

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

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

The Committee on Taxation was called to order by Chair Kathy McClain at 1:04 p.m., on Tuesday, April 10, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/](http://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](mailto: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 Bob L. Beers, Assembly District No. 21  
Assemblyman John C. Carpenter, Assembly District No. 33



**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:**

Judith Dillon, Private Citizen, Stagecoach, Nevada  
Richard J. Pozesky, President, Nevada Association of Medical Products Suppliers  
John Yacenda, representing National Multiple Sclerosis Society  
Julianna Ormsby, representing National Multiple Sclerosis Society  
Les Burgwardt, Private Citizen, Henderson, Nevada  
Lee Mendell, Private Citizen, Las Vegas, Nevada  
Carol Sala, Administrator, Aging Services Division, Department of Health and Human Services  
Carolyn Misumi, Administrative Services Officer, Aging Services Division, Department of Health and Human Services  
Dave Dawley, Assessor, Carson City  
Michael Alonso, representing Las Vegas Convention & Visitors Authority and Reno-Sparks Convention & Visitors Authority  
Carole Vilardo, President, Nevada Taxpayers Association  
Sabra Smith-Newby, representing Clark County  
Victoria Thimmesch Oldenburg, Senior Deputy Attorney General, Tobacco Enforcement Unit, Office of the Attorney General  
Christopher Nielsen, Deputy Executive Director, Department of Taxation  
Heidi Pettenger, Tax Administrator, Department of Taxation  
Peter Krueger, representing Cigar Association of America  
Ray Roach, representing Nevada Motor Transport Association, United Parcel Service of America, Inc., and FedEx Corporation  
Ray Flynn, Assistant Sheriff, Law Enforcement Services, Las Vegas Metropolitan Police Department  
Janelle Kraft, Budget Director, Las Vegas Metropolitan Police Department  
John Pappageorge, representing Las Vegas 51s Baseball Team

**Chair McClain:**

[Meeting was called to order at 1:04 p.m. Roll was called.] We have five bills to hear today. We will begin with Assembly Bill 169.

**Assembly Bill 169:** Proposes to exempt sales of certain durable medical equipment and mobility-enhancing equipment from sales and use taxes and analogous taxes. (BDR 32-812)

**Assemblyman Bob L. Beers, Assembly District No. 21:**

[Distributed revised bill and proposed amendment ([Exhibit C](#)).] Essentially, A.B. 169 proposes to exempt the sales of certain durable medical equipment and mobility enhancing equipment from the sales and use tax and analogous taxes. All durable medical equipment and mobility equipment must be dispensed by a prescription by a licensed practitioner and can only be used specifically by the individual beneficiary because of medical illness or injury. This equipment would also be appropriate for use in the patient's home and when the patient is performing normal activities outside the home. Prior to the amendment, there was a list of examples of various devices. There was also a fiscal impact to the bill. This money is almost always paid by the sick and injured in Nevada, whether they have insurance or not.

My wife had a student at Community College of Southern Nevada (CCSN) who is terribly afflicted with cerebral palsy. This girl has an extremely active mind; she is an "A" student at the college. The chair she needed in order to pursue her academic career wound up costing in excess of \$30,000. Insurance paid much of it, but it paid none of the sales tax. She went through a bad financial time paying the sales tax on the chair, but she did get it. A lot of people in her situation or similar situations have to make the choice whether to get what they could really use or what they can just live with.

This bill proposes to ease that burden bit. I do not feel it is the State of Nevada's desire to add insult to injury in a lot of these cases. The proposed amendment changes some of the references and eliminates other areas where the sales tax is really not that much of a burden, such as canes, crutches, et cetera. There is a paragraph [on page 1 of ([Exhibit C](#))] that clarifies why the amendment is there.

**Judith Dillon, Private Citizen, Stagecoach, Nevada:**

I have been disabled for the last 12 years, and I need a chair. Charles Owens of Mobility Sales was nice enough to accommodate me with the chair. The sales tax got to be a little much, but he helped me with that. It makes it hard when you have to pay extra, and it comes out to more than what your payments are. I do not think it is right, either; things are hard enough for handicapped people to deal with without having to pay sales tax on top of it.

If it had not been for Mr. Owens' help, I would not have my chair now. I would be at home because I am not able to get up and walk around the streets or to

the store or anywhere like that. I would have to have somebody else to depend on. As it is, I have my chair. I can get around. He was kind enough to help me, and I think other handicapped people would appreciate the same thing if they were in my situation. If there is any possible way to do this, it would help us if certain medical things we need were exempt from the sales tax.

**Richard J. Pozesky, President, Nevada Association of Medical Products Suppliers:**

[Distributed notes for prepared testimony ([Exhibit D](#)).] I want to thank Assemblyman Beers for so eloquently expressing the concerns of the home medical equipment dealers throughout the State when we have to collect the onerous sales tax from our patients. I am originally from Pennsylvania where we did not have sales tax on prescription items, either drugs or pharmaceutical devices, so this has been a passion of mine for about eight years now.

Regarding the fiscal impact, the Department of Taxation has done a superb job in coming up with these numbers. If the bill is written properly, the safeguards will be there to make tax exempt only the items that the individual patient purchases under the prescription of a licensed practitioner, or medical devices as defined by the U.S. Food and Drug Administration (FDA). Therefore, someone cannot get a prescription from his friendly physician for a spa or a swimming pool and then say he needs it for a medical condition. The devices and equipment need to meet certain criteria. If all of those criteria are met, and if this is only given to the individual human patient who is medically sick, injured, or disabled in the State of Nevada, we of the Nevada Association of Medical Products Suppliers (NAMPS) figure the fiscal effect of exempting this one small section will be approximately \$50,000 a month. Approximately half a million dollars a year in a \$1 billion budget is minimal, and the only ones who will be protected will be ventilator-dependent children, disabled veterans, disabled citizens, and the people who really cannot afford to pay this onerous tax. As Mr. Beers said, you are adding insult to injury.

**John Yacenda, representing National Multiple Sclerosis Society:**

This bill is important legislation that gives the voters a chance to make an important decision. Our work will begin when it gets to the voters. We encourage the Committee to move forward with merging this bill with the companion bill in the Senate. We support the concept.

In Nevada we have approximately 3,400 identified persons living with multiple sclerosis (MS). This bill would enable them to live a life that is much freer and simpler in many ways. A person with MS may need a wheelchair one day, a cane the next day, crutches the next, and then back to the wheelchair again.

This bill is very much in the spirit of what is going on nationally. Tomorrow an appropriations bill is being heard in the U.S. Senate. Just in the last two weeks we had success with a measure relating to Medicaid and Medicare services changing language so in-home services addressed in A.B. 169 will be covered by Medicare.

This is the right thing for you to do as the State Legislature. I encourage the Committee to move forward to support this wholeheartedly, and later to support it as it may take on some changes.

**Julianna Ormsby, representing Great Basin Chapter, National Multiple Sclerosis Society:**

I would like to echo what Dr. Yacenda said and urge your support for A.B. 169.

**Les Burgwardt, Private Citizen, Henderson, Nevada:**

I wish to thank Assemblyman Beers and Senator Woodhouse for their support of this idea. I spoke with both of them last fall when we were confronted with a situation where my wife was unable to negotiate the stairway to our second-floor bedrooms. We had the choice of buying a new home or installing a stairway lift. We elected to go with the stairway lift. Our family physician suggested that would be a good alternative and would solve the problem.

We talked to the local stair lift company. They analyzed our situation and gave us a bid of \$6,800. We went to Medicare about it. I also have military retirement. There was no additional support from either one of those sources, so we ended up buying the stair lift and paying \$404 in sales tax—insult to injury. My wife is now able to utilize that lift. Our home is secure; she feels confident and able to carry on her activities.

**Chair McClain:**

Do we have anyone else wishing to speak in support of or in opposition to A.B. 169? [There was no response.] Are there any questions?

**Assemblyman Marvel:**

This will be proposed to the voters, will it not?

**Chair McClain:**

Yes, I believe that is the intent of the bill.

**Assemblyman Marvel:**

Is this the true fiscal note?

**Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:**

The information the Fiscal Analysis Division has would have come from the Department of Taxation. I believe, based on the analysis I have done, that this is an accurate reflection of what the fiscal impact would be. On the Department of Taxation's fiscal note, the impact on the General Fund would be approximately \$1.5 million if the exemption were to pass in the 2008 election and become effective on January 1, 2009. This is the impact the exemption would have for approximately 6 months of fiscal year (FY) 2008–2009.

**Chair McClain:**

Are there any other questions? I do not see any. I will close the hearing on A.B. 169 and open the hearing on Assembly Bill 172.

**Assembly Bill 172: Makes various changes concerning refunds of property tax paid by certain senior citizens. (BDR 38-796)**

**Assemblyman Bob L. Beers, Assembly District No. 21:**

[Distributed ([Exhibit E](#)).] Assembly Bill 172 is one of those bills that ought to be very simple and straightforward but probably will not be. A property tax savings for senior citizens on a fixed income exists in statute now, but the numbers in the existing statute were calculated before we had our housing boom and home prices skyrocketed. In my district, I have a number of seniors on fixed incomes with houses that are suddenly, in some neighborhoods, upwards of two and a half times what they were originally valued at. Their incomes have not changed, the values of their savings have not changed, but the assessments of their houses have changed considerably. This bill seeks to revise the numbers in the statute to reflect the changes in the cost to those seniors.

**Chair McClain:**

You are right; it does sound simple. Are there any questions?

**Assemblyman Marvel:**

I have not so much a question as an observation. I have said before that this obligates the State on the refunds. What has always bothered me is that the counties and local governments are the ones who benefit from the ad valorem taxes. The State does not really receive very much, yet we have the obligation of the refunds. As far as I am concerned, this is a matter of equity.

**Chair McClain:**

Your point is well taken, Mr. Marvel. Mr. Beers, I think your figures are a little high. For a value of \$300,000 at the time of construction, you are talking

about assessed value, which is 35 percent. That would equate to an \$800,000 house, which is pretty hefty.

**Assemblyman Beers:**

These are just working numbers. If the Committee has better information and a way to work with this to solve the equity issue, I am very open to working with the Committee on this.

**Assemblyman Denis:**

Do you have an idea how many people lost their exemption when property values went up? If we make the change now, how many people will it affect?

**Assemblyman Beers:**

I do not have that figure. I do not know of anyone who actually lost the exemption. I have been told stories of people in some areas of the State who have had to move out of their homes because they could no longer afford the taxable value that had been assessed.

In my district the problem is not that people have lost their exemption. It is that their tax bill has gone up to where it is uncomfortable at best and unaffordable to some.

**Assemblyman Denis:**

Then this will pick up some additional people who did not have the exemption before? [Assemblyman Beers agreed that it should.]

**Chair McClain:**

One thing the Committee needs to remember is that we put the property tax cap in just two years ago. It has helped a lot of seniors, and I do not know if we want to jeopardize that at this point.

Is there anyone else who wants to weigh in on A.B. 172?

**Assemblyman Beers:**

You were supposed to have been given a letter from Barry Gold of AARP ([Exhibit F](#)).

**Chair McClain:**

I have that right here. We will see that it is entered into the record.

**Lee Mendell, Private Citizen, Las Vegas, Nevada:**

[Distributed prepared testimony and newspaper articles ([Exhibit G](#)).] I would like to urge the Legislature to pass the property tax bill, A.B. 172, not only for me

but for the seniors. You are speaking of a cap of 3.3 percent that goes up every year, but seniors are on fixed incomes. This makes things very hard, and I know I might have to give up my home because the taxes are so high. When you work, it is one thing, but when you are on a fixed income, it is a different story—your income does not go up very much. Therefore, I would like you to consider passing this bill. I want to thank Assemblyman Chad Christensen for helping me with this.

**Carol Sala, Administrator, Aging Services Division, Department of Health and Human Services:**

[Read from prepared testimony ([Exhibit H](#)), which included the reason for the bill, a rundown of the bill's provisions, and projected fiscal effects.]

**Assemblyman Marvel:**

What is in your budget right now for refunds?

**Carolyn Misumi, Administrative Services Officer, Aging Services Division, Department of Health and Human Services:**

Currently we have \$5.8 million in our Governor-recommended budget for FY 2008 and \$6.3 million for FY 2009.

**Assemblyman Marvel:**

Should this raise it then?

**Carolyn Misumi:**

I believe the total for the three parameters would be an additional \$974,173. Most of that, \$967,961, would be for FY 2009. The other \$6,212 would be for the programming that would have to be done in FY 2008.

**Assemblyman Marvel:**

It is not in your budget now?

**Dave Dawley, Assessor, Carson City:**

We in the Assessors Association would like to remain neutral on this bill. However, since we do process the applications and forward them to the Aging Services Division, we would like to comment on a few items. One of the issues we have is that we believe the increase they are asking for, unless you increase the General Fund to cover it, would really have a detrimental impact on people who have a critical need for the refund, such as senior widows who only make \$5,000 or \$6,000 a year. They are the ones who are barely surviving, and they are the ones who need this help. Adding more people to this could potentially lower the amount of their refunds.



My second issue is in Section 3, subsection 2, where the assessed valuation is increased to \$300,000. That is an assessed valuation, and if you were to divide that by 35 percent, the taxable value of a home would be \$857,000. We are talking about a huge range, from people who are living in mobile homes and receiving \$5,000 a year to people who are living in almost \$1 million homes. That is a big concern of ours.

**Assemblywoman Weber:**

At what age is someone considered a senior citizen in the statutes? Is that age 65 and up?

**Carol Sala:**

For the Senior Citizens Property Tax program, the age is 62.

**Chair McClain:**

That is interesting because we were saying in one of the budget committees this morning that 60-year-olds really are not seniors. We were trying to find a different way of defining seniors besides by age, but I do not know if we have any ideas on that yet.

Correct me if I am wrong, but this is a finite pot of money, so if eligible person were to apply for it, each one would probably get only a percentage of what he would have gotten if there had been fewer people. Is that right?

**Carol Sala:**

During the 2003 Legislative Session we made quite a few changes to the program. We basically changed the refund schedule to give the persons at the lowest income level a "hold harmless clause". They would get their maximum rebate, whereas the people at the higher income levels would see decreases in their rebates. However, prior to those changes, it was an even cut across the board.

**Chair McClain:**

Are there any other questions? [There was no response.] Is there anybody else who would like to testify on A.B. 172?

**Assemblyman Beers:**

I have to admit to being blind to a part in my own bill. The line in the Legislative Counsel Digest beginning with the last section of line 9 and going through the first half of line 10 on the first page of the bill, "at the time that the construction of the house was completed," should never have been there. It was supposed to be a home valued today at \$300,000. The million-dollar houses were never supposed to have been in this bill.

**Chair McClain:**

The bill says that too. It says, "\$300,000 at the time that the construction of the home was completed." The \$300,000 represents 35 percent of the value of the home. Staff will take that into account.

**Assemblyman Beers:**

I would appreciate it because that \$300,000 was supposed to be the top level of what the bill addressed. That was to represent the actual value of the home, not just the 35 percent.

**Assemblyman Denis:**

If \$300,000 was supposed to be the top value, the \$200,000 that is currently there is only 35 percent of the value. The houses that qualify under the \$200,000 are \$600,000 to \$700,000, right? You would actually be lowering it if you went by a value of \$300,000, which would exclude even more people.

**Chair McClain:**

Right now it reads, "claimant has an assessed value of more than \$200,000." I am sorry, those are the exceptions. Right now anything that is over \$200,000 does not qualify. He wants to raise it so that anything more than \$300,000 does not qualify. That means a house worth up to \$850,000 would qualify.

**Assemblyman Denis:**

Did Mr. Beers just propose to move it to \$300,000 assessed value?

**Chair McClain:**

Yes, but not at the time of construction.

Are there any other questions? [There was no response.] Okay, we will close the hearing on A.B. 172 and open the hearing on Assembly Bill 378.

**Assembly Bill 378: Limits the applicability of taxes on the rental of transient lodging to not more than 31 days of lodging. (BDR 32-1160)**

**Assemblyman John Carpenter, Assembly District No. 33:**

Existing law authorizes the imposition of various mandatory and optional taxes on the rental of transient lodging. Under Section 1 of A.B. 378, a paying guest could only be charged the taxes on the rental of transient lodging for a maximum of the first 31 days of a guest's stay at a hotel, motel, apartment time-share project, apartment hotel, vacation trailer park, campground, park for recreational vehicles (RVs), or any other establishment that rents rooms or spaces to temporary or transient guests. Section 2 has to do with the Tax Commission and its regulations. Section 3 provides an exemption from the

31 days to some entities that have an ordinance that says they can apply this tax for more than 31 days but have a bond issue tied to that ordinance.

There are ordinances in effect that require tenants of various lodging facilities to pay room taxes practically forever. Tenants can get refunds after nine months, but they would then be required to keep paying for another nine months, at which time they could get another refund. That process just keeps going. I believe this to be very discretionary and unfair to require those tenants to pay tax when, in fact, many of them have been residents for many years.

With this bill, someone who has an RV park, as I do, or apartments or a hotel would not be able to charge a tenant room tax for more than 31 days. I believe the limit is 31 days in Clark County. In Washoe County it is 28 days. Some entities in Elko County are also 28 days, but in Carlin they recently put an ordinance in effect that would require tenants to keep paying and going back after nine months for a refund. Many of these people do not understand government, and they are not going to go down to city hall or anywhere and get that refund.

Right now there is nothing in the statutes that would require they only collect room tax on the first 31 days. However, you can vote after being a resident for 30 days in the State or 10 days in the precinct. Thirty days is also the requirement for obtaining a driver's license or registering a vehicle. It is unfair and discriminatory to require these people to pay that room tax. I have some tenants in my RV park who have been there for many years. When they are on monthly tenancy, we do not collect a room tax. We only collect the room tax on those who come in for the night or if they are on a weekly tenancy. If they stay for 28 days or less we collect a room tax, but not if they stay for years. These ordinances mention apartments, RV parks, and even spaces. In reality, they could collect the tax on a mobile home space if they wanted to.

The reason for this bill is to put something in the law to prevent entities from adopting ordinances that would keep people paying and paying, even though they can get it back in nine months. Many of the room taxes now are up to 12 percent, so if they are paying \$300 or \$400, it is not a small amount.

**Assemblyman Marvel:**

Would this standardize the 31-day time period for the State? Is that a time certain?

**Assemblyman Carpenter:**

That is right. It would not change any ordinances now in effect that are of this length or shorter. When they passed that ordinance in Carlin last fall I had a lot of upset constituents. They have that in Winnemucca, too, but they have a bond issue, so there is an exemption for them until they get that bond issue paid off. We do not want to interfere with their events center. However, if we do not put something in the law, other communities will start enacting ordinances like the one in Carlin. Even though they will refund the money, we all know that some people will not fill out paperwork to get a refund because they do not understand government and do not want to go down to the courthouse or wherever.

**Assemblyman Marvel:**

How many days does the ordinance specify in Humboldt County or Winnemucca?

**Assemblyman Carpenter:**

Theirs is forever. They charge the tax, and then people who have paid the tax for nine months can get a refund. After another nine months, they can go get another refund, but they keep paying the tax forever.

**Assemblyman Marvel:**

For their events center, they sold bonds to be paid off with the room tax? [Mr. Carpenter verified that.] And this exempts that?

**Assemblyman Carpenter:**

Yes, the bill exempts that because they have that bond issue tied to the room tax, since there was nothing in statute that defined what transient lodging was. Bill Macdonald, the former District Attorney there, put that open-ended room tax and refund process in statute and Carlin copied it. We want to stop that.

**Assemblyman Marvel:**

Are there any other towns or counties in Nevada that have that provision?

**Assemblyman Carpenter:**

I have not heard of any. I do not think we researched every community, but we researched a lot of them.

**Assemblyman Marvel:**

We want to be careful that we do not jeopardize that bond issue.

**Assemblyman Carpenter:**

That is right, but there is an exception in the bill for a bond issue. If an entity has a bond issue involved, this would not apply to them.

**Assemblyman Denis:**

Do weekly apartments in Las Vegas currently charge a room tax?

**Assemblyman Carpenter:**

If they are truly on a weekly basis, and their tenants stay for just a week, then they would be charging the room tax. In my establishment, if someone comes and pays for only a week, and then they come and pay for another week, we charge them that room tax.

**Assemblyman Denis:**

We have many weekly apartments in Clark County, and I wonder how this bill would affect them. [Assemblyman Carpenter said he did not know.]

**Chair McClain:**

I am not sure either, but I think different parts of the county have different rules. It is up to the local governments. I know, though, that on the fiscal note from Clark County the county room taxes are pledged to the Master Transportation Plan. There is a variety of comments on the fiscal notes. Some entities say the bill would not hurt them, while others say they have already done it. Still others say it would have a serious impact. The policy issue here is whether we want to make this a state mandate or leave it up to local governments. My question is, where did they come up with nine months for the refund?

**Assemblyman Carpenter:**

As far as I know, because there was nothing in the law that referred to what transient lodging was, the former district attorney in Humboldt County figured they could basically do what they wanted. He came up with the idea of having tenants just keep paying and then go get a refund in nine months. That is really discriminatory because a lot of these people in trailer parks and apartment houses have been residents for years.

**Chair McClain:**

Are there any other questions? [There was no response.] Is there anybody who would like to testify on A.B. 378?

**Michael Alonso, representing Las Vegas Convention & Visitors Authority and Reno-Sparks Convention & Visitors Authority:**

We are in support of A.B. 378. I am just up here for the record. The Reno-Sparks Convention & Visitors Authority (RSCVA) already does this at 28 days by local regulation. They actually go a bit further in that if a tenant can prove up front that he has a lease or rental agreement for more than 28 days, he is not even charged the room tax for the first 28 days. I believe Clark County is the same, but their cutoff is 31 days.

Our only concern—and the language of the bill is broad enough that we are not very concerned—is that we already do that, but we want enough flexibility that if the RSCVA wanted to change their cutoff to 31 days or the Las Vegas Convention & Visitors Authority (LVCVA) wanted to drop theirs to 28 days, they could still do that under the language of this bill. We just want to get it on the record that the intent is for the time limit not to exceed 31 days, but within that 31-day period, local government has flexibility. Otherwise, we support the bill.

**Assemblyman Mortenson:**

I thought the rule was if someone paid his rent 28 or 30 days ahead, showing he intended to stay longer than the 28 days, then he paid no taxes.

**Michael Alonso:**

I do not know what Carson City does, but it is determined by local ordinance throughout the State. In Washoe County it is 28 days, and if you show your intent to stay beyond 28 days, they do not charge you at all for those first 28 days. I believe it is the same in Clark County. In other counties they are extending it far beyond 31 days and collecting the tax for nine months. If a tenant stays for nine months, he can then request a refund after that nine-month period. What Assemblyman Carpenter is trying to do is limit this to no more than 31 days. Our issue is simply that if it means within the 31 days, we are happy because that allows Washoe County to have a 28-day limit and allows Clark County to set theirs at 31 days.

**Assemblyman Mortenson:**

I am sorry, I misunderstood you. I thought you said they still collected for the first 31, but did not collect thereafter.

**Carole Vilardo, President, Nevada Taxpayers Association:**

A few years ago there was an attempt to do this. The survey done by the committee to look at revenue distribution found that the communities Assemblyman Carpenter referred to were running longer than normal. It used to be that the limit on the State's 2 percent portion was at 28 days, and there

were actually some bifurcated rates. One was in the city of Las Vegas. There, the 2 percent enacted for tourism was for 28 days, but the ordinance for their own portion of the tax was 31 days.

This is a good bill for conformity, and it has the bond protections in it. However, there has been a lot of confusion. There are ordinances that require tenants to pay during the first 28 days. Once they show they are staying longer, they do not pay the tax. There are also ordinances that allow tenants who demonstrate upfront that they are going to stay longer to not pay tax for that first 28- or 31-day period. That, under this bill as I read it, would still be a function of the local ordinance. The only two things the bill does are set this at 31 days for consistency's sake and allow the exception to preserve bonds and ensure this does not impair bonding covenants.

**Chair McClain:**

Some jurisdictions make tenants pay the first 28 days, and some say they do not have to, but they do not get that 28 days back?

**Carole Vilardo:**

Not unless the local ordinance provides for a refund and that is a function of the local government.

**Chair McClain:**

So some do not require a tenant to pay if he shows he is going to be there 60 days. Others say if a person moves in, he is going to have to pay room tax for 28 days. If he stays six weeks, he gets a break for two weeks of that.

**Carole Vilardo:**

They can be worded that way. Linda Ritter, who is the current manager of Carson City, was the chairman of the subcommittee that looked at that, so there might even be a Legislative record of what everybody was doing at that point. The basic intent then, as it is now, was to try to achieve some uniformity and conformity on that time limit.

**Sabra Smith-Newby, representing Clark County:**

I am a bit confused about this. Our staff indicated there would be a bit of a fiscal impact, and that it would be difficult to tell what that impact would be. I need to get back to them and then back to this Committee on what our ordinance actually does say—what it exempts, what it includes, et cetera.

**Chair McClain:**

Thank you. You have 48 hours.

Are there any other questions? Does anybody else want to weigh in on this bill? [There was no response.] Mr. Carpenter, do you want to make a final comment?

**Assemblyman Carpenter:**

I did talk to the city attorney for Carlin, and the city manager up there put this ordinance in without the city attorney really reading it. The city attorney said he thinks we need a state statute as to what the number of days for transient lodging really is. The people doing legal work for the cities and counties feel it would certainly help if we really had a good definition of transient lodging.

**Chair McClain:**

That is the other part of this bill. It is not only how many days, but it is also just exactly what transient lodging is. I do not see a mobile home park as transient lodging. An RV park, yes, but not where you have to put in siding and everything else.

**Assemblyman Carpenter:**

I should have brought some pictures. I have had people stay in my RV park for many years. Some RVs these days are quite elaborate, especially these motor homes. People do reside in them for years. The way these ordinances are written, where it says "spaces," I think they could charge tax on the rental of a mobile home space.

**Chair McClain:**

Thank you. We will look at this and see if we can come up with some ideas. Right now we will close the hearing on A.B. 378 and open the hearing on Assembly Bill 586.

**Assembly Bill 586: Revises certain provisions governing the regulation and taxation of the sales and use of cigarettes and other tobacco products. (BDR 32-515)**

**Victoria Thimmesch Oldenburg, Senior Deputy Attorney General, Tobacco Enforcement Unit, Office of the Attorney General:**

[Submitted prepared testimony ([Exhibit I](#)).] As a threshold matter, as presently written, this bill does not have a fiscal impact on state government. Accordingly, we have requested removal of the fiscal note placed on the bill by the Office of the Attorney General. It is my understanding that the Department of Taxation will also be requesting removal of its fiscal note.

**Christopher Nielsen, Deputy Executive Director, Department of Taxation:**

Ms. Oldenburg is correct; the Department is withdrawing its fiscal note.



**Chair McClain:**

You are going to be able to do this with no personnel; is that right?

**Christopher Nielsen:**

It is my understanding that the Department previously misinterpreted the Legislative Counsel Bureau's (LCB) digest, specifically in reference to the licensing requirements in Sections 14, 16, and 39. It is now the Department's understanding that this licensing requirement was put into statute in 2005, and on that basis there really is not a change.

**Assemblyman Marvel:**

Other than contraband, what is the purpose of this bill?

**Victoria Thimmesch Oldenburg:**

If I may, I will briefly go through the relevant provisions of the bill. In addition, I want to point out that the bill does not impose any new taxes or change the manner in which excise taxes are assessed. In layman's terms, this bill seeks to bring other tobacco products (OTP), including standard cigars, little cigars, chew or snuff, and water pipe tobacco into conformity with the laws that you, the Legislature, have already passed governing the illegal sales of cigarettes to minors and the illegal sale, possession, and distribution of contraband cigarettes. For those who are not familiar with OTP, they include little cigars, which come in cherry and other flavors and are packaged in packs of 20. They have filters, and their appearance is quite similar to that of a cigarette; the main difference is that the paper in which these are wrapped contains a portion of tobacco that meets the statutory definition.

The other product we are talking about here is called shisha. It is relatively new in this country, but its use is escalating. The main ingredient in this product is tobacco. It also contains some honey, glycerin, and flavors. It is smoked in a water pipe, and we are finding that our children are smoking this. Finally we have the standard cigar, which you are all familiar with, and snuff or chew.

Assembly Bill 586 has four main components: it criminalizes the possession, distribution, and sale of contraband other tobacco products and allows for the seizure of those products. Contraband is product that is not legally in this State. For example, cigars or OTP that are sitting on a shelf in a store, but which were purchased in another state and brought into Nevada without any excise tax being paid, would be considered contraband. Cuban cigars and other products that are not legally within our State are also contraband.

Current law does not allow for the seizure of OTP, nor does it criminalize the possession, distribution, or sale of contraband OTP. Quite often our

investigators will discover on store shelves cigars, shisha, or OTP that were purchased in another state and for which no excise taxes were paid. In the case of cigarettes, the investigator will be able to seize that product, and there will be an administrative hearing as to whether it truly was contraband. If so, it will be disposed of pursuant to state law. Under current law there is no process for seizing any of the OTP, and the investigator has to let it sit on the shelf. The normal practice, as I understand it, is to issue a bill for the taxes, but collectibility is very problematic when you do not have the product.

**Assemblyman Horne:**

Did I hear you correctly that we have defined it as contraband, it is illegally in this State, but they cannot confiscate it?

**Victoria Thimmesch Oldenburg:**

That is correct. I am not entirely clear on the history of Chapter 370 of *Nevada Revised Statutes* (NRS), but OTP have been segregated out of a lot of the provisions of Chapter 370 of NRS that apply to cigarettes. One of those provisions was the ability to actually seize the contraband OTP. What we are doing in this bill is allowing authorities to actually take that illegal product, or product we believe is illegal, off the shelf. It would then go through the same administrative hearing process as any contraband cigarette product. Contraband cigarettes are cigarettes that do not have our state excise tax stamp on them.

**Assemblyman Horne:**

I understand that. I equate this to a crime, and when contraband is discovered, the perpetrator does not get to keep it. I am surprised that we need an additional statute to say that now we have the ability to take that illegal item. If it is illegal, that, in and of itself, should be enough.

**Victoria Thimmesch Oldenburg:**

It absolutely should be, and I think there probably are other provisions within the NRS that we could argue would allow us to take that product. However, the position of the Department has been that they cannot do that based on the statutes in Chapter 370 of NRS that restrict the taking of product specifically to cigarettes. That has been the interpretation. This bill would clear up any ambiguity and allow them to take that other product, which is critical for enforcement purposes and prosecution. They have to have the product.

**Assemblyman Horne:**

Was this interpretation made by the current Attorney General's administration or by a previous administration?

**Victoria Thimmesch Oldenburg:**

It actually was an interpretation made by our office. We did not issue an Attorney General's Opinion.

**Heidi Pettenger, Tax Administrator, Department of Taxation:**

Previously, the definition of contraband only included cigarettes; it did not include OTP. It is very specific, and that is why we interpreted it that way—to not include any other tobacco products.

**Chair McClain:**

I would like clarification of that statement. Previous to what?

**Heidi Pettenger:**

Actually, current law states that it applies only to cigarettes that do not have a tax stamp on them or to counterfeit cigarettes. The definition of contraband currently does not include OTP.

**Chair McClain:**

Which is the reason for this bill.

**Victoria Thimmesch Oldenburg:**

That is correct. We are trying to put OTP on the same footing as cigarettes with regard to illegal product and the illegal sale of such product to minors.

**Chair McClain:**

That is probably how you should have started out explaining the bill. First we want to make it illegal; then we want to be able to tax it and pursue contraband.

**Victoria Thimmesch Oldenburg:**

I hope I have cleared up any confusion.

**Assemblywoman Pierce:**

So why is this being defined as contraband? I do not understand.

**Victoria Thimmesch Oldenburg:**

There is a lot of legal product out there, but there is also illegal product. For example, someone might have traveled to Oregon, bought the product, and

brought it into Nevada without going through the proper procedure to make it legal product in our State.

**Assemblywoman Pierce:**

The reason I ask is that I have a hookah lounge in my district. Is this going to mean that you are going to put these people out of business, or is there something else they can get that is legal?

**Victoria Thimmesch Oldenburg:**

Hookah is legal, but it is a tobacco product, and the OTP tax has to be paid on it. The focus of this bill is the product that has not had taxes paid on it and so is not in Nevada legally.

**Assemblywoman Pierce:**

But there is a legal product, then?

**Victoria Thimmesch Oldenburg:**

Absolutely, yes, it is a legal product, but not for minors. Sale of the product to anyone under 18 years of age is not allowed.

The second element of the bill brings OTP within existing laws in Chapter 370 of NRS prohibiting the remote sale of cigarettes, essentially cigarettes sold over the Internet, to minors. Last session the Legislature passed A.B. No. 464 of the 73rd Legislative Session, which was referred to as the delivery statute. In essence, that bill implements provisions upon the distributor of the person who sells the cigarettes over the Internet as well as the person who delivers them.

Under current state law, NRS 202.2493, it is illegal to sell any tobacco to minors, whether it is in the form of cigarettes or OTP. Assembly Bill No. 464 of the 73rd Legislative Session augmented and strengthened that law by requiring several age verification mechanisms, which are all set forth in NRS 370.321 and NRS 370.329. We want to bring OTP within the delivery statutes so if a minor gets on the Internet and decides he wants to buy some little cigars or some hookah, we have age verification mechanisms in place pursuant to this law that require the person selling the OTP to make sure the prospective purchaser is of legal age to make the purchase. We also would require the person delivering the product to make sure the person they are delivering to is an adult and is legally in possession of the cigarettes.

This provision would also require any seller on the Internet, whether located inside or outside the borders of the State, who accepts an order for delivery sale to obtain a retail dealer's license. This is what we do with anyone who sells cigarettes over the Internet. This just brings in the group of people who are

selling OTP. Several states include OTP in their delivery laws. Our neighboring states, California, Arizona, Oregon, and Idaho, all include OTP in their delivery statute. The delivery statute also requires the seller to implement certain measures to verify the purchaser is of legal age and imputes similar obligations upon the person delivering.

**Assemblyman Marvel:**

Do you have jurisdiction over Indian smoke shops?

**Victoria Thimmesch Oldenburg:**

That is a very good and complex question. There is, as you are aware, the sovereignty afforded our tribes. We are trying to work through some of these provisions to see what we are legally entitled to assess tax on.

**Assemblyman Marvel:**

Would they be immune from this?

**Victoria Thimmesch Oldenburg:**

That would depend on whether they are selling to tribal or nontribal members. We have sales to tribal and nontribal members, and we are trying hard to work through some of these issues. They have come up under the tobacco Master Settlement Agreement. Tribal sales are a big issue right now. This particular bill applies the same exemptions and statutory requirements to tribes as we have always applied with cigarettes. It maintains the status quo as far as the acknowledgement of the sovereignty of the tribes.

**Assemblyman Marvel:**

Are all these products licensed or not. If they come to Nevada, are they subject to the stamp?

**Victoria Thimmesch Oldenburg:**

The OTP are not actually physically stamped, but they are subject to an excise tax of 30 percent of the wholesale price. Of course, as you know, the cigarettes are all stamped. There is just an impossibility of stamping many of these products. Under current laws, sellers do have to comply with licensing requirements to sell in our State. The interesting thing with the Internet is that you have sellers who are located outside our State. This would require them to obtain a retail dealer's license in our State, just as we require that license of those who sell cigarettes on the Internet.

**Assemblyman Marvel:**

How are you going to police all this?

**Victoria Thimmesch Oldenburg:**

We have requested a position in the Attorney General's office budget for an additional investigator to do nothing but Internet stings and delivery sale compliance.

**Assemblyman Marvel:**

Is this for the whole State of Nevada?

**Victoria Thimmesch Oldenburg:**

We are starting small, and we are hoping to get that approved.

**Assemblyman Marvel:**

Is that in your budget? [Ms. Oldenburg verified that it was.] How are you going to fund it?

**Victoria Thimmesch Oldenburg:**

That is not in my job description.

**Assemblywoman Weber:**

I want to find out if there is a parallel with alcohol. Does the same type of language exist for delivery of alcohol from Internet or direct sales?

**Heidi Pettenger:**

Liquor actually has a three-tier system. It is very similar to cigarettes. However, it is even more restrictive, so yes, we do require all suppliers located outside the State of Nevada to register with us. They must obtain what is called a certificate of compliance, and they pay a \$50 license fee for that. Then they report all of their shipments to us.

**Victoria Thimmesch Oldenburg:**

The remaining provisions strengthen our requirements to inspect records for illegal Internet sales and other sales. We have proposed to change the punishments for possession of counterfeit cigarettes and to include the possession of contraband cigarettes and contraband OTP within the existing provisions. As an example of what we are doing right now, if a person sells, or possesses for the purpose of sale, counterfeit cigarettes, they will be assessed.

To trigger a category D felony, someone has to be in possession of 400 or more cigarettes. We have amended this provision to include the other contraband products and to make the punishment more commensurate with the actual value of the property, which is done in our Chapter 193 governing crimes and punishments. If someone has 400 contraband cigarettes and 500 contraband high premium cigars, each of those products is certainly a different harm to the

State, so we have had the trigger be the value of the product rather than the number of sticks, so to speak.

**Chair McClain:**

Does anyone on the Committee have any more questions? Do we have anyone else in support of the bill? Do we have anybody in opposition to A.B. 586?

**Peter Krueger, representing Cigar Association of America:**

We support the bill's contraband, contraband enforcement, record keeping, and punishment provisions. However, that is where our agreement ends. I have talked to Ms. Oldenburg, and at one time she was hopeful that she would find some way to exempt premium cigars, but for whatever reason she chose not to or was unable to provide that exemption.

We are absolutely opposed to two parts of the bill. One is the licensure portion—and I am surprised that all of a sudden the Department of Taxation can license retailer dealers at no cost to the Department. If they can take on an additional responsibility and not require additional tax money, this is a model that the Legislature ought to look at for all state agencies. I think that is wonderful for taxpayers.

The licensure provision reaches out and requires licensure where there is no nexus. It would be like requiring a mail order operation that has no nexus to the State to license just because we here in the State do not like some portion of what they are selling. There is plenty of case law that says you cannot impose that kind of restriction on a business or organization that has no nexus to the State. We are absolutely opposed to that portion.

The other part we are opposed to is the delivery sale. We have to remember that pipe tobacco and cigars are sold primarily through mail order. For those who have never seen a mail order catalog, there are many businesses throughout the United States, mostly located in the Miami area and the New York City area, that offer these products through the mail. This bill cannot and does not address the mailing of these products because Congress does not permit states to regulate those products that travel through the U.S. mail. Internet is one portion.

We are not aware of any credible studies that indicate that children are smoking cigars. When the issue of small cigars comes up, the question then becomes whether it is really a cigarette. The Alcohol and Tobacco Tax and Trade Bureau (TTB) of the U.S. Department of Treasury has just closed public comment on rule making that attempts to address the idea of what to do with small cigars. We are told will be final sometime this fall, probably October. We believe that

rule making on the federal level will trump what we are trying to do here in the State and will keep those small cigars, if any, out of the hands of young people.

We believe this whole bill, with the exception of the parts I listed, is really unneeded. These are not cigarettes. This is going to eliminate, as it has with cigarettes, the ability for adults to get a legal product. I would remind everyone that cigars, pipe tobacco, and even hookah, are legal products consumed by adults. To the point that they may be consumed by youth, we have other provisions in law and some law enforcement that are trying to prevent that. We believe this bill is an overreach by the Attorney General's Office to do something to answer a situation we do not believe is a problem.

**Assemblyman Horne:**

I would just like Mr. Krueger to point out in the bill where he thought there was an attempt to prevent a legal product from reaching the appropriate consumer. I did not hear that in the testimony. I heard about contraband and such. Also, as for his argument about the appropriateness of reaching companies that mail items into our State being an Interstate Compact issue, I am sure our Attorney General's Office, which is chock-full of attorneys, might have researched that and the legality of doing this. I need clarification from our Legal Division on whether this would be a constitutional measure, but I did not see in here where this is going to prohibit a legal product from reaching the appropriate consumer. Maybe he can tell me where and why he is concerned that this will have that effect.

**Peter Krueger:**

The effect is what I was getting at. There is nothing in this bill that prohibits the action you just talked about. The effect, in the bill that was passed last session, was to eliminate the sale of cigarettes. Our concerns are that there is a chilling effect on doing business in the State when you ask the purveyors of cigars and pipe tobacco to become licensed where they have no nexus, and when the whole question of age verification is being done by our members as we believe it is. I believe the Attorney General's Office is concerned about hookah and little cigars. We believe little cigars will be taken care of by federal legislation, so all we are left with is this chilling effect on an industry that sells premium cigars and pipe tobacco via mail order and some Internet.

**Assemblyman Horne:**

But this potential federal legislation has not happened yet. Should it happen, it could preempt the laws that we passed anyway. We would just be acting first and there would be no harm.



**Peter Krueger:**

The concern we have is the chilling effect on commerce when all of a sudden you put up what we believe are unnecessary roadblocks: registration, record keeping, all the things that this form of legislation requires. We have to keep in mind that Nevada is not a huge state when it comes to these kinds of sales compared to other states. Things get to the point where doing business here is just too big a hassle. They are liable for mistakes and errors, so they throw up their hands and choose not to sell. Then we have the problem of going somewhere else and buying the product and it truly does become contraband.

**Ray Roach, representing Nevada Motor Transport Association, United Parcel Service of America, Inc., and FedEx Corporation:**

With regard to the delivery section of this bill, we think this would be a big inconvenience for our carriers because we are not the police. United Parcel Service of America, Inc. (UPS) and the FedEx Corporation make 30 deliveries a day, but they would probably go down to about three if they had to go through these procedures. Consequently, the Nevada Motor Transport Association opposes this bill.

**Assemblyman Denis:**

When you deliver products, do you currently require an adult to sign for them?

**Ray Roach:**

No. We do not get signatures. The UPS makes doorstep deliveries without a signature.

**Assemblyman Denis:**

They do not have any kind of package they deliver that requires a signature? [Mr. Roach said they did not.] I thought that was something that had been implemented because of children buying things on the Internet. So currently nobody has to sign for anything when it gets delivered?

**Ray Roach:**

No, sir, they can make a delivery at the doorstep without a signature.

**Chair McClain:**

Are there any other questions? Does anybody else want to weigh in on this issue? [There was no response.] Okay, I will close the hearing on A.B. 586 and open the hearing on Assembly Bill 461.

**Assembly Bill 461: Makes certain changes to the Clark County Sales and Use Tax Act of 2005. (BDR S-1333)**

**Assemblyman David Parks, Assembly District No. 41:**

Assembly Bill 461 follows up on the actions of the 2005 Legislative Session. Most of us, certainly those who were on the Assembly Committee on Growth and Infrastructure, remember hearing Assembly Bill No. 418 of the 73rd Legislative Session, which was the “more cops sales tax” question. I am here today to ask that we insert a section into that bill that perhaps should have been included when the bill was approved two years ago.

At the time the bill was heard, six members of this Committee were on the Committee on Growth and Infrastructure. They are Ms. Allen, Mr. Grady, Mr. Mortenson, Ms. Pierce, Ms. Weber, and me. I think we all remember the number of hearings we had on that bill.

As a refresher, I would like to talk a bit about the testimony that was given then and how the bill had been sold not only to us in the Legislature but to the voters of Clark County in a nonbinding question on the 2004 election. I would like to give you five or six quotes from individuals who testified two years ago in support of A.B. No. 418 of the 73rd Legislative Session. The first couple of quotes come from Sheriff Bill Young. One indicates that “the funds will only be used to hire police officers, equip those officers, and field them.” He goes on in his testimony to say, “We would create a stable funding source specifically for police officers, not administrators, buildings, fancy cars, but putting a cop in a patrol car on streets in your neighborhood, responding to your calls.” He further goes on to say, “The question was very narrow: cops, their cars, and their equipment.”

To add several other quotes, the Metropolitan Police Department made the comment, “We can assure that these funds will only be used for the stated purpose of hiring and equipping additional officers.” The mayor of Las Vegas, Oscar Goodman, indicated that “the city council has adopted two resolutions supporting the use of these funds for the purpose of hiring and equipping more police officers to protect the citizens, and the funds will not be used to supplant or replace existing or future budgetary funding for police services.”

County Commissioner Rory Reid indicated that “the additional resources made possible by A.B. No. 418 of the 73rd Legislative Session will not be used by the county to shift resources. Any increase in the sales and use tax in Clark County will be used solely for the purpose of hiring and equipping more police officers to protect the citizens of Clark County and will not be used to supplant or replace existing future budgetary funding for police services.” Finally, I would like to comment that former Assemblywoman Chris Giunchigliani, who sat on the committee, went to great effort to make sure no funding would be diverted to other uses.

What I am asking for in A.B. 461 is that we add a section, Section 13.5, which would require any governing body that received such revenue to provide a report to the director of the Legislative Counsel Bureau for transmission to members of the Legislature. That report would include, without limitation, a detailed analysis of how much money each agency received, how they spent the money, the revenue that may have been generated from the collection of that sales tax, and proof that the funding did not replace or supplant funding which existed before October 1, 2005, for their respective police departments. That is a summary of the bill, and I would be glad to answer any questions.

**Chair McClain:**

So, you would like to see a report retroactively, plus every year in the future or every biennium?

**Assemblyman Parks:**

Yes, that would be the case. What I had specifically asked for in my bill draft request (BDR) was the amount of revenue received by each agency. I had suggested it be a quarterly report. I am not opposed to an annual report, but I think quarterly might be more informative as far as keeping legislators on top of the issue. I think the one thing that ought to be added to this is the number of new police officers.

What brought me to this point is the fact that I have heard varying stories, none of which I have been able to get definitive answers on. In fact, I have not been able to get any reporting whatsoever. This situation bothers me where two years ago we approved a substantial amount of money—I am estimating it is probably in the area of \$75 million a year—and we have not heard how that money is being expended or what the results are.

We constantly hear that we need more police officers, and it is often stated that local governments are having difficulty hiring the officers. So, we do not know if the money is just accumulating and not being spent or if it is potentially being spent on the wrong items. The only other possibility was to ask, if necessary, that we empower the Legislative auditor to review the reports we would like to receive. However, I think we already have that authority.

**Assemblyman Horne:**

I want to thank Assemblyman Parks for bringing us this bill. I remember when the original bill was first proposed, and I said I would not vote for it unless I had assurances from local government that they were going to do exactly what they had said and that they were not going to supplant existing funds. We got that assurance from them and put it in the bill, but now we cannot seem to get any real answers as to what is going on with the funds. As you know, it does not

matter what tax it is—it could be a federal tax—we are credited with raising it. I would like to hold their feet to the fire any way we can to find out exactly where the funds are going and what they are being used for.

**Assemblywoman Weber:**

You and I talked last summer about the monies coming into this account and the lack of available data to know how much money was going into the account. I think the first year's collection, at \$6 million to \$7 million a month, was near \$100 million. I want to echo Mr. Horne's comment that people expect results. If the pitch was that this was going to put more police officers on the street, my constituents would probably ask where they were, as they were not in their neighborhoods.

One of the interesting things is that the new sheriff in Clark County recently stated they will not be coming back for the 2009 portion of the other .0025 cents because they have enough money, or at least that was my interpretation. The telling part is that crime is up, even though we provided the enabling language for the commissioners to put in that sales tax for more police officers. I would like to see results.

**Assemblyman Grady:**

I do not live in Clark County, but I remember very well that it was exactly the way you said it was. We were promised and lobbied very hard that this would be for police officers on the street. That was the whole message throughout all the testimony we received. I commend you for bringing this forward because if that bill has not done what it was supposed to do, I think this Body has been shortchanged.

**Assemblywoman Pierce:**

If this gets passed, the first report should be an accounting of everything to this point. I am not sure this language says that. I see that this could be interpreted as starting with this year, submitting a report on September 1. My concern, though, is that it would not tell us what has happened since they began collecting. It does not make sure that we get an accounting of everything that has been spent to date.

**Chair McClain:**

We could probably find language that would satisfy that concern. I would like to process this bill.

**Assemblyman Parks:**

As was indicated by Assemblyman Weber, we have heard a statement made by the current Clark County Sheriff who thought that maybe they did not need to ask for the other 0.25 percent. However, we have four other cities in Clark County that might see things quite differently from the way the sheriff sees them. Certainly before this Body could make a decision two years from now, we would want to have detailed information. I have to admit I have had discussions with individuals who have asked where the extra police are that were supposed to have been hired. I had indicated that we had put a mechanism in place, but I did not have the answer.

**Chair McClain:**

I forgot to ask if anyone was in opposition to this. I looked at the one fiscal note from Clark County that says "no impact," but you are right that there are four or five other cities involved. In all fairness, are there any cities that do not like this bill? [There was no response.] Are there any that like it, other than Ms. Vilardo? She loves accountability. This Committee loves accountability.

We had two or three suggestions for amendments from Mr. Parks. Michael, could you read those back to make sure we got them right?

**Michael Nakamoto, Deputy Fiscal Analyst:**

Mr. Parks had suggested this be made a quarterly report rather than an annual report, with an additional portion that would specify the number of new police officers who had been hired with these funds. Ms. Pierce also suggested that language could be put in to specify that the first report shall encompass all of the money that has been spent up until the date the first report is due. If I missed anything, perhaps Mr. Parks can clear it up.

**Assemblyman Parks:**

I think I indicated that the report should show all revenue in, all expenses out, and the balance remaining. We also want to see the number of police officers hired and how many of them are maintained under position control numbers that are assigned to new officers.

**Chair McClain:**

Okay, I think we got that. Mr. Flynn, did you have a question?

**Ray Flynn, Assistant Sheriff, Law Enforcement Services, Las Vegas Metropolitan Police Department:**

We are in support of this. We do have those figures; we have kept track. We do have numerous people in southern Nevada—finance types from different

agencies, as well as our executive director of finance, Karen Keller—who can respond to the specifics of what you need.

**Janelle Kraft, Budget Director, Las Vegas Metropolitan Police Department:**

We have all the entities here in Las Vegas prepared to give you their year-to-date numbers, their revenues and expenditures, as well as the numbers of officers who have been hired to date if that is what you want. Otherwise, we are all in agreement with the bill and have no problem with the reporting that has been proposed today.

**Chair McClain:**

Thank you. Why do we not just have you send those figures up here by email?

**Janelle Kraft:**

We can do that. We can gather the data and email it to Mr. Nakamoto. I would also like to point out that we have provided those numbers to LCB a couple of times since the inception of the sales tax last January.

ASSEMBLYMAN MARVEL MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 461 WITH THE AMENDMENTS TO REQUIRE  
QUARTERLY REPORTS SHOWING REVENUES IN, EXPENDITURES  
OUT, BALANCES, AND NUMBERS OF NEW POLICE OFFICERS  
HIRED.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN ALLEN WAS  
ABSENT FOR THE VOTE.)

**Chair McClain:**

We will now go to work session.

**Michael Nakamoto, Deputy Fiscal Analyst:**

The first bill on work session today is Assembly Bill 368.

**Assembly Bill 368: Makes various changes concerning manufactured home parks. (BDR 32-1023)**

**Michael Nakamoto:**

This is Assemblyman Ohrenschall's bill, which provides an abatement of 25 percent of the property taxes paid by owners of eligible manufactured home parks. To become eligible, at least 51 percent of the lots within the park must be rented to persons whose household income does not exceed 80 percent of

the median income for that county, and the rental amount of the lots may not exceed 40 percent of the fair market rent for that county as established by the U.S. Department of Housing and Urban Development (HUD).

If the landlord of a manufactured home park closes the park or converts it to another use, the bill would also require that he pay an amount equal to the fair market value of that home plus an additional amount equal to six times the fair market rent for manufactured home lots in that county if the tenant chooses not to move the home, cannot move it without causing structural damage, or if there is no park within 50 miles that is willing to accept the home.

Testimony in support of A.B. 368 was received from Assemblyman Ohrenschall. The Committee also received testimony from Renee Diamond from the Manufactured Housing Division of the Department of Business and Industry, who indicated there were two other bills in front of the Legislature that would make similar changes with respect to the disposal of manufactured homes. Marolyn Mann from the Nevada Manufactured Home Community Owners Association testified in support of the property tax abatements but testified in opposition to the portions dealing with the additional costs related to the disposal of homes in the case that they could not be moved or the owners chose not to move them. James Vilt from Nevada Legal Services testified in support, due to the financial position many of the people who are forced to move are placed in when they do move.

Concerns were brought forth by Jason Frierson from Clark County and Dave Dawley, the Carson City assessor, who noted there was no language within the bill to make sure the abated money somehow made its way back to the community to benefit the residents of the park.

**Assemblyman Marvel:**

Who pays this rebate money?

**Assemblyman Ohrenschall:**

The way I wrote the bill, there would be a 25 percent property tax abatement if a mobile home park owner would rent out at least 51 percent of the lots to persons whose income is 80 percent of the median income for that county, and they would have to rent at 51 percent of the HUD fair market rent for mobile home parks in that county.

**Assemblyman Marvel:**

Who would get the refund, the owner or the county?

**Chair McClain:**

They would not get refunds. They would just get 25 percent taken off their tax bills. Anybody who gets property tax gets hit.

**Assemblyman Marvel:**

Who suffers; the county, the local entity, or the owner of the mobile home park?

**Chair McClain:**

It would depend on what district they are in. For example, if it is in the city of Las Vegas, it would affect the city of Las Vegas, the school district, and Clark County.

**Assemblyman Marvel:**

Would it have an impact on them? [Chair McClain said it would.] What is the impact? Does anybody know?

**Chair McClain:**

There are other bills out there along these same lines. I want to get this bill out of our Committee, perhaps with no recommendation, and send it to Ways and Means where they can sort it out.

**Assemblyman Marvel:**

If it cuts into the local support of the schools, then we pick it up on the Distributive School Account.

ASSEMBLYMAN MARVEL MOVED TO REREFER  
ASSEMBLY BILL 368 TO THE ASSEMBLY COMMITTEE ON WAYS  
AND MEANS WITHOUT RECOMMENDATION.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

**Chair McClain:**

Is that all right with the sponsor of the bill?

**Assemblyman Ohrenschall:**

That is okay. I was looking at some potential amendments. I talked to the Legislative Counsel Bureau's Legal Division about trying to make it not apply to the rural counties, but they said that would violate the *Nevada Constitution*, that any tax abatement would have to apply uniformly to all the counties. The other option Legal suggested was to lower the abatement from 25 percent to perhaps 5 percent and to have it apply to 10 percent of the spaces rather than



51 percent. We would keep it at a two-to-one margin in terms of the tax abatement to the number of spaces.

**Chair McClain:**

There are a couple of other bills out there relating to the same issue. I think it would be best if we could address all of those in Ways and Means, where we will have more time.

**Assemblyman Ohrenschall:**

Would the bill be eligible for an exemption from the April 13 deadline?

**Chair McClain:**

We need to get it rereferred first.

THE MOTION PASSED UNANIMOUSLY.

**Michael Nakamoto, Deputy Fiscal Analyst:**

The next bill on work session is Assembly Bill 587.

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

**Michael Nakamoto:**

This bill increases the property tax exemption for eligible veterans from \$2,000 of assessed valuation, adjusted for inflation between July 2004 and the July preceding the fiscal year for which the adjustment is being made, to \$5,000 of assessed valuation, again adjusted for inflation. Testimony in support of A.B. 587 was received from Tim Tetz, the Executive Director of the Nevada Office of Veterans Services, who noted that the increase in the exemption would help veterans who need assistance with their property taxes.

Questions and concerns were brought up regarding other legislation that would change the definition of veterans for the purpose of this exemption. Mr. Tetz noted that Assembly Bill 486 and Assembly Bill 210 would expand the definition of veterans, which could potentially make the fiscal impact of this exemption greater.

The Committee also received testimony in support of A.B. 587 from Mike Alastuey, representing Clark County. While he indicated there was an impact of possibly \$4 million a year to Clark County, he noted that in his opinion it was justified. However, he also pointed out that any exemption of this sort would potentially have an effect on the State Distributive School Account and, consequently, on K-12 education funding from the State.

There were no amendments submitted, and there was no testimony in opposition to the bill.

**Assemblyman Grady:**

My only concern with the bill is that we do not yet have a definition of veterans. In one committee we hear it is going to be this; in another committee we are told it is that. I do not think we have it tied down yet, and that bothers me because there could be a huge fiscal impact if we open this up to reservists, National Guard, and so forth.

**Chair McClain:**

We do not know where those other bills are going either. I was thinking about just passing this bill out of here and sending it to Ways and Means.

**Assemblyman Horne:**

Would Ways and Means, in its attempt to narrow this fiscal impact, take on the burden of defining veterans?

**Chair McClain:**

Yes; and those other bills will be exempt, so they will automatically go to Ways and Means anyway.

ASSEMBLYMAN MARVEL MOVED TO REREFER  
ASSEMBLY BILL 587 TO THE ASSEMBLY COMMITTEE ON WAYS  
AND MEANS WITHOUT RECOMMENDATION.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Michael Nakamoto, Deputy Fiscal Analyst:**

The last bill on work session today is Assembly Bill 487.

**Assembly Bill 487: Exempts certain professional baseball events from the state tax on live entertainment. (BDR 32-1361)**

**Michael Nakamoto:**

This bill has an effective date of July 1, 2007. Testimony in support of A.B. 487 was received from John Pappageorge, representing the Las Vegas 51s baseball team, who had indicated that the tax had an effect on the team's ability to maintain profitability. During his testimony, Mr. Pappageorge submitted an amendment to change the word "athletes" in Section 1, subsection 5(p), on line 31 of page 3 to "baseball players" as an indication that

this exemption applies specifically to professional baseball events and not any other events. No testimony was received in opposition to the bill.

**Chair McClain:**

We have one concern about whether we want to open this up to major league events. We had one suggestion to identify this as applying to minor league events, if that is all right with the sponsor. I do not know if it would make any difference now, but it could change things in the future.

**John Pappageorge, representing Las Vegas 51s Baseball Team:**

We have absolutely no problem with you saying "minor league baseball player" in place of "athlete."

**Chair McClain:**

So it is strictly baseball and strictly minor league. It is for the little teams. This gives the people who cannot afford to go to big league events a break on their ticket price.

ASSEMBLYMAN MARVEL MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 487 WITH THE AMENDMENT CHANGING  
"ATHLETE" TO "BASEBALL PLAYER" AND ADDING THE  
SPECIFICATION OF MINOR LEAGUE.

ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair McClain:**

Thursday will be tough because we all have committees after this one, but we will try to go as fast as we can. I scheduled a meeting for Friday morning at 7:00 just in case, but I truly plan on being done on Thursday afternoon. We are adjourned [at 3:01 p.m.].

[A proposed amendment to A.B. 378 ([Exhibit J](#)) was submitted by Karen Dennison and Sean Gamble on behalf of Resort Owners Coalition of the American Resort Development Association (ARDA-ROC). They were not able to attend the meeting.]

[Richard Derrick, representing the city of Henderson, submitted a report of the city's revenues and expenditures for A.B. 461 ([Exhibit K](#)). Mr. Derrick attended the meeting but did not speak.]

RESPECTFULLY SUBMITTED:

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Mary Garcia  
Committee Secretary

APPROVED BY:

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Assemblywoman Kathy McClain, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Taxation

**Date:** April 10, 2007

**Time of Meeting:** 1:04 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
<u>A.B. 169</u>	C	Assemblyman Bob L. Beers / Assembly District No. 21	Proposed amendment and revised bill
<u>A.B. 169</u>	D	Richard J. Pozesky / Nevada Association of Medical Products Suppliers	Business card and notes for testimony
<u>A.B. 172</u>	E	Assemblyman Bob L. Beers / Assembly District No. 21	Letter from Peter Liakopoulos, Nye County commissioner, in support
<u>A.B. 172</u>	F	Assemblyman Bob L. Beers / Assembly District No. 21	Letter from Barry Gold of AARP in support
<u>A.B. 172</u>	G	Lee Mendell / Private Citizen	Prepared testimony and two newspaper articles
<u>A.B. 172</u>	H	Carol Sala / Aging Services Division, Department of Health and Human Services	Prepared testimony
<u>A.B. 586</u>	I	Victoria Thimmesch Oldenburg / Tobacco Enforcement Unit, Office of the Attorney General	Prepared testimony
<u>A.B. 378</u>	J	Karen Dennison and Sean Gamble / Resort Owners Coalition of the American Resort Development Association (ARDA-ROC)	Proposed amendment
<u>A.B. 461</u>	K	Richard A. Derrick / City of Henderson	Report of MORE COPS revenues and expenditures to date