

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fourth Session
May 28, 2007**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 2:20 p.m. on Monday, May 28, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mike McGinness, Chair
Senator Dean A. Rhoads
Senator Mark E. Amodei
Senator Bob Coffin
Senator Michael A. Schneider
Senator Terry Care

COMMITTEE MEMBERS ABSENT:

Senator Randolph J. Townsend, Vice Chair (Excused)

STAFF MEMBERS PRESENT:

Tina Calilung, Deputy Fiscal Analyst
Russell J. Guindon, Senior Deputy Fiscal Analyst
Julie Birnberg, Committee Secretary

OTHERS PRESENT:

Vicky T. Oldenburg, Senior Deputy Attorney General, Office of the Attorney General
Dino DiCianno, Executive Director, Department of Taxation
Samuel P. McMullen, Philip Morris USA Inc., Altria Group, Inc.

CHAIR MCGINNESS:

I call this meeting of the Senate Committee on Taxation to order. Ms. Oldenburg, are you here on behalf of the Attorney General?

ASSEMBLY BILL 586 (1st Reprint): Provides for the enforcement of certain provisions governing the regulation and taxation of tobacco products other than cigarettes. (BDR 32-515)

VICKY T. OLDENBURG (Senior Deputy Attorney General, Office of the Attorney General):

I am here on Assembly Bill (A.B.) 586; I understand there is an amendment presented ([Exhibit C](#)). This bill does a couple of things. It adds to *Nevada Revised Statute* (NRS) 370 which governs tobacco products for purposes of criminalizing the possession, distribution and sale of contraband and counterfeit other tobacco products (OTP)—little cigars, premium cigars, sheesha which is a pipe tobacco, and basically anything but cigarettes. It also provides for the seizure of that product if our investigators discover contraband and OTP on the shelves. The bill revises the criminal penalties for the possession and sale of contraband cigarettes and OTP. We have adopted some penalty provisions out of other chapters throughout the NRS to provide more consistency in the penalties rather than rely on the amount of cigarettes etc. We are looking at a dollar figure to trigger the penalties.

SENATOR CARE:

I am looking at section 25 of the bill, the criminal penalties and the level of the offense. I sit on the Senate Judiciary Committee; it is no secret we look at a whole manner of things—good time credits, early release—and talk about the suggestion that over the years we see misdemeanors become Category E felonies, then Category D that later become Category C. I am wondering how the Attorney General's Office will settle upon a Category D felony and then a Category C for subsequent offense, depending on the dollar amount. Is your office a part of the thought process that decides to make the Category "D" and a "C" and not an "E" and "D"?

MS. OLDENBURG:

Our office was not; that was adopted in prior years through the provisions as they related just to cigarettes. We took a look at NRS 193. Given this industry with the contraband, OTP and cigarettes, that evaluation was more appropriately found to be a felony. You can have 400 regular cigarettes and 400 little cigars; there is a huge difference between the value of those products. Because this was related to taxation, we wanted to have a better nexus of the penalty to the value of the product.

SENATOR CARE:

For purposes of legislative history, could you give us some idea of the degree to which contraband is a problem?

MS. OLDENBURG:

We have not been able to specifically measure that in our state because we have not had the mechanisms to actually go out and do that. Through our executive budget this year, we plan to have a new investigator to do the Internet stings and necessary work to capture some products. Other states are finding significant taxation revenue gains from capturing and selling this product on the Internet or through other means. When we come to you next session with another bill related to this, we will have some strong statistics; there appears to be a lot of traffic from California, Oregon and Idaho.

CHAIR MCGINNESS:

Have you seen the proposed amendment?

MS. OLDENBURG:

I have seen one proposed amendment from Samuel P. McMullen. I have met with the Attorney General; she supports that amendment and is specifically amending NRS 202.2493.

CHAIR MCGINNESS:

After the contraband tobacco has been confiscated, you can sell tobacco products to the highest bidder among the licensed wholesale dealers in the state. Is that a common practice?

MS. OLDENBURG:

I would like to call Dino DiCianno to speak to that.

DINO DICIANNO (Executive Director, Department of Taxation):

These provisions are similar to what already exists in the liquor statutes; we would sell back these products to the wholesaler. If we cannot find a bidder, then we destroy the product. Currently, we destroy the entire product that we confiscate.

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CHAIR MCGINNESS:

Do we do the same thing in the liquor statutes?

MR. DiCIANNO:

Yes, that is correct.

SAMUEL P. McMULLEN (Philip Morris USA Inc., Altria Group, Inc.):

This proposed amendment ([Exhibit C](#)) is a continuing part of the quest of those who signed the Master Settlement Agreement, and Philip Morris is taking that seriously to make sure that some underlying propositions relating to youth access prevention are included in the statutes of all states. Two simple things are already done in Nevada. First, under a proposed new subsection X, NRS 202.2493 would require actually posting a sign asking to see your identification (ID). It would be posted prominently at the point of sale. Second, the prohibition against selling cigarettes through a self-service display. A lot of voluntary guidelines have been adopted by retailers throughout the state. Consequently, these things are not being done. [Assembly Bill 586](#) would make every transaction for cigarettes a face-to-face transaction which would promote the ID requirement and the presentation of the proof of age. We are putting these provisions in the law to make sure our laws have all provisions in the Master Settlement Agreement held important by the people who signed it.

SENATOR COFFIN:

This would appear to eliminate the ability to sell tobacco through machines.

MR. McMULLEN:

That has been in NRS 202.2494 for a long time. Basically, the restriction on vending machines is that tobacco can only be sold in a place where people under 21 are not allowed. This bill does not change that.

CHAIR MCGINNESS:

We will close the hearing on [A.B. 586](#). We have [Senate Bill \(S.B.\) 146](#) next on the agenda.

[SENATE BILL 146 \(2nd Reprint\)](#): Authorizes the boards of county commissioners of certain counties to levy an ad valorem tax to pay the costs of operating a regional facility for the detention of children.
(BDR 31-937)

TINA CALILUNG (Deputy Fiscal Analyst):

Senate Bill 146 in its first reprint was approved by the Senate a couple of weeks ago. It authorizes the board of commissioners of at least two counties with populations less than 100,000 to levy an additional property tax for up to 8 cents per \$100 of assessed valuation to pay the cost of operating any regional juvenile detention facility. Any additional levy imposed pursuant to this act would be subject to a \$3.64 property tax cap and be exempt from the partial abatements granted by the 2005 Legislature. The second reprint of S.B. 146 incorporates Assembly Amendment No. 903. The amendment reduces the authorized rate from up to 8 cents to a set rate of 4 cents per \$100 of assessed valuation. The rate imposed would not be subject to partial abatements granted in 2005 for the first year in which the tax is imposed. It would be subject to the partial abatements to the second and all the subsequent years. The ordinance enacted by the county commissioners would have to be reviewed by that body at least once every ten years.

CHAIR MCGINNESS:

Let me ask representatives of Lyon and Churchill Counties: Are you okay with this amendment? All four heads are nodding in the affirmative. We could accept a motion to concur with the amendments to S.B. 146.

SENATOR AMODEI MOVED TO CONCUR WITH AMENDMENT NO. 903 TO S.B. 146.

SENATOR RHOADS SECONDED THE MOTION.

SENATOR CARE:

It permits doing this outside the abatement even with the amendment, am I correct on that? Reading from NRS 361.4723 of the 2005 Session:

The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution.

That is a matter of law, we have that on statute. Senate Bill 146 allows increases on the property tax of the homeowner in excess of 3 percent. Is that correct?

CHAIR MCGINNESS:
That is correct.

THE MOTION CARRIED. (SENATORS CARE AND SCHNEIDER VOTED NO.) (SENATOR TOWNSEND WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
Moving on to Senate Bill 374, Ms. Calilung?

SENATE BILL 374 (2nd Reprint): Makes certain changes concerning tax increment areas. (BDR 22-816)

Ms. CALILUNG:

Senate Bill 374 in its first reprint authorized the creation of a tax increment area banding the principal campus of the Nevada State College through a cooperative agreement between the Nevada System of Higher Education and the City of Henderson. The second reprint, which incorporates Assembly Amendment No. 749, adds a new section that provides if a municipality has a population of less than 100,000 at the time the municipality issues a security for a tax increment area, the revenue limitation currently in statute remains until the security issue for the tax increment area is paid in full even if the population of the municipality exceeds 100,000 during that time. This amendment addresses concerns brought forth by the City of Sparks during the bill's hearing in the Assembly Committee on Government Affairs. The City of Sparks has a population approaching the 100,000 threshold. Under existing law, the total revenue paid to a tax increment area is limited to 10 percent if the population of the municipality is 100,000 or more and 15 percent if the population of the applicable municipality is less than 100,000. Senate Bill 374 would hold the status quo for them in the event their population crosses the 100,000 threshold.

SENATOR CARE:

When we first heard this bill, it was ultimately and narrowly tailored to apply only to the Nevada State College at Henderson. By the Assembly amending it to apply to a municipality of less than 100,000—Henderson has more than 100,000 people—are we doing something that takes this outside the area of the State College?

MS. CALILUNG:

This particular amendment does not address the tax increment area for the Nevada State College. It addresses a new section of NRS that relates to the revenue limitation for tax increment areas. This amendment does not speak to the establishment of the tax increment area between the City of Henderson and the Nevada State College at Henderson.

CHAIR MCGINNESS:

This just happened to be in the right statute for them to address this. Even if they went over the 100,000 mark, until the census and the State Demographer says you have over 100,000, it does not take effect.

SENATOR CARE:

Who is this for?

CHAIR MCGINNESS:

It is for the City of Sparks.

SENATOR CARE:

How are they going to use this?

CHAIR MCGINNESS:

They were concerned that if you go over 100,000 population, you are limited to 10 percent of the total revenue paid to a tax increment. If you are under that 100,000, you can do 15 percent. They were concerned when they go over 100,000, that marks their revenue decrease and they have already sold the bonds. It has nothing to do with what Senator Warren B. Hardy's original bill did.

SENATOR RHOADS MOVED TO CONCUR WITH AMENDMENT NO. 749 TO S.B. 374.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TOWNSEND WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:

The Assembly has amended S.B. 502 with Amendment No. 850.

SENATE BILL 502 (2nd Reprint): Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)

Ms. CALILUNG:

Senate Bill 502 in its first reprint included a provision where the submission of a ballot question at the November 4, 2008, general election asking voters to amend the Sales and Use Tax Act of 1955 to authorize the Legislature to enact, without an additional direct vote of the people, any legislation deemed necessary to carry out any federal law or interstate agreement for the administration of sales and use taxes. As presented to the Committee, this measure would allow the state to comply with the Sales and Use Tax Agreement without having to go to the vote of the people every time there was a change to the tax base. Amendment No. 850 adds language to section 42 to specify in the ballot question that voter approval must still be obtained for any rate increases proposed for the 2-percent sales and use tax.

SENATOR AMODEI MOVED TO CONCUR WITH AMENDMENT NO. 850 TO SENATE BILL 502.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TOWNSEND WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
We are adjourned at 2:58 p.m.

RESPECTFULLY SUBMITTED

Julie Birnberg,
Committee Secretary

APPROVED BY:

Senator Mike McGinness, Chair

DATE: _____