

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Seventy-Seventh Session
February 26, 2013**

The Senate Committee on Revenue and Economic Development was called to order by Chair Ruben J. Kihuen at 1:41 p.m. on Tuesday, February 26, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Ruben J. Kihuen, Chair
Senator David R. Parks, Vice Chair
Senator Moises (Mo) Denis
Senator Debbie Smith
Senator Ben Kieckhefer
Senator Michael Roberson
Senator Greg Brower

STAFF MEMBERS PRESENT:

Joe Reel, Deputy Fiscal Analyst
Bryan Fernley-Gonzalez, Counsel
Mike Wiley, Committee Secretary

OTHERS PRESENT:

Gary Milliken, Churchill County
Andrew Powell, Senior Planner and Demographer, City of Henderson
Lisa Foster, Nevada League of Cities and Municipalities
Megan N. Salcido, City of Reno
Jeff Hardcastle, State Demographer
Chris Nielsen, Executive Director, Department of Taxation
Peter Krueger, Nevada Petroleum Marketers Association
Bryan Wachter, Retail Association of Nevada
Deonne E. Contine, Deputy Executive Director, Department of Taxation

Chair Kihuen:

I will open the hearing with Senate Bill (S.B.) 50.

SENATE BILL 50: Revises provisions governing the annual determination of population of towns, townships, cities and counties. (BDR 32-257)

Gary Milliken (Churchill County):

Senate Bill 50 was worked on by the Nevada Association of Counties (NACO) and Nevada League of Cities and Municipalities (NLC&M) to determine the population for various entities. Andrew Powell, Demographer from Henderson, will cover the bill.

Andrew Powell (Senior Planner and Demographer, City of Henderson):

I have prepared testimony ([Exhibit C](#)) emphasizing the need for deadlines set in S.B. 50.

Senator Kieckhefer:

If the bill is submitted by Churchill County, why are you testifying on behalf of Henderson?

Mr. Powell:

The bill was submitted by Churchill County on behalf of NACO. The local jurisdictions in Clark County were the interested parties that brought it forward.

Senator Kieckhefer:

It is a Clark County issue and not a Churchill County issue.

Mr. Powell:

We are the ones who introduced this issue. The process affects all counties and jurisdictions equally.

Senator Kieckhefer:

The issue seems to be over the timing of getting estimates and having your Consolidated Tax Distribution projections correct.

Mr. Powell:

Yes. It is primarily a timing issue to clearly define a predictable process on an annual basis.

Chair Kihuen:

There is a fiscal note on the bill—what is the cost?

Mr. Powell:

The only fiscal impact would be the staff time-savings for the City of Henderson. I do not know what the savings would be to the State.

Senator Kieckhefer:

This process is done by the Secretary of State's Office. Is there a reason it needs to be in statute and not in regulation?

Mr. Powell:

We think it rises to the level of a statute rather than regulation.

Senator Kieckhefer:

Is there a date in State regulations as to when it needs to be completed?

Mr. Powell:

The deadlines being proposed mirror what was amended into the *Nevada Administrative Code*, and the only new deadline on the release affects the variables used on a given year in advance of the process.

Senator Kieckhefer:

Are you asking that S.B. 50 be adopted into regulations?

Mr. Powell:

Correct.

Mr. Milliken:

We have an amendment on S.B. 50 as agreed to by NACO and NLC&M. Lisa Foster will cover it.

Lisa Foster (Nevada League of Cities and Municipalities):

The NLC&M supports S.B. 50 but has requested an amendment ([Exhibit D](#)). The amendment in section 1, subsection 1, paragraph (e) of the bill changes the "must" to "may" for preparing and submitting a population estimate to the Department of Taxation. Both NLC&M and NACO find some of their members say the process is working well. If they would be forced to submit their

estimates, they would have to hire someone or divert staff time to gather the information. Churchill County supports the amendment.

Chair Kihuen:

The amendment is in your binder.

Megan N. Salcido (City of Reno):

We support S.B. 50 if the amendment is adopted. Our current procedure works well, with Washoe County preparing the estimate, with staff review, before submission to the State Demographer. We had a fiscal note on the bill for a part-time position, but the fiscal note is eliminated if the amendment is adopted.

Jeff Hardcastle (State Demographer):

I have a prepared statement on the State Demographer's overview of Senate Bill 50 ([Exhibit E](#)). In my testimony, I will cover why things are going well and mention that some of S.B. 50 is contained in recent revisions to the *Nevada Administrative Code*. Substantive changes in this legislation will potentially have a negative impact on the estimates.

Chair Kihuen:

You signed in as neutral, but you came out in opposition. Do want to go on the record as neutral or opposition?

Mr. Hardcastle:

I need to be recorded as neutral.

Senator Kieckhefer:

Would the proposed amendment change the fiscal note from the Department of Taxation?

Mr. Hardcastle:

It would stay. The fiscal note reflects demands on the office. As I stated, this is a matter of hearing to clarify if jurisdiction X, Y or Z will go ahead and do its own estimate or I do it for them. At this point, by default, I work with the county assessors and Washoe and Clark Counties as lead staff. We are expanding the 17 agencies I currently coordinate to 125 estimates. The rural counties often lack the staff resources to respond in a timely manner.

Chair Kihuen:

I will close the hearing on S.B. 50 and open the hearing on Senate Bill 7.

SENATE BILL 7: Requires the Executive Director of the Department of Taxation to publish and periodically revise technical bulletins. (BDR 32-299)

Chris Nielsen (Executive Director, Department of Taxation):

I have an overview of S.B. 7 (Exhibit F) that explains how technical bulletins may better educate the public.

Senator Smith:

Does this have to be done in statute?

Mr. Nielsen:

When we attempt to provide examples, we are asked to do a regulation. There comes a point in time where regulations do not involve examples. We would like to give real-world examples to taxpayers and the Department staff.

Senator Smith:

Why is there no fiscal note?

Mr. Nielsen:

As part of the recommended Executive Budget, we have an additional position in the budget that would cover this situation. The new employee would also be charged with promulgating the regulations.

Senator Smith:

We would normally see a fiscal note.

Chair Kihuen:

How often are you going to publish technical bulletins?

Mr. Nielsen:

We would have them at every meeting. The Nevada Tax Commission would have to approve the bulletins before they are published.

Chair Kihuen:

Will the bulletins appear on your Website? Would there be hard copies?

Mr. Nielsen:

They will be on the Website. If someone wanted hard copies, we would provide them.

Peter Krueger (Nevada Petroleum Marketers Association):

We are in support of S.B. 7. We see this as a vehicle for small business because the language would be more understandable. It will allow the taxpayer to interpret what their responsibilities are concerning taxes and regulations.

Bryan Wachter (Retail Association of Nevada):

We support S.B. 7. Trying to figure out what is taxable is difficult. For example, Monster Energy Drinks are taxable and Red Bull Energy Drinks are not, so this clarity will help.

Chair Kihuen:

I will close the hearing on S.B. 7 and open the hearing on S.B. 8.

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

Deonne E. Contine (Deputy Executive Director, Department of Taxation):

The Department of Taxation's bill changes the definition of a wholesale price related to Other Tobacco Products (OTP) as explained in our overview ([Exhibit G](#)). Pursuant to *Nevada Revised Statute* 370.440, subsection 5, paragraph (a), "wholesale price" means, "the established price for which a manufacturer sells [OTP], to a wholesale dealer before any discount or other reduction is made." This bill seeks to amend the definition of wholesale price to clarify that tax is due on the amount the wholesaler who brings the OTP into Nevada pays for the OTP.

Until recently, Company A manufacturer would sell its OTP to an unrelated wholesaler, and Company A would take care of the markup, branding and the additional amounts that add to the cost of the OTP. The wholesaler would bring it into Nevada and sell it for \$100—the OTP would be 30 percent or \$30. Companies have started creating their own wholesale and manufacturing arms. They sell the OTP to their related wholesalers at a reduced rate of \$50. That related wholesaler sells the OTP for \$100 to another wholesaler, brings it into Nevada and pays tax on the \$50.

This bill is for maintaining the revenue stream intended to be the price the wholesale dealer brings into Nevada, which should be the measure of the tax. It clarifies the tax should be the price of the OTP sold, in this case \$100. Another example involves multiple wholesale transactions outside of the State. The wholesaler who brings it into Nevada does not know the manufacturer's price, being four wholesalers removed from the manufacturer. The Department has always maintained it will list the price last paid.

Senator Smith:

Is it anticipated to improve our revenue stream?

Ms. Contine:

The anticipation would be to maintain the revenue stream.

Senator Smith:

It is designed to maintain your current practices, so there will be no loss of revenue.

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Chair Kihuen:

I will close the hearing on S.B. 8. With no further business to come before the Senate Committee on Revenue and Economic Development, this meeting is adjourned at 2:18 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

Senator Ruben J. Kihuen, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
S.B. 50	C	1	Andrew Powell	Testimony
S.B. 50	D	1	Lisa Foster	NLC&M/NACO Proposed Amendment to SB 50
S.B. 50	E	8	Jeff Hardcastle	Prepared Statement
S.B. 7	F	15	Chris Nielsen	Department of Taxation's Overview of Senate Bill 7
S.B. 8	G	1	Deonne E. Contine	Department of Taxation's Overview of Senate Bill 8