

**MINUTES OF THE  
SENATE COMMITTEE ON REVENUE**

**Seventy-sixth Session  
March 22, 2011**

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 1:11 p.m. on Tuesday, March 22, 2011, in Room 2134 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 Sheila Leslie, Chair  
Senator Steven A. Horsford, Vice Chair  
Senator Michael A. Schneider  
Senator Moises (Mo) Denis  
Senator Mike McGinness  
Senator Elizabeth Halseth

**COMMITTEE MEMBERS ABSENT:**

Senator Joseph (Joe) P. Hardy (Excused)

**STAFF MEMBERS PRESENT:**

Russell Guindon, Principal Deputy Fiscal Analyst  
Joe Reel, Deputy Fiscal Analyst  
Mike Wiley, Committee Secretary

**OTHERS PRESENT:**

Carole Vilardo, President, Nevada Taxpayers Association  
John W. Griffin, Amazon.com  
Christopher G. Nielsen, Interim Executive Director, Department of Taxation

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CHAIR LESLIE:

We will open the work session with Senate Bill (S.B.) 13.

**SENATE BILL 13**: Revises provisions relating to the collection and payment of certain fuel taxes. (BDR 32-494)

JOE REEL (Deputy Fiscal Analyst):

Senate Bill 13 was brought forward on behalf of the Department of Motor Vehicles and heard by this Committee on February 22. The work session document bill ([Exhibit C](#)) has no associated fiscal notes. Primary testimony in support of S.B. 13 was provided by the Department and the Nevada Petroleum Marketers and Convenience Store Association. The bill had no opposition. Senate Bill 13 authorizes the Department to use e-mail to serve certain notices of determination related to the collection and payment of fuel taxes. Provisions of the bill established e-mail notifications would be based on an agreement between the taxpayer and the Department.

All other notifications would be delivered by certified mail or in person. The bill repeals *Nevada Revised Statute* (NRS) 360A.050, which authorizes the Department to charge 1 percent per month on the outstanding balance of any tax due. There is an amendment by the Department to retain the provisions. The bill would repeal NRS 365.135 which authorizes the Department to grant a 30-day extension for making any report or a return required by chapter 365 of NRS. The amendment would strike the repeal of NRS 360A.050 which would retain the Department's ability to access the interest at a rate of 1 percent for outstanding balances. In reviewing S.B. 13, the Department determined the repeal would prevent the Department from collecting interest on unpaid balances because of their authorization to enter into payment agreements pursuant to NRS 360A.080.

CHAIR LESLIE:

Are there any questions for Mr. Reel on the bill or the proposed amendment? Do I have a motion?

SENATOR DENIS MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 13.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LESLIE:

We will move on to S.B. 34

**SENATE BILL 34**: Makes various changes regarding the administration of sales and use taxes. (BDR 32-432)

MR. REEL:

This bill was brought forward on behalf of the Department of Taxation. It was heard on March 1, and has no fiscal impact. The bill revises the provisions governing the administration of sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement (SSUTA), House of Representatives Resolution 5660 of the 106th Congress. Testimony in support was provided by the Department of Taxation, Reno/Sparks and Las Vegas chambers of commerce, Nevada Manufacturers Association, Retail Association of Nevada and the Nevada Taxpayers Association. Opposition to the bill was provided by representatives of the Independent American Party and Amazon.com was neutral.

The Department of Taxation testified under federal law that Internet businesses are not required to collect and remit sales and use taxes unless deemed to have nexus or physical presence in a particular state, whereas traditional brick and mortar retailers are required to collect and remit taxes for all sales. If Congress were to act and pass the Main Street Fairness Act, Internet retailers would be required to collect and remit taxes; however, the State would need to be in compliance with the Agreement in order to participate in the receipts. The SSUTA Governing Board determined at its last meeting that Nevada was out of compliance due to changes and amendments adopted by the SSUTA Governing Board since the Seventy-fifth Session. The Department noted that with the exception of section 8 of S.B. 34, the balance of the bill brings Nevada into compliance with the Agreement.

Section 8 was intended to provide the taxpaying public and businesses with a method for determining whether a business has nexus in the State based on federal requirements for determining nexus by having a physical presence. The Nevada Taxpayers Association and Amazon.com had concerns with the

language in section 8; however, fiscal staff has not received any amendments to this section. Fiscal staff has discussed this with the Legal Division and Legislative Counsel supports the current language. The specific area in section 8 deals with sufficient nexus to satisfy the U.S. Constitution.

The proposed three amendments ([Exhibit D](#)) submitted by the Department of Taxation were consolidated into two sections by the Legal Division. The changes were adopted by the SSUTA Governing Board after Bill Draft Request (BDR) 32-432 was requested. The changes would bring Nevada into compliance with the terms of the SSUTA. The first amendment deals with the Federal Reserve Bank being closed on a due date that prohibits a person from making a payment; it allows the person to make the payment on the next business day. The next change allows returns to be filed on the next business day if the due date falls on a Saturday, Sunday or a holiday. Section 5.5 of the second amendment is a technical change to establish the applicability of section 2 of the bill within the provisions of NRS 360B.355.

**BILL DRAFT REQUEST 32-432:** Revises provisions governing sales and use taxes to set the state's nexus policy and address personal property purchased out of state and Streamlined Sales and Use Tax housekeeping issues. (Later introduced as [Senate Bill 34](#).)

CHAIR LESLIE:

Are there any questions concerning the amendments?

CAROLE VILARDO (President, Nevada Taxpayers Association):

I testified the word "sufficient" should be removed. The State has a position that deals with physical nexus, and I did not think the word is necessary.

CHAIR LESLIE:

We had the Legal Division review the language again and their advice was to leave the word "sufficient" in the language.

JOHN W. GRIFFIN (Amazon.com):

The change brings the State into compliance with the SSUTA; we saw no reason to change it.

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CHRISTOPHER G. NIELSEN (Interim Executive Director, Department of Taxation):  
We are governed by federal case law and every jurisdiction is different as how physical nexus is defined. We support this bill.

CHAIR LESLIE:  
Do I have a motion?

SENATOR DENIS MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 34.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LESLIE:  
The Senate Committee on Revenue is adjourned at 1:23 p.m.

RESPECTFULLY SUBMITTED:

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Mike Wiley,  
Committee Secretary

APPROVED BY:

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Senator Sheila Leslie, Chair

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

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 13	C	Joe Reel	Work Session Document
S.B. 34	D	Joe Reel	Work Session Document