

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Third Session
May 13, 2005**

The Committee on Commerce and Labor was called to order at 12:57 p.m., on Friday, May 13, 2005. Chairwoman Barbara Buckley presided in Room 4100 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Barbara Buckley, Chairwoman
Mr. John Ocegüera, Vice Chairman
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Morse Arberry Jr.
Mr. Marcus Conklin
Mrs. Heidi S. Gansert
Ms. Chris Giunchigliani
Mr. Lynn Hettrick
Ms. Kathy McClain
Mr. David Parks
Mr. Richard Perkins
Mr. Bob Seale
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel

Diane Thornton, Committee Policy Analyst
Russell Guindon, Deputy Fiscal Analyst
Mary Garcia, Committee Attaché
Vanessa Brown, Committee Attaché

OTHERS PRESENT:

Sabra Smith-Newby, Member, Legislative Lobbying Team, City of Las Vegas, Nevada
Alfredo Alonso, Legislative Advocate, representing Southern Wine and Spirits
Tony Sanchez, Legislative Advocate, representing DeLuca Liquor & Wine, Limited
Dino DiCianno, Deputy Director, Nevada Department of Taxation
Berlyn Miller, Vice Chairman, Nevada Commission on Economic Development
LeRoy Goodman, Commissioner, Lyon County Board of Commissioners; Rural Commissioner, Nevada Commission on Economic Development
Tim Rubald, Director of Business Development, Nevada Commission on Economic Development
Daniel C. Holler, County Manager, Douglas County, Nevada
Mary Walker, Legislative Advocate, representing Douglas County, Carson City, and Lyon County, Nevada
Ray Bacon, Executive Director, Nevada Manufacturers Association

Chairman Buckley:

[Meeting called to order at 12:57 p.m. Roll Called.] We'll take at least a couple bills in our Work Session Document. May we start with S.B. 134, please?

Senate Bill 134: Requires providers of Communication Access Realtime Translation to be qualified. (BDR 54-142)

Diane Thornton, Committee Policy Analyst:

[Read from Work Session Document, Exhibit B.] S.B. 134 is sponsored by Senator Mathews and was heard on May 4, 2005. The bill declares real-time captioning to be a learned profession and makes providers of real-time captioning services subject to regulation. Real-time captioning is defined as being the instant translation of the spoken word into English text. The bill establishes qualifications for performing real-time captioning services, including

certification as a court reporter by the Certified Court Reporters Board of Nevada or a similar certification offered by the National Court Reporters Association.

[Diane Thornton, continued.] Since the last hearing, Senator Mathews proposed a new amendment that's behind tab A of your Work Session Document ([Exhibit B](#)). This amendment extends the date of compliance from 2005 to 2007 for interpreters to meet the level 4 or 5 assessment requirements. It also requires the Legislative Committee on Persons with Disabilities to study during the interim the needs of the deaf and the hearing impaired. Lastly, it requires the School Board of Trustees to review the salaries paid to interpreters.

Chairwoman Buckley:

I was in the Senate during the presentation of this amendment. I understand that it was a bit heated. Senator Mathews has worked with some of the folks involved to pare it back a little, and this is what she's suggesting to the Committee. We'll open it for discussion.

Assemblywoman Giunchigliani:

I thought the Legislative Committee on Disabilities was just a one-time interim study.

Brenda Erdoes, Legislative Counsel:

I believe it was extended.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS SENATE BILL 134.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Anderson and Perkins were
not present for the vote.)

Chairwoman Buckley:

We'll open the hearing on S.B. 233.

**Senate Bill 233 (1st Reprint): Makes various changes relating to alcoholic
beverages. (BDR 52-154)**

Senator Michael A. Schneider, Clark County Senatorial District No. 11:

At the end of a grueling session, I try to bring a fun bill over here. S.B. 233 allows for the citizens of Nevada to go to a wine school, and it allows a wine school to be created in Nevada for hobby wines. The bill states you could make 1 barrel to 60 barrels of wine every year.

How this works is you would sign up to learn how to make wine and tell them what kind of wine you wanted to make. Then the school would order your grapes to be trucked in to you, and you would use the school's equipment to crush the grapes, pump the juice into the tank, and start the fermentation process. The school would have all the equipment. It would be a whole learning process where they would teach you how to do this, and you could make your barrel of wine. Currently, it is against the law to do that in the state of Nevada or to have a winery in any county with a population of more than 100,000.

There are several schools like this around the country. One in San Francisco called "Crush Pad" has been very popular. In New Jersey, there are three schools like this.

An issue of *Wine Spectator* magazine featured all the fine restaurants of Las Vegas. Food and wine go together, and, because Las Vegas has evolved into such a dining town, people there have become very excited about food and wine. A lot of people want to make wine for themselves.

Today, as a demonstration, I brought three bottles of homemade wines made by people who work in this building. This first one, the Cugini Cousins merlot, is a wine made by Rick Loop, a lobbyist representing the judges. He and his cousins are all descendants of Nana and Papa Cugini. This is their wine press on the front of the label. They still use it to make the wine every year. There's a picture of the grandparents on the back.

The next bottle is Angel wine. Some of you may know Charlie Silvestri, who lobbies here. Angel is his mother. There's a story here about her and Charlie's brothers. The third one is from a young man who works for the Retail Association. His family makes this wine. Winemaking is going on right now in Nevada. We're trying to make it more legal and to bring it to a higher level where people can go in and learn how to make wine.

The different distributors in this state are in support of this because they see this is just a hobby wine. Actually, there are several Senators who are very anxious for this bill to pass, like Senator Carlton, who has a twenty-fifth wedding anniversary coming up and a couple daughters who may get married in the not-too-distant future. That's what this would be for. You can get

300 bottles of wine out of a 50-gallon barrel. People will be making these wines, having barrel tastings during the year, and bottling their wines to give as gifts. These are not for retail sales.

[Senator Schneider, continued.] The second portion of the bill is to allow wine tasting in grocery stores. I bring that forward on behalf of Trader Joe's. Trader Joe's does wine tasting every year at the holiday times. Under city law in Las Vegas, they have to wait 45 or 90 days until they can do another wine tasting. They have to choose between Thanksgiving and Christmas. They can't do both because of the time frame. They and Costco would like to be able to do wine tastings around the holidays and on special occasions.

I see this as something good. I know it helps their sales quite a bit. I actually went to Trader Joe's on Sahara Avenue and Decatur Boulevard in Las Vegas this past year and helped with the wine tasting at the holidays. It's a fun event, and Trader Joe's does sell a lot of wine. I don't see this being taken advantage of by every grocery store because Albertson's, Raley's, and stores like that don't do it anyway. They could do it; they just have to space it 45 to 90 days apart. Trader Joe's, on the other hand, does do it, and would like to do it more often on more holidays, such as the Fourth of July, Valentine's Day, and so forth.

When I wrote this bill, we put in a fee of \$500. Las Vegas didn't want us to tell them how much of a fee they could charge. They do have an amendment they'd like to propose to adjust that, which is fine with me.

Assemblywoman Giunchigliani:

Lee's Liquor Store already does wine tasting, but it's not a grocery store. So, apparently, it's permitted in a store that solely dispenses liquor and wines?

Senator Schneider:

That's correct.

Assemblywoman Giunchigliani:

I'm looking at page 3, subsection 7(a)—convenience store. What would that entail? Is that like a 7-Eleven?

Senator Schneider:

Yes, they would not be permitted to do this.

Assemblywoman Giunchigliani:

It excludes them?

Senator Schneider:

Correct.

Chairwoman Buckley:

Any other questions? Okay, so the only amendment you know of is coming from the City, and you're supportive of that amendment? [Senator Schneider responded in the affirmative.] Does the City want to come forward and present the amendment? Is anyone here in opposition to the bill?

Assemblyman Hettrick:

Are there schools like this in Nevada now, or is somebody planning to come here and open a school?

Senator Schneider:

There is not a school like this here in Nevada. Charlie Peters, who lives in Senator Care's district, is desirous of doing a school, and that's why I am bringing this bill. Mr. Peters, who is a sommelier for Caesar's Palace in Las Vegas and also runs the food and beverage at Cascada golf course, is very knowledgeable about wine. He went to a law firm to get help setting up the school, and they told him he couldn't do it. That's why he got hold of his Senator. He approached Senator Care last summer, and the Senator said, "If you want to know anything about wine, you have to go to Senator Schneider, and he can help you."

Assemblywoman Giunchigliani:

Why is there a population cap in this?

Senator Schneider:

I think the population cap goes back to economic development. It had to do with small breweries. You could only have a brewery in counties with under 100,000 or in a redevelopment area. I know Assemblyman Anderson had a redevelopment area in Sparks where we put a brewery. The Holy Cow in Las Vegas was in a redevelopment area. We've since removed that restriction so the breweries could be on the Strip, like in the Monte Carlo Hotel. However, there's still that cap on wineries.

Assemblywoman Giunchigliani:

If the cap is antiquated, should we fix that while we're doing this? That makes sense to me, especially for economic development purposes. You would not be opposed to that?

Senator Schneider:

I'm silent on that. The only concern I can think of is if it would put the bill at risk. I'm sure that winery in Pahrump is successful because you can't have one in Las Vegas. However, it's a nice drive to Pahrump, and you can have a nice dinner there, so maybe it would still be successful.

Chairwoman Buckley:

Would you like to present the amendment?

Sabra Smith-Newby, Member, Legislative Lobbying Team, City of Las Vegas, Nevada:

This amendment ([Exhibit C](#)) is relatively minor. It addresses Section 2, subsections 2 and 4. The first change is basically to "a permit" rather than "an annual permit." This would change it to a more generic terminology for those several local governments that actually do their permitting process on a semiannual basis.

The second part, as Senator Schneider mentioned, gets rid of the cap on the fee that we may charge for such a license. Currently, the City of Las Vegas has two licenses available for wine tasting. One is a temporary special event permit. It allows seven days of wine tasting over a two-month period. That permit costs \$75.

Then there is a larger, year-round tasting permit, which is \$2,000 for the first year and \$1,200 for each additional year. That is only for large liquor distributors, like Lee's Liquors, that do this on a regular basis as part of their business. We would then create a third category in the bill for the grocery stores, somewhere between those two, which would allow tastings on more than seven days in two months, but would not be the primary purpose of the business.

Assemblyman Hettrick:

Why do we have to tax wine tasting?

Sabra Smith-Newby:

It is not necessarily a tax. It's a business license. Alcohol is a privilege license in Las Vegas, and distributing open alcohol is thought of as something that needs to be regulated. That is why they require a license for doing that.

Assemblyman Hettrick:

They already pay a license to sell liquor, and if they have a wine tasting, they're just going to sell more wine. You get another fee. I just don't know why we have to have another tax on doing this.

Sabra Smith-Newby:

I'm not sure how exactly to respond, other than it's currently our business practice to not only license the sale of the liquor, but also the on-site distribution into cups and the consumption of it, which we feel is a different kind of practice. As I said, there are already two of those license fees in place: the special event and the year-round.

Assemblyman Hettrick:

I understand when we're talking about someone opening it and dispensing it for a fee. They're getting paid to do that in a bar. This is different. They're giving this away to increase sales that you get more tax money from. I don't see why we have to tax it. I'm not convinced we need this tax. We can call it a fee, but a fee is a tax. No matter how you get to it, it's a tax.

I just don't see a reason to do this. You're already getting paid. They already had to get a license from you to sell the liquor. They paid that once. They're going to give this wine away, which they had to pay for, and then you're going to get more money when they sell more wine. I don't know why we have to hit them again. I'm going to have a tough time supporting that.

Chairwoman Buckley:

Tell me again what the fee would be. What are the two ranges?

Sabra Smith-Newby:

The range is \$75 for the special permit, which is seven days over a two-month period, and \$1,200 annually for the year-round liquor tasting, as for a Lee's Discount Liquor. We only have four year-round permits in the city of Las Vegas, three of which are for Lee's Discount Liquor, who does it as part of their main business of selling alcohol.

Chairwoman Buckley:

Okay. So our choices are: we could go with the original bill, we could amend it to allow the City to have the flexibility within their scheme, or we could require that incidental tasting not be assessed a fee. Senator Schneider, do you have any preference?

Senator Schneider:

No, no preference. I'll leave it up to the Minority Leader.

Assemblywoman Giunchigliani:

I think the bill would be in jeopardy if you left the \$500 fee intact. I suggest we allow the local governing body to establish their licensing fees and handle it that way.

Chairwoman Buckley:

There's also a fee in Section 13 for the instructional wine-making facility, so even if we eliminated the fee in the first part, it would still require a two-thirds vote, and it still has that additional fee, because it just adds another category. It's a very low amount in Section 13, but that's there as well.

Senator Schneider:

Assemblyman Hettrick, Trader Joe's didn't have a problem. I understand what you're saying. The City does get a windfall, because when they do have the wine tastings at the holidays, the wine sales really go up. However, Trader Joe's and Whole Foods Market, the little boutiques, will probably do something like this. I can't speak for Whole Foods, but Trader Joe's didn't have a problem with a \$500 fee, so whatever the fee is, I'm sure they won't have a problem.

Alfredo Alonso, Legislative Advocate, representing Southern Wine and Spirits:

We've worked with Senator Schneider for some time with this bill, and we are in support.

Tony Sanchez, Legislative Advocate, representing DeLuca Liquor & Wine, Ltd.:

DeLuca Liquor, a wholesaler, also supports the bill, especially with the clarifications under Section 2 with respect to what assistance wholesalers are required to provide these supermarkets when they are furnishing the free samples.

Chairwoman Buckley:

With that, I'll close the public hearing on S.B. 233. What's the pleasure of the Committee? I think we could go ahead and move it. We just need to decide which way to go with the fees. I think we know where Assemblyman Hettrick stands. I'd be happy to accept a motion. It would be an amend and do pass to eliminate the fee on page 3, if that's the way we're going to go, or we could have Legal work on some language that says a local governing body may not assess a fee against a grocery store who's offering complimentary samples and see what Legal would work up.

ASSEMBLYMAN PERKINS MOVED TO AMEND AND DO PASS
SENATE BILL 233 WITHOUT THE FEE.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

Assemblyman Sherer:

I need to disclose that I'm a grocery store manager, but this won't affect me more than it would anyone else, so I'll be voting.

Chairwoman Buckley:

We will have Legal work on the exact terms of the amendment. They'll have to figure out the permit; they may have a permit for something else. We'll let everybody look at it and bring it back so everybody can see it.

THE MOTION CARRIED UNANIMOUSLY.

Chairwoman Buckley:

Let's move on to the second bill on our Work Session Document ([Exhibit B](#)), S.B. 135.

Senate Bill 135 (1st Reprint): Revises provisions governing certification of registered interior designers. (BDR 54-744)

Diane Thornton, Committee Policy Analyst:

[Read from [Exhibit B](#).] S.B. 135 is sponsored by Commerce and Labor and was heard on May 9, 2005. The bill provides that an applicant may qualify for a certificate to practice as an interior designer if, more than five years before applying, he has completed a program in interior design culminating in at least a bachelor's degree.

Testifying on behalf of the bill was Gina Spaulding from the Nevada State Board of Architecture, Interior Design, and Residential Design. There were no amendments and no opposition to the bill.

Chairwoman Buckley:

Pleasure of the Committee?

ASSEMBLYMAN HETTRICK MOVED TO DO PASS
SENATE BILL 135.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairwoman Buckley:

Let's consider S.B. 225.

Senate Bill 225 (1st Reprint): Makes various changes relating to vocational rehabilitation counselors. (BDR 53-975)

Diane Thornton, Committee Policy Analyst:

S.B. 225 is sponsored by Senator Carlton and was heard on May 4, 2005. The bill makes changes to the rights and responsibilities of vocational rehabilitation counselors evaluating injured employees and industrial insurance claims. The measure specifies that the primary obligation of a vocational rehab counselor is to the injured employee. The bill also removes the limit on the number of open cases that a vocational rehab counselor may arrange, and requires that the counselor have knowledge of the labor market within the geographical area where the injured employee resides.

The bill eliminates the requirement that an insurer cause a written assessment to be prepared for any injured employee who will receive temporary total disability benefits for more than 90 days, and instead allows the injured employee or insured to request such an assessment. The measure requires that the written assessment be signed by a certified vocational rehab counselor. Finally, the bill prohibits a vocational rehab counselor from providing services to an injured employee if the counselor's employer administers the claim.

There were two amendments proposed to the bill. Behind Tab B ([Exhibit B](#)) is an amendment proposed by Jeanette Belz, from Property Casualty Insurers Association. This amendment specifies that if an employer of a vocational rehabilitation counselor and the employer who administers the injured worker's case are under common control and management, the vocational rehab counselor is prohibited from providing services to the injured worker.

During the testimony, the Nevada Trial Lawyers Association was not in favor of this amendment. In addition, Assemblyman Hettrick voiced some concern that the bill as written, without the amendment, might adversely affect companies that have not had complaints filed against them.

[Diane Thornton, continued.] The second amendment, by Ira Specter of the International Association of Rehabilitation Professionals, proposed averting the original language on page 2, lines 21 through 23, of the bill. This original language requires the insurer to prepare a written assessment for an injured worker who is temporarily and totally disabled. It is important to note that accepting this proposed change would conflict with the provisions in A.B. 364, which passed out of Committee on April 6.

Chairwoman Buckley:

We have put this on a work session before, and I had asked that it be pulled and then put back on. The issue arises when an insurance company controls the counseling function of a company, either directly or through an affiliate. The sponsors were pretty adamant that if the person paying the bills was also providing the treatment, that could lead to mischief. There's some concern about the amendment. I think that amendment gutted the whole intent of the bill, and that we should not process the amendment, but should either simply kill the bill or pass the bill.

Assemblyman Hettrick:

I understand both sides of the argument, and I have a concern about one company involved when we have no proof they have done anything inappropriate. An amendment has been suggested to me that I would offer to the Committee. It would amend Section 6, subsection 2, where it says, "a vocational rehabilitation counselor shall not provide services . . . if the employer of the vocational rehabilitation counselor administers the injured employee's case." The new language would say, "Unless the relationship between the employer of the vocational rehabilitation counselor and the employer who administers the case is disclosed to the injured employee prior to commencement of services." So the employee would know that there was, indeed, a tie between the two parties.

I would suggest we add language to that saying, "and the employee could then choose to go to another counselor if there was a concern." Then I think you would eliminate this need, because the employee would have full disclosure and would have the option of deciding whether they were satisfied with the services they were receiving.

Chairwoman Buckley:

Did anybody run this by Senator Carlton? I know I never heard about it before. I'll take that [silence] as a no. The Chair will entertain a motion.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO DO PASS
SENATE BILL 225.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION CARRIED WITH ASSEMBLYMAN HETTRICK VOTING
NO.

Chairwoman Buckley:
Let's consider S.B. 255.

Senate Bill 255: Revises provisions governing acquisition of branches of certain
financial institutions. (BDR 55-1229)

Diane Thornton, Committee Policy Analyst:

[Read from [Exhibit B.](#)] S.B. 255 was sponsored by the Senate Committee on
Commerce and Labor and heard on May 11, 2005. The bill allows out-of-state
depository institutions controlled by a bank holding company to acquire an
existing branch of a depository institution in Nevada without merging with or
acquiring the Nevada depository institution that owns the branch.

Testifying on behalf of the bill were Pilar Weiss from the Culinary Workers
Union, and Bill Uffelman from the Nevada Bankers Association. No one testified
in opposition, and there were no proposed amendments to the bill.

ASSEMBLYWOMAN ALLEN MOVED TO DO PASS
SENATE BILL 255.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairwoman Buckley:
Let's consider S.B. 381.

Senate Bill 381: Enacts provisions relating to commercial coaches.
(BDR 43-1325)

Diane Thornton, Committee Policy Analyst:

[Read from [Exhibit B](#).] S.B. 381 is sponsored by the Senate Committee on Transportation and Homeland Security, and was heard on May 9, 2005. This bill allows the administrator of the Manufactured Housing Division of the Department of Business and Industry to adopt regulations concerning insulation design approval or modification of a commercial coach. Behind Tab C ([Exhibit B](#)) is the amendment proposed by Sam McMullen [Legislative Advocate representing the Modular Building Institute]. It is my understanding that, according to Mr. McMullen, the Attorney General's Office and the Division of Manufactured Housing are in agreement with this amendment, which allows the Division of Manufactured Housing the authority to implement a permitting system. It clarifies that the Division of Manufactured Housing has the authority to enforce the provisions of the chapter of NRS that governs the mobile and manufactured homes. It provides that a person must be licensed to engage in a business as defined by the chapter. Lastly, it changes the effective dates to allow the Division to begin drafting regulations.

Chairwoman Buckley:

Diane, is this the latest set of amendments?

Diane Thornton:

Yes, it is. The newest set deleted, in Section 1, subsection 2(e), the fee language.

Chairwoman Buckley:

Okay, they went through quite a few iterations. Pleasure of the Committee?

ASSEMBLYMAN SEALE MOVED TO AMEND AND DO PASS
SENATE BILL 381.

ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairwoman Buckley:

Okay, that's it for the work session. Going back to our agenda, we will open the hearing on S.B. 15.

Senate Bill 15 (1st Reprint): Authorizes Nevada Tax Commission to compromise amounts owed by taxpayers under certain circumstances. (BDR 32-637)

Dino DiCianno, Deputy Director, Nevada Department of Taxation:

[Submitted [Exhibit D.](#)] S.B. 15 is being brought here for your consideration on behalf of the Department of Taxation. Basically, the bill authorizes the Nevada Tax Commission to compromise amounts owed by taxpayers under certain circumstances.

On page 2, the bill would also require that, under consideration, the Tax Commission vote as a majority to allow that offer in compromise. In addition, the bill would require that certain criteria be met regarding how a taxpayer would request an offer in compromise and how the Department would review it. Basically, the criteria would be that the Department would be unlikely ever to be able to collect the debt from the taxpayer. Secondly, the amount of the liability of the taxpayer is unclear.

Concerning the regulation ([Exhibit D](#)) that the Commission adopted last December, the question that would come to mind is, why would we need a bill if the Commission has already passed the regulation with respect to an offer in compromise? Under NRS 362.45, the Commission can now write off uncollectible debt, but it has to be at least five years old. After talking to LCB Legal, when the Commission attempted to put together a regulation regarding an offer in compromise, we had to tie it to that. So that regulation will only apply to debts that are over five years old.

The reason we have this bill is because there will be certain taxpayers who will find themselves in a situation in less than five years where they are afforded the opportunity to make an offer in compromise. The bill was amended on the Senate side. That amendment had to do with the effective date of the bill. It was changed upon passage and approval.

Chairwoman Buckley:

In the regulation, there is a lot more detail about what is considered doubt about the ability to collect, what considerations of equity and fairness mean, medical conditions, crime, disasters, and a lot more detail. Why wasn't that detail replicated in the bill?

Dino DiCianno:

On page 2, line 9, the bill would require the Nevada Tax Commission to adopt regulations to carry out the provisions of this section. I believe it was necessary because on line 6, it says, "the amount of the liability of the taxpayer is

unclear." We need to define what "unclear" means, and that is why the Commission went down this road.

Chairwoman Buckley:

How is the Commission likely to define that?

Dino DiCianno:

That is a very good question, because the Commission struggled very significantly with respect to what it would be fair and equitable for a taxpayer to come forward. I believe they have attempted to do that within the regulation as you read it. We're always open for suggestions.

Chairwoman Buckley:

In putting in "fairness," you did a good job. It seems to cover quite a few things. So you'll just do the same process there?

Dino DiCianno:

That is correct. This is a temporary regulation, and once the session is over, we will reopen the regulation for workshop and additional discussion.

Assemblyman Seale:

Do you utilize the Controller's Office in collecting any of your debt?

Dino DiCianno:

No, we have a separate contract with a debt collector.

Chairwoman Buckley:

Is there a reason why you've made that choice?

Dino DiCianno:

The statute in place allows an agency like the Department of Taxation to contract on its own, and that's what we chose to do.

Chairwoman Buckley:

What was the factor behind the choice?

Dino DiCianno:

We felt that, since we are the ones who collect debt, it should be under our purview.

Assemblyman Seale:

I think what he has just suggested makes a lot of sense. They're probably utilizing professional debt collectors, and I'm not sure the State is particularly well equipped to do those kinds of things.

Chairwoman Buckley:

I'm not disagreeing, just inquiring, especially since the office is going to go away, anyway.

Anyone else like to testify on the bill? Any concerns from Committee members? I'd be happy to entertain a motion.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO DO PASS
SENATE BILL 15.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairwoman Buckley:

Let's turn to our next bill and open the hearing on S.B. 138.

Senate Bill 138: Limits circumstances in which overpayments of taxes may be applied to underpayments in another reporting period to reduce penalties. (BDR 32-408)

Dino DiCianno, Deputy Director, Nevada Department of Taxation:

S.B. 138 is being brought to you for your consideration on behalf of the Department of Taxation. The bill limits the circumstances in which overpayments of taxes may be applied to underpayments in another reporting period to reduce penalties. That is a debit/credit offset from an accounting standpoint.

NRS 363.20 is part of the Taxpayers' Bill of Rights. As you recall, Senate Bill 362 of the 70th Legislative Session in 1999 basically changed the way the Department of Taxation conducted its business with respect to audits and revenue collections. We have had conversations with Ms. Carole Vilardo of the Nevada Taxpayers Association, and we felt there was an omission at that time.

That is why this bill is being brought forward to you. My understanding is that she is in agreement with this bill.

[Dino DiCianno, continued.] If I can draw your attention to the second page of the bill, lines 22 through 28, we believe the debit/credit offset should not be afforded to a taxpayer, under an audit situation, who either fails to file a report of return that is required by law, files such a report later than the date it is due, or files a report or return that erroneously shows they had no liability to the State. That is the purpose of this bill.

We'll close the public hearing on S.B. 138. Pleasure of the Committee?

ASSEMBLYMAN HETTRICK MOVED TO DO PASS
SENATE BILL 138.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairwoman Buckley:

Let's turn to our last bill, S.B. 339.

Senate Bill 339 (2nd Reprint): Makes various changes concerning partial abatement of certain taxes for new or expanded businesses. (BDR 32-845)

Berlyn Miller, Vice Chairman, Nevada Commission on Economic Development:

We are here in support of this bill.

**LeRoy Goodman, Commissioner, Lyon County Board of Commissioners;
Rural Commissioner, Nevada Commission on Economic Development:**

This bill simply removes the criteria of the average statewide wage, which is mandatory when we're looking at incentives to grant for industries coming into rural counties. It allows us to look at the statewide average wage or the countywide average wage, whichever is less. Of course, in several of our rural counties, the average wage will be less than the statewide wage, simply because of the economics.

[LeRoy Goodman, continued.] This has been precipitated by a couple of instances where we've had people considering one of our rural counties, several of which are somewhat distressed, with an eye to put an industry in there—bear in mind that \$16.49 is the statewide average wage right now; that will go up July 1. If somebody comes to Pershing County, Humboldt County, or Lyon County and wishes to put a business in that would otherwise qualify for the incentives but does not qualify because of the statewide average wage, we cannot do anything about that. The statewide average wage is mandatory.

Say somebody would like to put a business or industry in Pershing County right now, and they can hire 25 or 35 people, but they would only pay \$15.00 an hour plus benefits. We always look at the benefits very hard. If we were not able to do this, those people up there would probably lynch us, because they're desperately in need of jobs throughout the rural areas. They give us feedback in favor of this for the property tax and with this wage. If they say no, it doesn't go any further. This is just one of those things that gives local governments a little more control over what's going on.

Chairwoman Buckley:

Could you tell us what the countywide wage is in some of those counties you mentioned?

LeRoy Goodman:

Certainly. I think you have that right there ([Exhibit E](#)). Elko County, for example, is \$14.20 an hour.

Berlyn Miller:

You have a handout that gives a county-by-county breakout. There's a disparity on the average wage from one county to another, from the lowest to the highest, of \$16.52 an hour. We have 11 counties whose average wage is less than the state average, and 6 that are higher than the state average. As a Commission, we want to do as much as we can to help those rural counties that need the jobs the most. This flexibility will allow us to do that.

Assemblyman Anderson:

I appreciate the need for jobs. Those higher wages are generally considered to be trickle-through dollars into the economy, and you're trying to raise the overall standard for everyone. I think you're between a rock and a hard place in a way. The more you pay your employees, it's going to come into the businessman's pocket, because those folks are going to buy more goods. Why would you not want to encourage that in economic development? Ultimately, you want businesses to survive after they move there. Is that not counter to what economic development is all about?

LeRoy Goodman:

You're exactly right; however, this allows the entity to at least look at it and make that determination. Right now there is no flexibility. Keep in mind that \$16.49 is strictly wages, not benefits, and the Commission on Economic Development looks very hard at benefits. Probably the first thing we really look at is what benefits these people are providing their employees.

However, with the example I just used, if an industry wants to come into a county whose average is \$14.80 an hour and wants to do business there, maybe it can't make the \$16.49, but can pay \$15.50 an hour, and that's what we're trying to do. We look very hard at the wages, too, but we have several counties that are not doing well right now at all.

Assemblyman Anderson:

I don't want to belabor the point, other than the fact that one businessman wants to keep his wages low so he can keep going. The other one would just like people to spend some money at his place of business, and therefore he would like to see wages a little higher. Those two guys are in competition with each other.

Assemblywoman Giunchigliani:

I'm disturbed by this, because I think it starts to roll back the intent of economic development and what we were trying to do. Last session and again this session, I've had conversations to try to resolve the issue of top-level supervisors or administrators being included in the average wage, which skews who is being paid what. I might have a higher comfort level in trying to do what you're doing if we were segregating that, but we still have not done that. That bothers me.

Berlyn Miller:

I understand what you're saying. At a meeting yesterday, we had a company come in with an average hourly wage of \$88.64. Obviously, that included the CEO, the CFO, and all of those. Any time we get one that includes the executives, I ask the staff to give us a breakout of the hourly wage for all their employees and their executives and to separate those so we can look at that. I absolutely agree.

Assemblywoman Giunchigliani:

I appreciate that, but I think it should go in statute. That's what we had talked about last session, and I didn't follow up on that. In addition to that, how would this work in reality? This will affect all counties, right? It doesn't eliminate the population cap?

LeRoy Goodman:

No, this is for counties under 60,000.

Assemblywoman Giunchigliani:

This would allow you to establish another average countywide hourly wage for businesses who might want to locate, but who can't hit the threshold we have for the more urbanized areas. Is that what I'm hearing?

LeRoy Goodman:

That's exactly right. This gives the county the opportunity to look at it, and they make the determination. If they say no, they want the statewide average hourly wage, that's fine. It gives them the ability to determine the jobs and what these people are going to do. The local people in that county make the determination. If they like this group, then they have the ability to accept it, and they meet the average county wage.

It gives them a little flexibility. Right now there is no flexibility at all. This is mandatory; they have to meet the statewide hourly wage, which is virtually the same as Clark County's hourly wage.

Assemblywoman Giunchigliani:

True, but the abatement is a statewide abatement. You're abating not just the local taxes, a local decision being made, but the tax abatement is based not just on that particular county. Is that right?

LeRoy Goodman:

That is true of the sales tax abatement. The property tax abatement applies to that particular county.

Assemblywoman Giunchigliani:

Would it be possible to give us a breakout of the countywide averages? You probably don't have it, because you haven't begun to segregate what's truly the salary for working folks versus the administrative staff. Until we know that, we don't really know what your average rate is. I don't have a comfort level making a change like this until I see really what is the wage and the health care that we are using as a standard, that the Commission uses as the standard. You say it's \$16.49, but, in reality, it could be \$12.00. Then if we allow you to do this, it could be even lower than that, so I'm just trying to figure out where we really are.

Berlyn Miller:

No, we could not go to \$12.00. This only allows us to go to the county's average wage, not below that. As Commissioner Goodman indicated, we never give a property tax abatement unless we get an okay from the county, and the county and the school district agree to that, as well as the city, if they're affected by it. We request a response from all three of those entities before we will give a property tax abatement. I can assure you this is not an attempt to reduce it. This is only for those cases where we've got a county that really needs jobs, wants jobs, and is asking us for them.

As Commissioner Goodman said, although we don't take them into consideration in the wage, we look very hard at benefits. We do not give any abatements if the company does not give health and welfare benefits. We do not have the numbers you're asking for at this time, but I assure you we will look at those numbers. In all applications in the future, I have asked them to break that down. We'll get that information back to you, because I do remember the discussion last session.

Assemblywoman Giunchigliani:

Thank you. I might even be able to find my old language, and I'll bring it back to you when we can talk and maybe bring it to the Committee.

Tim Rubald, Director of Business Development, Nevada Commission on Economic Development:

I'm the one who runs the numbers on these and deals with the issues you're addressing. My concern is not that we can't figure out the numbers on the applicants we receive, but, as you can see on your handout today ([Exhibit E](#)), the numbers that are generated for average wage by industry, average wage by county, and the statewide average wage, which has been our standard of comparison, are not generated by us. They are generated by the Nevada Department of Employment, Training, and Rehabilitation (DETR) and are calculated from what is called ES202 data, which is the unemployment insurance data required by the federal government and the State. It is the only source of that level of detailed information and wage data. Because of a federal mandate, it cannot be compiled, at this point in time, in any other form or assemblage. Furthermore, it cannot be dissected in any way because of confidentiality requirements of the federal government that are passed on to DETR and, therefore, passed on to us. Consequently, we deal with these as aggregated rates.

My concern would be that if we were to draw a line in the sand as far as what the wage for the "working people" would be, what would your comparative analysis to that be, since there is no number out there that I am aware of that

one could compare that to? Currently, we compare it to the statewide average wage and are requesting that it be the county average wage for the purposes of the personal property tax abatement only. That's basically what this addresses. The Commission currently has the authority and flexibility, through NRS 367.50.3, to make the decision on the statewide average wage. Having worked with the Commission and done this for eight years, I can tell you that these two Commissioners are adamant that the company must be above that average wage.

[Tim Rubald, continued.] The other issue, to address Assemblyman Anderson's question, is that we are dealing with regional economies. Yes, absolutely, there is a trickle-down effect, but that effect varies from region to region. When you look at a county average wage as compared to a statewide average wage, you are dealing with a much more local, much more regional economy, which, in this case, may well be more appropriate for what the Commission is trying to accomplish.

Berlyn Miller:

Tim having said what he did about the figures out there and what the federal government does, we, as a Commission, may look at those numbers. We require the company to provide us with those numbers. They may not be out there in this average, but we can look at them, and we can make a determination based on the information we get on the number of jobs, the classification of the jobs, and what each of those are paying. We may not be able to get it into law, but we can certainly look at that as a Commission, and I guarantee we will.

Back to Assemblyman Anderson's question, we are very strict on this, and we do turn down applications all the time. It is not unusual for us to turn down an application because of the wage level.

Dan Holler, County Manager, Douglas County, Nevada:

Businesses coming to the county often ask what benefits are out there. We refer them to the Commission on Economic Development. As they are looking at our community, they are also comparing us with what they have in California, Texas, New Mexico, or Arizona. This is one area where we are able to compete, and it helps with the attractiveness of our community.

It also helps us with our region, because they'll look at Douglas County, Lyon County, and Carson City. One of the challenges of that prevailing wage requirement, the county average wage requirement is different across those counties. If it's a little bit lower in Lyon County and a company moving in can meet that wage, we support bringing them in regionally. We will benefit from

having that new manufacturing company located there if they do not locate in Douglas County. We look at how we can grow our region. We see ourselves even getting pulled into the Washoe County or Reno market area, as we compete for business, not only regionally, but also nationally and internationally. We've had experience competing with China for a company.

[Dan Holler, continued.] This really does give some additional flexibility in how we bring those companies in and how we work with them. As these requests come before a county commission, we take a hard look at that as well before we give our stamp of approval, questioning how those wages are comparable, and if something is skewing them. The ones we've looked at have been very competitive. One company actually deliberately took their executives out of the average. In that case, they still met the state average wage, so that was very positive. There are processes we look at at the county level when these companies come in and request these types of concessions to locate in Nevada. It's a very positive step in the rural counties' economic diversification to be able to have these types of jobs in their communities. From a practical standpoint, it's beneficial.

Mary Walker, Legislative Advocate, representing Carson City, Douglas County, and Lyon County:

We are in support of S.B. 339. The bottom line for me, having seen the practical effect of having a statewide average wage requirement for some of these smaller areas that are \$2 an hour below the urban communities, is that we're not even able to use this tool, and the reason is that a business isn't going to relocate to some of our smaller areas if they look at whether they can get this benefit or not. They don't want to pay the extra \$2 an hour in order to get this tool, so we can't use it at all in a lot of cases. This is a matter of whether we have the ability to actually use this as an economic development tool in rural Nevada. All we want to do is be able to use it in the rurals, which we're really not able to do at this time.

Ray Bacon, Executive Director, Nevada Manufacturers Association:

One factor that was not brought up, but which I think is important for you to consider, is this. Say, for example, a company were to come in today wanting to locate in Hawthorne and use the Navy base there as its facility as the base closed. I think Hawthorne would be pretty happy at this stage of the game.

Secondarily, one of the factors the Commission considers is the benefits package. In most of our rural communities, which are located a good distance from the urban areas, health insurance is substantially more expensive. That is not considered in the wage. To have health insurance in some of those rural communities is a huge benefit. Typically, if you're located in Esmeralda, Mineral,

Pershing, Eureka, or White Pine County, the benefits package across the board will be substantially more expensive. So, while the wage may not quite meet the state average, under this criterion it is always going to at least match or increase the county wage. Plus, it's going to bring in jobs, which quite often don't exist in those rural communities. This bill has some merit to it.

Chairwoman Buckley:

Any more testimony on S.B. 339? Seeing none, we will close the hearing on S.B. 339. Seeing no further business to come before the Committee, we'll ask its sponsors to work with Assemblywoman Giunchigliani on answering those questions. We are adjourned [at 2:09 p.m.].

RESPECTFULLY SUBMITTED:

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblywoman Barbara Buckley, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: May 13, 2005

Time of Meeting: 12:57 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B	Diane Thornton/LCB	Work Session Document
SB 233	C	Sabra Smith-Newby/ City of Las Vegas	Proposed amendment
SB 15	D	Dino DiCianno/Department of Taxation	Adopted temporary regulation
SB 339	E	Mary Walker/Carson City, Douglas, and Lyon Counties	DETR Average wage by sector and county