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

**Seventy-Fourth Session
April 5, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:21 p.m., on Thursday, April 5, 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 Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Peggy Pierce
Assemblywoman Valerie E. Weber

GUEST LEGISLATORS PRESENT:

Assemblyman Marcus Conklin, Assembly District No. 37
Assemblyman Pete Goicoechea, Assembly District No. 35

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:

Jim Ithurralde, County Commissioner, Eureka County
Michael Rebaleati, Recorder-Auditor, Eureka County
Tom Fransway, Vice Chair, Humboldt County Commission
Bjorn Selinder, representing Eureka County and Churchill County
Donna Bath, Clerk, White Pine County
John McCormick, Rural Courts Coordinator, Administrative Office of the Courts, Nevada Supreme Court
Jeff Fontaine, Executive Director, Nevada Association of Counties
Warren Russell, Commissioner, Elko County
Elaine Barkdale Spencer, Executive Director, Elko County Economic Diversification Authority
Doug Busselman, Executive Vice President, Nevada Farm Bureau
Ann Louhela, President, Nevada Certified Farmers Market Association
Jay Davison, Extension Specialist in Forage and Alternative Crops, University of Nevada Cooperative Extension, Fallon
Charles Frey, Owner, Churchill Vineyards, LLC
Kyle Davis, Policy Director, Nevada Conservation League
Alfredo Alonso, representing Southern Wine and Spirits and Nevada Beer Wholesalers Association
E. Leif Reid, representing Southern Wine and Spirits and Nevada Beer Wholesalers Association
Tony Sanchez, representing DeLuca Liquor & Wine, Limited
Russell Rowe, representing Nevada Development Authority and Economic Development Authority of Western Nevada
Tim Rubald, Executive Director, Nevada Commission on Economic Development
Richard Bjur, Director, Technology Transfer Office, University of Nevada, Reno, and Desert Research Institute
Tim Tetz, Executive Director, Office of Veterans' Services
Mike Alastuey, representing Clark County

Chair McClain:
[Meeting was called to order at 1:21 p.m. Roll was called.] We have four bills to hear today and a few more on work session we want to take care of. We will start with Assembly Bill 330.

Assembly Bill 330: Creates the Fund for Financial Assistance to Rural Local Governments. (BDR 32-1019)

Assemblyman Pete Goicoechea, Assembly District No. 35:
Assemblyman Carpenter, Assemblyman Grady, and I worked on this in the interim. [Read from prepared testimony (Exhibit C).] Assembly Bill 330 allows that a portion of net proceeds between the county-imposed rate and the $3.64 cap be used to create a financial assistance fund for rural counties. This fund would be available to the 15 rural counties.

The fund will be distributed by a committee of which the majority will be legislators. That committee and how it is established is included in the bill. Because a majority of the committee will be legislators, it will provide legislative oversight. The funding will be limited to those counties with a population less than 100,000, so it will be for the 15 smaller counties. While there are criteria for qualifying for the funding, we are offering an amendment (Exhibit C). We were afraid the bill as originally drafted would be so stringent that maybe only one or two counties that were really suffering an economic downturn would qualify.

The concept for A.B. 330 came about when the Pershing County Hospital District came to me and asked me to put in an appropriation for $400,000 because their heating and air conditioning unit and boiler were no longer working. Pershing is only one of the eight counties I represent, and every one has a request. We thought maybe we could go together to create a fund that could be accessed by these small counties, so we could avoid coming before the Legislature with about 50 appropriations, 10 percent of which would get funded. That hospital in Pershing County is critical on the Interstate 80 corridor. If they do not have a heater, they cannot operate.

Another example is the town of Austin, which has two ambulances. If you travel US-50, you know how critical an ambulance is out there. Both those ambulances have more than 150,000 miles on them, and they do not dare park them one in front of the other because they do not know which one is going to start. This fund could meet that need.

In the back of your packet (Exhibit C) you will see figures from the Department of Taxation, from the actual figures from Calendar Year (CY) 2001 to projected figures for CY 2007. If you look at the swings in net proceeds, you will see exactly why these rural counties are having such a difficult time. When you go from $400 million to $1 billion in net proceeds, you see $200 million swings in any given year. It is very difficult for local government to budget those net proceeds. Also, if you look at some of the footnotes (Exhibit C), you will see where they have had $200 million or $300 million adjustments after they had done their budgets. Just because revenue is projected does not necessarily mean it is going to come in.

Remember, when you are applying these numbers, in the case of White Pine County this year net proceeds are 30 percent of their total ad valorem tax base. You cannot really budget net proceeds. If you look at the 2007 projections, you will see a $50 million swing in what is projected for White Pine County. They do not have the ability to budget those numbers.

At this time I would like to walk through these tables (Exhibit C). We are talking about taking that piece between the county-imposed tax rate and the $3.64 cap. Table 2, Fiscal Note Data, shows that the net proceeds as they came in for 2005 were $827 million. The calculation for that at $3.64 would have been $30 million. What was due the counties was $21 million, and $8 million went to the State. That $8 million is what we are talking about. The balance, the $1.36 between the $3.64 and the $5 net proceeds tax, goes to the State unhindered. You can see that some of the other counties are contributing more to the State fund than they are generating themselves because they have been ultraconservative with their tax rate.

You will hear testimony that those counties can move their tax rates up and capture that revenue. However, because they are conservative in nature, they will incur the wrath of their local taxpayers. It is difficult to raise property taxes in rural Nevada. With A.B. No. 489 of the 73rd Legislative Session in place, they could raise that rate without taxing their residents or businesses, and capture that piece of revenue.

I will move on to the conceptual amendment. The first amendment dealt with the fact that as we did the initial draft, it sounded like there would only be one county and two school districts that could apply to the fund. We wanted to make sure that every county could put in two applications, and one application from each school district, for a total of 45 possible applications. Those applications would go to a committee comprised of four legislators, two representatives from the mining industry, and one representative from the Nevada Association of Counties (NACO).

If you would prefer, Madam Chair, to take testimony from some of the local governments concerning their needs, there is a lady in the audience from Pershing County who can tell you the impact of losing 164 jobs when the Coeur Rochester mine closed. There is a representative from White Pine County who will tell you what it is like to try to respond when you have two patrol vehicles, each of which has gone more than 250,000 miles. They do not have the ability to respond quickly or to replace those vehicles.

When I submitted this bill it looked as though there would be a budget surplus. We realize the $20 million fiscal impact this year is tremendous, but we would like this Committee to consider the merits of the bill in the policy it establishes by allowing that portion of funding, which we feel is technically county money because it is under the $3.64 cap, to go to this fund. It would facilitate matters both for local governments and for the Legislature. We ask you to let us go to Ways and Means and see if we can come up with some way to soften the fiscal impact over the next biennium. I think we can do that, even if it is something as simple as changing the effective date. We are working with the Governor to see how we can get this in acceptable form.

Assemblyman John Carpenter, Assembly District No. 33:
[Read from prepared testimony (Exhibit D).]

Assemblyman Tom Grady, Assembly District No. 38:
My colleagues have gone into the details. I would just like to point out a couple of things in the bill. The first is the makeup of the group we are requesting, which would be two members from the Assembly appointed by the Speaker of the Assembly, two members from the Senate appointed by the Senate Majority Leader, two members from the mining industry appointed by the Nevada Mining Association, and one member appointed by NACO. It would be a good, well-rounded group that would have oversight of the guidelines for the use of the fund under this bill.

The real purpose of this bill is to give our rural local governments somewhere to turn when their lower revenues prove inadequate. Many of us on the Taxation Committee also sit on Ways and Means, and we see the bills coming in, not only from the rurals but from the urban areas, asking for help in one way or another. We feel A.B. 330 will cut down on the requests from the rurals because they will have somewhere to turn other than just the one-shot money they try to get at the end of the year. This would be a real advantage.

We would just like that portion of the net proceeds money that is derived from rural mining to stay in the rural counties to give us some help. As has been pointed out, net proceeds cannot be depended on from year to year because they vary so widely. Many of our rural local governments are in such dire financial straits right now that they are using part of the net proceeds money for their general funds. In years when the net proceeds do not come in, this raises havoc with the general funds. This bill would give those of us in the rurals someplace to turn.

Assemblyman Goicoechea:
Table 1 (Exhibit C) shows the combined property tax rates for those rural counties.

Jim Ithurralde, County Commissioner, Eureka County:
Eureka County is in favor of this bill. This is viable funding for rural counties. Eureka County will probably be the largest contributor to this for many years. However, this appropriation comes from a depleting, nonrenewable resource, and someday we may be at the bottom of the pit looking for emergency assistance. Please give this bill your serious consideration.

Michael Rebaleati, Recorder-Auditor, Eureka County:
We believe this is good policy because it provides an avenue of relief for rural governments. It provides legislative oversight. The rural entities without large ore deposits can actually share in the net proceeds. This should help lower your appropriation bills for future legislative sessions. As a matter of record, I do not see Eureka County benefiting from this particular legislation, but our rural neighbors will, and they really do need the help.

Tom Fransway, Vice Chair, Humboldt County Commission:
Humboldt County is in full support of A.B. 330. You have a letter (Exhibit E) signed by our chairman indicating that support. We support the creation of the fund. We support the creation of the committee. We support the criteria for grants. The bill seems to make a lot of sense. These rural communities need the fiscal option to apply for funds as circumstances warrant to support public services normally not budgeted for but necessary for urgent public interest. This bill will allow that to happen.

We feel it is important to keep the funds where the services are needed, the impact is felt, and the taxes are generated. We respectfully urge your support in this legislation. We hope you will pass the bill out of this Committee. Thank you for the opportunity to speak today.

Assemblyman Denis:
I think Assemblyman Grady mentioned that if you were to have this fund, you could apply for these monies. What would keep you from also coming to us and asking for additional funds for other projects?

Bjorn Selinder, representing Eureka County and Churchill County:
This fund would reduce that possibility. It certainly would not eliminate it because we never know what size appropriations might be needed, especially those that would protect public health, safety, and welfare, and that might completely overwhelm the available resources.

Assemblyman Horne:
Section 5, paragraph 4 of the bill deals with when a local government would be able to request assistance because of a decline in revenue and balances. Have you projected a threshold on that loss of revenue that would have to be met before a proper request could be made?

Assemblyman Goicoechea:
Actually, the amendment softens that language considerably. We were faced with how to define the significance of the impacts of the two previous years, which would have been an extremely difficult problem for the committee. Technically, with the amendment, the committee may approve a request from local government if any of three criteria are met. The most important is the proposed expenditure of requested financial assistance that is critical to the continuation of necessary services provided by the local government.

Assemblyman Marvel:
You or Mr. Carpenter said something about the operating fund. Is there some way you can fence this off? This is one of the things I have been preaching for years. Net proceeds revenue is a sort of one-shot or windfall money, and it should be used for one-shot expenditures or capital improvements. I would hate to see it get into operating budgets.

Assemblyman Goicoechea:
The bill does address that, and we did not amend that. When a local government makes an application, this is strictly one-shot money. It would not be a rotating fund or something that could be put into a budget. Technically, it would be extremely well fenced, only to pertain to emergency vehicles or emergency repairs.

Donna Bath, Clerk, White Pine County:
I handed out a letter (Exhibit F) from our County Commission in support of this bill. We have firsthand knowledge of why this bill would definitely help the rural

counties. White Pine County has been in a severe financial emergency and under the direction of the Department of Taxation. We are slowly crawling out of the hole, but if we had had access to that one-shot money, it certainly would have helped us come out of it a lot sooner.

It is really hard to concede that you need to use net proceeds of mines in your general fund, but we were at the point where we had no choice but to use that for mandated services. Right now our budget is at an absolute minimum. We have to request permission from the Department of Taxation to buy anything, so they have pretty tight control of us.

We do have the prospect of a power plant coming to Ely, so I am hoping White Pine County will not have to benefit from that fund much longer. However, I know other rural counties are also in desperate need. Mr. Goicoechea is telling you the truth when he says we have as many as 250,000 miles on a sheriff's department vehicle. We are in a critical need situation, but we are pulling ourselves out. There is a light at the end of the tunnel. However, having been in that situation, I can attest to the fact that had the fund in this bill been available, it would have really helped us out.

John McCormick, Rural Courts Coordinator, Administrative Office of the Courts, Nevada Supreme Court:
I am here today on behalf of the Judicial Council of the State of Nevada, which represents judges from all over the State and all levels of the judiciary, to express the Judicial Council's support for A.B. 330. The Council believes this measure will offer an opportunity for rural counties to obtain sorely needed resources for a variety of critical projects including court-related projects, such as the construction of new court facilities and court security improvements, to ensure Nevada's rural citizens have equal access to justice. The need for such projects is well established and has been supported by the Judicial Council for a number of years.

Jeff Fontaine, Executive Director, Nevada Association of Counties:
I want it on record that the NACO does support A.B. 330. As you have heard, A.B. 330 is very important to Nevada's rural counties. It brings them an opportunity to address critical needs and, in some cases, public health and safety needs. We urge your favorable consideration of A.B. 330.

Warren Russell, Commissioner, Elko County:
Our Commission fully supports this bill. At this time we do not have critical needs that would make us eligible for these funds. However, we do support it for all the other counties. We also believe it is good fiscal policy to level out the ups and downs of mining revenues over time. About four years ago we had to

tell employees their jobs were no longer available. We had to lay off almost 10 percent of our total county staff and implement other measures in order to balance our budget.

No commissioner who was there during that time period ever wants to be in that situation again. We have taken steps in our county to ensure it does not happen. However, other counties may be facing this same kind of situation with crucial and crisis-level needs. Having a fund like this available is going to level out that area of revenue and help them.

I recently looked at two types of data for revenue from net proceeds from mines. One type of data came from the State, and the other came from the mining community. The mining community may engage in accounting practices that change things, but there is roughly a $200 million discrepancy between the projections of the mining community and the State in expectations for net proceeds. This causes hesitation in counties that look at net proceeds as a significant part of their budget. How can they plan for a year when they do not know for sure what the net proceeds will be?

I would like to affirm that this bill is good fiscal policy. We just finished the County's tentative budget yesterday, and you are going through difficult budget considerations. I hope it will be possible to move this bill forward this year. If not, I would urge you to consider a later date or a lesser amount than we are asking and find some kind of compromise so you can enact something similar to A.B. 330 with the amendments. Our county would appreciate it, as would some counties, such as White Pine, that are in crisis situations. Instead of having to come back and remedy something that has already gone wrong, you can be progressive and proactive.

Elaine Barkdale Spencer, Executive Director, Elko County Economic Diversification Authority:
I would like to thank you for the opportunity to express our support of A.B. 330. There are three reasons we support this bill. First, it is a way for communities to be able to sustain themselves. Community sustainability is a goal of almost every rural community in this State. It is not a buzzword, but it is one we use consistently. We have actually established committees and organizations based on community sustainability.

We all understand that mining is unpredictable, but we like living where we do. We would like to see these communities grow and develop, not experience boom and bust lifecycles, and not be dependent on mining as a whole. The title of the organization does not contain the word "development"; it is "diversification." The organization's goals are centered on diversification and community sustainability.

The second reason we support this bill is because it is investing in rural Nevada. You cannot go wrong when you invest in rural Nevada. It lifts the entire State.

The third reason is the fact that there will be a seven-member committee consisting of legislative oversight along with mining representation and NACO. That is a good, solid group of people who understand the challenges of rural communities in Nevada. I look forward to hearing more about A.B. 330 now and in the long term. It is not a solution to all of our problems, but it is a beginning.

Chair McClain:
Mr. Goicoechea, do you envision this fund being used up every year, or is it something that could be built up year after year?

Assemblyman Goicoechea:
We envision there being demands out there that would use up the fund fairly rapidly, especially in the first years after its formation. However, as those demands go down, and if the fund did not erode too fast—as tax rates creep up, they will eat away at this funding source—we would be able to carry over at least some of this funding. Then we could maybe meet a larger demand, such as a White Pine County courthouse.

Chair McClain:
Sometimes funds are created with a principal, and only the interest is spent, so the fund is self-perpetuating.

Assemblyman Goicoechea:
If that is the pleasure of the Committee, that would be fine, but I think we would end up with a tremendous amount of money. What concerns me is that whatever we can do in this Body, we can undo. I would be concerned that if we had a $100 million pot, especially in a year like this, it might wind up not being for the financial assistance of the rural governments. Realistically, it is not that large an amount of money. It is large in a year like this, but in the long term, $10 million divided into 45 grants is not a lot of money, just $200,000 or $300,000 for each jurisdiction. They would gradually eat it up.

Assemblyman Marvel:
You said the interest would go back into that fund?

Assemblyman Goicoechea:
It needs to be that way. The language in the bill states that the fund is appropriated for each fiscal year, so I am assuming it would stay with the fund.

Assemblyman Marvel:
I think you are right. You may have to invade the corpus of it at the outset, but later on you could just live off of the interest, like the Permanent School Fund where the interest is used, but not the corpus.

Assemblyman Goicoechea:
If that occurred, and if we were able to accumulate that kind of money, it would be great, depending on what the account balance was and what was coming into the fund. In the first years, I do not anticipate there being a lot of money left over.

Chair McClain:
When you were designing this idea, how did you decide on net proceeds as opposed to raising property taxes $0.05 to create this fund?

Assemblyman Carpenter:
I believe raising the property tax is not possible in some of these counties because they are at the cap. If a county is not at the cap, then some of the cities within that county are at the cap. That was really not an option. The reason net proceeds was chosen was that it is the wealth that is generated in those communities and in those counties. We felt that was the best way to go.

You asked whether there could be a savings account on this money. That depends on what happens. In years when we have a great economy, net proceeds are high, and the needs of the counties are not so great, we would naturally want to save money for a rainy day. I think the members of this committee are going to be fairly conservative and are not going to throw this money away. We would really like to have $50 million put away. That way if something did happen and we had to put money into a lot of counties, we would be able to do that. I think this will be a conservative committee that will do things right.

Assemblyman Goicoechea:
The reason we looked at net proceeds was because it is generated predominantly in the rural counties. We are only looking at that pot of money between the county-imposed tax rate and the $3.64 cap. The $5.00 cap on net proceeds is industry imposed, and the mining industry is in support of this. They recognize the need in those counties in which they function.

Assemblyman Marvel:
I think it would help the rural counties if we could get the State out of the property tax rate. At one time we gave the ad valorem to the local governments and the schools. Now we are gradually sneaking back in and getting the State back into the ad valorem.

Assemblyman Goicoechea:
The city-imposed tax rate does not apply in net proceeds. The cities do not get any of the net proceeds. That automatically goes to the State. Any city-imposed rate in the county rate goes to the State automatically, and we do not feel that is fair.

Assemblyman Grady:
Because of legislation that was passed last year, many of the combined rates in the rural areas are above the $3.64. They are already at $3.66, so there is no room to move that because of the $3.66 cap.

Assemblyman Carpenter:
One more point needs to be mentioned, and that is that the difference between the $3.64 and the $5.00 rate would continue to come to the State as it does now.

Chair McClain:
I will close the hearing on A.B. 330 and open the hearing on Assembly Bill 403.

Assembly Bill 403: Makes changes concerning the production of alcoholic beverages in certain smaller counties. (BDR 32-949)

Assemblyman Tom Grady, Assembly District No. 38:
With me at the table are Assemblyman Goicoechea, who is a cosponsor of this bill, and Doug Busselman, who has done a tremendous amount of work with the Department of Taxation and others in trying to put this bill together. We were asked by Charlie Frey of Churchill Vineyards to help with the new wine industry in Churchill County. Mr. Frey wanted to produce Nevada made and Nevada grown products. Little did we realize that this was not possible in the liquor business because of a recent U.S. Supreme Court case, *Granholm v. Heald* [544 U.S. 460 (2005)], concerning the Commerce Clause of the *United States Constitution*. We had to settle for much less.

Page 2, Section 2, subsection 3, of the bill addresses the Department of Taxation, which will adopt rules to collect the required taxes. Most of those rules are already in place, as they now report movement of wines.

Page 5, Section 5, subsection 1(d), allows a local winery to transport and sell its wines at a farmers' market, not to exceed 12 cases a day, and to transport and sell its wines to a nonprofit event, also not to exceed 12 cases a day. It also allows the winery to sell its wine to a retail liquor dealer, not to exceed one case a month.

That is all this bill will do. The winery cannot import wines into Nevada for sale under this language or make any other changes to the current statutes. We feel rural Nevada can grow grapes, save water for irrigation, and become an economic and tourist attraction for all of Nevada.

Assemblyman Pete Goicoechea, Assembly District No. 35:
I am here to support Mr. Grady. When we started forward, we were looking to assist a Nevada industry that would create a niche market and promote crop diversity in the State, especially through viticulture. We wanted to come up with a product that would be at least 50 percent Nevada grown and would enjoy some type of tax exemption. As Assemblyman Grady stated, we did not realize we were running afoul of the U.S. Supreme Court decision. I also clearly did not understand that the retailers in Nevada are actually the tax collectors on alcohol.

We struggled with this at great length. The bottom line is that even though this may not seem like very much, it is a logical first step. We hope to be able to pursue this and come up with something that will allow for a growing wine industry in the State of Nevada and the benefits it could bring.

Doug Busselman, Executive Vice President, Nevada Farm Bureau:
[Distributed prepared testimony (Exhibit G).] We are pleased to have been able to work with Assemblyman Grady and Assemblyman Goicoechea on developing A.B. 403, and we appreciate their efforts. We are here this afternoon in support of this bill. Nevada Farm Bureau policy, developed and adopted by our farmer-rancher members, encourages expansion of agricultural opportunities, and we believe this is the primary focus of this proposed legislation. While A.B. 403 would greatly assist entrepreneurs interested in establishing wineries in rural Nevada counties, the bill continues to maintain responsible controls over distribution of wine through the proposed language of Section 2, subsection 3, lines 22–26, on page 2. We believe the language of this section provides the necessary oversight to cover appropriate and necessary regulatory controls.

The new language in Section 5 of the bill allows for small amounts of wine produced by local wineries to be transported to and back from farmers' markets and nonprofit wine tasting events. The wineries would also be allowed to sell their wine at these events in the small amounts discussed by the bill. Beyond these niche-type marketing activities, the bill provides authority, under regulatory guidelines to be established, to transport and sell one case of wine a month to a retail outlet. This small amount is intended to respond to the needs of both small producers and small retailers with transaction sizes that are economically unworkable through traditional channels of business.

We urge you to pass A.B. 403, and we thank you for your consideration.

Assemblyman Mortenson:
For many years I was the only Nevada representative to the National Conference of State Legislatures' (NCSL) Wine Industry Task Force. This is very familiar, as these are the problems small wineries have had all over the country.

One thing I did not hear from you, and which I think is probably the solution for most small wineries around the nation, is to be able to sell on the Internet. That is actually what saved many small wineries in California. They are excellent wineries, but they are too small to be able to produce and ship to the huge wholesalers. They sell on the Internet and do a very lively business. There was a problem here in our State that for awhile UPS would not deliver wine, but we managed, through the Wine Industry Task Force and a few other bills, to correct that situation. People buy from small wineries in California. That might be a good solution for some of these small, infantile businesses.

I like your bill, and I hope you are successful in getting it through.

Doug Busselman:
Actually, we believe through our study that Internet sales are possible now, and we would agree that is a very viable marketing opportunity. The tools in this bill are designed to get out into the marketplace and develop the reputation necessary to drive business to the winery Internet sites. What we are asking is to have a full deck of cards to play with in creating market desire to buy the wine.

Assemblyman Mortenson:
Right, and once you have achieved a bit of a reputation, you are not limited to Nevada purchasers. You will have purchasers all over the country and maybe all over the world if you get a good enough reputation.

Assemblyman Denis:
Does the retail limit of one case a month refer to one case per retail location?

Assemblyman Goicoechea:
That is correct; you could take one case a month to each of several locations. That provision was patterned after existing statute.

Assemblyman Horne:
Are we treating a local winery differently from anybody else?

Assemblyman Goicoechea:
No; the U.S. Supreme Court made sure of that.

Assemblyman Grady:
When we started out, we had "Nevada grown, Nevada made," but a recent Supreme Court decision says you cannot treat an in-state producer any differently from the way you would treat an out-of-state producer. We had to eliminate that from this bill in order to comply with that Supreme Court decision.

Charlie Frey is here, and he has a brief presentation he would like the Committee to see.

Bjorn Selinder, representing Churchill County:
I want to indicate Churchill County's wholehearted support of A.B. 403. Rarely does a bill come together that provides for economic diversification, retention and promotion of agriculture, as well as the possible creation of a new industry while contributing to water resources. This bill deserves your consideration.

Ann Louhela, President, Nevada Certified Farmers Market Association:
I am here to testify in support of A.B. 403. The Nevada Certified Farmers Market Association (NCFMA) is a 501(c)(6) representing about 20 farmers' markets and more than 50 farmers—probably the majority of farmers' markets in the State. The reason we support the bill is manifold. First, it obviously benefits the community part of the farmers' market. We are able to showcase and educate the public on more aspects of things that are grown in Nevada and made in Nevada.

Also, this is a Nevada business that is putting money back into our local economy. More importantly, we also work to improve the capacity and bring more farmers in sustainability of Nevada agriculture. When you look at the dollars that go through a farmers' market, the financial impact of this on a distributor is probably a fraction of a percent. However, that same dollar amount going to a small business or winery will mean success or failure of a business.

One of the biggest things a farmers' market is able to do is promote Nevada products. The media attention it gets is something most small businesses cannot afford. It is priceless. It gives these small businesses an opportunity, and it can make their success. I also look at the success of these wineries as a domino effect for all Nevada agriculture. Farmers and people who are thinking of going into farming will look at someone who has diversified and see their successes, and they will go forward also.

Jay Davison, Extension Specialist in Forage and Alternative Crops, University of Nevada Cooperative Extension, Fallon:
I want to thank you for giving me the chance to give a report on a project we started in 2001 in Churchill County, looking at wine grapes as an alternative crop. [Gave a PowerPoint presentation (Exhibit H).] As you can see from the pictures I am showing you [pages 2–5 of (Exhibit H)], we are in a situation in Nevada where water is precious. These are pictures of farms that have been purchased and the water has been moved to some other use, whether it is for a municipality, development, wildlife, or something else.

In this kind of situation the community has severe economic and environmental problems. From an economic standpoint, the community is losing the farmers' produce, they are no longer buying equipment, and so forth. From an environmental standpoint, there are problems with noxious weeds, or the farms are split into smaller parcels where people move in who are not familiar with Nevada. Some of them do not know you cannot put animals on land without irrigation, and the water has been removed. We get into a dust problem. This is going to happen more and more as water becomes more valuable.

Another thing to consider in looking for alternative crops is that more than 90 percent of Nevada acreage is used to produce forages such as grass, hay, or alfalfa [pages 6–7 of (Exhibit H)]. These have been good crops for us, but they produce a low value per acre. With the prices of fuel and other things going up the way they are, that really squeezes the producers. Also, those crops use a lot of water. My goal, whenever I work with an alternative crop, is to try to find crops that reduce water usage and increase the income to the producers.

We would really like to change the view you see on the screen of bare ground and an alfalfa field to this view on the right of wine grapes we started in 2001 [page 8 of (Exhibit H)]. This was a joint project involving the University of Nevada, Churchill County, private entities, and a grant from the State to test this. By August 2001, you can see we had very good growth on these grape vines. We put in about 3,500 plants consisting of ten varieties on three acres. We have everything under drip irrigation. If you look at the top part of the post, you will see a fairly sophisticated frost protection system that uses only one gallon of water per plant per hour. Everything is aimed at trying to use a lot less water than we do in our normal agricultural production. That is fairly expensive, though; the frost protection system alone costs about $5,000 an acre.

By 2004 we had made our first harvest. This was not a commercial harvest; we simply wanted to find out roughly what quantity and quality of grapes the vines would produce. Our first commercial harvest was in 2005, and we began selling wine in 2006. Charlie Frey established Churchill Vineyards during that time. This [page 13 of (Exhibit H)] is what our product looks like. If you like wine, I encourage you to sample it.

My job on this project was to determine the technical feasibility of growing grapes here. We looked at survival first, then production and water use. Our red grapes had survival problems, but we were very successful with the whites. There were almost no over-winter deaths, and our production is as good or better than most of the areas in the West that are producing summer grapes.

In terms of water savings, alfalfa uses roughly 3.5–4.5 acre feet a year, or about 42–54 inches. When we began this project, we were planning on 4 inches of water for grapes. In fact, in 2005 and 2006 we averaged about 1.2 inches of water per acre. Our water usage has dropped to almost nothing compared with our forage production.

In 2005 we brought a graduate student on from the University of Nevada, Reno, College of Agriculture who looked at the economics of wine grapes versus alfalfa. His bottom line was that "growing wine grapes presents an excellent agricultural crop production alternative in Fallon, Nevada." I would expand that to the valleys around Lovelock, Yerington, most of northern Nevada, and maybe even down into the Amargosa Valley and the Pahrump area. We have not tried that, but some other growers are trying it.

Conversion of these lands from bare ground to grapes really makes sense and cents. Grapes are the one of the best crops I have seen as an alternative to alfalfa production.

Assemblyman Mortenson:
Pahrump does have a winery that has been there for quite some time. The story goes that in the first year the vines grew well and got established. Then one day the burros came down from the hills and ate the whole crop. Do you have any problems with horses, burros, or anything around Fallon?

Jay Davison:
No, so far we have not had any problems like that. Our vines are all fenced in, so we have a different situation from the Pahrump Winery. There are probably 15 different places in Nevada where individual producers are growing grapes on perhaps 1–1.5 acres. They are all interested in contributing to this burgeoning industry.

Charles Frey, Owner, Churchill Vineyards, LLC:
I am the one who has been encouraging the University of Nevada, and I would like to thank them for all their help. It has been difficult the last six years to try to create a new industry in Nevada. There have been many challenges. I would also like to thank Assemblymen Grady and Goicoechea and Senator McGinness for their help with A.B. 403.

I can perceive some possible opposition to the portion of this bill that provides for a one case limit for retail sales. Two weeks ago, one of our retailers in Fallon, who purchases all the wine through our distributor, wanted a case of wine. She called and asked if I could bring in one case of wine. I told her I could not because we cannot sell one case of wine without going through a distributor. I called our distributor, who has to come all the way from Fallon, pick up the case of wine, take it back to his wholesale building in Yerington, make a "curb bump," enter the case of wine into his inventory, place it back into his truck, and drive it back to Fallon.

Doing this for one case of wine makes no economic sense for the distributor or for me, but it is technically what the law forces us to do. Several other retailers would like us to do the same thing, but we cannot supply them with the wine unless we go through our wholesaler.

Kyle Davis, Policy Director, Nevada Conservation League:
We would like to go on record as supporting this legislation. We think it is a good idea to promote the growth of crops that will conserve water. We saw in the previous presentation that this is a good step forward in the conservation of water resources in our State.

Chair McClain:
Are there any questions? [There was no response.] Do we have anybody in opposition to A.B. 403?

Alfredo Alonso, representing Southern Wine and Spirits and Nevada Beer Wholesalers Association:
While I think everyone here agrees we would like nothing more than to see this industry grow in Fallon and throughout the rural counties—obviously there is no

intent to stop that in any way—the problem is that the bill does not address the issue of the agriculture side of this. On the agriculture side, we would suggest abatements and other tax incentives to make growing grapes in this area more attractive. We would all be for that. What concerns us is the legal ramifications of doing something that limits this to the rural counties and how that could potentially affect the Gallo Wineries and other big producers of the world and how they work within this market.

Most of you know how the system works in Nevada. Dollar for dollar, the State probably gets more back with this system than with most systems because our cost is minimal. We have two investigators, with maybe a third to come. Mr. Frey obviously pays his excise tax himself, but wholesalers in the State paid $43 million in 2006 alone. Those wholesalers are not only delivering the product, but they are making certain the product is taken care of according to their franchise agreements, whatever those may be. More importantly, they are costing the State very little. This bill attempts to bypass that entire three-tier system. That is where we have concerns because if we could say this is just for Churchill County or just for the rural counties, with no ramifications elsewhere, we would certainly discuss it. However, with the state of affairs we see ourselves in these days, you cannot pass a law that is so specific to an in-state vendor or an in-state producer of anything from beer to hard spirits without affecting the rest of the world. This is much more far-reaching than anyone anticipated.

We have concerns about the ability to simply go to a retail dealer and bypass everyone. At this moment, anyone who opens a winery in Nevada can direct-sell to an individual one case a month. They can already use the Internet. They can already sell at the winery. They can already sell at one other location that is allowed in the bill. I do not believe this is about the three-tier system, although the bill makes it about that. I think this is about marketing a product. If Mr. Frey's wholesaler is not doing his job, he ought to get another wholesaler. He ought to get someone who is in Fallon and can do a better job for him and make sure his product is sold and marketed properly. Under existing law, he is not subject to any of the "good cause" legislation that was passed by this Body in 1995. In fact, he can go wholesaler to wholesaler because of the number of cases he sells a year.

I wish this were as easy as simply allowing for a new industry. However, much of what has been said today can be done under existing law. If we can help with any discussion of the incentives to growing the grapes themselves we would be glad to do so.

Assemblyman Grady:
I think Alfredo makes our case for us that there is nothing in this bill we cannot do now, but this opens it up to the two areas of the farmers' markets and the nonprofit groups. If Alfredo wants to open this up to all counties, we can do that.

E. Leif Reid, representing Southern Wine and Spirits and Nevada Beer Wholesalers Association:
I would like to address the question from Assemblyman Grady and also address the point he raised earlier. I appreciate the fact that this bill is much narrower than what had been talked about early on, which was through a heartfelt desire to help this situation in the State while complying with U.S. Supreme Court precedent. I commend Assemblyman Grady for that. I want to talk about that case a little bit because it presents more difficulties than are apparent. I think this bill before the Committee today still has the same problem Assemblyman Grady was trying to address.

This is hard to do when the Supreme Court has spoken so broadly and so clearly on an issue. *Granholm v. Heald* was the case, which was decided in May 2005 during the last legislative session. The case arose under facts that were basically the same as those we have here. Laws had been passed in Michigan and New York that allowed something almost identical to the provisions in Section 5, subsection 1(f) of this bill, the direct shipment to retailers.

Michigan and New York passed laws that allowed in-state wineries to ship directly to retailers only. That issue made its way through the court system to the U.S. Supreme Court, and that decision explained a lot about our liquor distribution system in the country. It expressly prohibited what is proposed in subsection 1(f). The direct shipment to retailers was expressly disallowed by the U.S. Supreme Court. *Granholm* talks about the 21st Amendment.

Prohibition was passed in 1919 through the 18th Amendment to the *U.S. Constitution*. Everybody knows that was not a great period of time. The joke is that during those 14 years even men found America's pastime, baseball, too boring to watch because there was no beer to drink. Something else about Prohibition, which is not talked about, is that states lost all the revenue that had come from the sale and regulation of liquor.

Prohibition did not work out. In 1933, the 21st Amendment was passed, which gave back to the states the power to regulate the sale, transport, et cetera, of liquor. That is what we have now. The U.S. Supreme Court has said that the system we have in Nevada, similar to what exists in the majority of states, is constitutional. The preferred system has three tiers where suppliers import into the State to wholesalers, wholesalers distribute to the retailers, and the retailers sell to customers. That was permitted.

What is not permitted under the 21st Amendment—and this comes directly out of the *Granholm* case—is that under the Commerce Clause, Section 1 of the *U.S. Constitution*, there can be no preference. Even such small preferences as the ones in the provisions of this bill about farmers' markets, wine tasting events, and especially the direct shipment to retailers, which give competitive advantages to in-state businesses to the detriment of out-of-state operators, are unconstitutional violations of the Commerce Clause. The U.S. Supreme Court struck that down.

Since *Granholm* was decided, the same issue has come before a number of states. In Washington right now there is a case some of you may have heard about, *Costco Wholesale Corp. v. Hoen*, 2006-1 Trade Cas. (CCH) 75,250 (W.D. Wash. April 21, 2006). Costco challenged the law in Washington, which was very similar to what existed in Michigan and New York and to what is proposed here where in-state wineries were allowed to direct ship to retailers without going through wholesalers. That has been stricken. I would like to read a few sentences from those cases. From *Granholm*:

> The mere fact of nonresidence should not foreclose a producer in one state from access to markets in other states. States may not enact laws that burden out-of-state producers or shippers simply to give a competitive advantage to in-state businesses.

A great desire has been expressed here to promote Nevada industry, but it just cannot be done. The U.S. Supreme Court has said very clearly that it cannot be done in the manner proposed in this bill. Unfortunately, based on *Granholm*, our hands are tied.

Tony Sanchez, representing DeLuca Liquor & Wine, Limited:
DeLuca Liquor and Wine is a wholesaler similar to those represented by Mr. Alonso and Mr. Reid. We share in the concerns expressed, both from a policy standpoint and a legal standpoint. We agree with Mr. Reid's legal analysis.

Mr. Alonso pointed out earlier that a winery in Nevada—and I believe there are four in Nevada now—can direct sell to anyone in the State, just as a California winery can direct sell into Nevada. Taking away the 100,000 population cap in this bill to allow it to apply to all 17 counties would not be enough. You would have to allow other wineries around the country to do the exact same thing, and that is the concern.

Without being repetitive about the three-tier system, it is not the operation in Nevada that poses the concern. The Nevada system works very well. On an annual basis, the Nevada Department of Taxation collects more than $40 million a year for the State. That is a very efficient system.

There are many wholesalers besides just Deluca and Southern Wine and Spirits. This bill was drafted to address a concern over using a wholesale distributor. There are enough of them out there that need to be explored.

We do support economic incentives. Assemblyman Conklin has a bill very similar to this one in terms of being able to get tax abatements if you are in partnership with one of the university systems and you agree to invest something like $500,000. If it is a marketing issue, that is the type of thing that is needed, as opposed to changing the regulatory system.

Chair McClain:
Would anyone else like to weigh in on A.B. 403? [There was no response.] I will close the hearing on A.B. 403, and we will open the hearing on Assembly Bill 356.

Assembly Bill 356: Revises provisions governing partial abatements of certain taxes. (BDR 32-783)

Assemblyman Marcus Conklin, Assembly District No. 37:
When I first decided to run for office, one of my platform pieces was to work on economic development. Having spent my entire life in private business, one of the things I noticed when I first came to Las Vegas was the overwhelming amount of business either in or around one industry. It was important to me when I first ran for office to begin to look at ways we could initiate unique and diverse businesses into the marketplace, which we all find a fantastic place to do business.

I have two bills this session that deal with economic development. One of them is on the energy front, particularly solar energy. The other is this bill before you. One seeks to bring new business to Nevada; the other seeks to bring smaller, higher tech businesses to Nevada and have them become partners with our university system. That is the bill in front of you, A.B. 356. These comments lay the framework for exactly what we are intending to do here.

We are not intending to bring large casino operators to a state where we already have plenty of great ones. We are seeking to diversify our businesses and bring them into partnership with education. The single most important factor for them to come here is to have a system that supports the type of people they need for their businesses, so they are more than willing to invest in a process that allows them to recoup by getting people who are highly trained in the specialized fields they need.

Russell Rowe, representing Nevada Development Authority and Economic Development Authority of Western Nevada:
When Assemblyman Conklin approached us with respect to high-tech companies, we wanted to find a way to bridge the gap between the high-tech companies that have an interest in coming to Nevada and the research programs at the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno (UNR). This is done in different ways in other states, but we wanted to find a way to bridge that gap under existing law in Nevada.

Many high-tech companies do not have a large number of employees. In order to apply for abatements under current Nevada economic development statutes, a company has to have a minimum of 75 employees earning an average wage at least equal to the average wage in Nevada. We are proposing to reduce that number of employees drastically to a minimum of 15 because while many of the high-tech companies have jobs that pay very well—well beyond the average wage in Nevada—they simply do not have that many employees. We also propose increasing the minimum average wage requirement to 125 percent of the State average wage.

In addition, we want to require those companies, when they come to Nevada, to make a monetary commitment to the university system in the form of their research programs, so we included a $500,000 requirement that mirrors the $1 million capital investment requirement in existing statutes. We wanted to continue to tie the companies to the university program by requiring that they hire two of the graduate assistants that work in the university research program. This is what is done in a number of other states that develop their high-tech industries around their university programs.

Other states do not necessarily do this through their abatement statutes, but since we already had those in Nevada, we thought this was the easiest way to do it. The idea behind abatements is that we only grant them when the revenue that is generated from the companies coming in will make up the amount you have abated. The intention is not to impact revenues to the State but to keep them even or at a slight increase while developing the companies and diversifying the economy.

Assemblywoman Pierce:
What is 100 percent of the average statewide hourly wage right now?

Russell Rowe:
I think it is about $18 an hour, or approximately $40,000 a year. I think the average wage in the State is actually about $47,000. We wanted to set it higher than that because these companies coming in certainly pay their smaller numbers of employees better than that.

Assemblyman Grady:
Is there any minimum time limit that the companies have to stay here in Nevada? I believe current economic development statutes include such a time limit.

Assemblyman Conklin:
The Nevada Commission on Economic Development has the obligation, when businesses apply for the economic development, to have a contract. I believe that is a maximum of five years. The Commission also has the ability, if a company does not meet its obligations, to pull the abatements and make the company pay back what it has gained.

Tim Rubald, Executive Director, Nevada Commission on Economic Development:
There are clawbacks, as we refer to them, in any of the abatements the Commission provides. This is actually done by the Department of Taxation. Since we are the ones who provide the abatement, the regulatory aspect is handled by the Department of Taxation. If a company does not fulfill the agreement they signed with us, they are audited by the Department, which has the authority, through the Tax Commission's action, to actually clawback those incentives plus interest. In addition to that, the minimum they are required to commit to the State is five years. The Commission is allowed, through statutes and Nevada Administrative Codes, to make that longer should it so choose. This is to prevent companies from jumping from one state to another.

Assemblyman Conklin just asked me what the statewide average wage is. It is currently $18.12 an hour. That is actually an annual average over a calendar year. It is changed each year on July 1 by the Department of Employment, Training, and Rehabilitation.

I support the bill. I am usually neutral on most bills dealing with the Commission, but this gives another opportunity for companies to participate with the universities, which is something we try very hard to get them to do, particularly in the higher-tech, innovative ends of industry. I think this is an opportunity that we can take advantage of.

Richard Bjur, Director, Technology Transfer Office, University of Nevada, Reno, and Desert Research Institute:

My role at the university and the Desert Research Institute (DRI) is to identify new technologies that the faculty are inventing, to protect those by patenting, and to transfer those to various Nevada companies. An example of that is a technology we developed at the UNR campus a few years back for pulling arsenic out of drinking water. That ought to be coming online in the next few months.

I also work with a number of companies that want to tap the extensive resources within the university system—faculty, students, and equipment—to address certain company problems and to make sure any intellectual property that is developed in these joint collaborative efforts is properly protected and is transferred to those companies for commercialization. We are currently working with a well established Nevada company that needed a new metal coating for some of their products. We think we have come up with a solution to their problem. When new companies are coming to town, I am often called by their economic development committees, and the first thing they usually ask is what expertise and resources they can tap into at the university.

A good example of a company start-up is one that was developed in Tempe, Arizona recently and was then bought out by a $1 billion-plus company. They left Tempe because of the relationship to the university. We saw that here when the General Electric Company purchased Bently Nevada; they left it down in Minden because of the strong relationship with that community.

We believe we have a number of technologies that are being developed on our campuses. For example, we have new technologies for energy, including solar wind, geothermal, and ways of generating hydrogen; we have medical devices and new types of diagnostics; and we have new sensors. We are starting a couple of new companies or participating with these companies on the UNR campus right now, one for sensors for homeland security and another for new imaging devices for medical diagnostics. The university system is a tremendous resource, and we have to figure out better ways of communicating and working with the private sector to demonstrate and incentivize those relationships. We need companies to be able to come to the university so we can work with them. Then we can transfer those technologies out to stimulate economic development and diversification here in the State.

This benefits the university also by bringing practical problems to the university to be addressed. It also builds a stronger workforce because the students working on these projects often become employees for the companies that are addressing these problems. It seems to me there are benefits across the board for this sort of incentive. Working closely with the university, with the Commission on Economic Development, and others within the State provides a broad base to make sure the program is successful.

Chair McClain:
Are there any questions? Does anyone else want to speak on A.B. 356? [There was no response.] How does the Committee feel about this? There is no fiscal impact. Does somebody want to make a motion?

ASSEMBLYMAN MARVEL MOVED TO DO PASS ASSEMBLY BILL 356.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

Assemblyman Parks:
I am a cosponsor of this bill, and I do support it, but time and time again we hear from businesses that have been in business in Nevada for a long period of time, existing businesses that always seem to find reason to oppose anything offering some kind of incentive to new businesses we are trying to attract into the State. I see where this allows not only for a business that locates in the State, but also businesses that expand in the State. I want to make sure we fully understand that we welcome existing businesses in the State that desire to expand their operations.

THE MOTION PASSED. (ASSEMBLYMAN ARBERRY WAS ABSENT FOR THE VOTE.)

Chair McClain:
The next bill on the agenda is Assembly Bill 587.

Assembly Bill 587: **Increases property tax exemptions for Nevada veterans. (BDR 32-639)**

Tim Tetz, Executive Director, Office of Veterans' Services:
Assembly Bill 587 is but another attempt to try to do what we can to help the veterans of Nevada. I want to thank the veterans who are here to support this effort and the ones who are unable to make it here today. They are truly the inspiration for why I do what I do, and without their support, our efforts would be a lot less successful here. Assembly Bill 587 simply increases the veteran's tax exemption—which is currently at $2,000, and which increases based on the Consumer Price Index (CPI)—to $5,000. This $3,000 increase will better meet their needs.

The statute for this exemption was originally established in 1953. In 1999, it was finally increased from $1,000 to $1,250. It was not until 2001 that we were finally able to get it up to $2,000. Every time I have been involved, we have been trying to gain this middle ground of $5,000. It was only last session that we were finally able to tie it to increases in the CPI.

The unusual part of this bill, which we are trying to address through other language here in this session, is the eligibility dates. Of the 300,000 veterans currently living in Nevada, not all are eligible for this exemption. They must have served 90 days of continuous active duty sometime in one of those war periods listed in Section 1. Not all war periods are necessarily there. Section 1, subsection 1, paragraph (b), allows those serving under Public Law 102-1, which is what we currently consider the global war on terror, to be covered. Those people currently serving since then do not necessarily have to serve 90 days on active duty. Paragraph (c) was added for campaign and expedition medals that honor those who are serving overseas.

As we have discussed in previous meetings, this limits the exemption to those who received honorable discharges or are still serving in the armed forces of the United States, of whom a very small number currently live in Nevada. The other minor changes are merely language changes. In Section 1, subsection 8, we have kept the CPI reference to allow the exemption to gradually increase over time.

This exemption is a benefit not only to the veterans who usually take it on their Motor Vehicle Taxes, which works out to about $150 a year, but also to the Gift Account for Veterans' Homes. The option was added in 2001 for those veterans who wish to waive their exemptions to give them to the Gift Account for Veterans' Homes. We currently have only three counties participating in that. Many of the other counties have said they are participating, but we cannot seem to find the money between the time it left the county and its arrival at the State. We are doing our best to increase that. We hope that by increasing the exemption and advertising it as a benefit, rather than the administrative nightmare many veterans perceive it, we can not only give veterans another benefit they have earned, but perhaps also have them help us help the Gift Account for Veterans' Homes.

For those of you unfamiliar with the Gift Account for Veterans' Homes and its uses, this past year we used the account to fund an installment of sidewalks in our gardens. We have award winning gardens in Boulder City, and we had residents who would drive down the hills in their motorized wheelchairs or hand wheelchairs and get stuck in the mud or on the hills. The account allowed us to increase their quality of life through that.

The only other comments I have concern the fiscal note (Exhibit I). Perhaps the most frustrating thing I have learned through this legislative session and the impact of fiscal notes is how ludicrous they sometimes seem to be. I do not want you to be scared by how some of the counties have responded, and I would like to underscore some of the comments that have been made. The city of Reno is assuming, as all fiscal notes assume, that every single veteran in the State will take the exemption, predicting a $312,000 impact. Washoe County also includes the impact for Reno. Washoe County, which includes more than just Reno, shows that only 3,000 veterans in the entire county take advantage of the exemption, so Reno's claim of 11,160 veterans using the exemption is quite a stretch.

About 1 in every 5 veterans in Clark County uses this exemption. The figure for Douglas County is 1 in every 13 veterans. I would argue that the fiscal impact, although it seemingly is large, is actually considerably less. This is not only because those veterans who know about the exemption choose not to go through the administrative nightmare, but also because it is an unknown benefit, which we want to remedy.

Chair McClain:
Do you know where the other bills are that are changing the veterans' eligibility dates? Are they probably going to wind up in Ways and Means?

Tim Tetz:
There are fiscal notes on the bill that defines veterans. That bill is currently mired down in a committee. There is another bill out there that also changes the exemption in another section for 100 percent disabled veterans, but it does not deal specifically with this same statute. That bill was recently heard in front of Ways and Means and is still there.

Chair McClain:
So there is really only one out there that would change the service dates, and the other one just changes the exemption?

Tim Tetz:
Yes; Assembly Bill 486 allows veterans who have served at any time on active duty service and those currently serving to take the exemption. It also eradicates from *Nevada Revised Statutes* (NRS) the discussion of "honorable discharge" versus "certificate of satisfactory service" and clarifies that once and for all.

Assemblyman Marvel:
Do counties not send out annual statements to their veterans? My home is in Lander County, and my assessor sends me a note every year about taking an exemption on my home. Are some of the assessors losing track of these veterans?

Tim Tetz:
Part of that is because you went in and registered as a veteran and registered to take the exemption once. Once you have registered, until you no longer own that property or you choose to eradicate your name from the rolls in that county, they will continue to send you that notice. However, they do not automatically send notices to every veteran they know of within the county. They currently do not have good contact with most of those veterans.

Our hope is that by increasing this and working with the counties we can increase the federal benefits coming into the counties. If we have the ability to go to a county and ask them to please work with us to identify those veterans in the county who are using the exemption, we then have the ability to meet with those veterans and ask if they are aware they might be eligible for Veterans Administration (VA) benefits, thus bringing in more federal dollars. For those of you on the money committees, my biggest push this year was for us to continue to increase our federal dollars. That is free money that is out there for the veterans as long as they apply. By having them on the county rolls, by having them use these exemptions, we have more access to them and more knowledge of who those veterans are.

Assemblyman Marvel:
How do you make the veterans aware that they have to make application?

Tim Tetz:
Through many travels and many different public service announcements and advertisements, getting the word out and spending as much time with people who are not even veterans to say, "If you know a veteran, or if you are a veteran, please do that." We revamped our websites to increase that and get that "Generation X" veteran population to understand this. We are continuing to try to reach out to young and old veterans to let them know what their benefits are.

Assemblyman Marvel:
Is there anybody left from the Spanish American War?

Tim Tetz:
I was recently told by the VA regional office director that the final surviving child of a Spanish American War veteran finally died last year. Until last year, we were still paying benefits to Spanish American War veterans.

Assemblyman Grady:
Do you think maybe the high fiscal note (Exhibit I) was caused by including all of the Guard? Might it help if we changed that language, as we have talked about in other committees, to recognize just veterans of the other services without the Guard?

Tim Tetz:
I think it had an effect. With these bills, we throw numbers around so often about how many veterans are truly using everything that, even as the veterans' advocate, I get confused at times. Some of the fiscal notes entered by counties clearly say it is a limited number of people. Other fiscal notes say it would be even a bigger impact if we include everyone through A.B. 486. There is some knowledge among the county assessors that there is a difference in fiscal impacts depending on which bill passes. There is a great amount of confusion out there, and we are making an effort to educate people when we can.

Assemblyman Parks:
If I used the exemption on my vehicle, that Governmental Services Tax would not be levied as high as my allowed exemption. Is one able to put so much toward a vehicle and so much toward real property? Have you faced that situation in the past?

Tim Tetz:
One of the biggest questions we receive is from people whose motor vehicle tax is not high enough and they want to split the exemption. Because of the way the rolls are kept, and because of the different systems, that is not allowed. The same question arises when veterans have multiple properties across county lines. They want to know if they can use the exemption in more than one county. That is not allowed, either. Some of those veterans end up giving the remainder of their exemptions to the Gift Account for Veterans' Homes.

I stand corrected. One in every six Nevadans is a veteran, and there are veterans in front of me and behind me.

Assemblywoman Weber:
In Section 1, subsection 1, paragraph (a), did we not strike all those dates in another bill? Does that also need to be included in this bill just in case?

Tim Tetz:
Paragraph (a) is being modified, if passed, through A.B. 486 and A.B. 210. I have been assured by the Legislative Counsel Bureau (LCB) that if all three bills were to pass, they would overlay the three. As long as there was not substantial differentiation, all three would clean up the section together.

Assemblywoman Weber:
I just wanted to make sure that was going to be taken care of.

Mike Alastuey, representing Clark County:
We fully support the veterans' exemption. We have long felt it was the most reasonable and the most intuitively justified of all the exemptions. We do note that the increase is substantial. We just got word from Clark County this afternoon of a fairly significant fiscal impact, although we acknowledge it may be a high estimate.

You may want to take into account that some of the amounts that may be reported as local fiscal impacts, if they relate to school districts, go into the effect on the Distributive School Account (DSA). To the extent the property taxes are not received into the DSA, it may become an issue for your consideration in Ways and Means. We noticed that discussion came up earlier with respect to A.B. 330, the mining tax bill.

Assemblyman Marvel:
Have you been tracking all these bills with exemptions?

Mike Alastuey:
To a degree when called upon to do so. The exemptions are an issue, and many times the argument on exemptions in hindsight is whether the exemption was justified or if it was so focused in its impact as to benefit only a few. We submit that the veterans' exemption is one that is beyond argument in that respect. There are others that have been questioned, depending upon individual points of view, and we try to follow that.

There is an Assembly resolution—I do not know if it has been passed out of committee, but I believe it is in the Committee on Constitutional Amendments—that has to do with a rubric or method by which legislatures in the future would consider and implement exemptions. That resolution, which would be a constitutional issue—it has passed once and needs to pass again this next time—would call upon the Legislature to make a specific finding of a bona fide social or economic benefit. It has been felt from time to time that some exemptions have gotten through in rather hurried fashion without full consideration.

Overall, yes, we have been following exemptions globally. This one in particular we believe should stay on the books at whatever level you decide.

Assemblyman Marvel:
So far, how much does it affect Clark County?

Mike Alastuey:
The estimate we got on this, just in southern Nevada, was approximately $4 million. However, that may be an extreme estimate. We will acknowledge that it was estimated as if virtually every eligible person were to apply and gain maximum benefit.

One thing you may want to consider, in either this Committee or another committee such as Ways and Means, is how much that might affect the State in the near and long term in terms of balancing the DSA. These exemptions are not without impact. We appreciate the remarks of the veterans' representative this afternoon that sometimes these bills and their fiscal notes can be confusing and hard to follow. We would submit that these exemptions taken overall are well worth your close consideration for their fiscal impact balanced with their justified social benefit.

Chair McClain:
That is why a lot of these bills end up in Ways and Means, where we look at them. The hearing on A.B. 587 is closed. We are going to the work session document.

Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:
We have four bills scheduled for work session today. The first bill is Assembly Bill 236.

Assembly Bill 236: Makes certain changes regarding the reporting, payment and collection of sales and use taxes. (BDR 32-1096)

Assembly Bill 236 was sponsored by Assemblyman Settelmeyer. The bill was heard on March 29, 2007. The changes included were the ability of the Department of Taxation to decline to take action in the collection of unpaid sales and use tax if the amount of tax due, including penalties and interest, was less than the amount it would cost the Department to collect those taxes. It would also allow a person with zero returns for three consecutive quarters or fewer than $1,500 in taxable sales for four quarters to file on an annual basis rather than a quarterly basis.

Testimony in support was received from Assemblyman Settelmeyer, who remarked on the efficiency measures that could be gained from this. Concerns were raised particularly with Section 1 dealing with the provisions that would allow the Department of Taxation to not collect taxes based on costs. In response to those concerns, the Committee received amendments from Carole Vilardo of the Nevada Taxpayers Association that would clarify that the amount would be set by the Nevada Tax Commission. She also suggested putting in language that would specify and clarify that the unpaid taxes were still a liability and could be collected at any time. Ms. Vilardo also suggested that if these amendments were not acceptable, the Committee could strike Section 1 and retain the remainder of the bill. That would be acceptable to her.

Assemblyman Marvel:
I like her amendments. I think they address everybody's concerns.

> ASSEMBLYMAN MARVEL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 236 WITH THE AMENDMENT SPECIFYING THAT THE UNPAID TAXES WOULD STILL BE A LIABILITY AND COULD BE COLLECTED AT ANY TIME.
>
> ASSEMBLYMAN GRADY SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:
The next bill on work session is Assembly Bill 269.

Assembly Bill 269: Authorizes deductions from the state taxes on financial institutions and other businesses for certain qualified employee housing assistance provided by employers. (BDR 32-1142)

This was Speaker Buckley's bill. The bill, as introduced, was a deduction against wages paid by employers on behalf of their employees equal to 50 percent of the amount of payments made by a business for employer assisted housing programs. The deductions would be allocated by the Housing Division in an amount not to exceed $5 million a year.

The testimony given at the hearing focused on an amendment provided by the Speaker that would change the deduction to a credit against Modified Business Tax (MBT) paid, not to exceed $5 million a year. During the hearing, the Speaker also had suggested an additional amendment that would leave Section 2, subsection 3, and Section 6, subsection 3, retaining the role of the

Housing Division in allocating the credits and approving the projects that would receive these credits.

As part of the testimony that was received on Assembly Bill 290, which was another MBT bill, we had a request from the Department of Taxation to consider changing the effective date on the bill to January 1, 2008. This was a common request for all bills pertaining to the MBT to allow the Department to properly notify and make changes to its system.

Assemblyman Marvel:
If there is going to be an impact on the General Fund, should this not be rereferred to Ways and Means?

Chair McClain:
Yes, this will go to Ways and Means. I want to remind the Committee that we did not change those dates on the last bill; we sent to Ways and Means. We will let them be changed in Ways and Means.

Michael Nakamoto:
During testimony, the Department of Taxation, because of the changes presented in the mock-up of the bill, requested the opportunity to submit an amended fiscal note, which is provided in the work session document.

Chair McClain:
The amended fiscal note is $10 million. I will entertain a motion to amend and do pass and rerefer to Ways and Means.

> ASSEMBLYMAN DENIS MOVED TO AMEND AND DO PASS ASSEMBLY BILL 269 WITH THE AMENDMENT TO CHANGE THE "DEDUCTION" TO A "CREDIT," AND TO REREFER THE BILL TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:
The next bill is Assembly Bill 339.

Assembly Bill 339: Exempts property owned by certain nonprofit organizations from certain taxes and assessments. (BDR 31-106)

This was Assemblyman Anderson's bill regarding the exemption of property owned by certain nonprofit organizations from certain taxes and assessments primarily at the local level. The Committee received testimony in support of the bill from several representatives of the First United Methodist Church in Reno, as well as from the Religious Alliance in Nevada (RAIN) and the International Community of Christ regarding the benefits the church and these organizations give to the community and the financial burden that is placed on them as a result of these assessments.

Testimony in opposition with concerns over the bill as written was given primarily by John Swendseid, the bond counsel for most of the local governments within Nevada regarding the potential this might have to impair the ability to issue and repay bonds. This testimony was echoed by many other people: Gerard Cote from the city of North Las Vegas, Jennifer Lazovich from Focus Property Group, Bill Gregory from The Howard Hughes Corporation, Susan Fisher from the city of Reno, and Shaun Jillions from the city of Henderson.

There were no written amendments submitted during the hearing. However, several individuals brought up the possibility of studying this issue further during the interim as a way of potentially bringing some sort of resolution that would be satisfactory to all parties concerned.

Chair McClain:
At this point, what we are looking at is not an interim study; that requires a bill. However, I still think taking a closer look at this issue would be justified. We could send a Letter of Intent from this Committee to the Legislative Commission, or we could ask the Legislative Commission to direct interim staff to look into this and come back next session with recommendations.

Assemblyman Grady:
There is a committee in place to do this: the Committee on Local Government Finance, which Mr. Parks chaired a number of times. This would be an ideal bill to go to them because they can find out the fiscal impact for not just the State but for local government, and that is part of their charge.

Chair McClain:
That would be fine too. Maybe we should issue a letter to the Legislative Commission to direct it to whoever they deem appropriate.

Assemblyman Parks:
There has been discussion circulating that we might also be looking at impact fees and their application as an interim study. This could also be looked at as part of that.

Chair McClain:
I have a question for staff. It looks like we have three different groups of people who could be looking at this. How do we draft this letter so that it eventually gets to the right place?

Russell Guindon, Senior Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:
Staff will probably have to look into that and talk with legal counsel. At the Chair's direction, I have had some conversations with Brenda Erdoes, Legislative Counsel, about this. I was not aware there might be other issues that would warrant an interim study.

This bill might not be of sufficient substance to warrant an interim study, but the Legislators and the Legislative Commission can direct their interim staff—Fiscal Analysis, Research, and Legal Division—as necessary to look into this and report back to the Legislative Commission their analyses and the potential for what could be done in the way of legislation. That is the option that would probably work best, and that would provide the flexibility to involve members of the Committee on Local Government Finance, the Department of Taxation, assessors, or whoever, to attempt to figure this out.

However, if, as Mr. Parks said, there is a desire for other issues to be studied, this could also be amended into that. It depends on the desire of the Legislators whether there would be an interim study or you would just direct us to do it.

Chair McClain:
I lean toward the Legislative Commission directing staff because we do not know, at this point, what interim studies are going to be approved. We could miss the boat altogether. I will take a motion to draft a letter from the Committee to the Legislative Commission directing them to have interim staff research this area and report back next session.

> ASSEMBLYMAN GRADY MOVED TO DRAFT A LETTER TO THE LEGISLATIVE COMMISSION DIRECTING THEM TO HAVE INTERIM STAFF RESEARCH THE ISSUE OF EXEMPTING PROPERTY OWNED BY CERTAIN NONPROFIT ORGANIZATIONS FROM CERTAIN TAXES AND ASSESSMENTS AND REPORT BACK TO THE 2009 LEGISLATURE WITH THEIR FINDINGS.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair McClain:
Are there any comments, questions, or concerns from the Committee? [There was no response.] I fully intend to be done with this Committee by April 12. With that, we are adjourned [at 3:34 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE:

EXHIBITS

Committee Name: Committee on Taxation

Date: April 5, 2007 **Time of Meeting: 1:21 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 330	C	Assemblyman Goicoechea	Prepared testimony, proposed amendment, and fiscal notes
A.B. 330	D	Assemblyman Carpenter	Prepared testimony
A.B. 330	E	Tom Fransway / Humboldt County Commission	Letter from John H. Milton, Chairman, Humboldt County Commission
A.B. 330	F	Donna Bath / White Pine County	Letter and digital video disc (DVD) from White Pine County Board of County Commissioners
A.B. 403	G	Doug Busselman / Nevada Farm Bureau	Prepared testimony
A.B. 403	H	Jay Davison / Nevada Cooperative Extension	PowerPoint presentation: *Wine Grape Production in Churchill County Nevada*
A.B. 587	I	Tim Tetz / Office of Veterans' Services	Fiscal note