

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

**Seventy-Fourth Session
March 20, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:36 p.m., on Tuesday, March 20, 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 Mo Denis
Assemblyman Tom Grady
Assemblyman William Horne
Assemblyman John W. Marvel
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Peggy Pierce
Assemblywoman Valerie E. Weber

COMMITTEE MEMBERS ABSENT:

Assemblyman Morse Arberry Jr., (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Bonnie Parnell, Assembly District No. 40
Assemblywoman Susan Gerhardt, Assembly District No. 29



STAFF MEMBERS PRESENT:

Russell J. Guindon, Senior Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Mary Garcia, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Justin Ivory, representing A-1 Steel, Sparks, Nevada
Shane Glenn, representing PAR Electrical Contractors, Inc., Reno, Nevada
John LeMay, representing Associated General Contractors and Diamond Electric, Inc., Reno, Nevada
Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and Contractors
Bill Uffelman, President and CEO, Nevada Bankers Association
Mary Lau, representing Carole Vilardo, President, Nevada Taxpayers Association
Jim Sala, representing Southwest Regional Council of Carpenters
Tracey Woods, Vice President, Government Affairs, Retail Association of Nevada

Chair McClain:

[Meeting called to order at 1:36 p.m. Roll was called.] We have two bills to hear today, but first, I have a bill introduction, Bill Draft Request 32-1361.

BDR 32-1361—Exempts certain professional baseball events from the state tax on live entertainment. (Later introduced as [Assembly Bill 487](#).)

ASSEMBLYMAN OHRENSCHALL MOVED TO INTRODUCE BDR 32-1361.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED.

Chair McClain:

We will have this one ready for introduction tomorrow. We will open the hearing on [Assembly Bill 243](#).

[Assembly Bill 243](#): Provides for reduction of certain excise taxes payable by employers that make donations to public schools. (BDR 32-117)

Assemblywoman Bonnie Parnell, Assembly District No. 40:

I am pleased today to introduce A.B. 243. Yesterday I had A.B. 131 and A.B. 151, which discuss Career and Technical Education (CTE), before the Assembly Committee on Ways and Means, of which many of you are members. I think the easiest way to have A.B. 243 make sense is to tie it in with those two bills, as this becomes a partnering issue in its truest sense. This bill encourages public-private partnerships, not exclusive to CTE, but that is probably the easiest to see.

We know that many businesses lend a helping hand to our schools:

- Landscape projects: we had flooding here in Carson City, and Greenhouse Garden Center rushed down with everything needed to put that landscape back together without charging the District a dime.
- Playground equipment: how many times do we read about companies in your neighborhoods coming down to fix school playgrounds, either by donating equipment or by taking time to fix the playground and bring it up to snuff?
- School events: we often see businesses partner with school events.
- We also see such major donors as Associated General Contractors, who gave \$1 million to help support the Academy for Career Education (ACE) Charter School in Washoe County.

While reading through this bill, I realized another thing that could be crucial in helping school districts that are having difficulty getting land on which to build schools. Section 1, subsection 2, of the bill addresses donations of property. This bill could be used as an encouragement for developers to actually turn over a segment of land for school construction. They would then get a tax break for giving that land.

This is an example of encouraging good corporate behavior. We know business does good things. This is a wise way to thank them and to encourage them to help out our public schools. What A.B. 243 does is provide for the reduction of the 2 percent payroll tax imposed on financial institutions and for a reduction of the 0.63 percent business tax imposed on other employers. The bill states that either a financial institution or other employer defined by *Nevada Revised Statutes* (NRS) 363B.110 that donates cash or property to a public school in this State may take a deduction for the donation equal to the fair market value of the donation. When combined with all other deductions and abatements, the total may not exceed 100 percent of the payroll or business tax. Lastly, if the deduction is worth more than \$5,000, the deduction must be supported by a written appraisal.

The bill is fairly clean-cut. It is a tax incentive to businesses to become partners with schools, and it is a way to say "thank you" to the businesses that have been doing this all along.

Assemblyman Marvel:

Is this just for land donations, or is it also for monetary donations?

Assemblywoman Parnell:

It is for donations of money, land, equipment, et cetera.

Assemblyman Marvel:

Why would you need an appraisal for monetary donations?

Assemblywoman Parnell:

You would need a receipt showing you gave more than \$5,000. The written appraisal refers more to equipment and property.

Justin Ivory, representing A-1 Steel, Sparks, Nevada:

I know there are several bills out there involving a tax break for this revenue source. I am all for this one. It gives back to people who give, and I think that has a snowball effect. Personally, we, Associated General Contractors (AGC), Associated Builders and Contractors (ABC), and the Builders Association have all been big supporters of ACE Charter High School in trying to get them off the ground. The program seems to be going really well.

There is another thing we get involved in. When a high school is built, complete with ball fields, that is all paid for. However, when it comes time for the kids to have a dugout for the ball field, that is donated work that nobody really sees. This would help companies get a tax break for helping out.

Assemblyman Marvel:

Do you get tax breaks for this from the Internal Revenue Service (IRS)?

Justin Ivory:

There are some benefits, but take the dugouts for example. The school benefits from having the dugout, but parents, contractors, or suppliers pool their resources to make that dugout work. It is not that we go to the IRS and say, "Oh, we gave this money for this." Some of this is not necessarily structured work. I am hoping this bill will help to create that snowball effect. You give a little and you get a little back.

Assemblyman Marvel:

You keep track of your time and what you have donated, do you not? That is just good business practice.

Justin Ivory:

Yes, we do that.

Chair McClain:

Would we include time donated, or is this just physical equipment and products?

Assemblywoman Parnell:

This is for donated cash and property. Property could be land or equipment or materials.

Chair McClain:

I noticed on page 3, in subsection 4, that it says you can allow the deduction during a calendar quarter, but if it is more than you are allowed to deduct under this bill, it does not carry forward. So it is a one-time deduction and not something that can be spread over the entire year. [Ms. Parnell verified that.]

Assemblyman Denis:

A donation over \$5,000 has to be appraised. If it is under \$5,000, do they just estimate the value of the property?

Assemblywoman Parnell:

That is correct. As Mr. Marvel said, you would probably have a paper trail of some kind if you were doing work on a dugout that was only a couple of thousand dollars. It is good, common business practice to keep those receipts so you would have something to show for it. You just would not need the formal written appraisal.

Assemblyman Denis:

But does this require you to turn those receipts in?

Assemblywoman Parnell:

If it does not, we certainly can change it so we would have a paper trail.

Assemblyman Denis:

I think that would be good.

Shane Glenn, representing PAR Electrical Contractors, Inc., Reno, Nevada:

We have been fortunate enough to be able to donate some of our time and efforts to several high schools with their ballpark lighting. Before the season

starts, before any of the local teams begin practice, we make sure the ballparks have adequate lighting and try to help out with whatever we can. Right now there are programs set up where the city will furnish some of the lamps. We then furnish the labor and the equipment to change those lamps.

It is always nice to give back to the community. Sometimes donors are acknowledged with advertising boards at these baseball stadiums, but this is another way to thank them for donating something that will benefit the community.

We have been trying to donate as much to ACE Charter High School as we can. The program they have there is phenomenal. Our interest there is for the construction industry in the future. We like to give as much as we can to that program in the hope that those students will come be a part of our company and our community. I am in favor of this bill.

Chair McClain:

Ms. Parnell, are there any provisions in the bill for estimating labor costs involved in donations?

Assemblywoman Parnell:

Not at this time, but I would certainly be willing to consider that if the Committee feels it would be a worthy addition. Going back to yesterday's conversation about the career and technical high schools, A.B. 131 allows school districts to come together to build a regional high school, mainly because of the cost of the equipment that goes into that high school. A perfect example of this would be if businesses donated equipment to a high school for its welding or repair programs to get that school ready to go. That could save a combination of school districts a tremendous amount of money.

Chair McClain:

Have you been able to get any estimates of what has been donated in, say, the past year?

Assemblywoman Parnell:

I know school districts keep a running count of how much money is donated through Parent Teacher Associations (PTAs) and Parent-Teacher Organizations (PTOs). I think there is an estimate there of what this might cost the State General Fund. It is on your fiscal note. In reality, though, I would be afraid something was either lowballed or highballed. We have no idea, collectively, what businesses and groups are giving to our public schools. I think that will be tough to estimate. If we get this passed, it might be a good idea to have it sunset in two years. We could look then at how much it had cost the State

versus how much had been returned to the public schools through the generosity of people like the gentlemen with me at the table. That might be a wise, fiscally-sound way to look at the bill.

Chair McClain:

That sounds like a good idea. The Department of Education estimated that about \$11 million was still needed by public schools in Fiscal Years (FY) 2003-2004 and 2004-2005. However, there was no way to determine whether donations were from businesses or individuals.

Assemblyman Marvel:

You do keep track of the time and equipment you are using, so maybe you do have an IRS deduction?

Justin Ivory:

We would, yes. When we do something like that, we keep track of it as though we were doing a time-and-materials job. We keep a record. Sometimes there is an opportunity to write something off for tax purposes. The opportunity is not always there.

Chair McClain:

We want to make sure we do not make this so onerous that it becomes a disincentive for people like you to continue donating.

John LeMay, representing Associated General Contractors and Diamond Electric, Inc., Reno, Nevada:

I am favor of this bill. It is very rare to see a bill so well written that I cannot find any negatives in it. I would disagree that there is anything other than a positive effect on the State. The State will reap benefits beyond what we are even considering right now. Once you start this ball rolling, the State is going to receive full value. If someone contributes \$5,000 to the school district and takes \$5,000 in tax credits, that is a one-for-one situation, so the State comes out even. Truthfully, we do not receive any federal tax benefit from deductions [for such donations].

On another note, banks many times end up with property they have foreclosed upon and have to dispose of. Considering what it costs them to dispose of that property through attorneys' fees, appraisals, and such, they would probably benefit much of the time from just giving this property to the school districts. Once the school district has the property, they can keep it in their portfolio, sell it, or trade it with the developers. Many times when a large housing tract is being built, the local school district will require the developer to give 20, 30, or 40 acres, but they might need another ten acres to build a really nice school. If

the school district could trade the developer a piece of land down the road, that might make a project workable. The school district does not have to buy excess properties in certain instances, and they are not coming back to the Legislature for extra money every two years. In short, I think everyone wins with this bill.

Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and Contractors:

I do not have anything to add. I support all of the testimony you have heard, so I hope you move forward with approving this bill.

Chair McClain:

We have a couple of people who signed in in opposition, Bill Uffelman and Ray Bacon.

Bill Uffelman, President and CEO, Nevada Bankers Association:

I reluctantly oppose this bill. The fiscal note talked about \$11 or \$12 million, but they could not differentiate whether those were private contributions or business contributions. That is a reduction of the wage base upon which the tax is imposed, so if all of that came from a bank, and presumably it was all deductible, my calculation says the taxes go down \$240,000. I do know of at least one bank that actually gave more than \$350,000 over the course of one year. Their taxes would have gone down \$7,000 as a result of those contributions, so the tax deduction is not the motivator for the banks or any other employer giving property, making cash contributions, et cetera. In this instance, to reduce the taxes of the State, this is just dribs and drabs, and it is not great policy.

Assemblyman Horne:

So you are reluctantly in opposition because it is bad policy in reducing . . .

Bill Uffelman:

In reducing the tax revenues in this way, attempting to offset in a relatively insignificant way the taxes that we are paying.

Assemblyman Horne:

In previous testimony, representing the banks, there was testimony that the taxes the banks currently pay are not a huge amount of dollars, but you would like them reduced because of policy. Now today you are telling us this is bad policy because it is not significant. But, it is going to schools. I do not see how you can sit there and tell us this.

Bill Uffelman:

What I said the other day, the \$22 million a year reduction, if you were to grant both the branch tax reduction of basically \$3 million and the payroll tax reduction of \$19 million, is a small piece of the entire state budget. If I lent that \$22 million out, that would probably mean about \$1 billion of new financial or business activity in the State. The policy I was speaking to is the total revenues of the State. Now, reduce my taxable wages—we'll presume it is one employer for one quarter—by \$12 million, as the fiscal note says. We reduce taxes about \$240,000 if it is a bank. If it was a regular employer, we would reduce taxes \$80,000.

Assemblyman Horne:

I am not a banker or a financier, but it seems to me the argument of the \$22 million resulting in \$1 billion dollars for state industry loans that you would provide, is speculative. We are talking policy here. I say it is speculative because you are telling me that if the banking industry had that \$22 million today that they would give it out in loans, et cetera. That is speculation because there are a number of things they might do with that money. On a purely policy basis, we are talking about giving a tax reduction to a small number of businesses that contribute in some way toward schools. That seems to me to be good public policy. Whether it is small or large, whether that was the motivator or not, it seems good public policy to encourage this type of conduct in our business community.

Bill Uffelman:

If the policy that \$240,000 spread across all employers is the thing that makes somebody think the employers will give the \$12 million, and again, it is a hard fiscal note to deal with, then that is fine. I guess I would argue that it amounts to a very small tax break. A good analogy, if you are a business, would be whether or not to itemize and take the telephone tax deduction on your tax return this year. You probably would have gotten more than the maximum—\$60—but the time and effort spent on filing for that deduction would probably cost you more than \$60. You just took the flat reduction. The banks that reported to me what they had done in the way of contributions, predominantly cash, to kindergarten through 12th grade (K-12) schools were not motivated by the tax reduction. Their motivation was:

- They are part of the community.
- They are there doing business in the community.
- These are the schools that educate the children of their employees, the children of their customers, et cetera.

I said I was up here reluctantly. I am not falling on my sword over this bill. However, this policy concerning whether I get a very small reduction in the

taxes I pay as the result of making charitable contributions is different from the notion that we are going to take one group of employers, the financial institutions, and charge them a tax rate higher than the tax rate we charge other employers. That is the policy we are discussing, that the state tax rate for a general employer is currently 0.63 percent but for a financial institution it is 2 percent. That is all I am up here about.

Chair McClain:

We have had this debate already in this Committee. So you do not really dislike this bill so much on its face.

Bill Uffelman:

I do not dislike this bill that much on its face. As I said, I reluctantly oppose it.

Assemblyman Marvel:

How did you arrive at your financial impact?

Bill Uffelman:

I believe I heard Ms. Parnell say someone had said it was \$12 million of contributions they had gotten. They did not know from what source. I just, in the worst-case scenario, took \$12 million and attributed it all to one employer one time or spread evenly across the year so they would get it all. Twelve million times 10 percent would be \$1.2 million. Divided by five, that is \$240,000.

Assemblyman Marvel:

The Department of Taxation did a fiscal impact for us, and it comes out to about \$190,000 for the biennium.

Chair McClain:

Ray Bacon signed in but he is not here. Ms. Vilardo was here.

Mary Lau, representing Carole Vilardo, President, Nevada Taxpayers Association:

Ms. Vilardo had to leave for another Committee hearing and asked permission to submit written comments ([Exhibit C](#)).

Chair McClain:

That would be fine. Is there anyone else who would like to testify on A.B. 243? Are there any more questions? [There was no response.] We will close the hearing on A.B. 243 and open the hearing on A.B. 252.

Assembly Bill 252: Authorizes deductions from the state taxes on financial institutions and other businesses for payments on behalf of employees to certain pension plans and apprenticeship programs. (BDR 32-883)

Assemblywoman Susan Gerhardt, Assembly District No. 29:

Assembly Bill 252, is aimed at maintaining a healthy business climate in Nevada by addressing a shortage of skilled workers and improving their retirement security. These issues go hand in hand, since retirement security will help to attract and retain a skilled workforce and a skilled workforce demands a secure retirement. The bill provides employers with specific deductions in the excise tax in order to provide incentives for their employees to participate in training programs and retirement plans.

As the Committee knows, Nevada law imposes an excise tax on financial institutions and businesses based on the wages they pay to their employees. Deductions from this tax are currently allowed for health insurance and health benefit plans. Assembly Bill 252 would allow two more deductions, and you will see that there is duplicate language in different sections of the bill. That is because the two deductions would apply to the taxes paid by financial institutions in Chapter 363A of NRS and to business taxes in Chapter 363B of NRS. The duplicate language is necessary to address both chapters.

The bill first provides a deduction for the amount employers pay on behalf of their employees to certain pension plans that are regulated by the federal government under the Employee Retirement Income Security Act of 1974 (ERISA). This is found in sections 2 and 7 of the bill. Second, the bill allows a deduction for apprenticeship programs approved through the State Apprenticeship Council. This is found in sections 3 and 8. In sections 4 and 9, any unused amount of a deduction can be carried forward in each calendar quarter until it is exhausted. These sections also require necessary documentation to the Department of Taxation. I believe the language was stricken in sections 5 and 10 by the bill drafters because it is provided in sections 4 and 9.

In conclusion, I would suggest that any help we can give employers to train their employees and provide for their retirement security should be supported in the Legislature. We are doing a lot of talking this Session on both sides of the aisle about more trade options in our schools. We need more skilled workers to meet the needs of our expanding economy. Apprenticeship programs have always done a great job in filling this need. By offering the incentives in A.B. 252, we can not only ensure that they continue, but we can also encourage private businesses to get involved and develop new programs.

Jim Sala, representing Southwest Regional Council of Carpenters:

When we initially conceived this bill, we thought we had a unique idea. Once I got to the Legislature, I realized we were not the only ones that might be looking to modify the business tax. This bill deals specifically with the areas Ms. Gerhardt mentioned: contributions made by employers to state-approved apprenticeship programs and contributions made by an employer to a defined benefit pension plan. We think this bill will have a positive impact for major industries, including banking, in the State of Nevada. We also believe this bill is good public policy. We modeled the language after the existing exemption for health care so there would not be a lot of confusion. The Legislative Counsel Bureau (LCB) did a good job on that.

Regarding the pension, many times health care, training, and other concerns overshadow the issue of pensions, much as workers and their families tend to delay the process of saving for their retirement. We were hoping this bill would draw more attention to those issues and provide some economic benefit and incentive for employers to do the right thing or to continue to do the right thing. Most people on the Committee know that the defined benefit pension differs a bit from a 401(k) or other types of pensions. I not think anyone here believes anyone can retire fully on social security and live a productive and happy retirement.

There are many different ways in which retirement needs to be supplemented. What we have seen, both in the State and nationally, is a movement away from defined benefit pension plans which, for many years, have been the mainstay of the middle class. A lot of retirees who have moved to Nevada and who have pensions are doing quite well. Thankfully, they are living longer than in the past, but these plans seem to be shrinking even with healthy companies that are getting rid of defined benefit plans to take advantage of tax breaks and other incentives geared, at the federal level, toward 401(k)s or individual retirement accounts (IRAs) or other such plans. That is part of the reason we structured the bill the way we did.

The other reason was we were afraid that including all pension plans would involve too large a fiscal impact on Modified Business Tax (MBT) revenue. I think it is important to protect employers who are providing that defined benefit plan. There are additional funding requirements being placed on them by the federal government that will make them put more money into those plans. We think this is something worth doing. We also think it is good public policy from the standpoint of the economy generated by retirees in our State. Many retirees move here for the climate and for other opportunities, and I would like to think that retirees will continue to move here in the future. For those reasons, we think this is good public policy.

On the apprenticeship and training side, I have been before this Committee before on apprenticeship issues. The apprenticeship programs that involve a partnership between workers and employers are probably the most successful training programs in the history of this country. That should be recognized and rewarded. Employers and employees decide to designate that money to contribute to these programs.

These programs need to be expanded. Currently there are 50 classifications of apprenticeship that the Labor Commissioner monitors. According to the Labor Commissioner's office, there are a little over 200 active apprenticeship programs and 8,500 apprentices in the State. From our perspective, we have members who work for 450 different contractors in the State of Nevada who contribute to the apprenticeship programs in order to create the kind of skilled, trained, and safe workforce that keeps Nevada growing. We think this is definitely important, and that is why we sponsored this bill.

Chair McClain:

You said there were 450 employers that work with the apprenticeship program?

Jim Sala:

Those are just the ones we deal with. I would imagine the number, just in the construction industry, would be several thousand.

Chair McClain:

So those businesses would be the ones to actually get this credit.

Jim Sala:

Yes. Neither the apprenticeship programs themselves nor the unions would receive any credit for this. This would be a credit on the MBT for employers who are making those contributions.

Chair McClain:

Do you see that it might be a hardship for them to differentiate between whoever is an apprentice and who is a regular, full-time employee?

Jim Sala:

Contributions are made for all employees and not just apprentices. That is the way those programs are funded. If we have 10,000 carpenters working for 450 employers around the State, those employers make a 35-cent contribution per hour for all employees to support the apprenticeship program, as do many other crafts and industries, from child care to welding and mining.

Chair McClain:

Who would be applying for this credit from the MBT? Would it be the actual employer of the apprentice?

Jim Sala:

It would be the employer who makes contributions to the apprenticeship trust.

Chair McClain:

The employers are making the payment to the MBT based on their entire workforce. Not all of them are apprentices. How would an individual employer report that he has so many apprentices, so he gets to deduct this amount of salary? He would get to deduct their entire salary, right?

Jim Sala:

No. The way this bill is structured is they make a contribution to the apprenticeship and training trust. In our circumstance, every employer we deal with makes a 35-cent-an-hour contribution. If an employer has 100 employees who work 100 hours, the employer will multiply 35 cents times 100 workers times 100 hours, and that is what is paid to the apprenticeship trust. If that amount was \$3,500, the employer would get to deduct that \$3,500 from their MBT, just like they do their health care contribution and, as we have proposed, their pension contribution.

Chair McClain:

This is different from the previous bill we heard because this allows that to be carried over into the next quarter?

Jim Sala:

Yes. The health care has a carryover and both of these have carryovers as well. That was a result of a discussion we had with Carole Vilardo and Assemblywoman Gerhardt. We kept the same language and mirrored what had been done with health care.

Assemblyman Marvel:

How is this verified?

Jim Sala:

With regard to the contributions and the deduction to the State? It goes through the Department of Taxation. I do not know how they would verify or audit that.

Assemblyman Marvel:

The Department of Taxation would probably have to do the audit on it. That would definitely have an impact. What kind of fiscal impact did you come up with? Is it the same as what the Department of Taxation came up with?

Jim Sala:

No, it is not. It is actually quite a bit different.

Chair McClain:

Are there a lot of employers who offer the defined benefit programs now?

Jim Sala:

I think there are a significant number. For the fiscal impact, we are relying on the numbers the LCB and the Department of Taxation have pulled together. I am not sure just how many of these programs there are in the State.

Chair McClain:

So we are assuming this will be an incentive for some employers to start that type of program. Are private businesses under the Governmental Accounting Standards Board (GASB) rules just as the Public Employees Retirement System is?

Jim Sala:

I do not believe so, but that is an area outside my expertise.

Chair McClain:

We can have staff check that.

Jim Sala:

With regard to the bill's effective date of July 1, 2007, Ms. Vilardo informed me that would probably not be possible because the form for this would have to be modified. The form would be the one used for health care now, but whatever is done would have to be added to that form and go through an approval process. Ms. Vilardo indicated she would be happy if the actual deduction were allowed to begin in October 2007, with the form ready by January 2008. We certainly would not have any concern about that. We would be happy to work with her and the Department of Taxation to ensure a smooth transition. There also has to be notification to all employers that have those potential accounts, and that takes time.

Assemblyman Marvel:

That would change the fiscal note we have from the Department of Taxation because it changes the time period.

Jim Sala:

It could. On the fiscal note for the apprenticeship, the original workup we got from the LCB represented the cost of an apprentice as about \$10,000, or \$40,000 over the course of a four-year program. I happen to know where that number comes from; it is one the Apprenticeship Council uses when comparing the cost of an apprenticeship education to a college education. What happens with apprenticeship is when you take 200 apprentices into the program, you usually lose 50 percent of them in the first year. By the time you get them all the way through the four years you may only have 50 of those 200 left. All of the costs of the apprentices that went into the program and dropped out get attributed to those 50 people at the end of the program. That is how they aggregately look at that number. I believe that is where the \$10,000 and the \$40,000 came from. The LCB took that and multiplied it by the 8,500 apprentices and ended up with \$85.5 million in reduction from the taxable wages. The sheet I worked up for you is a microcosmic example. I would love to work with the LCB and the Department of Taxation to try to get a closer number.

We took our example ([Exhibit D](#)) of 10,000 carpenters times an average of 1,800 hours each may work in a year, for a total of 18 million hours. We multiplied that times 35 cents, which is our apprenticeship contribution, and that came to about \$6.3 million. We represent almost 25 percent of the apprentices. By extrapolation, we figured we represented about 25 percent of the contributions that could be deducted. Our number is, on the high side, about \$25 million, and more realistically, about \$17 to \$18 million off of the MBT, which would end up, at 0.63 percent, coming to about \$158,000 in revenue reduction and, at 0.65 percent, about \$163,000 in revenue reduction. That is a much smaller number for the fiscal impact, at least on the apprenticeship side. The LCB and the Department of Taxation, using the numbers I gave them in my memorandum, came up with about \$538,000 in reduced revenues. The actual number is probably somewhere in there, but because it is not an aggregate number, it is actually whatever the employer pays for those programs he gets to deduct on a quarterly and annual basis. That is what we estimate it to be. As I said, I would be happy to get better numbers from the Labor Commissioner's office on the actual contributions and work with those groups to narrow the figures down.

With respect to the pension, it would be difficult to argue with that fiscal note. I believe the amount is actually slightly smaller than is indicated, but probably

about 18 to 20 percent of the health care cost in regard to the deduction would probably be a good estimate. On the fiscal impact, the Department of Taxation's number is around \$5 million; our numbers are closer to \$3.7 to \$4 million in reduction of revenues.

Assemblyman Marvel:

Do the apprenticeship programs vary in length of time? You mentioned four years, but are there shorter periods?

Jim Sala:

Yes, there are shorter periods. I am aware of programs as short as three years and as long as five years. Some of the health care and day care programs are much shorter than that, perhaps even a year, but I am not very familiar with those programs.

Assemblyman Grady:

You came in the other day with a very good bill on your apprenticeship program, and everyone here supported that. We have had, through the Committee on Ways and Means, requests for money. When we start giving up \$10 million to a program, someone is going to lose somewhere along the line. Have you thought how the State would make up that money?

Jim Sala:

I am not sure of the reference. We are estimating the impact on the apprenticeship program at about \$160,000 in revenue. In regard to the pension, I think the revenue was \$6 million and the fiscal note for the biennium was \$10 or \$11 million. Is that what you were referring to?

Assemblyman Grady:

Yes. When the State loses \$11 million, someone is not going to get funded for a program because we just gave away \$11 million. How does the State make up that \$11 million?

Jim Sala:

That is a very good question. As I prefaced at the very beginning, I know there are a lot of competing interests in this. In making our argument, we have tried to take into consideration the long-term economic viability of the people who live and work and retire here, and how much of a burden that may end up being. The best argument I could give you is that right now, those incentives, if they provide those kinds of pensions so people retire decently, will look like a cheap investment as opposed to having to pay for retirees' indigent care, health care, and other issues that come up when people do not have that kind of

benefit in retirement. Certainly there is a significant cost, and there is not much of a way around it.

Assemblyman Marvel:

After you put someone through the apprenticeship program, is there any requirement that they stay in the State of Nevada?

Jim Sala:

Do you mean once they graduate from the program and become a journeyman? [Mr. Marvel nodded in assent.] We have tried to lock them in but it has not worked. Right now we are having a net influx because of the amount of work, so we have apprentices and journeymen coming here who have been trained in other places. Right now we are on the plus side, but I do not know how that is going to work out later on.

Assemblyman Ohrenschall:

I know it is hard to quantify, but do you have any figures in terms of somebody who successfully completes the apprenticeship—how much greater their income is than that of someone who never went through the program, or how much more they are able to contribute in terms of taxes and spending? Even though we would be losing revenue in offering these exemptions, on the other hand we would be getting revenue because people are working in the building trades, making good livings.

Jim Sala:

It is difficult to quantify. Obviously, there will be some increase in wages not just for apprentices. We did a survey a few years ago and while only about 20 percent of our members formally come through apprenticeship, they represent more than 90 percent of the foremen and general foremen who run the work in the field. That percentage is so high because they are more highly skilled; they tend to own their own companies or run big projects that require that kind of overall knowledge and skill. It certainly is a benefit to the employers and to the industry.

Assemblyman Ohrenschall:

The point I was trying to make is that it is possible that the fiscal note does not reflect the kind of increased revenue we will get on the other end from people who successfully complete the apprenticeship program, graduate, and work in the building trades.

Chair McClain:

That is a good point, Mr. Ohrenschall. I am still stuck back on the defined benefit pension plan. That is the best pension program you can get. I just

wonder if this is enough of an incentive to get businesses to look at it. Do you have a feel for it?

Jim Sala:

The tax break certainly would help our case. Seemingly, it would be beneficial because of the value of that type of pension. In drafting the bill, we had to balance the fiscal note—what it would really cost—against that benefit. If this does work out well and provide that incentive, maybe we could come back in a few years and look at expanding it.

Chair McClain:

I wonder if there is any way we could get a handle on that. It is something to think about because these will go to work session. Maybe in the meantime we could find a really sharp intern to do some research because I would really be interested in knowing how many employers now use a defined benefit plan and how many would be interested in starting one, especially if GASB is going to affect them.

Jim Sala:

The fiscal memo Michael Nakamoto had done for us, and which we initially gave to the Department of Taxation, has some indication of the number of employers. It uses regional statistics, but there may be some way to narrow that down.

Chair McClain:

I would like information such as whether that kind of plan is popular in a particular industry. Based on that information, it might be incentive enough to get three more companies involved. I would appreciate narrowing it down a little.

Do we have any other questions? Is there anyone else to speak in favor? We have a couple of people signed in as opposed.

Bill Uffelman, President and CEO, Nevada Bankers Association:

I have nothing to say about the apprenticeship side of the bill. To the best of my knowledge, no bank is running an apprenticeship program approved by the State. We have in-house training programs. You sign on as a teller when you are in high school and some day you, too, could be the president of a bank.

The bill, because the qualified pension plan is defined as a defined benefit plan, excludes all employers, including banks, that offer defined contribution plans or individual account plans, including the 401(k). They make contributions to those plans based on employee matching programs, whether it is 5 percent of the salary and 50 cents on the dollar or 40 cents on the dollar or one for one.

They are, in fact, participating in helping employees plan for retirement and finance their retirements. From the banking perspective, you discriminate on the tax rate—2 percent versus 0.63 or 0.65 percent, depending on what year we are talking about—and now you would discriminate because we have the wrong kind of pension plan for our employees. That is why I am in opposition to A.B. 252.

Chair McClain:

So you are saying this is not enough incentive to switch to a defined benefit plan.

Bill Uffelman:

Given the rules that are built into the defined benefit plan, an employer would not choose that option. As general counsel for a prior employer, I participated in the conversion of that employer from a defined benefit plan to a defined contribution plan because, in the end, we figured out that our employees were better off because now their pensions were affordable. They could go to other employers because once they invested two years in the 401(k), they could move on if they wanted to, and they could take that with them.

Chair McClain:

It was also cheaper for you, right?

Bill Uffelman:

We were putting substantial sums of money into the retirement program.

Chair McClain:

Okay, thank you.

Justin Ivory, representing A-1 Steel, Sparks, Nevada:

The apprenticeship program part of this bill really does not affect me so much; what does affect me is the retirement portion of it. My company provides, and has provided for several years now, a dollar-for-dollar match of up to 3 percent of the employee's gross wage into a simple IRA. I run a very small company. When we started this program we had about 12 employees. It did not pencil out for our company to get into a 401(k).

I do not think you would want to exclude small companies from having a bona fide or qualified pension plan even though they obviously offer a pension plan or retirement benefits for their employees. I do not think that is being very fair.

A large corporation, or one that is signatored with a union, could maybe piggyback on some of those benefit programs. A company that might be my competitor is signatored with a union that has a benefit program, and perhaps that benefit program covers only 50 percent of its employees. The office personnel and similar employees would not be covered under that pension program. My company offers that to every one of my employees, so I would actually be paying more out on an overall basis and receiving no benefit whatsoever.

Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and Contractors:

I sit on the State Apprenticeship Council, although I would like to say I am not officially representing that Council. Associated Builders and Contractors (ABC) has apprenticeship programs, and we also represent contractors who have retirement programs. I believe the spirit of the bill in terms of offering a retirement program to employees is commendable. However, there is no definition or clarity that specifies a particular plan for health care. I am concerned that it is essentially discriminatory, or at least it appears that it could be, because "defined benefit plan" does not cover all plans that are approved by the Employee Retirement Income Security Act of 1974 (ERISA). I would like to suggest extending that section of the bill based on ERISA, which would include 401(k) and other improved plans that are offered by employers to employees in terms of securing their retirement.

We, of course, support retirement for all employees, but I think it is dangerous to extend this benefit to just one segment and not to everyone who currently has an ERISA-approved plan. I would encourage you to think about that. The administrative load involved in maintaining compliance with a defined benefit plan is taxing and may be beyond the ability of a small company. Although the incentive is there, and I am not saying it is not an opportunity to build an incentive, I am concerned that some of the other programs that are also contributing as a retirement will be excluded, essentially to small contractors.

I am supporting the apprenticeship portion of the bill. It is a great opportunity to contribute to apprenticeship because it is in dire straits in terms of building a skilled workforce. We are participating in and contributing to that. Our program is much different from the union programs. Our employers who sponsor do, in fact, mirror the same standards approved by the State Apprenticeship Council. However, not all of our employers who are nonunion pay into it. This gives them an opportunity to do that. Where the \$10 million deficit may occur, I am not entirely sure how that would be made up, but I thought that the points that were made by this Committee were excellent in terms of the possibility of it being offset because the wages of someone who has completed the program

are, in fact, much higher than the wages of those who have not. I do not have those statistics to share with you, but I can tell you it is clear that those who actually go through an approved apprenticeship training program do benefit greatly. There are many programs out there.

I am really opposed to just including one plan. I would encourage everyone to at least consider that if we just said it was an ERISA-approved plan, that would not eliminate anybody from benefiting who offers retirement to their employees.

Chair McClain:

Did you get a chance to talk to the sponsor of the bill about your concerns?

Clara Andriola:

Yes, I did. Actually, in fairness, I spoke with Mr. Sala, and I did not have an opportunity to actually go into great detail with Assemblywoman Gerhardt. However, I would be happy to do that.

Chair McClain:

We were just wondering. If you are suggesting an amendment to the bill, I would certainly want you to talk to her first. Just be aware that if we add all kinds of pension plans, it would probably double the fiscal note.

Clara Andriola:

I understand. Thank you.

John LeMay, representing Associated General Contractors and Diamond Electric, Inc., Reno, Nevada:

I have had experience with both plans. We were an International Brotherhood of Electrical Workers (IBEW) union contractor up until 1982. After that, we became a nonunion contractor. Right around 1982, we were signatory to a defined benefit plan with the IBEW. At that time, because of the change in the landscape of nonunion gaining and union losing some of the market share, all union contractors in the north were concerned about our unfunded liability. We did some research and found that, at the time, our defined benefit plan was fully funded and maybe over funded.

We elected at that time to change the plan to a defined contribution plan. Around 1985, this was completed and all the union members, everyone who had paid into the plan, were given the choice of putting their money into an annuity defined contribution plan. For members who were still in the defined benefit plan, the government required that that plan be fully funded and stay fully funded. Last month I received a letter saying that plan was actually over funded and money was going to be redistributed. My first concern was, are

these other plans actually under-funded or is the State going to be funding defined benefit plans in excess of what is required.

I believe ERISA and the federal government have been extremely conscientious and careful in making sure we do not have retirees out there who are not going to be receiving full benefits. I believe most of these plans are conservative to the extreme in making sure they are over funded. Very few companies in the State still have a defined benefit plan. Most of those that still have them have limited them to employees who were already signed on, with new employees going to a defined contribution plan: Keogh (HR 10), 401(k), or one of the new instruments. From my perspective as a nonunion contractor, the pension plan provision of this bill limits competition, giving benefits to union contractors by funding them—giving them tax breaks—in a way that has no benefit to the State.

Tracey Woods, Vice President, Government Affairs, Retail Association of Nevada:

We support a broad-based, consistent tax policy and are opposed to abatements and reductions basically because of the erosion to our revenue and our budget.

Chair McClain:

Do we have anybody else in support of A.B. 252? I thank everybody. We will close the hearing on A.B. 252. We have seven more scheduled meetings before we need to have all the Assembly bills out of this Committee and start on the

Senate bills. We have 13 bills we have not heard, which is an average of about two a meeting. We will have plenty of work in the work sessions.

If there is no other business to come before the Committee, we are adjourned [at 2:56 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: March 20, 2007

Time of Meeting: 1:36 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 243	C	Carole Vilardo / Nevada Taxpayers Association	Prepared comments.
A.B. 252	D	Jim Sala / Southwest Regional Council of Carpenters	Note on fiscal impact of Apprenticeship training contribution deduction