

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE**

**Seventy-sixth Session
May 19, 2011**

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 2:46 p.m. on Thursday, May 19, 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
Brenda Erdoes, Legislative Counsel
Gayle Rankin, Committee Secretary

OTHERS PRESENT:

Chris Nielsen, Interim Director, Department of Taxation

CHAIR LESLIE:

We will start with additional testimony for Senate Bill (S.B.) 491 and the Proposed Amendment 6801. There are no additional testifiers on this bill, so I will close the hearing on S.B. 491.

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

We will move to the work session on Assembly Bill (A.B.) 504. We will have Mr. Reel review the information we have on this bill.

ASSEMBLY BILL 504: Revises provisions governing delinquent taxes. (BDR 32-922)

JOE REEL (Deputy Fiscal Analyst):

Assembly Bill 504 was heard by the Committee on May 10. The provisions of this bill would require the Department of Taxation to submit a report to the Nevada Tax Commission on or before January 15 of each year showing the money owed to the Department for delinquent payments of any tax administered by the Department in a preceding year and the amount of delinquent taxes the Department determines impossible or impractical to collect.

Based on the information contained in the report, the Tax Commission would require the State Board of Examiners to designate any amounts determined to be impossible or impractical to collect as bad debt. If the Board of Examiners determines an amount to be a bad debt, the State Controller must ensure the bad debts are removed from the books of the account of the State of Nevada; however, those amounts would remain as a legal and binding obligation owed to the State. The testimony was provided by Chris Nielsen, Interim Director, Department of Taxation, and Carole Vilardo, President, Nevada Taxpayers Association.

Mr. Nielsen offered an amendment to the bill. The initial amendment provided by Mr. Nielsen during the hearing is the same concept. The Department would like to make adjustments to the interest rate charged by the Department and the interest rate paid to the Department for any deficiencies. Under statute, the Department of Taxation pays an amount of 6 percent for any outstanding debt and any debt owed to the State of Nevada is assessed a rate of 12 percent. The proposal is to reduce those amounts by 3 percent each to a rate of 3 percent and 9 percent, respectively.

The second amendment ([Exhibit C](#)) is the same concept; however, it goes into a number of additional sections of statute not included in the original amendment. The current amendment goes into the general administrative provisions under *Nevada Revised Statutes* (NRS) 360, but also goes into NRS 361 for property taxes, Modified Business Tax and Live Entertainment Tax. This would be consistent with the taxes administered by the Department of Taxation.

CHAIR LESLIE:

I am concerned about the potential loss of revenue for the State. Can you tell us if the amount we owe taxpayers is equal to the amount the taxpayers owe us, or what is the balance?

CHRIS NIELSEN (Interim Director, Department of Taxation):

I do not have specific numbers, but I have worked with our technology staff to query this. I have been told if we keep the spread the same as proposed here, at the 6 percent spread, it will be a fiscally neutral bill. That was part of the reason we kept it at a 6 percent spread. The intent is not to generate additional revenue or lose revenue. When taxpayers are delinquent with their taxes, they are currently assessed 1 percent per month or a 12 percent annual rate.

There are times where taxpayers will request a waiver of the interest and penalty, or both. We have a standard that the taxpayer has to pay the tax in full first to be eligible for consideration. The standard is beyond circumstances and control of the taxpayer for the reason that the tax was not paid on time. Criteria and regulations further refine that. Not everybody qualifies. The Tax Commission does have the discretion to accept the Department's recommendation. There are cases where the taxpayer's interest or penalty should be waived, and sometimes they should not be. It is difficult to quantify.

CHAIR LESLIE:

I can see in theory it would be. Is it your intent to apply this retroactively?

MR. NIELSEN:

The intent with this amendment would be prospective. If this goes into effect July 1 and a taxpayer does not pay taxes until August, the low interest rate would apply. We would not go back and recalculate. If somebody did not pay taxes in 2006 and the interest has been accruing, or if we owed somebody taxes either in dispute or in process for a refund, we would not go back and recalculate. Going forward, the new interest rate would apply to both deficiencies for existing claims or existing deficiencies. If somebody owes the Department of Taxation money for a period in 2006, that taxpayer's penalty continues accruing at 12 percent. On July 1, a 9 percent interest rate would take over until the taxes are paid in full.

CHAIR LESLIE:

I am worried about exposing the State in these big cases under litigation now. Have you talked to the Attorney General about that?

MR. NIELSEN:

Yes, I did. I have not received a formal opinion. The deputy attorney general assigned to the Department of Taxation helped me draft this amendment to make sure I captured all the statutes. He did not see any issue with the scenario I just explained. We would have problems if we went back and recalculated it, but that is not the intent here. According to my conversation with our deputy attorney general, there would be no issue with existing claims or deficiencies.

The interest rate on deficiencies was changed some years ago from 1.5 percent per month, or 18 percent per year, down to 12 percent per year, and that is as administered by the Department of Taxation. As market conditions change, the interest rate is not locked in at the time the deficiency or the refund comes up. That is my understanding given the conversations with my tax manager, who was a longtime employee of the Internal Revenue Service. Carole Vilardo may have a different opinion of what the rate should be.

CHAIR LESLIE:

You did reference this for the Committee. Your proposed amendment has more sections in it. That is for consistency. Would this apply to any tax the Department of Taxation collects?

MR. NIELSEN:

That is correct. We only do a small component of the property tax collections that are locally assessed. The only statutes we administer are referenced in sections 6 and 7, NRS 361.420 and NRS 361.486, respectively. Those statutes deal with when the State Board of Equalization takes an appeal from the county board and then takes action. When it gets to court and if the State loses, a refund is due to the taxpayer. [Exhibit C](#) would amend that rate from 6 percent down to 3 percent. The local governments have their own rules and discretion on deficiencies. This would not alter that. I talked with one county assessor, and he did not have any issues with this proposal.

CHAIR LESLIE:

Does the amendment leave the power to set the rate with the Legislature?

MR. NIELSEN:

That is correct. The Internal Revenue Service adjusts it quarterly, and it is tied to the prime rate or a Fed rate. From a systems standpoint, we do not have the resources to do it on a quarterly basis. The Legislature could look at adjusting the rates every two years, and the Department would be willing to have that discussion.

SENATOR HARDY:

Does this propose to go 3 percent on one way and 7 percent on the other way? Or is it a 3 percent and a 6 percent?

MR. NIELSEN:

The interest rate is 3 percent and 6 percent. When the State of Nevada sends a check with interest to a taxpayer, it would be 3 percent per year. When a taxpayer has to send a check to the State of Nevada for failing to pay his or her taxes in a timely manner, it will be 6 percent per year.

SENATOR HARDY:

We are not doing the 4 percent spread as one person suggested?

MR. NIELSEN:

No. This proposal keeps the spread the same. Currently, it is 12 percent and 6 percent. This proposal will reduce it down 3 points on both ends to 9 percent and 3 percent. The rationale is 3 percent is close to the prime rate now. It has been the policy of the State of Nevada to have the spread at 6 percentage points. This is not a revenue-generating or a revenue-losing proposal.

CHAIR LESLIE:

I will take a motion from Senator Hardy.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 504 WITH THE SECOND PROPOSED AMENDMENT FROM THE
DEPARTMENT OF TAXATION.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LESLIE:
This meeting is adjourned at 3:01 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
A.B. 504	C	Chris Nielsen	2nd Proposed Amendment to Assembly Bill 504