

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Seventh Session  
May 7, 2013**

The Committee on Taxation was called to order by Chairwoman Irene Bustamante Adams at 1:15 p.m. on Tuesday, May 7, 2013, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Irene Bustamante Adams, Chairwoman  
Assemblywoman Teresa Benitez-Thompson  
Assemblyman Jason Frierson  
Assemblyman Tom Grady  
Assemblyman Cresent Hardy  
Assemblyman Pat Hickey  
Assemblyman William C. Horne  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblyman Randy Kirner  
Assemblywoman Dina Neal  
Assemblyman Lynn D. Stewart

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Peggy Pierce, Vice Chairwoman (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Ben Kieckhefer, Senatorial District No. 16  
Senator Debbie Smith, Washoe County Senatorial District No. 13

Minutes ID: 1080



**STAFF MEMBERS PRESENT:**

Russell J. Guindon, Principal Deputy Fiscal Analyst  
Michael Nakamoto, Deputy Fiscal Analyst  
Gina Hall, Committee Secretary  
Colter Thomas, Committee Assistant

**OTHERS PRESENT:**

Deonne E. Contine, Deputy Executive Director, Executive Division,  
Department of Taxation  
Carole Vilardo, President, Nevada Taxpayers Association  
Chris Nielsen, Executive Director, Department of Taxation  
Ernie Adler, representing Reno-Sparks Indian Colony  
Claudia Vecchio, Director, Department of Tourism and Cultural Affairs  
Robert A. Ostrovsky, Chair, Commission for Cultural Affairs, Department  
of Tourism and Cultural Affairs  
Michael E. Fischer, Member, Board of Directors, Thunderbird Lodge  
Preservation Society Board of Directors  
Wes Henderson, Executive Director, Nevada League of Cities and  
Municipalities  
Geno Martini, Mayor, City of Sparks  
Ron Smith, Member, Ward 3, City Council, City of Sparks; and  
Chairman, Sparks Redevelopment Agency  
Stephen Ascuaga, Chief Operating Officer, John Ascuaga's Nugget,  
Sparks, Nevada  
Tom Young, Owner and Brewmaster, Great Basin Brewing Company,  
Sparks, Nevada  
Greg Ferraro, representing the Nevada Resort Association  
Brett Scolari, representing the Reno-Sparks Convention and Visitors  
Authority  
Tray Abney, representing the Chamber of Commerce of Reno, Sparks,  
and Northern Nevada

**Chairwoman Bustamante Adams:**

I will open the hearing on Senate Bill 7 (1st Reprint). I would like the  
Department of Taxation to come to the witness table.

**Senate Bill 7 (1st Reprint):** Requires the Executive Director of the Department  
of Taxation to publish and periodically revise technical bulletins.  
(BDR 32-299)

**Deonne E. Contine, Deputy Executive Director, Executive Division, Department of Taxation:**

Mr. Nielsen could not make it today. He apologizes for not being here, but he sent me to present our bills.

The first bill is Senate Bill 7 (1st Reprint). This bill would allow the Department of Taxation to publish technical bulletins to better educate the public on issues related to their businesses and taxes administered by the Department.

Currently, the Department relies on the statutes and the regulations, and that is the information that we give out to taxpayers regarding the taxability or exemption of certain items. Senate Bill 7 (1st Reprint) would provide a third source of information, technical bulletins that taxpayers can look to in determining if a particular transaction is subject to tax. I think this third source is sorely needed, and would be welcomed by the tax-paying public, as it provides more information and more certainty.

Under S.B. 7 (R1), the Department of Taxation would be statutorily authorized to issue these technical bulletins on issues related to the businesses and taxes administered by the Department. The bulletins, unlike regulations, would be written in a simple, nontechnical, easier-to-understand manner. They would be drafted by the Department, reviewed by the Nevada Tax Commission in an open public meeting, and then posted to the Department's website following their adoption or approval by the Tax Commission.

Many other states have this type of technical bulletin, and we included samples in the packet for your review ([Exhibit C](#)). We would ask that you support this bill and allow the Department to issue these technical bulletins, as it is good tax administration policy and would better educate the public on the taxes we administer.

**Chairwoman Bustamante Adams:**

How often are these going to be published?

**Deonne Contine:**

We anticipate that initially we would just start publishing them. The Tax Commission meets about once every month to six weeks. Each time the Tax Commission meets we would anticipate, at least initially, that there would be a number of the bulletins on the Commission's agenda for approval. So, it would be anywhere from a month to six weeks, and after they were approved by the Tax Commission, they would be published.

**Chairwoman Bustamante Adams:**

Who do you have on your team who actually could write it in a way that would make sense to small business owners who are not tax experts?

**Deonne Contine:**

Me. I currently supervise the staff that provides information to taxpayers. I often take the technical, legal language and distill it for them, so they can communicate with the people who call in.

**Assemblywoman Benitez-Thompson:**

I have a question about section 1, subsection 1, paragraph (b), the "written opinions that the Executive Director receives from the Attorney General pursuant to NRS 228.150." Could you talk a little bit more about what those opinions are and how they are solicited?

**Deonne Contine:**

Most agencies have attorneys general (AG) who represent them. If an issue comes up they would request that the AG offer an opinion. The request is made in writing to the Attorney General's office, and the opinion that comes back is an AG opinion. These are issued pursuant to *Nevada Revised Statutes* (NRS) Chapter 228, the Attorney General's chapter. The AG issues two types of opinions, published and unpublished, and the Attorney General's office decides which it is to be.

If we have a legal question the Department is unsure of, we ask them. We get the opinion back, distill it, and issue a technical bulletin on the issue with the essential legal advice we received from the AG.

**Assemblyman Stewart:**

I am amazed we cannot do this by regulation.

**Deonne Contine:**

We do promulgate regulations and the Department and the Nevada Tax Commission adopt them. The regulatory process can be a one- to two-year process by the time you have the workshops, submit it to the Legislative Counsel Bureau, get your language back, have the adoption hearing, and it depends on whether you are in a temporary regulation or a permanent regulation phase. These opinions are very technical and in legalese. This is just a way to give examples of information to them. For instance, we get many taxpayer letters, requests, or calls and they ask, "Is 'x' taxable?" or "What do I do in this situation?" It is just so we can have one answer, instead of fielding questions. It is just an example of applications of the information, in a less legalistic way, so a taxpayer can understand what to do.

**Assemblyman Stewart:**

I am just amazed that we have to give you authority to do this.

**Chairwoman Bustamante Adams:**

I notice that there is no fiscal note. Can you explain that part? I know that we are just policy, but how does the Department propose to absorb the cost?

**Deonne Contine:**

With the current staff. We do have some additional positions in our budget. There will be a little reworking of that.

**Assemblyman Frierson:**

I am curious about the language. I think the effort is to encourage the bulletin to be written in layman's terms, or in a way the general public can understand. I am just curious about the genesis of "simple nontechnical language" as a phrase that we would use in statute. It seems to kind of be fluff language, for lack of a better way of putting it.

**Deonne Contine:**

I do not know about the actual wording, but the intent is to have it be a less technical way of writing, not just saying "read the statute."

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] We will transition to those in the support position of S.B. 7 (R1).

**Carole Vilardo, President, Nevada Taxpayers Association:**

I am speaking in support of the bill. First of all, in the regulatory process, the time frame can be extremely long. Meanwhile, you may be conducting new business or doing something that should not be done that way, and is subsequently going to put you in a position of incurring penalties and interest because of not correctly reporting your tax liability.

We agreed with the advisory opinions, and I am happy to say that we spoke to the Department before the bill was put through, relative to the advisory opinions and how we felt about them. The only concern that we had, which has been addressed in the bill from that time, was what if you were doing an advisory opinion that those of us in the business community felt should really be a regulation and doing it to circumvent the whole workshop process. To allay the concerns we expressed to the Department, you have the provision in here that these advisory opinions, before they can be issued, must go before the Tax Commission. The reason for this is because those of us who are concerned with the tax issues go to those Commission meetings and would have the

opportunity to say that an advisory opinion borders on, or really should be, a regulation and we would like to request a regulatory workshop. We feel that there is a definite comfort level there.

Also, the reason the bill is in reprint, and in reference to Assemblywoman Teresa Benitez-Thompson's question about what the Attorney General's opinions are, we got into this discussion and requested of the Department that they consider this, which they agreed to do. We actually had a member who wound up receiving a penalty, if you will, on a tax issue because of an unpublished Attorney General's opinion. When the counsel, who is one of our members for this particular business, went to find out what the change was—a change that neither they nor the business had any idea had occurred—they were told it was an unpublished advisory opinion. Well, how in God's name can you try to keep legal if you do not understand what is out there governing what your tax liabilities are?

Fortunately the Department understood the situation. They were not trying to do anything that would amount to subterfuge, so by using that language we have been assured that when an opinion comes through, published or unpublished, we will have the ability to and benefit of seeing an advisory opinion that informs everybody. If you look at NRS Chapter 360, which is the administrative procedures for the Department of Taxation, similarly situated taxpayers are to be treated similarly. We feel this is a very good mechanism that will allow that to happen, particularly with advisory opinions, published or unpublished.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] Are there any others in support? [There was no one.] We will transition to opposition to S.B. 7 (R1). Is there anyone in opposition? [There was no one.] We will transition to neutral of S.B. 7 (R1). Is there anyone in neutral? [There was no one.] I will close the hearing on S.B. 7 (R1) and open the hearing on Senate Bill 8. I would like the Department of Taxation to come back to the witness table.

**Senate Bill 8: Clarifies the wholesale price upon which the tax on certain tobacco products is calculated. (BDR 32-300)**

**Chris Nielsen, Executive Director, Department of Taxation:**

We are here to present Senate Bill 8 and I will turn it over to my Deputy, Ms. Contine.

**Deonne E. Contine, Deputy Executive Director, Executive Division, Department of Taxation:**

Senate Bill 8 is a bill related to the wholesale price of other tobacco products (OTP). The OTP tax is imposed on the purchase or possession of OTP in this state. The rate is 30 percent of the wholesale price. The wholesale price is defined as the established price for which a manufacturer sells OTP to the wholesaler, before any discounts or deductions.

This bill seeks to clarify the statute, to indicate that the taxes are due on the amount paid by the wholesaler who brings the OTP into the state.

I submitted a visual illustration ([Exhibit D](#)). This takes into consideration a new model businesses have created that has reduced the wholesale price to them, and therefore has reduced the revenue coming in. I am just going to read the example ([Exhibit E](#)). Previously Company "A" Manufacturer would sell the OTP to Company "B," or an unrelated Wholesaler, for \$100. The Company "B" Wholesaler would remit tax of \$30, which is 30 percent, when it brought the OTP into Nevada. Now what has happened is in certain cases Company "A" Manufacturer has created a related subsidiary, which is the Company "A" Wholesaler, and it sells the OTP to Company "A" Wholesaler for \$50.

The wholesale arm then does the related branding, marketing, and all the activities that used to be done by the manufacturer to get it ready for sale. The related wholesaler sells it to another wholesaler for \$100, and that wholesaler brings it into Nevada. They are claiming the \$50 as the manufacturer's price, even though they paid \$100 for it. Our statute currently does not contemplate this type of business model, and this is the business model that has changed along the way. This is just to clarify that the OTP tax is due on the \$100, not the \$50 the related entities use to sell to each other, the discounted price essentially.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee?

**Assemblywoman Neal:**

I was looking at the chart and I am confused on two things. You are talking about "any other person." Who is this "any other person"?

**Deonne Contine:**

Any other person would be anyone. The idea is that it would generally be a wholesaler. So it is the price charged by whomever sells the OTP to the wholesaler bringing it into Nevada. That is the measure of the tax.

**Assemblywoman Neal:**

The way the bill reads, the statute is inclusive of *Nevada Revised Statutes* (NRS) 370.440 to 370.503. Under NRS 370.501, when you are talking about the Native American colonies, how does this affect what they do and their transactions with wholesalers? They are included because they sell tobacco products and they impose their own excise tax, but now you have this "any other person" who is being captured within the statute.

Is there a change in how they would then do their transactions, if it is a wholesale dealer who is now applying this standard to "any other person" who is not a manufacturer?

**Deonne Contine:**

Mr. Adler is here. He had signed in to support the bill and he represents the Reno-Sparks Indian Colony. I think he can answer your question.

**Ernie Adler, representing Reno-Sparks Indian Colony:**

Essentially Indian colonies are in the same position as the state. If the noncigarette tobacco salesperson is able to reduce the tax by selling it to an affiliated company, then the Indian colonies and reservations do not get the tax funds, because our tobacco law identically tracks Nevada's. So, if Nevada is losing money on this transaction, the tribes are also losing money on it. The Reno-Sparks Indian Colony does support this bill, because they are losing revenue because of the current setup.

**Assemblywoman Neal:**

So how much revenue are they losing?

**Ernie Adler:**

We have no idea. When the Reno-Sparks Indian Colony first saw this bill they were not aware that they were losing revenue until the Department of Taxation pointed it out. They are not aware of how much they are losing through the current system, but they are losing revenue.

**Deonne Contine:**

I can tell you that the OTP taxes, just like most taxes in Nevada, are self-reporting. We have noticed over the course of a couple years that one large company we know of is doing it this way, paying on a lower measure. We have noticed a decline in that. I do not have an exact number, but there has been a drop in revenue from it.



**Assemblywoman Neal:**

Can you give an estimate? Can you give a range? You are bringing a bill that is saying that someone is losing revenue, but you do not know how much. Is it just one company or is it multiple companies?

**Chris Nielsen:**

I do not know how many wholesalers there are offhand, but there are a number of them. As Ms. Contine had said, while we do audit them, we do not audit every single one, and they do not give us notice. This is a self-reporting system. I do not have the figure in front of me, but off the top of my head I believe the revenue drop is \$500,000 or so, but that is not taking into account that everybody reports a different dollar amount each month, and from year to year, so it is a moving number. Off the top of my head, it looked like revenue had dropped off, from one fiscal year to the other, to the tune of about \$500,000.

**Ernie Adler:**

I think one of the significant points about the drop in revenue in the tobacco products category, is that the category is probably growing in usage in the State of Nevada. If this bill is not passed, that number is going to grow, in terms of revenue lost for the State of Nevada in the next couple of years.

**Assemblyman Stewart:**

I had a question similar to Assemblywoman Neal's. How long has this been going on? Do you have any idea? You said maybe a couple of years. Is that correct?

**Chris Nielsen:**

We first became aware of this, I believe, over the past year to year and a half, so it is not something that has been ongoing. This is a business decision that at least one company has made, and I do not know if it was for tax purposes or for other business purposes, but to our knowledge it has not been going on all that long.

**Assemblyman Stewart:**

Do you have the mechanism to identify specifically which companies are doing this in the reporting system?

**Chris Nielsen:**

We do have the mechanism, if you go out and audit every single one, every single year. Again, this tax, just like every other tax type that we administer, is a self-reporting system. We do not have a box to check that says we changed

our business model and we are doing it this way. This would be identified through audits.

**Assemblywoman Kirkpatrick:**

I do want to follow up, because I think there is a bigger picture here that we probably need to be looking at. First, we encouraged all of our agencies last session to go through their stuff to find potential loopholes where we may not be collecting all of the revenue that we felt was due, which is a piece of this. Second, we have the tobacco settlement, which has brought light to some more issues with how we were calculating this, accounting for the individual cigarettes and all of that, since the early 2000s.

I think that at least for the Committee this really is a policy change on a couple of different levels. First, to make us more efficient. Second, to be collecting everything that we should be, so that the law is clear on who is in and who is out. Third, in light of the tobacco settlement, we have to do things a little bit differently, and we have to clarify our laws.

I do not want to speak out of turn, Mr. Nielsen, but I think that there is a bigger, broader picture when it comes to tobacco that we are trying to accomplish as well.

**Chris Nielsen:**

Thank you for that. We thought it was incumbent upon the Department of Taxation to bring this forward. Certainly the policy is within your discretion. We were merely trying to preserve the status quo with regard to OTP tax here in Nevada. I know other states have faced this exact challenge, and their remedies were to seek legislation of this type.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] We will move into the support position. Mr. Adler, I know you already gave your testimony, so we will put that in the support section.

Are there any others in support of S.B. 8? [There was no one.] We will transition to opposition. Are there any in opposition to S.B. 8? [There was no one.] We will transition to neutral. Are there any in neutral of S.B. 8? [There was no one.] We will close the hearing on S.B. 8 and open the hearing on Senate Bill 48. I would like the Department of Tourism to come to the witness table.

**Senate Bill 48: Revises the composition of the Commission on Tourism.  
(BDR 18-289)**

**Claudia Vecchio, Director, Department of Tourism and Cultural Affairs:**

Senate Bill 48 is a bill that has no fiscal impact and stemmed from a nonbudgetary bill draft request (BDR 18-289). It revises the composition of the Nevada Commission on Tourism (NCOT), which currently comprises tourism experts and other industry leaders, to add the chairs of the boards and the commissions of the other agencies that are within the Department of Tourism and Cultural Affairs, as of its official formation on October 1, 2011 ([Exhibit F](#)).

For these four, somewhat diverse, agencies to operate successfully as one department, it is important that we create operational and programmatic synergies. We have been working hard to create and achieve these goals, but it really helps to have leadership that understands the wealth of what it is we are trying to accomplish.

We are, as a staff, working to improve the way we communicate. We are working to improve the way we function. We are working to improve the way dollars come into and flow through the NCOT.

The Nevada Commission on Tourism receives 0.375 percent of the lodging tax. That is its sole budgetary stream. Twenty-three percent of that is transferred out to a variety of agencies, both within and outside of the Department of Tourism and Cultural Affairs.

Having a strong understanding of how these funds are used by those receiving them is critically important as well, so this bill really serves to accomplish two goals. The first is to enhance communication and help the Nevada Arts Council, the Nevada Indian Commission, and the Division of Museums and History. It helps their leaders to have a voice, and it helps those of us who are working to enhance tourism to understand that voice. It helps us all increase our ability to attract and talk to customers, including those within the cultural travel arena.

The second goal is to help create better communication about how these dollars are spent and how these transfers are being used by these agencies. The leaders of these various boards and commissions will be able to provide some insight into how these funds are being used.

These additional folks will be added to the NCOT for those two reasons: to improve communication and help us all gain a greater voice, and to improve transparency on how funds are being used.

When this went through the Senate we were asked two questions. The first was, "Why are these folks on here as nonvoting members?" The answer was that many of the decisions made by the NCOT impact our funding and impact funding for our partners, whether through the rural marketing grants or the projects related to tourism grants. These often represent a significant portion of the dollars needed to complete a project. Having the decisions for this funding made by experts in the tourism industry ensures that both short-term and long-term considerations are at the top of our minds, as the experts understand the impact of where these dollars are going. It is important to have people who are voting members of a commission understand the funding sources and understand what makes an important decision from a funding standpoint.

The second question we got from the senators was whether or not these ex officio members would be compensated. They are not compensated by NCOT. They are compensated by the boards and the commissions on which they hold their positions. Because all NCOT meetings are either teleconferenced or videoconferenced, and in most cases both, no travel is required. It is a commitment of time, and not a commitment of actual hard costs.

Largely this is an administrative change, and one that is really meant to help us heighten our potential as an organization.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee?

**Assemblywoman Neal:**

You want these new members to be a part because you value what they have to say and their input, but you do not want them to be able to vote on the input that they give, which may be the direction that you move forward to. Is that right?

**Claudia Vecchio:**

Yes, primarily because of the things that the Commission currently votes on. We discuss a lot, there are a lot of decisions, and input is provided that is not necessarily for voting consideration. The things they vote on primarily have to do with funding, and that is really the reason for the nonvoting piece. We take input from commissioners, from the public, and from our partners at these meetings all the time, and we incorporate that into what we do. I think they would find their input is highly valued and used.

**Assemblyman Kirner:**

What you are not saying I presume, is that there is a conflict of interest when you are talking about funding. Is that fair?

**Claudia Vecchio:**

There could potentially be a conflict of interest, but we would certainly hope that anybody who has a conflict of interest would recuse themselves from voting on a particular piece of anything we are doing, whether it be funding or not.

It is not always a conflict of interest. If one of the Nevada Arts Council's artists had a fund, for example, in marketing grants, to develop a website or do a marketing program, we do not often find that a conflict of interest comes into play with that sort of thing.

That is an interesting question. It really has not been part of the discussion to this point.

**Assemblyman Kirner:**

Regarding the second question the senators asked about compensation, since meetings are held and I presume you require attendance, if they are not state employees would you not have to pay the \$80 per day, or whatever it is?

**Claudia Vecchio:**

The meetings are held on a quarterly basis. We have teleconference and videoconference, and very often our NCOT commissioners participate via the phone, so no one actually has to be at the meeting place. We have been very effective in holding these meetings via a variety of communication channels, and hopefully soon we will have live streaming via the Internet, but there really is no need to be present.

**Assemblyman Kirner:**

Regardless of where they are, would you still not be obligated to pay the state allowance, or whatever they call that?

**Claudia Vecchio:**

For the NCOT, yes, they are paid for that. The others are being compensated by their own commissions, so this is an added opportunity for them to provide input to this department.

**Chairwoman Bustamante Adams:**

I know that you provided a revised structure ([Exhibit G](#)), which I really appreciate. On the Senate side I think they had an original organizational chart, but I do not see that in our packet.

**Claudia Vecchio:**

The organizational chart is primarily a staffing organizational chart, so it did not really pertain. What I did for this chart was pull out how those boards and commissions relate to one another, so you could see that, as opposed to seeing the whole staffing setup.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] We will transition to the support position of S.B. 48.

**Robert A. Ostrovsky, Chair, Commission for Cultural Affairs, Department of Tourism and Cultural Affairs:**

There are two things I would like to add to the discussion. One is in reference to Assemblyman Kirner's question. Members of the Commission for Cultural Affairs do not receive any per diem from the state, so there is no \$80 or \$60 payment. There is nothing provided for them in statute. I do not know about the other boards. They probably do have to pay something, but the commissioners are not paid. It is an unpaid position. For a long time we did not pay any expenses. We got approval from the Legislature a couple of years ago to pay travel expenses. I did not think it was fair to ask people to serve and then make them pay for their own airfare. That would limit the number of people willing to serve.

Secondly, I think there is one other thing that the addition of my commission and these other members would do for the NCOT, and that is to send a message. When we think of tourism, we think people get on an airplane in Los Angeles, come to Las Vegas, spend three days on the Strip, and then go home. What we do know is international visitors in particular, and some U.S. visitors, really have a cultural component to their visit. When they go to the State's website on tourism we would like them to see that the state has a component of museums, we do things in the arts, we have an arts council, and there are a lot of cultural things to do out in the urban and rural areas. Part of this is trying to send a message to the rest of the world that Nevada cares, not just about gaming, but about a lot of things that they as tourists may be interested in. We would love to get them to leave the strip for a few minutes and visit some of them. Get in their cars and make their way to Ely, or Austin, or come to the National Cowboy Poetry Gathering in Elko. It gives flavor to what we tell the rest of the world about coming here to visit.

Those were the two things I wanted to add, and, obviously, that I fully support this bill.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] Are there any others in support? [There was no one.] Are there any in opposition to S.B. 48? [There was no one.] Are there any in neutral of S.B. 48? [There was no one.] We are going to close the hearing on S.B. 48 and open the hearing on Senate Bill 281. I would like Senator Kieckhefer to come to the witness table.

**Senate Bill 281: Exempts certain property from taxation. (BDR 32-975)**

**Senator Ben Kieckhefer, Senatorial District No. 16:**

I am here today presenting Senate Bill 281, which adds to the list of exempt properties statutorily from property tax the Thunderbird Lodge Preservation Society, a property that is already exempt from property taxes because it is a 501(c)(3) organization. Why do we need to have this bill if they are already exempt from taxation? Currently the preservation society has its primary lodge, which is on the east side of Lake Tahoe. It is a very beautiful historic piece of property, which I encourage you all to visit if you have not already seen it. In addition to that it has other property that it uses for off-site storage.

The primary site is completely exempt from property tax. This additional site, although they own it and it is exempt from property taxes, because it is a separate parcel, they are required to pay the taxes to the county and then apply for a refund, which is then granted. It is just a big paperwork shuffle. The county assessor gives the refund and it is all done, but they are pushing paperwork for no apparent reason. As an entity within my district they came to me to ask if I could help them resolve this, and S.B. 281 is the result.

Sitting to my right is Dr. Michael Fischer, who I am sure you all know. He sits on the board of the Thunderbird Lodge Preservation Society, and I think he would like to say a couple of things.

**Michael E. Fischer, Member, Board of Directors, Thunderbird Lodge Preservation Society:**

Director Bill Watson would have preferred to be here, but he had an unresolvable out-of-town conflict. I will try to answer questions, should you have any.

There are some points that come forward that I think are important. In this day and age, clearly government does not have enough money or resources to do all its functions, and nonprofit organizations have an even more difficult time performing all their functions. Anything we can do to streamline that on both sides is beneficial. This streamlines it from the Society's point of view, because

we do not have to apply for the exemption. We do not have to go down, prepare the paperwork, and appear before the Board of Equalization. They do not have to act upon it and then later refund the money when they decide we are indeed exempt.

It is a slow process. Nonprofit organizations have had just as difficult a time, if not more so, than government entities, and, at this point in time, every penny counts. Director Watson has provided some information for the Committee ([Exhibit H](#)) about what they do up there. Every penny we can spend on performing our mission is very important to us, and to have it right away is even more important.

Secondly, the *Nevada Revised Statutes* (NRS) section that the Thunderbird Lodge would be listed in, under nonprofit, is where many granting organizations and donors go to prove nonprofit status. Having us listed there would be inordinately beneficial.

I think rather than wasting your time, this is something that both sides actually gain from. There is no net loss of money for the government entity because we are already exempt. It just saves time and money on both sides, and we really urge your consideration and passage of this bill ([Exhibit I](#)).

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee?

**Assemblyman Kirner:**

I am trying to follow this here, and maybe you can do some clarifying for me. You are not listed as a nonprofit now, therefore when people look to a listing of nonprofit organizations, for purposes of grants, you do not show up on the list. Is that what you are saying?

**Michael Fischer:**

We are not listed within the statute itself. We are certified as a nonprofit, but the gold standard, the preeminent place where they go, is NRS 361.110, so the listing would be beneficial.

If you review Mr. Watson's material ([Exhibit H](#)), you will see they have done some really wonderful work. They have retired a \$10 million debt and are in the process of forming an endowment, which will guarantee this wonderful cultural institution that by the way, makes Washoe County a great deal of money through transient occupancy tax, sales taxes from people who come and visit and spend, and gas taxes when people buy their gas at the Lake or even in Reno.



It would be beneficial from the funding sense to be listed in that portion of NRS, and we would strongly encourage that. Second, I think it is a good thing for everyone that we do not go through this little dance that ends up with the same result, but costs everyone time and money.

**Assemblyman Kirner:**

I have visited there. It is a gem.

**Michael Fischer:**

Thank you. We appreciate that. I encourage all the members to visit. It is a unique place created by a very unique and eccentric individual.

**Assemblywoman Kirkpatrick:**

I want to understand what the use of the Thunderbird Lodge is, and I am sorry if I missed it. I voted against the Boulder City/Hoover Dam Museum because it is not a free thing. It is not like the Girl Scouts. It is not like the Boy Scouts. It is not like some of the agencies listed in the nonprofits that service a whole bunch of people for free. I would need to understand that.

It seems that if there is an issue, and you are already getting your money back, cannot the Department of Taxation do something other than putting it into statute.

I personally have voted against the other ones for the reasons that I just mentioned. We do not have enough tax base to begin with, so I get a little nervous when we start putting special things in.

**Senator Kieckhefer:**

I will let Dr. Fischer talk a little bit more about the Thunderbird Lodge Preservation Society's scope and its benefits to the state. For some reason the relationship between the taxation on this parcel and the assessor's office in Washoe County requires this paper shuffle. I do not know exactly why, but in terms of the functional ability to stop this sort of paper shuffle, which is ultimately costing money rather than serving any other purpose, the decision was that this is the best way to accomplish that. That came out of discussions between the assessors and the Lodge itself, and was the reason for adding it to this list.

**Michael Fischer:**

I appreciate that you have a lot of reading and things to do and might not have a moment to deal with this. The Thunderbird Lodge has both tours that cost money and tours for thousands of school children every year. They get to see what the unspoiled nature of the Lake would have been had it not developed in

the manner in which it did. There are still thousands of undeveloped acres that surround this one location because of Mr. Whittell's ownership.

What we are is an educational and cultural institution that provides educational benefits for adults and children. We are also a cultural institution that, through no government funding, has to make a bottom line and that is why there is a charge for some portions while others are free. As far as benefitting children or people who could not afford to visit, there are certain entities and means by which to get around that, not as much on the adult level, but certainly on the school level.

There was a \$10 million debt when the university had the property and it was turned over to the Thunderbird Lodge Preservation Society. I believe that debt has now been retired. They are not only working on getting donors and making a bottom line, but also on education for the children who want to visit from the community at Lake Tahoe, Washoe County, or anywhere else.

**Assemblywoman Kirkpatrick:**

Will the Thunderbird Lodge Preservation Society own the land where that storage is, or is it currently deeded over?

**Michael Fischer:**

They will and do own the property.

To clarify, when you have an artifact that is a building and you provide tours through that artifact, you do not have a lot of room. There has to be a certain ambience that makes it desirable to the customer. This allows off-site storage of the many artifacts they have that are associated with their ability to present the tours.

**Chairwoman Bustamante Adams:**

What is the reimbursement of the tax money? How much is that?

**Michael Fischer:**

I cannot tell you that, but I would be happy to get the amount. I do know that as of right now they are still waiting for the 2011-2012 tax year reimbursement. I will have the Director get that number for you.

**Chairwoman Bustamante Adams:**

Senator Kieckhefer, were you dealing with the Washoe County assessor?

**Senator Kieckhefer:**

Yes, the Washoe County Assessor, Josh Wilson, because the parcel lies in Washoe County.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] We will transition to the support position on S.B. 281. Are there any others in support of S.B. 281? [There was no one.] Is there anyone in opposition? [There was no one.] Is there anyone in neutral?

**Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:**

We are neutral on this bill. We just feel it is important from time to time, as this Committee considers abatement bills, to ask that you consider the cumulative effect of the various abatements that are available, and the impact that has on the ability of local governments to provide mandated and quality of life services.

**Chairwoman Bustamante Adams:**

Can you elaborate a little bit? How would it impact the local governments?

**Wes Henderson:**

Because of the numerous abatements that are available out there. You take a little bit of this tax and a little bit of that tax all of which are used to fund services that are provided by local governments. We ask that you consider the totality of all the abatements that are available.

**Chairwoman Bustamante Adams:**

So even though this is a swap, there is no gain and no loss, just abatements in general, the concept of abatements in general, right?

**Wes Henderson:**

Exactly.

**Assemblyman Hickey:**

I understand what you are saying in the bigger sense, but Washoe County in fact benefits to some degree because of the tours that are done by the Society. I understand there is an effort of maintenance to take care of this property, which has been preserved since it was donated by Mr. Whittell originally, and then went to the University of Nevada, Reno. It is not safe to say that Washoe County is negatively impacted by the Thunderbird Lodge. That is not what you are suggesting, is it?

**Wes Henderson:**

No sir, not at all. We are neutral on this bill. As I said we just feel the need to come up here from time to time, when you are considering a tax abatement bill, to ask you to consider the cumulative effect.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] Are there any others in the neutral position of S.B. 281? [There was no one. Emails in support of the bill ([Exhibit J](#)) were presented but not discussed and are included as an exhibit for the meeting.] We will close the hearing on S.B. 281 and open the hearing on Senate Bill 509. I know Senator Smith is on her way here. If there are other presenters here for S.B. 509 please come to the witness table.

**Senate Bill 509: Revises provisions governing taxes on transient lodging. (BDR S-1198)**

**Geno Martini, Mayor, City of Sparks:**

We are here to talk in favor of Senate Bill 509, which is sponsored by Senator Smith. This is a room tax, 2.5 percent or 2.5 cents, that was added to all Sparks properties. I believe it started in 2003. Unbeknownst to us this sunsetted and we are trying to get the room tax back.

It is not a new tax. It is one that existed. It is paid by people who use the properties in City of Sparks that pay room taxes, such as the Nugget.

It is pretty crucial to us. This money is specifically used for maintenance and infrastructure in the downtown area, which is where we have all our special events. Our special events are very critical to the downtown businesses. I have a couple businesses here with me today that will speak about that.

We put over one million people per year through Victorian Square, which is an area about eight blocks by ten blocks in size. The wear and tear on the infrastructure makes it very difficult to keep up with the maintenance. This is what the money is specifically for, that particular project downtown and our special events.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee?

**Assemblyman Hickey:**

You say unbeknownst to you someone recognized that this was not being followed up on. Was there an expectation when this tax was approved that it

was going to sunset? How exactly was this room tax approved, and what happened with this snafu?

**Geno Martini:**

There was an expectation that this would not sunset, that it would be permanent, but an amendment was added to the bill that stipulated if the debt service went away, if there was no debt on the particular area downtown, then the room tax itself would sunset. We were not aware of that. There was also a codicil that said, if you never acquired any debt, then it would be a permanent room tax. In 2003 the bond market was very poor. We had a small amount in loans, I think it was close to \$2 million, that we refinanced with this money. That was paid off in 2009. The money continued to be collected, and we just became aware of it about six to eight months ago. That is the reason why it sunsetted.

**Chairwoman Bustamante Adams:**

We will back up a little bit. Senator Smith has arrived. I am sure she has some opening remarks. We will then continue with the rest of the presentation.

**Senator Debbie Smith, Washoe County Senatorial District No. 13:**

I am here to present S.B. 509 to you. It looks like you have already met the gentlemen at the table with me. They are here to answer questions for you regarding this bill that enables the Reno-Sparks Convention and Visitors Authority (RSCVA) to continue to collect a 2.5 percent tax on hotel rooms inside the City of Sparks. The revenue collected from the tax is distributed to the City, and the revenues are specifically allocated for tourism related to capital improvements of Victorian Square, within the City's downtown core. Sparks' Victorian Square, if you have not been there, is in the heart of the Truckee Meadows, and in my district. It is home to several very popular events in the region, including the Best in the West Nugget Rib Cook-Off and Hot August Nights. Hot August Nights and the Rib Cook-Off both attract hundreds of thousands of visitors, and it takes a lot to keep a venue like that upgraded and looking nice for the public. This is really important. Another classic for Victorian Square is the Sparks Hometowne Christmas Parade. It is a draw for community activities year round, and this money is really helpful for keeping Victorian Square in the shape it needs to be in.

This bill allows two things to happen. It allows the City to utilize the current revenue it has collected and to continue to collect the tax and use the funds for capital improvements only for Victorian Square.

I am happy to answer any questions, or have my colleagues at the table answer questions. I appreciate the fact that Mr. Ascuaga who is the biggest payer of the room tax in the City of Sparks, is here in support of continuing the tax.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee?

**Assemblyman Kirner:**

Certainly Victorian Square is very important not only to Sparks but to the community at large. The events that are held there are outstanding and bring in a lot of dollars for the community and for the state.

Senator Smith, does this not also help the Livestock Event Center, or am I off on that?

**Senator Smith:**

No, this goes directly to Victorian Square. There had been some discussion early on in the session about perhaps diverting some of the funds from where they are currently being allocated, but we landed on keeping it in Victorian Square, and it really does benefit the community as a whole.

**Assemblyman Hickey:**

I will re-ask a question that was not very clear before, but I think you can answer it. This is really kind of the result of a snafu, if you will. These were not scheduled to sunset. There was an expectation when it was approved that these were going to be ongoing, except in the case that all debt was removed. Could you just further elaborate? The Mayor talked about it, but I do not think I asked him a very clear question.

**Senator Smith:**

You are correct. The original legislation that was passed in 2003 allowed for the sunset of this collection when the debt was paid off, and through an oversight that was not continued. This legislation will allow for both the expenditure of the money that has been collected and held in reserve, and the continued collection of the tax to be used for the same purpose.

**Chairwoman Bustamante Adams:**

Senator Smith, I appreciate that clarification. I believe the Mayor said the debt was paid off in 2009, and since then the money was held in reserve. What is the amount from 2009 to now that is still available to reinvest back into the community?

**Senator Smith:**

I will let the Mayor or Councilman answer that question.

**Geno Martini:**

I believe it is about \$1.6 to \$1.8 million.

**Assemblywoman Kirkpatrick:**

You guys did well by keeping it in the capital improvement fund and not spending it. Does this money in the future stay in the capital improvement fund or does it just go into your general fund?

**Senator Smith:**

The money stays exactly like it is now. It continues to go into that fund and be used for that purpose only.

**Assemblyman Stewart:**

How long has the tax not been collected? How many months has this been going on with the sunset?

**Geno Martini:**

I think it sunsetted in 2009, but we have been collecting it since then. That is why we have an excess in the account right now of \$1.6 million. It has been collected all this time, we have just not put together a project to use this money. We have some things that we want to do, but we did not go ahead and spend the money. It has been collected ever since its inception in 2003.

**Assemblyman Stewart:**

So we are going to make you legal now?

**Geno Martini:**

Exactly.

**Assemblywoman Benitez-Thompson:**

I was wondering if you could share with the Committee members, because I think there might be some question about the reserves that are being held right now, that there is not really a good process or a path for the dollars that have been collected to be reverted back to the individuals who paid it. That is a piece of this legislation that is important, kind of correcting the policy. That is at least my understanding. Is that right?

**Geno Martini:**

The process, we believe and we talked to our certified public accountant about this, is that the RSCVA would have to put out something to everyone who

stayed at those particular properties during the time the money was collected. Then those individuals would apply to the RSCVA for a refund on an individual basis. It is kind of cumbersome to try to do something like that. If we had to, we would have done that, but we came up with this alternative and we hope it works.

**Assemblyman Grady:**

How long a time do you give them to request this refund?

**Geno Martini:**

We will not have to do that if we pass this particular legislation. The money will be made legal, like Assemblyman Stewart said, and we will be able to use it for infrastructure and maintenance at the Victorian Square.

**Senator Smith:**

For all of you who get involved with bills in the future, this is a good thing to keep an eye out for. It was really just one of those things that over a number of years is fairly easy to expire and get missed when you have two different entities watching something like a room tax. It is something to be mindful of in the future, to look at when the sunset happens and make sure that someone has the ability down the road to catch it and do something about it. Our intention here is to provide that fix for the future and to provide a retroactive fix, so that the City can use the money they have held in reserve, in good faith. They will now be able to bond that and use it for some good projects going forward. It will fix the problem and take care of some projects going forward.

**Chairwoman Bustamante Adams:**

In Assembly Bill No. 205 of the 72nd Session, from 2003, it talked about the Sparks Town Center Project, which is identified as the Victorian Square. From what I understand, the money will be used strictly for the Victorian Square. It does not include any of the other things that might have been listed in the original bill, is that correct?

**Geno Martini:**

The Sparks Town Center and Victorian Square are one and the same. It is the same area that we are talking about. Again, that money is to be used only in that particular area.

**Chairwoman Bustamante Adams:**

We will now transition into the support position on S.B. 509.



**Ron Smith, Member, Ward 3, City Council, City of Sparks; and Chairman, Sparks Redevelopment Agency:**

We have been lucky we took the conservative approach with the money we have in the bank, because we almost spent it. We are redoing the plaza as we speak. We are in phase one of three. We were spending the money wisely as it came in. It was a shock to us that it was not ours.

First of all, I would like to thank Senator Smith for bringing this bill to the floor, and you Madam Chairwoman for allowing it. The passage of S.B. 509 is critical to the Sparks Town Center, so we appreciate any support you can offer ([Exhibit K](#)).

**Chairwoman Bustamante Adams:**

I am so grateful that you guys did not spend it, because we could be having a different conversation.

**Stephen Ascuaga, Chief Operating Officer, John Ascuaga's Nugget, Sparks, Nevada:**

We are a family-run hotel and casino of about 1,600 rooms. We are the largest hotelier in Sparks and the largest employer.

Before we move forward, I want to clarify that once this was brought to our attention, we stopped collecting this tax. We realized that it was being collected in error.

We, at John Ascuaga's Nugget, have always seen the room tax as a very serious discussion point, and we have taken seriously how it is used. We have been in full support. We were part of the original legislation for this back in 2003. I think one of the biggest attributes of this is the nexus between this bed tax and its application toward tourism-related infrastructure. We do have, as it was mentioned, just about one million people through Victorian Square in a year. We are producers and coproducers of some of the larger-scale events on Victorian Square, like the Nugget Rib Cook-Off and Hot August Nights, so we see the need and we see the success of special events for northern Nevada.

Again, I appreciate your consideration and thank you for your time on this matter, and that we are keeping it intact with the true intent of the original.

**Chairwoman Bustamante Adams:**

I appreciate your presence here in support of the bill.

**Tom Young, Owner and Brewmaster, Great Basin Brewing Company, Sparks, Nevada:**

We operate on Victorian Square and we have been there for over 20 years. I think we have come to know Victorian Square as a very unique and great place that exemplifies what Nevadans and the City of Sparks can offer, and it gives the state a great boost in tourism.

All the big events that were mentioned before are certainly real. I see so many people with smiling faces walking out of those events. Just this afternoon, at lunch, we hosted 60 members of the Maserati Club. Two of them were from Nevada and fifty-eight were from out of state. This is a small group. They came to Victorian Square, mostly, I think, because they wanted to find a beer, and they could also park their cars along the square. They are staying at the Nugget. We have just introduced Nevada to another 58 smiling people, who have actually spent a lot more money than I think this tax has brought into the state. This is quite a benefit for all the events that occur in the state. Great Basin sponsors some of the smaller events. Last year we did the Great Basin Local Farmers Market on Victorian Square. We do some races, and participate in all the other events.

We are very proud to be employers of 107 Nevadans on Victorian Square, and I think that this room tax going to Victorian Square is money well spent.

**Greg Ferraro, representing the Nevada Resort Association:**

I wanted to indicate our support for this bill. We were involved in this ten years ago, and we think that it is consistent with the need and the use of room tax, so we support the bill.

**Brett Scolari, representing the Reno-Sparks Convention and Visitors Authority:**

We would like to express the RSCVA's wholehearted support for this. Our board of directors has taken a position in support of this.

Just to clear up a couple of items that were mentioned, when this hiccup was discovered, the RSCVA did put notice out to the Sparks properties because we are the collecting agency for the tax. We halted the collection of the tax, pending this legislation.

In the unfortunate event that this does not pass we have a contingency plan in place to deal with those refunds, but we are hoping we do not have to go down that road. I have been working with the Sparks city attorney to that end.

**Chairwoman Bustamante Adams:**

The RSCVA collects the tax. The amount that is in reserve will go to benefit specifically the Victorian Square, not necessarily the Nugget, even though they are the number one collector of the tax. Is that how it works?

**Brett Scolari:**

In the original legislation it is very specific that all the improvements this room tax is used for have to be done in the Victorian Square area. It is actually defined in the statute.

**Senator Smith:**

I just want to clarify that while the Nugget is the biggest collector and payer of this tax, and their property sits on Victorian Square, it does not personally benefit them. The Victorian Square is a public, city-owned area where the projects take place.

**Chairwoman Bustamante Adams:**

Thank you for that clarification.

**Tray Abney, representing the Chamber of Commerce of Reno, Sparks, and Northern Nevada:**

The Chamber strongly supports this bill. For the past three or so years I have served on what is called the City of Sparks Brand Leadership Team. This group was tasked with rebranding the City of Sparks, with the idea of bringing more people into town. One of the things we did was to hire a firm and work with them to come up with a new tag line: Sparks, It's Happening Here!

In order for stuff to happen there, we need event space in which to hold those events and attract people to the City of Sparks. We think it is very important to continue the hard work that the council and all of us have done to keep bringing more people into the city, so we support this bill.

**Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:**

We are in support of this bill. We would like to thank Senator Smith for bringing this bill on behalf of the City of Sparks, and we ask for your favorable consideration of S.B. 509.

**Chairwoman Bustamante Adams:**

I have a question from Assemblywoman Neal for Brett Scolari.

**Assemblywoman Neal:**

I was curious about something. I am not sure if it was stated. What was the date you noticed the hiccup?

**Brett Scolari:**

Sometime at the end of February 2013.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] Are there any others in support? [There was no one.] Are there any in opposition to S.B. 509? [There was no one.] Are there any in the neutral position? [There was no one.] Senator Smith, do you have any closing comments?

**Senator Smith:**

I think this is a good piece of legislation that fixes a problem and helps an area going forward. I think the broad support we have from the community speaks for itself. I appreciate your consideration.

**Chairwoman Bustamante Adams:**

We will close the hearing on S.B. 509. I will take public comment. Is there anyone in Las Vegas for public comment? [There was no one.] Is there anyone here in Carson City for public comment? [There was no one.] The meeting is adjourned [at 2:36 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblywoman Irene Bustamante Adams  
Chairwoman

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

**EXHIBITS**

**Committee Name: Committee on Taxation**

**Date: May 7, 2013**

**Time of Meeting: 1:15 p.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 7 (R1)	C	Deonne Contine	Department of Taxation's Overview prepared by Chris Nielsen
S.B. 8	D	Deonne Contine	Other Tobacco Products Chart
S.B. 8	E	Deonne Contine	Department of Taxation's Overview
S.B. 48	F	Claudia Vecchio	Prepared Testimony
S.B. 48	G	Claudia Vecchio	Nevada Commission on Tourism Commission Revised Structure
S.B. 281	H	Michael Fischer	Prepared Testimony from Bill Watson
S.B. 281	I	Michael Fischer	Prepared Testimony
S.B. 281	J	Emails in Support	Emails in Support
S.B. 509	K	Ron Smith	City of Sparks Handout