

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE**

**Seventy-sixth Session
May 12, 2011**

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 1:19 p.m. on Thursday, May 12, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, 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 Sheila Leslie, Chair
Senator Steven A. Horsford, Vice Chair
Senator Michael A. Schneider
Senator Moises (Mo) Denis
Senator Mike McGinness
Senator Joseph (Joe) P. Hardy
Senator Elizabeth Halseth

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Brenda Erdoes, Legislative Counsel
Gayle Rankin, Committee Secretary

OTHERS PRESENT:

Philip Satre
Wendy Ellis
Juanita Clark, Charleston Neighborhood Preservation.
John H.O. LaGatta
Lisa Young, Administrative Services Officer, Records and Technology Division,
Department of Public Safety

CHAIR LESLIE:

We will start with our work session on the bills we heard on May 10.

ASSEMBLY BILL 46 (1st Reprint): Clarifies the inapplicability of certain partial tax abatements to various assessments relating to the adjudication of water rights and management of water resources. (BDR 32-468)

JOE REEL (Deputy Fiscal Analyst, Fiscal Analysis Division):

Assembly Bill (A.B.) 46 was heard by the Committee on May 10. The bill was brought forward by the Assembly Committee on Taxation on behalf of the Department of Conservation and Natural Resources, Division of Water Resources. The primary testimony was provided by Jason King, State Engineer, Division of Water Resources. The bill clarifies that certain assessments levied by the Department of Conservation and Natural Resources, Division of Water Resources, are assessed for the administration of water districts. Those assessments are not ad valorem property taxes and, therefore, would not be subject to the partial abatements of the property taxes that were approved by the Legislature during the Seventy-third Session of the Nevada Legislature. There was no opposition to the bill, and Clark County was neutral.

CHAIR LESLIE:

Any questions from the Committee?

SENATOR HARDY MOVED TO DO PASS A.B. 46.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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We will go to Assembly Bill (A.B.) 200.

ASSEMBLY BILL 200: Authorizes a brew pub to obtain a special permit to transport donated malt beverages under certain circumstances. (BDR 32-508)

MR. REEL:

Assembly Bill 200 was also heard on May 10. It was brought forward by Assemblywoman Debbie Smith. This allows a brew pub to donate and transport malt beverages manufactured on its premises to a charitable or nonprofit event. The brew pub is then required to obtain a special permit from the Department of

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Taxation in order to transport the malt beverages for that purpose. The primary testimony was provided by Assemblywoman Smith and Tom Young of Great Basin Brewery. Alfredo Alonso, Southern Wine and Spirits, was in support. Rebecca Gasca, private citizen, was in support. The Department of Taxation was neutral on the provisions of that bill.

CHAIR LESLIE:

This is the charitable beer bill. I will entertain a motion to do pass.

SENATOR HARDY MOVED TO DO PASS A.B. 200.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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We will go to Assembly Joint Resolution (A.J.R.) 1.

ASSEMBLY JOINT RESOLUTION 1 (1st Reprint): Proposes to amend certain provisions of the Nevada Constitution related to the assessment and collection of property taxes to authorize the Legislature to provide by law for the calculation of the taxable value of improvements to real property upon the transfer, sale or conveyance of the property. (BDR C-402)

MR. REEL:

Assembly Joint Resolution 1 proposes to amend certain provisions of the Nevada Constitution related to the assessment and collection of property taxes to authorize the Legislature to provide by law for the calculation of the taxable value of improvements to real property upon the transfer, sale or conveyance of the property. We heard this bill on May 10, and it was brought forward by the Assembly Committee on Taxation on behalf of the Nevada League of Cities and Municipalities. The bill amends Article 10, section 1 of the Nevada Constitution to add subsection II as follows:

The Legislature may provide by law for the determination of the value of improvements to real property for the purposes of taxation upon the transfer, sale or other conveyance of the property as the Legislature determines to be appropriate.

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The primary testimony was provided by David Fraser, Nevada League of Cities and Municipalities. Support for the bill was also provided by the Reno Sparks Chamber of Commerce, the Las Vegas Chamber of Commerce and the City of Las Vegas. The Nevada Taxpayers Association and the Nevada Assessors Association were neutral.

CHAIR LESLIE:
Questions from the Committee?

SENATOR HARDY:
This proposed amendment needs to be amended into the bill. Are you ready for an amend do pass?

MR. REEL:
For clarification, this would be new language added to the Nevada Constitution. This is an amendment to the Constitution.

SENATOR HARDY MOVED TO DO PASS A.J.R. 1.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR LESLIE:
That completes our work session for today. We have one more bill, and we are exploring some of the ideas that were raised in the hearing.

We will hear the Proposed Amendment 6801 to Senate Bill (S.B.) 491. We are going to begin a series of hearings. We have three hearings scheduled and we will schedule more if needed. I would like to concentrate on the overview today and get questions out and get answers back. We are looking for constructive criticism, especially from real world business this may apply to. If we do not get to you today, you will have more opportunities next week. I want to make sure you know this is not your only opportunity.

SENATE BILL 491: Makes various changes regarding public revenue and taxation. (BDR 31-1150)

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SENATOR HORSFORD:

I have prepared testimony ([Exhibit C](#)).

Phil Satre is here today. He represents a number of important businesses in our State and has testified before our Committee of the Whole during our hearings on the budget side. Mr. Satre will give us his perspective on these elements. I would like to walk through some of the key elements of the margin tax to drill down on some particular elements.

PHILIP SATRE:

I have prepared testimony ([Exhibit D](#)).

CHAIR LESLIE:

Thank you for being here today to give us your perspective.

SENATOR HORSFORD:

We will have Russell Guindon walk through Proposed Amendment 6801 to S.B. 491 and the elements of the margin tax and the elimination of the Modified Business Tax as proposed.

RUSSELL GUINDON (Principal Deputy Fiscal Analyst, Fiscal Analysis Division):

The fiscal staff put together a summary document of Proposed Amendment 6801 ([Exhibit E](#)) to S.B. 491. The fiscal staff is still going through some of the elements of the bill. We are taking the sunsets out except for those we address here today, and we are adding in the new language for the margin tax. I am Legislative Counsel Bureau staff and I am nonpartisan. I have no stake in this bill or the tax. I was asked to go through the bill with Joe Reel and Michael Nakamoto. We went through the bill to put this summary together for the members of the Committee. This bill is intended to provide a new broad-based business tax on the taxable margin of a business computed at a rate 0.8 percent.

As proposed in the amendment to the bill, it will be effective July 1, 2012. The tax will apply to a business whose total revenue exceeds \$1 million. Senator Horsford pointed out if your total revenue as defined in the bill is less than \$1 million, you do not have a tax liability under this proposed tax. Certain other business entities will be excluded or exempted from the tax, and I will go through those later. As a general overview, the Nevada margin tax as proposed shows the liability for tax is computed by looking at the total revenue of the

business and from that, computing the margin. The margin shall be computed in three different ways. You take your total revenue less your cost of goods sold, your total revenue less your compensation or 70 percent of total revenue. The lesser of those three calculations becomes your margin. This is your revenue and your margin for your business activities everywhere.

We cannot tax the income or revenue from businesses outside the State. We use an apportionment factor to allocate the taxable portion back to the State. That factor will be the businesses' total income from their activities in the State of Nevada divided by their total income. That factor multiplied by the margin becomes what we define as taxable margin. The margin is multiplied by 0.8 percent and that determines the tax liability. That is a broad overview. I will start to go through the document, [Exhibit E](#).

The next section of the document is the calculation of the Nevada margin tax. There are four steps involved. The first step is to determine the total revenue. The total revenue includes your total income less returns and allowances. This is what is reported to the Internal Revenue Service. It can include rents, royalties and interest the business may be earning, as well as other income specified in section 35 of the bill. We have tried to tie it to a federal tax return. There are some deductions from total revenue, such as bad debt and foreign royalties and dividends. The gross proceeds that are subject to the Net Proceeds of Minerals Tax are also a deduction from your total revenue. If your total revenue is less than \$1 million for the reported taxable year, there is not a margin tax liability.

CHAIR LESLIE:

What is the estimate of the number of businesses in Nevada that would fall into the category of revenue less than \$1 million for a taxable year?

MR. GUINDON:

I do not have that number. I have not had a chance to look at it. I can look into it and get back to you at the next hearing.

CHAIR LESLIE:

That is fine.

MR. GUINDON:

I would like to reiterate Senator Horsford's point that because you are calculating the margin, it is not a tax on gross receipts. Gross receipts are

a starting point. It is the starting point for any tax in business because businesses earn receipts from selling goods and services. The margin is calculated by subtracting cost of goods sold from total revenue.

The definition of cost of goods sold is an expense directly related to the manufacture or the production of goods. This includes the cost of materials that a business has to purchase to produce those goods and the direct labor costs going into producing and manufacturing the goods. Other expenses can be included, but some expenses are specifically excluded from cost of goods sold. Cost of goods sold is an accounting concept. This is not something we made up. Our definition of cost of goods sold includes some things and excludes other things that may make it different from the federal definition.

The next measure you can use to compute the margin is to deduct the compensation paid. This is the compensation of cash, wages, and retirement and health care benefits paid to the employees and officers. It is all employees of the business. The cost of goods sold is the entity producing goods. Direct costs go into buying materials to produce the goods and the labor necessary to assemble or make the materials to make the good. On the other hand, the compensation approach is a measure for service-based industries. They are not producing tangible personal property or goods; they are producing services. A lot of the services are labor. Compensation is one measure and all the employees are involved.

The final computation is to take 70 percent of the total revenue to find the margin. It sets a ceiling to go against with your potential margin. If you are a very high margin business, then you could cap out at 70 percent of the revenue as your margin. An example is a business with \$1 million in revenue, a cost of goods sold of \$500,000 and total compensation of \$200,000. The business would deduct the costs or the compensation to get to the margin. Under the cost of goods sold, the margin would be \$500,000; under the cost of compensation, it would be \$800,000. The \$500,000 is the lowest, since under the 70 percent rule, it would be \$700,000. Another example is: if you have \$100,000 in cost of goods sold and compensation of \$200,000, the 70 percent rule wins. This example demonstrates how, with a high margin business, the rule provides a ceiling or a cap of 70 percent you cannot go above.

The next element is determining taxable margin. This computation includes the revenue everywhere. If you are multistate or an international business, this is

your overall revenue. Under the federal laws, we cannot tax business income earned from sales or operations in places other than Nevada. In order to get to that measure, you use apportionment factors. The apportionment factor used here for this tax is you must compute the total income from the business activity in Nevada. It is the ratio of your Nevada total income divided by your total income everywhere. That is specified in sections 40 and 41 of the bill.

As another example, if a business has \$1 million in total revenue and \$500,000 in margin, and \$100,000 of the \$1 million is generated from activity in Nevada it would be an apportionment factor of 10 percent. The 10 percent multiplied by the margin of \$500,000 would be \$50,000. That is the taxable margin. It is important to look at these examples and see how you work down to this margin concept—which is not gross receipts—from this concept of total revenue and income everywhere. You are subtracting items to get to the margin concept. From that you are apportioning the income back based on activities being conducted in Nevada as the apportionment factor. That becomes the taxable margin. Once you have the taxable margin, you can take that multiplied by the tax rate of 0.8 percent. In this example, the \$50,000 in margin would result in a margin tax liability of \$400. This is the overview of the proposed tax in its most general form.

Section 43 specifies the due date, which is 30 days after you file your federal return. Unlike the personal income tax, the federal income tax for businesses allows you to choose your 12-month period as your taxable year. Entities may file their federal returns and pay the tax 30 days after they file their federal returns throughout the year. You can also see the bill has provisions to be consistent under the federal law. An entity may file for an extension or may amend its return. Under provisions in the bill, if an entity is amending or asking for an extension under the federal rules, we would accommodate that under the filing requirements for its margin tax in Nevada. Section 14 defines a business entity that is subject to the margin tax. These businesses are Title 7 entities under *Nevada Revised Statutes* that file with the Secretary of State as corporations or limited liability companies.

Entities that are excluded include sole proprietorships, credit unions, governmental and nonprofit entities.

The cost of goods sold is an accounting concept that tries to get the costs related to the production of the goods you are producing and selling, including

materials and labor. Depreciation and amortization of goods, cost of renting or leasing equipment, and repairing and maintaining equipment are allowed. Other costs may be specific to certain types of business entities with regard to the production of goods.

There are provisions regarding costs that are not included in the cost of goods sold.

SENATOR SCHNEIDER:

Does this tax get paid quarterly or at the end of the year?

MR. GUINDON:

This one-time payment is tied to your federal return, not your quarterly. Labor is in two elements for computing for total compensation paid as the amount you can deduct from your total revenue to determine the margin. You have labor that goes into the cost of the labor to produce the goods. Under the compensation computation, you can also include other employees and officers of the business or company as well as the benefits paid to them. There have to be some allowances for S corporations and limited liability companies. There is a cap of \$300,000 in wage and cash compensation per employee, but there is no cap on the benefits.

SENATOR SCHNEIDER:

You brought up S corporations. On federal reporting, you have the pass-through, so the corporations are not taxed. Does the Nevada Tax Commission make the call on that, or do we put that in statute?

MR. GUINDON:

That is a question I would have to research.

CHAIR LESLIE:

I will ask Mr. Reel to keep track of all the questions that need to be answered, and when you have the answers, we will bring it back to the Committee.

SENATOR HARDY:

If it is paid once a year, when would a business make the first payment?

MR. GUINDON:

July 1, 2012, is the effective date. The taxable year would begin July 1, 2011, and end on June 30, 2012. That would be the 12-month taxable year. Any business with that taxable year would be filing its federal return under the federal law 75 days after the end of the taxable year. The company would file its federal return around September 15, then it would be required to file and pay the Nevada margin tax on October 15.

SENATOR HARDY:

The first time money would be collected is October 2012?

MR. GUINDON:

That is correct.

SENATOR HARDY:

I used to have a professional corporation that was calendar year, and the tax was due in April.

MR. GUINDON:

You are correct. If your taxable year was January 1 to December 31, under federal law you would be required to file your federal return by March 15. The Nevada margin tax return would be due 30 days after that in April 2013.

SENATOR HARDY:

That is during the next Session.

CHAIR LESLIE:

Without knowing when year-end occurs, it is difficult to project.

SENATOR HORSFORD:

Senator Hardy just asked an important question. I want to accentuate the rationale in the development of the concept. The July 1, 2012, date was meant to give preparation for businesses to know this is the law and adjust and prepare their operations for this new tax. By reforming the revenue code overall to get to the broader-based approach, it is not about the yield, it is about getting to the goal of the reform. We felt it was more important to get the predictability and the adjustment time for businesses, even if it means a lower revenue to State government so we do it right. It also allows the Department of Taxation to prepare.

SENATOR SCHNEIDER:

On the federal income tax, a lot of people file extensions even though they are paying their quarterly taxes. How does that work?

MR. GUINDON:

Provisions in the bill allow for an extension if you file a federal tax extension. The Department of Taxation will have the authority to grant an extension at the State level. The money moves at different times in the fiscal year depending on when it is collected. Because it is tied to the elements of a federal return, it is better to have it tied to your final federal return. If you need to file an extension, then we allow the extension at the State level. There are also provisions that if you end up filing an amended federal return, then you can file an amended Nevada return.

CHAIR LESLIE:

The tax would be owed. We are trying to stay consistent with the federal government.

MR. GUINDON:

By filing an extension, as long as you file accurately and on time, then you do not have penalties and interest. We would allow for that to occur. The liability is there, and you have to pay the tax. If you are filing the federal extension and asking for the State extension, the penalties and interest are waived as long as it is all done as required.

The next element will be a credit allowed against your margin tax liability for the Modified Business Tax (MBT). If you pay the MBT of \$200 and you had a margin tax liability of \$500, you could take that as a credit and your net liability would be \$300. If you have a MBT liability higher than your margin, you can only take it up to the margin tax and no credit is carried forward. The reason for these provisions is there has been discussion if you wanted to get rid of the MBT right now, that would be a difficult provision. It is a quarterly tax that does provide the State money on a cash flow basis. This tax would allow money to still come in when the margin tax becomes effective in fiscal year (FY) 2013.

Modified Business Tax payments would come in on a quarterly basis and provide the State money to maintain the cash flow obligations throughout the fiscal year. You then could take it as a credit on your federal return. If a lot of your businesses are on a calendar year basis, you would be paying the MBT

throughout the fiscal year and when you file your return, you can take a credit for the MBT. It is net tax concept between the Modified Business Tax and the margin tax.

SENATOR HARDY:

Are we giving businesses the option to continue to pay, or are we telling them they have to pay?

MR. GUINDON:

The Modified Business Tax is a "shall." They shall continue to pay it. If you are required to file a margin tax return, you can credit back your MBT and pay it against your margin tax liability.

SENATOR HARDY:

Section 33 allows any business. When I read the word "allows," I get nervous about what that means.

CHAIR LESLIE:

The businesses are allowed to take the credit.

MR. GUINDON:

Yes. They do not have to take the credit, but they are allowed the credit.

The next element in the provisions is in additional reporting requirements for business. The provisions require the Department of Taxation to get information to see what the tax base looks like for this tax. The Department can have informational reports filed beginning January 31, 2012. It will not be the full return but would allow us to see the kind of businesses by showing the total revenue, the cost of goods sold, the compensation, income from business done in Nevada and income from everywhere.

When businesses start reporting this information to the Department of Taxation, they will be required to provide it to the Fiscal Division staff. It would allow us to look at this in advance and have some idea of what the taxpayers and the tax base look like. We will be back in session when these collections start coming in. This would allow the staff to evaluate this tax during the interim and, if necessary, we could give an update on the estimate to the members of Legislature. If needed, we could work during the interim and come back with proposals to make adjustments during the FY 2013 Session.

Next is the distribution of the margin tax proceeds. After the end FY 2013, the intent is, that proceeds from the margin tax will be enough to take care of the State's fund balance position. We would then do the Fund to stabilize the Operation of the State Government (Rainy Day Fund) transfer requirement and put the 2 percent proceeds from the excess of the margin tax over the estimated amount into the unfunded liability to the Public Employees' Retirement System (PERS). After that, any money would go back to the unrestricted State General Fund. You are itemizing out this tax to say if the economy does get better or we have underestimated it, we are going to make sure we put the money away in a Rainy Day fund or unfunded liability before it goes into the fund balance.

SENATOR HORSFORD:

This is an important reform element on the budget reform in this bill and the other bill in the Assembly on the transaction tax. No one knows for sure what the yield may be on the margin tax. There is no date or history we can access for an amount. The completed projections are the best projections available to our staff and others who do this work for a living. Unlike the effort in 2003, we want to ensure that money beyond what is projected from any of the revenue sources buys or pays down the prefunded exposure to PERS—which is at 72 percent now—instead of allowing it to be used for other purposes. All the actuarial people tell us we want to get that up to 85 percent.

In the event there is money beyond what is projected, after we have met our statutory requirements to the Rainy Day Fund, we would put at least 2 percent of the remaining proceeds toward the PERS liability. I do not want that to get lost. We have been asked by the private sector and others to address some of the long-term, unaddressed and unfunded liabilities which are hanging out there. Senate Bill 491 begins to do this by dedicating any revenue over our projection in policy to that purpose before we do anything else. That is a very important policy the Committee needs to understand.

MR. GUINDON:

The next three elements are changes to the current tax structure. The first one extends the sunsets on the MBT on nonfinancial institutions. It keeps the current rate structure in place for this biennium, which is the 0.05 percent on wages up to \$62,500 and 1.17 percent on wages over that. This rate structure stays in place for FY 2012-2013 and then it is repealed. It lowers the MBT on financial institutions from 2 percent to 1.17 percent. That reduction is effective

in FY 2013. For FY 2012, the institutions will pay 2 percent and in FY 2013, they will pay the 1.17 percent; and then it is repealed. Beginning in FY 2014, the Modified Business Tax will no longer be in existence. When you are filing your margin tax in that year, you can take credit for the MBT depending on if you are paying it and the quarter is paid. The next one repeals the Bank Excise Tax effective July 1. This tax was put in place at the Twenty-sixth Special Session.

SENATOR HORSFORD:

This is about the fair and equitable treatment of industry groups so we have a revenue code that does not single out one particular industry paying higher rates of taxation than others. If we are going to ask all businesses other than those with revenues below \$1 million to contribute something toward a margin tax, then we should do that in a way that is fair and equitable across the board. This addresses another shortcoming in the Modified Business Tax structure. You have a rate of taxation that is higher for a particular sector.

Secondly, it phases out. We will tier it by the two-tiered rate reduction as we bring it down. If we had something else to put in place of this tax, we would not keep it at all. We do not have another alternative, and we have to meet the requirements of the budget. Our proposal is to reduce this rate after the first year, effective July 1, 2012, and it will be completely repealed July 1, 2013.

MR. GUINDON:

The final element in the provision of the bill in section 130 is to remove the sunset on the Business License Fee. The \$200 fee approved during the Seventy-fifth Session would remain in place. There are a lot of moving pieces, and the Modified Business Tax will be phased out. Those businesses with less than \$1 million in revenue will not be paying the margin tax. Those businesses will be paying the \$200 Business License Fee. In FY 2014, a business with \$1 million or less pays neither the MBT nor the margin tax, but it will be required to pay the \$200 Business License Fee.

SENATOR DENIS:

Do we know how many businesses will be under the \$1 million threshold?

MR. GUINDON:

No. We will have to look into it.

SENATOR DENIS:

What would a business like that currently be paying?

SENATOR HORSFORD:

Under the current tax structure, if a business has taxable wages and salaries of \$273,000, less the allowed health care deduction, it would have a taxable payroll of \$246,750. With a 0.5 percent on the first \$250,000 of payroll tax, that business would pay \$1,234. Under the Restructuring Nevada Plan, there would be no tax liability under the margin tax and it would pay the \$200 Business License Fee.

SENATOR HARDY:

Some time ago, we created an Office of Energy with three people, a director, assistant director and secretary. The total cost was \$240,00 for an office of three people. In that kind of scenario, to stay under \$1 million you could have four times that for each quarter. You could have 12 to 15 employees and be under the margin just for salaries. That would be a gross estimate. Can we estimate something comparing what we are paying now versus what we anticipate in FY 2014?

SENATOR HORSFORD:

This is about all of us as members deciding together what makes the most sense. The Speaker of the Assembly and I presented a plan that would get us to a balanced approach where we would utilize the \$303 million of net income from the Economic Forum plus the continuation of taxes currently in place that are set to expire. Taking those two things aside, we would need \$571 million in new revenue between the transaction tax and the margin tax to have a balanced budget without using a large part of the Governor's nonrecurring revenue. The model of the margin tax at a rate of 0.8 percent—with a business below \$1 million not having to pay—with an effective date of July 1, 2012, would generate approximately \$425 million for the State General Fund in FY 2013.

As the margin tax becomes effective, the Modified Business Tax on nonfinancial and financial institutions would be reduced and completely eliminated. That is how it is modeled.

If we take the two proposals together, the margin tax and the transaction tax, they could produce more than what we need this biennium to balance our

budget. Therefore, we might be able to reduce the rate and buy down the MBT earlier. We might be able to reduce the sales tax piece in the transaction element earlier. Those are all the decisions our committees and all of us at the Legislature need to discuss and decide together.

CHAIR LESLIE:

There is still the Rainy Day Fund option. A lot of moving pieces here are designed for options.

SENATOR HARDY:

When I think of sessions, special sessions and in-between sessions, I am wondering if a tax is passed, that gets more money in than budgeted and ensures funding of the Rainy Day Fund and PERS, does this body have the power to take in less money or to decrease the rate?

SENATOR HORSFORD:

I do not know the answer to that. I know trigger language has been considered and used, but this proposal anticipates that problem, by ensuring whatever amount over the projection goes to pay down something we all agree should be funded—our liability in PERS. We have to come up with a plan to address that reform element. That is one approach. We could explore through our legal counsel the idea of triggering some type of reduction.

MR. GUINDON:

We will talk to Brenda Erdoes, Legislative Counsel, about what options are available. We will be in session February 2013. We will start to have some idea what the proceeds will be by April 2013. During that Session would be your opportunity to change the rate. We will know the yield of the tax compared to the estimate by then. There are other pieces in play here. We can take stock of where we are then, and decisions can be made.

SENATOR HARDY:

In the next Session, we will talk about this again. We will not get a stable tax and avoid coming to Session to talk about it. We will not be there on that issue.

SENATOR SCHNEIDER:

Running the State of Nevada is a business. It is the largest business in the State. We have never run this like a business. A few years ago, we gave \$300 million back to the residents of the State. We have a lot of holes in our budget,

and that was not forward thinking. Hopefully, we have a lot of money coming out of this. We need to have forward planning, address education in this State and make this a state people want to move to and businesses want to come to because of our education system. Phil Satre is a businessperson, and he told us that. Business needs a well-educated labor force, and we do not have that now. We do not have excess money coming off this to cut the rate right away. We need to operate this like a business and have it perform like a well-functioning business that delivers a great product.

SENATOR DENIS:

Some people who pay tax now will be paying the minimum \$200. When you get above that threshold, will we have some individuals who did not pay a lot before but will pay more now? Will some who paid a lot now pay less? How does that look?

SENATOR HORSFORD:

I had a comparative analysis prepared of tax burdens on page 9, [Exhibit C](#). This shows a small business, a medium-size business and a large business. There are businesses that are more labor-intensive, and there are businesses that have higher margins and lower labor costs. Under the comparative analysis, we show hypothetical firms generating between \$500,000 and \$10 million in total revenue and earning a similar margin. Under the existing tax structure, a medium-size business within that range with taxable wages and salaries is \$5.475 million. After it takes its health care deduction, the taxable payroll is \$4.935 million. On the first \$250,000, it has a Modified Business Tax liability of 0.5 percent and pays on the higher amount over \$250,000. The estimated tax liability is \$56,065 today.

Under the Restructuring Nevada Plan—Alternative 3—on page 11, [Exhibit C](#), a medium business with total revenue of more than \$1 million is subject to the margin tax. Depending on which of the three scenarios it takes of the deduction on total revenue, cost of goods sold or on labor at a tax rate of 0.8 percent, the estimated tax liability would be \$70,200. These charts show that this proposal does not create a huge variation in tax liability. It provides a more fair, equitable and stable source. That same page 11 chart, [Exhibit C](#), shows a large business with total revenue over \$100 million will have a tax liability of \$383,000 under the current tax structure—Alternative 1. Under the Restructuring Nevada plan utilizing whichever calculation it takes at a tax rate of 0.8 percent, the

estimated tax liability would be \$468,000. That shows the comparisons you asked for, Senator Denis.

SENATOR DENIS:
How does this impact gaming or mining?

SENATOR HORSFORD:
Under this structure, every major industry group—whether it be mining, gaming, manufacturing or banking—pays the same rate and contributes over \$1 million toward this margin tax. No one is excluded. No one pays at a higher rate or a lower rate. We have heard from a lot of people who say mining needs to pay more. Mining operators would definitely pay more under the margin tax, but they would pay the same rate as every other industry group.

SENATOR HARDY:
When we were talking about gross receipts tax in 2003, I put out an e-mail with the formula to figure out your tax. The way I am looking at the formula, businesses could do that. One of the people I sent the formula to responded to me, saying their \$80,000 a year tax goes up to \$800,000 for a car dealership. That got their attention.

CHAIR LESLIE:
We fully expect and anticipate businesses to do that calculation and show us the difference and tell us what they think.

SENATOR HARDY:
This should be put out there, and now is the time to figure it out.

SENATOR HORSFORD:
This bill incorporates those elements of the sunset. We are in an economic recovery, and I agree with the Governor that things are turning around for a number of key businesses. That recovery is occurring with the current revenues in place, including those passed in the Seventy-fifth Session. As we continue to deliberate toward reaching a broad-based revenue reform structure that is fair and equitable and more stable and less volatile, I hope we do it in a way that provides a bridge to fund education and the vital parts of State services we provide to all of our constituents.

If we go with the proposal submitted by the Governor, the gaming industry would pay \$50 million less, manufacturing would pay \$28 million less, the mining industry would pay \$9 million less, households earning \$150,000 or more per year would get a \$232 tax cut while the average household would get an \$88 tax cut. The tourists coming here whom we have always relied on to help meet our quality of life needs for education and social services would pay a total of \$67 million less in sales tax. I know you talk to people when you go home on the weekend, and I do also. The average household pays \$88 to fund our kids' education.

The mining industry continues to pay \$9 million so we do not add five, six or seven more kids to the classroom. Do people who make over \$150,000 need a tax cut of \$232 so we have to cut the rate for nursing homes? Those are the choices. Senate Bill 491 is the vehicle for us to have that debate. It is incorporated in our proposal. Do we continue those revenues as a bridge until the reform of the revenue code can fully come online?

CHAIR LESLIE:

The document Mr. Guindon presented is on NELIS. We will start our public comment now.

WENDY ELLIS:

Before I came here, I did not have a copy of the proposed amendment. Senator Horsford stated what is fair and that everybody will pay this. I understand that some types of businesses or industries will be exempt. Senator Horsford said all of them are to be fairly assessed with this margin tax. It seems to me that alternative-type businesses will be exempt. Is that correct?

CHAIR LESLIE:

No businesses are exempt, except those that make less than \$1 million gross revenue. That would be a small business.

Ms. ELLIS:

It is not fair, and it is not everyone. I have questions about the property taxes. In the beginning of S.B. 491, which I did not hear discussed today, this additional property tax is assessed. The value of my home has taken such a dive, I am starting to see a decrease in my property tax. I am using that money to fill my gas tank and buy groceries. Would somebody like to have a discussion to address the property tax portion of the original bill?

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CHAIR LESLIE:

We are trying to figure out your question. The original bill has been gutted. You need to get a copy of the amendment so you can see what we are discussing. I do not see if you have a laptop. You can go to Room 4100 on this floor to print out a copy of the amendment.

MS. ELLIS:

That would be helpful.

CHAIR LESLIE:

Thank you for your input. After you have had a chance to review the amendment, we can take your comments in writing or e-mail.

MS. ELLIS:

We were going to stop the existing tax use and do the margin tax. Then it was to shift and transition between that and the margin tax. Senator Horsford mentioned if we do both, we could get more money. I do not understand the transition or if we end up with both.

CHAIR LESLIE:

We have a large press contingent here who is on top of it. Articles in the paper tomorrow will help you understand. This is hard to follow when you do not have all the documents.

JUANITA CLARK (Charleston Neighborhood Preservation):

We ask that you vote no on S.B. 491. This was written before we knew of an amendment. When did you know of an amendment today?

CHAIR LESLIE:

It was handed out yesterday and uploaded in our system.

MS. CLARK:

That sounds timely enough if we had been expecting it. With a vote of no, you are providing that any business earnings may be applied and invested toward physical plant expansion, higher employment or more full-time production. Earnings from increased growth require more work hours by those already employed or more employees and an increase in wages. Residents have local products or local services to purchase, allowing all constituents to thrive

and prosper. From such functions come the natural payment, not forced payment, toward government growth and maintenance.

Government demands stymie the prosperity of a state and entity as you know from experience and economic studies. Senate Bill 491 is in opposition to the growth your constituents require. Senate Bill 491 would take what is required for the natural growth of business and enhanced living standards for growth of government. When monies are forced from constituent growth areas and spent on false maintenance, the result is, fewer earnings with more needy constituents. No is the vote we request regarding S.B. 491.

JOHN H.O. LAGATTA:

I have been a Nevadan for 15 years and I have been interested in Nevada's welfare for all of that time. I am interested in the economic development of our State, its tax complement and education. We are interested in economic development and jobs these days. We should have revenues necessary to the State but not use forms of taxation which inhibit growth. In seeking economic development, we will never have lobster boats or tuna fishing, but other things are less obvious; we are not Texas.

This margin tax is a replica of the Texas tax. Texas has an enormous amount of inexpensive energy, major ports and a boundary with one of our major trading partners. We have none of the above. We do have a good tax incentive package for business, and we are right next to one of the most depressive taxing states in the Union. I have provided a one-page document ([Exhibit F](#)) prepared by the Tax Foundation. The Tax Foundation is a recognized 501(c)(3) nonprofit organization that knows a lot about taxation.

The important thing to note is the Foundation believes the margin tax is a gross receipts tax with some income tax implications. In terms of tax burdens from the citizen's point of view, the Tax Foundation currently ranks Nevada No. 4. That is good. In terms of business, we are No. 1. If we adopted the Texas margin tax, we would go to No. 11; in the business category, we would be ranked No. 45. If we adopted the Ohio gross receipts tax, we would become Nos. 8 and 39 respectively under the business scenario. If we adopt California's corporate income tax, we would be overall Nos. 8 and 32. The column on the right in [Exhibit F](#) is important for our economic development. We do not have energy and we do not have a lot of things, but we do have a good tax

structure. We will hobble our economic development efforts if we take one of those three taxes.

You can say the margin tax is an enormously complex tax. You heard the complexity; I could not have said it better. I do not have the eloquence of the Senator or Phil Satre, but the explanation involved forms, application to the federal income tax, ins and outs, and a huge staff at the Department of Taxation.

If you are interested in exempting small businesses, you can exempt them under the MBT. If you think it is unfair to tax financial institutions at a different rate, make it the same as everyone else. I am not antitax. I do want taxation necessary for government to function properly. This is not the way to do it.

SENATOR HORSFORD:

You said in your remarks that because of our current structure, Nevada is favorable to economic development. Do you feel we have a diversified economy now? If not, why has our tax structure been so good?

MR. LAGATTA:

I was promoting the intangibles industry, such as investment managers, during that time. Since then, we have 50,000 people employed with an average of \$88,000 per capita. I wish it was five or seven times as many. These are clean industries. We will never be big in tuna or lobster boats. We inherently do not have some things. Concerning an economic development effort, I hope A.B. 449, will hire the Stanford Research Institute and—Brookings Institution to narrow North American Industry Classifications—the ones in which we are winners, ones that do not require cheap energy or ports. We have not pursued our strengths. This tax thing is one of our strengths. At our first meeting, you said, if we are such a haven for these intangible industries, why are they not breaking down our doors? I said it is because we do not ask for them.

ASSEMBLY BILL 449: Revises provisions relating to economic development.
(BDR 18-726)

SENATOR HORSFORD:

Is it because we do not have the educated work force they need?

MR. LAGATTA:

These people already have their MBAs. They would be concerned about their children's education.

SENATOR HORSFORD:

You focused on the elements of the margin tax. What is your view about maintaining current revenues as a bridge to fund education rather than providing a tax cut to those industries?

MR. LAGATTA:

We first have to determine the level of funds we really need before we turn to taxation. I am not against taxation. I am the one who supplied computer runs to former Senator Mark James at the time the Modified Business Tax was created. We figured out it would not be unfair to anyone with a slight bias against those with thin margins and lots of employees. It was meant to be fair. It would be simpler to exempt tiny businesses and equalize it because it is on your books and simple.

LISA YOUNG (Administrative Services Officer, Records and Technology Division, Department of Public Safety):

In my prepared testimony ([Exhibit G](#)), I note that with the adoption of Proposed Amendment 6801, the Records and Technology Division will remove its fiscal note to S.B. 491.

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CHAIR LESLIE:
This meeting is adjourned at 3:18 p.m.

RESPECTFULLY SUBMITTED:

Gayle Rankin,
Committee Secretary

APPROVED BY:

Senator Sheila Leslie, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 491	C	Senator Steven Horsford	Prepared Testimony
S.B. 491	D	Philip Satre	Prepared Testimony
S.B. 491	E	Russell Guindon	Proposed Amendment 6801 to S.B. No. 491
S.B. 491	F	John H.O. LaGatta	Nevada State Business Tax Climate Index Scores
S.B. 491	G	Lisa Young	Prepared Testimony