MINUTES OF THE
JOINT MEETING OF THE ASSEMBLY COMMITTEE ON TAXATION
AND THE
SENATE COMMITTEE ON TAXATION

Seventy-Fifth Session
May 16, 2009

The Joint Assembly Committee on Taxation and the Senate Committee on Taxation was called to order by Chair Kathy McClain at 1:49 p.m. on Saturday, May 16, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/75th2009/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).

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblywoman Marilyn Kirkpatrick, Vice Chair
Assemblyman Paul Aizley
Assemblyman Bernie Anderson
Assemblyman Ed A. Goedhart
Assemblyman Tom Grady
Assemblyman Don Gustavson
Assemblywoman Ellen Koivisto
Assemblywoman Sheila Leslie
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblywoman Peggy Pierce

SENATE COMMITTEE MEMBERS PRESENT:

Senator Terry Care, Vice Chair
Senator Maggie Carlton

Minutes ID: 1312

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COMMITTEE MEMBERS ABSENT:

Assemblyman Morse Arberry Jr. (excused)
Senator Bob Coffin, Chair (excused)
Senator Michael A. Schneider (excused)
Senator Randolph Townsend (excused)
Senator Mike McGinness (excused)
Senator Maurice E. Washington (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Russell J. Guindon, Senior Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Mary Garcia, Committee Secretary
Michael Wiley, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Dino DiCianno, Executive Director, Department of Taxation
David Kallas, Detective, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc., and Southern Nevada Conference of Police and Sheriffs, Las Vegas, Nevada
Jan Gilbert, Washoe Valley, Nevada, Northern Nevada Coordinator, Carson City Office, Progressive Leadership Alliance of Nevada, Las Vegas, Nevada
Ray Bacon, Executive Director, Nevada Manufacturers Association, Carson City, Nevada
Tom Roberts, Lieutenant, Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada
William Uffelman, President and CEO, Nevada Bankers Association, Las Vegas, Nevada
George Flint, Government Relations, Reno, Nevada, representing legal brothels and wedding chapels
Paul J. Enos, CEO, Nevada Motor Transport Association, Reno, Nevada

Chair McClain:
[Roll was called.] Last Thursday, we had our first discussion of possible revenue increases for the state. I want to remind everybody where we are in this process. Unfortunately, we have been accused of not having transparency and of doing things behind closed doors. This is our attempt to say, "Okay, let us hear from all the stakeholders on increasing revenue."

We have spent months going through a budget that was extremely flawed when it came to us. That took a lot more time than anybody expected, but there were horrible things in it that we had to fix. We did not know, either, that the May 1 Economic Forum report would come in as bad as it did.

We are looking at a huge hole in the budget. Our choice, other than raising revenues, would be to cut the Nevada System of Higher Education's budget by $400 million, cut kindergarten through grade 12 (K–12) education, and close state parks and museums. We would not have any of the amenities or services that the residents of this state deserve and expect their government to provide. Keep that in mind as we talk about taxes.

We all agree we have a flawed tax system in this state. There has been discussion, over the last 20–30 years, about fixing it, but we never get around to it. Part of the problem now is that we have been mandated a 120-day session, which does not give the Legislature any time to do anything thoughtful. Everything is a Band-aid approach, and, now, here we are again with another Band-aid approach to get us past this crisis.

It is my sincere hope that some really thoughtful and specific issues will be taken care of during the interim, so the Legislature can come back next session and fix our tax structure the way it should be fixed. It should be fair and equitable and provide the necessary services for everybody who lives in this state. At this point, though, one of our only options is to raise the percentages of existing revenues.

On Thursday, we talked about raising the Modified Business Tax (MBT), which is probably the closest thing we have to a broad-based tax. It is miniscule compared to what other states collect from businesses.

Today, we are going to look at three other revenue sources. One of them is sales tax, which is the most regressive tax. The second is the Business License Fee. Then, we will talk about the Governmental Services Tax (GST).

I would like to start with Brenda Erdoes and Russell Guindon, who are going to walk us through three mock-ups of proposed amendments. We will start with the sales tax mock-up. I will let them present it, and then we will take public input. We will discuss the three mock-ups separately.

Russell J. Guindon, Senior Deputy Fiscal Analyst:
[Distributed mock-up of Proposed Amendment 5114, provided by Brenda Erdoes (Exhibit C).] This amendment would increase the local school support rate, which is governed by Chapter 374 of *Nevada Revised Statutes* (NRS), otherwise known as the Local School Support Tax (LSST). This is a rate that is dedicated to the Distributive School Account (DSA), which is the K–12 funding program.

I thought I would give a little history of the state sales tax structure. We have a statewide rate of 6.5 percent, which is made up of three different rates. The first portion is the state General Fund rate of 2 percent, which is governed by the Sales and Use Tax Act of 1955. The provisions for implementing and administering that are Chapter 372 of NRS. The state 2 percent rate cannot be changed without a vote of the people.

The LSST is the 2.25 percent rate. Then there are the Basic City-County Relief Tax (BCCRT), which is 0.5 percent, and the Supplemental City-County Relief Tax (SCCRT), which is 1.75 percent. The BCCRT and SCCRT, together, make up the remaining 2.25 percent that constitute the 6.5 percent statewide rate.

Revenues from the BCCRT and the SCCRT remain at the local level. They go into what is called the Consolidated Tax Distribution Fund (CTX). That money is distributed to the counties and the entities within the counties based on statutory formulas.

There are optional rates authorized in NRS that local governments can implement for various things, such as transportation, flood control, et cetera. There are also rates that have been enacted through special acts. The combination of the 6.5 percent statewide rate and any local option rates or any other rates imposed through special acts make up the combined total rate that is imposed in a county.

I gave you a map (Exhibit D), prepared by the Department of Taxation, that shows the rates imposed in each county. A rate of more than 6.5 percent in a county indicates that the county has imposed some of the optional rates authorized in NRS or has imposed rates through special acts.

The proposed amendment allows the imposition of an additional rate for the LSST. This rate would provide additional money for K–12 education. Then, through the Nevada Plan, which is the DSA funding mechanism, that would provide a General Fund offset. Raising the LSST provides additional General Fund resources for the state for other government programs.

The way the proposed amendment is drafted, an additional amount of tax would be imposed under NRS 374.110, in section 2 of the amendment, and under NRS 374.190, in section 3, on top of the rates currently in Chapter 374 of NRS for the LSST. The Legal and Fiscal Analysis Divisions talked about this. We concluded that if the Legislature chooses to impose an additional rate, it could be done through this mechanism in such a way that the additional rate would not be part of the 75 percent pledge for Sales Tax Anticipated Revenue (STAR) bonds.

Counties are allowed to pledge 75 percent of anticipated sales tax revenues. There are bills now in the works that would make changes to the STAR bond provisions. Some of them would actually remove the school rates from the pledges.

This would apply to the STAR bonds that are already in place. There are two STAR bond districts in Washoe County. Whatever additional rate the Legislature might impose this session would not be part of the 75 percent that goes to the STAR bond districts. They would continue to get the 75 percent from the 2.25 percent rate, but they would not get any additional increment from whatever rate the Legislature may choose to impose.

Brenda Erdoes, Legislative Counsel:
The only other point I would make is that the proposed change would become effective, if you enact it, on August 1, 2009. That is when the rate would actually go up for the consumer.

Assemblywoman Leslie:
Senator Hardy was telling me that the sales tax is much lower in Utah. In California, the sales tax is much higher. His fear was that, if we raised our sales tax too high, people in Clark County—since they have the highest rate in Nevada—would make their major purchases in Utah to save money. Do you ever look at that, or do you have any information on that?

Russell Guindon:
Yes, staff did look at some other rates. Utah has a straight rate of 5.7 percent. Some of the states we looked at may have lower sales tax rates, but some of them, such as Utah, also have an income tax. One of the things to keep in mind when looking at the rates is that there are many other factors to be taken into account. You have to look at what other taxes may be imposed that allow other states to have lower sales tax rates. In California, the rate is 8.25 percent, and they also have an income tax.

To address your question about whether we could have cross-border effects, the answer is, yes. The bottom line, though, is that if someone makes those purchases out-of-state, he still has the liability, under the law, for the use tax portion of the tax. That is very hard for the Department of Taxation to enforce, but the liability for the tax does not evaporate just because the purchase was made out-of-state.

Yours is a difficult question to answer. I would hope we, as consumers, would look at what we would save on tax as compared to the costs of going to another state to make the purchase, such as gasoline, time, et cetera. All those things go into calculating how much would really be saved. That can be very hard to quantify.

Our sales tax rates are higher than Utah's but lower than California's. What the cross-border effects of that situation might be is also hard to quantify.

Assemblywoman Leslie:
I am thinking of an automobile, which is a major purchase with major sales tax. I think most people do not understand they are liable for the difference, and people might go to Utah to buy a car if the tax rate was that different. What are the chances of them getting caught, and who might catch them?

Russell Guindon:
Actually, you chose the easiest example. With a car, I cannot tell you it is 100 percent, but it is probably about 99 percent. When you bring a car here, you have to register that car and show proof that the sales tax has been paid. So, we can capture that.

The use tax can be picked up, as different from the sales tax, which is on the actual sales transaction that occurs in the state. That would involve other durable goods that people might go out-of-state to purchase and then bring back here. On automobiles, though, we have the mechanism that cars are required to be registered and the sales and use taxes are required to be paid. There, we can also have verification of sales tax.

Assemblywoman Leslie:
That is assuming they get the car registered in Nevada. What is Oregon's sales tax right now?

Russell Guindon:
Oregon is one of the western states that does not have a sales tax. Again, they do have an income tax.

Assemblyman Anderson:
I wonder about Idaho.

Russell Guindon:
I have Idaho as being at 6 percent.

Chair McClain:
The cross-county difference also gets picked up when you buy your license plates. You have to pay the sales tax in the county you license in, is that right?

Russell Guindon:
That is a bit more complicated. If I live in Carson City and buy a car in Washoe County, I will pay the Washoe County sales tax unless I specifically ask for a form to say I am a Carson City resident and want to pay the Carson City sales tax. Then, when I register the car, I would register it in Carson City.

Chair McClain:
For another example, I bought a car in Carson City, but I had to register it in Clark County. I paid the Clark County rate.

Mr. DiCianno, is the effective date of August 1 all right with your Department? Could you do it any sooner?

Dino DiCianno, Executive Director, Department of Taxation:
August 1 works for me. We could not do it any sooner.

Chair McClain:
I just wanted to make sure. Are there any other questions? [There were none.] Are there any members of the public who want to weigh in on this?

David Kallas, Detective, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc., and Southern Nevada Conference of Police and Sheriffs, Las Vegas, Nevada:
I would like to correct a statement I made on Thursday. When we talked about the MBT, I referred to the fact that the Police Protective Association (PPA) and the Southern Nevada Conference of Police and Sheriffs were both businesses with employees. However, the PPA is a nonprofit and, as such, does not participate in the MBT. The Conference of Police and Sheriffs (ANCOP) just changed from a for-profit to a nonprofit, so it no longer participates in the MBT, either. Regardless, I still support the position of the Committee on that issue.

With regard to the sales tax, in 2005, the Las Vegas Metropolitan Police Department and the PPA brought forth a proposal—based on an advisory question put forth to the voters in 2004—to increase the sales tax in order to hire more officers. As a result, we have been able to hire 600 officers over the last 4 years, because there was a need. I believe our state has a need right now, and it would be hypocritical of us not to say we would support anything the Committee, in its wisdom, would do with the sales tax to fix the problems our state is currently experiencing.

The organizations I represent support the Committee's interests and any increase in revenues in order to fix those problems. I understand your task is great. There are people who want to keep tax increases this session below those in 2003. However, I would like to leave you with this thought: Do you really want to walk out of the building having implemented the second-largest tax increase, or do you want to walk out of the building number one?

You have the opportunity to do something great here and fix our problems. If you get the opportunity to give us our other $0.0025 to hire more officers, we would appreciate that. Regardless of what you do, we will support you.

Jan Gilbert, Washoe Valley, Nevada, Northern Nevada Coordinator, Carson City Office, Progressive Leadership Alliance of Nevada, Las Vegas, Nevada:
We put together a tax proposal at the beginning of the session. Our number one concern is that we have a progressive tax structure. We are in support of a package of taxes, and so far I see four of them. What I am not seeing here is a business profits tax or a change in the Net Proceeds of Minerals Tax.

Two of the taxes you are discussing today are very regressive: sales tax and the GST. I am concerned. We support these, but only in conjunction with more progressive taxes. I hope you will address the inequities in the Net Proceeds of Minerals Tax. That we are losing these mineral resources, and they are not being taxed at the rate they should be, is a severe problem in our state.

For me, this has a positive and a negative effect, but I support the budget you proposed, and I support the taxes you are going to propose. Please, though, do not put it on the backs of the low-income people. If you have to increase the sales tax and the GST, which are particularly regressive, I would ask that you sunset them. I think we have to rely on those people who can pay in our state. Right now, we are not doing that.

Ray Bacon, Executive Director, Nevada Manufacturers Association, Carson City, Nevada:
Just for clarification, the Senate Committee on Taxation is well aware of Senate Concurrent Resolution 35, which is a resolution to get Congress to move on the Streamlined Sales Tax Initiative. That is probably the biggest single thing that could happen to help alleviate our revenue problem, because we would start collecting the tax from Internet and catalog sales. The best estimates we have for this revenue are in the neighborhood of $100 million for the state, which is not an insignificant amount of money.

All the Streamlined Sales Tax Initiative would do is to effectively collect, as a function of a sale, the use tax that is already due but that we do not collect from individuals. Consequently, it is not a new tax. It is tax this body has passed multiple times. Probably the biggest thing we could do is get Congress to fix this so we could start collecting what is already due.

Chair McClain:
I do not disagree with you one bit. However, the Streamlined Sales Tax is not going to get done in time to balance this budget.

Ray Bacon:
I understand that.

Tom Roberts, Lieutenant, Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:
I am also here representing Sheriff Doug Gillespie. As Dave Kallas mentioned, in 2004, the voters approved a sales tax increase of 0.5 percent. In 2005, this body approved the implementation of the first 0.25 percent. We have hired 600 police officers. We have done everything we said we were going to do and that we set out to do with that first 0.25 percent tax.

You asked us to come back here in 2009. Senate Bill 202, which would authorize the implementation of the other 0.25 percent, is currently here in the building. We understand the predicament the state is in. We understand that we all have budget shortfalls, and we are feeling the effects at the Las Vegas Metropolitan Police Department (Metro) just as you are.

We will support anything you may do. All we ask for is a sunset provision or for you to include a provision somewhere in this bill that would allow us to move forward with this voter-approved tax. We would be very grateful. I believe the voters of Clark County would also be very grateful. Over the past year, we have done several polls, and they have been very favorable. The voters and the citizens still support us.

Chair McClain:
Thank you. Are there any questions or comments? I do not see any. Does anybody else want to go on record with a concern about an increase in sales tax? [There was no response.] Let us move on to Proposed Amendment 5077, which would raise the Business License Fee (BLF).

Russell Guindon:
[Distributed mock-up of Proposed Amendment 5077, provided by Brenda Erdoes.] This proposed amendment would make changes to the BLF, which is currently a $100 annual fee paid by businesses for the privilege of doing business in the State of Nevada. The fee was put in place during the 2003 Session as part of the tax changes that were made during the 72nd Session and the 19th and 20th Special Sessions.

The BLF is governed by various sections of Chapter 360 of NRS. Proposed Amendment 5077 would increase the BLF from $100 to $200 a year. It would also make a change to begin taxing businesses on their physical locations versus taxing them as a business entity. Under the current statutory structure, if I had ten Starbucks stores, but they are all under one entity, I would pay $100 versus paying $100 for each of the ten locations. This proposal would require the BLF to be paid for each location. You can see that the effective date for this is July 1, 2009.

Assemblywoman Kirkpatrick:
How many businesses do you think we will capture with the additional locations?

Russell Guindon:
Based on the information provided to us by the Department of Taxation, we believe that around 19,000 businesses would be picked up under the BLF by licensing them under their physical business locations.

Chair McClain:
Besides the possibility of bringing in additional revenues, this is also an issue of fairness. Starbucks is paying $100 for who-knows-how-many stores, while Comma Coffee across the street is paying $100 for one location. Where is the fairness in that?

Assemblywoman Koivisto:
This is the best thing I have heard all day.

Assemblyman Anderson:
There seems to be a new business model I have been seeing recently, and that is the store located within another store, such as a Starbucks located within a supermarket. Are those considered a single business, or are they each considered a business?

Brenda Erdoes:
It depends on how they are set up, but I believe most of them are set up as separate businesses. In other words, if there is a separate owner, it does not matter if they are combined, whether in a mall or in one store. Some of them, such as a restaurant in a casino, could be one business if they are owned by the same casino. However, if a different company comes in and runs a business, they would be separate.

Assemblyman Anderson:
Then, in a mall, each kiosk may be considered a separate business depending on whether or not they are owned by a single business that operates multiple kiosks. Are we going to do this so that it depends on their particular business models?

Russell Guindon:
I think this could get into some of the subtleties and complexities of how people decide to do business. I am guessing it would depend on how they structure their businesses and how the Department of Taxation views them.

Dino DiCianno:
It is predicated upon how the business is structured or incorporated to begin with. A shopping mall could have 15 different businesses. If they are all separate entities, they would each have to be registered and pay the fee. They would also be required to register to pay sales tax.

Assemblyman Anderson:
It is not in any way predicated on business licenses being issued by the individual counties but rather upon their answers to tax questions from you or the Office of the Secretary of State?

Dino DiCianno:
That is correct.

Assemblyman Goedhart:
We have a small grocery store in rural Amargosa Valley. That store contains an Automatic Teller Machine (ATM) that is owned separately from the store. We also have newspaper racks that are owned separately from the store. We have a person who sells firewood and a lady who sells burritos. According to this proposal, it looks as though those are separate locations. We could have a plethora of different business taxes collected on each provider out there, because they are not all bundled under the store business. We have a lot of different people operating businesses out of one location.

To take that a step further, we have farmers who may be doing business at several different locations because they have pivot irrigators scattered across a couple of valleys that are not conterminous or contiguous with each other. I think, before we get too for down the road, we should look at what some of the unintended consequences might be.

Dino DiCianno:
It depends on how that business is incorporated and how it is structured. As to the ATM, I am not sure about that. You are talking about an ATM that is affiliated with a bank. I do not believe that is a separate location for the bank.

The best example I can give you is the Forum Shops in Caesar's Palace in Las Vegas. They are leasing space from Caesar's. Each one of them is an individual, incorporated business. Then each one of them would be required to have a business license, if this is going to be location-based. Under the old law, if they were independent entities, they would still have to have the same business license. I am not sure how the structure of this convenience store is set up in Amargosa Valley.

Assemblyman Goedhart:
The way it works is they are small tenants of sorts of the store. In fact, a lot of ATM machines are not owned by banks. A lot of them are owned by private operators who make their money based on a transaction fee. In exchange for having that location in that little store, they may pay that store $50 or $100 a month. The person who sells firewood may pay $20 a month to each of the stores where they sell.

My concern is that, in some of those locations, the cost of the license may make the difference between their being able to provide an ATM or whatever and them deciding they do not want to do it. We have to carefully analyze the ramifications of these tax policies.

Dino DiCianno:
The only comment I can make is that this is a policy decision for this body.

Assemblyman Aizley:
If you had a convenience store that owned its slot machines, the owner would not be paying for those slot machines. However, if you had a company that supplied slot machines, would that company pay a BLF for each location?

Dino DiCianno:
I will have to research that. I cannot answer that right now.

Russell Guindon:
The slot machines in convenience stores require restricted gaming licenses, and who has that license depends on the arrangement that convenience store has. If the store actually has the gaming license and the slots, they would be doing business anyway, so they would be paying the $100 under current law. If the slots are provided by a slot route operator, where the slot route operator has the gaming license and comes in and puts the slot machines in the convenience store, then the slot route operator would have the business license to conduct business in the state, which is putting slot machines in different locations.

Chair McClain:
I think the key here is that the business itself would have one location, much like the guy who chops the wood and puts it out for sale in different places. He probably does not have a business license in the first place.

Dino DiCianno:
He would have to.

Chair McClain:
He should, yes. My point, though, is that we are talking about the physical location of the business itself. It is not one person having eight garage sales on eight different blocks or something like that.

Dino DiCianno:
A garage sale is not a business.

Assemblyman Aizley:
I just do not think it is clear how we are doing this. If each 7-Eleven is going to pay $200 per location, then would each slot route operator not pay for each location as well?

Russell Guindon:
I think that may be an issue that Mr. DiCianno would have to work out in regulation, but I think the Chair makes a point. My business as a slot route operator is to put slot machines in locations. That is my business. If I have ten different locations that I use as bases from which to put slots out in different places, those could be businesses subject to the business license fee. However, if, in the course of conducting my business, I put slots in convenience stores, I am not conducting business in every one of those convenience stores once I put the slots in there. My business was to put the slots there. Anyway, that is how I envision this.

Brenda Erdoes:
If you would like, we would look into the ATM concept and the slot routes and get an answer back for you. It may be Monday before we can get your answer, but I would be happy to do that. If we have to revise this mock-up, that would be a great thing for us to do.

Chair McClain:
Okay, we will let you look into it a little more deeply.

Assemblyman Grady:
Have we looked at what other states are doing when we are raising this from $100 to $200, plus $200 for each location? How will this fee or tax compare to what the surrounding states are doing?

Russell Guindon:
Staff has not looked into what other states are doing with a business license fee. We cannot comment on that. Again, this gets into the complexity of the tax structures in other states. I think you have to do an across-the-board comparison when looking from state to state.

Assemblywoman Kirkpatrick:
I was just going to say that the $200 works out to about $0.54 a day for any business to do business. The ATMs charge me $2.50 for one transaction, so that is nearly a week's worth. I am not too upset over the $200.

Assemblyman McArthur:
Do homeowners' associations come under the category of a business? I think they are charged now, are they not?

Brenda Erdoes:
No, they are not. They pay the ombudsman fee, and maybe that is what you are thinking about. They do pay a fee, but it is through the Real Estate Division. It does not relate to the BLF unless they are running a business that is separate from the homeowners' association.

Chair McClain:
Does anyone in the audience want to weigh in on this?

William Uffelman, President and CEO, Nevada Bankers Association, Las Vegas, Nevada:
As the one industry that is already paying a location fee of $7,000 per branch, with an exemption of one location in each county, the extra $200, while not an enormous amount, is still another amount per location. I would like you to consider that an industry that is already paying a location fee be exempt from this.

ATMs are not licensed separately by the Department of Financial Institutions. We can put one here and we can put one there, and it is a convenience. In fact, I could have multiple ATMs sitting side-by-side in a high-volume area where you do not want people to have to stand in line to make withdrawals. Regarding the notion of the payment of a $200 fee per ATM throughout the state, I cannot tell you how many ATMs there are or how many would be withdrawn. At the same time, credit unions do not pay any of the fees or taxes we pay to the State of Nevada. If you were, in fact, imposing $200 per ATM, the credit unions would be exempt from it.

Chair McClain:
Okay, just for everybody's information before we go down this minutia trail any farther, the intent is not to catch anything like that. The intent is to catch people having physical locations and doing business there.

William Uffelman:
So an in-store branch that is paying $7,000 a year would now pay an additional $200.

Chair McClain:
Not an additional $200. Are you already paying the $100?

William Uffelman:
Unless you are going to exempt me. I presume Bank X is paying $100, not for each of those physical locations, but as the bank.

Chair McClain:
Each of your branches would now pay $200.

William Uffelman:
That is $200 plus the $7,000 we already pay. [Chair McClain confirmed that.]

Assemblywoman Koivisto:
With $350 billion in Troubled Asset Relief Program (TARP) funds unaccounted for, I do not have any sympathy.

William Uffelman:
I could name the banks that got TARP funds in the State of Nevada: Wells Fargo; U.S. Bank; Bank of America; Western Alliance Bank Corp.; Zions Bank, which is Nevada State Bank; and JPMorgan Chase. I think that is all of them. Your community banks did not get any TARP funds.

George Flint, Government Relations, Reno, Nevada, representing legal brothels and wedding chapels:
In subsection 2 of section 1 of the mock-up of Proposed Amendment 5077, beginning on line 11, those lines read, "$200 plus an additional $200 for each physical location." It occurs to me that in the case of my wedding chapel, which is one location, the fee would be $400: $200 for the license and $200 for the location. That may not be the intent of this, but, if this matter were ever challenged, I think a judge might rule that what you are really saying is that it is $200 for the license and $200 for each location. That means that, for one location, the fee would be going from $100 to $400.

I would like to address a couple of issues as they relate to the women legally working in the world's oldest profession in this state. Women generally move around three or four times a year, from Ranch A to Ranch B to Ranch C. It occurs to me that under this proposal, instead of the $100 they are paying currently—and, for your information, they have been buying this license since 2003—these ladies could now be paying $200 plus $200 more for each of the three locations they additionally work at in a year. All of a sudden, the State of Nevada would finally be getting about $800 a year from every legal working lady in this state. Hallelujah! We have been trying to do this since 2003.

I did not say anything on Friday because I thought it best I keep my counsel. However, by bringing the women independent contractors in on the MBT, I estimate the state will come into a $1 million windfall. Most women who work full-time in this business make a minimum of $100,000 a year, although they are making a little less in this economic slowdown. I would say a 1 percent to 1.25 percent MBT rate would mean their contribution, whether paid directly or through the licensed brothel, would be around $1,250 a year. We currently have somewhere between 300 and 800 women working legally, each of whom could contribute $1,250 directly into the state General Fund. That is not to mention the amount from the BLF.

I want to thank you for possibly finally allowing the women and the industry to be a part of the state General Fund and the budget. For goodness sakes, please do not exempt us from this. Thank you.

Chair McClain:
This is something new—an unintended consequence that somebody likes.

George Flint:
I hope it is not unintended. We want to participate. Madame Chair, I saw three lobbyists for the gaming industry sitting here on Friday. All of them claimed they were ready to help, but they were not ready to sign the check because they did not know what the rate would be. We are ready to sign the check.

Chair McClain:
Thank you. I do not think the intent of this legislation is to collect $200 for the business license and then $200 for the primary location. It is $200 for the license for the primary location and then $200 for each of the other locations.

George Flint:
I took that for granted. I just thought I should point out the language.

Assemblyman Mortenson:
I am looking at the way this is written, and I think we need to add a word in here. I think we need to say, ". . . be accompanied by a fee in the amount of $200 plus an additional $200 for each *additional* physical location." I think the word "additional" needs to go in there so, if you have one location, you pay $200. If you have two locations, you pay $400.

Chair McClain:
That is correct. That is the intent. We will get that fixed.

Do we have any other questions? Does anybody else want to weigh in on the Business License Fee? [There was no response.]

We will go on to the third mock-up, which is the Governmental Services Tax (GST). This tax does not seem regressive to me, because if you buy an expensive car, you are going to pay more taxes on it. If you are driving an older car, you will pay a lot less.

Russell Guindon:
[Distributed a mock-up of Proposed Amendment 4986, provided by Brenda Erdoes (Exhibit F), as well as a page containing two tables concerning the Governmental Services Tax (Exhibit G).] These tables show the GST under current law and the GST under the provisions of the proposed amendment.

The GST is the tax paid when you register your car each year. This tax was initially put in place in 1963, so the depreciation rates and the minimum amount of $6.00 a year that you see in current law were the figures established in 1963. There is a constitutional provision that the GST rate cannot be more than $0.05 per dollar of assessed valuation of the vehicle.

The GST is covered by Chapter 371 of NRS. In that chapter is what is known as the basic GST, which is the $0.04 rate. There is a supplemental $0.01 rate that counties can impose through a vote of the people.

Clark County is the only county I know of that is actually imposing that $0.01 as authorized in Chapter 371 of NRS. Churchill County, I believe, has a $0.01 additional GST, but that is being imposed through the "fair share" legislation of 1991. Otherwise, all the other counties use the basic $0.04 rate.

The way the tax works is you start with the manufacturer's suggested retail price (MSRP) of the vehicle. You multiply that MSRP by 35 percent to arrive at the taxable value, which is basically the same process as for real property. You then multiply the taxable value by the appropriate depreciation rate that you see in the mock-up or in table 1. That resulting amount is then multiplied by the 4 percent basic rate to yield the tax that is due. As the vehicle depreciates each year, the amount of tax goes down.

Proposed Amendment 4986 would add 10 percent to the depreciation rate, so, except for year 1, you are sliding the current depreciation rate up one level. What you paid this year, you would pay again next year. Then you would again pay less each year as the vehicle depreciates. There is a second section in the proposal for trucks, which have a slightly different depreciation schedule.

Under current law, the minimum that can be paid is $6.00. This proposal would increase the minimum to $16.00. Out of curiosity, I went back and looked. In 1963, the average price of a new car was somewhere around $3,233, which is probably the figure that was used to arrive at the minimum tax amount of $6.00. Even now, to get to the minimum of $16.00 under the proposed depreciation schedule, the initial value of a car would be about $7,600. If someone knows where they can buy a new car for $7,600, please let me know.

The first part of the proposed amendment makes changes to the depreciation schedule, which would generate additional revenue. The increment between the tax that would be collected under the current depreciation schedule and the tax under the proposed change to the depreciation schedule would then go to the state General Fund. Subsection 2 of section 3 of the proposed amendment gives the calculation necessary to yield the amount of money from the proposed change to the depreciation schedule that should be allocated to the state General Fund.

Under this proposal, the $0.04 under current law is distributed to the school districts, and the remainder goes to local government entities. This proposal would not take any of the money away from the school districts or the counties. The state would only get the additional revenue increment created by the proposed change. Also, through this proposal, Clark and Churchill Counties would still get additional revenue through their supplemental $0.01 rate.

The information you see here was provided to the Legal and Fiscal Divisions by the Department of Motor Vehicles (DMV), which is responsible for administering the GST. According to the DMV, this could be implemented with an effective date of September 1, 2009.

Chair McClain:
So, basically, this is a one-year freeze on the depreciation. Are there any questions?

Senator Carlton:
Working down the table in a crosswise pattern, if I am at the four-year level now, which is 55 percent depreciation, I am just going to freeze for one year. My vehicle will be one year older, but I will still be at the 55 percent rate next year. Then the percentage will go on up. I understand that.

Where this falls apart, in my opinion, is at the bottom. I happen to be one of the people with a couple of cars that are over nine years old. Currently, I am only paying on 5 percent of the initial value. My rate will actually go up to 15 percent and stay at 15 percent for as long as I own those cars. Is that correct?

Russell Guindon:
I want to go through the table a bit before I get to your question. The top section of the table is for passenger cars. The bottom section is for trucks. Basically, the new rate adds 10 percent to what you would be paying. In a sense, it slides the rates over and up one. All of the entities would be held at

the same rate for a year. You are correct, though, that those now at the 5 percent level would only get down to 15 percent of the initial value. The lowest rate you can get down to under this proposal is 15 percent, as opposed to 5 percent under current law.

Senator Carlton:
My concern is with those older cars. Some people choose to keep them because they are cheap to insure and because they cannot afford a new car. Granted, the GST is only $32. My concern would be that, when you get into the seven-, eight-, or nine-year ranges, we would be hitting those folks.

When you have a newer car, for the first three years you have a warranty and other things. Some people switch cars every three to four years. For the couple of cars I have managed to save past that nine-year mark, there will be an increase. That gives a little pause.

Chair McClain:
I wonder if we could add a tenth year to this, so the scale will still go down to 5 percent.

Russell Guindon:
That would be an option open to the Legislature. You can make additional changes to the depreciation schedule. This proposal was put together for your consideration from data provided by the DMV. We would have to go back to them for additional information for analysis. You can add a tenth year, though. The table for trucks does, indeed, have a tenth year.

Chair McClain:
I appreciate Senator Carlton bringing that up. A lot of our seniors are still driving their old cars, which are still in good condition. I do not want to put a burden on them. Ms. Erdoes, would you think about how we could do that?

Russell Guindon:
On the table, you can see figures for three examples of MSRPs. You start with the MSRP, which is the value of the car when new. If you have a 6-year-old car that initially cost $15,000, you multiply that cost times the 35 percent to arrive at the taxable value. You then multiply that taxable value times the depreciation percentage and, finally, multiply that result times the $0.04 rate to arrive at the actual yield. The third column shows the increase in yield under this proposal as opposed to the yield under current law.

Assemblyman Goedhart:
I appreciate Senator Carlton's concern. One of my cars is 18 years old, and another is 12 years old. My newest car is six or seven years old. I live in the rurals, where we often have ten cars that do not move and a house that does. We like working on those old cars. We may have four or five cars licensed, but only one may actually be running. That is one of my concerns.

We have to remember that there are a lot of people in a lot of different circumstances in this state. When we do something like this, it is impossible to gauge all the possible effects it will have on people.

The table for trucks says it applies to vehicles with a gross vehicular weight (GVW) of 10,000 pounds or more. I know, with the big Ford and Dodge trucks out these days, that will probably affect a lot of people in the "personal luxury truck" market. They might even use those trucks for their own work.

Also, the price examples for trucks are $15,000, $25,000, and $35,000. You would be hard-pressed to get a new over-road Peterbilt with an 18-speed transmission, a 525-horsepower Caterpillar engine, and a 282-inch wheelbase for less than $130,000. That will just be an additional burden on someone who would want to spend money during this economic downturn. The revenue we are trying to gather here is a lot less than what we could gain as a state by encouraging people to buy new equipment and increasing our revenue through sales taxes.

Assemblywoman Pierce:
Why is there a difference between the depreciation rates for cars and the depreciation rates for trucks?

Russell Guindon:
I cannot answer that. These rates were the ones put in place in 1963. There was a slight tweaking to the truck depreciation. Three of the percentages were changed in 1971. Otherwise, there has been no change to the depreciation schedules for automobiles or trucks.

However, that does not answer your question of why the depreciation for trucks is different from that for cars. I did not have time to go back and read the legislative history for 1963.

Chair McClain:
It probably has something to do with mining protection in the *Nevada Constitution*.

Assemblyman Anderson:
I understand the basic question if we are going to move something like this forward. Having sat on the Assembly Committee on Transportation, I know that the ambiguity of the language relating to that first year of depreciation has always caused problems with people. Why do we not just leave the rate at 100 percent for the first and second years and then begin the depreciation after that? Would there be enough tax advantage if we did it that way rather than giving owners an insignificant 5 percent depreciation?

Russell Guindon:
I do not have the ability to comment on that. The DMV has to run the scenarios for us to show the effects of making changes to the depreciation schedule. I do not know what impact those changes would have on revenue. Any policy change would be up to the Legislature to decide.

Assemblywoman Koivisto:
For clarification, when you are talking about cars versus trucks, I am assuming that smaller trucks with GVWs of less than 10,000 pounds will be classed with passenger cars, is that correct?

Russell Guindon:
Yes, that would be dependent upon the weight. As Mr. Goedhart pointed out, some of the vehicles we think of as passenger trucks would fall into the truck category if they weigh more than 10,000 pounds. Those pickup trucks or sport utility vehicles (SUVs) that do not satisfy that weight requirement would fall under the vehicle depreciation schedule.

Chair McClain:
Are there any more questions? [There were none.]

Paul J. Enos, CEO, Nevada Motor Transport Association, Reno, Nevada:
I was not planning on providing any testimony, but I want to provide a point of clarification to Assemblywoman Pierce's question. The reason the depreciation schedule on trucks is different from cars is that trucks do not wear out as fast. A lot of times, older trucks will remain on the road longer. As you will see at the bottom of the table, the depreciation for trucks caps out at a higher rate than for the passenger vehicles. A truck is anticipated to be in service longer than a passenger vehicle.

Chair McClain:
Thank you. Do we have anybody else who would like to comment on this particular proposal? Does the Committee have any other questions or comments? [There was no response.] We have covered all three of those proposed amendments. We want to get something done quickly. We are adjourned [at 3:00 p.m.].

RESPECTFULLY SUBMITTED:

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Mary Garcia
Committee Secretary

APPROVED BY:

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Assemblywoman Kathy McClain, Chair

DATE:___________________________________

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Senator Bob Coffin, Chair

DATE:___________________________________

EXHIBITS

Committee Name: Assembly Committee on Taxation/Senate Committee on Taxation

Date: May 16, 2009 **Time of Meeting: 1:49 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Brenda Erdoes	Mock-up for Proposed Amendment 5114
	D	Russell Guindon	Map of Nevada showing sales tax rates by county
	E	Brenda Erdoes	Mock-up for Proposed Amendment 5077
	F	Brenda Erdoes	Mock-up for Proposed Amendment 4986
	G	Russell Guindon	Governmental Services Tax Table