~

~~officers.]~~ 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 32 of this bill makes an appropriation for the costs of providing threat assessments and trainings and providing mobile crisis response team services in certain counties. Section 33 of this bill makes an appropriation to support the implementation of a program of social, emotional and academic development throughout the public schools of this State. Additionally, section 34 of this bill makes an appropriation for early childhood education programs in public schools. Finally, sections 35 and 36 of this bill make appropriations to provide supplemental funding for the Zoom and Victory schools programs to increase the number of schools served by such programs and supplement the services provided at such schools.~~

~~Section 38 of this bill declares that the provisions of this bill are not severable and that a judicial declaration of invalidity of any portion of this bill shall be deemed to invalidate all provisions of this bill. Section 40 of this bill expressly expires by limitation all provisions of this bill upon such a judicial declaration of invalidity.]~~ 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.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 360.200 is hereby amended to read as follows:~~

~~360.200 The Department may exercise [the]:~~

~~*1. The* specific powers enumerated in this chapter [and, except] *or any other law; and*~~

~~*2. Except* as otherwise provided [by] *in this chapter or any other* law, [may exercise] general supervision and control over the entire revenue system of the State, including, *without limitation,* the administration of the provisions of chapter 397, Statutes of Nevada 1955, as amended [(NRS] *and codified in* chapter 372 [).] *of NRS, or any special legislative act authorizing or providing for such administration by the Department.]*~~ (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 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. ~~[In]~~ *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 ~~[$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 ~~[$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 ~~[$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 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. 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 363A.139 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 ~~[$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 ~~[$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. 4. ~~[NRS 354.603 is hereby amended to read as follows:~~

~~354.603 1. The board of trustees of any county school district, the board of hospital trustees of any county hospital or the board of trustees of any consolidated library district or district library may establish and administer separate accounts in:~~

~~(a) A bank whose deposits are insured by the Federal Deposit Insurance Corporation;~~

~~(b) A credit union whose deposits are insured by the National Credit Union Share Insurance Fund or by a private insurer approved pursuant to NRS 678.755; or~~

~~(c) A savings and loan association or savings bank whose deposits if made by the State, a local government or an agency of either, are insured by the Federal Deposit Insurance Corporation, or the legal successor of the Federal Deposit Insurance Corporation,~~

~~↵ for money deposited by the county treasurer which is by law to be administered and expended by those boards.~~

~~2. The county treasurer shall transfer the money to a separate account pursuant to subsection 1 when the following conditions are met:~~

~~(a) The board of trustees of the county school district, the board of hospital trustees of the county hospital or the board of trustees of the consolidated library district or district library adopts a resolution declaring an intention to establish and administer a separate account in accordance with the provisions of this section.~~

~~(b) The board of trustees of the county school district, the board of hospital trustees of the county hospital or the board of trustees of the consolidated library district or district library sends a certificate to the county treasurer, the county auditor, the board of county commissioners and, in the case of the board of trustees of the county school district, to the Department of Education, attested by the secretary of the board, declaring the intention of the board to establish and administer a separate account in accordance with the provisions of this section.~~

~~(c) The board of hospital trustees of the county hospital or the board of trustees of the consolidated library district or district library submits monthly reports, listing all transactions involving the separate account, to the county treasurer, the county auditor and the board of county commissioners. The reports must be certified by the secretary of the board. In addition, the board shall give a full account and record of all money in such an account upon request of the board of county commissioners.~~

~~3. The separate account of the board of trustees of the county school district established under the provisions of this section must be composed of:~~

~~(a) The county school district fund . [; and]~~

~~(b) The county school district building and sites fund.~~

~~*(c) Any other fund authorized or required by law.*~~

~~4. The separate account established by the board of county hospital trustees is designated the county hospital fund.~~

~~5. The separate account of the board of trustees of the consolidated library district or district library established under the provisions of this section must be composed of:~~

~~(a) The fund for the consolidated library or district library, as appropriate; and~~

~~(b) The capital projects fund of the consolidated library or district library, as appropriate.~~

~~6. No expenditures from an account may be made in excess of the balance of the account.~~

~~7. Such an account must support all expenditures properly related to the purpose of the fund, excluding direct payments of principal and interest on general obligation bonds, and including, but not limited to, debt service, capital projects, capital outlay and operating expenses.~~

~~8. The board of county commissioners, if it determines that there is clear evidence of misuse or mismanagement of money in any separate account, may order the closing of the account and the return of the money to the county treasury to be administered in accordance with existing provisions of law. The board of trustees of the county school district, the board of hospital trustees of the county hospital or the board of trustees of the consolidated library district or district library is entitled to a hearing before the board of county commissioners.]~~ (Deleted by amendment.)

Sec. 5. ~~[NRS 387.175 is hereby amended to read as follows:~~

~~387.175 [The] *1. Except as otherwise provided in this section, the* county school district fund is composed of:~~

~~[1.] *(a)* All local taxes for the maintenance and operation of public schools.~~

~~[2.] *(b)* All money received from the Federal Government for the maintenance and operation of public schools.~~

~~[3.] *(c)* Apportionments by this State as provided in NRS 387.124.~~

~~[4.] *(d)* Any other receipts, including gifts, for the operation and maintenance of the public schools in the county school district.~~

~~*2. If the board of trustees of a county school district is allotted any money to employ and equip additional school police officers pursuant to any special legislative act, the money must be:*~~

~~*(a) Deposited in the appropriate fund in the manner required by the special legislative act; and*~~

~~*(b) Used only for the purposes authorized by the special legislative act.]~~ (Deleted by amendment.)

Sec. 6. ~~[NRS 387.180 is hereby amended to read as follows:~~

~~387.180 [The] *1. Except as otherwise provided in this section, the* board of trustees of each county school district shall pay all moneys received by it for school purposes into the county treasury at the end of each month to be placed to the credit of the county school district fund or the county school district buildings and sites fund as provided for in this chapter, except when the board of trustees of a county school district has elected to establish and administer a separate account under the provisions of NRS 354.603.~~

~~*2. If the board of trustees of a county school district is allotted any money to employ and equip additional school police officers pursuant to any special legislative act, the money must be:*~~

~~*(a) Deposited in the appropriate fund in the manner required by the special legislative act; and*~~

~~*(b) Used only for the purposes authorized by the special legislative act.]*~~

(Deleted by amendment.)

Sec. 7. ~~[Section 13 of the Clark County Crime Prevention Act of 2016, being chapter 1, Statutes of Nevada 2016, 30th Special Session, at page 9, is hereby amended to read as follows:~~

~~Sec. 13. 1. A body designated pursuant to subsection 1 of section 12 of this act that approves an expenditure pursuant to section 12 of this act shall, for the relevant period, submit to the Department the reports required by this section, which must include, without limitation, the information required by this section and such other information relating to the administration of the provisions of this act as may be requested by the Department.~~

~~2. A body designated pursuant to subsection 1 of section 12 of this act shall submit the reports required by this section on or before:~~

~~(a) February 15, for the 3-month period ending on the immediately preceding December 31;~~

~~(b) May 15, for the 3-month period ending on the immediately preceding March 31;~~

~~(c) August 15, for the 3-month period ending on the immediately preceding June 30;~~

~~(d) November 15, for the 3-month period ending on the immediately preceding September 30; and~~

~~(e) August 15, for the 12-month period ending on the immediately preceding June 30.~~

~~3. Each report submitted pursuant to this section must be submitted on a form provided by the Department, which must be the same form as the form provided for the relevant report required by section 13.5 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as added by chapter 545, Statutes of Nevada 2007, at page 3422, and amended [by chapter 497, Statutes of Nevada 2011, at page 3160,]~~ *from time to time thereafter,* ~~and must include, with respect to the period covered by the report:~~

~~(a) The total amount of the allocation received by the respective police department from the proceeds of the tax authorized by subsection 1 of section 9 of this act. [;]~~

~~(b) A detailed description of the use of the money allocated to the police department, including, without limitation:~~

~~(1) The total expenditures made by the police department from the allocation. [;]~~

~~(2) The total number of police officers hired by the respective police department, the number of those officers that are filling authorized, funded positions for new officers and demographic information regarding those officers reported in a manner consistent with the current policies of the respective police department concerning the reporting of such information. [; and]~~

~~(3) A detailed analysis of the manner in which each expenditure:~~

~~(I) Conforms to all provisions of this act; and~~

~~(II) Does not replace or supplant funding or staffing levels, which existed before October 1, 2016, for the respective police department. [;]~~

~~(c) An analysis of the manner in which each expenditure is being used to prevent crimes and the effectiveness of each expenditure in preventing crimes. [; and]~~

~~(d) Any other information required to complete the form of the report.~~

~~4. The Metropolitan Police Committee on Fiscal Affairs shall:~~

~~(a) Prepare and submit separate reports as required by this section for the expenditures approved from the allocations received by the Las Vegas Metropolitan Police Department pursuant to paragraphs (a) and (b), respectively, of subsection 3 of section 9 of this act; and~~

~~(b) In addition to all other information required by this section, include in each report submitted pursuant to this section evidence that the expenditures from allocations received by the Las Vegas Metropolitan Police Department pursuant to paragraph (a) of subsection 3 of section 9 of this act are not offsetting, supplanting, replacing or otherwise reducing the amount of money allocated to the Las Vegas Metropolitan Police Department pursuant to paragraph (b) of subsection 3 of section 9 of this act for expenditure on law enforcement and crime prevention in the resort corridor.~~

~~5. The Department may review and investigate the reports submitted pursuant to this section and any expenditure of any proceeds from the tax authorized by subsection 1 of section 9 of this act.]~~ (Deleted by amendment.)

Sec. 8. ~~[The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 5.5, immediately following section 5, to read as follows:~~

~~*Sec. 5.5. "Board of Trustees" means the Board of Trustees of the Clark County School District.]*~~ (Deleted by amendment.)

Sec. 9. ~~[The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 8.5, immediately following section 8, to read as follows:~~

~~*Sec. 8.5. "School police officer" means a person who is employed or appointed to serve as a school police officer in the Clark County School District pursuant to NRS 391.281.*~~ (Deleted by amendment.)

Sec. 10. ~~[The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 12.5, immediately following section 12, to read as follows:~~

~~*Sec. 12.5. 1. During Fiscal Year 2019-2020 and during each fiscal year thereafter, the Department shall determine whether the total amount of the proceeds received from any sales and use tax imposed pursuant to this act during the preceding month exceeds the proceeds received from such a tax during the corresponding month of Fiscal Year 2018-2019. If the proceeds received in the current fiscal year:*~~

~~*(a) Do not exceed the proceeds received from the corresponding month of Fiscal Year 2018-2019, the amount determined by the State Controller pursuant to paragraph (b) of subsection 3 of section 14 of this act must be transferred as provided in paragraph (c) of subsection 3 of section 14 of this act.*~~

~~*(b) Do exceed the proceeds received from the corresponding month of Fiscal Year 2018-2019:*~~

~~*(1) The sum of the amount determined by the State Controller pursuant to paragraph (b) of subsection 3 of section 14 of this act received from such a tax during the corresponding month of Fiscal Year 2018-2019 and 50 percent of the excess must be transferred as provided in paragraph (c) of subsection 3 of section 14 of this act.*~~

~~*(2) Fifty percent of the excess must be transferred to the Clark County School District for the purpose of employing and equipping additional school police officers pursuant to this section.*~~

~~*2. Except as otherwise provided in subsection 3, the Board of Trustees shall not approve the expenditure of the proceeds received by the School District pursuant to this section unless the expenditure:*~~

~~*(a) Is used to employ and equip additional school police officers;*~~

~~*(b) Conforms to all provisions of this act; and*~~

~~*(c) Will not replace or supplant existing funding to employ and equip school police officers.*~~

~~*3. If the Board of Trustees contracts with the Las Vegas Metropolitan Police Department for the provision and supervision of police services pursuant to NRS 391.281:*~~

~~*(a) The Board of Trustees shall, in the terms of the contract, provide for the transfer to the Las Vegas Metropolitan Police Department of the proceeds received by the School District pursuant to this section; and*~~

~~*(b) The body designated pursuant to section 13 of this act to approve expenditures by the Las Vegas Metropolitan Police Department shall*~~

~~*not approve the expenditure of the proceeds received by the School District pursuant to this section unless the expenditure:*~~

~~*(1) Is used to employ and equip additional school police officers;*~~

~~*(2) Conforms to all provisions of this act; and*~~

~~*(3) Will not replace or supplant existing funding to employ and equip school police officers.]*~~ (Deleted by amendment.)

Sec. 11. ~~[Section 2 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended to read as follows:~~

~~Sec. 2. *1.* The Legislature hereby finds and declares that:~~

~~[1.] *(a)* Nevada continues to be the fastest growing state in the nation, with the overwhelming majority of this population growth occurring in Clark County, which adds 6,000 to 7,000 new residents each month;~~

~~[2.] *(b)* The increase in the number of police officers to protect the residents of Clark County has not kept pace with the explosive growth in the numbers of these residents, so, while the nation as a whole averages 2.5 police officers for each 1,000 residents, the current ratio in Clark County is now only 1.7 police officers for each 1,000 residents;~~

~~[3.] *(c)* The crime rate in Clark County is increasing, and so is the time it takes for police officers to respond when a resident reports a crime, while the very real threat of terrorism means that police now must assume added responsibilities for homeland security;~~

~~[4.] *(d)* A majority of the voters in Clark County approved at the November 2, 2004, General Election Advisory Question No. 9, indicating their support for an increase in the sales tax of up to one half of 1 percent for the purpose of employing and equipping more police officers to protect the residents of Clark County;~~

~~[5.] *(e)* It is intended that 80 percent of any additional police officers employed and equipped pursuant to this act be assigned to uniform operations for marked patrol units in the community and for the control of traffic; *and*~~

~~[6.] *(f)* It is further intended that each police department that receives proceeds from any sales and use tax imposed pursuant to this act *and allocated among the police departments within Clark County pursuant to section 9 of this act* establish a program that promotes community participation in protecting the residents of the community that includes, without limitation:~~

~~[(a)] *(1)* A written policy of the department that sets forth its position on providing law enforcement services oriented toward the involvement of residents of the community;~~

~~[(b)] *(2)* The provision of training for all police officers employed by the department that includes, without limitation, training related to:~~

~~[(1)] *(I)* Methods that may be used to analyze, respond to and solve problems commonly confronted by police officers in the community;~~

~~(2)] *(II)* The cultural and racial diversity of the residents of the community;~~

~~[(3)] *(III)* The proper utilization of community resources, such as local housing authorities, public utilities and local public officials, that are available to assist in providing law enforcement services; and~~

~~[(4)] *(IV)* Issues concerning not only the prevention of crime, but also concerning improving the quality of life for the residents of the community; and~~

~~[(c)] *(3)* The formation of partnerships with the residents of the community and public and private agencies and organizations to address mutual concerns related to the provision of law enforcement services. [;~~

~~7. A]~~

~~*2. The Legislature hereby further finds and declares that:*~~

~~*(a) The Clark County School District is one of the largest school districts in the nation when measured either by enrollment or geographic area, and its enrollment of over 320,000 pupils generally ranks as the fifth largest school district by enrollment in the nation and its geographic area of almost 8,000 square miles generally ranks as the seventh largest school district by geographic area in the continental United States;*~~

~~*(b) A safe and secure environment in the public schools and other facilities in the Clark County School District is necessary and essential for the School District to fulfill its educational mission and successfully teach, instruct and educate the pupils enrolled in the School District;*~~

~~*(c) There are substantial dangers and threats to the safety of the public schools and other facilities in the Clark County School District, such as school violence, illegal weapons, illicit drugs and inappropriate and unlawful sexual conduct, that have become more frequent and severe, more difficult to police and more challenging in terms of providing effective and timely responses by the limited and overextended resources of the school police officers in the School District; and*~~

~~*(d) It is therefore necessary and essential for the protection of the safety of the public schools and other facilities in the Clark County School District to employ and equip additional school police officers in the School District as provided by this act.*~~

~~*3. The Legislature hereby further finds and declares that a* general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act because of [the] :~~

~~(a) *The* demographic, economic and geographic diversity of the local governments [of] *and school districts in* this State [, the] ; *and*~~

~~(b) *The special and* unique growth patterns , [occurring in Clark County and the special] financial conditions [experienced] *and dangers and threats to the safety of the public in Clark County and the safety of the public schools and other facilities* in the *Clark* County [related to] *School District, and the corresponding challenges in providing effective and timely police protection under those special and unique circumstances, which:*~~

~~(1) *Are not reasonably comparable to anywhere else in this State; and*~~

~~(2) *Create* the *ongoing* need to employ and equip more [police officers; and~~

~~8. The] :~~

~~(I) *Police officers for the protection of the safety of the public in Clark County, as the most populous county in this State; and*~~

~~(II) *School police officers for the protection of the safety of the public schools and other facilities in the Clark County School District, as the largest school district in this State in terms of enrollment and one of the largest school districts in the nation in terms of enrollment and geographic area.*~~

~~*4. The Legislature hereby further finds and declares that the* powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act *must* comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.]~~ (Deleted by amendment.)

Sec. 12. ~~[Section 3 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:~~

~~Sec. 3. Except as otherwise provided in this act or unless the context otherwise requires, terms used or referred to in this act have the meanings ascribed to them in chapter 374 of NRS, as from time to time amended, but the definitions in sections 4 to [8,] *8.5,* inclusive, of this act, unless the context otherwise requires, govern the construction of this act.]~~ (Deleted by amendment.)

Sec. 13. ~~[Section 9 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:~~

~~Sec. 9. 1. The Board may enact an ordinance imposing a local sales and use tax *pursuant to this act. If the Board enacts or has enacted such an ordinance, the proceeds received from the tax authorized pursuant to this section must be used* to employ and equip additional [police] :~~

~~*(a) Police* officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department.~~

~~*(b) School police officers for the Clark County School District pursuant to section 12.5 of this act.*~~

~~2. Before enacting such an ordinance, the Board shall hold a public hearing to present its plan for implementing the local sales and use tax.~~

~~3. The proceeds *received* from the tax authorized pursuant to this section, including interest and other income earned thereon, must be:~~

~~(a) Allocated *as follows:*~~

~~*(1) Subject to the limitations set forth in section 12.5 of this act,* among the police departments within the County in the same ratio that the population served by each department bears to the total population of the County. As used in this [paragraph,] *subparagraph,* "population" means the estimated annual population determined pursuant to NRS 360.283.~~

~~*(2) To the Clark County School District pursuant to section 12.5 of this act.*~~

~~(b) Used only as approved pursuant to section *12.5 or* 13 of this act and only for the purposes set forth in this section *or section 12.5 of this act* unless the Legislature changes the use. [The]~~

~~*4. If the Board wants to change the uses for the proceeds received from the tax and allocated among the police departments within the County, the* Board shall, before submitting to the Legislature any request to change the uses for [the] *such* proceeds *received* from the tax, submit an advisory question to the voters of the County pursuant to NRS 295.230, asking whether the uses for [the] *such* proceeds *received* from the tax should be so changed. The Board shall not submit such a request to the Legislature if a majority of the voters in the County disapprove the proposed change.]~~ (Deleted by amendment.)

Sec. 14. ~~[Section 13 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as amended by chapter 497, Statutes of Nevada 2011, at page 3158, is hereby amended to read as follows:~~

~~Sec. 13. 1. A police department shall not expend proceeds received from any sales and use tax imposed pursuant to this act *and allocated among the police departments within the County pursuant to section 9 of this act* unless the expenditure has been approved by the body designated pursuant to this section for the approval of expenditures of that police department. The body designated pursuant to this section must approve the expenditure of the proceeds by the police department if it determines that:~~

~~(a) The proposed use of the money conforms to all provisions of this act; and~~

~~(b) The proposed use will not replace or supplant existing funding for the police department.~~

~~2. The body designated to approve an expenditure for:~~

~~(a) The Boulder City Police Department is the City Council of the City of Boulder City;~~

~~(b) The Henderson Police Department is the City Council of the City of Henderson;~~

~~(c) The Las Vegas Metropolitan Police Department is the Metropolitan Police Committee on Fiscal Affairs;~~

~~(d) The Mesquite Police Department is the City Council of the City of Mesquite; and~~

~~(e) The North Las Vegas Police Department is the City Council of the City of North Las Vegas.~~

~~3. In determining that a proposed use meets the requirement set forth in paragraph (b) of subsection 1, a body designated pursuant to subsection 2 must find that either:~~

~~(a) The amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department; or~~

~~(b) The amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is less than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department and the body projects a decrease in its receipt of revenue in that fiscal year from consolidated taxes and property taxes of more than 2 percent from its base fiscal year.~~

~~4. If a body designated pursuant to subsection 2 makes a finding pursuant to subsection 3, the body shall adopt a resolution setting forth the finding and the reasons therefor. If the finding is made pursuant to paragraph (b) of subsection 3, the finding must include, without limitation, all facts supporting the projection of a decrease in revenue.~~

~~5. If a body designated pursuant to subsection 2 does not make a finding pursuant to subsection 3 for a fiscal year on or before July 1 of that fiscal year, the body shall retain the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act *and allocated among the police departments within the County pursuant to section 9 of this act* in the special revenue fund created by the body pursuant to section 17 of this act for use pursuant to this section. Any other body designated pursuant to subsection 2 which makes a finding pursuant to subsection 3 for that fiscal year may apply to the County Treasurer requesting approval for the use by the police department for~~

~~which the other body approves expenditures of any portion of those proceeds in accordance with the provisions of this section.~~

~~6. The County Treasurer, upon receiving a request pursuant to subsection 5 and proper documentation of compliance with the provisions of this section, shall provide written notice to the designated body which failed to make a finding pursuant to subsection 3 that it is required to transfer from the special revenue fund created by the body pursuant to section 17 of this act to the County Treasurer such amount of the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act *and allocated among the police departments within the County pursuant to section 9 of this act,* as approved by the County Treasurer for use by the designated body that submitted the request.~~

~~7. Notwithstanding the provisions of subsection 3 of section 17 of this act, a designated body that receives written notice from the County Treasurer pursuant to subsection 6 shall transfer all available required money to the County Treasurer as soon as practicable following its receipt of any portion of the proceeds. Upon receipt of the money, the County Treasurer shall transfer the money to the designated body that submitted the request, which shall deposit the money in the special revenue fund created by that designated body pursuant to section 17 of this act.~~

~~8. As used in this section, "base fiscal year" means, with respect to a body designated pursuant to subsection 2, Fiscal Year 2009-2010, except that:~~

~~(a) If, in any subsequent fiscal year, the amount approved for expenditure by the body for that subsequent fiscal year for the support of the police department, not including any money received or expended pursuant to this act, exceeds by more than 2 percent the amount approved for expenditure in Fiscal Year 2009-2010, the base fiscal year for that body becomes the most recent of such subsequent fiscal years.~~

~~(b) If the base fiscal year is revised pursuant to paragraph (a) and, in any subsequent fiscal year, the amount approved for expenditure by the body for that subsequent fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or less than the amount approved for expenditure in Fiscal Year 2009-2010, the base fiscal year for that body becomes Fiscal Year 2009-2010 but is subject to subsequent revision pursuant to paragraph (a).]~~ (Deleted by amendment.)

Sec. 15. ~~[Section 13.3 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as added by chapter 1, Statutes of Nevada 2013, 27th Special Session, at page 2, is hereby amended to read as follows:~~

~~Sec. 13.3. 1. The provisions of paragraph (b) of subsection 1 and subsections 3 to 8, inclusive, of section 13 of this act do not apply to any expenditure of proceeds *received* from any sales and use tax imposed pursuant to this act on or after July 1, 2013, but before July 1, 2016 [.]~~ *, and allocated among the police departments within the County pursuant to section 9 of this act.*

~~2. In addition to the requirements of section 13.5 of this act:~~

~~(a) The periodic reports required by that section must include, with respect to the period covered by the report, a separate detailed description of the expenditure of any proceeds *received* from the sales and use tax imposed pursuant to this act *and allocated among the police departments within the County pursuant to section 9 of this act* as a result of the provisions of subsection 1; and~~

~~(b) A governing body that is required to submit a report pursuant to section 13.5 of this act shall submit a copy of the separate detailed description required by paragraph (a) for the period covered by the report to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee on or before the date by which the governing body is required to submit the report for that period to the Department pursuant to section 13.5 of this act.]~~ (Deleted by amendment.)

Sec. 16. ~~[Section 13.5 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as amended by chapter 497, Statutes of Nevada 2011, at page 3160, is hereby amended to read as follows:~~

~~Sec. 13.5. 1. Any governing body that has approved expenditures pursuant to section *12.5 or* 13 of this act shall submit to the Department the periodic reports required pursuant to this section and such other information relating to the provisions of this act as may be requested by the Department.~~

~~2. The reports required pursuant to this section must be submitted:~~

~~(a) On or before:~~

~~(1) February 15 for the 3-month period ending on the immediately preceding December 31;~~

~~(2) May 15 for the 3-month period ending on the immediately preceding March 31;~~

~~(3) August 15 for the 3-month period ending on the immediately preceding June 30; and~~

~~(4) November 15 for the 3-month period ending on the immediately preceding September 30; and~~

~~(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.~~

~~3. Each report must be submitted on a form provided by the Department and include, with respect to the period covered by the report:~~

~~(a) The total proceeds received by the respective police department *or the Clark County School District, as applicable,* from the sales and use tax imposed pursuant to this act. [;]~~

~~(b) A detailed description of the use of the proceeds, including, without limitation:~~

~~(1) The total expenditures made by the respective police department *or the Clark County School District, as applicable,* from the sales and use tax imposed pursuant to this act. [;]~~

~~(2) The total number of police officers hired by the police department [and] *or the total number of school police officers hired by the Clark County School District, as applicable,* the number of those officers that are filling authorized, funded positions for new officers [;] *within the respective police department or the Clark County School District, as applicable,* and *demographic information regarding those officers reported in a manner consistent with the current policies of the respective police department or the Clark County School District, as applicable, concerning the reporting of such information.*~~

~~(3) A detailed analysis of the manner in which each expenditure:~~

~~(I) Conforms to all provisions of this act; and~~

~~(II) Does not replace or supplant funding which existed before October 1, 2005, for the police department [; and] *or which existed before July 1, 2019, for school police officers for the Clark County School District, as applicable.*~~

~~(c) Any other information required to complete the form for the report.~~

~~4. The Department may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section *12.5 or* 13 of this act.]~~ (Deleted by amendment.)

Sec. 17. ~~[Section 14 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as amended by chapter 387, Statutes of Nevada 2009, at page 2097, is hereby amended to read as follows:~~

~~Sec. 14. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.~~

~~2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.~~

~~3. [The] *Except as otherwise provided in section 12.5 of this act, the* State Controller, acting upon the collection data furnished by the Department, shall monthly:~~

~~(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund 1.75 percent of all fees, taxes, interest~~

~~and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax.~~

~~(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).~~

~~(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.]~~ (Deleted by amendment.)

Sec. 18. ~~[Section 15 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 916, is hereby amended to read as follows:~~

~~Sec. 15. The Department may redistribute any proceeds *received* from the tax, interest or penalty collected pursuant to this act which is determined to be improperly distributed [,] *to the respective police departments within the County or the Clark County School District,* but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department obtains knowledge of the improper distribution.~~] (Deleted by amendment.)

Sec. 19. ~~[Section 16 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 16. 1. The County Treasurer shall deposit money received from the State Controller pursuant to [paragraph (c) of subsection 3 of] section *12.5 or* 14 of this act into the County Treasury for credit to a fund created for the use of the proceeds *received* from the tax authorized by this act.~~

~~2. The fund of the County created for the use of the proceeds *received* from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.~~

~~3. The County Treasurer upon receipt of the money remitted to him or her pursuant to this section shall distribute it to the appropriate accounts in accordance with the allotments established pursuant to section 9 *or 12.5* of this act.]~~ (Deleted by amendment.)

Sec. 20. ~~[Section 17 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 17. 1. *To carry out the provisions of this act:*~~

~~*(a)* The City Treasurers of Boulder City, Henderson, Mesquite and North Las Vegas and the Las Vegas Metropolitan Police Department shall deposit the money received from the County Treasurer pursuant to [subsection 3 of] section 16 of this act into a special revenue fund created for the use of the proceeds *received* from the tax authorized by~~

~~this act [.] and allocated among the police departments within the County pursuant to section 9 of this act.~~

~~(b) If, pursuant to NRS 387.170, the Board of Trustees:~~

~~(1) Has elected to establish and administer a separate account as the County School District Fund pursuant to NRS 354.603, the Board of Trustees shall:~~

~~(I) Create a special revenue fund for the use of the proceeds received from the tax authorized by this act and allocated to the Clark County School District pursuant to section 12.5 of this act; and~~

~~(II) Deposit the money received from the County Treasurer pursuant to section 16 of this act into the special revenue fund.~~

~~(2) Has not elected to establish and administer a separate account as the County School District Fund pursuant to NRS 354.603, the County Treasurer shall:~~

~~(I) Create a special revenue fund for the use of the proceeds received from the tax authorized by this act and allocated to the School District pursuant to section 12.5 of this act; and~~

~~(II) Deposit the money received by the County Treasurer pursuant to section 16 of this act into the special revenue fund.~~

~~2. Each special revenue fund created for the use of the proceeds received from the tax authorized by this act pursuant to subsection 1 must be accounted for as a separate fund and not as a part of any other fund.~~

~~3. Interest earned on a special revenue fund created pursuant to subsection 1 must be credited to the fund. The money in each such fund must remain in the fund and must not revert to the County Treasury or the County School District Fund, as applicable, at the end of any fiscal year.]~~ (Deleted by amendment.)

Sec. 21. ~~[Section 20 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 20. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the Department may act for and on behalf of the County [.] or the Clark County School District, as appropriate for the proceeding.]~~ (Deleted by amendment.)

Sec. 22. ~~[Section 21 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 21. 1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any other law and the limitations imposed by this act do not affect the powers conferred by any other law.~~

~~2. This act must not be construed to prevent the exercise of any power granted by any other law to the County or the Clark County~~

~~*School District, as applicable,* or any officer, agent or employee of the County [.] *or the Clark County School District, as applicable.*~~

~~3. This act must not be construed to repeal or otherwise affect any other law or part thereof [.] *, except that if there is any conflict between the specific provisions of this act and the general provisions of any other law or part thereof, the specific provisions of this act control.*~~

~~4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.~~

~~5. If any provision of this act, or application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.]~~ (Deleted by amendment.)

Sec. 23. ~~[Section 23 of chapter 249, Statutes of Nevada 2005, at page 917, is hereby amended to read as follows:~~

~~Sec. 23. [1.] This act becomes effective:~~

~~[(a)] *1.* Upon passage and approval for the purposes of enacting ordinances and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~[(b)] *2.* On October 1, 2005, for all other purposes.~~

~~[2. This act expires by limitation on October 1, 2025.]]~~ (Deleted by amendment.)

Sec. 24. ~~[Section 23 of chapter 545, Statutes of Nevada 2007, at page 3428, is hereby amended to read as follows:~~

~~Sec. 23. 1. This section and sections 3 to 22, inclusive, of this act become effective:~~

~~(a) Upon passage and approval for the purposes of enacting ordinances and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~(b) On October 1, 2007, for all other purposes.~~

~~2. Sections 1 and 2 of this act become effective on October 1, 2007 .[, and expire by limitation on October 1, 2025.]~~

~~3. Sections 3 to 22, inclusive, of this act expire by limitation on October 1, 2027.]~~ (Deleted by amendment.)

Sec. 25. ~~[Section 28 of chapter 387, Statutes of Nevada 2009, at page 2104, is hereby amended to read as follows:~~

~~Sec. 28. 1. This section and sections 4, 18 and 27 of this act become effective upon passage and approval.~~

~~2. Sections 2, 3, 5, 6, 7, 9, 11 to 16, inclusive, and 19 to 26, inclusive, of this act become effective on July 1, 2009.~~

~~3. Section 17 of this act becomes effective on July 1, 2011.~~

~~4. [Section 20 of this act expires by limitation on September 30, 2025.~~

~~5.] Section 25 of this act expires by limitation on September 30, 2027.~~

~~[6.]~~ *5.* ~~Sections 7 and 9 of this act expire by limitation on September 30, 2029.~~

~~[7.]~~ *6.* ~~Sections 8 and 10 of this act become effective on October 1, 2029.]~~ (Deleted by amendment.)

Sec. 26. ~~[Section 3.5 of chapter 1, Statutes of Nevada 2013, 27th Special Session, at page 3, is hereby amended to read as follows:~~

~~Sec. 3.5. 1. If the increase in the rate of the tax authorized by section 3 of this act is enacted pursuant to that section, the County Treasurer of Clark County shall not make any allotment to a police department pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005 of any portion of the proceeds of the increase *allocated among the police departments within Clark County pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005*, unless the County Treasurer is satisfied that the police department will meet the requirements of subsection 1 of section 3.7 of this act.~~

~~2. If the County Treasurer determines pursuant to subsection 1 that an allotment will not be made to a police department, any other police department may apply to the County Treasurer requesting approval for the use by the requesting police department of the unused allotment. If the County Treasurer is satisfied that the requesting police department will meet the requirements of subsection 1 of section 3.7 of this act, the County Treasurer shall make the requested allotment to the requesting police department.]~~ (Deleted by amendment.)

Sec. 27. ~~[Section 3.7 of chapter 1, Statutes of Nevada 2013, 27th Special Session, at page 3, is hereby amended to read as follows:~~

~~Sec. 3.7. 1. A police department shall not expend any portion of an allotment made to it by the County Treasurer pursuant to section 3.5 of this act to employ and equip additional police officers unless:~~

~~(a) The police department employs and equips an equal number of police officers in unfilled budgeted positions for police officers using money other than the proceeds of the increase in the rate of the tax authorized by section 3 of this act [;] *and allocated among the police departments within Clark County pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005;* or~~

~~(b) If, based on the number of budgeted positions for police officers in the police department for the 2013-2014 fiscal year, the police department does not have a sufficient number of unfilled budgeted positions for police officers to match all of the positions that are available for funding with the proceeds of the increase in the rate of the tax authorized by section 3 of this act [;] *and allocated among the police departments within Clark County pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005*, the police department applies~~

~~for and is granted a waiver from the requirements of paragraph (a) by the Committee on Local Government Finance.~~

~~2. The Committee on Local Government Finance shall, on or before September 1 of each year, submit a report to the Legislative Commission that sets forth the number of waivers granted by the Committee pursuant to this section during the immediately preceding fiscal year and the reasons for each such waiver.~~] (Deleted by amendment.)

Sec. 28. ~~[Section 4 of chapter 1, Statutes of Nevada 2013, 27th Special Session, at page 3, is hereby amended to read as follows:~~

~~Sec. 4. This act becomes effective upon passage and approval. [and expires by limitation on October 1, 2025.]~~] (Deleted by amendment.)

Sec. 29. ~~[1. There is hereby appropriated from the State General Fund to the School Safety Account the sum of $2,500,000 for the Fiscal Year 2019-2020.~~

~~2. The Department of Education shall transfer money from the appropriation made by subsection 1 to school districts and charter schools for block grants for contract or employee social workers or other licensed mental health workers in schools with identified needs. The money must not be used for administrative expenditures of the Department of Education.~~

~~3. For purposes of the allocations of sums for the block grant program described in subsection 2, eligible licensed social workers or other mental health workers include the following:~~

~~(a) Licensed Clinical Social Worker;~~

~~(b) Social Worker;~~

~~(c) Social Worker Intern with Supervision;~~

~~(d) Clinical Psychologist;~~

~~(e) Psychologist Intern with Supervision;~~

~~(f) Marriage and Family Therapist;~~

~~(g) Mental Health Counselor;~~

~~(h) Community Health Worker;~~

~~(i) School Based Health Centers; and~~

~~(j) Licensed Nurse.~~

~~4. The money appropriated by subsection 1 must be expended in accordance with NRS 353.150 to 353.246, inclusive, concerning the allotment, transfer, work program and budget. Transfers to and allotments from must be allowed and made in accordance with NRS 353.215 to 353.225, inclusive, after separate consideration of the merits of each request.~~

~~5. Any remaining balance of the transfer made by subsection 2 for Fiscal Year 2019-2020 may be carried forward for Fiscal Year 2020-2021, must not be committed for expenditure after June 30, 2021,~~

~~and does not revert to the State General Fund.~~] (Deleted by amendment.)

Sec. 30. ~~[1. There is hereby appropriated from the State General Fund to the School Safety Account the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $1,500,000~~

~~For the Fiscal Year 2020-2021 ..... $4,000,000~~

~~2. The Department of Education shall transfer from the appropriation made by subsection 1 to provide grants to public schools to employ and equip school resource officers or school police officers in schools with identified needs on the basis of data relating to school discipline, violence, climate and vulnerability and the ability of the public school to hire school resource officers or school police officers. The money must not be used for administrative expenditures of the Department of Education.~~

~~3. The money transferred pursuant to subsection 2:~~

~~(a) Must be accounted for separately from any other money received by the school districts and charter schools of this State and used only for the purposes specified in subsection 2.~~

~~(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.~~

~~(c) May not be used to adjust the district wide schedules of salaries and benefits of the employees of a school district.~~

~~4. Any remaining balance of the sums transferred by subsection 1 for Fiscal Year 2019-2020 and Fiscal Year 2020-2021 must not be committed for expenditure after June 30 of each fiscal year and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, for each fiscal year respectively.~~] (Deleted by amendment.)

Sec. 30.1. NRS 219A.140 is hereby amended to read as follows:

219A.140 1. To be eligible to serve on the Youth Legislature, a person:

(a) Must be:

(1) A resident of the senatorial district of the Senator who appoints him or her;

(2) Enrolled in a public school or private school located in the senatorial district of the Senator who appoints him or her; or

(3) A homeschooled child ~~[or opt-in child]~~ who is otherwise eligible to be enrolled in a public school in the senatorial district of the Senator who appoints him or her;

(b) Except as otherwise provided in subsection 3 of NRS 219A.150, must be:

(1) Enrolled in a public school or private school in this State in grade 9, 10 or 11 for the first school year of the term for which he or she is appointed; or

(2) A homeschooled child ~~[or opt-in child]~~ who is otherwise eligible to enroll in a public school in this State in grade 9, 10 or 11 for the first school year of the term for which he or she is appointed; and

(c) Must not be related by blood, adoption or marriage within the third degree of consanguinity or affinity to the Senator who appoints him or her or to any member of the Assembly who collaborated to appoint him or her.

2. If, at any time, a person appointed to the Youth Legislature changes his or her residency or changes his or her school of enrollment in such a manner as to render the person ineligible under his or her original appointment, the person shall inform the Board, in writing, within 30 days after becoming aware of such changed facts.

3. A person who wishes to be appointed or reappointed to the Youth Legislature must submit an application on the form prescribed pursuant to subsection 4 to the Senator of the senatorial district in which the person resides, is enrolled in a public school or private school or, if the person is a homeschooled child, ~~[or opt-in child,]~~ the senatorial district in which he or she is otherwise eligible to be enrolled in a public school. A person may not submit an application to more than one Senator in a calendar year.

4. The Board shall prescribe a form for applications submitted pursuant to this section, which must require the signature of the principal of the school in which the applicant is enrolled or, if the applicant is a homeschooled child, ~~[or opt-in child,]~~ the signature of a member of the community in which the applicant resides other than a relative of the applicant.

Sec. 30.15. NRS 219A.150 is hereby amended to read as follows:

219A.150 1. A position on the Youth Legislature becomes vacant upon:

(a) The death or resignation of a member.

(b) The absence of a member for any reason from:

(1) Two meetings of the Youth Legislature, including, without limitation, meetings conducted in person, meetings conducted by teleconference, meetings conducted by videoconference and meetings conducted by other electronic means;

(2) Two activities of the Youth Legislature;

(3) Two event days of the Youth Legislature; or

(4) Any combination of absences from meetings, activities or event days of the Youth Legislature, if the combination of absences therefrom equals two or more,

➥ unless the absences are, as applicable, excused by the Chair or Vice Chair of the Board.

(c) A change of residency or a change of the school of enrollment of a member which renders that member ineligible under his or her original appointment.

2. In addition to the provisions of subsection 1, a position on the Youth Legislature becomes vacant if:

(a) A member of the Youth Legislature graduates from high school or otherwise ceases to attend public school or private school for any reason other than to become a homeschooled child ; ~~[or opt-in child;]~~ or

(b) A member of the Youth Legislature who is a homeschooled child ~~[or opt-in child]~~ completes an educational plan of instruction for grade 12 or otherwise ceases to be a homeschooled child ~~[or opt-in child]~~ for any reason other than to enroll in a public school or private school.

3. A vacancy on the Youth Legislature must be filled:

(a) For the remainder of the unexpired term in the same manner as the original appointment, except that, if the remainder of the unexpired term is less than 1 year, the member of the Senate who made the original appointment may appoint a person who:

(1) Is enrolled in a public school or private school in this State in grade 12 or who is a homeschooled child ~~[or opt-in child]~~ who is otherwise eligible to enroll in a public school in this State in grade 12; and

(2) Satisfies the qualifications set forth in paragraphs (a) and (c) of subsection 1 of NRS 219A.140.

(b) Insofar as is practicable, within 30 days after the date on which the vacancy occurs.

4. As used in this section, "event day" means any single calendar day on which an official, scheduled event of the Youth Legislature is held, including, without limitation, a course of instruction, a course of orientation, a meeting, a seminar or any other official, scheduled activity.

Sec. 30.2. NRS 385.007 is hereby amended to read as follows:

385.007 As used in this title, unless the context otherwise requires:

1. "Achievement charter school" means a public school operated by a charter management organization, as defined in NRS 388B.020, an educational management organization, as defined in NRS 388B.030, or other person pursuant to a contract with the Achievement School District pursuant to NRS 388B.210 and subject to the provisions of chapter 388B of NRS.

2. "Department" means the Department of Education.

3. "English learner" has the meaning ascribed to it in 20 U.S.C. § 7801(20).

4. "Homeschooled child" means a child who receives instruction at home and who is exempt from compulsory attendance pursuant to NRS 392.070 . ~~[, but does not include an opt-in child.]~~

5. "Local school precinct" has the meaning ascribed to it in NRS 388G.535.

6. ~~["Opt-in child" means a child for whom an education savings account has been established pursuant to NRS 353B.850, who is not enrolled full-time in a public or private school and who receives all or a portion of his or her instruction from a participating entity, as defined in NRS 353B.750.~~

~~7.]~~ "Public schools" means all kindergartens and elementary schools, junior high schools and middle schools, high schools, charter schools and any

other schools, classes and educational programs which receive their support through public taxation and, except for charter schools, whose textbooks and courses of study are under the control of the State Board.

~~[8.]~~ *7.* "School bus" has the meaning ascribed to it in NRS 484A.230.

~~[9.]~~ *8.* "State Board" means the State Board of Education.

~~[10.]~~ *9.* "University school for profoundly gifted pupils" has the meaning ascribed to it in NRS 388C.040.

Sec. 30.25. NRS 385B.060 is hereby amended to read as follows:

385B.060 1. The Nevada Interscholastic Activities Association shall adopt rules and regulations in the manner provided for state agencies by chapter 233B of NRS as may be necessary to carry out the provisions of this chapter. The regulations must include provisions governing the eligibility and participation of homeschooled children ~~[and opt-in children]~~ in interscholastic activities and events. In addition to the regulations governing eligibility ~~[:~~ ~~(a) A]~~ *, a* homeschooled child who wishes to participate must have on file with the school district in which the child resides a current notice of intent of a homeschooled child to participate in programs and activities pursuant to NRS 388D.070.

~~[(b) An opt-in child who wishes to participate must have on file with the school district in which the child resides a current notice of intent of an opt-in child to participate in programs and activities pursuant to NRS 388D.140.]~~

2. The Nevada Interscholastic Activities Association shall adopt regulations setting forth:

(a) The standards of safety for each event, competition or other activity engaged in by a spirit squad of a school that is a member of the Nevada Interscholastic Activities Association, which must substantially comply with the spirit rules of the National Federation of State High School Associations, or its successor organization; and

(b) The qualifications required for a person to become a coach of a spirit squad.

3. If the Nevada Interscholastic Activities Association intends to adopt, repeal or amend a policy, rule or regulation concerning or affecting homeschooled children, the Association shall consult with the Northern Nevada Homeschool Advisory Council and the Southern Nevada Homeschool Advisory Council, or their successor organizations, to provide those Councils with a reasonable opportunity to submit data, opinions or arguments, orally or in writing, concerning the proposal or change. The Association shall consider all written and oral submissions respecting the proposal or change before taking final action.

4. As used in this section, "spirit squad" means any team or other group of persons that is formed for the purpose of:

(a) Leading cheers or rallies to encourage support for a team that participates in a sport that is sanctioned by the Nevada Interscholastic Activities Association; or

(b) Participating in a competition against another team or other group of persons to determine the ability of each team or group of persons to engage in an activity specified in paragraph (a).

Sec. 30.3. NRS 385B.150 is hereby amended to read as follows:

385B.150 1. A homeschooled child must be allowed to participate in interscholastic activities and events in accordance with the regulations adopted by the Nevada Interscholastic Activities Association pursuant to NRS 385B.060 if a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 388D.070.

2. ~~[An opt-in child must be allowed to participate in interscholastic activities and events in accordance with the regulations adopted by the Nevada Interscholastic Activities Association pursuant to NRS 385B.060 if a notice of intent of an opt-in child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 388D.140.~~

~~3.]~~ The provisions of this chapter and the regulations adopted pursuant thereto that apply to pupils enrolled in public schools who participate in interscholastic activities and events apply in the same manner to homeschooled children ~~[and opt-in children]~~ who participate in interscholastic activities and events, including, without limitation, provisions governing:

(a) Eligibility and qualifications for participation;
(b) Fees for participation;
(c) Insurance;
(d) Transportation;
(e) Requirements of physical examination;
(f) Responsibilities of participants;
(g) Schedules of events;
(h) Safety and welfare of participants;
(i) Eligibility for awards, trophies and medals;
(j) Conduct of behavior and performance of participants; and
(k) Disciplinary procedures.

Sec. 30.35. NRS 385B.160 is hereby amended to read as follows:

385B.160 No challenge may be brought by the Nevada Interscholastic Activities Association, a school district, a public school or a private school, a parent or guardian of a pupil enrolled in a public school or a private school, a pupil enrolled in a public school or private school, or any other entity or person claiming that an interscholastic activity or event is invalid because homeschooled children ~~[or opt-in children]~~ are allowed to participate in the interscholastic activity or event.

Sec. 30.4. NRS 385B.170 is hereby amended to read as follows:

385B.170 A school district, public school or private school shall not prescribe any regulations, rules, policies, procedures or requirements governing the:

1. Eligibility of homeschooled children ~~[or opt-in children]~~ to participate in interscholastic activities and events pursuant to this chapter; or

2. Participation of homeschooled children ~~[or opt-in children]~~ in interscholastic activities and events pursuant to this chapter,

➥ that are more restrictive than the provisions governing eligibility and participation prescribed by the Nevada Interscholastic Activities Association pursuant to NRS 385B.060.

Sec. 30.45. NRS 387.045 is hereby amended to read as follows:

387.045 ~~[Except as otherwise provided in NRS 353B.700 to 353B.930, inclusive:]~~

1. No portion of the public school funds or of the money specially appropriated for the purpose of public schools shall be devoted to any other object or purpose.

2. No portion of the public school funds shall in any way be segregated, divided or set apart for the use or benefit of any sectarian or secular society or association.

Sec. 30.5. NRS 387.1223 is hereby amended to read as follows:

387.1223 1. On or before October 1, January 1, April 1 and July 1, each school district shall report to the Department, in the form prescribed by the Department, the average daily enrollment of pupils pursuant to this section for the immediately preceding quarter of the school year.

2. Except as otherwise provided in subsection 3, basic support of each school district must be computed by:

(a) Multiplying the basic support guarantee per pupil established for that school district for that school year by the sum of:

(1) The count of pupils enrolled in kindergarten and grades 1 to 12, inclusive, based on the average daily enrollment of those pupils during the quarter, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

(2) The count of pupils not included under subparagraph (1) who are enrolled full-time in a program of distance education provided by that school district, a charter school located within that school district or a university school for profoundly gifted pupils, based on the average daily enrollment of those pupils during the quarter.

(3) The count of pupils who reside in the county and are enrolled:

(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school, ~~[or receiving a portion of his or her instruction from a participating entity, as defined in NRS 353B.750,]~~ based on the average daily enrollment of those pupils during the quarter.

(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter

school, ~~[or receiving a portion of his or her instruction from a participating entity, as defined in NRS 353B.750,]~~ based on the average daily enrollment of those pupils during the quarter.

(4) The count of pupils not included under subparagraph (1), (2) or (3), who are receiving special education pursuant to the provisions of NRS 388.417 to 388.469, inclusive, and 388.5251 to 388.5267, inclusive, based on the average daily enrollment of those pupils during the quarter and excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to NRS 388.435.

(5) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to NRS 388.435, based on the average daily enrollment of those pupils during the quarter.

(6) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570, based on the average daily enrollment of those pupils during the quarter.

(7) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 1 of NRS 388A.471, subsection 1 of NRS 388A.474, subsection 1 of NRS 392.074, or subsection 1 of NRS 388B.280 or any regulations adopted pursuant to NRS 388B.060 that authorize a child who is enrolled at a public school of a school district or a private school or a homeschooled child to participate in a class at an achievement charter school, based on the average daily enrollment of pupils during the quarter and expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (1).

(b) Adding the amounts computed in paragraph (a).

3. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district based on the average daily enrollment of pupils during the quarter of the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school based on the average daily enrollment of pupils during the same quarter of the immediately preceding school year, the enrollment of pupils during the same quarter of the immediately preceding school year must be used for purposes of making the quarterly apportionments from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

4. If the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils in the school district or charter school to receive a higher apportionment pursuant to subsection 3, including, without limitation, by eliminating grades or moving into smaller facilities, the enrollment number from the current school year must be used for

purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

5. The Department shall prescribe a process for reconciling the quarterly reports submitted pursuant to subsection 1 to account for pupils who leave the school district or a public school during the school year.

6. Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.

7. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

8. Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section.

Sec. 30.55. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.1241, 387.1242 and 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. Except as otherwise provided in NRS 387.1244, the apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.163, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school ~~[,]~~ *and* all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. ~~[and all the funds deposited in education savings accounts established on behalf of children who reside in the county pursuant to NRS 353B.700 to 353B.930, inclusive.]~~ No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in NRS 387.1244, in addition to the apportionments made pursuant to this section, if a pupil is enrolled part-time in a program of distance education and part-time in a:

(a) Public school other than a charter school, an apportionment must be made to the school district in which the pupil resides. The school district in which the pupil resides shall allocate a percentage of the apportionment to the school district or charter school that provides the program of distance

education in the amount set forth in the agreement entered into pursuant to NRS 388.854.

(b) Charter school, an apportionment must be made to the charter school in which the pupil is enrolled. The charter school in which the pupil is enrolled shall allocate a percentage of the apportionment to the school district or charter school that provides the program of distance education in the amount set forth in the agreement entered into pursuant to NRS 388.858.

3. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

4. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, the State Controller may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Office of Finance and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 30.6. NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil may enroll in a program of distance education unless:

(a) Pursuant to this section or other specific statute, the pupil is not eligible for enrollment or the pupil's enrollment is otherwise prohibited;

(b) The pupil fails to satisfy the qualifications and conditions for enrollment adopted by the State Board pursuant to NRS 388.874; or

(c) The pupil fails to satisfy the requirements of the program of distance education.

2. A child who is exempt from compulsory attendance and is enrolled in a private school pursuant to chapter 394 of NRS or is being homeschooled is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether the child is otherwise eligible for enrollment pursuant to subsection 1.

3. ~~[An opt-in child who is exempt from compulsory attendance is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether the child is otherwise eligible for enrollment pursuant to subsection 1, unless the opt-in child receives only a portion of his or her instruction from a participating entity as authorized pursuant to NRS 353B.850.~~

~~4.]~~ If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to 62F.150, inclusive, and 392.251 to 392.271, inclusive.

Sec. 30.65. NRS 388A.471 is hereby amended to read as follows:

388A.471 1. Except as otherwise provided in subsection 2, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, ~~[or opt-in child,]~~ the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his or her school or homeschool ~~[or from his or her participating entity, as defined in NRS 353B.750,]~~ or participate in an extracurricular activity at the charter school if:

(a) Space for the child in the class or extracurricular activity is available;

(b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity; and

(c) The child is ~~[:~~

~~(1) A]~~ *a* homeschooled child and a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 388D.070. ~~[; or~~

~~(2) An opt-in child and a notice of intent of an opt-in child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 388D.140.]~~

2. If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to subsection 1, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

3. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection 1 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of services to the child.

4. The governing body of a charter school may, before authorizing a homeschooled child ~~[or opt-in child]~~ to participate in a class or extracurricular activity pursuant to subsection 1, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

Sec. 30.7. NRS 388B.290 is hereby amended to read as follows:

388B.290 1. During the sixth year that a school operates as an achievement charter school, the Department shall evaluate the pupil achievement and school performance of the school. The Executive Director shall provide the Department with such information and assistance as the

Department determines necessary to perform such an evaluation. If, as a result of such an evaluation, the Department determines:

(a) That the achievement charter school has made adequate improvement in pupil achievement and school performance, the governing body of the achievement charter school must decide whether to:

(1) Convert to a public school under the governance of the board of trustees of the school district in which the school is located;

(2) Seek to continue as a charter school subject to the provisions of chapter 388A of NRS by applying to the board of trustees of the school district in which the school is located, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education to sponsor the charter school pursuant to NRS 388A.220; or

(3) Remain an achievement charter school for at least 6 more years.

(b) That the achievement charter school has not made adequate improvement in pupil achievement and school performance, the Department shall direct the Executive Director to notify the parent or legal guardian of each pupil enrolled in the achievement charter school that the achievement charter school has not made adequate improvement in pupil achievement and school performance. Such notice must include, without limitation, information regarding:

(1) Public schools which the pupil may be eligible to attend, including, without limitation, charter schools, programs of distance education offered pursuant to NRS 388.820 to 388.874, inclusive, and alternative programs for the education of pupils at risk of dropping out of school pursuant to NRS 388.537;

(2) ~~[The opportunity for the parent to establish an education savings account pursuant to NRS 353B.850 and enroll the pupil in a private school, have the pupil become an opt-in child or provide for the education of the pupil in any other manner authorized by NRS 353B.900;~~

~~(3)]~~ Any other alternatives for the education of the pupil that are available in this State; and

~~[(4)]~~ *(3)* The actions that may be considered by the Department with respect to the achievement charter school and the manner in which the parent may provide input.

2. Upon deciding that the achievement charter school has not made adequate improvement in pupil achievement and school performance pursuant to paragraph (b) of subsection 1, the Department must decide whether to:

(a) Convert the achievement charter school to a public school under the governance of the board of trustees of the school district in which the school is located; or

(b) Continue to operate the school as an achievement charter school for at least 6 more years.

3. If the Department decides to continue to operate a school as an achievement charter school pursuant to subsection 2, the Executive Director must:

(a) Terminate the contract with the charter management organization, educational management organization or other person that operated the achievement charter school;

(b) Enter into a contract with a different charter management organization, educational management organization or other person to operate the achievement charter school after complying with the provisions of NRS 388B.210;

(c) Require the charter management organization, educational management organization or other person with whom the Executive Director enters into a contract to operate the achievement charter school to appoint a new governing body of the achievement charter school in the manner provided pursuant to NRS 388B.220, and must not reappoint more than 40 percent of the members of the previous governing body; and

(d) Evaluate the pupil achievement and school performance of such a school at least each 3 years of operation thereafter.

4. If an achievement charter school is converted to a public school under the governance of the board of trustees of a school district pursuant to paragraph (a) of subsection 1, the board of trustees must employ any teacher, administrator or paraprofessional who wishes to continue employment at the school and meets the requirements of chapter 391 of NRS to teach at the school. Any administrator or teacher employed at such a school who was employed by the board of trustees as a postprobationary employee before the school was converted to an achievement charter school and who wishes to continue employment at the school after it is converted back into a public school must be employed as a postprobationary employee.

5. If an achievement charter school becomes a charter school sponsored by the school district in which the charter school is located, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education pursuant to paragraph (a) of subsection 1, the school is subject to the provisions of chapter 388A of NRS and the continued operation of the charter school in the building in which the school has been operating is subject to the provisions of NRS 388A.378.

6. As used in this section, "postprobationary employee" has the meaning ascribed to it in NRS 391.650.

Sec. 30.75. NRS 388D.270 is hereby amended to read as follows:

388D.270 1. A scholarship organization must:

(a) Be exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).

(b) Not own or operate any school in this State, including, without limitation, a private school, which receives any grant money pursuant to the Nevada Educational Choice Scholarship Program.

(c) Accept donations from taxpayers and other persons and may also solicit and accept gifts and grants.

(d) Not expend more than 5 percent of the total amount of money accepted pursuant to paragraph (c) to pay its administrative expenses.

(e) Provide grants on behalf of pupils who are members of a household that has a household income which is not more than 300 percent of the federally designated level signifying poverty to allow those pupils to attend schools in this State chosen by the parents or legal guardians of those pupils, including, without limitation, private schools. The total amount of a grant provided by the scholarship organization on behalf of a pupil pursuant to this paragraph must not exceed $7,755 for Fiscal Year 2015-2016.

(f) Not limit to a single school the schools for which it provides grants.

(g) Except as otherwise provided in paragraph (e), not limit to specific pupils the grants provided pursuant to that paragraph.

2. The maximum amount of a grant provided by the scholarship organization pursuant to paragraph (e) of subsection 1 must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On May 1 of each year, the Department of Education shall determine the amount of increase required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each scholarship organization of the adjusted amounts. The Department of Education shall also post the adjusted amounts on its Internet website.

3. A grant provided on behalf of a pupil pursuant to subsection 1 must be paid directly to the school chosen by the parent or legal guardian of the pupil.

4. A scholarship organization shall provide each taxpayer and other person who makes a donation, gift or grant of money to the scholarship organization pursuant to paragraph (c) of subsection 1 with an affidavit, signed under penalty of perjury, which includes, without limitation:

(a) A statement that the scholarship organization satisfies the requirements set forth in subsection 1; and

(b) The total amount of the donation, gift or grant made to the scholarship organization.

5. Each school in which a pupil is enrolled for whom a grant is provided by a scholarship organization shall maintain a record of the academic progress of the pupil. The record must be maintained in such a manner that the information may be aggregated and reported for all such pupils if reporting is required by the regulations of the Department of Education.

6. *A scholarship organization shall not use a donation for which a taxpayer received a tax credit pursuant to NRS 363A.139 or 363B.119 to provide a grant pursuant to this section on behalf of a pupil unless the scholarship organization used a donation for which the taxpayer received a*

tax credit pursuant to NRS 363A.139 or 363B.119 to provide a grant pursuant to this section on behalf of the pupil for the immediately preceding school year or reasonably expects to be able to provide a grant pursuant to this section on behalf of the pupil in at least the same amount for each school year until the pupil graduates from high school. A scholarship organization that violates this subsection shall repay to the Department of Taxation the amount of the tax credit received by the taxpayer pursuant to NRS 363A.139 or 363B.119, as applicable.

7. The Department of Education:

(a) Shall adopt regulations prescribing the contents of and procedures for applications for grants provided pursuant to subsection 1.

(b) May adopt such other regulations as the Department determines necessary to carry out the provisions of this section.

~~[7.]~~ *8.* As used in this section, "private school" has the meaning ascribed to it in NRS 394.103.

Sec. 30.8. NRS 392.033 is hereby amended to read as follows:

392.033 1. The State Board shall adopt regulations which prescribe the courses of study required for promotion to high school, including, without limitation, English language arts, mathematics, science and social studies. The regulations may include the credits to be earned in each course.

2. Except as otherwise provided in subsection 4, the board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits required for promotion. The board of trustees of the school district in which the pupil is enrolled may provide programs of remedial study to complete the courses of study required for promotion to high school.

3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this State or from a school outside of this State.

4. The board of trustees of each school district shall adopt a policy that allows a pupil who has not completed the courses of study or credits required for promotion to high school to be placed on academic probation and to enroll in high school. A pupil who is on academic probation pursuant to this subsection shall complete appropriate remediation in the subject areas that the pupil failed to pass. The policy must include the criteria for eligibility of a pupil to be placed on academic probation. A parent or guardian may elect not to place his or her child on academic probation but to remain in grade 8.

5. A homeschooled child ~~[or opt-in child]~~ who enrolls in a public high school shall, upon initial enrollment:

(a) Provide documentation sufficient to prove that the child has successfully completed the courses of study required for promotion to high school through an accredited program of homeschool study recognized by the board of trustees of the school district. ~~[or from a participating entity, as applicable;]~~

(b) Demonstrate proficiency in the courses of study required for promotion to high school through an examination prescribed by the board of trustees of the school district; or

(c) Provide other proof satisfactory to the board of trustees of the school district demonstrating competency in the courses of study required for promotion to high school.

~~[6. As used in this section, "participating entity" has the meaning ascribed to it in NRS 353B.750.]~~

Sec. 30.85. NRS 392.070 is hereby amended to read as follows:

392.070 Attendance of a child required by the provisions of NRS 392.040 must be excused when:

1. The child is enrolled in a private school pursuant to chapter 394 of NRS; *or*

2. A parent of the child chooses to provide education to the child and files a notice of intent to homeschool the child with the superintendent of schools of the school district in which the child resides in accordance with NRS 388D.020. ~~[; or~~

~~3. The child is an opt-in child and notice of such has been provided to the school district in which the child resides or the charter school in which the child was previously enrolled, as applicable, in accordance with NRS 388D.110.]~~

Sec. 30.9. NRS 392.072 is hereby amended to read as follows:

392.072 1. The board of trustees of each school district shall provide programs of special education and related services for homeschooled children. The programs of special education and related services required by this section must be made available:

(a) Only if a child would otherwise be eligible for participation in programs of special education and related services pursuant to NRS 388.417 to 388.469, inclusive, or NRS 388.5251 to 388.5267, inclusive;

(b) In the same manner that the board of trustees provides, as required by 20 U.S.C. § 1412, for the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians; and

(c) In accordance with the same requirements set forth in 20 U.S.C. § 1412 which relate to the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians.

2. The programs of special education and related services required by subsection 1 may be offered at a public school or another location that is appropriate.

3. The board of trustees of a school district may, before providing programs of special education and related services to a homeschooled child ~~[or opt-in child]~~ pursuant to subsection 1, require proof of the identity of the child,

including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

4. The Department shall adopt such regulations as are necessary for the boards of trustees of school districts to provide the programs of special education and related services required by subsection 1.

5. As used in this section, "related services" has the meaning ascribed to it in 20 U.S.C. § 1401.

Sec. 30.93. NRS 392.074 is hereby amended to read as follows:

392.074 1. Except as otherwise provided in subsection 1 of NRS 392.072 for programs of special education and related services, upon the request of a parent or legal guardian of a child who is enrolled in a private school or a parent or legal guardian of a homeschooled child, ~~[or opt-in child,]~~ the board of trustees of the school district in which the child resides shall authorize the child to participate in any classes and extracurricular activities, excluding sports, at a public school within the school district if:

(a) Space for the child in the class or extracurricular activity is available;

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the child is qualified to participate in the class or extracurricular activity; and

(c) If the child is ~~[:~~

~~(1) A]~~ *a* homeschooled child, a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district for the current school year pursuant to NRS 388D.070. ~~[; or~~

~~(2) An opt-in child, a notice of intent of an opt-in child to participate in programs and activities is filed for the child with the school district for the current school year pursuant to NRS 388D.140.]~~

➥ If the board of trustees of a school district authorizes a child to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the child to attend the class or activity. A homeschooled child ~~[or opt-in child]~~ must be allowed to participate in interscholastic activities and events governed by the Nevada Interscholastic Activities Association pursuant to chapter 385B of NRS and interscholastic activities and events, including sports, pursuant to subsection 3.

2. The board of trustees of a school district may revoke its approval for a pupil to participate in a class or extracurricular activity at a public school pursuant to subsection 1 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees. If the board of trustees revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

3. In addition to those interscholastic activities and events governed by the Nevada Interscholastic Activities Association pursuant to chapter 385B of NRS, a homeschooled child ~~[or opt-in child]~~ must be allowed to participate in

interscholastic activities and events, including sports, if a notice of intent of a homeschooled child ~~[or opt-in child]~~ to participate in programs and activities is filed for the child with the school district for the current school year pursuant to NRS 388D.070_. ~~[or 388D.140, as applicable.]~~ A homeschooled child ~~[or opt-in child]~~ who participates in interscholastic activities and events at a public school pursuant to this subsection must participate within the school district of the child's residence through the public school which the child is otherwise zoned to attend. Any rules or regulations that apply to pupils enrolled in public schools who participate in interscholastic activities and events, including sports, apply in the same manner to homeschooled children ~~[and opt-in children]~~ who participate in interscholastic activities and events, including, without limitation, provisions governing:

(a) Eligibility and qualifications for participation;
(b) Fees for participation;
(c) Insurance;
(d) Transportation;
(e) Requirements of physical examination;
(f) Responsibilities of participants;
(g) Schedules of events;
(h) Safety and welfare of participants;
(i) Eligibility for awards, trophies and medals;
(j) Conduct of behavior and performance of participants; and
(k) Disciplinary procedures.

4. If a homeschooled child ~~[or opt-in child]~~ participates in interscholastic activities and events pursuant to subsection 3:

(a) No challenge may be brought by the Association, a school district, a public school or a private school, a parent or guardian of a pupil enrolled in a public school or a private school, a pupil enrolled in a public school or a private school, or any other entity or person claiming that an interscholastic activity or event is invalid because the homeschooled child ~~[or opt-in child]~~ is allowed to participate.

(b) Neither the school district nor a public school may prescribe any regulations, rules, policies, procedures or requirements governing the eligibility or participation of the homeschooled child ~~[or opt-in child]~~ that are more restrictive than the provisions governing the eligibility and participation of pupils enrolled in public schools.

5. The board of trustees of a school district:

(a) May, before authorizing a homeschooled child ~~[or opt-in child]~~ to participate in a class or extracurricular activity, excluding sports, pursuant to subsection 1, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

(b) Shall, before allowing a homeschooled child ~~[or opt-in child]~~ to participate in interscholastic activities and events governed by the Nevada

Interscholastic Activities Association pursuant to chapter 385B of NRS and interscholastic activities and events pursuant to subsection 3, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

Sec. 30.95. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although the pupil may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS ~~[, become an opt-in child]~~ or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS ~~[, become an opt-in child]~~ or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil may be:

(a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or

(b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.

4. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS [, become an opt-in child] or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

5. The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the suspension or expulsion requirement, as applicable, of subsection 1, 2 or 3 if such modification is set forth in writing.

6. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

7. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

8. A pupil who is participating in a program of special education pursuant to NRS 388.419, other than a pupil who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

9. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

10. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 388A.453 or 388A.456. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 31. 1. There is hereby appropriated from the State General Fund to the School Safety Account the ~~[sum of $17,500,000 for the Fiscal Year 2020-2021.]~~ following sums:

For the Fiscal Year 2019-2020 ..... $8,340,845

For the Fiscal Year 2020-2021 ..... $8,404,930

2. The Department of Education shall transfer from the appropriation made by subsection 1 to provide grants utilizing a competitive grant process based on demonstrated need, within the limits of legislative appropriation, to school districts ~~[in counties whose population is less than 100,000]~~ and to charter schools for school safety facility improvements.

3. Any remaining balance of the appropriation made by subsection 1 ~~[,]~~ for Fiscal Year 2019-2020 must be added to the money appropriated for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.

Sec. 32. ~~[1. There is hereby appropriated from the State General Fund to the School Safety Account the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $145,000~~

~~For the Fiscal Year 2020-2021 ..... $145,000~~

~~2. The money appropriated by subsection 1 must be used by the Department of Education to provide threat assessments and trainings and to provide mobile crisis response team services in counties whose population is less than 100,000.~~

~~3. Any remaining balance of the money appropriated by subsection 1 for Fiscal Year 2019-2020 and Fiscal Year 2020-2021 must not be committed for expenditure after June 30 of each fiscal year and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, for each fiscal year respectively.]~~ (Deleted by amendment.)

Sec. 33. ~~[1. There is hereby appropriated from the State General Fund to the School Safety Account the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $2,000,000~~
~~For the Fiscal Year 2020-2021 ..... $2,700,000~~

~~2. The money appropriated by subsection 1 must be used by the Department of Education to support the implementation of a program of social, emotional and academic development throughout the public schools in this State, including, without limitation, the development and implementation of a strategic plan to carry out full implementation of such programs within 5 years.~~

~~3. Any remaining balance of the transfer made by subsection 1 for Fiscal Year 2019-2020 must be added to the money transferred for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the transfer made by subsection 1 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.]~~ (Deleted by amendment.)

Sec. 34. ~~[1. There is hereby appropriated from the State General Fund to the Other State Education Programs Account in the State General Fund the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $2,000,000~~
~~For the Fiscal Year 2020-2021 ..... $2,000,000~~

~~2. The Department of Education shall use the money appropriated by subsection 1 for competitive state grants to school districts and charter schools for early childhood education programs.~~

~~3. Any remaining balance of the sums transferred by subsection 1 for Fiscal Year 2019-2020 and Fiscal Year 2020-2021 must not be committed for expenditure after June 30 of each fiscal year and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, for each fiscal year respectively.]~~ (Deleted by amendment.)

Sec. 35. ~~[1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $15,875,000~~
~~For the Fiscal Year 2020-2021 ..... $15,875,000~~

~~2. The Department of Education shall use the amount determined in subsection 1 to carry out the provisions of section 1 of Senate Bill No. 467 of this session by providing supplemental grants of money to the State Public Charter School Authority and the school districts to include additional schools within the program created by section 1 of Senate Bill No. 467 of this session and supplement the services provided at such schools. The board of trustees of a school district and the State Public Charter School Authority may submit an application to the Department on a form prescribed by the Department.~~

~~3. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2019-2020 must be added to the money transferred for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining~~

~~balance of the transfers made pursuant to subsection 2 for Fiscal Year 2020-2021, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.]~~ (Deleted by amendment.)

Sec. 36. ~~[1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 the following sums:~~

~~For the Fiscal Year 2019-2020 ..... $15,875,000~~

~~For the Fiscal Year 2020-2021 ..... $15,875,000~~

~~2. The Department of Education shall use the amount determined in subsection 1 to carry out the provisions of section 2 of Senate Bill No. 467 of this session by providing supplemental grants of money to the State Public Charter School Authority and the school districts to include additional schools within the program created by section 2 of Senate Bill No. 467 of this session and supplement the services provided at such schools. The board of trustees of a school district and the State Public Charter School Authority may submit an application to the Department on a form prescribed by the Department.~~

~~3. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2019-2020 must be added to the money transferred for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the transfers made pursuant to subsection 2 for Fiscal Year 2020-2021, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.]~~ (Deleted by amendment.)

Sec. 36.5. 1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 the following sums:

For the Fiscal Year 2019-2020 ..... $35,081,155

For the Fiscal Year 2020-2021 ..... $36,848,070

2. The Department of Education shall transfer the sums of money identified in this subsection from the Account for Programs for Innovation and the Prevention of Remediation to school districts for block grants for the purpose of providing supplemental support to the operation of the school districts. The amount to be transferred for the fiscal year shown is:

	2019-2020	2020-2021
Carson City School District	$631,574	$663,384
Churchill County School District	255,461	268,328
Clark County School District	25,892,878	27,197,012
Douglas County School District	458,566	481,662
Elko County School District	772,986	811,919
Esmeralda County School District	5,551	5,831
Eureka County School District	21,379	22,456

Humboldt County School District	273,189	286,949
Lander County School District	78,860	82,832
Lincoln County School District	76,533	80,388
Lyon County School District	681,887	716,231
Mineral County School District	42,868	45,027
Nye County School District	410,922	431,619
Pershing County School District	53,244	55,925
Storey County School District	34,229	35,953
Washoe County School District	5,294,592	5,561,262
White Pine County School District	96,435	101,292

3. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2019-2020 must be added to the money transferred for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must be used for the purpose identified in subsection 2 and does not revert to the State General Fund.

Sec. 37. 1. The Legislature hereby finds and declares that the purpose and intent of this act is to maintain and continue the existing legally operative rates of the taxes imposed pursuant to NRS 363A.130 and 363B.110, at 2 percent and 1.475 percent, respectively, without any changes or reductions in the rates of those taxes pursuant to NRS 360.203, as that section existed before the effective date of this act, for any fiscal year beginning on or after July 1, 2015.

2. Notwithstanding any other provisions of law, in order to accomplish and carry out the purpose and intent of this act:

(a) Any determinations or decisions made or actions taken before the effective date of this section by the Department of Taxation pursuant to NRS 360.203, as that section existed before the effective date of this section:

(1) Are superseded, abrogated and nullified by the provisions of this act; and

(2) Have no legal force and effect; and

(b) The Department shall not, under any circumstances, apply or use those determinations, decisions or actions as a basis, cause or reason to reduce the rates of the taxes imposed pursuant to NRS 363A.130 and 363B.110 for any fiscal year beginning on or after July 1, 2015.

Sec. 38. ~~[Notwithstanding any other provisions of law, the Legislature hereby finds and declares that:~~

~~1. The provisions of this act are not severable; and~~

~~2. If any provisions of this act, or any applications thereof to any persons, things or circumstances:~~

~~(a) Are declared invalid by a court of competent jurisdiction in any judicial proceedings; and~~

~~(b) Any available appeals, petitions or other methods of review concerning the judicial proceedings have been exhausted under the rules governing the judicial proceedings,~~

~~→ such a judicial declaration of invalidity shall be deemed to invalidate the other provisions of this act, whether or not the other provisions of this act can be saved and given effect without the provisions or applications declared invalid by the court, and the invalidation of the other provisions of this act pursuant to this section becomes effective on the date on which the judicial declaration of invalidity becomes final and is no longer subject to any available appeals, petitions or other methods of review under the rules governing the judicial proceedings.]~~ (Deleted by amendment.)

Sec. 39. NRS 360.203 is hereby repealed.

Sec. 39.5. NRS 219A.050, 353B.700, 353B.710, 353B.720, 353B.730, 353B.740, 353B.750, 353B.760, 353B.770, 353B.820, 353B.850, 353B.860, 353B.870, 353B.880, 353B.900, 353B.910, 353B.920, 353B.930, 388D.100, 388D.110, 388D.120, 388D.130 and 388D.140 are hereby repealed.

Sec. 40. 1. This section ~~[,]~~ and sections ~~[1 to 28, inclusive,]~~ 2, 3, 37 ~~[, 38]~~ and 39 of this act become effective upon passage and approval.

2. Sections ~~[29 to 36, inclusive,]~~ 2.5, 3.5, 30.1 to 31, inclusive, 36.5 and 39.5 of this act become effective on July 1, 2019.

~~[3. If the provisions of this act are invalidated as provided in section 38 of this act, this act expires by limitation on the date on which the invalidation of the provisions of this act becomes effective as provided in section 38 of this act.]~~

~~[TEXT]~~ LEADLINES OF REPEALED ~~[SECTION]~~ SECTIONS

~~[360.203 Reduction of rate of certain taxes on business under certain circumstances; duties of Department.~~

~~1. Except as otherwise provided in subsection 4, on or before September 30 of each even-numbered year, the Department shall determine the combined revenue from the taxes imposed by chapters 363A and 363B of NRS and the commerce tax imposed by chapter 363C of NRS for the preceding fiscal year.~~

~~2. Except as otherwise provided in subsection 4, if the combined revenue determined pursuant to subsection 1 exceeds by more than 4 percent the amount of the combined anticipated revenue from those taxes for that fiscal year, as projected by the Economic Forum for that fiscal year pursuant to paragraph (c) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year, the Department shall determine the rate at which the taxes imposed pursuant to NRS 363A.130 and 363B.110, in combination with the revenue from the commerce tax imposed by chapter 363C of NRS, would have generated a combined revenue of 4 percent more than the amount anticipated. In making the determination required by this subsection, the Department shall reduce the rate of the taxes imposed pursuant to NRS 363A.130 and 363B.110~~

~~in the proportion that the actual amount collected from each tax for the preceding fiscal year bears to the total combined amount collected from both taxes for the preceding fiscal year.~~

~~3. Except as otherwise provided in subsection 4, effective on July 1 of the odd-numbered year immediately following the year in which the Department made the determination described in subsection 1, the rates of the taxes imposed pursuant to NRS 363A.130 and 363B.110 that are determined pursuant to subsection 2, rounded to the nearest one-thousandth of a percent, must thereafter be the rate of those taxes, unless further adjusted in a subsequent fiscal year.~~

~~4. If, pursuant to subsection 3, the rate of the tax imposed pursuant to NRS 363B.110 is 1.17 percent:~~

~~(a) The Department is no longer required to make the determinations required by subsections 1 and 2; and~~

~~(b) The rate of the taxes imposed pursuant to NRS 363A.130 and 363B.110 must not be further adjusted pursuant to subsection 3.]~~

219A.050 "Opt-in child" defined.

353B.700 Definitions.

353B.710 "Education savings account" defined.

353B.720 "Eligible institution" defined.

353B.730 "Opt-in child" defined.

353B.740 "Parent" defined.

353B.750 "Participating entity" defined.

353B.760 "Program of distance education" defined.

353B.770 "Resident school district" defined.

353B.820 Regulations.

353B.850 Establishment of account; requirements; termination and renewal of agreement to establish account; prohibition against establishing account for child attending school outside this State or homeschooled child.

353B.860 Grant of money required to be deposited in account; amount of grant; deduction of administrative costs; money remaining in account carries forward if written agreement renewed.

353B.870 Limitations on use of money deposited in account; refunds and rebates.

353B.880 Management of account; annual audits; State Treasurer authorized to take action upon determination of substantial misuse of money in account.

353B.900 Participating entity: Application; criteria; requirements; authority of State Treasurer to terminate status as participating entity.

353B.910 Participating entity required to ensure children take certain examinations; aggregation of examination results; annual survey.

353B.920 Annual list of participating entities; resident school district required to provide educational records to participating entity.

353B.930 Autonomy of participating entity not limited; actions of participating entity not actions of State Government.

360.203 Reduction of rate of certain taxes on business under certain circumstances; duties of Department.

388D.100 "Parent" defined.

388D.110 Notice that child is opt-in child; acknowledgment of notification.

388D.120 Release of child's records.

388D.130 Admittance or entrance to public school; participation in examinations.

388D.140 Notice of intent to participate in programs and activities.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senators Cannizzaro, Settelmeyer, Ratti, Hardy, Hansen, Spearman and Pickard.

SENATOR CANNIZZARO:

Amendment No. 1121 includes some of the provisions I had previously discussed in relation to Senate Bill No. 551. This amendment includes the deletion of the language relating to the Clark County Sales and Use Tax, or what is commonly known as the "More Cops Tax." It includes the buy down of the Modified Business Tax. It takes that money, and allocations from it of approximately $100 million in funds to the State, and distributes approximately $16.7 million for school safety and approximately $72 million for school districts through the Account for Programs for Innovation and the Prevention of Remediation for block grants and supplemental support for the school districts. It adds $9.95 million to Opportunity Scholarships to allow for individuals who are currently on those scholarships to remain in the program. Additionally, Amendment No. 1121 to Senate Bill No. 551 removes the requirement for a two-thirds vote and deletes language relating to it and eliminates the Education Savings Account Program.

SENATOR SETTELMEYER:

I appreciate the concept of the Amendment No. 1121. It proves exactly what I said before; the concept that the Constitution is to you, something you can just pick and choose whether to obey it or not. This is something the taxpayers put upon us as a restraint, and you have exactly proven our point. You have also decided, now, to take away opportunities from children by forever getting rid of the Educational Savings Account Program in the State of Nevada. If I am wrong, please correct me.

SENATOR RATTI:

This amendment does some very simple things. It puts money into school safety. This Body has discussed school safety, and there were interim conversations about school safety. There have been terrible and tragic events, and we all know we want to make sure our schools safe. This gets a sustainable, on-going source of revenue into our schools, with more money and a better education for all children in our public schools. It ensures we address something we heard a lot about this Session, which is to make sure those children who have had the Opportunity Scholarship can continue their education in that space, and that no low-income child will lose that scholarship. All we ask to do that is to continue an existing revenue stream so no corporation gets a tax cut, and we can sustainably, and in an ongoing way, fund our schools. It is as simple as that. I stand here proudly to say we are going to put as much money as possible into public schools and invest in a public school education that produces people like my colleague, Senator Cannizzaro, who will grow up, become lawyers and serve their State. We need to do this; it is the right thing to do. I stand in support.

SENATOR HARDY:
My offer still stands to get in a small room and work things out. It is still possible to have an ongoing way to fund education without breaking the two-thirds Constitutional amendment.

SENATOR HANSEN:
Everyone in this room supports public education, but this boils down to the idea we are going to violate the Constitution. The original amendment, Amendment No.1120, showed we were supposed to have a two-thirds vote. The people of Nevada should be respected. We have made repeated offers to raise other forms of taxes, and they have been rejected. Now, here we are, with less than 12 hours left in this Session, having a Floor debate over something that should have been discussed weeks or even months ago. It is disingenuous on the part of leadership to act like our party has been against public education when we have bent over backwards to try and work to improve public education and give it the necessary finances. There is a substantial sum of money left.

I urge my colleagues to vote no on this amendment to protect the rights of the people in the Gibbon's Tax Restraint Initiative. This was overwhelming passed to ensure any tax increases are done with a two-thirds majority. In 2009, when this State was in a fiscal crisis, the people in this room made a series of sunsetted taxes to get us through those troubled times. We are in flush times now. This budget is at least 12 percent above the last budget passed in 2017. It is not like we are being miserly and cutting back on public education or any other necessary services we provide for the State of Nevada. We should allow these things to sunset as was intended when they initially passed. We should act fiscally appropriate by having a reasonable discussion in this room about other forms of taxation rather than relying on sunsetted taxes that were passed intentionally to be temporary in nature.

SENATOR SPEARMAN:
I rise in strong support of this measure, as I did for the last one. My colleague from District 14 was in the Assembly in 2015, but some of us were here. I was on the Committee on Revenue and Development and listened to the Governor's speech as he introduced his new tax plan. One of the things he said was that this was not the all to end all. He said we would have to keep going and make sure to fund education. Many of my colleagues rose to support voting for that tax and said amen to what he said. It is not true that we are taking away Opportunity Scholarships; it is not a correct representation of what is in this bill. We are talking about a continuous funding stream. There is no way to verify that we now have $100 million and that should be taken into question. Even if we have a surplus, we are still not funding education the right way; we are not funding mental health. There are a lot of things we are not doing.

I have heard several times in these debates that this is a last-minute thing and there is not enough time. There are colleagues of mine who were here in 2015 and know that when we came back in to session at 11:50 p.m., there was a document on our desks we had not read. Do not try to teach me about lack of time. This is far more time than we had in 2015.

We are talking about funding education. We are not talking about this, that or the other. We are talking about funding education. Anyone who is prudent knows you cannot use a onetime source of income to fund something that is continuous. I reject the notion that this is last minute because I have a lot of colleagues who were here in 2015 at ten minutes before midnight, and you voted for that legislation. You rammed it right down. Do not try to teach me that this is last minute. Do not insult my intelligence.

SENATOR PICKARD:
Fortunately, what we do here is recorded. I ask the 13 people I was speaking to before to look into the chronology of what has happened here today and in the last few days. Look at who came out with a transparent proposal and who did not. There have been denials of the numbers, and yet the numbers are coming from fiscal staff not from us. The staff put together the numbers and has repeatedly demonstrated there are dollars available to be spent on education, yet over the last 24 hours, these have been diverted to other priorities. It is not that these are not worthy; but if I were to choose between the Reno Rodeo or funding education, as worthy as both are, I would pick education.

There are examples in both Houses of what I was talking about before. At the end of the day, look to what happened. Look at who has been asking for education and who has been asking for other things. Look at how these bills were dropped and how the proposals were made. Look to things like what has been put into the bill to try and force someone's hand. If this is the gamesmanship and the kind of dealings you want, vote for it. If this kind of partisanship and division is something you feel should not remain, vote against it.

Senators Scheible, Woodhouse and Ohrenschall moved the previous question.

Motion carried.

The question being the adoption of Amendment No. 1121 to Senate Bill No. 551.

Senators Settelmeyer, Pickard and Hammond requested a roll call vote on Senator Cannizzaro's motion.

Roll call on Senator Cannizzaro's motion:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Amendment adopted.

Bill read third time.

Remarks by Senators Hansen and Hammond.

SENATOR HANSEN:

I want to be on the record as stating that in one of the most critical bills of the Session, with just 11 hours to go, the Majority party has twice deliberately shut down our ability to discuss this in front of the entire State of Nevada.

SENATOR HAMMOND:

Some people think removal of the Educational Savings Account Program will get a rise out of some people on this Floor; it will not. This will go through, and we know where the bill will be headed in the near future, so I am not too worried about that.

There were comments made earlier by leadership regarding tough decisions. We have all made tough decisions. If we have been in office for any number of years, we have made a number of tough decisions, not just this year. In 2015, when we talked about funding education, we knew why we needed money. We knew what programs we were talking about, what the programs were designed to achieve, and we had a decision to make. When that tax came to us from the Assembly, the Modified Business Tax provision had been added, the buy down. Many of us liked it because what we were saying was, as the Commerce Tax increased and delivered as promised, spreading out the tax burden, small businesses would receive a break. This would allow them to hire more individuals and would not be an impediment to hiring people. I liked that.

One of the things our constituents and people throughout the United States have in common is they do not trust us. Too often, we say one thing, then do another. We made a deal in 2015 and voted on it; we said something would happen. We can debate and say we have money for this. We did not know until today what the money for this extension was for, and we repeatedly asked about its use. Never did we get an answer. Do not tell me you need money to need money. That is exactly why people do not trust government. They think we take money from them for whatever reasons without letting them know.

In 2015, we were clear about why we needed the money. We made a tough decision, and I am going to stick to the commitment I made in 2015. I want something to go away so the people can see we do walk up to those commitments. For that reason, I am opposed to this bill now, an hour from now and 11 hours from now.

Roll call on Senate Bill No. 551.

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Senate Bill No. 551 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 557.

Bill read third time.

The following amendment was proposed by Senators Pickard and Seevers Gansert:

Amendment No. 1100.

SUMMARY—Revises provisions relating to campaign practices. (BDR 24-1272)

AN ACT relating to campaign practices; defining "personal use" of campaign contributions; prohibiting a candidate or public officer from paying himself or herself a salary with campaign contributions; requiring certain organizations that make monetary contributions to candidates to file a report of such contributions with the Secretary of State; prohibiting a person from making a monetary contribution to a candidate in the form of cash; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it unlawful for a candidate to spend money received as a campaign contribution for the candidate's personal use. Existing law also authorizes a candidate who is elected to a public office to use unspent contributions to pay expenses related to the public office. (NRS 294A.160) Section 6 of this bill clarifies that it is unlawful for a public officer to use unspent contributions for the public officer's personal use. Section 3 of this bill defines "personal use" as the use of contributions to fulfill a commitment, obligation or expense of: (1) a candidate that would exist irrespective of his or her campaign; or (2) a public officer that would exist irrespective of the duties of his or her public office.

Section 6 makes it unlawful for a candidate or public officer to pay himself or herself a salary with campaign contributions.

Existing law requires candidates and certain other persons, committees and political organizations to file with the Secretary of State reports disclosing certain contributions received and campaign expenses and expenditures made. (NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220) Section 4 of this bill requires an organization that makes contributions to candidates during a calendar ~~[year,]~~ quarter, the total of which to all candidates is ~~[$10,000]~~ $1,000 or more, to file a report of those contributions with the Secretary of State. Section 2 of this bill defines "organization." Section 8 of this bill requires the Secretary of State to include these contributions in the compiled information made publicly available by the

SENATE IN SESSION

At 12:02 p.m.
President Marshall presiding.
Quorum present.

A Committee from the Assembly, consisting of Assemblymen Carlton, Monroe-Moreno and Ellison appeared before the bar of the Senate and announced that the Assembly is ready to adjourn *sine die*.

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

Senate in recess at 12:03 a.m.

SENATE IN SESSION

At 12:14 a.m.
President Marshall presiding.
Quorum present.

Senator Woodhouse reported that her Committee has informed the Assembly that the Senate is ready to adjourn *sine die*.

Senator Parks reported that his Committee has informed the Governor that the Senate is ready to adjourn *sine die*.

Majority Leader Cannizzaro moved that the 80th Session of the Senate of the Legislature of the State of Nevada adjourn *sine die*.
Motion carried.

Senate adjourned at 12:15 a.m.

Approved: KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate

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Attorneys for Defendants State of Nevada ex rel. Senate Majority Leader Nicole Cannizzaro and Secretary of the Senate Claire Clift and Defendant-Intervenor Nevada Legislature

FIRST JUDICIAL DISTRICT COURT OF NEVADA
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.

Case No. 19 OC 00127 1B

Dept. No. I

DEFENDANTS STATE OF NEVADA EX REL. SENATE MAJORITY LEADER NICOLE CANNIZZARO AND SECRETARY OF THE SENATE CLAIRE CLIFT'S AND DEFENDANT-INTERVENOR NEVADA LEGISLATURE'S OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND COUNTER-MOTION FOR SUMMARY JUDGMENT

Hearing Date: September 21, 2020
Hearing Time: 1:30 p.m.

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,

and

THE LEGISLATURE OF THE STATE OF NEVADA,

Defendant-Intervenor.

DEFENDANTS STATE OF NEVADA EX REL. SENATE MAJORITY LEADER NICOLE CANNIZZARO AND SECRETARY OF THE SENATE CLAIRE CLIFT'S AND DEFENDANT-INTERVENOR NEVADA LEGISLATURE'S OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND COUNTER-MOTION FOR SUMMARY JUDGMENT

TABLE OF CONTENTS

OPPOSITION AND COUNTER-MOTION

Defendants State of Nevada ex rel. Senate Majority Leader Nicole Cannizzaro ("Senator Cannizzaro") and Secretary of the Senate Claire Clift ("Secretary Clift"), and Defendant-Intervenor Nevada Legislature (collectively "Legislative Defendants"), by and through their counsel the Legal Division of the Legislative Counsel Bureau ("LCB Legal") under NRS 218F.720, hereby submit their Opposition to Plaintiffs' Motion for Summary Judgment and their Counter-Motion for Summary Judgment. This Opposition and Counter-Motion are made under NRCP 56 and FJDCR 3.7 and are based upon the attached Memorandum of Points and Authorities, all pleadings, documents and exhibits on file in this case and any oral arguments this Court may allow at the hearing set for September 21, 2020 at 1:30 p.m.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Statement of the issues.

1. Whether Defendants Senator Cannizzaro and Secretary Clift are entitled to judgment as a matter of law because they are not necessary and proper party-defendants to this litigation as a matter of law given that: (1) they do not have any connection with enforcement of the challenged provisions of SB 542 and SB 551; and (2) they are entitled to absolute legislative immunity as a matter of law.

2. Whether all Defendants are entitled to judgment as a matter of law because: (1) based on the Legislative Counsel's legal opinion interpreting the two-thirds requirement, the Legislature could reasonably conclude that SB 542 and SB 551 were not subject to the two-thirds requirement; and (2) the Legislature is entitled to deference in its counseled selection of this interpretation.

3. Whether, even if the challenged provisions of SB 551 are unconstitutional because they were enacted in violation of the two-thirds requirement, the remaining provisions of SB 551 are severable and must be upheld under the severance doctrine.

II. Statement of the case and material facts.

A. Parties and claims.

Under Article 4, Section 18(1) of the Nevada Constitution, 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 ("two-thirds requirement") in Article 4, Section 18(2), which provides:

> [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).

In the First Amended Complaint, Plaintiffs claim that Senate Bill No. 542 (SB 542) and Senate Bill No. 551 (SB 551) of the 2019 legislative session were subject to the two-thirds requirement because each bill allegedly included provisions which created, generated or increased public revenue or made changes in the computation bases for taxes, fees, assessments or rates. (*First Am. Compl. ¶¶ 36-54.*) Based on their claims, Plaintiffs seek a declaration that SB 542 and SB 551 are unconstitutional because the Senate passed each bill by a majority of all the members elected to the Senate, instead of a two-thirds majority of all the members elected to the Senate. (*First Am. Compl. ¶ 78.*) Plaintiffs also seek an injunction against enforcement of each bill. (*First Am. Compl. ¶ 81.*)

Plaintiffs consist of: (1) eight members of the Senate ("Plaintiff Senators") who voted against SB 542 and SB 551 during the 2019 legislative session; and (2) several private businesses, associations and other entities that pay—or whose members pay—certain fees and taxes associated with SB 542 and SB 551 ("Plaintiff Businesses"). (*First Am. Compl. ¶¶ 1-13.*) Plaintiffs named several state officers and agencies of the executive branch and legislative branch as defendants in their official capacities. (*First Am. Compl. ¶¶ 16-21.*)

As named in the First Amended Complaint, the executive branch defendants are: (1) the Honorable Kate Marshall, in her official capacity as Lieutenant Governor of the State of Nevada and President of the Senate; (2) the Honorable Steve Sisolak, in his official capacity as Governor of the State of Nevada; (3) the Nevada Department of Taxation; and (4) the Nevada Department of Motor Vehicles (collectively "Executive Defendants"). (*First Am. Compl. ¶¶ 17, 19, 20, 21.*) The Department of Taxation is empowered by state law with statewide administrative functions under the challenged provisions of SB 551. 2019 Nev. Stat., ch. 537, §§ 2, 3, 37, 39, at 3273, 3275, 3294. The Department of Motor Vehicles is empowered by state law with statewide administrative functions under the challenged provisions of SB 542. 2019 Nev. Stat., ch. 400, § 1, at 2501-02. The Executive Defendants are represented in their official capacities by the Office of the Attorney General.

As named in the First Amended Complaint, the legislative branch defendants are: (1) the Honorable Nicole Cannizzaro, in her official capacity as Senate Majority Leader; and (2) Claire Clift, in her official capacity as the Secretary of the Senate. (*First Am. Compl. ¶¶ 16, 18.*) Senator Cannizzaro and Secretary Clift are represented in their official capacities by LCB Legal under NRS 218F.720.[1]

On December 19, 2019, this Court granted the Legislature's Motion to Intervene as a Defendant-Intervenor. The Legislature is represented in its official capacity by LCB Legal under NRS 218F.720. The Legislature sought intervention to defend the constitutionality of SB 542 and

[1] On December 19, 2019, this Court granted Plaintiff Senators' Motion to Disqualify LCB Legal as counsel for Senator Cannizzaro and Secretary Clift. On January 10, 2020, the Nevada Supreme Court stayed the district court proceedings while LCB Legal sought mandamus review of the disqualification order. On June 26, 2020, the Nevada Supreme Court issued an opinion and writ of mandamus overturning the disqualification order and lifting the stay. State ex rel. Cannizzaro v. First Jud. Dist. Ct., 136 Nev. Adv. Op. 34, 466 P.3d 529, 534 (2020). On July 7, 2020, LCB Legal served this Court with the opinion and writ of mandamus, and on July 9, 2020, this Court vacated the disqualification order.

SB 551 and the Legislature's reasonable interpretation of the two-thirds requirement, especially because "[i]n choosing this interpretation, the Legislature acted on Legislative Counsel's opinion that this is a reasonable construction of the provision . . . and the Legislature is entitled to deference in its counseled selection of this interpretation." Nev. Mining Ass'n v. Erdoes, 117 Nev. 531, 540 (2001).

B. In passing SB 542 and SB 551, the Legislature acted on the Legislative Counsel's legal opinion interpreting the two-thirds requirement.

During the 2019 legislative session, members of the Majority and Minority Leadership in both Houses made requests under NRS 218F.710(2) for the Legislative Counsel to give a legal opinion concerning the applicability of the two-thirds requirement to potential legislation.[2] On May 8, 2019, the Legislative Counsel provided the requested legal opinion. (*Legis. Defs.' Ex. 1.*) In the legal opinion, the Legislative Counsel was asked whether the two-thirds 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. (*Legis. Defs.' Ex. 1.*)

In answering that legal question, the Legislative Counsel stated that in the absence of any controlling Nevada case law, the legal question must be addressed 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 requirement when it was considered by the Legislature in 1993 and presented to the voters in 1994 and 1996; and

[2] At the time, NRS 218F.710(2) provided: "Upon the request of any member or committee of the Legislature or the Legislative Commission, the Legislative Counsel shall give an opinion in writing upon any question of law, including existing law and suggested, proposed and pending legislation which has become a matter of public record." During the 32nd Special Session, the Legislature amended NRS 218F.710(2), but those amendments did not change the authority of the Legislative Counsel to give an opinion in writing upon any question of law. Assembly Bill No. 2, 2020 Nev. Stat., 32nd Spec. Sess., ch. 2, § 22 (effective Aug. 2, 2020).

(3) considering case law interpreting similar constitutional provisions from other jurisdictions for guidance in this area of the law. (*Legis. Defs.' Ex. 1.*) After discussing and analyzing these authorities, the Legislative Counsel provided the following interpretation of the two-thirds requirement:

> 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.

(*Legis. Defs.' Ex. 1.*)

After being provided with the Legislative Counsel's opinion interpreting the two-thirds requirement, the Legislature passed SB 542 and SB 551 by a majority of all the members elected to each House under Article 4, Section 18(1). Senate Daily Journal, 80th Sess., at 9 (Nev. May 27, 2019); Assembly Daily Journal, 80th Sess., at 6-7 (Nev. May 31, 2019); Senate Daily Journal, 80th Sess., at 98-99 (Nev. June 3, 2019); Assembly Daily Journal, 80th Sess., at 428-29 (Nev. June 3, 2019). Thus, in passing SB 542 and SB 551, "the Legislature acted on Legislative Counsel's opinion that this is a reasonable construction of the provision . . . and the Legislature is entitled to deference in its counseled selection of this interpretation." Nev. Mining, 117 Nev. at 540.

C. SB 542 did not change—but maintained—the existing computation base and legally operative rate currently in effect for the DMV technology fee.

During the 2015 legislative session, the Legislature enacted Senate Bill No. 502 (S.B. 502), which required the Department of Motor Vehicles to add a technology fee of $1 to the existing fee for any transaction performed by the Department for which a fee is charged ("DMV technology fee") and to use the money collected from the DMV technology fee to pay the expenses associated

with implementing, upgrading and maintaining the platform of information technology used by the Department. S.B. 502, 2015 Nev. Stat., ch. 394, § 3, at 2211 (codified in NRS 481.064). The Legislature also provided that S.B. 502 would become effective on July 1, 2015, and would expire by limitation on June 30, 2020. S.B. 502, 2015 Nev. Stat., ch. 394, § 7, at 2213.

However, even though the DMV technology fee was potentially subject to future expiration under S.B. 502, any future expiration of the DMV technology fee was not legally operative and binding yet because it would not become legally operative and binding until completion of the State's future fiscal year ending on June 30, 2020, under well-established rules governing the operation of statutes. 82 C.J.S. Statutes § 549 (Westlaw 2019) (explaining that "[a] statute's effective date is considered that date upon which the statute came into being as existing law, while a statute's ***operative date*** is the date upon which the directives of the statute may be actually implemented." (emphasis added)). Therefore, when the Legislature passed SB 542 during the 2019 legislative session, the future expiration of the DMV technology fee was not legally operative and binding yet because it would not become legally operative and binding until completion of the State's future fiscal year ending on June 30, 2020. Thus, through the passage of SB 542, the Legislature amended the future expiration of the DMV technology fee and extended it for two fiscal years—from June 30, 2020, until June 30, 2022—before the future expiration of the DMV technology fee became legally operative and binding. SB 542, 2019 Nev. Stat., ch. 400, § 1, at 2502.

Consequently, SB 542 did not change—but maintained—the existing computation base and legally operative rate currently in effect for the DMV technology fee. Because SB 542 did not change—but maintained—the existing computation base and legally operative rate currently in effect for the DMV technology fee, the existing source of revenue collected by the Department of Motor Vehicles from the DMV technology fee was not changed by the passage of SB 542.

Instead, that existing source of revenue remained exactly the same after the passage of SB 542. Accordingly, based on the Legislative Counsel's opinion interpreting the two-thirds requirement, the Legislature could reasonably conclude that SB 542 was not subject to the two-thirds requirement because SB 542 did not change—but maintained—the existing computation base and legally operative rate currently in effect for the DMV technology fee.

After being provided with the Legislative Counsel's opinion interpreting the two-thirds requirement, the Senate introduced SB 542 on May 10, 2019. Senate Daily Journal, 80th Sess., at 2 (Nev. May 10, 2019). On May 27, 2019, the Senate voted 13-8 in favor of passage of SB 542, and the bill was declared passed by a constitutional majority of all the members elected to the Senate under Article 4, Section 18(1). Senate Daily Journal, 80th Sess., at 9 (Nev. May 27, 2019). On May 31, 2019, the Assembly voted 28-13 in favor of passage of SB 542 (with one seat vacant), and the bill was declared passed by a constitutional majority of all the members elected to the Assembly under Article 4, Section 18(1). Assembly Daily Journal, 80th Sess., at 6-7 (Nev. May 31, 2019). On June 5, 2019, the Governor approved SB 542, and it became law under Article 4, Section 35 of the Nevada Constitution. SB 542, 2019 Nev. Stat., ch. 400, at 2501.

D. SB 551 did not change—but maintained—the existing computation bases and legally operative rates currently in effect for the Modified Business Tax.

Under NRS Chapters 363A and 363B, the Department of Taxation collects payroll taxes that are imposed on certain financial institutions, mining companies and other business entities that engage in business activities in Nevada. These payroll taxes are more commonly known as the Modified Business Tax or MBT. See Educ. Initiative PAC v. Comm. to Protect Nev. Jobs, 129 Nev. 35, 51 (2013). For the financial institutions and mining companies subject to the MBT, the existing computation base for the taxes is calculated by multiplying a tax rate of 2 percent by the amount of the wages, as defined under Nevada's labor laws, paid by the financial institution or

mining company during each calendar quarter with respect to employment in connection with its business activities. NRS 363A.130. For the other business entities subject to the MBT, the existing computation base for the taxes is calculated by multiplying a tax rate of 1.475 percent by the amount of the wages, as defined under Nevada's labor laws but excluding the first $50,000 thereof, paid by the business entity during each calendar quarter with respect to employment in connection with its business activities. NRS 363B.110.

During the 2015 legislative session, the Legislature enacted Senate Bill No. 483 (S.B. 483), which imposed 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. SB 483, 2015 Nev. Stat., ch. 487, §§ 2-61, at 2878-96 (codified in NRS Chapter 363C). The Legislature also established a rate adjustment procedure in S.B. 483 to be used by the Department of Taxation to determine whether the rates of the MBT should be reduced in future fiscal years under certain circumstances. SB 483, 2015 Nev. Stat., ch. 487, § 62, at 2896-97. The rate adjustment procedure was codified in NRS 360.203 and became effective on July 1, 2015. SB 483, 2015 Nev. Stat., ch. 487, § 114, at 2955-56. The rate adjustment procedure codified in NRS 360.203 was repealed by SB 551, effective June 12, 2019. SB 551, 2019 Nev. Stat., ch. 537, §§ 2, 3, 37, 39, 40, at 3273, 3275, 3294.

Under the former rate adjustment procedure, on or before September 30 of each even-numbered year, the Department of Taxation was directed to determine the combined revenue from the commerce tax and the MBT for the preceding fiscal year. NRS 360.203 (repealed effective June 12, 2019).[3] If that combined revenue exceeded a certain threshold amount, the Department of Taxation was directed to make additional calculations to determine future reduced rates for the

[3] NRS 360.203 (repealed effective June 12, 2019) is reproduced in the Addendum after the Memorandum of Points and Authorities.

MBT. Id. However, any future reduced rates for the MBT would not go into effect and become legally operative and binding until July 1 of the following odd-numbered year, which was the beginning of the State's next fiscal year. Id.

Even though the former rate adjustment procedure became effective on July 1, 2015, no future reduced rates for the MBT had ever gone into effect and become legally operative and binding based on the former rate adjustment procedure when the Legislature passed SB 551 during the 2019 legislative session. Legislative Counsel's Digest, SB 551, 2019 Nev. Stat., ch. 537, at 3271. As a result, when the Legislature passed SB 551 during the 2019 legislative session, the existing computation bases and legally operative rates currently in effect for the MBT were set by NRS 363A.130 and 363B.110 at 2 percent and 1.475 percent, respectively, and SB 551 did not change—but maintained—the existing computation bases and legally operative rates set by NRS 363A.130 and 363B.110 for the MBT. SB 551, 2019 Nev. Stat., ch. 537, §§ 2, 3, 37, 39, at 3273, 3275, 3294. Accordingly, based on the Legislative Counsel's opinion interpreting the two-thirds requirement, the Legislature could reasonably conclude that SB 551 was not subject to the two-thirds requirement because SB 551 did not change—but maintained—the existing computation bases and legally operative rates currently in effect for the MBT.

After being provided with the Legislative Counsel's opinion interpreting the two-thirds requirement, the Senate introduced SB 551 on May 27, 2019. Senate Daily Journal, 80th Sess., at 68-69 (Nev. May 27, 2019). On June 3, 2019, the Senate voted 13-8 in favor of passage of SB 551, and the bill was declared passed, as amended by the Senate, by a constitutional majority of all the members elected to the Senate under Article 4, Section 18(1). Senate Daily Journal, 80th Sess., at 98-99 (Nev. June 3, 2019). Also on June 3, 2019, the Assembly voted 28-13 in favor of passage of SB 551 (with one seat vacant), and the bill was declared passed, as amended by the Senate, by a constitutional majority of all the members elected to the Assembly under Article 4,

Section 18(1). Assembly Daily Journal, 80th Sess., at 428-29 (Nev. June 3, 2019). On June 12, 2019, the Governor approved SB 551, and it became law under Article 4, Section 35. SB 551, 2019 Nev. Stat., ch. 537, at 3271.

III. Argument.

A. Defendants Senator Cannizzaro and Secretary Clift are entitled to judgment as a matter of law because they are not necessary and proper party-defendants to this litigation as a matter of law given that: (1) they do not have any connection with enforcement of the challenged legislation; and (2) they are entitled to absolute legislative immunity as a matter of law.

Under NRCP 56, defendants are entitled to judgment as a matter of law when they are not necessary and proper party-defendants to the litigation as a matter of law. See Nelson v. Int'l Paint Co., 734 F.2d 1084, 1094 (5th Cir. 1984) ("[S]ummary judgment is often appropriate when the plaintiff has named the wrong party as the defendant."); 10A Wright and Miller, Fed. Prac. & Proc. Civ. § 2729 (4th ed. Westlaw 2020) ("Summary judgment also is appropriate when defendant can show that . . . plaintiff has named the wrong party as defendant.").

Because Senator Cannizzaro and Secretary Clift do not have any connection with enforcement of the challenged legislation, they are not necessary and proper party-defendants to this litigation as a matter of law, and Plaintiffs were not required to name them as defendants in order to litigate their claims. Serrano v. Priest, 557 P.2d 929, 941-42 (Cal.1976); Ex parte Young, 209 U.S. 123, 157 (1908). Moreover, Senator Cannizzaro and Secretary Clift are not necessary and proper party-defendants to this litigation as a matter of law because they are entitled to absolute legislative immunity from declaratory and injunctive relief for all legislative actions taken in their official capacities in the passage and approval of the challenged legislation. NRS 41.071; Supreme Ct. of Va. v. Consumers Union, 446 U.S. 719, 731-34 (1980); Chappell v. Robbins, 73 F.3d 918, 920-22 (9th Cir.1996); Scott v. Taylor, 405 F.3d 1251, 1253-56 (11th Cir.2005).

First, "it is the general and long-established rule that in actions for declaratory and injunctive

relief challenging the constitutionality of state statutes, state officers with statewide administrative functions under the challenged statute are the proper parties defendant." Serrano, 557 P.2d at 941-42. As a result, state legislators are not necessary and proper parties in such actions because "[t]he interest they do have—that of lawmakers concerned with the validity of statutes enacted by them—is not of the immediacy and directness requisite to party status; it may thus be fully and adequately represented by the appropriate administrative officers of the state." Id. at 942. As stated by the U.S. Supreme Court, "[i]n making an officer of the state a party defendant in a suit to enjoin the enforcement of an act alleged to be unconstitutional, it is plain that such officer must have some connection with the enforcement of the act." Ex parte Young, 209 U.S. at 157.

Thus, because Senator Cannizzaro and Secretary Clift in their official capacities do not occupy positions as state officers with statewide administrative functions under the challenged provisions of SB 542 and SB 551, they do not have any connection with the enforcement of the bills. Consequently, Senator Cannizzaro and Secretary Clift are not necessary and proper party-defendants to this litigation as a matter of law, and Plaintiffs were not required to name them as defendants in order to litigate their claims. Therefore, this Court should grant summary judgment in favor of Senator Cannizzaro and Secretary Clift because they are not necessary and proper party-defendants to this litigation as a matter of law.

Second, as legislative branch defendants sued in their official capacities, Senator Cannizzaro and Secretary Clift are not necessary and proper party-defendants to this litigation as a matter of law because they are entitled to absolute legislative immunity from declaratory and injunctive relief for "any actions, in any form, taken or performed within the sphere of legitimate legislative activity." NRS 41.071; Consumers Union, 446 U.S. at 731-34; Chappell, 73 F.3d at 920-22; Scott, 405 F.3d at 1253-56. Legislative immunity is a form of absolute immunity, and it protects all legislative actions regardless of the motive or intent of the official performing the actions. Bogan

v. Scott-Harris, 523 U.S. 44, 54-55 (1998). Thus, legislative immunity applies broadly to all legislative actions that are "integral steps in the legislative process," including all actions relating to introducing, sponsoring, voting for or signing legislation. Id. at 54-55.

In their First Amended Complaint, Plaintiffs seek declaratory and injunctive relief against Senator Cannizzaro and Secretary Clift for legislative actions taken in their official capacities in the passage and approval of SB 542 and SB 551. (*First Am. Compl. ¶¶ 16, 18.*) Because Senator Cannizzaro and Secretary Clift are entitled to absolute legislative immunity from declaratory and injunctive relief for those legislative actions, they are entitled to absolute legislative immunity as a matter of law. Therefore, this Court should grant summary judgment in favor of Senator Cannizzaro and Secretary Clift because they are not necessary and proper party-defendants to this litigation as a matter of law given that they are entitled to absolute legislative immunity from declaratory and injunctive relief in this litigation as a matter of law.[4]

B. All Defendants are entitled to judgment as a matter of law because the Legislature could reasonably conclude that SB 542 and SB 551 were not subject to the two-thirds requirement.

1. Standards for reviewing motions for summary judgment and the constitutionality of statutes.

A party is entitled to summary judgment under NRCP 56 when the submissions in the record "demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law." Wood v. Safeway, 121 Nev. 724, 731 (2005). The purpose of granting summary judgment "is to avoid a needless trial when an appropriate showing is made in

[4] Executive officials "outside the legislative branch are entitled to legislative immunity when they perform legislative functions." Bogan, 523 U.S. at 55. Therefore, Governor Sisolak and Lieutenant Governor Marshall are not necessary and proper party-defendants to this litigation as a matter of law because they are entitled to absolute legislative immunity from declaratory and injunctive relief for all actions taken in their official capacities in the passage and approval of SB 542 and SB 551.

advance that there is no genuine issue of fact to be tried, and the movant is entitled to judgment as a matter of law." McDonald v. D.P. Alexander, 121 Nev. 812, 815 (2005) (quoting Coray v. Hom, 80 Nev. 39, 40-41 (1964)). As a general rule, when a plaintiff pleads claims that a state statute is unconstitutional, the plaintiff's claims present only issues of law which are matters purely for this Court to decide and which may be decided on summary judgment where no genuine issues of material fact exist and the record is adequate for consideration of the constitutional issues presented. See Flamingo Paradise Gaming v. Chanos, 125 Nev. 502, 506-09 (2009) (affirming district court's summary judgment regarding constitutionality of a statute and stating that "[t]he determination of whether a statute is constitutional is a question of law."); Collins v. Union Fed. Sav. & Loan, 99 Nev. 284, 294-95 (1983) (holding that a constitutional claim may be decided on summary judgment where no genuine issues of material fact exist and the record is adequate for consideration of the constitutional issues presented).

In reviewing the constitutionality of statutes, this Court must presume the statutes are constitutional, and "[i]n case of doubt, every possible presumption will be made in favor of the constitutionality of a statute, and courts will interfere only when the Constitution is clearly violated." List v. Whisler, 99 Nev. 133, 137 (1983). The presumption places a heavy burden on the challenger to make "a clear showing that the statute is unconstitutional." Id. at 138. As a result, this Court must not invalidate a statute on constitutional grounds unless the statute's invalidity appears "beyond a reasonable doubt." Cauble v. Beemer, 64 Nev. 77, 101 (1947); State ex rel. Lewis v. Doron, 5 Nev. 399, 408 (1870) ("[E]very statute is to be upheld, unless plainly and without reasonable doubt in conflict with the Constitution.").

Furthermore, it is a fundamental rule of constitutional review that "the judiciary will not declare an act void because it disagrees with the wisdom of the Legislature." Anthony v. State, 94 Nev. 337, 341 (1978). Thus, in reviewing the constitutionality of statutes, this Court must not be

concerned with the wisdom or policy of the statutes because "[q]uestions relating to the policy, wisdom, and expediency of the law are for the people's representatives in the legislature assembled, and not for the courts to determine." Worthington v. Dist. Ct., 37 Nev. 212, 244 (1914).

2. Rules of construction for constitutional provisions.

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 constitutional provisions approved by the voters through a ballot initiative); State ex rel. Wright v. Dovey, 19 Nev. 396, 399 (1887) ("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.").

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, 117 Nev. at 531. 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, 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.
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> 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:
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> > [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 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 v. Legislature (Guinn II), 119 Nev. 460, 471 (2003) (describing the Nevada Supreme Court's 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, 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 requirement applies to a particular bill, the Legislature has the power to interpret the two-thirds requirement—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 the two-thirds requirement involves the exercise of the Legislature's lawmaking power, any uncertainty, ambiguity or doubt regarding the application of the two-thirds 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.").

Finally, when the Legislature exercises its power to interpret the two-thirds requirement in the first instance, the Legislature may resolve any uncertainty, ambiguity or doubt regarding the application of the two-thirds 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. Nev. Mining, 117 Nev. at 40.

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3. Based on the Legislative Counsel's legal opinion interpreting the two-thirds requirement, the Legislature could reasonably conclude that SB 542 and SB 551 were not subject to the two-thirds requirement, and the Legislature is entitled to deference in its counseled selection of this interpretation.

Based on the plain language in Article 4, Section 18(2), the two-thirds requirement applies to a bill which "creates, generates, or increases any public revenue in any form." The two-thirds 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, those terms must be given 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 requirement, the terms "creates, generates, or increases" must be given their normal and ordinary meanings that are commonly ascribed to those terms. 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," the Legislature could reasonably conclude that the two-thirds 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" or statutory formulas currently in effect for existing state taxes, the Legislature could reasonably conclude that the two-thirds requirement **does not** apply to the bill because it does not bring into existence, produce or enlarge any public revenue in any form.

Given its plain language, the two-thirds 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," the Legislature could reasonably conclude that the two-thirds 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 public revenue. 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, the Legislature could reasonably conclude that the bill **does not** create, generate or increase any public revenue in any form because the existing "computation bases" currently in effect are not changed by the bill.

In this case, the Legislature could reasonably conclude that SB 542 did not create, generate or increase any public revenue in any form because SB 542 did not change—but maintained—the existing computation base and legally operative rate currently in effect for the DMV technology fee. When the Legislature passed SB 542 during the 2019 legislative session, the future expiration of the DMV technology fee would not become legally operative and binding until completion of the State's future fiscal year ending on June 30, 2020, under well-established rules governing the operation of statutes.

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).

Therefore, when the Legislature passed SB 542 during the 2019 legislative session, the future expiration of the DMV technology fee was not legally operative and binding yet because it would not become legally operative and binding until completion of the State's future fiscal year ending on June 30, 2020. Given that the future expiration of the DMV technology fee was not legally operative and binding when the Legislature passed SB 542, this case involves several well-established principles of law governing the Legislature's power of controlling the public purse and the use of public funds for each fiscal year. See State of Nev. Employees Ass'n v. Daines, 108 Nev. 15, 21 (1992) ("[I]t is well established that the power of controlling the public purse lies within legislative, not executive authority.").

Under the Nevada Constitution, the state government operates on a fiscal year commencing on July 1 of each year. Nev. Const. art. 9, §§ 1-2. When the Legislature holds its regular biennial legislative session beginning on the first Monday of February of each odd-numbered year, the Legislature must enact legislation providing for public revenues to defray the estimated expenses of the state government for the next two fiscal years of the following biennium, which begins on July 1 after the legislative session. Nev. Const. art. 4, § 2 & art. 9, §§ 1-3. However, the Nevada Constitution places restrictions on the Legislature's power to commit or bind public funds for each fiscal year, and the Legislature cannot enact statutory provisions committing or binding future

Legislatures regarding public funds in future fiscal years, unless the Legislature complies with certain constitutional requirements. Nev. Const. art. 9, §§ 2-3; Employers Ins. Co. v. State Bd. of Exam'rs, 117 Nev. 249, 254-58 (2001); Morris v. Bd. of Regents, 97 Nev. 112, 114-15 (1981).

Consequently, when the Legislature enacts legislation concerning public funds, it cannot—through the enactment of an ordinary statute—bind or limit the legislative power of future Legislatures. See Fletcher v. Peck, 10 U.S. 87, 135 (1810) ("[O]ne legislature cannot abridge the powers of a succeeding legislature. The correctness of this principle, so far as respects general legislation, can never be controverted."); United States v. Winstar Corp., 518 U.S. 839, 872 (1996) ("[O]ne legislature may not bind the legislative authority of its successors."). As explained by the U.S. Supreme Court:

> Every succeeding legislature possesses the same jurisdiction and power with respect to [public laws] as its predecessors. The latter have the same power of repeal and modification which the former had of enactment, neither more nor less. All occupy, in this respect, a footing of perfect equality.

Newton v. Mahoning Cnty. Comm'rs, 100 U.S. 548, 559 (1879).

Therefore, when the Legislature passed SB 542 during the 2019 legislative session, the future expiration of the DMV technology fee was not legally operative and binding yet because it would not become legally operative and binding until completion of the State's future fiscal year ending on June 30, 2020. Thus, through the passage of SB 542, the Legislature amended the future expiration of the DMV technology fee and extended it for two fiscal years—from June 30, 2020, until June 30, 2022—before the future expiration of the DMV technology fee became legally operative and binding.

Under such circumstances, SB 542 did not change—but maintained—the existing computation base and legally operative rate currently in effect for the DMV technology fee. Because SB 542 did not change—but maintained—the existing computation base and legally

operative rate currently in effect for the DMV technology fee, the existing source of revenue collected by the Department of Motor Vehicles from the DMV technology fee was not changed by the passage of SB 542. Instead, that existing source of revenue remained exactly the same after the passage of SB 542. Accordingly, based on the Legislative Counsel's opinion interpreting the two-thirds requirement, the Legislature could reasonably conclude that SB 542 did not create, generate or increase any public revenue in any form because SB 542 did not change—but maintained—the existing computation base and legally operative rate currently in effect for the DMV technology fee.

Similarly, based on the Legislative Counsel's opinion interpreting the two-thirds requirement, the Legislature could reasonably conclude that SB 551 did not create, generate or increase any public revenue in any form because SB 551 did not change—but maintained—the existing computation bases and legally operative rates currently in effect for the MBT. Under the former rate adjustment procedure repealed by SB 551, any future reduced rates for the MBT would not go into effect and become legally operative and binding until July 1 of the following odd-numbered year, which was the beginning of the State's next fiscal year. NRS 360.203 (repealed effective June 12, 2019).

Even though the former rate adjustment procedure became effective on July 1, 2015, no future reduced rates for the MBT had ever gone into effect and become legally operative and binding based on the former rate adjustment procedure when the Legislature passed SB 551 during the 2019 legislative session. Legislative Counsel's Digest, SB 551, 2019 Nev. Stat., ch. 537, at 3271. As a result, when the Legislature passed SB 551 during the 2019 legislative session, the existing computation bases and legally operative rates currently in effect for the MBT were set by NRS 363A.130 and 363B.110 at 2 percent and 1.475 percent, respectively, and SB 551 did not change—but maintained—the existing computation bases and legally operative rates set by NRS

363A.130 and 363B.110 for the MBT. SB 551, 2019 Nev. Stat., ch. 537, §§ 2, 3, 37, 39, at 3273, 3275, 3294. Accordingly, based on the Legislative Counsel's opinion interpreting the two-thirds requirement, the Legislature could reasonably conclude that SB 551 did not create, generate or increase any public revenue in any form because SB 551 did not change—but maintained—the existing computation bases and legally operative rates currently in effect for the MBT.

Finally, given that the Legislature acted on the Legislative Counsel's legal opinion interpreting the two-thirds requirement, "the Legislature is entitled to deference in its counseled selection of this interpretation." Nev. Mining, 117 Nev. at 540. Therefore, based on the Legislative Counsel's legal opinion interpreting the two-thirds requirement, the Legislature could reasonably conclude that SB 542 and SB 551 were not subject to the two-thirds requirement, and the Legislature is entitled to deference in its counseled selection of this interpretation. Consequently, because the Legislature did not enact SB 542 and SB 551 in violation of the two-thirds requirement, all Defendants are entitled to summary judgment on Plaintiffs' state constitutional claims as a matter of law.

4. Contemporaneous extrinsic evidence of the purpose and intent of the two-thirds requirement supports the Legislature's reasonable conclusion that SB 542 and SB 551 were not subject to the two-thirds requirement.

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. 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."). 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, 117 Nev. at 539; Pellegrini v. State, 117 Nev. 860, 876-77 (2001).

Nevada's voters approved the two-thirds requirement at the general elections in 1994 and 1996. When the ballot initiative was presented to the voters, one of the primary sponsors of the initiative was former Assemblyman Jim Gibbons. See Guinn II, 119 Nev. at 471-72 (discussing the two-thirds requirement and describing Assemblyman Gibbons as "the initiative's prime sponsor"). During the 1993 legislative session, Assemblyman Gibbons sponsored Assembly Joint Resolution No. 21 (AJR 21), which proposed adding a two-thirds requirement, but Assemblyman Gibbons was not successful in obtaining its passage. Legislative History of AJR 21, 67th Leg. (Nev. LCB Research Library 1993) (available on the Legislature's website at: https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1993/AJR21,1993.pdf).[5]

Nevertheless, because Assemblyman Gibbons' legislative testimony on AJR 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 AJR 21 in 1993, Assemblyman Gibbons stated that the two-thirds requirement was modeled on similar

[5] The Court may take judicial notice of the legislative history as a public record. Jory v. Bennight, 91 Nev. 763, 766 (1975); Fierle v. Perez, 125 Nev. 728, 737-38 n.6 (2009).

constitutional provisions in other states, including Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma and South Dakota. Legislative History of AJR 21, supra (Hearing on AJR 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 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 addition to Assemblyman Gibbons' legislative testimony on AJR 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 requirement. Guinn, 119 Nev. at 471-72. The ballot materials informed the voters that the two-thirds 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) (available on the Legislature's website at: https://www.leg.state.nv.us/Division/Research/VoteNV/BallotQuestions/1994.pdf).[6]

Finally, based on Assemblyman Gibbons' legislative testimony on AJR 21 in 1993 and the ballot materials presented to the voters in 1994 and 1996, the Nevada Supreme Court has

[6] The Court may take judicial notice of the ballot materials as public records. Jory v. Bennight, 91 Nev. 763, 766 (1975); Fierle v. Perez, 125 Nev. 728, 737-38 n.6 (2009).

described the purpose and intent of the two-thirds 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).[7]

Thus, there is contemporaneous extrinsic evidence that the two-thirds 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." However, the contemporaneous extrinsic evidence also indicates that the two-thirds 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 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. 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, there is nothing in the contemporaneous extrinsic evidence to indicate that the two-thirds requirement was intended to 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

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[7] 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.

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.

Accordingly, the Legislature could reasonably conclude that SB 542 did not create, generate or increase any public revenue in any form because SB 542 did not change—but maintained—the existing computation base and legally operative rate currently in effect for the DMV technology fee. Likewise, the Legislature could reasonably conclude that SB 551 did not create, generate or increase any public revenue in any form because SB 551 did not change—but maintained—the existing computation bases and legally operative rates currently in effect for the MBT. Under such circumstances, "the Legislature is entitled to deference in its counseled selection of this interpretation." Nev. Mining, 117 Nev. at 540. Therefore, because the Legislature could reasonably conclude that SB 542 and SB 551 were not subject to the two-thirds requirement, all Defendants are entitled to summary judgment on Plaintiffs' state constitutional claims as a matter of law.

5. Cases from other states interpreting similar supermajority requirements support the Legislature's reasonable conclusion that SB 542 and SB 551 were not subject to the two-thirds requirement.

Nevada's two-thirds requirement was modeled on constitutional provisions from other states. Legislative History of AJR 21, supra (Hearing on AJR 21 before Assembly Comm. on Taxation, 67th Leg., at 12-13 (Nev. May 4, 1993)). As confirmed by Assemblyman Gibbons:

> Mr. Gibbons explained AJR 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 requirement, it is appropriate to consider case law from the other states where courts have interpreted similar supermajority requirements that served as the model for Nevada's two-thirds requirement. Furthermore, in considering that case law, it must be presumed that the drafters and voters intended for Nevada's two-thirds 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. (emphasis added). 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).

Based on the cases from the other states, the Legislature could reasonably interpret Nevada's two-thirds requirement in a manner that adopts and follows the judicial interpretations placed on the similar supermajority requirements from those other states. Under those judicial interpretations, the Legislature could reasonably conclude that Nevada's two-thirds 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, the Legislature could reasonably conclude 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 and legally operative rates currently in effect for

the existing state taxes, the Legislature could reasonably conclude 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 and legally operative rates currently in effect are not changed by the bill. Under such circumstances, "the Legislature is entitled to deference in its counseled selection of this interpretation." Nev. Mining, 117 Nev. at 540. Therefore, because the Legislature could reasonably conclude that SB 542 and SB 551 were not subject to the two-thirds requirement, all Defendants are entitled to summary judgment on Plaintiffs' state constitutional claims as a matter of law.

C. Even if the challenged provisions of SB 551 are unconstitutional because they were enacted in violation of the two-thirds requirement, the remaining provisions of SB 551 are severable and must be upheld under the severance doctrine.

Under the severance doctrine, it is "the obligation of the judiciary to uphold the constitutionality of legislative enactments where it is possible to strike only the unconstitutional portions." Flamingo Paradise Gaming v. Chanos, 125 Nev. 502, 515 (2009) (quoting Rogers v. Heller, 117 Nev. 169, 177 (2001)). The Legislature has adopted and codified the severance doctrine in Nevada's general severability statute in NRS 0.020, which provides:

> **NRS 0.020 Severability.**
> 1. If any provision of the Nevada Revised Statutes, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of NRS which can be given effect without the invalid provision or application, ***and to this end the provisions of NRS are declared to be severable.***
> 2. ***The inclusion of an express declaration of severability in the enactment of any provision of NRS*** or the inclusion of any such provision in NRS, ***does not enhance the severability of the provision so treated or detract from the severability of any other provision of NRS.***

NRS 0.020 (emphasis added).

Based on the plain language of the general severability statute in NRS 0.020, the Legislature has affirmatively expressed its intent in favor of several fundamental rules of severability. First,

there is a legislative preference or presumption in favor of severability that must be applied to every statutory provision. NRS 0.020(1). Second, the legislative preference or presumption in favor of severability must be applied regardless of whether there is "an express declaration of severability" in the enactment of the statutory provision. NRS 0.020(2). Third, the inclusion of such an express declaration of severability in the enactment of the statutory provision "does not enhance the severability of the provision so treated or detract from the severability of any other provision." NRS 0.020(2). In other words, the inclusion or absence of a severability clause in enacting legislation like SB 551 does not alter or affect NRS 0.020's legislative preference or presumption in favor of severability.

The Nevada Supreme Court has determined that by enacting the general severability statute, the Legislature has affirmatively expressed its intent in favor of severability and "[t]his preference in favor of severability is set forth in NRS 0.020(1), which charges courts with preserving statutes to the extent they 'can be given effect without the invalid provision or application.'" Sierra Pac. Power v. State Dep't of Tax'n, 130 Nev. 940, 945 (2014) (quoting NRS 0.020(1)). However, the Nevada Supreme Court has explained:

> [This] preference is not a mandate, and not all statutory language is severable. Before language can be severed from a statute, a court must first determine whether the remainder of the statute, standing alone, can be given legal effect, and whether preserving the remaining portion of the statute accords with legislative intent.

Id.; Flamingo Paradise, 125 Nev. at 515.

The challenged provisions of SB 551 were part of an act relating to "state financial administration." SB 551, 2019 Nev. Stat., ch. 537, at 3271. The remaining provisions of SB 551 revised and repealed other existing laws that were not affected by SB 551's repeal of the former rate adjustment procedure in NRS 360.203. Therefore, even if the challenged provisions of SB 551 are unconstitutional because they were enacted in violation of the two-thirds requirement,

the remaining provisions of SB 551 are severable because: (1) the remaining provisions, standing alone, can be given legal effect; and (2) preserving the remaining provisions would accord with legislative intent. Consequently, because the remaining provisions of SB 551 are severable, this Court should uphold the remaining provisions of SB 551 under the severance doctrine even if the challenged provisions of SB 551 are unconstitutional because they were enacted in violation of the two-thirds requirement.

IV. Conclusion and requested relief.

Based upon the foregoing, Legislative Defendants request that this Court enter an order which: (1) denies Plaintiffs' Motion for Summary Judgment; (2) grants Legislative Defendants' Counter-Motion for Summary Judgment; and (3) grants a final judgment in favor of all Defendants on all claims and prayers for relief directly or indirectly pled in Plaintiffs' First Amended Complaint.

DATED: This **18th** day of August, 2020.

Respectfully submitted,

By: _____

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ADDENDUM

NRS 360.203 (repealed effective June 12, 2019)

NRS 360.203 Reduction of rate of certain taxes on business under certain circumstances; duties of Department.

1. Except as otherwise provided in subsection 4, on or before September 30 of each even-numbered year, the Department shall determine the combined revenue from the taxes imposed by chapters 363A and 363B of NRS and the commerce tax imposed by chapter 363C of NRS for the preceding fiscal year.

2. Except as otherwise provided in subsection 4, if the combined revenue determined pursuant to subsection 1 exceeds by more than 4 percent the amount of the combined anticipated revenue from those taxes for that fiscal year, as projected by the Economic Forum for that fiscal year pursuant to paragraph (e) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year, the Department shall determine the rate at which the taxes imposed pursuant to NRS 363A.130 and 363B.110, in combination with the revenue from the commerce tax imposed by chapter 363C of NRS, would have generated a combined revenue of 4 percent more than the amount anticipated. In making the determination required by this subsection, the Department shall reduce the rate of the taxes imposed pursuant to NRS 363A.130 and 363B.110 in the proportion that the actual amount collected from each tax for the preceding fiscal year bears to the total combined amount collected from both taxes for the preceding fiscal year.

3. Except as otherwise provided in subsection 4, effective on July 1 of the odd-numbered year immediately following the year in which the Department made the determination described in subsection 1, the rates of the taxes imposed pursuant to NRS 363A.130 and 363B.110 that are determined pursuant to subsection 2, rounded to the nearest one-thousandth of a percent, must thereafter be the rate of those taxes, unless further adjusted in a subsequent fiscal year.

4. If, pursuant to subsection 3, the rate of the tax imposed pursuant to NRS 363B.110 is 1.17 percent:

(a) The Department is no longer required to make the determinations required by subsections 1 and 2; and

(b) The rate of the taxes imposed pursuant to NRS 363A.130 and 363B.110 must not be further adjusted pursuant to subsection 3.

(Added to NRS by 2015, 2896)

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the **18th** day of August, 2020, pursuant to NRCP 5(b) and the parties' stipulation and consent to service by electronic mail, I served a true and correct copy of Defendants State of Nevada ex rel. Senate Majority Leader Nicole Cannizzaro and Secretary of the Senate Claire Clift's and Defendant-Intervenor Nevada Legislature's Opposition to Plaintiffs' Motion for Summary Judgment and Counter-Motion for Summary Judgment, by electronic mail, directed to the following:

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An Employee of the Legislative Counsel Bureau

Legislative Defendants'

Exhibit 1

Exhibit 1

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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).[1]

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.

[1] 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").[2] 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).[3] 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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[2] 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.

[3] 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,

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FIRST JUDICIAL DISTRICT COURT OF NEVADA

IN AND FOR CARSON CITY

THE HONORABLE JAMES SETTLEMEYER, *et al.*,

Plaintiffs,

vs.

STATE OF NEVADA, *ex rel.*, THE HONORABLE NICOLE CANNIZZARO, *et al.*,

Defendants.

Case No. 19 OC 00127-1B

Dept. No. I

Hearing Date: September 21, 2020
Hearing Time: 1:30 p.m.

JOINDER TO THE LEGISLATIVE DEFENDANTS' COUNTER-MOTION FOR SUMMARY JUDGMENT

The Executive Defendants hereby join the Legislative Defendants' August 18, 2020 Counter-Motion for Summary Judgment, as it seeks summary judgment for unnecessary and improperly-named individual officials.

As already argued by the Legislative Defendants on pages 10:5 through 12:12 of their Counter-Motion, none of the named individual officials are responsible for enforcement of the challenged legislation and each has legislative immunity for their actions in the legislative process, including all actions relating to introducing, sponsoring, voting for or signing legislation. *See Bogan v. Scott-Harris*, 523 U.S. 44, 54-55 (1998). Because this immunity applies equally to executive officials when they perform legislative functions, Governor Sisolak and Lieutenant Governor Marshall are entitled to summary judgment on

the same basis as the Senate Majority Leader and the Senate Secretary, as argued in the Legislative Defendants' countermotion.

Granting this countermotion would leave the Department of Taxation, the Department of Motor Vehicles, and the Legislature as the remaining Defendants, which would still allow this Court to reach the merits of the parties' arguments on the constitutional question.

DATED: August 21st, 2020.

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AFFIRMATION

Pursuant to NRS 239B.030(4), the undersigned does hereby affirm that the preceding document does not contain the Social Security number of any person.

DATED this 21st day of August, 2020.

AARON D. FORD
Attorney General

By: #13240
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Deputy Solicitor General

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 20th day of August, 2020, I served a true and correct copy of the foregoing **JOINDER TO THE LEGISLATIVE DEFENDANTS' COUNTER-MOTION FOR SUMMARY JUDGMENT**, by regular U.S. Mail to:

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