

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Fourth Session
May 10, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:44 p.m., on Thursday, May 10, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblyman David R. Parks, Vice Chair
Assemblywoman Francis Allen
Assemblyman Morse Arberry Jr.
Assemblyman Mo Denis
Assemblyman Tom Grady
Assemblyman William Horne
Assemblyman John W. Marvel
Assemblyman James Ohrenschall
Assemblywoman Peggy Pierce
Assemblywoman Valerie E. Weber

COMMITTEE MEMBERS ABSENT:

Assemblyman Harry Mortenson (Excused)

STAFF MEMBERS PRESENT:

Michael Nakamoto, Deputy Fiscal Analyst
Mary Garcia, Committee Secretary
Gillis Colgan, Committee Assistant



OTHERS PRESENT:

Dan Carroll, representing Global Discoveries, Ltd.
Al Kramer, Treasurer, Carson City, and representing Association of
County Treasurers of Nevada
Dino DiCianno, Executive Director, Department of Taxation
Ernie Adler, representing Reno-Sparks Indian Colony
Carole Vilardo, President, Nevada Taxpayers Association
Peter Krueger, representing Cigar Association of America
Tony Sanchez, representing Las Vegas Convention & Visitors Authority
Joe Guild, representing United States Tobacco Public Affairs, Inc.
Monte Williams, representing United States Tobacco Public Affairs, Inc.
Barbara Smith Campbell, representing United States Tobacco Public
Affairs, Inc.
Alfredo Alonso, representing Conwood Sales Co., LLC
Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County
District Health Department
Michael Hackett, representing Nevada State Medical Association and
American Cancer Society
Sam McMullen, representing Altria Corporate Services, Inc.

Chair McClain:

[Meeting was called to order at 1:44 p.m. Roll was called.] We have four bills on the agenda today. We will take them in order starting with Senate Bill 375 (1st Reprint).

Senate Bill 375 (1st Reprint): Revises provisions governing certain unclaimed property held by a county treasurer. (BDR 32-74)

Dan Carroll, representing Global Discoveries, Ltd.:

Global Discoveries, Ltd., which is a locator firm, was the original proponent of this bill. It has since turned into a jointly-drafted piece of legislation between Global and the Nevada tax collectors. This bill streamlines the process for claiming the excess proceeds from real property tax sales. It requires that any person acting on behalf of a property owner or a lien holder be licensed as a private investigator in the State of Nevada. That is a new component of the bill. It provides for a priority of payment of the excess proceeds, first to the lien holders of record and then to the former owners according to their recorded priority. Also, it effectively modernizes the statute.

Al Kramer and I proposed the bill, and then we came to a Senate committee hearing. Mr. Kramer raised objections. After that meeting, Mr. Kramer and I, as

well as Patrick Foley of the State Treasurer's Office got together and agreed on language with which we could all be happy. We presented that to the Senate Committee on Taxation. Here is Mr. Kramer now.

Al Kramer, Treasurer, Carson City, and representing Association of County Treasurers of Nevada:

I sat in on a compromise on this bill, and we drafted language that the Association of County Treasurers is comfortable with. The bill contains one actual change to policy. Right now a taxpayer has two years in which to claim excess proceeds; this bill would change that to one year. However, going over the numbers of claims for excess proceeds we have had in the last ten years, the vast majority occur in the first year. The bulk of those that occurred in the second year were claims by finder companies. We think the impact on the public would be minimal.

Chair McClain:

Why would somebody have to be a licensed private investigator to do this?

Al Kramer:

Actually, there are two reasons. The first is that we were trying to establish some kind of criteria for the people doing the finding so we would not get con artists trying to defraud people. We wanted the finder to have something at risk if he contacts people to find money for them and receives a percentage cut. We did not want unethical persuasion or techniques to be used. Our first thought was to use real estate brokers, but we were advised by the State Treasurer that the unclaimed property rules, which have somewhat the same provision on finders, require a private investigator to be used. We wanted the finders to have to adhere to some sort of ethics when they do this so they could not just lie to someone and take his money.

The second reason is that as county treasurers we get questions on excess proceeds from different companies and different people trying to find out how they can find a person, get the money to him, and make their own side deal. The county treasurers are bombarded with questions. We do the work for these people, and we know private investigators know how to do this research. We can tell them to do their own research, and we do not have to do it for them. We can tell that to people who are pros and know how to research without being rude to the public or expecting too much from them.

Assemblyman Marvel:

How much unclaimed property do you usually have in any given year?

Al Kramer:

In Carson City it has been 0 for the last 12 years. Even in Clark County and Washoe County it has been going down year by year. I do not have an accurate number, but I would say that Washoe County had maybe four last year, and Clark County may have had seven. We are dealing in numbers that are, for the most part, under ten. I think Nye County had more than that, but they all involved very small dollar amounts and their numbers are sporadic. They might have something one year and then go three years with nothing. Neither the numbers nor the dollar amounts are very large.

The reason is that we have been doing a better job of getting notices to people before the tax sales. We have been using the Internet and other resources to find people and notify them of properties being sold. There are fewer who come forward afterward because they save the property before it is sold.

Assemblyman Marvel:

Do you handle property where taxes are delinquent? Do you put those up for auction?

Al Kramer:

Only after the three-year period when we take trustee title, advertise, et cetera. That is what we are talking about, though: delinquent properties where no taxes have been paid. After the property is sold at auction and the taxes have been paid, the remaining amount is the excess proceeds, which is what this bill is all about.

Assemblyman Grady:

On page 3, line 28, it looks like there had been a maximum 10 percent fee that could be charged, but that was taken out.

Al Kramer:

Most of the treasurers would actually like to see that provision stay, but this goes back to the idea that we have been plagued by entities asking for a list of these excess proceeds. They would then call back asking for the payment histories for different people. We would get many queries from people who did not know how to do the research themselves. In many cases we were doing the research to find these people. It got to the point where we wanted to discourage them. We thought if we simply lessened the amounts the finders could charge, they might go away.

In some cases, though, there really is a service provided, and Global Discoveries showed me what that was. The bulk of their accounts are not private citizens that they work for and that they are finding. Bank of America is one of their

wholesale accounts, and they have an agreement with Bank of America. Bank of America may have the first note on a property that slipped through to sale, and Global finds that Bank of America has an interest in those excess proceeds. They do the work and get more than 10 percent.

Their argument in the Senate committee convinced me that it really does not make sense for them to do it for 10 percent, and they are providing a service to people who have an interest in the property. The condition that they have an entity such as a private investigator do the work would relieve us of having to make all the phone calls and the fact that they provide a service to the financial community was enough for me to accept the compromise and let the 10 percent provision go.

There is one item in this bill that is really good, and I wish we had thought of it years ago. That is the part on page 3, paragraph 4, lines 3 through 14, which prioritizes who can make a claim. Right now, the first person who comes in and makes an authorized, vetted claim gets all the money he asks for. As this says, the first person in line should be the person who has the first note and deed of trust on the property. The money should not go to the ex-owner who owed the note and deed of trust, but should satisfy the deed of trust first.

There are some parts of this bill that we treasurers really like. I was convinced that while some of us would like to see a limit in place, we should let the people who contract make their own contracts as long as we can get rid of some of those phone calls.

Dan Carroll:

In the Senate hearing we explained to Mr. Kramer that we contract with many major credit facilities such as Wells Fargo, Bank of America Corporation, ITT Diversified Credit Corporation, and Household Finance Corporation (HFC). We have negotiated lengthy contracts with them at 30-35 percent, and they pay us that much to do the work for them.

However, we also work for individual citizens, which requires purchasing title reports when the county sells property. My client, Global Discoveries, employs 30 people who do their own title searches and purchase title reports from title companies. The actual out-of-pocket cost for a locator to make a claim is greater than 10 percent because of the hard costs of purchasing title reports, employing investigators, and the like.

I have here one example of a claim my client did in Humboldt County, where they located a private citizen who lived a mile and a half from the county seat. His address was on the deed, he still lived at the address, and the address was

on his driver's license. For some reason, he did not receive notice of the tax sale or the excess proceeds rights. My client located him and wound up claiming \$9,000 for him that, but for my client locating him, he would never have received.

In this case, the gentleman was charged 35 percent to find his money, but he received 65 percent of \$9,000. If the commission had been limited to 10 percent, he would have received 100 percent of nothing because he would not have been found. Finding these people takes the staff and the elbow grease my client provides. If the maximum commission goes to 10 percent, which effectively forces the locator companies out of business, people like this gentleman will never get their money.

This is not like state unclaimed funds where someone can go to a website and fill out a form. In this case there was actually hard title research to be done, and someone had to go out and locate the gentleman. In many cases the people my client locates are heirs of a former owner who do not know their predecessor owned the property or that they had a right to the excess proceeds. The county does not know the owner has passed away, so the notice is sent to the former owner at the address on the deed. It never reaches the heir, so the heir who is entitled to the money does not know. A locator firm such as Global Discoveries goes out and finds these people, who wind up receiving money they otherwise would not have received. The 10 percent limitation would effectively put my client out of business.

Chair McClain:

But it also opens up the possibility of people getting 10 percent instead of 90 percent, or 30 percent instead of the 65 percent. I am not too excited about removing that limit.

Assemblyman Horne:

I have a question regarding the deletion of subsection 3 right above that, "include a description of the property." Why would we do that? With this locator agreement you have to have all of this ready. Why would you not have a description of the particular property?

Al Kramer:

This is really simple. If you are trying to sell something to someone, and you give them everything you are going to sell them in the approach, you have nothing left to sell. In this case, if you are trying to sell someone on the idea that you can get him some money if he will sign a contract, and the contract says where that money is, you have nothing left to sell. Having the description

of the property on which there are excess proceeds leaves you with nothing to sell. They convinced me of that as well.

Understand that this is the contract between the finder and his client. This is not in the application to the county for the excess funds. It deals with the finder's contract with the client and not with the county. We need that descriptive information at the county level so we know to which fund they are referring.

Chair McClain:

In Section 4 on page 3, line 10, we are adding "the creditor under a judgment." Could you give me an example of this?

Dan Carroll:

Suppose Mr. Kramer owned a piece of property, and I had a court judgment against Mr. Kramer for \$20,000 recorded against the property. I should have priority in getting the excess proceeds before Mr. Kramer. It would be just as if he sold the property in a private sale, where my judgment would be paid through escrow in order to clear the title. This provision gives the creditor the same status with regard to claiming the proceeds of a tax sale.

Chair McClain:

I understood you to say this is a prioritized list. [Mr. Kramer verified that.] I do not read it as being prioritized.

Dan Carroll:

That is on page 4, specifically lines 27–29. Priority goes to the persons in (b), (c), (d), and (g) of subsection 4 of *Nevada Revised Statutes* (NRS) 361.585, which gets back to the beneficiary under a note or deed of trust, the creditor under a judgment, or the successor in interest of a creditor. That gives the creditors priority over the owner just as they would have in a private sale.

Chair McClain:

Does anybody else have any questions? Does anybody in the audience want to weigh in on this one? [There was no response.] I will close the hearing on S.B. 375 (R1). I will open the hearing on Senate Bill 502 (1st Reprint).

Senate Bill 502 (1st Reprint): Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)

Dino DiCianno, Executive Director, Department of Taxation:

I am here to support S.B. 502 (R1). It is a Department of Taxation bill. It specifically relates to amending provisions within Chapter 360B of *Nevada Revised Statutes* (NRS) that relate to the Streamlined Sales and Use Tax Agreement. I provided you with some information ([Exhibit C](#)) that I thought would be helpful. That packet should include an abstract of S.B. 502 (R1), since the bill is rather lengthy. It should also contain proposed or draft language for a preamble to the portion within the bill that goes on the general ballot in November 2008. The packet should also include a map showing the status of all the states with regard to the Streamlined Sales and Use Tax Agreement. As you can tell from that map, Nevada is an associate member.

There should also be an executive summary put out by the Streamlined Sales and Use Tax Governing Board in 2005. The emphasis in the executive summary has not changed since that time. You should also have a copy of a resolution adopted in May 2005 by the National Conference of State Legislatures regarding the relationship between Streamlined Sales and Use Tax Agreement and Tribal Governments. The reason you have a first reprint is that one specific amendment was made on the Senate side that brought in the tribal governments based upon that resolution.

Because this is a lengthy bill, I will briefly go over the highlights. The bill amends the current statutes in line with all the amendments that have occurred in the agreement since 2005. By that I mean there have been additional changes to the definitions of a person, a certified automated system, dietary supplements, food, and sales price, and the addition of the Commonwealth of Puerto Rico.

The most important part of this bill, and the reason I am here to support it, is that since 2001 this Body has allowed Nevada to become a part of that Streamlined Sales Agreement. I have been the voting member for the State since 2000. We have worked on this for more than seven years, and I would hate to see that all go to waste. The prior Governor supported the Streamlined Sales and Use Tax Agreement; the current Governor, Jim Gibbons, supports the Streamlined Initiative.

The most significant part of the bill is in Sections 39 and 47. As you all know, we have lived under the referendum, or the vote of the people, since 1955. I believe it is time that changed. I believe it is important for this Body to have not only the ability to make decisions regarding the local portion of the sales tax, but also the ability to make decisions regarding the state portion. In other words, if someone comes before you requesting a change to the Sales and Use Tax Act of 1955, this Body should be able to legislate accordingly without

having to wait two years after a vote of the people before you can come back and address it.

This is very significant. We are one of the few states that still allow for referendum issues. Carole Vilardo has an amendment to the bill ([Exhibit D](#)) with suggested wording for the ballot measure. I do not have a problem with that. I believe that is a friendly amendment.

The other part of this bill repeals certain provisions within the statutes that have been found unconstitutional or no longer applicable.

Chair McClain:

You all have a copy of Ms. Vilardo's amendment ([Exhibit D](#)). She wants to add that "approval of this question will still require voter approval of any rate increase proposed to the Sales and Use Tax Act of 1955." The people are not voting away their right to approve increases. [Mr. DiCianno concurred.]

Assemblyman Horne:

In Sections 15 and 16, I am curious about the language about dietary supplements and preventing food-borne illnesses.

Dino DiCianno:

The reason we have to include those language changes is they were part of the discussions and approval by the Governing Board of the Streamlined Sales and Use Tax Agreement. Food and food ingredients mean substances—whether liquid, concentrate, et cetera—that are consumed for their taste or nutritional value, with the exception of alcoholic beverages, dietary supplements, and tobacco. They do not consider a dietary supplement to be food. In order to comply with the agreement, we have to include that in our statute.

There is a heating or cooking element involved in what is taxable and what is not taxable when it comes to prepared food. Part of the intent of Section 16 is to prevent food-borne illnesses. Cooking food or heating it to a certain temperature removes the possibility of food-borne illness, and that is the only reason that is there.

Assemblyman Horne:

Dietary supplements are excluded, but who made the determination that dietary supplements are not a food?

Dino DiCianno:

There are currently 22 states in this agreement. Nevada is one of only six associate members. As an associate member we cannot vote. The other

16 members are full members. There is a mechanism that allows member states to bring amendments to this agreement forward to the governing board. They review and discuss the amendments and vote on them. It was the conclusion of that board that dietary supplements should be excluded from the definition of food. They are not considered food products.

Assemblyman Horne:

If we were to say they were not food products here, this would relate to what provision of the tax code?

Dino DiCianno:

Dietary supplements are taxable. There is no question about that. Prepared food is taxable if it is intended for immediate consumption, but a loaf of bread and a carton of milk are not taxable.

Chair McClain:

Since Nevada does not have much say in this as an associate member, when are we going to be a full member? What do we have to do?

Dino DiCianno:

The reason this bill is in front of you is that we have to comply with those provisions within the agreement by January 1, 2008. I will be submitting a re-petition to the governing board to allow Nevada to become a full member. Without this bill being enacted, it will not happen.

Chair McClain:

Who authorized this board? Where did they come from?

Dino DiCianno:

That was the result of a discussion that occurred in 2000 amongst all the different administrators, such as myself. Congress charged the states to either simplify the Streamlined Sales and Use Tax Agreement or to not be able to tax Internet retail sales.

Chair McClain:

So it was a case of either the states fixing it or Congress fixing it for them? [Mr. DiCianno verified that.] I do not blame you for establishing the board.

Assemblywoman Pierce:

If a registered seller fails to collect the correct amount on any sales or use tax imposed using a certified service provider, is there any provision for our checking to see if this software has been hacked into or altered in some way, or to assess a penalty or any such thing?

Dino DiCianno:

There is. Each state has to certify service providers. In other words, we conduct audits on their process. We sign off on their viability. If they do not conform, then they are subject to those penalties and provisions, and they owe the tax they had collected.

Assemblywoman Pierce:

If you do not think they are collecting enough tax, do you check the software again to make sure it has not been altered or hacked into in some way?

Dino DiCianno:

There is a formal process with the governing board whereby the service providers have to show they can provide that service. They are acting as conduits between the remote sellers—those retail establishments that sell over the Internet—and each state. We do not have the ability to audit the remote sellers. We have the ability to audit those centralized service providers. We have to certify that what they have put in place is accurate and correct, that is key. If we do not believe they are performing their function properly—they have not incorporated a matrix of our rates and boundaries and all the tax rates of all the different states—they cannot be centralized service providers. All the states have to agree to this.

Assemblywoman Pierce:

What if the software gets altered past that point? What if the remote seller alters the software?

Dino DiCianno:

The remote seller would not be liable because of an error created by the centralized service provider. That service provider would be liable, not the retailer.

Assemblywoman Pierce:

Software can be altered at any point. [Mr. DiCianno concurred.] So what if the remote seller alters the software so that it is not collecting enough, but it appears that it is?

Dino DiCianno:

There are two mechanisms that will be put in place to ensure the remote seller's report is accurate and the proper amount of tax is remitted to each state. One is the centralized service provider. That means a remote seller could contract with the centralized service provider to provide the returns, collect the tax, and remit it to the state. The other is called the certified automated software, which would be sold to a remote seller or retailer. We still need to

certify that software. There is no question someone could alter the software. That is something we would have to deal with on an individual basis.

Assemblywoman Pierce:

A liability has been waived, and there does not seem to be any penalty for altering software or any way to get the taxes that were not collected.

Dino DiCianno:

If the states are aware that someone has altered the automated software, we will bring them in front of the governing board and yank his certification. He will no longer be allowed to use it. I do not believe that any state would allow someone to do something like that for any length of time.

Part of this process was a negotiation between the business communities in all the different states. Some give and take was part of the process. The whole idea was to level the playing field between the brick-and-mortar retailers and the remote sellers. They would all be taxed on the same level playing field. The difficulty is that we currently cannot collect sales tax on remote sales because remote sellers do not have nexus in this State.

Chair McClain:

Could you explain the need to repeal the tax exemption on aircraft?

Dino DiCianno:

That was an oversight during the 2005 Legislative Session. That provision should have been put on the ballot along with all the others—ocular, fine art, et cetera. We apologize for that oversight. This is not the same as NRS 372.317. That particular statute was found unconstitutional by the Nevada Supreme Court, which is why it is being deleted. However, this part of Chapter 374 of NRS remained on the books inadvertently. We can no longer have split rates. It is either fully taxable or fully exempt; we cannot have anything in between.

Chair McClain:

So they are not exempt, and we have to get this out of the *Nevada Constitution*. [Mr. DiCianno verified that.] Are there any other questions? [There were none.] Does anybody else want to testify on S.B. 502 (R1)?

Ernie Adler, representing Reno-Sparks Indian Colony:

Mr. DiCianno worked with us on the Senate side to include amendments to assist Indian tribes in being able to receive this same benefit. They did a very good job on the amendment, and this will work well for all the tribes in the

State of Nevada. It will, in some cases, greatly increase their tax revenues. Most of their purchases are actually made on the Internet or by mail-order, so this is a big benefit to all the Indian tribes in Nevada. We appreciate the Department of Taxation's effort in putting those amendments in this bill.

Carole Vilardo, President, Nevada Taxpayers Association:

For the record, I am speaking in support of S.B. 502 (R1). This is an important bill. Each session you wind up with a number of bills to take care of a major problem with sales tax that has been identified. Those issues then have to go on the ballot. In the last 15 to 16 years there has been only one general election in which we have not had a sales tax question on the ballot. Things are at a point where you are not taking away the authority of the Legislature to review any changes that are made, but particularly with the Streamlined Sales and Use Tax Agreement it is very important that if we are to become a signatory state, we are able to react when the Legislature is in session to make necessary corrections.

I hope I added an adequate explanation to the amendment I gave you ([Exhibit D](#)). It is so important that you be able to make these administrative and compliance changes. I would not want someone who is going into the voting booth to read that and think you are using it to increase the sales tax. It is very important to have a clear, definitive statement on the ballot question if we hope to get it passed. Thank you for your support of the bill and the amendment.

Chair McClain:

That is probably a good idea because people do not always read the explanations, but if it is right on the ballot they might. Are there any other questions? Does anybody else wish to testify on S.B. 502 (R1)? [There was no response.] We will close the hearing on S.B. 502 (R1) and open the hearing on Senate Bill 503 (1st Reprint).

Senate Bill 503 (1st Reprint): Revises provisions governing fees and taxes administered by the Department of Taxation. (BDR 32-579)

Dino DiCianno, Executive Director, Department of Taxation:

I am here in support of S.B. 503 (R1). This bill is basically housecleaning. We are attempting to correct an oversight of the 2005 Session whereby the penalty provisions for exhibitors was inadvertently left out. In other words, if someone fails to pay the business license fee, he should be subjected to the penalty just like anyone else under *Nevada Revised Statutes* (NRS) 360.417.

The other amendment that occurred on the Senate side was the addition of language in Section 2, which dealt with acquiring, free of charge at a trade

show, certain products that are displayed or produced at that exhibition. The reason the Department agreed to allow for that amendment on the Senate side is that it mirrors similar language that is already found in the Streamlined Sales and Use Tax Agreement. If we need to further define what it means to be acquired free of charge at a trade show, we will promulgate regulations.

Assemblyman Horne:

In Section 2, paragraph (c), where it talks about “acquired free of charge at a trade show,” that means acquired free of charge by a customer at that event? [Mr. DiCianno verified that was correct.] I just wanted to make sure it was not that a vendor got the items for free.

Peter Krueger, representing Cigar Association of America:

We are the organization that asked Mr. DiCianno to allow the aforementioned section to be included as it mirrors not only the Streamlined Sales Tax Agreement but also a provision added last session on other giveaways. That is the reason we are in support of this particular section. We worked very hard on it, and we would like to see it included in the first reprint.

Chair McClain:

Dino, do you think there are any things we have missed now that are given away at conventions?

Dino DiCianno:

I believe that is everything.

Tony Sanchez, representing Las Vegas Convention & Visitors Authority:

We worked with the Department of Taxation last session on the similar provision that was mentioned a few minutes ago. This was an oversight then, so the Convention Authority is in full support of this bill as currently written.

Chair McClain:

Are there any questions? Is there anybody else who wants to testify for or against S.B. 503 (R1)?

Joe Guild, representing United States Tobacco Public Affairs, Inc.:

We support S.B. 503 (R1), but we would like to offer an amendment ([Exhibit E](#)) that has been circulated to the members of this Committee. The amendment would incorporate what was S.B. 506, which did not survive the deadline on the Senate side, into S.B. 503 (R1). We asked Mr. DiCianno if we could do this, and he is neutral on this proposal—I hope I am not mischaracterizing his position. He is very familiar with S.B. 506 because we had many discussions with him about it prior to its introduction in the Senate.

Very simply, the amendment changes the explanation of the bill. Section 3 of the amendment changes the definition of “moist snuff” to say it is any finely-cut, ground, or powered tobacco that is not intended to be smoked. The term does not include tobacco that is intended to be placed in the nasal cavity. It is the kind of product you see in cans. It is moist, smokeless tobacco, sometimes called “snus.” This [holds up a can] is Grizzly tobacco, which currently sells in Nevada for \$0.49. You are probably more familiar with Copenhagen tobacco or Skoal. That is the product.

Page 4 of the amendment would change the taxation method from the current taxation of 30 percent of wholesale price to \$0.75 an ounce, or a weight-based rate. Most of this product currently sold in Nevada is in these cans that hold about 1.2 ounces. That is the amendment. There are a couple of things we would like to do to explain why this is an important idea that should survive this Legislature.

You are going to be told by the people who represent the manufacturers of this \$0.49 product and who are in opposition to this amendment that the current tax system in Nevada, which creates inequities in the market, is a good idea. You will also be told—not directly, but the implication will be there—that it is a good thing that our tax system, through no fault of any prior Legislature or the current administration, has resulted in a subsidization of big tobacco companies, including the one I represent, selling cheap tobacco in the Nevada marketplace. We do not think that is right. This is a subsidy that this tax system has created.

You are going to be told that it is a good thing that a can of this product costs \$0.49 in Nevada, yet a candy bar costs \$0.90 [see ad in ([Exhibit E](#))]. I do not think that is good thing, and neither does the company I represent. You are also going to be told by implication that this current tax system creates the inevitability of a continued volatility in this tax sector, and the probability that Nevada is going to lose tobacco money in the future is a good thing. I do not think that is a good thing. I think Nevada should tax tobacco at the highest rate the law allows, and so does the company I represent.

Finally, you will be told incorrectly that Nevada will lose money if we switch from the current system of 30 percent of wholesale to \$0.75 an ounce because the automatic escalator associated with the current tax system will be gone. The automatic escalator will be gone, but we will explain to you why that is a mythical argument.

I just want to leave you with one thing. Our current tax system subsidizes cheap tobacco in Nevada. It subsidizes a volatile and unpredictable system, and

Nevada will lose money in the future if we continue with this current system of taxation.

Monte Williams, representing United States Tobacco Public Affairs, Inc.:

United States Smokeless Tobacco is the maker of Copenhagen, Skoal, Red Seal, and Husky products. I would like to talk to you today about a problem we believe exists and a possible solution to it. As was indicated earlier, the tax here in Nevada and in many other states on this product, particularly moist snuff, which is part of the other tobacco products category, is on an ad valorem—or percentage of the wholesale cost—basis. This has been done for years in many states.

Historically, an excise tax is a consumption tax. It is based on consumption of the product. However, because of the many different products in this category, an ad valorem basis was adopted by most states in the early 1980s and 1990s. It was adopted here in 1984. At that time there was only one kind of product in the marketplace, and that was premium products, so each can basically was taxed the same amount. For years this system has worked just fine for the states. It worked in California until recently, and it works in many other states.

Some things have changed throughout the country though, while other things, including the tax system, have not. Since 2001, eight states have either started taxing these products or changed to a weight-based system from an ad valorem system. None of those states that changed have lost any revenue. As a matter of fact, they have all gained revenue. Not one of them has gone back to an ad valorem basis because the weight-based system works better, brings in more money, and is easier to administer.

In March, Iowa became the tenth state to make the change to weight-based from ad valorem. This year Pennsylvania's governor, in his budget bill and his tax proposal, has proposed to put a tax on this product for the first time in Pennsylvania, and his proposal is a weight-based system. The marketplace has changed significantly, and that is the reason for these states changing from one type of system to another in an attempt to keep their tax system up to date with what is happening in the marketplace and to keep their revenue stream stable rather than in flux and unpredictable, as is happening in the ad valorem states.

As I said earlier, there used to be one type of product in the marketplace sold for one price. Today there are seven different major pricing points in this category, from a product that wholesales from \$3.01 all the way down to a product that wholesales for \$0.81. As you can see, because of that, the tax you receive on each can of product sold changes. If someone buys Product A

he pays a certain amount of tax—\$0.90 here in Nevada—while if he buys Product B he only pays \$0.24 in tax. So today, in Nevada, you have to sell four cans of Product B to get the same tax revenue you get from one can of Product A.

That means the tax system here is subsidizing the cheaper products, making them more available in the marketplace for a cheaper price. As a matter of fact, the difference in retail, based on the excise tax alone, is \$0.80 between these two products. That is not what was anticipated when this tax was put in place. The tax system here is now participating in how these products are priced and who buys what. This is an unintended loophole where the State now subsidizes the prices of these products.

Also, companies can manipulate the amount of tax they have to pay based on the ad valorem system. Marlboros, for example, are paid on a unit basis in Nevada. In 1993 they dropped their wholesale price 20 percent with no impact on tax revenue in Nevada. However, in 1996, when Timber Wolf dropped its prices 30 percent, the liability for taxes on those products also dropped by 30 percent. Silver Creek last year dropped its price 45 percent and reduced the taxes on its products by the same amount.

R.J. Reynolds, which markets this \$0.49 can to gain market share in a state, would adamantly oppose any proposal to tax their Camel cigarettes on an ad valorem basis. They want them taxed on a unit basis. However, at the same time, they are in full support of keeping these products on an ad valorem basis, which seems confusing. Why? Because they are the beneficiary of the subsidy of this cheaper product.

I would now like to talk about the issue of the automatic escalator. For years it has been held out as the tax that keeps on giving. As prices go up, the taxes go up. Until recently, that was true in most states. That is why the ad valorem system not only worked when there was one product, but it benefited the State in the sense that if companies raised their prices the State received more taxes. From 2001 until 2004 it still worked somewhat, but not all the way; in 2005 it changed. The average wholesale price of a can of this product in Nevada is now less than it was in 2005.

Because of more and more consumers down-trading to the cheaper products, the tax revenue you receive on each can of product sold has, on average, gone down since 2005. I have done analyses in more than 20 states on this same issue, and once this process starts it does not stop. The revenues per can continue to decrease as people down-trade, and one of the big reasons they are down-trading is that the prices of the product are cheaper based on the

ad valorem tax system. This subsidy creates a change. The cheaper tiers of these products have gained a 16 percent market share in Nevada, up from zero in 2001. You have had a 9 percent increase in cans sold, but the average price per can, and thus your tax revenue received, has gone down. This is not going to change. This system is an escalator today, but it is a down escalator. You are losing money every single year that an ad valorem system stays in place and the cheaper products gain larger market shares.

You should not have to care what companies charge for their products. You should care only about the revenue you want to receive. On cigarettes and wine you know how much you will receive each year because you know about how much of the product will be sold, and the tax is unit-based. On this product you can estimate fairly accurately how many units will be sold, but neither you nor I nor anyone else can tell you what the pricing policies of the companies will be. The companies are simply dictating by their pricing how much tax the State of Nevada receives from this product.

You will also probably hear from the health advocates. They will oppose this proposal, and we are at a loss as to why. They always state that the price dictates consumption. If the price goes up, consumption goes down. This proposal to move to a weight-based system will raise the prices on the cheaper products available for sale, which should, according to their theory, cause consumption to go down. However, they did not support this in the last hearing we had in this State, and they will not support it now. I believe it is because the information they are using is based on 2004 information, which holds out that an ad valorem system works. It did previous to that, but it does not now.

Opponents of this system will say many things about why it is no good. My request is that you ask them to prove it to you because our information shows us that the ad valorem system currently in place not only does not bring you the revenue you want, but subsidizes certain products over others in the marketplace. The State of Nevada is losing a substantial sum of money every year because of this and, as I said earlier, once this has started, it will not stop. You will lose a continually greater amount of money every year.

Nevada is in a unique position here because you are at the beginning of this process compared to many other states throughout the country. In our opinion you have an opportunity here in Nevada to fix this problem by moving to a weight-based system that will stabilize your revenue and give you the amount of money you need every year. As the can volume increases, your revenues will go up. There is no reason not to do this for the State of Nevada. You should consider what is best for the State, not what is good for our

company or any other company. The system here is not functioning as you wanted it to, and we believe it should be changed to this method.

Assemblyman Horne:

What is the difference between the different smokeless tobaccos you are holding up, besides the price? Are they different products, or are they the same product?

Monte Williams:

They are not different products; they are all types of moist snuff—different types of tobacco that are processed in basically the same way. The only thing about them is they are different qualities of the same thing. If you have two packs of cigarettes, Marlboros and Broncos, they are both cigarettes, but one is a more premium brand that sells for a lot more. Consumers will tell you there is some difference between them. One is cheaper because of those differences, but they are all the same type of product.

Joe Guild:

One way to answer this is to compare a microbrewed can of beer that costs \$1 in the marketplace as opposed to a can that costs \$0.29 on a discounted basis at the liquor store. There will be a quality difference. They are both beer, the same type of product, but there is a quality difference based on a consumer preference. Also, they are still taxed exactly the same.

Assemblyman Horne:

Under that analogy, we are currently taxing them the same. Grizzly is the cheaper brand. One is a lesser-quality product, but they are the same kind of product. They are both taxed at an ad valorem-based rate. You are proposing to change that tax because this product is so cheap that Nevada is not getting an appropriate tax from the cheaper product. If we go to a weight-based rate, would your tax burden be lessened, be the same, or be greater?

Joe Guild:

The tax on this Grizzly is currently around \$0.06 a can. The tax on the Copenhagen is roughly \$0.90 a can. Seventy-five cents an ounce on a 1.2 ounce can of this product equates to about \$0.90 in tax, so the short answer to the question is that for the company I represent, the tax will not decrease on the Copenhagen product. If the tax in Nevada is \$0.75 an ounce, you will never see \$0.49 tobacco in Nevada because nobody is going to sell a product for below the tax they have to pay for that product. The tax on the \$0.49 can would go to \$0.75 an ounce, or about \$0.90 a can. Then the consumer will choose the product based on quality and any product loyalty or

brand loyalty that the consumer may have. However, they will pay the same tax.

Assemblyman Horne:

If a weight-based formula were used, the tax burden for the premium product would remain the same. However, sellers of the other product would have to raise the price or not sell it here because it would not make sense to sell it if the tax were greater than the marked price. Is that correct?

Monte Williams:

I would like to clear up a couple of things. First, we are talking about the excise tax and not the sales tax. There will still be a sales tax on these products, which is a percentage of the retail price. We are trying to say that the excise tax rate on this product is calculated differently from the excise tax on any other product. For example, Michelob and Keystone are both brands of beer. In Nevada if you buy a six-pack of Michelob, you pay the same amount of excise tax as you would on a six-pack of Keystone, but you pay different sales taxes because the retail prices are different.

The \$0.49 cent can of moist smokeless tobacco normally wholesales for \$1.30. The producers want more people to try their product so, in order to gain market share in the State, they introduce it at a lower price. The only reason they are able to go that low on the price of this product is that it is taxed on an ad valorem basis.

If Budweiser wanted to increase its market share, the company could lower wholesale price to induce people to try its beer. However, the excise tax liability could not be lowered because the product is taxed on a unit basis. The company could still come in with a promotional product. However, the price could not be this cheap unless the company wanted to lose a tremendous sum of money because the excise tax would be far greater than the desired retail price.

These markets are all established in all of the states; they are not going away. If you move to a weight-based system, all these products will still be sold in Nevada and all the other states. In the states that have converted to weight-based systems, none of the products have disappeared. They are all still selling and all still competing in the marketplace. They are just competing on an equal basis now. The states are not helping subsidize the price of the cheaper product.

To answer your question, yes, the cheaper products would still be sold in Nevada. It just could not be sold for \$0.49 anymore. They would have to

compete, as all the other products do, on price, quality, and other marketing issues, but not on the excise taxes.

Assemblyman Horne:

My apologies for getting confused with sales tax, but when I think of ad valorem I think of when a product is being sold. That ad valorem tax increases as prices increase. My biggest concern, particularly in today's climate when we have deficits and we pass legislation that could create less revenue, is that when we create a deficit somewhere we end up having to make it up somewhere else.

Monte Williams:

That is what is unintentionally happening with the ad valorem system. You are losing revenue each year because the tax is a percentage. When you passed it, you thought you would get the same amount on every can, but now you are not because the whole marketplace has changed. In essence, with this bill, you will just be going back to what you had thought you would get. There will be no decrease in revenue with a weight-based system; you will gain revenue.

Assemblyman Marvel:

Could this be construed as a tax increase?

Joe Guild:

Senate Bill 506 required a two-thirds majority in the Senate because it would have resulted in a tax increase. Our numbers vary slightly, but the last numbers I saw from the Department of Taxation showed an increase of \$450,000 to \$500,000 a year, or roughly \$1 million over the first biennium, as a result of S.B. 503 (R1). As time goes on, say after seven years of the State being on a weight-based system, the amount that would have been collected under ad valorem will be about what is collected on a weight basis if the projected unit sales remain the same. The quick answer is yes, it does result in a tax increase. Therefore, if this amendment is accepted by the Committee, S.B. 503 (R1) will then require a two-thirds majority.

Assemblyman Marvel:

Will it withstand the Governor's veto?

Joe Guild:

The Governor has indicated he will veto every bill that requires a two-thirds majority. I assume, if this were to pass, that the Governor would look at it that way.

Barbara Smith Campbell, representing United States Tobacco Public Affairs, Inc.:

I want to bring up the discussion regarding some of the tribal governments and how they might react to this amendment. There has been some discussion of a potential loss of revenue for the tribal governments. Unlike the State of Nevada, the colony wears two hats, one as a tax collector and one as a retailer. If the tax goes down, the profit margin of the product does go up. Under the agreement between the State and the tribal governments, the Indian colony must follow the same tax structure as the State and at a rate that is no less than the rate approved by the State or the county where the retail shop is located. The colony is currently collecting more than the State in tax on the same type of product. The colony can continue to have the ability to collect more tax than the State does so long as the rate they associate with the product is not less than that of the State of Nevada. I encourage you to support and adopt this amendment.

Chair McClain:

Are there any other questions? [There was no response.] I am sure there are other people who want to speak on this amendment.

Ernie Adler, representing Reno-Sparks Indian Colony:

We were originally not going to testify, but since tribal governments were brought up in the discussion, I would like to explain why Indian tribes think this is a very bad bill. Essentially, this moves the State from a weight-based tax to an ad valorem tax. As you know, an ad valorem tax automatically adjusts for inflation, so 20 years from now you are going to be collecting proportionally the same amount of money that you are today.

Our concern is not what Mr. Guild pointed out. What is going to happen with this bill is what is happening in Europe right now. In Sweden there is some very expensive, lightweight, smokeless snuff being sold. It is so popular it has taken over 50 percent of the Swedish market.

If this bill were passed and that product were to be sold in the United States—which it is going to be because people cannot legally smoke in their offices or in restaurants, but this material is a spitless tobacco that can be used in public and provides the same nicotine high as cigarettes—it would capture 50 percent of the tobacco market here as well. People will be trading in their cigarettes for the expensive snuff. You currently get \$0.80 a pack for cigarettes. If this bill passes, you will get a proportionate amount, or about \$0.20, for this new snuff. You will lose about \$0.60 a unit once people begin trading cigarettes for this snuff. We calculated that once this happens, the State of Nevada will lose \$9.95 million in tax revenue over the next four years.

The other downside to people switching from cigarettes to snuff is that snuff does not pay into the Millennium Scholarship fund. For everybody you have going from cigarettes to snuff, you will not get money for the Millennium Scholarship.

The Indian tribes see this as a big loss in revenue because as long as the tax remains ad valorem, and we have an extremely lightweight, expensive product being introduced in the U.S., we are going to be whole in terms of tax revenues. If we go to a weight-based tax we will lose a lot of money.

From a Legislator's viewpoint, this bill represents the worst of all worlds, and that is why it did not pass in the Senate. You can vote for a whopping tax increase from tobacco products over the biennium, but you will lose revenue in the long run. You will get to tell your constituents you voted for a tax increase, but, by the way, the State is going to lose a lot of money over the next ten years.

I do not see the Committee supporting this legislation as a win situation because you currently have a built-in automatic adjuster for inflation. You are going to be throwing that away, and 20 years from now this State will not collect anywhere near the current revenue on this product. The only tobacco product in the United States that is increasing in use is snuff. This is the growth market, so you want to keep your taxes going up with that growth market. This does exactly the opposite.

Assemblyman Parks:

You indicated this is a product you do not spit when using?

Ernie Adler:

With the product coming over from Europe there is no need to spit. One just swallows it. There was a question about why the American Lung Association opposes this taxation method. I have an article by the American Lung Association as to why shifting taxation of smokeless tobacco to a net weight basis is a bad idea. They really believe this will bring in new tobacco users— younger users—and the amount of cancer they will get from this, especially the spitless product, will be every bit as great as from cigarettes.

Assemblyman Horne:

So the problem smokeless tobacco will come from Sweden, and that is going to happen whether we tax on a weight basis or ad valorem. If it is going to come it is going to come regardless of our tax structure. [Mr. Adler agreed.] If your predictions hold true, we are still going to take a tax hit. If we lose 50 percent

of cigarette smokers to this smokeless product, and this smokeless product is cheaper, are we not going to lose anyway?

Ernie Adler:

No; if you stay with the ad valorem tax I do not think you will take a hit because the new products coming out will be extremely lightweight and extremely expensive. Because the ad valorem is 30 percent of the wholesale price of the product, you are going to be able to maintain the amount of money you are currently getting; it may even increase. However, if you go to the weight-based tax, your tax base will erode over a period of years from inflation if nothing else.

Alfredo Alonso, representing Conwood Sales Co., LLC.:

[Distributed three articles about the taxation of smokeless tobacco ([Exhibit F](#)).] We had a full hearing in the Senate. The Senate was advised by the Governor's Office that he would indeed veto a tax increase. This is a tax increase; it is nothing short of that. The folks who spoke before me would like you, as the Legislature, to help subsidize their market share. They would like you to simply place these products under a weight-based system so their higher-priced products will not be taxed more, but everyone else's products will. This is no different from someone coming to you and saying, "We represent Mercedes-Benz and we would like you to start taxing automobiles on a weight basis so our Mercedes Benz, which weighs as much as a Toyota Camry, gets taxed the same." They are different.

These products are all different, and that is why you chose an ad valorem tax. That is why Nevada and 40 other states have chosen that method of taxation. It is fair. The State gets a continual increase in taxation as prices go up, and at the end of the day it is predictable. Until this year, I had not heard we had this significant instability in the tax base.

This is a recent scheme U.S. Tobacco has come up with because they no longer have 100 percent of the market. Other brands have broken into this marketplace and have actually eaten away at U.S. Tobacco's share. U.S. Tobacco has 92 percent of the market in Nevada, and they would like you to help them get more. That is not only an inappropriate way of using this Legislature; it is simply wrong.

As for the \$0.49 snuff cans in front of you, I could come up to you tomorrow with a Skoal can that had a \$0.99 price tag. Five minutes ago I had my assistant call 7-Eleven, Rite Aid, Albertson's, and Shell, and their prices on Grizzly right now are \$2.49, \$2.29, \$2.39, and \$3.00. I do not think we are talking about apples and oranges or about a problem in the system. We are

talking about one company that has the lion's share of the market coming to the State of Nevada and wanting more. That is all this is.

I represent the Beer Wholesalers Association, and I can assure you if you would like to change the excise tax to something they or you feel is more equitable, they would be here in a moment to do so. Excise taxes are not considered fair. They are taxes placed on so-called sin products to levy a price on the use of those products because they are assumed to cause societal ills.

All we are talking about here is different pricing methods. The issue with snuff is no different. The per-unit method seemed to work at the time for alcohol. The issue with snuff is that there are so many types of the product that the only way to tax them is the way you have chosen, which is 30 percent of the wholesale price, and then you do an ad valorem at the back end.

The final issue is that there is no reduction in revenue. I know that a flat tax will not continue to go up unless you raise it. I know that, so I know their claim cannot be true.

Assemblyman Horne:

You are saying the weight-based tax would be a flat tax?

Alfredo Alonso:

It is, but it is not. Because it is based on weight it is easy to manipulate. That is how some tobacco companies have manipulated the price of their product in Canada, for instance, where tax is weight-based. They can simply make a container smaller, lower the price of their product, and still maintain their profit margin. The only one that loses with respect to the revenue is the state. However, it is essentially a flat tax because it is based solely on weight and not on continuing increase of prices, which is what you have now. Right now if Skoal or Copenhagen prices go up a dollar, you will get an appropriate increase in tax for the State. That is how it works.

Assemblyman Horne:

Is there no way to legislatively address those pitfalls? Can we dictate that a can of snuff must contain no less than 1.6 ounces? Is there any way to get an increase over a period of time with a weight-based tax? Is the weight-based formula used in any other context where inflation and such factors are taken into account without having to come together as a Body to raise the tax?

Alfredo Alonso:

I do not think there is. Once you have a weight-based system, it is what it is. The only way to manipulate the price of that product is to manipulate the size of

the can. There are moist snuff, loose leaf, plugs, et cetera. The system you have now is the most efficient, the fairest, and the easiest to administer, and there is absolutely no reason to change. That is why we oppose this. If the reason to go to a weight-based system is that there is cheap tobacco, you can say that about any product.

I am not finding the \$0.49 tobaccos. They are in excess of \$2.00. Will you be able to find a \$0.49 tobacco somewhere? I am sure you could, but I am not sure how old that can would be. I could probably find a \$0.49 Skoal as well. The market dictates the revenue you receive, and this is the best way for the State to gain that revenue.

Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County District Health Department:

Mr. Adler did an excellent job of explaining some of the public health concerns around smokeless tobacco. I simply want to make the Committee aware of a study released in 2007 by a retailer association contractor. The study showed that in all other states where the switch had been made to a weight-based tax for smokeless tobacco the volume of consumption had risen. Increasing volume of consumption for smokeless tobacco might be great for my colleagues who work for the tobacco industry, but it is not great for public health. I know this is not a health committee, but I know many of you are concerned about the health of our State. For that reason we oppose this amendment and urge you to oppose it as well.

Michael Hackett, representing Nevada State Medical Association and American Cancer Society:

Like the speaker before me, our issue is from the health policy point of view, even though we do agree with the excellent testimony provided by the two previous speakers in terms of the tax implications and the market share implications. We feel this would be a significant step backward in terms of all the progress we have made regarding tobacco use, cutting down rates of cancer, and such, and especially the progress we have made with youth—tobacco prevention and cessation programs, et cetera. This is specific to some of Mr. Adler's comments regarding this new moist snuff that is coming over from Sweden.

That product is particularly addictive. It will get more people involved in tobacco use at a much younger age and will put greater demands on our health care system, our treatment programs, and our prevention programs. From a public health policy point of view, we feel this amendment would be a bad decision.

Sam McMullen, representing Altria Corporate Services, Inc.:

Altria Corporate Services is the parent company of Philip Morris USA. We do not currently sell any snuff or moist snuff in Nevada, but I would like to give you our thoughts on this bill. We were asked a number of months ago to consider whether we would support or oppose this kind of effort in Nevada. We ultimately decided to support it.

I would like you to focus on the tax policy aspect of this because that was part of our analysis. On the tax policy side we have argued about a lot of things, such as whether it is a flat rate. However, what we are arguing about is price-based taxation versus demand-based taxation. This is a commodity-based tax.

An example of a demand-based tax is that you have decided as tax policy in Nevada that when a unit is sold, you want the tax per that unit. You do not want a bottle of vodka that is sold for \$3.00 to yield you less tax than a bottle of vodka that sells for \$40.00. You want to rely on the assumption that there is a certain demand out there that is more predictable and more easily determined from a revenue point of view than price.

What we are arguing about right now is whether someone can reduce his price and sell more units or whatever, but the bottom line from a tax policy point of view is that you want consistency of revenue. You want to be able to understand those variables, and that is the kind of tax revenue forecasting you want. In other situations you have, as a matter of tax policy, used that to determine just what kind of revenue you are going to see.

We care a lot about the enforcement and compliance at the Tax Commission and Tax Department levels for a number of reasons, but the most important has been that for the last few years we have argued for additional dollars being shifted to the things that take tax revenue away from the State. If you ask, they will tell it you it is easier to enforce or audit a unit-based tax because the only thing that has to happen when you do that for purposes of taxation is find out how many units were sold. There is a tax based on that.

With a price-based tax, especially at the wholesale level, there are a number of different invoices, discounts, and all sorts of ways to play around with exactly what was paid as the wholesale price. Think about this from the point of view of tax enforcement and the number of auditors that have to go back behind those documents to make sure there are not all sorts of other transactions, credits, and discounts. Without anything illegal being done, there is still a lot more work involved in auditing that. We would rather have those resources

spent on compliance enforcement for the counterfeit, the contraband, and the other things we have seen.

In the marketplace today you want price to work for you to develop tax revenue. If, in fact, someone chooses to sell Grizzly at \$1.49 or \$2.39 as opposed to something else that is sold at \$3.59, and a buyer buys that product who normally would not have bought that unit at a higher price, you want the tax revenue from that. You do not want \$0.09. You do not want \$0.40. You do not want \$0.90. You want it to be consistent across the board. You want a weight-based revenue that you can forecast.

I just want your focus back on the tax policy issue. Whether it is vetoed or not vetoed, whether it raises the tax or not, it is functionally trying to be the equivalent of revenue neutral. It does not end up being that way because of the way it works, but our message is to look at it from a tax policy point of view. Do the right thing. I urge you to support this amendment.

Chair McClain:

Are there any questions? [There was no response.] I am going to close the hearing on S.B. 503 (R1). This is very interesting, but we are not going to take any action on it today. I want to open the hearing on Senate Bill 504.

Senate Bill 504: Revises provisions governing the rate of interest paid on overpayments of certain taxes, fees and assessments. (BDR 32-578)

Dino DiCianno, Executive Director, Department of Taxation:

I am here in support of S.B. 504. All we are asking for in this bill is to equalize the rate that is allowed on a refund for any tax that is overpaid to the State. We appreciate your support.

Chair McClain:

We did this for the treasurers also, did we not? [Mr. DiCianno verified that.] Will we lose any money by doing this? [Mr. DiCianno said they would not.] How does the Committee feel? This is just a bit of technical housecleaning.

ASSEMBLYMAN MARVEL MOVED TO DO PASS
SENATE BILL 504.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY AND
MORTENSON WERE ABSENT FOR THE VOTE.)

Assembly Committee on Taxation

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Chair McClain:

We have six or seven bills we have to do on work session next week because we have only one meeting left. This meeting is adjourned [at 3:24 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: May 10, 2007

Time of Meeting: 1:44 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>S.B. 502</u> <u>(R1)</u>	C	Dino DiCianno / Department of Taxation	Abstract of the bill, information on the Streamlined Sales Tax Project, and a resolution from the National Conference of State Legislatures regarding the relationship between the Streamlined Sales and Use Tax Agreement and tribal governments
<u>S.B. 502</u> <u>(R1)</u>	D	Carole Vilardo / Nevada Taxpayers Association	Proposed amendment
<u>S.B. 503</u> <u>(R1)</u>	E	Joe Guild / United States Tobacco Public Affairs, Inc.	Proposed amendment, chart of "automatic escalator," and color ad
<u>S.B. 503</u> <u>(R1)</u>	F	Alfredo Alonso / Conwood Sales Co., LLC	Three articles about the taxing of smokeless tobacco