

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

**Seventy-Seventh Session
April 4, 2013**

The Committee on Taxation was called to order by Chairwoman Irene Bustamante Adams at 12:37 p.m. on Thursday, April 4, 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. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Irene Bustamante Adams, Chairwoman
Assemblywoman Peggy Pierce, Vice Chairwoman
Assemblywoman Teresa Benitez-Thompson
Assemblyman Jason Frierson
Assemblyman Tom Grady
Assemblyman Crescent 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:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Paul Anderson, Clark County Assembly District No. 13

Minutes ID: 706



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Tray Abney, representing The Chamber of Reno, Sparks, and Northern Nevada
Geoffrey Lawrence, representing the Nevada Policy Research Institute
Bryan Wachter, representing the Retail Association of Nevada
Ray Bacon, representing the Nevada Manufacturers Association
Carole Vilardo, President, Nevada Taxpayers Association
Jeff Mohlenkamp, Director, Department of Administration
Maud Naroll, Chief Planner, Research, Planning and Grants Management, Department of Administration

Chairwoman Bustamante Adams:

For the sake of time, we are starting at 12:30 p.m. today in order to honor a request from our colleagues in the Assembly Committee on Legislative Operations and Elections to meet earlier. I will open the hearing on Assembly Bill 323 and welcome Assemblyman Anderson to come forth.

Assembly Bill 323: Provides a deduction from the payroll tax for newly hired employees under certain circumstances. (BDR 32-761)

Assemblyman Paul Anderson, Clark County Assembly District No. 13:

It is my privilege today to present to you Assembly Bill 323.

This bill aims to do something about the problem of long-term unemployment in Nevada. There are approximately 132,000 people who are still unemployed. The new unemployment numbers came out, and the figure is 9.7 percent. I would like to just briefly put a face to those numbers. To be clear, that number only includes those people who are receiving unemployment insurance benefits.

On a national level, and by state level, there is also a U-6 number that includes those folks who have stopped receiving unemployment benefits. They are no longer eligible. These are people who have stopped looking for work, folks who are underemployed, or those who took part-time jobs or jobs below their skill set

in order to make ends meet. [Continued to read from prepared testimony ([Exhibit C](#)).]

Here in the Assembly we represent our specific districts, but more often than not, we take votes that affect all Nevadans. As you consider A.B. 323, I would like you to consider those 132,000 unemployed folks we represent.

Assembly Bill 323 is a bill that intends to give our employers an additional incentive to hire over the next two years. Oftentimes, we are concerned as a legislative body that by discounting a tax we are counting on to make our budget numbers, we create our own shortfalls. [Continued to read from prepared testimony ([Exhibit C](#)).]

The exemption applies for a period of two fiscal years. It currently runs congruently with the sunset of the modified business tax (MBT). It applies only to a business that increases the number of employees and the total number of hours worked by all its employees, so we try to make sure that nobody can game the system. We cannot fire all our employees, rehire them, and get the rebate. We cannot lower the hours for our employees, for example to 30 hours, and then hire more people to cover those extra hours. Those folks would not qualify.

Putting the unemployed back to work will yield benefits for everyone. In economic terms, unemployed workers have needs that the state provides, like unemployment benefits or other welfare services to help them get through tough times. [Continued to read from prepared testimony ([Exhibit C](#)).]

I think a significant part of this is that as a state we sort of set the tone for the economy. While business owners are out there working hard, trying to accomplish things by providing products and services, we often can encourage or not encourage hiring by setting a tone. That tone is whether or not we believe the economy is going in the right direction.

As we consider A.B. 323 and the deduction of the MBT, we can, in a small way, encourage that hiring process. We do that by saying that things in other parts of the economy are going better. We know that as we hire somebody, that ripple effect of the sales tax and the other taxes can have added benefits above and beyond just the MBT.

With that, I thank you for your time today and urge you to support A.B. 323. I would welcome any questions.

Chairwoman Bustamante Adams:

Thank you, Assemblyman Anderson. Are there any questions from the members of the Committee?

Assemblyman Hardy:

Does this have a sunset or a timeline where it would end at some time in the future, or does it continue on? How does it work?

Assemblyman Anderson:

It runs concurrently with the existing modified business tax dates, so July 1, 2015, is the current sunset date on this.

Assemblywoman Kirkpatrick:

I like this concept. We tried to look at it last year. I feel it would be better if all 45,000 businesses that pay into MBT could utilize it, but even with the Governor's proposal, there would really only be about 11,000 that would be able to use it. Have we thought that far out?

Assemblyman Anderson:

Are you referencing the increase, up to that 85,000 level, that the Governor is recommending?

Assemblywoman Kirkpatrick:

Yes. We have exempted over sessions the folks that actually pay the MBT, so it is a smaller pool. Do we know what the impact is? Have we talked about it?

Assemblyman Anderson:

I have not been provided those direct numbers, so I cannot answer that. As we look at different businesses in the state, there is certainly a difference between importers and exporters of capital. I would hope we could focus on those folks that either import capital into the state or keep money here in the state, and give them the benefit. As a small business owner, certainly as I earn a dollar, I spend that dollar locally. I spend it on my employees. I spend it on products and services here locally. If I am exporting that dollar, then that is not the case.

The MBT is a method of capturing some of those export dollars before they leave the state. My focus certainly would like to be on small businesses.

Assemblywoman Kirkpatrick:

I love this idea. We tried to figure out how we could do it last session, because the federal government did it and it actually encouraged people to hire more folks, because it was a benefit. I am not opposed to the idea. I just wish we could offer it to all 45,000 folks. I would be curious to know the impact,

because most of the 11,000 who are left, pay the higher rate. I would just be curious. Thanks for bringing this. It is a good idea.

Assemblyman Stewart:

It expires on July 1, 2015, even if the sunsets were extended again?

Assemblyman Anderson:

That is correct. It is meant to be a short-term incentive. I do not know the future of that particular loss.

Chairwoman Bustamante Adams:

Are you aware of Silver State Works? It is the financial incentive for Nevada employers throughout the state. Does that ring a bell?

Assemblyman Anderson:

By name only.

Chairwoman Bustamante Adams:

The way that I understand it, and I may be wrong, but what they are trying to do is achieve your same goal, which is to get Nevada employers to hire those that are unemployed, so that we can get people back to work. They offer three different options for employers:

- It allows laid-off workers who qualify for unemployment insurance benefits to also receive on-site work training. The employee would get an allowance of \$200 every two weeks for a maximum of \$600. The job seekers would be required to train 24 hours per week up to six weeks. It is a stimulus, a financial incentive, for those who are unemployed.
- The next one is an employer incentive job program. Employers would be reimbursed up to a maximum of 50 percent of the participant's initial agreed upon gross wage for the contract period, a maximum of 40 hours per week, so there is a stimulus there.
- There is incentive-based employment, where, upon completion and satisfaction of certain requirements, the employer may receive a wage retention supplement—on average up to \$2,000—payable in four equal increments of \$500 each, after each 30 days of successful employment, up to 120 days.

I am trying to understand the difference between the financial incentives that we already have in place through the state, both in the north and south, and this. I think the numbers Assemblywoman Kirkpatrick was asking for would be helpful because maybe there are other options, but there is not a significantly drastic difference. We have something in place that I think is already working.

Have you checked into comparing the numbers versus what we are already doing in the state for financial incentives?

Assemblyman Anderson:

Now that you read that to me, I am familiar with the program. In fact, I know there are a lot of temporary labor agencies that work with the program. They try to place those employees into temp to permanent or other programs. We actually participated in a couple where we essentially had free employees for a training program because we are in the tech sector, so we had those folks onboard for a little while.

Generally, it is retraining that a lot of those folks are going through. There are other programs, such as at the Department of Employment, Training and Rehabilitation (DETR), that focus heavily on some of the retraining that is going on. This would simply be anybody that fits into this category that hires, whether they are skilled or unskilled.

I think this is more focused on the retraining aspect of the work force and giving them the skills they need to find a job, similar to a DETR-type program, but it is giving direct incentives to employers to do that training. I may be wrong, and I apologize if this is incorrect information.

Assemblyman Hickey:

I would tend to agree with Assemblyman Anderson, having had some experience with Silver State Works. We did attempt to utilize that and give that opportunity to someone who was coming through that program. That was where DETR reached out to us and helped with individuals who were enrolled in their program. I think it is good, trying to place them and having the support to retrain them.

If I understand your bill, if you just decide to hire someone on your own, you did not go through a program, this exempts for this new employee, who qualifies, whatever the rate was for that period that you were going to owe for your MBT portion?

Assemblyman Anderson:

That is accurate. You can see the fiscal note that is attached as well. There would be some programming, which essentially is a line item that would say, here is my payroll and here are my new employees that qualify as a deduction. The rest of the form, I believe, would be the same, according to the Department of Taxation and the information I got from them. Essentially, you are just using this as a straight deduction off of the taxes you already pay.

I would also add, as a small business owner myself that you constantly use numbers in trying to make decisions on whether you should hire, when you should hire, how much demand you have in your business for your products and services, and at that point you bring somebody on. Any incremental push towards the hire is of benefit to me, and it gives me added confidence that I see the state is willing to pull back on specific taxes that are almost a penalty for hiring. Then I can see that other things must be doing well. While those decisions are made based on as many facts as you can get, eventually you go down to your gut level to decide if now is the time to hire or not. I think this could be an added confidence builder for those business owners that see the state moving forward in other areas and think maybe now is the time to expand.

Chairwoman Bustamante Adams:

Are there any questions from the members of the Committee? [There were none.] We will move into the support position for A.B. 323. Is there anyone in Las Vegas in the support position? [There was no one.] Is there anyone in Carson City in the support position?

Tray Abney, representing The Chamber of Reno, Sparks, and Northern Nevada:

We support A.B. 323, in fact, Senator Smith has a very similar bill in the Senate that we supported a few weeks ago as well.

We have tended to always urge caution when you are starting to exempt businesses and people from taxes. We have always felt that the best tax system is broad-based, low, fair, and applies to everybody. Given that this is a short-term solution for a very real problem we have in Nevada, we thank Assemblyman Anderson for bringing this forward. I think this is a good way to go.

Geoffrey Lawrence, representing the Nevada Policy Research Institute:

I have both some praise and some criticism for this bill. As Mr. Abney mentioned, there is a similar bill that has been proposed by Senator Smith, Senate Bill 172. I testified on this bill a few weeks ago. That bill allows for a deduction that is six months in length, whereas A.B. 323 would be for two years, which I think is actually an improvement. However, we have never liked the idea of MBT, principally because it is somewhat distortionary. It is an excise tax on labor, which of course discourages the employment of labor and encourages business owners to substitute more machinery or capital for labor, beyond the point of economic optimization. It is a relatively low rate, so that distortionary impact is limited, but still from a theoretical economic viewpoint, we have never liked it.

We view lowering that barrier as an improvement; however, with any kind of deduction we view it as a second-best approach for going at this. It is second best, of course, to lowering the rate overall, because compliance costs are necessarily higher. Whenever you have a deduction, you have to bear the additional accounting expenses. You have to be able to prove that you have complied with all the conditions that are embodied in the law as well, in case you are subject to an audit.

I would like to conclude by saying that we support with some reservations.

Chairwoman Bustamante Adams:

We will now take those in opposition of A.B. 323. [There was no one.] Is there anyone in neutral for A.B. 323?

Bryan Wachter, representing the Retail Association of Nevada:

We are in neutral. We do appreciate the leadership and the vision that Assemblyman Anderson has shown in introducing this. There are several companion bills, Senator Smith's being one of them, and we were neutral during that testimony as well.

We always want abatements, credits, and exemptions to be taken in context. I think if you add it up so far this year, all the bills that we have in these particular categories total more than \$200 million. When you look at the credits that we are attempting to give to the film industry, energy, or whatever it may be, many members of your house, as well as the upper house, have pontificated that new and additional revenues might be needed. It is hard for us to understand why we might give away this much money on one side, and then expect more taxes on the other side.

We have found that the MBT is easy to comply with, easy to understand, easy to calculate, and for business owners it is a fairly decent tax. We do, however, agree with Assemblywoman Kirkpatrick, about making it as broad as possible, which would allow you to lower the rate, rather than doubling the MBT that most of our members currently pay, because I do think we would count our members among those 11,000 who are currently paying the MBT.

We agree with Assemblywoman Kirkpatrick, appreciate Assemblyman Anderson, and appreciate your time.

Chairwoman Bustamante Adams:

Are there any questions from the members of the Committee? [There were none.] Assemblyman Anderson, would you like to come up and give closing remarks?

Assemblyman Anderson:

I simply would like to say thank you for hearing the bill and I appreciate your time today.

Chairwoman Bustamante Adams:

With that, I will close the hearing on A.B. 323. We will now transition into our work session. I will open the hearing on Assembly Bill 138. I will turn it over to our fiscal staff, Mr. Nakamoto.

Assembly Bill 138: Revises provisions governing the partial abatement of certain taxes. (BDR 32-113)

Michael Nakamoto, Deputy Fiscal Analyst:

The first bill on today's work session is Assembly Bill 138. The work session document ([Exhibit D](#)) is located in Nevada Electronic Legislative Information System (NELIS) for the members of the public and those listening on the Internet. The members of the Committee also have the work session document in their binders.

Assembly Bill 138 was heard in this Committee on February 21, and was sponsored by Assemblyman Sprinkle. It allows a new or expanding business that makes a capital investment in an institution within the Nevada System of Higher Education (NSHE) to receive a partial abatement of taxes on personal property. To be eligible to receive the abatements, the business must meet the following requirements: [Continued to read from the work session document ([Exhibit D](#))].

The business must continue in operation in Nevada for a period specified by the Office of Economic Development, which must be at least five years, and must continue to meet the specified eligibility requirements. Those additional requirements are listed in the work session document ([Exhibit D](#)), and I am not going to go through all of them.

If the business meets all of the eligibility requirements, it may receive a partial abatement of its personal property taxes for five years. The total amount of the abatement received may not exceed 50 percent of the personal property taxes imposed on the business during the period of the abatement or 50 percent of the amount of the capital investment, whichever is less.

There was an amendment that was submitted to this bill by Assemblyman Sprinkle. The changes that are proposed are listed on page 3 of the work session document ([Exhibit D](#)). The first would be a change to the definition of capital investment for the purpose of the abatements proposed in

the bill, to include monetary or financial investments. Somebody, for example, could give cash to the university and be eligible, as well as real and personal property, so it is basically a broadening to make this definition of capital investment inclusive of money, property, and so on. The amendment would also clarify that the minimum capital investment of \$500,000 could be made to the Nevada State College and all other smaller institutions in NSHE, such as Great Basin College and Western Nevada College, and not just to the community colleges. This was a concern that was raised by Assemblyman Grady during the hearing, so the amendment is being proposed in order that no institutions are unintentionally left out of the eligibility for this.

That concludes the work session document for this bill. If anybody has any questions, I will be glad to answer them.

Chairwoman Bustamante Adams:

Are there any questions from the members of the Committee on the work session document?

Assemblyman Hickey:

While I note that there was broad support from the various institutions within the university system, I think obviously they welcome help. I have some reservations about this. It just seems to me that people who are making large charitable donations to our university system are probably getting some federal tax deductions for that anyway, and I think you should take those things into account. I just do not know that this is something that is absolutely necessary to have people be generous with their contributions. I am not really in support of this right now; however, I am not prepared to make a motion.

Assemblyman Kirner:

This is a bill that we have heard before. In particular I remember it being presented last session and I thought it represented a good bill. We never really got it through last session, which is why it is here. In my notes I have a question about how these abatements might affect local governments. To be honest with you I do not know why I have that in my notes, but it seems like there is a question there.

Chairwoman Bustamante Adams:

Yes. You are absolutely correct. Because it has to do with personal property it would affect the local governments. Assemblywoman Kirkpatrick, do you want to add anything to that?

Assemblywoman Kirkpatrick:

The conversation was that local governments wanted to be able to sign off on it. I do not know if that was an amendment that was included in this. I think there are a few folks that had that concern, because local government is the one that is affected.

We are trying to work better with local governments. I do not see a problem with putting an amendment on here that it has to go through local government approval, just so they understand. It might be a good education piece for local government on who is contributing to their local schools when it comes to the university level. I think that was the concern, that local government did not really get a say, and they did not really benefit in their mind. I personally do not mind putting an amendment on there to address that concern.

Assemblyman Hardy:

I had spoken personally with Assemblyman Sprinkle about that particular type of amendment and I was looking to see it in here. I do not see it, so I do not know what happened.

Assemblyman Grady:

I did bring it up when we met before on this, and I have brought it up a number of times, because local governments are the ones that are affected. My suggestion was that when you start these processes you send a letter to the local government, be it the county or the city, have them sign off that they approve it, and if it is not signed off by the local government, the abatement should not be granted. Frankly, it is the local government's money we are giving away. The 2.5 percent that stays with the state, stays with the state, and in many cases the school districts are protected. It is the local government that takes the hit on this and they are having as tough a time as everyone else. That is why I have said all along that I will not support a bill that does not have the approval of the local government, because they are the ones that are taking the hit.

Chairwoman Bustamante Adams:

Are there any other questions from the members of the Committee on the work session document?

Assemblywoman Kirkpatrick:

I would propose that we put an amendment on there, that with local government approval, and work out the language. I think we have some pretty good language in statute already when it comes to renewable energy abatements. I think there is some language that we can work on, and I am happy to work with the bill sponsor to include that as an amendment, because

I think it is going to benefit local government. It might be a good way for us to show them that it benefits them. I am trying to take a different turn on this, and I want to prove to them that they do benefit from some of this stuff, and see what happens.

Chairwoman Bustamante Adams:

I will entertain a motion to amend and do pass with the amendment proposed in the work session document, also adding the amendment proposed by Assemblywoman Kirkpatrick for local government approval, and then refer to Ways and Means.

ASSEMBLYMAN FRIERSON MOVED TO AMEND, DO PASS, AND
REREFER ASSEMBLY BILL 138.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairwoman Bustamante Adams:

I will close the hearing on A.B. 138 and open the hearing on Assembly Bill 290. I will turn it over to our fiscal staff, Mr. Nakamoto.

Assembly Bill 290: Revises provisions relating to certain tax exemptions for certain veterans. (BDR 32-438)

Michael Nakamoto, Deputy Fiscal Analyst:

The second bill on today's work session is Assembly Bill 290. The work session document ([Exhibit E](#)) is located in Nevada Electronic Legislative Information System (NELIS) for the members of the public and those listening on the Internet. The members of the Committee also have the work session document in their binders.

Assembly Bill 290 was heard in this Committee on March 26 and was sponsored by Assemblyman Stewart. This bill would expand the current exemptions provided to eligible disabled veterans from the property tax and the Governmental Services Tax (GST) to allow a person who has been rated as individually unemployable by the U.S. Department of Veterans Affairs to receive the same exemption as a person who has a 100 percent service-connected disability. That exemption, under current law, is the first \$20,000 of assessed value for the property tax and the first \$20,000 of determined value for the GST.

There are no amendments to the bill. You can see the members of the Legislature and public who testified in support or opposition ([Exhibit E](#)). The only other thing I would add on this is that the bill has been declared by the Fiscal Analysis Division as being eligible for exemption.

If there are any questions I can answer them at this time.

Chairwoman Bustamante Adams:

Are there any questions from the members of the Committee on the work session document? [There were none.] I will entertain a motion to do pass.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS
ASSEMBLY BILL 290.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Stewart, you can do the floor statement.

I will close the hearing on A.B. 290 and open the hearing on Assembly Bill 335. I will turn it over to our fiscal staff, Mr. Nakamoto.

Assembly Bill 335: Creates the University of Nevada, Las Vegas, Campus Improvement Authority. (BDR S-866)

Michael Nakamoto, Deputy Fiscal Analyst:

The third bill on today's work session is Assembly Bill 335. The work session document ([Exhibit F](#)) is located in Nevada Electronic Legislative Information System (NELIS) for the members of the public and those listening on the Internet. The members of the Committee also have the work session document in their binders.

Assembly Bill 335 was heard in this Committee on March 28 and was sponsored by Assemblywoman Kirkpatrick. It provides for the creation of the University of Nevada, Las Vegas, Campus Improvement Authority, and the creation of a tax increment district from which certain revenues generated within the district may be used to finance projects created in the district, including the issuance of bonds or other securities. The bill specifies that the tax increment district comprises the property in Clark County between Maryland Parkway, Tropicana Avenue, Swenson Street, and Flamingo Avenue, which is either owned by or leased to the Nevada System of Higher Education. [Continued to read from the work session document ([Exhibit F](#)).]

The only testimony on the bill was given by Assemblywoman Kirkpatrick. There were no formal amendments presented. The only note that I would have on this bill is that it was concurrently referred to the Assembly Committee on Taxation and the Assembly Committee on Ways and Means, so if the bill does leave this Committee, you know where it is going.

If there are any questions I will be glad to answer them.

Chairwoman Bustamante Adams:

Are there any questions from the members of the Committee on the work session document?

Assemblyman Hardy:

I just wanted to clarify that there were a number of discussions on the length of the time period, regarding 2065, trying to shorten that time period. I cannot remember what the others were. Am I correct in understanding those will be addressed at a future date?

Chairwoman Bustamante Adams:

Correct. It would be addressed at a future date. Assemblywoman Kirkpatrick did testify that this bill still needs work.

Assemblywoman Kirkpatrick:

A lot of work. I do not want to hide the ball on this issue. I would like more time to work with the southern Nevada folks to see if it is a possibility. This bill will not come out day 118 where people have to vote on it. I do believe in the next 25 days we can make or break a decision, but I wanted the ability to work on it. I did not feel that it was fair to the Committee to wait until the last day and assume I am moving forward without being open and honest. I have no commitment to this bill. I would like to see the University of Nevada, Las Vegas get something, but if they do not, it is what it is.

Assemblyman Kirner:

If we support this bill, we are still looking for some more work on definition, and we can change our vote later if we are not comfortable with it?

Assemblywoman Kirkpatrick:

Yes.

Chairwoman Bustamante Adams:

With that I will entertain a motion to move without recommendation and send it to Ways and Means, which will allow Assemblywoman Kirkpatrick to continue to work out the issues.

ASSEMBLYMAN HORNE MADE A MOTION TO MOVE
ASSEMBLY BILL 335 WITHOUT RECOMMENDATION.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will close the hearing on A.B. 335. I will ask Assemblywoman Kirkpatrick to come to the witness table. I will open the hearing on Assembly Bill 466.

Assembly Bill 466: Revises provisions relating to governmental financial administration. (BDR 32-236)

Assemblywoman Marilyn K. Kirkpatrick, Clark County Assembly District No. 1:
I am here today presenting Assembly Bill 466, a tax expenditure-reporting bill. I would like to give a bit of history and tell you why we are back with this bill again.

Before last session I had been working on abatements for some time, to make sure that there was some transparency on them. In 2009, we did some transparency on abatements when it came to renewable energy, making sure as legislators that when we put abatements in, we are actually getting a return on our investment.

Last session I came across this expenditure report ([Exhibit G](#)), "Promoting State Budget Accountability through Tax Expenditure Reporting." I also came across the PEW Center on the States study, "Evidence Counts, Evaluating State Tax Incentives for Jobs and Growth" ([Exhibit H](#)). All of you should have a copy, and these are available on Nevada Electronic Legislative Information System (NELIS).

Interestingly enough I thought it was hard to get information on abatements the first time I started looking in 2009. Our staff took an entire interim trying to put together a document to actually show what we were getting. I started looking in two different reports, and low and behold I found out we were one of five states that do not do anything to show any sunshine when it comes to abatements. The other thing I found out is that we do not even know what our loss is on exemptions, which are separate from abatements, because we do not collect any data.

Last session, as the Chair of Taxation, I brought this bill forward. To show you inflation, my fiscal note last session was only \$150,000. It went to Ways and Means and died a slow death, because \$150,000 was a lot of money last session. This session the fiscal note is about \$300,000. It has doubled.

What I will tell you about fiscal notes, when it comes to transparency, information, and making sure we get a return on our investment, no dollar amount should matter to get the initial report up because we are probably losing that in what we do not know.

I am back again because I think this has to be an important piece of our budget, putting this together for the long-term benefit of the state.

The bill is very comprehensive. Back in 1987, a legislator put in a bill draft for an abatement that had something to do with tires. I have not quite figured that one out, and the reason why is that no one has ever used it. However, it still sits on our books and is still considered a liability because we have not gotten rid of it.

There is a companion piece to this that you may see in another committee. It puts in a sunset committee, so that every abatement going forward has to have time certain on it. The Legislature has to review it so we can stay on top of it. I think it is important. Times change in our state, sectors change, and maybe we are giving away all of our dollars in the wrong venue. Maybe we are not getting a return on our investment. That would be bad business as far as I am concerned.

The PEW study that you have ([Exhibit H](#)) I got in Chicago at the National Conference of State Legislatures. It was quite interesting that everybody was pointing out how terrible Nevada was when it came to sunshine. I took it, but I also knew I already had a bill in to bring this back, because if we are not tracking the data, we do not know what we are doing.

I do not believe this bill needs a lot of amendments. I think it needs just a few tweaks within the Governor's office to ensure that we can do it. However, there should not be too many amendments.

Section 1, subsection 4, of the bill defines what a tax expenditure is: ". . . any law of this State that exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes, including, without limitation, tax abatements, tax credits, tax deductions, tax deferrals, tax exemptions, tax exclusions, tax subtractions and preferential tax rates." That definition is so important because we know in the legislative world that wordsmithing is very common. This is a very broad definition of what should be included, in case future legislators decide to change the definition or call it something new. I want to be clear that we are getting the right information.

Section 1, subsection 1, states that the "Director of the Department of Administration shall submit a tax expenditure report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislature and the appropriate interim committee or committees of the Legislature" by November 10 of even-numbered years. This is meant so we have this when we come back to the Legislature. We have the ability to get rid of, enhance, or redo.

Section 1, subsection 2, says that for each of the tax expenditures the report must contain the description; the year of enactment; the purpose; a summary of the amendments; to the extent pertinent information is available for each expenditure, the fiscal impact to the state and local governments for each fiscal year, the number of taxpayers benefiting, the revenue that would result from the repeal; and a statement identifying pertinent information not available and explaining why the information is not available to prepare the estimates. This information is important. Three sessions ago I had a bill called Assembly Bill No. 193 of the 75th Session, to find out what the seven top agencies in our state collect for taxes and how much of it goes uncollected. If you serve on the Legislative Commission or on Ways and Means you would be getting a copy of that today. Every session I put it back in, to make sure we keep getting that information. Since we have put that report out, state agencies are collecting better, they are reporting more information, and we do not have these fictitious dollar amounts out there that we are not getting.

This would allow us to trace an abatement, what the purpose of it is, who is benefiting from it, and if it is really working. One thing that I have learned in this business—and I call the Legislature a business because our responsibility is to get things done to benefit the state—is that many companies come to our state and tell us that if we would just do this abatement and give them all this great stuff, they will move their company here tomorrow. This is great and we are always excited, as we look for new industries to come to our state. Then what happens, and I watched this happen with renewable energy, is we did a lot for them and guess where they opened their manufacturing plant and their headquarters? It was not in our great state of Nevada. They took our language to Arizona. They showed them what Nevada would give them, asked Arizona for more, Arizona gave them specifically what they wanted, and there they are today, in Arizona. Now we have a piece of lovely legislation that we are not sure is beneficial to the state.

Whether it be movies or something sector-specific, this would actually tell us the history of it. Future legislators can know we have tried this before. My hope would be they would say we got your game, we did this for you in

2000, you did not come then, so what makes us think you are going to come now? This is direct frankness and why it is important.

Section 1, subsection 3, requires all governmental entities of the state, and each county treasurer and county assessor, to comply with the Director of the Department of Administration's request for information pertinent to carrying out the report, and to provide such information within 30 days of the request. Last session this was a bit controversial because local government said it was an unfunded mandate. Maybe it is, but we are trying to help local government, and they have to help us. They have to be a partner in it. We do not always know specifically what they are doing so that we can compile the information.

That is the crux of my bill. Jeff Mohlenkamp from the Budget Division may want to work on subsection 2 and that information. I know that the fiscal note requires an economist, and that is different from last session. I thought we had an economist at the Executive Branch, so I was kind of shocked by that. In my mind this is a small chunk of change, to prove that what we are giving away in this state is really turning our state around and we are getting a benefit from it. I think it is rather embarrassing that we are one of only five states that have not invested in making this information available to others.

I am prepared to take any questions.

Chairwoman Bustamante Adams:

Are there any questions from the members of the Committee?

Assemblyman Grady:

I applaud you for bringing this forward. If I remember right from last time, or maybe it was two sessions ago, we asked for this information. We got everyone pointing fingers at everybody else and found out nobody was checking up on it. This is long past due. I know the Department of Taxation does a good job in trying to do their part of it, but it needs to be a formal process. If we help the local governments on one side, they have to help us on the other.

Assemblyman Kirner:

I am surprised when I look at some fiscal notes. They have \$150,000 for consulting, and if I am not mistaken and I am reading this right, what we are trying to do is create a report and get everybody to feed into the report. I cannot image that they need \$150,000 for consulting and then another \$25,000 for software. It just blows my mind. As I look at this, I think \$300,000 is overstated. I think we can do it for less, and if so I think it is a good deal.

Assemblywoman Kirkpatrick:

We really tried to find that \$150,000 last time. I will tell you initially, to get it started, that there is a cost. I do not dispute that, because we have to start somewhere. Going forward, though, I do not believe it takes a full-time employee, because we do not give away that many abatements. We already have the one report. To list what our exemptions are, which are separate from abatements, initially does take a little bit of work. I believe it is beneficial to our state for the long term, so I appreciate your saying that we could do it for less.

Assemblywoman Neal:

I like the bill. The report you were talking of earlier that came out today, where can I find that?

Assemblywoman Kirkpatrick:

It comes out on a regular basis, on a quarterly basis. It is A.B. No. 193 of the 75th Session. I am not sure what the report is called, but it is under F.Y.I. on the Nevada Legislative website. It shows the top seven agencies that collect the most money and their collectables.

Assemblyman Hickey:

The report gets done in the even years, so it is available to us coming into session. Tell me how legislators, especially the legislative leaders, in looking at it would use it in preparation for the next session.

Assemblywoman Kirkpatrick:

I have used the concept more than once. That is why we are having the live entertainment discussion. I picked one issue to look at and evaluate, to see how all those exemptions came about. I did try and track the history. I will be honest that back in the day, things were done a little less transparently, so there was not a lot of history. It took a lot of searching. The Consolidated Tax Distribution bill did the same thing with the history.

For me that is why we are having that discussion. I picked one big piece of dollars to our budget and then delved all the way into it, so that is how I currently used it. I believe other legislators could look back, and I believe that term limits do not just happen for legislators, they happen for staff too. Staff retires and staff goes away. Then we no longer have the history within the building. What will we do when someday Carole Vilardo retires? I just think we have become very dependent on some of that information, the institution, and we have to think about it.

For myself I did use it in that respect. I think our current leaders could tell some of our freshman that we have tried something before, and then send them to look at all these different issues to see what the problems were.

Assemblyman Hickey:

To your earlier point, I would guess that for local governments it could be a useful tool to see how the abatements are affecting them, and then they could react accordingly.

Assemblywoman Kirkpatrick:

I am not an economist, so this is not fair to economists, but I feel the IMPLAN [economic impact analysis software] model is a formula. You insert numbers to get the results that you want. I like a little more detail. I understand that it works in the business world. I am not an economist and I do not have to project. I do not have to be politically correct. I want to know if you tell me within this model that for every 300 square feet I get one employee, then I want proof that I got my one employee.

Assemblywoman Pierce:

I like this idea. We have talked about this before. I would just hope that at the end of the report everything is summarized, so those of us who do not like reading reports can cut to the chase.

Assemblywoman Kirkpatrick:

We can add that in to make sure that there is a summary within the report. I am sure they would like that better too.

Chairwoman Bustamante Adams:

I did not see where it said this information would be available on the Internet. Is that a desire? You just said the other F.Y.I. information was on the Internet, right?

Assemblywoman Kirkpatrick:

To be perfectly honest, if that is going to add to my fiscal note, then no. I do not want to have to add to my fiscal note. I am trying to get it down, not raise it.

Assemblyman Kirner:

You mentioned the word sunset committee. I think if you are going to do this report, it is imperative that someone is looking at it and determining whether we do not need this one, or this one is way off base, or something like that. I do not see this in the bill. Is that up to the Director of Administration to bring that

to whomever, or us? It would be nice to have a report, but who is going to do something with it? Whose job is it?

Assemblywoman Kirkpatrick:

The one thing I have learned in this building is you can have a great idea, but if you put too much information in one bill, it does not tend to go very far. I like to have small separate bills, so we go from issue to issue.

In section 1, subsection 1, of the bill it does say that it is going to come to the Director, who typically then gives it to the Legislative Counsel Bureau or the Assembly Committee on Ways and Means. It will always be available to staff, as well as the Governor, when they are putting the budget out there. It will be available information for anybody, like our library or tools that we use. In a separate bill, for my sunset committee for abatements and exemptions, I could require that this report be part of it. I think that is the answer you are looking for, right?

Assemblyman Kirner:

Yes.

Chairwoman Bustamante Adams:

We have never had that overview in this Assembly Committee on Taxation. It would be helpful to start our discussions understanding this as well. I would be very interested to make sure we begin our hearings with this report, to get a better overview ourselves.

Assemblyman Kirner:

My experience from businesses is that we do these great strategic plans. We call them SPOTS, Strategic Plans on Top Shelves, as they gather dust.

Assemblywoman Neal:

In the reports you put in NELIS, were there any states you felt you really liked what they were doing? There were some outcomes, specifically in the one relating to budgets ([Exhibit G](#)), where they were comparing their outcomes in terms of how they were exposing excessive costs and different things. They had a lot of examples toward the middle of the budget report ([Exhibit G](#)).

Assemblywoman Kirkpatrick:

Oregon was one that stood out in my mind as being one of the most comprehensive and transparent ones. They did their first expenditure report in 1996. They showed, for an example, that a state law exempting lottery wins from a local income tax was costing the state about \$44 million per biennium, so they then rethought that. The following year their Legislature scaled back

that exemption, limiting it to lottery prizes of less than \$600. I think those are all beneficial. Sometimes you may be giving away too much, and this report will help you sort through that.

Assemblywoman Neal:

That is the exact one I was looking at.

Assemblywoman Kirkpatrick:

I just think that Oregon has always done a good job with abatements and exemptions. I always look to Oregon and Virginia because one is on the west coast and one is on the east coast. They truly have a rigorous process to go through to get an abatement or exemption. One session I was working on this and I had spoken to the state of Virginia. They were right in the middle of Dell Computers wanting to come to their state. They told Dell Computers it was going to cost them more to have them than it was worth, so Dell Computers went on to the next state. They did end up in Tennessee for a short time, and before you knew it they ended up in Poland. I give states credit that can walk away from some of this stuff. Someday I would like Nevada to be one of those states.

Chairwoman Bustamante Adams:

I have a question on line 34, page 2 of the bill. I was just concerned to make sure that we capture any other creative ways of stating tax expenditures, if that wording "in whole or in part" would cover that, to make sure that is all inclusive.

Assemblywoman Kirkpatrick:

I believe that gives us a very broad definition, which is part of the reason why you need the fiscal note. Going forward that means it will all be included.

Chairwoman Bustamante Adams:

We will transition to support on A.B. 466. Is there anyone in support of A.B. 466?

Bryan Wachter, representing the Retail Association of Nevada:

We appreciate Assemblywoman Kirkpatrick bringing this bill forward. Three hundred thousand dollars seems like a steal to learn how much money we are giving away. I will remind you that \$300,000 is 1 percent of the total amount of money that you would get by closing the loophole on use tax versus sales tax on online purchases, so there is an idea. We appreciate Assemblywoman Kirkpatrick's bill, and we look forward to being able to read about all the money we are giving away.

Ray Bacon, representing the Nevada Manufacturers Association:

We totally agree with Bryan's comments. This is long overdue. Two things that I would add, neither of which are reasonable, but I think in the future we should have this discussion. First, I would love to see a sunset for all legislation, 20 years or 30 years, I do not care, but we have things on the books that go back 100 years. No one has probably ever looked at them, and probably nobody ever should look at them.

The second thing would be that at some point in time you get to the summary report. For the future you may want to seriously consider a separate line, which talks about the cost of business compliance with each and every tax. We not only have a cost of collection for every tax that we go through in the state, and that is one of the things that will come out in this thing, but there is also a compliance cost for the business. In some cases, part of the reason we like the MBT is that the compliance cost of the MBT is pretty low. It is pretty simple. When you get to some of our other taxes, it is considerably more complex. That is something we think should at least be looked at in the future—certainly not in this bill, as that would add to the fiscal note.

I totally agree with Assemblywoman Kirkpatrick that we do not do a great job on the abatements and things like that. We have a tendency to put them in place and then go back and look only at the failures. We do wind up with a bunch that are a success.

I am in total agreement with Assemblywoman Kirkpatrick in that I am about as impressed as she is with the IMPLAN numbers. I think somebody plugs in whatever they want and gets out whatever they want.

Carole Vilardo, President, Nevada Taxpayers Association:

I am speaking absolutely in support of the bill. If you look at the overall reason you enact taxes it is because you want a level of revenue to support the services you want to provide to the taxpayer, yet every time we do an exemption, an abatement, or a credit we erode a certain amount of that tax base.

Having a report like this, particularly where you show the return on investment, is good, because I can show you that we are losing \$100, but are making more in other direct and indirect other taxes. For example, if I give you an MBT exemption and I get sales tax in return because you meet the requirements for paying employees enough that they can buy a house, they are furnishing the house, and they are paying property tax, I can see a return on investment in the fact that I am generating additional revenue. But, if I am not generating the additional revenue, what happens is when you come in to do a budget then you

are looking at less money overall, and we have a discussion about increasing taxes.

For most of us in the business community we subscribe to the idea that an abatement, an exemption, a credit is good if you can measure it. If you cannot, or if there is not sufficient return on investment, what you wind up doing, generally, is coming back and looking for increased revenue, which means that we are either going to fee ourselves to death or we are going to raise the rates on taxes, or look for new taxes. A bill like this helps us do it, even if a small provision had to be removed right now to reduce the cost. This bill is overdue, given the way we have done exemptions over the last number of sessions. I would say do it, because we can then build on whatever we need.

I have a piece that I would love to see in here, but I would not recommend you put an amendment on it until we first get this done, and then I could talk to you next session about it. Assemblywoman Kirkpatrick mentioned when they were looking to get a history of all the abatements, that the green energy one was the very first one she found. That was from the late 80s and it was known as the Moapa Tire Recycling Center. There was a tire plant that was going to go out there and recycle tires, to use them for various energy components. They made enough of a case that we did not keep them within the existing exemption structure. We expanded the exemption for them. The part I am talking about is that at some point we need to have a list of all the exemptions and abatements, and when we do not find they have been used, get rid of them.

I would just urge you to do it. I think we need better information. I think it is important and it is a very good companion piece to the original A.B. No. 193 of the 75th Session and the constitutional amendment that we have that says, at least for property and sales tax, you are supposed to have a finite date, which in effect gives you that point for review.

Chairwoman Bustamante Adams:

Thank you so much. I always appreciate the history. Are there any questions from the members of the Committee? [There were none.] We will transition to opposition. Is there anyone in opposition to A.B. 466? [There was no one.] We will transition to neutral. Is there anyone in neutral for A.B. 466?

Jeff Mohlenkamp, Director, Department of Administration:

I am in the neutral capacity. We have submitted a fiscal note, as you have been discussing. I will be honest with you; I do not think we are clear on exactly what the cost is to get this done and then to maintain it thereafter. This is clearly an estimate.

We did reach out to a couple of groups to try to see if we were in the ballpark. The amounts came back anywhere from \$100,000 for the initial research project to \$200,000 or \$300,000. It really depends on how exhaustive this gets. Clearly there is a need for us to reach out to local government and get information from them.

I was taking some notes and I break this down into two major components. One is quantifying what it is we have done and how much it costs, so it is a quantification process. I think that has some difficulties and some challenges. I understand, however, that some of the work has already been done. There are some reports that exist, so we would not be starting from scratch.

The next piece is why did we do it, what are the expected benefits, and are we getting those benefits. I have heard the discussion on that and I think that is very valuable. I think what Ms. Vilardo referred to is huge. It seems to me to be a very challenging research project. I am not saying it is insurmountable, but I do not think it is cheap or free.

We know the state of Nevada ranks not well in some areas of transparency, and this is one of them. This is an area where we just recently had a report come back. Nevada did not get good grades on some of our financial transparency and on overall transparency as a state. This is one of the areas we know we need to address and correct, so absolutely we need to move forward.

In our fiscal note, to answer an earlier question, we did include \$25,000 to address not only the ability to present this on the Internet, but also to be able to try and collect data in an electronic and web-based format. That does not come without some cost. I do not know whether \$25,000 is a great number or not. That was an estimate we used in order to make sure this information is not only gathered, but is also presented in an effective way.

The reason we are asking for an economist position is that this is not just counting widgets. This is very challenging stuff, trying to get in and understand the history of these expenditures. You have to dig down and understand when you are reading transcripts and minutes and trying to go through and deal with your local government counterparts. You have to have someone who really understands this game. We could not get an administrative assistant or someone along those lines who would be able to really deal with these matters, which are fairly technical and comprehensive. Whether we need a full-time position on a going-forward basis, I do not know. I honestly do not know the answer. I do know from having been in state government for a fairly long time now that if we do not dedicate resources to making sure this gets done, it becomes an "extra duty as assigned" to a staff member who already has a

workload and is busy. Trying to keep this up will be a challenge, and we will be back here wondering why we did not update the information.

We would be more than happy to work with Assemblywoman Kirkpatrick in trying to address that. It is the why aspect and whether or not we are getting the benefits that seems very challenging to me. It is not that we do not agree with it. I absolutely think this information is valuable, it is just that it is not free to get it.

I would be more than happy to answer any questions.

Chairwoman Bustamante Adams:

Currently the state does not have an economist, is that correct?

Jeff Mohlenkamp:

We do actually. We have an economist position in the Budget Division. She is part of a planning and grants unit, but within the Budget Division. We only have the one position. I do not know that that additional workload on a going-forward basis could not be managed, but I really do not know the answer to that. To be honest with you, I think we already keep this person pretty busy with the existing workload. I would be hard pressed to say I could add this on top of that existing workload without any additional resources at all.

**Maud Naroll, Chief Planner, Research, Planning and Grants Management,
Department of Administration:**

I reached out to a number of states. In the state of Washington, just to update the report takes the equivalent of six full-time employees. We are, in some ways, being conservative.

Chairwoman Bustamante Adams:

Are there any others in the neutral position? [There was no one.]
Assemblywoman Kirkpatrick, would you like to provide closing comments?

Assemblywoman Kirkpatrick:

I want to work with the Governor's office to address their issues with Mr. Mohlenkamp. He has been very open about working with them. I also want to address some of the issues of other states and how many full-time employees it takes.

As we are all on the tax Committee, we do not have nearly as many taxes as half of the other states, so I do not think it will take six full-time employees. You would have a hard time justifying that to me. And, we are not a full-time

Legislature, so that must be taken into consideration. We are not passing abatements and exemptions every single year.

If this cost \$1 million, I would go find the million dollars, because in my mind it is worth it to our state. It is an embarrassment that we are one of five states in the country that do not do this. Other states can say how much it is, but I want to compare apples to apples and be pretty frank about it, because that is why we are in this situation. We do not have a lot of resources when it comes to taxes out there. Washington State has a much more complicated business tax structure than we do. Oregon is similar to us. They have two people, but they also have other duties at different times of the year. In my mind it is rather frustrating that we ask our fiscal staff to do nine hundred different things during session, outside of session, and they still manage to put that one report together. Did I push Mr. Guindon's buttons? Absolutely, but it was possible. The report, going forward, has been so easy to keep track of.

I want to be able to compare apples to apples. I want to work with Mr. Mohlenkamp because I believe he knows this is important. I am not so amenable when we are not talking apples to apples. I think local government benefits by helping us, and if they do not help us, then we do not have to help them.

Chairwoman Bustamante Adams:

We will close the hearing on A.B. 466. Is there anybody in Las Vegas or Carson City who would like to provide public comment? Seeing none, the meeting is adjourned [at 1:56 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblywoman Irene Bustamante Adams
Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: April 4, 2013

Time of Meeting: 12:37 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 323	C	Assemblyman Paul Anderson	Prepared testimony
A.B. 138	D	Michael Nakamoto	Work Session Document
A.B. 290	E	Michael Nakamoto	Work Session Document
A.B. 335	F	Michael Nakamoto	Work Session Document
A.B. 466	G	Assemblywoman Marilyn Kirkpatrick	Promoting State Budget Accountability through Tax Expenditure Reporting
A.B. 466	H	Assemblywoman Marilyn Kirkpatrick	Evidence Counts, Evaluating State Tax Incentives for Jobs and Growth