

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

1 KAREN A. PETERSON, ESQ.
Nevada State Bar No. 366
2 JUSTIN TOWNSEND, ESQ.
Nevada State Bar No. 12293
3 **ALLISON MacKENZIE, LTD.**
402 North Division Street
4 Carson City, NV 89703
Telephone: (775) 687-0202
5 Email: kpeterson@allisonmackenzie.com
Email: jtownsend@allisonmackenzie.com

6 Attorneys for Plaintiffs
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9 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
10 IN AND FOR CARSON CITY
11

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

25 Plaintiffs,

26 vs.

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CLERK

BY V. Alegria DEPUTY

Case No: 19 OC 00127 1B

Dept. No: I

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

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FIRST AMENDED COMPLAINT

(Arbitration Exemption: Declaratory and Injunctive Relief Sought)

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

PARTIES, JURISDICTION AND VENUE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 GENERAL ALLEGATIONS

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

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

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

20 34. During the 80th Session of the Nevada Legislature there were seated 21 Senators.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 59. At all times relevant hereto, the 80th (2019) Session of the Nevada Legislature had
 2 enough money to fund the State’s budget without the public revenues created, generated or increased
 3 as a result of the changes to the payroll tax adopted by SB 551.

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

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

FIRST CLAIM FOR RELIEF

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

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

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

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

26 66. The dilution and nullification of each Plaintiff Senator’s vote and the denial of their
 27 rights to cast an effective vote violate each Plaintiff Senator’s equal protection and due process rights
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1 under the Fourteenth Amendment of the United States Constitution and Article 4 of the Nevada
2 Constitution.

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

5 **SECOND CLAIM FOR RELIEF**

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

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

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

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

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THIRD CLAIM FOR RELIEF

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

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

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

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

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

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

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

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

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

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

7 **FOURTH CLAIM FOR RELIEF**

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

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

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

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

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

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

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

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

11 AFFIRMATION

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

14 PRAAYER FOR RELIEF

15 WHEREFORE, Plaintiffs pray for relief as follows:

16 1. For declarations that:

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

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

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

22 d. SB 542 and SB 551 must be invalidated for lack of supporting votes of
23 two-thirds of the Senate.

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

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


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

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

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DATED this 30th day of July, 2019.

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

By: 
KAREN A. PETERSON, ESQ.
Nevada State Bar No. 366
JUSTIN M. TOWNSEND, ESQ.
Nevada State Bar No. 12293
Email: kpeterson@allisonmackenzie.com
Email: jtownsend@allisonmackenzie.com

Attorneys for Plaintiffs

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