

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

**Seventy-Eighth Session
May 28, 2015**

The Committee on Taxation was called to order by Chairman Derek Armstrong at 4:39 p.m. on Thursday, May 28, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, 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 www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Derek Armstrong, Chairman
Assemblyman Randy Kirner, Vice Chairman
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Olivia Diaz
Assemblywoman Jill Dickman
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblywoman Dina Neal
Assemblyman Erven T. Nelson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Senate District No. 17



STAFF MEMBERS PRESENT:

Michael Nakamoto, Deputy Fiscal Analyst
Gina Hall, Committee Secretary
Olivia Lloyd, Committee Assistant
Norma Mallett, Committee Assistant

OTHERS PRESENT:

Grant A. Hewitt, Chief of Staff, Office of the State Treasurer
Bryan Wachter, Senior Vice President, Retail Association of Nevada
Ray Bacon, representing the Nevada Manufacturers Association
Joshua G. Wilson, Chief Deputy Assessor, Assessor's Office,
Washoe County
Carole Vilardo, President, Nevada Taxpayers Association
Yolanda King, Chief Financial Officer, Department of Finance,
Clark County
Jeff Fontaine, Executive Director, Nevada Association of Counties
Tammi Davis, Treasurer, Washoe County
Scott Anderson, Chief Deputy, Office of the Secretary of State

Chairman Armstrong:

[Roll was called and housekeeping items discussed.] On today's agenda we have two bills to hear, and then a work session. At this point I will open the hearing on Senate Bill 412.

Senate Bill 412: Provides for a credit against taxes imposed on certain employers that make a matching contribution to certain college savings plans. (BDR 32-1033)

Grant A. Hewitt, Chief of Staff, Office of the State Treasurer:

Thank you for allowing me to present Senate Bill 412, a bill aimed to provide an incentive to employers to help their employees and their families save for college. Before I begin my testimony ([Exhibit C](#)), I would like to take a moment and thank Senator Harris for sponsoring this legislation. I would also like to pass along Senator Harris's apologies for not being able to attend today's hearing personally. I would also like to thank the Committee on behalf of the College Savings Plans of Nevada's partners for your willingness to hear S.B. 412. These partners submitted letters in support of S.B. 412 when the bill was heard in the Senate Committee on Revenue and Economic Development on April 3, 2015 ([Exhibit D](#)). These letters can be found on the Nevada Electronic Legislative Information System (NELIS). [Continued to read from prepared testimony ([Exhibit C](#)).]

Today, according to the American Community Survey, only 31 percent of Nevadans have an associate's degree or higher. To remain competitive in recruiting new and diverse companies to grow our economy, we must remain committed to improving this number. [Continued to read from prepared testimony ([Exhibit C](#)).]

Nevada's 529 College Savings Plans are designed to help families of all incomes and backgrounds to save with added benefits. Today, thanks to the leadership of Nevada's College Savings Team located in the Treasurer's Office, our state continuously finds itself on the forefront when it comes to college savings innovation. Nevada offers five unique and different plans that each offer special benefits to Nevada families. [Continued to read from prepared testimony ([Exhibit C](#)).]

Across the country, many states have worked tirelessly to try to change and encourage families to save for college, using many methods that we here in Nevada were pioneers in developing. But some tools that other states have we lack the ability to have ourselves. One such tool is a personal tax credit. [Continued to read from prepared testimony ([Exhibit C](#)).]

Understanding that the cost of obtaining postsecondary education is on the rise, with no ceiling in sight, our College Savings Team knows it is paramount to find new ways to make the dream of higher education more obtainable for every Nevada family, so the idea of S.B. 412 was born. [Continued to read from prepared testimony ([Exhibit C](#)).]

At a high level S.B. 412 would assist families by providing an opportunity to have their contributions to a qualifying Nevada 529 plan matched by their employers, further incentivizing them to save. When looking for what tools we could use to encourage more college savings, after ruling out a personal tax credit, this tax credit for businesses was the next logical choice. [Continued to read from prepared testimony ([Exhibit C](#)).]

Now, in closing, let me quickly walk through the specifics of the tax credit:

- It provides a tax credit to employers who match 529 contributions for their employees.
- The contributions by employees must be made into a qualifying Nevada 529 College Savings Plan, either a standard 529 or the Nevada Higher Education Prepaid Tuition Program.
- The tax credit is in an amount equal to 25 percent of the matching contribution, not to exceed \$500 per employee per year.

- If the total amount of credit exceeds the total tax liability for the year, unused credits may carry forward for five years. In the event credits for multiple years are available, credits from the earliest year must be used first. Credits cannot be applied retroactively.

Again Mr. Chairman and members of the Committee, thank you for your time today. I hope you will strongly consider passing S.B. 412 so together we can strive to bring a culture of education to Nevada. I am happy to answer any questions.

Chairman Armstrong:

With the ability to carry credits forward, how are you going to keep track of those carried-forward credits?

Grant Hewitt:

We are working with the Department of Taxation on a computer program, and also our record-keeping software will be able to track the matching credits.

Assemblywoman Kirkpatrick:

Would this come out of the modified business tax (MBT) account?

Grant Hewitt:

That is correct.

Assemblywoman Kirkpatrick:

How many people do you project doing this? I struggle that we are in a situation where we are trying to raise revenue for the state, and at the same time we are trying to minimize the credits or tax abatements. I know your department runs the Nevada College Savings Plans. Did you figure into your staff allocation, within your budget, how many more people you would need, et cetera? The MBT is our most solid thing and we keep trying to give it away.

Grant Hewitt:

The estimated impact is difficult to ascertain. We do not know how many employers will step up to the plate because it is an optional benefit to offer.

We did go back and look at how many accounts we had that were utilizing some form of payroll direct deposit into a 529 plan now, so their human resources (HR) systems were already allowing them to do a direct payroll deduction. I believe we had around 400 accounts. It was about \$220,000 if they maxed out at the \$500 amount. It was not a large number. That is low-hanging fruit, and that is where we would go.

From a staff perspective, our record keeping is outside the department. We use Ascensus College Savings as our record keeper, so we see no staff needs within the department.

We are working continuously with the Legislative Counsel Bureau Fiscal Analysis Division to work those numbers out.

Assemblywoman Kirkpatrick:

Who would collect the \$500 amount, because the Department of Taxation currently collects the MBT. Would you get an automatic payroll deduction to the State Treasurer's Office? I need to understand the logistics of how that works.

Grant Hewitt:

We would track it just like a 401(k) contribution, and we would provide a spreadsheet of the match quarterly to the Department of Taxation, through regulations. We would have to figure out the logistics of when they would do the deduction, but we would monitor that monthly, quarterly, or however the Department of Taxation wants us to. This is very standard, like a 401(k) match that happens all the time.

Assemblywoman Kirkpatrick:

Is there a provision in here that says you can only go in the Nevada College Savings Plans and you cannot use it for any other dollars? Is it protected?

Grant Hewitt:

The contribution is made directly from the employer directly into the College Savings Plan, so it is one of our five plans, which goes into the trust account [Nevada College Savings Trust Fund].

Assemblywoman Kirkpatrick:

Do you currently utilize the interest on that trust account for other things? How does that work? I just want to ensure that the dollars people put in it are protected. In the legislative world, when people see an account with a bunch of money in it, they assume that it can be spent. I just want to ensure there is some protection.

I am super nervous about all of the abilities to create regulations, because I have not heard what we as legislators are supposed to expect when we see the regulations. It makes me nervous that we are still thinking about this. I would like you to help me with some pretty concrete concepts.

Grant Hewitt:

These are protected accounts. These are the individuals' accounts. These are trusts. The Legislature does not have the ability to touch these 529 plans. We manage billions of dollars in assets nationwide that the Legislature cannot touch. You do not have the ability to touch our Nevada Prepaid Tuition Program funds. We are 126 percent funded and are excited about that.

Assemblywoman Kirkpatrick:

What happens to the interest that you make off of the money in those accounts?

Grant Hewitt:

The interest belongs to the individuals. The bill is set up so that once the employer makes a contribution, it is the employee's money; it is no longer the employer's money once it is in the account.

Assemblywoman Kirkpatrick:

What are we supposed to look for when regulations come to us? What would you envision? I am asking in all seriousness. I see that my colleague from Douglas County is in there. He and I try to make sure that the legislative intent is pretty solid when we see regulations. You would be surprised how many times there is miscommunication.

Grant Hewitt:

I feel that the bill is very clear on this. From a regulations standpoint, for our office, it is going to be the logistics of the reporting, whether it is quarterly or monthly and how the Department of Taxation wants to get their information. It is going to be direct to the plan from the employer. We already have an HR process going with many employers across the state. This is just going to be an added benefit.

Assemblywoman Benitez-Thompson:

My question is on section 4, subsection 2, paragraph (b), that says, "Must not include any requirement that the Board of Trustees of the College Savings Plans of Nevada created by [*Nevada Revised Statutes*] NRS 353B.005 submit any reports to the Department," meaning the Department of Taxation, "regarding the contributions described...."

I am wondering if you are collecting the money, and it is being held there, and the Department of Taxation cannot see any of that information, how is the information going to be exchanged in order to have the credit against the financial institution tax in section 2, and then the MBT in section 3?

Grant Hewitt:

Our intent is to have it come directly from our record keeping agency, Ascensus College Savings, straight to the Department of Taxation.

Assemblywoman Benitez-Thompson:

For clarification, when you say "must not include any requirements," I am reading that as saying the Department of Taxation cannot ask for any reports on the plan or on these contributions. Do you mean that to be interpreted in a different way?

Grant Hewitt:

I am not aware that the Board of Trustees of the College Savings Plans of Nevada has any of those reports directly on a daily basis. It is our record keeper that has those reports. How I interpret it is that the Board would not have them. Ascensus College Savings does, and that is who would send it over. I am happy to clarify that.

Assemblywoman Neal:

I was reading the PowerPoint presented on April 3, 2015, in the hearing of the Senate Committee on Revenue and Economic Development ([Exhibit E](#)). It was the overview of the College Savings Plans of Nevada. It has the SSgA Upromise 529 Plan, Vanguard 529 College Savings Plan, USAA 529 College Savings Plan, Putnam 529 for America, and the Nevada Prepaid Tuition Program.

Can you explain what the chart on page 10 ([Exhibit E](#)) means? As I read the definitions on page 8 ([Exhibit E](#)), talking about the different requirements for each plan, what does all that mean? Are these examples of what we have or what we will get?

Grant Hewitt:

Nevada has five 529 plans that it is contracted with today. We have the SSgA Upromise 529 Plan, the Vanguard 529 Savings Plan, the USAA 529 College Savings Plan, the Putnam 529 for America, and the Nevada Prepaid Tuition Program. These plans are national plans, sold nationally. The 529 plans can be sold outside state lines. For Nevada families, you get special benefits in those plans. For example, the Vanguard Plan nationally has a \$3,000 opening cost. That is the minimum opening balance to have a Vanguard 529 plan, but for a Nevada family it is \$1,000. That is the deal we have cut. Not everybody can afford the Vanguard Plan, so we have the SSgA Plan, which can be opened with \$15. We have various plans for various people. There is actually a plan for almost everybody.

In our SSgA Plan, we offer a matching grant program. We will match \$300 for five years, for a maximum of \$1,500 over a five-year period. Our Nevada College Kick Start Program is in our SSgA plan. We have the Distinguished Valor Matching Grant Program with the USAA plan, and it also has a matching grant component to it. Those matching grants are only for Nevada residents.

Page 8, which you are referencing, shows the special things we offer for Nevada families. Page 10, which is the chart, talks about our total assets under management, the total accounts nationwide. The blue section is our accounts in Nevada only. You can see that we have 4,967 SSgA Upromise accounts in Nevada versus 151,686 nationwide.

Assemblywoman Neal:

Can an employer offset the account opening minimum? I am trying to understand the bill's wording of "\$500 per contributing employee per year." If I am an employee and want to put my child in the Nevada College Savings Plan, but I do not have the \$1,000 for the Vanguard Plan minimum, can money from my employer go to the opening of that account?

Grant Hewitt:

Yes, but you can also open an SSgA Plan for \$15. The match is if the employee puts in \$100 and the employer matches that \$100, with \$25 of the employer match going toward the credit, up to \$500. What we are trying to do is not have the employer hit it with one \$500 contribution and be done. We want them to match over time, so we encourage families to save over time.

Assemblywoman Neal:

What are the interest rates? Whatever you put into the savings plan you want it to grow. Are all of these different or do they have the same interest rate?

Grant Hewitt:

They all have glide paths. They are all approved by the Treasurer's Office and they are all monitored. Some are different, based upon the age. They are all age-based plans, so if you are a six-year-old going in, it is designed to grow over time. They are aggressive. You select which investment plan you want to go into.

The key on the 529 plans is that you are not taxed on the growth. So, when you pull that money out to go to school, there is no tax on that growth. That is why these are different than other savings vehicles.

Assemblyman Nelson:

There are no restrictions as to the identity of the employee, such as no nepotism or anything like that? If an employer wants to contribute to a son or a daughter of the founder, that is fine, right?

Grant Hewitt:

The beneficiary is probably going to be a son or a daughter. If the owner has a son or daughter, and they are contributing, yes.

Assemblyman Nelson:

So it could be anybody?

Grant Hewitt:

It is an employee and the family, yes.

Assemblywoman Bustamante Adams:

I have been a big fan of the past Treasurer, Kate Marshall, and everything she did in the college savings plan area. I think the goal is to get kids to start thinking about college. There are statistics that show if you start a college savings plan, the likelihood of a child going to college is very high.

Under the past Treasurer's leadership, the Nevada College Kick Start Program was started, and that is for the kindergarteners to get \$50 in savings to start the investment. I think this is a duplicative effort. I just do not understand what it is we are trying to solve. I know that we want kids to go to college, but I think the Nevada College Kick Start Program accomplishes the same thing.

Grant Hewitt:

Treasurer Marshall was a pioneer with Nevada College Kick Start, and I want to commend the Legislature for approving that program. Kick Start does provide \$50 for every public school kindergartener, but that \$50 is in an account that they cannot add to. They need to open their own account to add money, and then build on that.

What we are trying to do is provide a vehicle that enables an incentive for people to help families contribute and encourages savings. We are trying to get employers to have a reason to have skin in the game, to help families match contributions into a 529 plan.

You are right; studies show that if a child knows someone is saving for college for them, they are seven times more likely to go to college. We hope that works with Nevada College Kick Start, but it is going to take 13 years to see those results.

Nevada is not New York. We do not have the ability, off personal income tax, to get a \$10,000 credit for college savings. What we are trying to do is find a way to incentivize Nevada businesses to step up and say, "We want our employees' children to go to college, and we are willing to step up and help you." Companies like Zappos today allow their employees to deduct out of their paycheck to send to their college savings accounts. We would love Zappos to step up and give \$25 and match their employees' contributions. We think if they got a tax credit, they might be more interested in doing that, and that is what this bill tries to do. It gives us another tool to try to encourage businesses to step up to the plate and help Nevadans prepare for college. College is not getting cheaper. We are lucky the Board of Regents of the Nevada System of Higher Education has built in a 4 percent increase in tuition every year. This keeps us on the forefront of college savings. Nevada College Kick Start put us out there; this keeps us there.

Assemblywoman Kirkpatrick:

The maximum you can do for a year is \$500 for the credit. Is that correct?

Grant Hewitt:

Correct.

Assemblywoman Kirkpatrick:

I have to think that administratively it is going to cost us more to process the paperwork than the credit somebody is going to use. Five hundred dollars for an employer, per employee, is not a lot. Many employers have their own savings program that they participate in for different reasons. How many people do you think are going to use it? I thought we had a great program in place. I just do not know how this one will be beneficial and not cost us money for administrative costs.

Grant Hewitt:

We are not seeing an administrative cost on our side. We do not have a fiscal note on this. The Department of Taxation has a software upgrade. This is a service that our college savings plan partners are willing to eat, in terms of the record keeping. This is not a cost to the taxpayers of Nevada, in terms of record keeping. We are just looking for another tool to help us, and at the end of the day, Nevada College Kick Start is a great idea, a great program, a great theory, and a great social experiment. You want to judge Nevada College Kick Start about conversion and how many people have opened up accounts. There are 66,000 Nevada College Kick Start accounts. The last time I looked, there were 344 who have opened a college savings account. It is clearly not the go-to solve-it-all. I am working on the Nevada College Kick Start 2.0 plan, to try to improve that number, but I am looking for other tools as well.

When I look at it, I think a tax credit for businesses might help, and that is why I am here.

Assemblywoman Kirkpatrick:

We have a vendor that we contract with to provide this service to our state, and now the state is going to give it an incentive to grow its business. That is how I see it. We are trying to guarantee them some business from the state giving some incentive to make their contract, because we sign a purchasing contract with them. You do not just go out and pick someone, right?

Grant Hewitt:

We are in a long-term contract.

Assemblywoman Kirkpatrick:

Maybe I do not understand. It just appears to me that they are going to benefit from the state giving away another portion. We already give them a government contract to grow their business. In their contract, do they get something that says they get a percentage of additional dollars if they have more than this number of people who participate?

I thought when this went before the State Board of Examiners years ago there was some incentive for them to try and grow the program, and there was a marketing piece. There is a benefit and we already gave them a government contract, and now we are going to give them state money. What does the vendor get from this?

Grant Hewitt:

I guess the giving away of the state money is the tax credit. Yes, the standard contracts for financial management and financial services are an "assets under management" fee, so the more people who save and the more assets that are being saved, the more money people make. I believe we are in a 30-year contract we inherited with Ascensus College Savings. It is an unheard of long contract, and was long before my time or Treasurer Marshall's time.

My initial estimates on this are \$220,000 in the first year. We are talking about kids saving for college. We are talking about creating a college bound education culture in Nevada and we are arguing about \$220,000. I think that it is a small price to pay to send kids to college in this state. I am proud to stand here and fight for it.

Assemblywoman Kirkpatrick:

He did not answer the question, if the vendor makes a profit off of the additional things. That is all I am asking.

Chairman Armstrong:

I think what he said was as more people sign up there are administrative fees, and yes there are additional costs that go to the vendor. Am I correct?

Grant Hewitt:

I want to clarify. It is not from the state. The account fees are paid for by the participants. As assets under management grow, as participants put in more money, there are small account fees. I will note, though, that fees for Nevada residents are waived. Fees for Ascensus College Savings are paid for by the out-of-state participants in our plans. If you look at the PowerPoint presentation that was referenced ([Exhibit E](#)), we have billions of dollars that are outside the state of Nevada that pay these fees, not Nevadans.

Assemblyman Kirner:

When an individual makes a deposit and the corporation then makes a contribution, is that a dollar for dollar credit against the MBT, or is it a percentage?

Grant Hewitt:

It is 25 percent up to the \$500, and then they are allowed to carry credits forward for five years.

Chairman Armstrong:

Are there any other questions from the Committee? Seeing none, we will take testimony in support. Would anyone like to speak in support of S.B. 412? Seeing no one, we will move to opposition. Would anyone like to speak opposed to S.B. 412?

Bryan Wachter, Senior Vice President, Retail Association of Nevada:

We admire this goal. We have questions regarding yet another credit to the MBT. We have, as policy, opposition to credits, abatements, and exemptions; all they do is make the taxes less efficient. We do have the same concerns as Assemblywoman Benitez-Thompson on section 4, subsection 2, paragraph (b). We also wonder if this is subject to an employer receiving a refund if they do not have a MBT liability. Do they get a check back? Is that possible?

We also question if an employer does not have an MBT liability, for example, for three years, but they are contributing for every single one of their employees, and suddenly in Year 4 they have an MBT liability; can they take all the credit

that has built up over that time and apply it at once? Section 3, subsection 3, page 3, beginning on line 1 says, "A credit applied pursuant to this subsection must be applied during the earliest year for which the employer has a tax liability. If credits for more than 1 year are available to an employer pursuant to this subsection, the credit from the earliest year must be applied first." It seems unclear to us whether or not all the credits that have built up over a certain period of time can be taken at once. We have a lot of questions about the mechanism and what effect it will eventually have on the MBT.

There is really no way to know how many people and at what level they might contribute. It is not subject to a small company; a very large company could decide it would make sense on the MBT to match up to \$500, let us say, for 1,000 employees, and then get the 25 percent credit back on the MBT. We have concerns.

Chairman Armstrong:

Are there any questions from the Committee? Seeing none, would anyone else like to speak in opposition to S.B. 412? Seeing no one, we will move to neutral. Would anyone like to speak as neutral on S.B. 412?

Ray Bacon, representing the Nevada Manufacturers Association:

We are coming up as neutral on this bill because, if you take a look at this plan, college savings plans are long-term plans. Elsewhere we have heard that the long-term plan is to eliminate the MBT, so you are putting a tax credit against a tax that is supposedly going to go away. We do not know what the time frame is. We are talking about college savings programs, and those are probably a minimum of a 12-year window for most kids to get through, or in some cases if you start them when they are infants, which is the goal, it could be long gone before you ever get there.

So, to create a credit against the tax, which in theory is going to go away, does not seem like prudent policy. We share some of Mr. Wachter's concerns. At \$220,000, if every employer were to max out, that is only 440 kids.

Chairman Armstrong:

Would anyone else like to speak as neutral on S.B. 412? Seeing none, do you have any final words, Mr. Hewitt?

Grant Hewitt:

Every day we are looking for ways to encourage Nevadans to save for college. I understand the evolving tax debate in Nevada and my thoughts are that as it evolves, we will address it then. One thing I have witnessed this legislative

session is this building changes by the minute, but kids needing to go to college does not change.

I hope you will work with us. We are happy to put a year max cap on it if the Committee so desires. I know time is short. We are excited the Senate Committee on Revenue and Economic Development sent it to you, and we hope you move it through.

Chairman Armstrong:

With that I will close the hearing on S.B. 412. I will open the hearing on Senate Joint Resolution 13.

Senate Joint Resolution 13 (1st Reprint): Proposes to amend the Nevada Constitution to limit the total amount of certain property taxes that may be levied on real property. (BDR C-1004)

Senator James A. Settelmeyer, Senate District No. 17:

To explain this resolution it is probably easiest to explain how I got here. I represent the Lake Tahoe area, which includes Incline Village. To say that they have had disagreements with the assessment of their property would be a gross understatement. They have been in lawsuit after lawsuit, and are still not done.

While participating in the Nevada Tax Commission's Blue Ribbon Committee on property tax meeting during the interim, it became rather obvious to me that the state of Nevada has a broken system, and that is in the way we assess property values in the form of what is called a bifurcated system.

We are the only state in the nation left with a bifurcated property tax system. That means your property is valued on its own with no improvements. They then use the Marshall & Swift method, which is a book, to determine the value to build your house. This is not the actual value, not the actual value of your land, but from a number determined in a book. The results, depending on where the home is—whether it be at Lake Tahoe or Topaz Ranch Estates—are widely different. It does not give a fair approximate value.

I asked the Legal Division, Legislative Counsel Bureau, how we could get off this bifurcated property tax system and go to a market-based system. To my surprise they said the only way to get off of this system, a system the Legislature created—with 3 percent and 8 percent caps, and different values—is to amend it in the *Nevada Constitution*. In order to create a system that would go to a market base upon the time of sale it has to be done in the *Nevada Constitution*, and that is what is in front of you today.

We have had a couple of changes in the Assembly in order to address some concerns and issues. The Office of the State Treasurer was worried that it would affect the bonded indebtedness; therefore, we made sure that taxes could be raised beyond the percentage that is listed here in order to address those concerns, so we do not leave anybody out. They had indicated they did not feel it would; however, without those magic words in there, it could affect our rating, and that is the last thing we want to do.

We also switched the base year from 2013-2014. It was recommended by the assessor's offices to switch to a year that would be closer to when the voters would approve this system, if they do, so we went to 2016-2017.

Rather than the bifurcated system we have now, you would take the price you purchased the home and land for, multiply it by 1 percent, and that would determine the rate of taxable value. Then it cannot increase or decrease by more than 3 percent. I think the decrease is an important aspect because unfortunately in the latest economy, we have had counties that were somewhat insulated as things went up, but when they went down, in some of the counties I represent, they ended up in a situation where all of a sudden, in one year, they had \$3 million to \$7 million shortfalls to their small counties, which equated to more like 5 percent to 7 percent of their revenue, where if they had this protection going up and going down, it would help them.

In talking with the counties, some feel that 1 percent may be too low, so it is fully within your power to amend it to 1.25 percent to try to bring the number up; however, it is my opinion that in the next legislative session we might think about some provisions in *Nevada Revised Statutes* (NRS) that say, if a county has too much of a windfall maybe the state ought to take some, because this will create that situation. People buy and sell their homes on average in Nevada about every seven years, depending on where you live. In Clark County and up in the Lake Tahoe area it is a shorter time frame, and in other areas of the state it is much longer. This new value that will be assessed will bring in more money to those counties, and they have admitted that over time. They are a little bit worried about the first effect.

Assemblywoman Kirkpatrick:

Right now we currently bond against the property tax, so what happens in the instance when there is some uncertainty going forward?

Senator Settlemeyer:

What is created within this resolution is a new Section 7 of Article 10 of the *Nevada Constitution* that would say as shown in subsection 1 of the resolution, beginning on line 6: "This limit does not apply to taxes ad valorem levied to pay

the interest and principal of any bonded indebtedness or to pay any obligation under a contract made in connection with such bonded indebtedness."

We tried to look at that concern and make sure it is not affected. Most of the people indicated it is really more of a situation to make sure we are protected from rating people, to make sure our bond ratings do not go up or down.

The fluctuations we have created with our system now, being tied, it makes no sense to me that if you have a home that was built December 31, 2004, versus a home that was built in January 1, 2005, the rates are much different. We have created this inequity, and created a situation where it is almost detrimental for individuals to buy a new home. That is why they tend to look for older homes, due to the value. This would help create a situation where they would come up to market price over time.

Assemblyman Nelson:

Have you taken a look at the fiscal notes?

Senator Settlemeyer:

The fiscal notes have been adjusted numerous times as we made revisions. We feel the changes we have made have tried to address the counties' fiscal notes. As indicated before, they are worried about the 1 percent, and I would have no problem going to 1.25 percent, realizing that if we do, it would be my intent to come back in the next legislative session and put safeguards in so if they did have a windfall, it did not all go to them.

Chairman Armstrong:

We will move to testimony. Would anyone like to speak in support of Senate Joint Resolution 13 (1st Reprint)?

Joshua G. Wilson, Chief Deputy Assessor, Assessor's Office, Washoe County:

We are here today to support this measure. Having been in this business for over 16 years, one thing has become very apparent to me. Nevada has one of the most complicated taxable value systems in the country. This is an effort to simplify that process.

I did a brief analysis in Washoe County to try to see what the effect would be, and to address Assemblyman Nelson's question, I do not believe I submitted an updated fiscal note on that.

Everything Washoe County had submitted previously was on 1 percent of the 2013-2014 value, so there was a significant ad valorem reduction because right now in Washoe County our current tax rate is about 3.66 percent. When you

multiply that out, it ends up being an effective rate of about 1.28 percent. So, when you go from 1.28 percent to 1 percent, obviously you are losing quite a bit of value there.

As I testified on the Senate side, with the adjustment of the base year to 2017-2018, for Washoe County in the period between now and then, the abatements are going to increase because the property tax is limited to 3 percent. The effective tax rate will actually be reduced as property values increase over the subsequent years. I do not believe the reduction reflected will be nearly as drastic as first reported with the change.

In our current system, new houses subsidize older homes. You can have a \$200,000 home that is brand new and your tax bill is going to be about 40 percent higher than a \$200,000 home that is fully depreciated. That is just the way the math works. With the rebasing of those properties that may be paying tax on 60 to 70 percent of their market value currently, they are now going to apply 1 percent to their market value. Based on 9,500 sales that took place in Washoe County between July 1, 2013, and June 30, 2014, I took 1 percent of those sale prices and compared them to their current tax bill. The increase in the ad valorem revenue was over 52 percent. That is what happens. As Senator Settelmeyer suggested, as these properties are rebased you will see a significant increase in the ad valorem revenue.

Why I think this is a fair system, which is something I probably would not have said when I first came to the assessor's office, is people understand this. They know when they buy their property it is going to be 1 percent of their purchase price, and they know moving forward that it is limited to the 3 percent increase, and we can all budget for that.

Senator Settelmeyer referenced the Incline Village tax revolt, which I am intimately familiar with. There was a revolt over taxes because people's tax bills doubled and tripled in a single year. We saw that this was going to happen again in 2005 and 2006, and that is why the Legislature had the insight to cap those property values at that time.

This is the first step, and this will certainly be a long process. I do not know if the vote of the people will put this through, but I can tell you in talking to taxpayers that come into my office daily, the majority of them think we are already here. A lot of our constituents are from California. When they estimate a tax liability, they take 1 percent of their purchase price, and when they find out they live in an older home and their property taxes are significantly less, they are happy. When you buy a new home, and you estimate 1 percent of

your property tax on your value, and it ends up being 1.28 percent, they are not so happy.

I appreciate Senator Settelmeyer bringing this bill forward. I would be happy to answer any questions.

Assemblywoman Neal:

I was reading the comments on the fiscal notes. Why do you think that the base is a good base year to start off from? When I read the City of Las Vegas's comments, they were saying this is complicated by many variables. The first was the distortions in the real estate marketplace, which was my first thought. Market based, to me, is not stable because it can fluctuate. We have seen a cycle where property in and of itself is not going to stay at the same rate. Help me understand why moving to that versus what the *Nevada Constitution* says in terms of uniform and equal is a good switch, and how does that promote stability?

Joshua Wilson:

When it comes to real estate valuations, there is no such thing as absolute stability. In our current taxable value system, we saw drastic fluctuations in the current value because the market drives the value of the land.

In Washoe County, why 2013-2014 was not necessarily a good base year is that it was using sales that occurred in 2012. Washoe County had the most depressed market we had ever experienced in 2012. Our median selling price in March 2006 was almost \$400,000. Our median selling price in March 2012 dropped to \$145,000. When you cap, you lower the tax rate to 1 percent from the current effective rate of 1.28 percent, and then you cap the absolute lowest value based on the reappraisal numbers. As the market rebounds, it was going to be extremely difficult for local governments to provide those essential services because the revenue declined.

I do not know what the market is going to be in 2017-2018. My assumption is that with the economic development I am familiar with up north, with Tesla and some of these others, it is anticipated we are going to see continued increases. Using 2017-2018 was closer to the year of enactment of this particular measure, and not going back five years and applying a lower tax rate to a lower value, and expecting local governments to somehow survive.

Assemblywoman Neal:

In your comments you also said in 2017-2018 you expect abatements to kick in. Even if you just use Tesla, which was property tax, the point is there is going to be something that you are not capturing because it is abated,

so 2017-2018 gives me pause for concern. When I sat on the Assembly Committee on Government Affairs, and the counties gave their projected thoughts of where they were going to be in 2017-2018, they said they thought they were going to be in a better place, but not where they wanted to be. They thought they would still be rebounding and recapturing.

I heard what you said and I still do not see it as a good choice. How can you be good when everyone else is so up in the air based on the fiscal note comments? They are saying they do not really know how to calculate this loss, or how to calculate what this means to them because there is so much uncertainty in the language, yet you are coming to the table saying this is a good thing.

I am confused because I would not think they would spend the time to write those fiscal notes and the comments saying they do not think this is certain, and then you come to the table and say you think it is a good idea.

I need you to help me understand how the other entities do not see it the same way as you.

Joshua Wilson:

I am speaking here on behalf of the Washoe County Assessor. Washoe County may have a different position on it. Based on my experience in studying value, I stand on my testimony.

Chairman Armstrong:

Are there any other questions from the Committee? [There were none.] Would anyone else like to speak in support of S.J.R. 13 (R1)? Seeing no one, would anyone like to speak in opposition to S.J.R. 13 (R1)? Seeing no one, would anyone like to speak as neutral on S.J.R. 13 (R1)?

Carole Vilardo, President, Nevada Taxpayers Association:

I am speaking as neutral on the bill, maybe from an odd perspective. First of all, we really started on a path of changing the property tax system with the "tax shift of 1981" [Senate Bill No. 69 of the 61st Session], and in my opinion it kind of went downhill from there.

When we first published our brochure about understanding Nevada's property tax in 1992, it was six pages of 10-point type and fit in a number 10 envelope. That brochure is now 5 1/2 x 8 inches in size, still at 10-point type, and is 26 pages, because we have consistently added variations to it.

My purpose for coming up during this part of the testimony is that if you choose to pass this, and put us on a path back to market value, it will come before you again next session as the *Nevada Constitution* requires, for a constitutional change. I know that many of you will go back and read the minutes from this session, so there are a couple of issues I would like to plant in your mind right now. You should probably have enabling legislation that will be done at the same time you might pass this.

There are some questions to be raised that you need to address. You need to figure out the policy aspects of them so there is a consistency and the voters understand what this constitutional question does. It is not uncommon to have enabling legislation available when a ballot question of constitutional change passes, so here is what I would tell you.

There are issues that will arise because of the change to market value. The first one is that we use the level of assessed value for a percentage of bonded indebtedness. So, for instance, the state can use up to 2 percent of the total assessed value of the state for general obligation bonds. As properties get sold, you will increase the valuation that is available. You will do that at local governments too, which means they can issue many more bonds. Are you comfortable with that or not? That is your decision. If you are not, you might want to look at what your other restrictions would be, particularly on locals, because you have some cases where you have, I believe, library districts that are at 100 percent of value. You could conceivably increase that considerably, and since you are putting debt outside this cap on value, to cover the bonds, you should know what the ramifications are. I hope I am being clear in the way I am trying to explain this.

The next thing that I think you need to look at is, do you want the abatement in place? If you are going through the trouble to go to market value and you are going to create a mechanism whereby you can increase whatever this percentage is, then should the abatement be there, should the abatement be restricted? Your fiscal staff are probably the ones who could tell you how it would play best, because, remember, you will have properties that are on the taxable value system, which is the hybrid system. You have the same issue to address with depreciation, and you have to have an acknowledgement when we talk about the inequities. There is a lot of conversation about how this property tax valuation system creates inequities, because I could live next door to somebody and my values are totally different because of depreciation. Because of the abatements, you have to know that you are not creating inequities. You have inequities that will be created with this. What you have done is you have made it a system that universally across the United States is more acceptable because it is based on market value.

Those are the issues I wanted to bring to your attention, not to do anything with the legislation this year, but for those of you who come back and sit on the Assembly Committee on Taxation in 2017, and read the minutes, so you remember you have some policy decisions to make.

Yolanda King, Chief Financial Officer, Department of Finance, Clark County:

I am neutral on the issue, but I have a great deal of concern. Ms. Vilardo has indicated a few of my concerns on the record. Those of you who were in the Assembly Committee on Government Affairs will appreciate this, but since this was introduced on the Senate side, I have really been trying to wrap my head around this.

I have gone back and forth, trying to understand if there will be a positive or negative impact for Clark County. I have had conversations with the sponsor. I completely understand the reasoning and the rationale for trying to make this a simple process for the taxpayer, so they understand how the calculations are made, but as we get further and further into this, there are so many unknown questions, the first being that there are statutes out there currently that dictate our current property tax system as it stands today. The first question for me is how will the current property tax system change, if it will change, or if certain things will stay in place? As Ms. Vilardo alluded to, how will the property tax abatements apply?

The way I understand this process is, you have this resolution that comes to the Legislature for 2015, and if passed, comes back in 2017. If passed in 2017, in 2018 it goes to the voters, and in 2019 it would come to the Legislature. It is my assumption that 2019 is when changes, if any, to the *Nevada Revised Statutes* (NRS) would take place. That is why there are uncertainties as to what will be in place with regard to the current property tax system. There are limitations in our current property tax system that we do not know will take place. There is the \$5 constitutional limitation that is currently in place. There is currently the \$3.66 limitation that is in place. There are the property tax abatements, as I mentioned. There is also a 6 percent limit on the growth and revenues that a local government can receive. There are so many other limitations currently in place that I think some of us assume may go away, but they may not.

The fact of the matter is, if all things were equal, the 1 percent is approved and we have this simplistic change to our property tax system, we assume all the other property tax limitations that are in place today go away. If there is a positive impact in terms of revenue that comes to local governments, the flip side of that means the taxpayers pay more, and vice versa. That is why

I have been going back and forth with regard to what this means in terms of impact to Clark County or any of the local governments.

In addition to that, I have had many conversations with John Swendseid, our bond counsel, who has given information to me with regard to how and what this looked like with California and its Proposition 13. There is another factor in that currently, because we have the \$3.66 limitation, and if you take the current proposal and you do 1 percent of taxable value, you have to convert your math or convert your tax rate. If the limit is at \$3.66, that conversion rate would actually go down to \$2.85. That is what the tax rate would be because the way our property tax system is set up, it is based on rate multiplied by assessed valuation. If we are to convert that assessed valuation to be equivalent to the 1 percent, it brings that overlapping rate to \$2.85. I can tell you in Clark County there are entities that are at a \$3.40 tax rate. I have heard in northern Nevada there are some entities who are at the maximum \$3.64 tax rate. So, those tax rates have to be adjusted and converted down.

Because there are overlapping rates involved, overlapping meaning there is a countywide rate and city rates, the debts are no longer an issue based on the amendment, but you have library districts, so there are property tax rates that are assessed by many entities. In order to bring down those property tax rates to the \$2.85 rate, my assumption is that those entities have to proportionately decrease their tax rates. By proportionally decreasing those existing tax rates, that means a loss of revenue to the local governments.

I just wanted to place those issues and concerns on the record because there are a lot of unknowns we have to tackle if and when we get to 2019.

Jeff Fontaine, Executive Director, Nevada Association of Counties:

I want to go on record expressing our appreciation to Senator Settelmeyer for bringing this measure forward. What is being done here, and what we are supportive of, is addressing some of the real fundamental or structural issues relating to our property tax system, and those issues that have contributed to property tax instability, which is extremely important to the counties.

We are neutral only because we are not clear about what the impacts might be on all the counties across our state. We did a very high level analysis, thanks to the help of Ms. Davis, the Washoe County Treasurer. We asked each county treasurer to do an analysis of what this measure would do in terms of county revenues. The analysis was based on this measure as it was introduced using fiscal year 2013-2014 as the base year. I would say the majority of counties indicated it would result in negative revenues.

We recognize that the base year has been adjusted upward, so we think that would certainly have a positive impact. It may or may not show net benefits to the counties across the state, but we have not been able to do that analysis with the updated base year.

I think there is uncertainty in terms of the assumptions being used, and one of those assumptions has to do with how often properties are sold, so that you would rebase those under the new system. Senator Settlemeyer indicated that would probably be more frequent in urban counties and less frequent in the rural counties. I think part of this is also dependent upon how much abatement is still out there in those counties.

We appreciate the effort. We appreciate the fact that we are trying to address a structural issue, which does require a constitutional amendment. We are just not clear about how this would ultimately impact the counties.

Tammi Davis, Treasurer, Washoe County:

I appreciate the opportunity to be here today. I am neutral on this bill. I have, however, spoken with any legislator I could get to listen to me about how complex our process is, and how hard it is to explain to taxpayers when they come into my office wanting to understand it. It is also currently difficult for our local governments to determine what their revenues will be. I have to do a parcel-by-parcel calculation to give them those estimates.

What we currently have does not meet what I heard presented as a good tax system, which means something simple, that can be understood, and is transparent. I do not have that. I would say we will never find the perfect thing to replace it.

So, I am neutral on this. I think this could provide a base, if it is handled appropriately. I agree with the previous speakers that there needs to be some legislative change that would accompany it. From a treasurer's perspective, please do not layer this over what we already have. It is already more complex than it should be, and this would just add another layer.

We do not want to direct where the legislation would go, but I think with some careful planning and input from people on the ground, we could certainly provide information that would help make it more clear and would help determine, if you do this, what would most likely happen.

If this goes forward, because there are so many gaps, I would offer myself as a resource, and I am sure there are other treasurers around the state who would

do that as well. How those gaps are filled in will help determine if this is a good thing or something as bad as what we currently have.

Assemblywoman Neal:

Mr. Fontaine, in market rate, the idea is that you are going to have a new base, but there is going to be new growth that eventually occurs within the market. Is that correct?

Jeff Fontaine:

I am not sure I can answer that question.

Assemblywoman Neal:

We are limited in our capacity to grow because we are water limited. There is only going to be so much new construction; there is only going to be so much that happens within the state because we cannot go beyond our means. We cannot go beyond what we have the capacity to build and the water to sustain.

Where are we in terms of, if this was to go forward, and then all of a sudden the rate itself is built upon this growth that is supposed to naturally occur, yet it does not happen? Then what should we expect? I think what people do not understand, or what we are not acknowledging, is that we are not going to grow forever. We would love to, but we cannot, because we cannot sustain the growth in and of itself.

Jeff Fontaine:

I would agree that there are certain limitations on how much we can grow because of certain constraints, water being one. Thirty years ago if we had asked the same question about whether or not we could grow to a population we are today, I think a lot of people would have questioned that.

I am not so sure that what this measure seeks to do, or that our property tax system is necessarily based on growth so much as it is based on increasing values of our existing properties.

I think the market, and what happened with the collapse in the housing market, is really what has caused us to take a serious look at why our current property tax system is not performing, or is not stable, because of what happened in the market, and not based so much on growth. They are related, but it is more the value of the property itself.

Assemblyman Nelson:

It seems to me that this resolution would at least make the property tax scheme constitutional. Article 10, Section 1, Subsection 1, of the *Nevada Constitution* says, "The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, which shall be assessed and taxed only as provided in Section 5 of this Article." I do not see how the bifurcated system passes constitutional muster. Am I wrong?

Jeff Fontaine:

That goes way beyond my expertise. I think the Legislative Counsel Bureau or others could opine on this.

Assemblyman Nelson:

I will ask Ms. Erdoes, the Legislative Counsel, if there are any cases construing that, unless someone else knows.

Chairman Armstrong:

That is probably something that should be done offline.

Senator Settlemeyer:

When the 3 percent and 8 percent was written, there was a wise man who wrote a little clause in there that said "if anybody challenges the constitutionality of the 3 and 8, everybody goes to 8," and so for some reason nobody has challenged it.

Chairman Armstrong:

Is there anybody else who would like to speak as neutral on S.J.R. 13 (R1)? [There was no one.] Senator Settlemeyer, do you have any final words?

Senator Settlemeyer:

I agree 100 percent that we do not have a uniform and equal system in any way, shape, or form. I believe this tries to put us on the road. There was discussion that next session, if this measure made it through this session, we would try to have legislation in place so that if this passed it would be in effect automatically, so we would not have to have an emergency special session, and try to have this set up and agreed upon ahead of time. I have no problem with the concept of changing the 1 percent to 1.25 percent, but with the understanding that next session I would expect legislation indicating that if the counties had a windfall, that money does not go to them. I do believe the counties will have a windfall, based on the simple fact that by adjusting to market price, you will see more income to the counties.

Chairman Armstrong:

I will close the hearing on S.J.R. 13 (R1). I will open the work session. We are going to work session three bills. Senate Bill 483 (1st Reprint) is the only one we have on the agenda. Senate Bill 103 (1st Reprint) and Senate Bill 507 will then be work sessioned from the last hearing. I will now open the hearing on S.B. 483 (R1).

Senate Bill 483 (1st Reprint): Revises provisions relating to governmental financial administration. (BDR 32-1182)

Michael Nakamoto, Deputy Fiscal Analyst:

Due to the short notice of this hearing, there is no work session document for any of the bills today. I will go through all of the bills, probably a little more thoroughly than usual, and, as usual, if there are any questions, I will be happy to answer them.

The first bill on today's work session is Senate Bill 483 (1st Reprint). This bill was heard in this Committee on May 26 and was sponsored by the Senate Committee on Revenue and Economic Development, on behalf of the Department of Administration.

Senate Bill 483 (1st Reprint) provides for the continuation of certain revenue enhancements that were enacted during the 2013 Session that are set to expire on June 30, 2015, and additionally provides for the implementation of new revenue enhancements that were recommended in the Governor's *Executive Budget*.

With respect to the revenue enhancements enacted during the 2013 Session, the bill first removes the June 30, 2015, sunset date on the 0.35 percent increase to the local school support tax (LSST) portion of the sales and use tax rate. This action makes the 0.35 percent increase permanent.

The second change is to maintain the current structure of the modified business tax (MBT) on nonfinancial institutions, which under current law is the exemption of the first \$85,000 in taxable wages per quarter, and a rate of 1.17 percent on all taxable wages in excess of \$85,000 per quarter. The bill will make this revenue structure permanent, rather than the change that is scheduled to occur on July 1, 2015, which would have the modified business tax on nonfinancial businesses rate go to 0.63 percent on all taxable wages, with no exemptions for any taxpayer.

The third change is to the net proceeds of minerals (NPOM) tax. It continues the prepayments of the NPOM tax for one calendar year. Under current law,

that is scheduled to go back to the old method of taxation, which is the taxpayer would pay based on the actual payments for the previous calendar year. The change in this would maintain the prepayment for fiscal year (FY) 2016. So for calendar year 2017, it would switch back to the old law, which would require the actual calendar year 2017 NPOM to be paid in FY 2018. The change to the NPOM also maintains the exclusion of certain deductions for health and industrial insurance for 2016. Under the bill, those deductions would come back for calendar year 2017.

There is also an extension of the sunset date for the portion of the governmental services tax (GST) proceeds that are currently deposited in the State General Fund. This was originally scheduled to change to go from the State General Fund to the State Highway Fund effective July 1, 2015. Under S.B. 483 (R1), that date would extend it such that the GST portion would remain in the State General Fund until June 30, 2017. Beginning July 1, 2017, these proceeds would then be deposited in the State Highway Fund.

There are several additional changes to the bill that are related to actions in the Governor's *Executive Budget*, but are not necessarily sunset actions. The first is establishing an MBT on mining institutions, at the same rate as is currently levied on financial institutions. That is a rate of 2 percent of taxable wages per quarter. The bill specifies that a mining business is any business that is currently subject to the NPOM tax.

The second change is increasing the cigarette tax rate by 50 mills per cigarette, or \$1 per pack of cigarettes, which would increase the total cigarette tax rate from 40 mills per cigarette or 80 cents per pack to 90 mills per cigarette or \$1.80 per pack, with the proceeds of that \$1 per pack increase to be deposited into the State General Fund.

The last change to the bill is section 14.5, which generated some discussion in the hearing. Section 14.5 requires a person who on or after October 1, 2015, and before October 1, 2016, applies for the issuance or renewal of a state business license to include in the application certain information concerning the revenue earned by that person from the sale of services used in this state. This information is required to be collected pursuant to the provisions of section 14.5 by the agency that is responsible for administering the business license fee (BLF).

There were two amendments proposed. These amendments have been uploaded onto the Nevada Electronic Legislative Information System (NELIS). The first was from Mr. Joecks at the Nevada Policy Research Institute ([Exhibit F](#)). There were five different amendments he was proposing to the bill:

- The first is for the tax rates that are being made permanent. Instead of having them be made permanent, have them expire on June 30, 2017.
- The second change was to decrease the proposed increase in the LSST from 0.35 percent to 0.3 percent.
- The third would be to include the mining MBT at the rate for nonfinancial institutions, instead of the 2 percent rate.
- The fourth change would be to eliminate the quarterly MBT exemption of \$85,000, while lowering the proposed rate to an amount that would generate the same amount of taxes as the 1.17 percent rate with the current exemption and the health care deduction.
- The fifth would be to eliminate the increase in the cigarette tax rate.

The second proposed amendment was submitted by Mr. McMullen on behalf of Altria ([Exhibit G](#)). Similar to the last amendment proposed by Mr. Joecks, Mr. McMullen's amendment would remove the increase in the cigarette taxes.

Again, that was a lot of information I just went through without a work session document. Mr. Chairman, I would be happy to answer any questions.

Chairman Armstrong:

Are there any questions or comments from the Committee?

Assemblyman Hickey:

Essentially this is the sunset taxes that we are dealing with. I have been supportive of that before and I expect to be in support of it again. There is, as was noted, a new portion that is embedded within it, that being the cigarette tax increase.

As discussed in Committee, I have some problems with the size of the increase. I understand what it is going for and I understand how important it is to this budget. I am just of a mind to agree that it is a little more aggressive, and being done on the accounts and the discretionary spending of persons who possibly can least afford it. I do not want to see it stay where it is, so I am wondering if the Chairman might entertain another amendment from me about going to the point where the *Executive Budget* originally was, which was another 40 cents per pack as opposed to the \$1 that it was amended to on the Senate side?

Chairman Armstrong:

At this point, I am not willing to entertain that amendment. As we look at all of the bills in their entirety, because this is one piece to improving education as part of this session, I think based on the other bills, there are a combination of different things. It is my intent at this point to leave this bill as it is right now and send it out.

Assemblyman Nelson:

I have a concern about section 14.5, which requires the Office of the Secretary of State to collect a lot of information. My question is whether the Office of the Secretary of State has the ability to collect that information as quickly as is required.

In light of what you just said to Assemblyman Hickey, I do not know if you would be interested in entertaining an amendment to remove section 14.5. It sounds like maybe not.

Chairman Armstrong:

We could have that discussion. I do not think that affects the fiscal impact to this bill. I would say that the Office of the Secretary of State did submit a fiscal note ([Exhibit H](#)), as they said they would when we heard the bill on May 26. Mr. Anderson, do you want to come up and speak to that?

Assemblyman Nelson:

The fiscal note is \$631,818.88. Is that figure for the first year or is that for two years?

Scott Anderson, Chief Deputy, Office of the Secretary of State:

The fiscal note is basically for the one-year period, plus the ramping-up period. It would be basically in the first fiscal year, and then maybe a little ways into the second fiscal year, through October 2017, because of the ramping up and the timing of getting everything together.

The reason we submitted this fiscal note ([Exhibit H](#)), and the reason why we would hope that section 14.5 would be taken out, at least as far as the Office of the Secretary of State is concerned, is because it will have a significant effect on our office, especially for a temporary fix that would give the collection of data for a one-year period, and would require us to make significant modifications to our processing systems, both in-house and online, along with SilverFlume, the state's business portal, to collect this data, to collect confidential information and keep it in separate databases from what is otherwise public information. Historically our information has been mainly public information that is put out on the website, and the documents are public. That would require redaction of certain information or keeping separate documents confidential.

There are some issues with nexus. We have 325,000 business entities, partnerships, and sole proprietors on file with our office. Currently, approximately 60 percent of those have no physical presence in Nevada.

They just use our statutes and our laws. To determine that nexus is going to prove quite difficult in what is going to be provided.

In answer to the fiscal note question, we have added several Master Services Agreement contractors who would help us ramp up and get the changes to our system, and also customer service positions that would be necessary. As we know, when we took over the state business license we were unable to handle the number of calls that came in because of the confusion that the state business license caused with our normal filing processes. Additionally, there will be some servers that will be necessary to keep that confidential information separate from the rest of the public records.

Assemblyman Nelson:

I think it would be wonderful for us to have all that information. Could you logistically do this by October 1, 2015? Could you enforce this against out-of-state entities?

Scott Anderson:

It is uncertain whether we would be able to have this done by the October deadline. You have to remember that we have a 90-day period from the time we notify to the time our customers are required to pay the state business license fee. As of right now, June 1, we are already notifying for August. By the time we get this in place, we will be well into the October and November filing periods.

As most of you may know, our system is rapidly aging and every time we touch it, we risk having failure with other parts of the system. As with the state business license, we were scheduled to go live on October 1, 2009. We were unable to do that because of system issues, and did not go live until right before Thanksgiving in 2009.

There are some logistical problems that could delay this. Just as much of a concern as that is the fact the Office of the Secretary of State has historically reported public information. Very little of it is confidential. We have never required revenue information that is not already public, so we would be requiring our customers to now provide confidential information and revenue information that they have not provided before.

There are a number of issues that are problematic in regard to the Office of the Secretary of State collecting that information.

Assemblyman Nelson:

What about enforcement?

Scott Anderson:

Because of the nexus issue, it is going to be very difficult for us to determine who actually is required to file that information with us. It would more or less be the honor system, and we know how that worked with the exemptions from the state business license when we were on the honor system for the exemptions in 2009 through 2011. It would be very difficult for us to enforce that.

The only way we would be able to enforce it is if they did not provide some information to us. We would reject their filing, thus causing them to go into default status or revoked status, adding additional fees and penalties to their filings.

Assemblywoman Kirkpatrick:

I did speak to the Secretary of State and discussed this. My question is not directly for you, so I am not trying to put you in the hot seat, as much as for the Committee.

I understand the concern and I understand where the language came from. I have had that language in bills before because everybody always talks about wanting to know the data, yet we never put the language in or we always take it out. I am super sympathetic because it was not part of their budget, but what I want to ask the Committee about is logistics.

We have four days left on this piece. In my experience of trying to make things work, it would seem to me that the best interest for us would be to pass it to the floor, visit with Senate to make sure that if we made a change on that piece it could smoothly run, because who would have thought we would be here at 6:15 tonight when we were scheduled for 1 p.m.

I would take it upon myself to start working on an amendment, but for those on the Committee who are new this year, I think we ought to move toward the floor, so we can logistically make it all come together. I have done this before and it gets harder after today, and it gets longer, and unless we have all our ducks in a row, I would suggest, at least for my part, that we logistically work toward getting it to the floor, because that is a one-day process itself, and goes from there.

I spoke with the Secretary of State. I understand it. I will work on connecting with everybody to see how that all comes together, so we can address your concerns, or at least it will be public and you would have every right to come to the Interim Finance Committee and get the work program for this should we not be able to fix it a different way.

Chairman Armstrong:

So you are under the impression we should pass it out with the possibility of having an amendment that comes out on the floor?

Assemblywoman Kirkpatrick:

Yes, it should go the way it is at this point, to get it to the floor. I already gave the Secretary of State my word that I would work on this tonight.

Logistically, here is how it works. If we amend it, then it has to wait for the Legal Division to come out with an amendment. Then it has to go to the floor, then we have to put it on second read, then we have to read it, and then we have to vote on it. It then goes back to the Senate, and they have to put it on their first agenda, their second agenda, and then they have to either concur or not concur, and then they have to send the thing that says recede or not recede, and then the Assembly has to decide if we are going to concur or not concur, if we are going to recede or not recede.

So logistically, folks, we have to figure it out. We are at the end. I have supported education this entire time. I am thankful that we are looking at sunsets to be permanent rather than coming back every session and having to decide whether or not we want them. If you guys do not see how all that time is going to fit, it could be problematic for a lot of other things.

Assemblyman Trowbridge:

I believe I share Assemblywoman Kirkpatrick's concerns. I will sum it up and just say having an effective date of October 1, 2015, gives me concern. You need to be able to get all the work done that needs to be done to implement a bill as comprehensive as this. I would support moving it along, but I would like to address the implementation schedule we are burdening you with.

Chairman Armstrong:

At this point I will entertain a motion to do pass S.B. 483 (R1).

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO DO PASS
SENATE BILL 483 (1ST REPRINT).

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

Chairman Armstrong:

Is there any discussion on the motion?

Assemblyman Nelson:

Because of this one issue, I would like to reserve the right to change my vote on the floor. Getting section 14.5 resolved is my only issue.

THE MOTION PASSED. (ASSEMBLYWOMAN DICKMAN
VOTED NO.)

Chairman Armstrong:

I will assign the floor statement to Assemblywoman Bustamante Adams. I will close the hearing on Senate Bill 483 (1st Reprint) and open the hearing on Senate Bill 103 (1st Reprint).

Senate Bill 103 (1st Reprint): Exempts certain persons from the modified business tax on financial institutions. (BDR 32-42)

Michael Nakamoto, Deputy Fiscal Analyst:

The next bill on the work session today is Senate Bill 103 (1st Reprint). This bill was also heard on May 26, and was sponsored by Senator Settlemeyer and Senator Denis.

This bill, for the purposes of the modified business tax (MBT) on financial institutions, amends the definition of financial institution to specify that the term does not include a person who sells, solicits, or negotiates insurance, and whose business primarily consists of the sale, solicitation, or negotiation of insurance. The bill defines the term "primarily consists of the sale, solicitation or negotiation of insurance" if more than 50 percent of the business's annual income from commissions is derived from the sale, solicitation, or negotiation of insurance. There were no amendments to the bill.

I am happy to answer any questions.

Chairman Armstrong:

Is there any discussion from the Committee?

Assemblywoman Benitez-Thompson:

I have a comment for discussion for the record. That 50 percent mark still seems a little bit of an odd fit for me for something we are trying to capture that very much appears to be kind of de minimis use of one type of licensure. For the record, I guess in some way we will be looking to make sure that for whatever that 50 percent mark is set, it has the right type of rationale as we heard it presented on the record.

Assemblyman Hickey:

This is the kind of bill that makes me extremely proud and satisfied of what we can do because I think we all heard from our constituents who were unfairly captured by the interpretation here. Being able to rectify it in the form of this bill is important to the public and members of the public that were affected by this inadvertently. I am happy to support this.

Chairman Armstrong:

I do think there are quite a few people who were unfairly captured under that provision. At this point, I will entertain a motion to do pass S.B. 103 (R1).

ASSEMBLYMAN KIRNER MADE A MOTION TO DO PASS
SENATE BILL 103 (1ST REPRINT).

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

Chairman Armstrong:

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

The floor statement will be assigned to Assemblyman Hickey. I will close the hearing on S.B. 103 (R1) and open the hearing on Senate Bill 507.

**Senate Bill 507: Revises provisions relating to economic development.
(BDR 18-1204)**

Michael Nakamoto, Deputy Fiscal Analyst:

Senate Bill 507 was heard in this Committee on May 26 and was sponsored by the Senate Committee on Revenue and Economic Development, on behalf of the Department of Administration.

Senate Bill 507 authorizes the Office of Economic Development, Office of the Governor (GOED) and the Executive Director of GOED to approve and issue transferable tax credits to new or expanding businesses in Nevada, to promote the economic development of the state.

A business that intends to locate or expand in Nevada may apply to GOED for transferable tax credits in accordance with procedures established by the Executive Director, in consultation with the Board of Economic Development.

The application may be approved if the Board, or the Executive Director under certain circumstances, determines that approval of the application will

promote the economic development of the state, aid the implementation of the State Plan for Economic Development, and that the business satisfies the criteria established by the Executive Director for the issuance of transferable tax credits.

The Board and the Executive Director may not approve applications for transferable tax credits that exceed \$500,000 for fiscal year (FY) 2016, \$2 million for FY 2017, and \$5 million per year for each fiscal year thereafter.

In addition to those provisions, the bill expands the Executive Director's annual report to the Governor and the Legislative Branch regarding the Catalyst Account, to include information regarding the issuance of these transferable tax credits to new or expanding businesses.

The bill revises existing provisions governing economic development to account for the new provisions regarding the issuance of transferable tax credits and clarifies existing provisions governing grants or loans from the Catalyst Account, so that those provisions are consistent with the new provisions regarding the issuance of transferable tax credits.

The bill also permits a county or incorporated city, whose application for a grant or loan from the Catalyst Account was approved before the effective date of this bill, to surrender the grant or loan, or any portion thereof, in exchange for the issuance of transferable tax credits upon such terms and conditions agreed to by the Executive Director and the parties to any contracts involving the grant or loan.

I will be happy to answer any questions.

Chairman Armstrong:

Is there any discussion or comments from the Committee?

Assemblywoman Neal:

I am going to reserve the right to change my vote on the floor. As much as I like economic development and Mr. Hill, I am just fresh out on abatements.

Assemblywoman Benitez-Thompson:

Ditto.

Assemblywoman Dickman:

Kind of for the same reason as Assemblywoman Neal, I have to be a no. I have voted for a lot of abatements, but I am kind of at the end.

Chairman Armstrong:

Is there anyone else? Assemblywoman Kirkpatrick and Assemblywoman Diaz also reserve the right to change their votes. At this time, I will entertain a motion to do pass.

ASSEMBLYMAN NELSON MADE A MOTION TO DO PASS
SENATE BILL 507.

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN DICKMAN
VOTED NO.)

I will assign the floor statement to Assemblyman Nelson.

I will close the hearing on S.B. 507 and open it up for public comment. Would anyone like to come up for public comment? Seeing no one, we will close public comment. We are adjourned [at 6:26 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblyman Derek Armstrong, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Taxation

Date: May 28, 2015

Time of Meeting: 4:39 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 412	C	Grant A. Hewitt, Office of the State Treasurer	Prepared Testimony
S.B. 412	D	Grant A. Hewitt, Office of the State Treasurer	Letters of Support
S.B. 412	E	Office of the State Treasurer	PowerPoint Presentation
S.B. 483 (R1)	F	Michael Nakamoto, Fiscal Analysis Division	Proposed Amendment submitted by Victor Joecks, Nevada Policy Research Institute
S.B. 483 (R1)	G	Michael Nakamoto, Fiscal Analysis Division	Proposed Amendment submitted by Samuel McMullen, Altria
S.B. 483 (R1)	H	Scott Anderson, Office of the Secretary of State	Unsolicited Fiscal Note