

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fifth Session
April 30, 2009**

The Senate Committee on Taxation was called to order by Chair Bob Coffin at 1:38 p.m. on Thursday, April 30, 2009, 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 Bob Coffin, Chair
Senator Terry Care, Vice Chair
Senator Michael A. Schneider
Senator Maggie Carlton
Senator Mike McGinness
Senator Maurice E. Washington

COMMITTEE MEMBERS ABSENT:

Senator Randolph Townsend (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Paul Aizley, Assembly District No. 41
Assemblyman James Settelmeyer, Assembly District No. 39

STAFF MEMBERS PRESENT:

Joe Reel, Deputy Fiscal Analyst
Mike Wiley, Committee Secretary

OTHERS PRESENT:

Sabra Smith-Newby, Director, Department of Administrative Services,
Clark County
Lisa Gianoli, Washoe County
Doug Sonnemann, Assessor, Douglas County
Josh Wilson, Assessor, Washoe County

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Berry Smith, Executive Director, Nevada Press Association, Inc.
Dino DiCianno, Executive Director, Department of Taxation
Carole Vilardo, President, Nevada Taxpayers Association
Bryan Wachter, Retail Association of Nevada
Ray Bacon, Executive Director, Nevada Manufacturers Association
Daniel Markels, Nevada National Federation of Independent Business

CHAIR COFFIN:

We will open the work session on Senate Bill (S.B.) 201.

SENATE BILL 201: Authorizes certain counties to impose additional taxes on fuels for motor vehicles. (BDR 32-233)

CHAIR COFFIN:

There are no proposed amendments. Do I have a motion?

SENATOR CARLTON MOVED TO DO PASS S.B. 201.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will close the work the session on S.B. 201 and open the hearing on Assembly Bill (A.B) 307.

ASSEMBLY BILL 307 (1st Reprint): Revises provisions governing the publication of certain information relating to property taxes. (BDR 32-714)

ASSEMBLYMAN PAUL AIZLEY (Assembly District No. 41):

I am here to present A.B. 307 as amended. The original bill would only have affected counties with populations greater than 100,000, but Washoe County and the other counties requested that they be included, so the bill as been amended to include all counties. Section 1 (Exhibit C) of the bill addresses the secure tax roll, and section 2 addresses the notices of delinquency. *Nevada Revised Statutes* 361.300 requires that counties make available the secure tax roll for inspection by interested persons of the county. There is universal access

to the Internet in homes or libraries, so the requirement to make the tax roll available for inspection would be met using the Internet.

Secondly, in these economic times with all levels of government cutting their budgets, the cost to Clark County for printing the tax rolls in the newspaper in 2008 was \$555,003. Other counties have comparable costs. The third reason is conserving natural resources and protecting the environment. In 2008, one newspaper printed the rolls on 456 pages of newsprint, which required 40 million pages of paper and ink. Much of the paper will end up in the landfill. Similar comments can be made for section 2 of the bill. I think these are compelling reasons to modernize the delivery of the required information, and I urge support for this bill.

SENATOR CARE:

We have a number of statutes that require publication in a newspaper. For example, if you cannot serve somebody personally with a complaint, then you get an order from the court to serve by publication. We could save money if we put all the legal notices on the Internet and not have them published in the newspapers. This bill presumes that everybody is in a position to buy a computer or go to the library.

ASSEMBLYMAN AIZLEY:

I do not see people walking around holding onto newsprint, whereas when I checked the rolls, it took less than three minutes on the Internet to come up with the information. It is more readily available and more permanently available than what is in newsprint.

SENATOR SCHNEIDER:

Do you have the number of subscriptions of the newspaper in Las Vegas, and how many papers they sell a day?

ASSEMBLYMAN AIZLEY:

The paper claims 172,000 daily and over 205,000 on Sunday.

SENATOR SCHNEIDER:

What percentage of the population in Las Vegas households has a computer?

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ASSEMBLYMAN AIZLEY:

I have heard 70 percent to 90 percent, which I can not substantiate, but everyone has access to a library.

SENATOR SCHNEIDER:

I have heard the same numbers in Las Vegas, and I do not know of a household that does not have a computer. I know that Senator Care's comment on the statutes is correct, but the statutes are old.

CHAIR COFFIN:

Does the bill take out all requirements from publication?

ASSEMBLYMAN AIZLEY:

As written, it says that the counties must publish on the Internet either with their own system or with one that they engage.

CHAIR COFFIN:

How would people know that it is on the Internet?

ASSEMBLYMAN AIZLEY:

It is common knowledge that the information is on the Internet, but I will admit I had no information about these things until I became a homeowner.

CHAIR COFFIN:

If we were to process this bill, we have a duty to let people know that this information is on the Internet. We should publish information to inform people that the information is on the Internet and how it can be accessed.

ASSEMBLYMAN AIZLEY:

The county assessor mails a notice to every homeowner, and the Website address could be placed on the notices.

SENATOR CARLTON:

I agree with the direction we are going. I had thought about using the tax bills to furnish the Website. It would be appropriate for the county to place advertising in the weekly or in a Sunday publication under legal notices. I would support the bill with those recommendations.

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CHAIR COFFIN:

I received an e-mail ([Exhibit D](#)) from the Carson City Assessor in support of the bill.

SABRA SMITH-NEWBY (Director, Department of Administration Services, Clark County):

We are in support of A.B. 307. It costs Clark County about \$550,000 each year to publish these rolls, and that cost raises about \$10,000 per year. On the Clark County Assessor's Website you can find out what your neighbor paid for their house, how many bathrooms and bedrooms it has in the documents recorded, and how much it costs to record them. We think the publication of the rolls in the newspaper is outdated. Clark County would be willing to help get the word out, using advertising and our electronic media publications. We are twittering now and could send out a twitter.

LISA GIANOLI (Washoe County)

We support A.B. 307 for the same reasons as Clark County. Technology allows us to get this information to people in many different ways. For Washoe County, it costs about a \$70,000 to publish the tax rolls.

CHAIR COFFIN:

Why does Clark County have to pay eight times as much?

MS. GIANOLI:

I am not sure, but I am sure their documents are much larger than ours.

SENATOR SCHNEIDER:

The market allows them to charge more. It is like television advertising—it is more expensive in the Las Vegas market than in the Elko market.

SENATOR MCGINNESS:

What kind of audience would you have on radio and television if you just read these lists?

DOUG SONNEMANN (Assessor, Douglas County):

The Nevada Assessors Association is in full support of this bill to eliminate the publication of the assessment tax roll. It produces a lot of paper and is fairly expensive to distribute at around \$800,000 statewide. This is not a cost-effective use of limited tax dollars. We would make every effort to have

the information available online in a useable format with a continual effort to increase the functionality to the public. With the difficulty in county budgets, this is a difficult expense to absorb. In light of our recent struggles with layoffs and other budget cuts, we would support the notification process as mentioned by Clark and Washoe Counties.

JOSH WILSON (Assessor, Washoe County):
We support A.B. 307.

BARRY SMITH (Executive Director, Nevada Press Association, Inc.):
I have prepared testimony ([Exhibit E](#)).

CHAIR COFFIN:
Did you provide us with a copy of the survey?

MR. SMITH:
I did not provide the whole survey.

CHAIR COFFIN:
Who was polled in the survey?

MR. SMITH:
It included Nevada registered voters. It was not a random sample. We asked voters to take our survey, and it was generally about political advertising, but I included some questions on public notices.

CHAIR COFFIN:
I would like a copy of the survey or at least an executive summary. Do you think the penetration of newspapers is better than Internet access?

MR. SMITH:
No, I do not think the penetration of newspapers is better than Internet access, but I think the readership of newspapers is better than the readership of assessor Websites.

CHAIR COFFIN:

I find that reading the tax rolls on the Internet is easier than reading them in the newspaper. They are published by parcel number in the newspaper, and it makes it impossible to find out your neighbor's property tax.

CHAIR COFFIN:

What is the cost of a full-page ad?

MR. SMITH:

I can supply it to you, but they vary greatly.

CHAIR COFFIN:

Poll your members and ask them what they would charge and their insertion rate for repeated advertising. We will close the hearing on A.B. 307 and open the hearing on A.B. 403.

ASSEMBLY BILL 403 (1st Reprint): Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement. (BDR 32-752)

ASSEMBLYMAN JAMES SETTELMAYER (Assembly District No. 39):

In 2001, the Legislature found and declared it should simplify and modernize the sales and use tax to reduce the burden of tax compliance for all sellers and types of commerce. It originally started out as A.B. No. 455 of the 71st Session. We need to bring the State into compliance. We have been taking this to the voters, asking the voters to allow the simplification of the sales and use tax. Thirty-three states, including Nevada, have agreed to collect sales and use tax from remote sellers that have no physical presence in the State to which they deliver. Because of electronic commerce or e-commerce, our tax base has been eroding significantly.

This bill will help protect Main Street businesses put at a disadvantage because of Internet sales. The amendment I brought to the Assembly, which has been incorporated into the bill, is to make the ballot question language more realistic. We are not asking the voters to increase taxes, we are trying to collect taxes. Anyone in this room buying merchandise online is supposed to go on the Department of Taxation Website to file and pay the sales tax. That is why we are missing \$100 million in taxes for the State. We are asking the voters to modify our laws to bring the State into compliance with existing law.

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CHAIR COFFIN:

Does this bill create any new exemptions or any other kind of changes to the statutes?

ASSEMBLYMAN SETTELMAYER:

To my knowledge it does not.

CHAIR COFFIN:

We cast our first vote on this in 1987, which is how long we have been trying to help collect transaction taxes.

SENATOR MCGINNESS:

Did we have a question on the ballot in the last election regarding the Streamlined Sales Tax?

ASSEMBLYMAN SETTELMAYER:

Yes, and it failed. That is why we are trying to make the bill more realistic by changing the wording for the ballot question.

SENATOR MCGINNESS:

I asked Mr. DiCianno what we could do to make this bill more readable.

ASSEMBLYMAN SETTELMAYER:

Many parties have agreed in the next election to do more in terms of educating the voters. The State of Nevada is in financial crisis, and we should collect all the taxes that are on the books.

SENATOR MCGINNESS:

I am not sure the election results will change next time.

ASSEMBLYMAN SETTELMAYER:

I have eliminated the word Internet within the language of the ballot. I tried to make the language more readable so an individual who does not want tax increases would understand that this would not raise taxes. The change would bring us into compliance with an established system. We need to educate voters

SENATOR SCHNEIDER:

Does this include the Internet?

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ASSEMBLYMAN SETTELMAYER:

Most of it is e-commerce, but it includes other situations as well.

SENATOR SCHNEIDER:

It would collect all the sales over the telephone and Internet. If you are buying on eBay, this covers eBay sales?

ASSEMBLYMAN SETTELMAYER:

By law you are supposed to be paying the tax.

SENATOR SCHNEIDER:

We should enact this because any tax you take to the people will fail.

ASSEMBLYMAN SETTELMAYER:

We have to create an amendment to the 1955 Sales and Use Tax Act. It is my understanding we have to do this because the State originally wanted to implement a 2-percent sales tax for education, which was enacted. The voters objected. The Legislature went to the Nevada Parent Teacher Association, said you had better cover us, and put it on the ballot in 1955. The only way to reverse it—because it was passed by the voters—is to go back to the voters for approval.

CHAIR COFFIN:

In 1955, the Legislature passed the bill with no exemptions. After input from constituents, they came back and exempted newspapers from the payment of the sales tax.

SENATOR MCGINNESS:

The Legislature passed it, and there was an initiative petition to remove it, which failed. The courts have interpreted that, by the act of the petition failing, the voters approved the 2-percent sale tax. We can exempt anything except the 2-percent sales tax.

DINO DICIANNO (Executive Director, Department of Taxation):

I have furnished a packet ([Exhibit F](#)) which I would like to cover. I will also show what the purpose of this bill is with respect to the Streamlined Sales and Use Tax Agreement. Page 1 shows all the states in blue that are part of the Streamlined Sales Tax Governing Board. Page 2 shows the list of all the Governing Board States, of which Nevada became a member on April 1, 2008. I

have corresponded with United States Senator Harry Reid, and his response back was "please know that I will keep your support for this legislation in mind." A new bill submitted to Congress will be called The Main Street Fairness Act.

Assembly Bill 403 brings the language within our current sales and use tax statutes in line with the Streamlined Sales and Use Tax Agreement. It provides clarification as to when the tax rate can go into effect, the process of notification and definitions of digital products as compared to computer software. Section 14 of the bill provides a ballot question on November 2, 2010, which, upon passage, would allow this body to make changes to the sales tax law so as to be in compliance with the Streamlined Sales and Use Tax Agreement. It has no additional exemptions, no additional increase in tax and no change to the administration of sales tax in this State. I have support from the Nevada Taxpayers Association, Retail Association of Nevada, Nevada Manufacturers Association, Chambers of Commerce, and it has broad-based support from across the industry. I am here as the voting member for the State of Nevada to the Streamlined Sales Tax Governing Board.

I would like to quote from William Fox in an "Executive Summary": "The development of new technologies and digital processes has had a profound effect on the U. S. economy as e-commerce sales have grown from \$995 billion in 1999 to \$2.4 trillion by 2006." Within this study, they attempt to determine the loss or estimated losses by each state based upon the inability to collect sales tax from remote sellers on purchases over the Internet. In 2007, Nevada lost an estimated \$107.4 million, and over the next five years, Nevada is estimated to lose \$836 million. Purchases over the Internet are subject to use tax. We are required to file a Consumer Use Tax return; unfortunately, not many people do it. The other hindrance is the 1992 U.S. Supreme Court ruling, *Quill Corp. v. North Dakota* (91-0194), 504 U.S. 298 (1992), which has to do with the National Nexus Program.

It is the reason why Congress needs to pass the legislation that will be introduced this year in order to allow the states to collect this tax based on purchases over the Internet. If Congress passes the bill, it would allow the state the ability to collect sales tax on transactions over the Internet. There is a condition: if the state is not a member and does not comply with the Streamlined Sales and Use Tax Agreement, the state cannot share in the revenues. It is important to have this bill so that Nevada maintains its

membership in the Streamlined Governing Board. If the voters agree, the Legislature will be able to amend the sales tax rules to be in compliance with the Agreement. Our membership could be in jeopardy if this legislation is not passed.

CHAIR COFFIN:

What was the press support the last time this was on the ballot?

MR. DICIANNO:

The *Las Vegas Sun* was in support. I am not sure about the other newspapers.

CHAIR COFFIN:

I just bought 14 books from Amazon, and I thought I would be paying tax because Amazon has a distribution center in Nevada. The law says the wholesale distribution is not taxed; it is not a nexus in the sense we think of in this situation. My books came from Kentucky, Texas and Utah, and I did not pay any sales tax. Why do we not tax companies that have distribution centers in our State?

MR. DICIANNO:

Amazon has a distribution center but does not have a retail center. When you place an order over the Internet, it could come from any of the distribution centers across the United States. Since they do not have nexus from a retail standpoint, they would not be required, given the *Quill* decision, to collect the tax.

CHAIR COFFIN:

Does that put Barnes and Noble at a disadvantage because they have a distribution and retail presence?

MR. DICIANNO:

Barnes and Noble does collect and pay on purchases in the State.

SENATOR SCHNEIDER:

I have a friend who owns a high-end camera shop in Las Vegas, and he sells camera equipment to professional photographers. He loses a lot of business because people go online to order so they do not have to pay the 7.5-percent sales tax. If you are selling a \$10,000 to \$12,000 camera or lens, that is a lot

of savings. Companies are advertising the camera equipment and promoting that tax savings. It is hurting our businesses, and I will support this bill.

CAROLE VILARDO (President, Nevada Taxpayers Association):

One of the contributing factors for the failure on the question in 2008 was the Committee had added a provision on the ballot question that asked the voters to approve an exemption for aircraft parts and equipment. Every time we add to questions, especially if taxes are involved, the voters will vote no. The next issue is that the National Conference of State Legislatures has requested the states adopt a resolution supporting the Streamlined Sales and Use Tax Agreement. This issue is not well understood, and the more exposure we can get will help with the education of the taxpayer. We also need to notify our Congressional Delegation to let them know we need this legislation. It really benefits Nevada because we rely on sales tax, and it allows us to catch up on how business is being done today. The use tax tends to be collected by businesses because they are audited. It is the consumer who does not know he is supposed to fill out the form and pay the use tax.

CHAIR COFFIN:

Are you aware this legislation is to be reworked and have a name change?

MS. VILARDO:

I am aware of the changes. One of things I testified to in 1989 was a resolution to support Main Street legislation for catalog sales. There was a test case to see if the U. S. Supreme Court would uphold the definition of nexus as physical, but the Court decided that Congress could change the definition of nexus as a physical presence to an economic presence.

CHAIR COFFIN:

It is my understanding that every transaction will be taxed under the Streamlined Sales and Use Tax Agreement. The eBay transaction would escape.

MS. VILARDO:

The eBay transaction should not escape so long as it is an existing transaction that we do tax. If we do not tax something, under the Streamlined Sales Tax definitions, we do not impose the tax thereafter. In fact, eBay would have taxable transactions.

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CHAIR COFFIN:

I thought there was an exemption for casual sales.

MS. VILARDO:

My understanding is there will be a de minimus amount if you are a small business.

MR. DICIANNO:

Mr. Chair, you and Ms. Vilardo are correct. There was a discussion the Governing Board had with the Small Seller and Vendor Compensation Task Force. They were going to put a de minimus amount for individuals who were sellers on eBay, which was about \$5 million a year. That is still under discussion. It was done to protect small sellers.

CHAIR COFFIN:

They are not competitors with the typical brick-and-mortar retailers.

BRYAN WACHTER (Retail Association of Nevada):

All of our members support A.B. 403. The Retail Association represents the larger brick-and-mortar stores as well as the smaller independent stores. Every time a new technology or a new trend develops, you know it is big when it catches a name. Cyber Monday—the Monday following Thanksgiving—was given the name because of the amount of Internet sales conducted after Black Friday's big sales.

RAY BACON (Executive Director, Nevada Manufacturers Association):

We support A.B. 403.

DANIEL MARKELS (Nevada National Federation of Independent Business):

We support A.B. 403, all 1,500 small businesses.

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CHAIR COFFIN:

We will close the hearing on A.B. 403 and adjourn the Senate Committee on Taxation at 2:48 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

Senator Bob Coffin, Chair

DATE: _____