

**MINUTES OF THE  
SENATE COMMITTEE ON REVENUE**

**Seventy-sixth Session  
May 13, 2011**

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 12:04 a.m. on Friday, May 13, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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  
Mike Wiley, Committee Secretary

**OTHERS PRESENT:**

Elliott Parker, Ph.D., Professor and Chairman, Department of Economics,  
University of Nevada, Reno  
Mike Cate, Nevada Chapter Associated General Contractors  
Danny Thompson, Nevada State AFL-CIO  
Maureen E. Peckman, Executive Director, Council for a Better Nevada  
Kristin McMillan, President, Las Vegas Chamber of Commerce  
Hugh Anderson, Las Vegas Chamber of Commerce  
Samuel P. McMullen, Las Vegas Chamber of Commerce  
Tim Crowley, President, Nevada Mining Association  
Michael J. Brown, Vice President, Barrick Gold Corporation

Senate Committee on Revenue  
May 13, 2011  
Page 2

Mary Beth Donnelly, Vice President, Newmont Mining Corporation  
William Vassiliadis, Nevada Resort Association

CHAIR LESLIE:

We will open the hearing on Senate Bill 31 with an amendment from the Assembly for a concur or not concur.

**SENATE BILL 31 (2nd Reprint):** Makes various changes to provisions governing administration of taxes. (BDR 32-434)

JOE REEL (Deputy Fiscal Analyst):

The bill is changing the time from three years to four years for the Department of Taxation to take action on collecting revenue. We had amended the bill to require the State Demographer to produce population estimates for cities, counties, towns and townships. The amendment in the Assembly modified the amendment to be at the county level only.

SENATOR HALSETH:

Why did the Assembly make changes to remove town, township and city?

MR. REEL:

My understanding was the State Demographer was not able to get down beyond the county level with regard to doing the calculation by age, sex, race and Hispanic origin. The actual population estimates for historical periods would be available at the detailed level.

SENATOR HALSETH:

He did not come before our Committee to discuss it?

CHAIR LESLIE:

No. I thought this was a basic technical amendment and it would not be controversial, but I prefer my Committee members to know before I concur. I will not concur and appoint you to the conference committee where you can ask more detailed questions. We will move on to Senate Bill 491 and Proposed Amendment 6801 (**Exhibit C**).

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

Senate Committee on Revenue  
May 13, 2011  
Page 3

ELLIOTT PARKER, Ph.D. (Professor and Chairman, Department of Economics,  
University of Nevada, Reno):  
I have prepared testimony ([Exhibit D](#)).

SENATOR MCGINNESS:

You mentioned a revenue source that will not decline in a downturn. Looking at other states, has one of those formulas worked better than others?

DR. PARKER:

Every tax declines in a downturn. A tax such as a value added tax or this kind of margin tax would be better, certainly better than a gross profits tax even or a net profits tax. In a recession when revenues are needed, firms are losing money and so you are not collecting taxes. Widening the tax base to include other things like services would help. The trick is to have a wide variety of activities taxed to reflect the overall economic output, so tax revenues do not decline more than the overall economy. It is also wise to have a rainy day fund and find a way to smooth the transition when you go into recession.

SENATOR MCGINNESS:

Are you saying we need to have more taxes so the public sector and government is held harmless while the rest of the economy suffers?

DR. PARKER:

No, I am not suggesting that. There are a couple of issues here; first, what is the best way to have a stable tax base. The issue of holding harmless is based on the concept that it is simply a fairness issue of division. Fairness is irrelevant, what is relevant is what is good for the economy. If the State is providing goods that benefit the economy, then we ought to be providing those goods; if the State is not providing things that benefit the economy, we should not be providing them whether we are in a recession or a boom. What is the cost versus the benefit to the overall economy? Do we provide what the State needs? Are we cutting back—say education—at a time when we actually need to be reinventing Nevada?

SENATOR DENIS:

In the budgeting process, you mentioned that we should figure out our needs and then find the revenue to meet those needs. Is that a common process?

DR. PARKER:

We are doing the wrong thing at the wrong time. During good times, we should be more careful how we spend; during bad times, cutting revenues makes things worse. Find out what your needs are for the State and then find the revenues to satisfy the needs.

MIKE CATE (Nevada Chapter Associated General Contractors):

A new tax base has been needed in the State for quite some time. It is important that Nevada gets a structure that fixes the problems. I do not like additional taxes, but there is a reality when the problem needs to be fixed. This has been needed for a long time. Two years from now, I do not want to see the Session start off with a \$1 billion to \$1.5 billion hole. Education is important; I believe it is the lifeblood of economic development. I was glad to see that bond reserves will not be taken out because the voters passed them, and they should not be used in any budget or for any purpose other than as the voters designated.

SENATOR HORSFORD:

Tell us about your business, what you do and how the taxes you pay affect you.

MR. CATE:

I am in construction and have owned my business for 28 years. This tax plan is more fair than the employee tax system. When business was good, I had 150 employees, now I have nine, which means I am paying less in taxes, but I am not making any money. Nevada is not an overtaxed state, so we need to get the base to where it belongs and fix our own problems.

SENATOR HORSFORD:

Would your business be considered a small business? Will you be under or over the threshold of \$1 million?

MR. CATE:

It is a situation where everything is relative because the threshold would not come into effect if you are doing well and you know the taxes need to be paid.

SENATOR HORSFORD:

My question is regardless of where you are on the threshold, you have to pay payroll tax on your employees. The goal of this legislation is to phase out the

Modified Business Tax (MBT). What would that do for you to put people to work?

MR. CATE:

It would help put people to work. We try to get by with what we have because it costs more money on that tax. It is not a fair tax. I am taxed on the number of employees I have regardless of my profitability. There are business owners who do \$1 million per year, are self-employed and pay no payroll tax. Doing away with the payroll tax and going to a broad-based tax would be fairer.

SENATOR DENIS:

If you had a construction business over \$1 million, would you pay more in taxes under this plan or the old one?

MR. CATE:

It is a hard question to answer because all the parameters are not known.

SENATOR DENIS:

Business prefers to know what taxes are due; would this plan provide more clarity?

MR. CATE:

The problem with bringing business owners and companies into the State hinges on our tax system and not knowing what the tax burden will be during the next Legislative Session.

CHAIR LESLIE:

In construction businesses like yours, would you deduct cost of goods sold under the margin tax or the labor?

MR. CATE:

I do not know because my business is equal in labor and material.

CHAIR LESLIE:

You can make that decision every year, so you would decide which plan would benefit your business.

SENATOR MCGINNESS:

What kind of business are you in?

Senate Committee on Revenue  
May 13, 2011  
Page 6

MR. CATE:

I am in commercial construction.

SENATOR MCGINNESS:

Are you in favor of the tax on services?

MR. CATE:

I am because the services tax will help broaden the tax base. There are many questions on the services tax.

SENATOR MCGINNESS:

You talked about companies looking at Nevada's tax structure and deciding whether to come to Nevada. People like predictability in a tax structure.

MR. CATE:

I agree, and that is the problem. You cannot rely on two or three industries to carry the State.

SENATOR HORSFORD:

You indicated you went from 150 employees to 9. Is that a result of the taxes put in place over the last few years or because of the national recession?

MR. CATE:

It was because of the recession.

SENATOR HORSFORD:

If the taxes in place were to remain and be used as a bridge until a more broad-based tax took effect, would that affect your business' ability to recover?

MR. CATE:

No, if you are talking about the sunset tax, those taxes should remain. We have been paying the taxes and my business has planned for them. Do not sweep accounts to help; it will only deepen the hole. Do the right thing and get the right tax base in place.

DANNY THOMPSON (Nevada State AFL-CIO):

In the past, the only place you could gamble in the United States was Nevada. The State built a reliance on the gaming industry which has provided good jobs with health insurance and retirement. In 1981, the State created a tax shift by

giving local governments the stable tax and the State the unstable tax, asking the gaming industry to provide half of the State's money. Today, gambling is in 47 states, Indian casinos have impacted many cities and gambling is now worldwide.

The State's tax system does not work. Reliance on the gaming industry, which pays more tax than any other industry, does not work anymore because of all of these changes. One of the problems is the Real Property Transfer Tax. We were growing and building a new home every 20 minutes in Clark County. Last Session, State employees gave up 18.2 percent in salary and benefits—Public Employees' Retirement System (PERS), the multiplier, Public Employees' Benefits Program, longevity pay, step increases—and got furlough days.

The State Legislature increased the dependency through transient lodging tax and increased the Modified Business Tax on the top 25 percent of employers in Nevada, the gaming industry. With other industries, taxes were reduced. Local government employees have been willing to take reductions in benefits at the request of the cities. Based on another 11.5 percent reduction proposed this Session for State employees, this is a 30 percent reduction during the last two Sessions.

We cannot keep dismantling the education system in the State. For the past 30 years, every study by the Legislature indicates that a diverse economy needs an increase in educational spending. We do not want to see further reductions to local governments or the State government.

I am here to support the bill and also to deliver a message. I know how to deal with Nevada's initiative process. Working with the teachers' union, we are going to qualify an initiative petition. Between the soccer moms, teachers' union and all of the people I represent, we will pass the petition.

SENATOR MCGINNESS:

Dr. Elliott Parker testified that fairness is not relevant. You are telling us this is not the right way or the best way, but you are going to proceed. If one of us did that, that Legislator would be labeled the worst Legislator of the year.

MR. THOMPSON:

It is not the best way, but it is the only way. Making a pledge or commitment prior to coming here and then saying you understand the problem is insanity. It

tells me that you are not willing to listen to the other side or consider the consequences. The petition process is the only way.

SENATOR MCGINNESS:

We all feel badly for the people you represent, the cuts in education and the workers, but we have 180,000 unemployed people who have taken the ultimate cut.

MR. THOMPSON:

I appreciate your service to the State and have always found you to be a reasonable thoughtful person who does things for the right reason. The reality is we cannot stand around and wait for the situation to get better.

SENATOR HORSFORD:

We do need to find a way to put those 180,000 people back to work, which is why I feel the Governor's budget is wrong because it takes money away that would create jobs. The budget cuts do not address the problem. His position is we are going to grow our way out of this, but the estimates would require a growth rate of 12.5 percent. That has occurred three times since 1990. We hit the 12.5 percent mark every time we opened a megaresort or a major project in the State. My question continues to be: What is the Governor's plan to put people back to work? The payroll tax is a regressive tax on business, and S.B. 491 is designed to eliminate the tax.

MR. THOMPSON:

The solution is to put people back to work, and that will start the recovery.

MAUREEN E. PECKMAN (Executive Director, Council for a Better Nevada):

For the record, I am the Chief Emerging Business Officer of Cleveland Clinic Nevada. This group is comprised of 22 CEOs and community stakeholders in the areas of health care, real estate, utilities, industry, labor, gaming, law, insurance and other sectors in southern Nevada.

Senate Bill 491 as amended would create a new broad-based business tax at a rate of 1 percent of the taxable margin of business, effective July 1, 2012. Conceptually, we support the broad-based approach to bring additional revenue into the State from a broader base of industry. The position of the Council has been that Nevada must consider a more equitable, stable and sustainable fiscal policy to fund State needs, especially when we face economic downturns. We



would encourage the Committee and the Legislature to continue deliberation on S.B. 491 and any other piece of legislation that seeks to broaden the business tax concept. Broadening the base cannot be supported by our organization without consideration of significant reforms to the spending side of Nevada's past behaviors that we can no longer afford.

Issues that we are aware of—kindergarten through Grade 12 public education reform of current policies, construction defects reforms and public employee reforms among others—need to be reset in the face of a changing economy, changing community and limited resources that require us to do more with less. At a time when other states in the midst of the worst national and global recession of the past 80 years are conquering and dividing amongst themselves in the name of ideology and self-interest, Nevada has the hope to be the emerging twenty-first century American city with our growth, youth, small numbers and relationships with each other.

My group and I challenge all of you to take this great opportunity to move the State forward and do things not done before. We support this bill in concept; however, we think it needs work and we also support reforms on the spending side.

KRISTIN MCMILLAN (President, Las Vegas Chamber of Commerce):

The Las Vegas Chamber of Commerce has asked for an open and honest discussion on the State's tax structure. We need to make sure the discussion is thorough so we understand the implications of this bill and give thoughtful consideration to all concerns of those testifying.

The Chamber may support additional revenue measures because of our concerns with cuts to education, increases to classroom size and all the other issues on education. The Chamber has not taken a position on new revenues and tax increases. Our position is that we must address serious and meaningful reforms now on the unfunded liabilities that impede the growth of our economic future and long-term stability. The \$1 million exemption for all businesses with the elimination of the MBT is a favorable part of the bill. We have to look at good public policy positions since we have a large general membership of 6,000. We are concerned about the ease of administration on any new taxes and the simplicity of those taxes. There will be one year of overlap when we will be collecting both taxes. We ask that it is recognized and assessed as you go through this process.

Senate Committee on Revenue  
May 13, 2011  
Page 10

SENATOR HORSFORD:

To make the record clear, the MBT is a credit and it will not have to be paid twice.

Ms. McMILLAN:

We want to make sure it is taken into consideration because there are two taxes involved.

CHAIR LESLIE:

There is confusion on it, and we need to make people understand they are not paying it twice. You take the credit of the MBT on the margin tax. If you are not at the \$1 million threshold, you continue to pay MBT for one more year; after one year, small businesses only pay the \$200 Business License Fee.

SENATOR SCHNEIDER:

The Chamber has been here the last two Sessions to negotiate on something and they never did. Whatever the goal, it kept moving, and at the end of the Session, nothing happened. Danny Thompson testified that major reforms and cuts were made last Session; with only three weeks left, do not wait to start negotiating.

SENATOR HALSETH:

Out of your 6,000 members, how many have contacted you in support of the taxes?

Ms. McMILLAN:

We put the messages to our membership, and we encourage members to contact us with their thoughts.

SENATOR HALSETH:

You are here to testify on behalf of your 6,000 members, but you do not know how many support this bill. How many members make under \$1 million gross?

Ms. McMILLAN:

I do not know the answer to the question.

CHAIR LESLIE:

Is it possible to get the information?

MS. McMILLAN:

We do not collect that type of proprietary information.

CHAIR LESLIE:

I hope you will get the right information about the margin tax out to your members, especially the small businesses. We need to be clear on how the bill will affect them.

HUGH ANDERSON (Las Vegas Chamber of Commerce):

The Chamber is on record for a broad-based tax system. There is a \$1.7 billion gap, which does not include teachers or professors, between Nevada's public employee pay and the national average. The majority of that disparity is in local government. We pay \$600 million every biennium trying to keep up with the unfunded PERS liability, and PERS is a very well-run fund. We should be spending \$300 million every two years to pay the retirement health care, but we are not paying it. We ask teachers to pay 5.3 percent of their PERS contribution and maybe take a pay cut. We ask State workers to take a 2.5 percent pay cut and six furlough days; yet our studies continue to show that local government employees are paid 30 percent higher than the national average while teachers and State workers are below the national average and the private sector. There is a lot of money embedded in the problem. We will not know if the PERS contribution will be instituted unless we get collective bargaining reform.

Our reform agenda is critical to this discussion on a stable tax policy. I am optimistic that we are going to address these issues once and for all, but we cannot ask our members, residents and business owners to pay into a system that they know is unstable and the problem is not being fixed. Without the reform, we cannot support any bill.

SENATOR HORSFORD:

Section 135 of S.B. 491 would take any revenue beyond what is projected for this budget and pay the excess into PERS. We agree the PERS system needs to be funded at 85 percent, and we do not want to spend the excess on new things. The unfunded liability is a long-term problem at the State level, and affected local entities are being asked to be part of the solution. In 2009, there were five reforms to *Nevada Revised Statutes* (NRS) 288, three were policy and two went to the benefits. Senator Hardy has a bill that would improve on those reforms by requiring more financial accountability and for the contract to be

vetted in public before approved by a local governing body. The reforms made in 2009 and the reforms we are considering this Session are now in effect in these contractual negotiations between local governments and their employee groups.

Mr. Thompson testified because of the reforms, the employee groups are being forced to renegotiate on concessions. We have 113 different local government entities and various structures that we cannot manage at the State level. State policy can be overly prescriptive and not achieve the objectives that others want to see. Local governments need to be held accountable; if they are agreeing to contracts that are not in the public's or taxpayers' best interest, then it needs to be handled by those local government entities and include school districts and boards. They were elected to a job just as I was elected, and it seems all the pressure is put on the Legislature to solve a problem contributed to by local governments. Will the Chamber and other groups that also want the reforms to hold these local governments—who approve the contracts—accountable?

SAMUEL P. McMULLEN (Las Vegas Chamber of Commerce):

The Chamber has dedicated resources to follow every public meeting where collective bargaining is discussed or reported on under the changes of NRS 288.153 enacted last year. We are trying to keep the pressure on while updating citizens and taxpayers on what is happening on the agreements. We appreciate that you can point out the provisions in the bill that address the concerns and pay attention to these problems. We are asking for progress. We were asked not to move the bar and be more consistent, which we have done for a number of years. The Legislature sets the rules because you have the responsibility for setting the guidelines and procedures

SENATOR HORSFORD:

We set the rules, but we do not negotiate on the contracts, and that is where I have the problem. The message on the progress of reforms comes from the other side being willing to offer specifics of what needs reform.

MR. McMULLEN:

Section 135 of [Exhibit C](#) is one way to solve the problem because we can always take taxpayer revenues and pay those to the unfunded liability of PERS. We are looking for other options other than taxpayers having to pay the cost. We think there have to be aspects other than taxpayer money to pay for these reforms.

MR. ANDERSON:

The Chamber has spent a lot of time producing reports and salary surveys, and we squarely make that distinction between the efficiency of State government as compared to local governments. We are asking you to give local governments the tools to fix the problems that are killing the budget.

SENATOR HORSFORD:

I understand the point, but the biggest tool is the negotiation process because as we heard during the hearing on arbitration, the employer always wins. I am willing to entertain any specific proposal that is reasonable and necessary from the other side. The ultimate accountability is at the negotiation table.

TIM CROWLEY (President, Nevada Mining Association):

We are in support of Amendment 6801 to S.B. 491. In 2002, when we were studying the tax system, the State was addressing a deficit; it was determined that the State's narrow tax base would not keep pace with the State's increasing demand for services. The need to change the tax structure has not changed. The tax structure still needs more stability and predictability. Mining participated in those discussions. Our position has not changed; we still need a stabilized tax base. The margin tax would be a positive change, and we support the bill.

CHAIR LESLIE:

Will one of your experts talk about how the margin tax affects mining?

MR. CROWLEY:

It is not clear, and we are in discussions with our staff. We understand that mining is in the bill because we support taxes that are all-inclusive. If changes are needed, we will support them.

CHAIR LESLIE:

The intent is that you are in; if you could point out why some people think you are not, send me the information.

MICHAEL J. BROWN (Vice President, Barrick Gold Corporation):

The mining industry has not engaged upon the issue of reforms because the reforms are largely urban issues, not rural issues.

SENATOR HORSFORD:

In addition to the margin tax, the other elements of the bill are taxes currently paid that sunset this year. What is the mining industries' position? Under the Governor's proposed budget, you will receive a \$9 million tax cut if we do not extend the sunsets. Do you support the continuation of the sunsets?

MR. CROWLEY:

We do support the extensions of the sunsets.

SENATOR HORSFORD:

It is not your intent to get a \$9 million tax cut?

MR. CROWLEY:

It makes sense those taxes continue.

SENATOR HORSFORD:

How does the mining industry see the three elements—the cost of goods sold, compensation paid or the standard deduction—affect your business?

MR. CROWLEY:

We are analyzing the issue by our various companies, but we need to remind everyone we are a diverse industry. In talking to the gold industry members of our association, it is more than likely that cost of goods sold is the route to take. The appealing aspect of the margin tax is it gives you flexibility. Because we are a volatile industry, having choices each year that match how our various companies are performing economically is a good feature.

SENATOR DENIS:

I have always said that mining is willing to be part of the process if everyone else is willing to do so.

MR. CROWLEY:

Our track record has always been consistent, and we are here to help.

SENATOR HORSFORD:

Would mining be considered a high margin industry? Of the three types, labor-intensive, capital-intensive or high margin, where would mining fall?

Senate Committee on Revenue  
May 13, 2011  
Page 15

MR. CROWLEY:  
I do not understand.

SENATOR HORSFORD:  
I am talking in general terms because business is either capital-intensive or labor-intensive, and the tax option you use impacts you differently.

MR. CROWLEY:  
We are capital-intensive because it can take up to seven years on investment before any revenue stream starts.

MR. BROWN:  
I will affirm that with our financial people and provide an official answer to the question. It is a largely capital-intensive industry.

SENATOR HORSFORD:  
The provisions of the margin tax—because of our approach in trying to be more fair, equitable and consistent with a tax policy that does not affect industries differently—would be fairer for all industries. This bill gives the ultimate flexibility and consistency that all businesses want to see in a good revenue structure.

MR. BROWN:  
We are basically a capital intensive-industry. The \$2 billion we have spent in the last three years was reinvested to keep the mines going because of the depleting assets. All microscopic gold has to be processed; this goes beyond extraction because we have to build \$500 million processing facilities to extract gold from the rock.

CHAIR LESLIE:  
I would like to see what your accountants say about which of the three options you would be using.

MR. BROWN:  
We will get you the information.

MARY BETH DONNELLY (Vice President, Newmont Mining Corporation):  
I agree with everything my colleagues have said.

WILLIAM VASSILIADIS (Nevada Resort Association):

We are pleased to see a broad-based tax that would be secure and less susceptible to fluctuations. Conceptually, we can support this bill, but our accountants and tax advisors are in the process of reviewing it. We cannot continue to raise retail sales tax or base funding of education on the Modified Business Tax, which punishes businesses that look to employ. We can make a decision to all share a little pain or the schools share a lot of pain.

SENATOR HORSFORD:

Yesterday, Philip Satre testified that under the current revenue set to expire, the majority of the MBT is paid by the gaming industry because you are a labor-intensive industry. Mr. Satre indicated that given the impact of his experience as chairman and CEO of various companies, he does not see anything in the existing revenues that impedes economic growth. Do you agree with his assessment? If the revenues set to expire need to be extended as proposed by S.B. 491, will that hamper the gaming industry's ability to recover?

MR. VASSILIADIS:

Mr. Satre is right. We understand there would need to be some kind of transition. We would not want to be party to or support cuts in education. You policy makers would know what to do.

SENATOR HORSFORD:

Under the Governor's proposed budget, the gaming industry would have a \$50 million tax cut because of the revenues set to expire without any bridge. In 2009, then Senator William J. Raggio said during debate on the Senate Floor that if we find ourselves in the same position without adequate revenues to fund education and the other vital parts of the State budget, the sunsets should be revisited and extended.



Senate Committee on Revenue  
May 13, 2011  
Page 17

CHAIR LESLIE:

We do appreciate your comments and your support for a broad-based business tax because you represent the largest employer in the State. The Senate Committee on Revenue is adjourned at 1:51 p.m.

RESPECTFULLY SUBMITTED:

---

Mike Wiley,  
Committee Secretary

APPROVED BY:

---

Senator Sheila Leslie, Chair

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

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Rooster
S.B.491	C	Legal Division	Amendment 6801 to Senate Bill 491
S.B.491	D	Elliott Parker	Prepared Testimony