

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

**Seventy-Eighth Session  
May 31, 2015**

The Committee on Taxation was called to order by Chairman Derek Armstrong at 11:32 p.m. on Sunday, May 31, 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](http://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](mailto: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 Mark A. Lipparelli, Senate District No. 6



**STAFF MEMBERS PRESENT:**

Russell Guindon, Principal Deputy Fiscal Analyst  
Michael Nakamoto, Deputy Fiscal Analyst  
Bryan Fernley, Committee Counsel  
Gina Hall, Committee Secretary  
Olivia Lloyd, Committee Assistant  
Norma Mallett, Committee Assistant

**OTHERS PRESENT:**

Warren B. Hardy, representing the City of Mesquite  
Richard Perkins, representing the City of Henderson  
Stan Olsen, representing Nevada Association of Public Safety Officers  
Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department  
Brian McAnallen, Government Affairs Manager, Office of Administrative  
Services, City of Las Vegas  
Ryann Juden, Chief of Staff, Office of the Mayor/City Council, City of  
North Las Vegas  
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs'  
Association  
Mike Cathcart, Business Operations Manager, Finance Department, City  
of Henderson  
Sean Stewart, Executive Vice President, Nevada Contractors Association,  
and Las Vegas Chapter, The Associated General Contractors of  
America  
Victor Joecks, Executive Vice President, Nevada Policy Research Institute  
Mike Ramirez, Director of Governmental Affairs, Las Vegas Police  
Protective Association Metro, Inc.  
Scott A. Edwards, Vice President, Las Vegas Peace Officers Association  
Yolanda King, Chief Financial Officer, Department of Finance,  
Clark County  
Alfredo Alonso, representing Reynolds American, Inc.  
Samuel P. McMullen, representing Altria and Las Vegas Global Economic  
Alliance  
Deonne E. Contine, Executive Director, Department of Taxation  
Greg Ferraro, representing Nevada Resort Association  
Carole Vilardo, President, Nevada Taxpayers Association  
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro  
Chamber of Commerce  
Matt Griffin, representing APEX Holding Company

**Chairman Armstrong:**

[Roll was called and housekeeping items discussed.] On tonight's agenda we have four bills to hear and two for a work session. My intent is to hear the four bills, work session the other two, and not take any action on the four bills we are going to hear tonight. With that, we are going to open the hearing on Assembly Bill 494.

**Assembly Bill 494: Makes various changes relating to the Clark County Sales and Use Tax Act of 2005. (BDR S-1293)**

**Warren B. Hardy, representing the City of Mesquite:**

We appreciate the Chairman and Committee hearing this bill. We particularly appreciate the Speaker agreeing to introduce it for us this evening. This is an interesting issue for me. In 2003, as a freshman member of the Senate, I introduced legislation to allow this question to go before the people. When I did that, I represented the City of Mesquite and Boulder City. I can assure the Committee that at that time, my intention was to allow the City of Mesquite, Boulder City, and other entities to have some say on this issue. This Committee knows the initial one-quarter sum was implemented and put to great use, to the extreme benefit of law enforcement in every community in southern Nevada.

The next implementation was not quite as successful, however, and we have been unable to get a county commission to agree to implement it. There are two provisions in this legislation. I will explain the first, and then I have the gentleman who wrote the second part here to explain it to the Committee.

What this legislation does is it essentially creates a regional board comprising six members, one from each city council and the county commission in southern Nevada. It gives the board oversight over the More Cops issue, but authorizes that board to approve the additional expenditure that was approved by the voters and by the Legislature. It also gives them some additional oversight over how the funds are spent and some responsibilities there.

The second provision of the bill deals with supplanting language that was changed, and I believe this was in 2011. I have former Speaker Perkins here to explain that portion of the bill.

**Richard Perkins, representing the City of Henderson:**

As Mr. Hardy represented, the supplanting language was drafted because when this was passed in 2005 or since, nobody in this body wanted to see an additional revenue stream that was supposed to be dedicated to law enforcement just be absorbed into any local government's general fund. The supplanting language was created so that whatever monies came in would

be spent specifically for new officers who would be hired and their training and equipment, instead of replacing the monies that were already in the general fund that were utilized for that purpose, for the officers who were already on the street. I can tell you that when I left the Henderson Police Department in September 2008, we had more in our staffing then than they currently do today. That is largely because of the reduction in the sales tax collections that occurred because of the recession and for other purposes. My apologies for the inarticulate nature at 11:30 at night, but that is one of the main reasons the bill is being brought today.

If you have any questions about the supplanting language, I would be happy to try and answer them.

**Chairman Armstrong:**

In section 3, you replace the Board of County Commissioners of Clark County with a regional board. As I understand, the County Commissioners actually voted this down in their meeting. Are we creating this board because they did that, and is this a different way to get this accomplished?

**Warren Hardy:**

That is correct. When I did the original legislation in 2003, it was with the understanding that all of these communities that would be impacted would have an opportunity to participate. We were sure at that time there was complete support for this, which is why we did not push for this type of language at that time. That did not materialize. So, we feel very strongly, this is extremely important. The City of Mesquite is a very small community. We have 27 officers right now, 7 of whom are directly attributable to the More Cops money. At the height of it, we had 31 officers, 9 of whom were attributable to More Cops money. That is a big deal for the City of Mesquite, which is a border community. We are the northern entry to the southern Nevada area, with lots of challenges.

This is an opportunity for the other local government entities to have an equal opportunity and say in these dollars, which is what was intended by the voters.

**Assemblywoman Kirkpatrick:**

This has been an issue that I have been following since 2005 when the voters approved it, and when it passed overwhelmingly within the districts. This was a very big issue last session in southern Nevada, which my colleagues from all over the south agreed to—a southern Nevada delegation to move forward with bringing the ability to submit back to the county to move forward.

At that time, the county sent us a resolution saying they would absolutely support this. Each entity also sent us a resolution saying that they would absolutely support the ability for us to get more cops. The understanding was that there was a need. There had been attrition and there had been down times when not much revenue came in. We encouraged them to utilize some of the surplus dollars they had on the county level. The cities, in their defense, were sort of caught in a political crossfire.

You can watch the meetings. Everyone agreed to support it across the board, across the cities, and across the county. If the Legislature would move forward with this, then we would absolutely give them enabling legislation.

At the time we wanted to just do this, the Governor did not support it, so we worked with all the local entities to ensure the county would have the ability to do it. They assured us they absolutely would do it. Unfortunately, because elections came up and political reasons came up, it got lost in the shuffle.

Many local entities, including Clark County, suffered the consequences. I live in North Las Vegas and we actually have fewer cops than when this was approved, and we have tripled the number of residents.

I had met with the City of Mesquite and they were in the same boat. They are unique in that they get tons of folks who come over from Utah and spend their winters there. The City of Henderson was in the same boat. They had been sending people through the academies, the recession hit, and it was a very tough situation.

So, we had set a supermajority, and the resolution was a 5-2, which would have been a supermajority, but somehow the job has not been done. I wholeheartedly support this because public safety is a top priority for our gaming corridor, because if tourists do not feel safe, that does nothing for anybody. This language was always meant to ensure that we could protect our tourists, but that the residential areas would be able to have the services provided.

That is a little bit of history. We have been down this road many times and I believe the county supports this particular position. I can tell you every city that is affected by this was somewhat devastated to learn we were playing a political game.

So, what I would say to this body is politics aside, and local government aside, that is the irony of supporting home rule this session. Every time I give them home rule they do not do it well. This is a different opportunity for the cities to

continue to give service to residents. That is the history on why it went down three times, three different ways, with three different people. Hopefully we, the Legislature, can step in and do what is right to provide the public safety, which was the original intent for the Clark County residents in 2005, when it passed overwhelmingly, by about 74 percent in every single district.

That is the number one call I get from constituents, a home break-in, a car accident, and we cannot put enough people on the streets to ensure public safety.

**Assemblywoman Bustamante Adams:**

Mr. Hardy, can you walk me through what the process is? I know that you appoint the members of the board and then they will adopt guidelines. If you could explain the process and how it works, I would appreciate it.

**Warren Hardy:**

The legislation authorizes the creation of the board, which is section 1 of the bill. We do not indicate how the entities will appoint a board; that is up to them, but each entity will appoint one member. It then indicates that the initial meeting will be created, and has to be held on or before September 1, 2015. They will select a chair and a secretary from the members. It indicates that they will serve in that capacity, without any additional compensation. Their compensation as elected officials will stand, and there will be no additional compensation for this. They will then have the opportunity to increase the tax, in addition to other oversight responsibilities given to them.

Those are the guidelines they are going to set up, to make sure they are in compliance with the intent of the Legislature with regard to this. It will then allow them to have the opportunity to decide to increase the tax at any rate, not to exceed fifteen-hundredths of 1 percent. They can choose some other ratio if they would like, but they are authorized to increase up to fifteen-hundredths of 1 percent. Then upon their decision, the obligation will go back to the Board of County Commissioners and require them to impose the tax that is consistent with the provisions of the notice provided by the regional board.

**Assemblywoman Bustamante Adams:**

In section 13.9, there is a public meeting, right?

**Warren Hardy:**

That is correct. It does require this to be done in a public meeting.

**Assemblywoman Bustamante Adams:**

What are the terms of the membership? Is it two years, and then after they go through this process, the entity sunsets out? How does that work?

**Warren Hardy:**

I believe the legislation is silent on that, except that it expires October 1, 2025. The rest of that is left to the board to determine.

**Assemblywoman Neal:**

I have a question on section 13.8. I am curious about the creation of this regional board. In reading the Clark County Sales and Use Tax Act of 2005, the authority to create, or decide, or discuss all of it rested within the Board of County Commissioners of Clark County.

How did you determine this was the proper delegation of authority for this regional board, for them to determine the proposed expenditures of the proceeds? I am trying to figure out the legal framework for the delegation of authority that is supposed to be with the County Commissioners. You have cities and all sorts of other entities listed here.

**Warren Hardy:**

We went through several iterations on how we might achieve this, how we might accomplish this, with some involvement from the local government entities. I spent quite a bit of time with legal counsel discussing our various options. This one was suggested as one that would pass legal muster, constitutional muster, with regard to one man, one vote. That is why this method was selected.

We talked about this when the original legislation came out; some of us were concerned. As Assemblywoman Kirkpatrick has indicated, there was a resolution in support of this, but at the end of the day we decided to let it go. The County Commission had made a commitment to do this by resolution and we decided to let it go.

In retrospect, we should not have done that. We should not have given up our opportunity to have a voice in this. In my opinion, this corrects what I believe, as the original sponsor of the bill, authorized this to go to the vote of the people. This corrects the original intent. We have sat helplessly by and begged the County Commission to help us out with this in the City of Mesquite and other municipalities.

While I have the floor, Mr. Chairman, I should indicate I promised Clark County Commissioner Tom Collins, who contacted me this evening, that I would indicate his support for the bill.

**Chairman Armstrong:**

If we do not pass this legislation, does the County Commission still have the authority to enact this until July 2016?

**Warren Hardy:**

Yes, they still have the authority to do it, but so far they have been unwilling to.

**Chairman Armstrong:**

For me, I have a problem with creating a board that is not elected, that comes up with a recommendation that makes it mandatory for an elected board to then enact.

**Warren Hardy:**

It is made up of elected officials. The members of the board have to be elected members of the city council—one member of the city council of Boulder City, appointed by the council, and so forth. They are elected officials accountable to the public.

I think the statutory scheme from before requires the County Commission be the actual entity that implements the tax, which is why it is mandating they do it based on a two-thirds majority vote of this board of elected officials. It would be like almost every other regional board in southern Nevada.

**Chairman Armstrong:**

Seeing no further questions, we will move to testimony. I have quite a few people signed in for support of this bill. I would ask that you keep your comments brief. I am not going to use the timer, but you can always say "ditto."

**Stan Olsen, representing Nevada Association of Public Safety Officers:**

I am the person who, when on the Las Vegas Metropolitan Police Department, was responsible for moving this thing through the voters to get the support. I met with every government entity in the process; I met with every council member of every entity throughout the Valley. We assured them they would have a say and they would be involved, and they were very supportive of this.

Since I retired in 2007, other things have transpired and now it has become a situation where we have one body in the southern Nevada area making the life and safety decisions for all the communities. That is not exactly the best way



to do it. We have lost hundreds of officer positions in southern Nevada since the start of the 2008 recession, and they are struggling to keep up with the demands. As per Assemblywoman Kirkpatrick's remarks, there are fewer police officers in every one of those agencies today, per capita, than there were then.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department:**

We are here in support of this bill. The Las Vegas Metropolitan Police Department (Metro) is the thirteenth largest police department in the country. On average in the United States, agencies have 2.2 officers per 1,000 people. Right now we are at about 1.7 officers per 1,000 people. That does not count the 40 million tourists we have annually in our city. We have seen a large decrease in our revenue since the recession, primarily through a property tax decline in revenue. We do believe it is fair that all jurisdictions that receive this revenue have a say in whether or not it is enacted.

**Brian McAnallen, Government Affairs Manager, Office of Administrative  
Services, City of Las Vegas:**

As Assemblywoman Kirkpatrick mentioned, public safety is extremely important and is the top priority for our city council. That is why we are here this evening to support Metro and other cities on this issue. There is a significant need in southern Nevada for more More Cops. We have been battling this issue for several years, from all sides. We think this is a proper regional approach to the solution, and would ask for your support.

**Ryann Juden, Chief of Staff, Office of the Mayor/City Council, City of  
North Las Vegas:**

We are also in support of this legislation. I want to remind members of this Committee that when this passed during the last legislative session, we spent a large amount of time with Las Vegas, Henderson, Boulder City, and Mesquite, going repeatedly to the County Commission to ask them to support More Cops. One of the things that is important to remember is many times the Clark County Commission acts as a city. Sometimes they have a city hat on, sometimes the members have a County Commission hat on.

When it came to this particular issue, and when they looked at this issue, despite the fact that our police department, Mesquite's police department, Boulder City's police department, and even in Las Vegas for their needs, where they share Metro, despite the fact that all of our police chiefs and our mayors needed this, Clark County was concerned throughout the entire process with Metro, which is sort of their police department. They were concerned with their budget, and whether their budget was being allocated the proper way. There was not much regard given to the police departments of the other entities.

So, we think this proposal is a fair approach. It recognizes the fact that in this instance, Clark County is more like a city with their own police department, similar to the other cities in southern Nevada.

This is a very important bill that would be important for our police department. Clark County should not be able to make a decision as to what is important for their police department and have it affect the rest of ours.

**Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We stand in full support of A.B. 494 and our member agencies that would be impacted by this whole thing in a positive manner.

**Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson:**

I want to thank Assemblyman Hambrick for bringing this bill. We believe it has been a long time coming. The original amount that was approved by the voters was one-half cent. Only half of that was put into place. We were supposed to come back to the Legislature in 2009 to look at the second quarter cent but that did not happen. We have been talking about this since 2009. In 2013 we had the bill that sent this decision to the Clark County Commission. As Mr. Juden said, they represent one police agency. There are several police agencies in the Valley, of which we are one of the largest with over 300 officers currently.

If this were to pass with the fifteen-hundredths of 1 percent, it would add up to 46 officers to the City of Henderson. We really believe we need those officers on the street. Our population has continued to grow, even during the economic downturn. We have grown over 15,000 residents since 2011. We feel we need these officers on the street as soon as possible.

**Sean Stewart, Executive Vice President, Nevada Contractors Association, and Las Vegas Chapter, The Associated General Contractors of America:**

On behalf of our 600 general contractors, subcontractors, and suppliers, we are in support of this bill. Several of our cooperative efforts in our construction theft divisions have been lowered or minimized in the last few years due to the downturn in the police departments. We feel this is a good bill. It will help us protect what we have going on with our equipment and our people. It will give the municipalities the opportunity to better manage their police forces. We urge you to support.

**Chairman Armstrong:**

Would anyone else like to speak in support of A.B. 494? Seeing no one, I will move to those who are opposed to A.B. 494.

**Victor Joecks, Executive Vice President, Nevada Policy Research Institute:**

We are opposed to this bill. If you look at the salaries and the compensation of police officers on Transparent Nevada, you will see the real cause of staffing shortages is that those compensation packages are quite high, and have been increasing, for the most part, year after year. For example, for Metro, in 2014, over 250 folks made over \$200,000, and over 675 folks made over \$175,000. If you want to look for savings, I would encourage you to pass labor reforms that would allow government agencies to make the money they have go further.

**Chairman Armstrong:**

Would anyone else like to speak in opposition to A.B. 494? [There was no one.] I will move to neutral.

**Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.**

We stand in neutral on this because we do not know what the bill actually is for; getting a board together, that is not our job to see where it is funded. All I know is whatever it takes to get more cops we are in support of, whether it is this bill or whatever it is. I could tell you we are so short-handed. I know Chuck Callaway touched on it, but I just texted one of my friends, just to give you an idea of how many officers are out there right now. You folks who are from the south know where Flamingo Road is. Everything south, all the way to the M Resort Spa and Casino, Southern Highlands, and from Interstate 15 all the way west to Red Rock, there are eight officers right now in that whole area. So, if you get a robbery or a burglary or something, you get a couple officers tied up and then a domestic violence, pretty soon you are only going to have one or two officers for that whole area. We are in support of whatever brings more officers to the streets.

**Scott A. Edwards, Vice President, Las Vegas Peace Officers Association:**

We represent 200 corrections officers at the City of Las Vegas jail. We are also neutral with this. We are kind of in a weird spot because we do not receive any money from the More Cops fund, but the City of Las Vegas pays Metro to provide the policing. It affects us indirectly, if you will. Looking at our staffing situation, it reduces the money that the city has to pay for our officers. Currently we have situations where we have anywhere from 80 to 250 inmates per one officer. As a matter of public safety, we endorse any measure that is going to put more police on the street. As a father of two Metro police officers, I support anything that is going to give them some assistance.

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

Chairman Armstrong, you hit the nail on the head with why this bill is here. The Board of County Commissioners each had their own reasons and rationale

as to why they did or did not vote for the More Cops. It was noted earlier that this regional board would be one body that represents all of the constituents, but the Board of County Commissioners is one body that represents all of the constituents. The Board of County Commissioners has constituents in all of the cities, and they make that representation.

I am in a neutral position because there are concerns with a regional board having the same authority as the Board of County Commissioners.

Our other concern is that we did send this language to our district attorney and the constitutionality is questionable. They do not agree that this meets constitutional muster.

Lastly, if we have this regional board and Clark County has only one seat on the board, that is not representative of the population they serve for the municipal services. Unincorporated Clark County has a population of close to 900,000 constituents. Having one seat on this regional board does not represent the services that they provide on a municipal level. I would ask that there be consideration to add to the number of seats for the County Commission, so we are properly represented on this board.

For example, you have one representative from each of the cities being appointed to the regional board. Each of those cities has a different population. You have a representative for an entity with a population of 30,000 with the same equal vote as the County Commission that covers an unincorporated population of 900,000. That is why, if you are going to have representation based on population, we would ask for more than one seat.

**Assemblywoman Neal:**

What are some of the constitutional conflicts your attorney had with this?

**Yolanda King:**

I do not know the specifics, but it had to do with what Mr. Hardy noted about one man, one vote. I do not know the details. I am sure I can have something in the morning for everyone with regard to what their opinion was on that. Apparently there was a case between Clark County and the City of Las Vegas that is being referenced.

**Assemblyman Nelson:**

Are there other similar entities where you have boards set up like this, operating within the county, that are made up of representatives of different entities?

**Yolanda King:**

There are other boards throughout the state of Nevada that have representatives from other jurisdictions, but none that would have the responsibility of imposing a sales tax. There is the Clark County Regional Flood Control District and the Las Vegas Convention and Visitors Authority, and even in those situations, Clark County has more than one representative on those boards.

**Chairman Armstrong:**

Mr. Callaway, would you come up for a question?

**Assemblywoman Neal:**

Since the body camera bill [Assembly Bill 162] passed, if this bill were to pass, could Metro use any of that money to pay for those?

Also, in regard to potential training for officers, currently to go through the academy it is mandatory, but after you leave it is not mandatory, it is an optional course they take for multicultural training. Would that be an option you would consider, because there have been notable incidents in communities where there is additional conversation and training that should not be optional, even for new and seasoned officers.

**Chuck Callaway:**

Under the current language in the law, body cameras can be purchased under More Cops. It allows for equipment that officers can carry on their person, such as a radio or a body camera. Metro has used More Cops revenue to pay for body cameras, and in our current policy, all newly hired officers are required to wear a body camera. Certainly those officers hired with this revenue would be equipped with body cameras.

The law does not allow us to use the revenue toward training, so we could not necessarily use this funding to create a training program. However, as you know, my agency recently underwent the collaborative reform process with the CNA research organization through the U.S. Department of Justice, and one of the things that was recommended was that we implement additional diversity training and multicultural training, so that is currently being done. It is, in fact, mandatory training that I personally attended over the last several months. All of our officers are going through that training.

**Chairman Armstrong:**

I see no further questions. Are there any final comments?

**Warren Hardy:**

With regard to the other regional boards and their taxing authority, regional boards in southern Nevada regularly have rate increases they have control over. The other comment I would make to Clark County's argument that they are a board that represents all entities in southern Nevada is that in some cases that is true. They do not have any jurisdiction or responsibility over our law enforcement. That is a direct responsibility of the city council of these various entities. That is the distinction here. The voters approved this. I believe when the voters approved it, they intended for it to be implemented. Clark County does not have jurisdiction or responsibility over our law enforcement. In my opinion that is our responsibility and our obligation, the distinction here from every other board. I believe we need a say in that, because that is our responsibility. The voters look to us in our individual communities for their public protection. I would suggest that is the distinction.

**Assemblywoman Bustamante Adams:**

Did we talk about the total number of officers who could be hired under this?

**Warren Hardy:**

We believe the fifteen-hundredths of 1 percent increase will allow us to hire two or three additional officers, but we are currently operating in a deficit situation when it comes to our More Cops. We believe two to three officers for the City of Mesquite, which is a 10 percent increase in our force. I do not have the numbers for the rest of the entities.

**Chuck Callaway:**

There are some moving factors here. First would be how much of the fifteen-hundredths of 1 percent would be enacted by this body. Would it be the entire amount, or a portion of it? As you know the County Commission has recommended at one point a .075 percentage of that, so that is a factor that would impact the number of officers we could hire. If it was the full fifteen-hundredths of 1 percent, if my memory serves me correctly, our finance folks estimated that could raise about \$33 million for Metro in Clark County, and we could hire approximately 300 officers with that revenue.

Another factor to consider is how fast we can put those individuals through the academy and get them on the street, and then, of course, attrition to determine exactly what net number of officers you have at the end of the day.

**Mike Cathcart:**

We believe if the total fifteen-hundredths of 1 percent was implemented, the City of Henderson would be able to hire up to 46 officers.

**Assemblywoman Kirkpatrick:**

I think it would be helpful for the Committee if you would be able to put together one document with everyone's collaborative information. I know that it probably exists, because this is not our first time hearing this. It seems every session we have this bill, or some variation of it.

I also think it would be helpful for the Committee members to understand how the money is collected. It goes through the treasurer and there are accountability pieces. None of that changes what is currently in the bill, because there is a pretty stiff penalty if it is misused or goes to different things.

Lastly, break down the cost for an officer, because what I heard tonight was it is \$200,000 per officer. We are allowed to pay for the officer, the equipment, and one-third of the car per person, so it is pretty specific.

**Warren Hardy:**

Mr. Callaway would be happy to work through the night to provide that.

**Assemblyman Nelson:**

I am a little slow on the uptake, but I now see what is happening here. You are saying that a regional board that usually operates under the county can force the county to enact the tax. Am I wrong on that, and has it ever happened before?

**Warren Hardy:**

That is what we are talking about here: an action of the regional board made up of the individual entities that have individual responsibility for their law enforcement that was contemplated by receiving benefit from the tax. A two-thirds majority vote in the Legislature indicates that under that condition, the County Commission shall impose the tax at that rate. I am not aware of another regional board where that has occurred. We have a unique situation here, and this has not occurred before. In most cases, everything these regional boards deal with are sort of a regionally shared responsibility, when it comes to water, transportation, and flood control. This is unique in that we have individual responsibilities that are separate; Metro has no responsibility over law enforcement in Mesquite, no obligation, and no fiduciary responsibility. They do not have to consider us. With all due respect, Clark County indicated they represent us all, but they have not represented us on this issue. There has been no consideration given to the City of Mesquite's concerns, not one time. I have worked on this for years, and that is not what I intended when I introduced that legislation. There is no consideration given, and that is why we are here.

**Assemblyman Nelson:**

Would this be analogous to the county telling the state what to do, if the state were not serving the county?

**Warren Hardy:**

I am not sure I can think of a circumstance where that would occur, unless there was legislative authority to do that, and that is what is happening here.

**Assemblyman Trowbridge:**

I understand there are municipal services the county has no role in. That is the difference between a city and a county. But, I go back to the strength of the individual members of the board and their ability to impact the vote. The issue the county brought up was one man, one vote. If there are 17,000 residents and one representative for Boulder City, and 900,000 residents and one representative for Clark County, that is not a proportionate representation.

If this was changed so that the individual cities could adjust their tax rates, so if the City of Mesquite wanted to impose a tax rate on their residents, it would be up to the city council to do that, and if the county wanted to do the same, it would be up to them, but that is not how this is proposed. It is proposed that Boulder City could have the same say as to what is going to happen on a countywide basis, that is the County Commission itself. That is where the issue comes in, and they may have a pretty strong leg to stand on in terms of constitutionality with this approach.

My concerns beyond this are not only the imposition of the tax and its use, but also the proportion and distribution of the money that would be raised and how that would work. If the taxes are raised through sales in Boulder City, do they deserve the money from the sales that occurred in their city, or are they intended to receive a per person share of the total revenue generated throughout the entire county?

The distribution of the money is a concern, as well as the representation on the board. I would hope the county would come forward with some thoughts in the morning, and address some of these issues.

**Warren Hardy:**

Certainly, the scenario is legitimate. There could be a circumstance under which each of the cities is provided an opportunity to increase the taxes on their own; however, that is not the statutory scheme that we have been presented with. We have to work within that statutory scheme. I would simply submit



for your consideration that our voters in Mesquite voted for More Cops. Voters in Henderson voted for More Cops. Voters in Boulder City and North Las Vegas voted for More Cops, and none have had any representation on the implementation of that. That is what this intends to correct. If there is a concern about one man, one vote, and the need for additional representation for Clark County, I am not sure any of us would object to giving them two seats on the board. I think that would mirror the representation they have on other regional boards. I am not sure we would have any objection to that, if that is a concern, but again the issue we are trying to correct here is that the voters of these other entities participated in the vote, had their voices heard by an overwhelming majority, and have not been represented in the decision as to whether to implement that tax. That is what we are talking about here, and that is what this legislation endeavors to correct.

**Mike Cathcart:**

We currently have one-quarter of this tax in place, and it is funding officers currently. It is based on population; it is collected countywide and distributed back to the local law enforcement entities by population.

**Ryann Juden:**

To answer both Assemblymen Nelson and Trowbridge, I understand the argument of one person, one vote, but I think lost in the mix here is the fact that that already took place; direct democracy already took place here. So, in reference to the question of this being akin to the county dictating what the Legislature should do, I would like to remind the Committee that the voters have already done that. The voters directed us what to do through their ability and their right to participate in direct democracy with the ballot question, to tell us this is what they wanted. It is a more pure form of democracy, where they actually said this is our intent and this is what we want you to do, which is not the same thing as the City of North Las Vegas's council telling the County Commission what to do, or the County Commission telling the Legislature what to do. This is in its purest form the people saying, This is what we want.

**Chairman Armstrong:**

With that, I will close the hearing on A.B. 494. We are going to now hear Senate Bill 79 (1st Reprint).

**Senate Bill 79 (1st Reprint): Revises provisions governing the taxation of alternative nicotine products and vapor products. (BDR 32-307)**

**Alfredo Alonso, representing Reynolds American, Inc.:**

What you have before you is basically model legislation that you have already passed in Senate Bill 225, making it illegal to sell to minors alternative nicotine products and vapor products, many of which are not even on the market yet.

Once they are on the market, the goal is to make sure that, as in the previous bill, you have them properly defined and you include all of them, so they cannot be purchased by someone under the age of 18. Here you are taking the tax statute and separating them out from the other forms of tobacco. There was discussion of potentially adding a revenue piece to this and the Senate decided to opt out and wait as the Food and Drug Administration (FDA) is still opining on these issues and working on regulations.

What you have before you are basically the definitions. They are consistent with the other bill, and are consistent with what is happening across the country. If at a later date this body decides to tax these items, you can do so fairly easily.

After discussions with the Department of Taxation, it would be very difficult to include some of those items, whether it be confiscation or what have you, because we are not taxing them. Those were removed for now and can be reinserted at a later date if that is the case.

**Chairman Armstrong:**

There are new alternative products coming out, like little disks that are derived from tobacco. Can you tell me where they would fall under this bill, and whether they will be taxed?

**Alfredo Alonso:**

Currently they are taxed only by sales tax. You would not place an excise tax on them. They would fall under alternative, again, setting that category up for this body to tax them at a later date if you decided to.

**Chairman Armstrong:**

Does Nicorette gum fall under this measure as well?

**Alfredo Alonso:**

There is nicotine in Nicorette gum. I do not believe these types of products, or even other tobacco products, are considered currently. I do not believe they would fall under this measure because they are used for cessation. They are not currently taxed.

**Assemblywoman Dickman:**

I have seen a lot of these products that do not have nicotine in them; they just use vapor. There is no nicotine, so what would happen with those?

**Alfredo Alonso:**

They would not be caught under this definition. This is only derived from nicotine. Again, there are many items out there, from what I understand. People are using things like cauliflower, and other things I have heard. I do not quite understand it myself, but they would not be captured under this.

**Assemblywoman Dickman:**

So if you go to the vapor store, you can get these vapor products with no nicotine in them?

**Alfredo Alonso:**

I believe there are products out there that do not contain nicotine. Again, the goal is not to capture them at this time. The FDA is looking at all of these products and is promulgating regulations as a result. The goal here is to try to stay consistent with what other states are doing and start with only nicotine products. If this body decides at a later date to include non-nicotine products, I suppose you could do that. The goal here is to simply start setting a standard.

**Assemblywoman Bustamante Adams:**

Currently we have two categories, we are defining a third category, and that is the basis of the bill. Is that correct?

**Alfredo Alonso:**

You have your combustibles, you have your other tobacco products, which include chewing tobacco and other such things, and you are now creating a new category for these other products that are completely different. There is a growing number of individuals in the medical community who strongly believe they are safer, not safe, but safer than the other products. So, the goal here is to treat them accordingly.

**Chairman Armstrong:**

That third category is not taxable under this bill?

**Alfredo Alonso:**

Correct. It is not taxable now. This bill sets it up so they could be taxable at a later date under that category, under this scheme.

**Chairman Armstrong:**

Are there any other questions from the Committee? Seeing none, we will move to testimony in support of S.B. 79 (R1).

**Samuel P. McMullen, representing Altria:**

Altria is the parent company of Phillip Morris. We are totally in support of this bill, not only in its confirmation of the statute with Senate Bill 225, but in what it does to avoid confusion in respect to vapor products.

**Chairman Armstrong:**

Would anyone else like to speak in support of S.B. 79 (R1)? Seeing no one, would anyone like to speak in opposition? Seeing no one, would anyone like to speak as neutral?

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

This was originally the Department's bill in an attempt to tax vapor products as other tobacco products under the wholesale tax. When it appeared that there was not going to be the support needed to do that on the Senate side, it was reworked and this structure was set up so that at such a time as we can move forward with this, we will have a category already in place.

**Chairman Armstrong:**

I will close the hearing on S.B. 79 (R1). I will now open the hearing on Senate Bill 266 (2nd Reprint).

**Senate Bill 266 (2nd Reprint): Revises provisions relating to the tax on live entertainment. (BDR 32-720)**

**Senator Mark A. Lipparelli, Senate District No. 6:**

Before I present this bill, I would like to recognize the joint sponsor, Assemblywoman Kirkpatrick, whom I have been working with since the beginning of the session. This bill relates to a reform to the live entertainment tax (LET). The general goals of this bill were to try to unwind what has become a very complicated tax to enforce, one that is filled with exceptions, so this is the work product you see before you. I will go through the highlights of the bill. This is on second reprint. You should have a May 31, 2015, version.

What the bill does is it takes into the application of the tax certain businesses that have been formerly exempted or not taxed under the LET. This measure incorporates escort services, as well as outdoor concerts, which were formerly excluded as something where the tax could apply. We make it clear that sporting events are included, with certain exceptions such as high school sports and Nevada System of Higher Education associated events, where those entities are actually conducting the tournaments.

The biggest change to this tax, compared with how it has been applied in the past, is that now this tax applies only to admissions. Formerly this tax was complicated because it applied to food and beverage. One of the major changes of this application of the tax is it removes food and beverage, and establishes the triggering event off of admissions. We clarified certain exceptions to live entertainment that have been vexing industry participants and leading to disputes, including a specific exemption for go-go dancing, which has always been a tough thing to interpret in terms of its application of dance or not dance, so we addressed that head-on.

We also address a time limitation in the bill associated with spontaneous events. A lot of the venues we now see in the city were not the kind of venues that existed previously. You could have a spontaneous potential singing event in a nightclub, and those would potentially trigger the application of the tax. Now there is actually a specified duration limitation in the tax, so in those cases where there is a spontaneous event, application of the tax will not occur. Further, given that we are now triggering everything off of admission, in the bill we provide for a dispute resolution mechanism. When we apply this only to admissions, there is a possibility that there are secondary purchases associated with the visitation to a club, or a day club. For example, you might pay an admission charge to get into a facility, buy access to a given location, or buy access to a lounge chair, something like that. This bill specifically targets that the secondary purchases are not to be included as admission taxes, unless or until they try to avoid paying the tax by not charging admission, tying admission to the facility to some kind of mandatory purchase. Some of you may remember the two-drink-minimum rule. With this bill, if you give someone free admission, and then charge them a two-drink minimum, that would trigger the tax and cause that purchase to be considered the admission fee.

In this bill, we provide a dispute resolution mechanism for both the Nevada Tax Commission and the Nevada Gaming Commission where there is a dispute over interpretation. If it is vague, or if the finding of the tax body is determined by

either Commission to be something out of the norm, there is an alternative dispute mechanism where they can apply a solution of a \$1 up to \$50 charge per admission if that secondary purchase is not able to be reasonably determined. That would be at the discretion of both Commissions.

There are various other changes. We capture nonprofit entities now, for those categories of 7,500 persons and up. We think we have given a wide berth for nonprofits to remain exempt from the tax, but at the point they become commercial enterprises at 7,500 persons or more, they are brought into the tax.

One of the other major thresholds are those events above 15,000 persons in number. If they are a nonprofit and they eclipse that 15,000 number, all the exemptions wash away. If you had an event where the participants exceed 15,000, which are currently excluded, we would bring those people into the fold. If there is an admission charge on that event, they will pay the tax.

I think I have covered most of the big elements of the bill. There was a piece about boxing and mixed martial arts (MMA). I think that bill [Assembly Bill 476] was heard elsewhere earlier today, so we have taken all of that material out and left the boxing/MMA piece static in this bill.

**Assemblywoman Kirkpatrick:**

Senator Lipparelli is my hero. I think this piece of legislation will change the tax structure. Taking out food and beverage is huge to ensuring that it works. I will be forever in his debt for letting me leave this building knowing I made an impact on good tax policy in our state.

**Senator Lipparelli:**

The foundation of this bill would not have occurred if it had not been for Assemblywoman Kirkpatrick's four attempts at getting us there. I ride on your shoulders for a thank you.

**Assemblyman Trowbridge:**

Just for clarification purposes, I have some concerns, in situations where music is provided and is incidental, such as holiday music in a mall or multiple day events like the Opportunity Village Magical Forest. The other is the music that occurs on occasion at outdoor swap meet type events, where the admission is \$1 but the music is incidental to getting people circulating around and buying products at booths. Would those instances be covered under this?

**Senator Lipparelli:**

Shopping malls are specifically exempted from the application of the tax. They probably would not be applicable anyway because there is no admission. The same goes for the Opportunity Village Magical Forest to the extent that it is a nonprofit, does not exceed 7,500 persons, and there is no admission fee.

Let us assume in your example there is an admission fee. As long as the total number of tickets sold for the event does not exceed 7,500 for that event, so I would consider that to be an entry period, then they would be specifically exempted.

**Assemblyman Trowbridge:**

The Opportunity Village Magical Forest is an event that goes on for a month. I can guarantee you they get more than 7,500 people for the month. They probably do not have 7,500 in a day, though.

**Senator Lipparelli:**

I would probably defer to the taxing authorities, but an event would be a period of time, not unlike any other concert or other venues. If it was 7,500 people for a given session, there could be a potential application of the tax, but they are a nonprofit and if it does not exceed 7,500, they are probably in good shape.

Regarding swap meets, that term is not used in the bill, so we would have to probably leave that to the authority of the taxing agency, but outdoor concerts are picked up in the bill. There are exceptions for shopping malls and craft fairs.

Again, the trigger on this tax, which is a substantial change to the LET, is an admission fee. If an admission fee is charged or a required purchase is charged to be in the facility, the potential is there for the application of the tax. The one other alternative that is provided for in this bill is 20 minutes of a spontaneous or promotional event per 60 minutes. I am not sure if that applies, and the taxing authorities would have to use that language and apply it appropriately.

**Chairman Armstrong:**

How does the \$50 limit on the dispute provision pertain? How did that \$50 limit come about?

**Senator Lipparelli:**

We had testimony from a number of people who stated that was the range of their admission charges. The purpose of this is for when a case is brought against a taxpayer who is deemed to have tried to avoid the tax through a mandatory purchase. In this case, the ability to assess an appropriate amount

can be frustrated by something, such as when you have a proven case of someone who did not appropriately collect an admission but required a secondary purchase. The way the taxing authorities are impacted by this is that they may agree with the taxing authority there was an avoidance to charge an admission, but they may not agree with the assessment made by the taxing enforcer. They are put in an untenable position of potentially unwinding a precedent for an enforcement of an admission because they do not like the potential penalty that could be set upon the taxpayer, so this gives them that range. It could also make up for a deficiency; they would not necessarily automatically go to \$50. It could be there was a deficiency and they failed to collect on \$10 worth of admission charge based on how they sold a bracelet that gave an attendee permission to buy a drink, or something like that. We tried to create a wide enough berth that the taxing authority could have a range to apply at whatever level, in their discretion, they deemed collected the admission.

**Assemblywoman Diaz:**

I am wondering, how are we going to collect the tax from the escorts?

**Senator Lipparelli:**

The application of the tax on the escorts would be the fee associated with the response to a dispatch. Our understanding would be that if a person calls for an escort, at the time that transaction is entered into it would be the amount agreed upon to be paid. As you can see in the language of the bill, there are no other fees that can be charged for other services that may or may not be provided by any such escort.

**Assemblyman Nelson:**

On page 8, section 2, subsection 3, beginning on line 1, the exclusions "do not apply to an activity provided by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)," if they have more than 15,000 tickets. Is that it?

My question is, for example, if there was a certain festival that testified before us previously and claimed they were nonprofit, then upon further questioning said they had 30 full-time employees who are all in California, to me that is not the type of nonprofit we are trying to protect.

**Senator Lipparelli:**

There are essentially two key thresholds: the 7,500 persons and below. We tried to make sure we were not capturing spaghetti nights, church nights, or other kinds of fundraising events. We believe that the 7,500-person threshold



was a fairly significant threshold. If you are going to have an event above 7,500 persons, you are probably getting into commercial competition, so we determined that as the barrier.

The second portion you are referring to also takes away all of the exemptions. This would be the case where the patrons who attend the event—who are now exempted—if it is a live entertainment event and only the patrons are conducting the entertainment activities, that last exemption of 15,000 and above would go away. These would include large events, such as Burning Man. They would be exempted by this categorization, because the patrons are the ones typically conducting the live entertainment activities.

**Assemblyman Nelson:**

Do you think it is wise that Burning Man be exempted?

**Senator Lipparelli:**

They are not exempted, because they lose that last stage of exemption of 15,000 and above.

**Assemblyman Nelson:**

Thank you for that clarification.

**Assemblywoman Dickman:**

You said this was basically a cleanup of what has been done before. Would you say this is a revenue neutral thing?

**Senator Lipparelli:**

We have been structuring this to be revenue neutral, with a couple of different exceptions. First, we are at a loss to try to understand how pervasive the escort service business might be. We believe our estimates are conservative, so if that number is much larger it would actually generate additional fees. Regarding the nonprofits, for example, we are not sure how many events those might produce, but we are also capturing the outdoor concert venues like Electric Daisy Carnival and Rock in Rio USA, and to the extent those become more pervasive, they could actually be revenue enhancers.

**Assemblywoman Dickman:**

So you probably could not do an estimate?

**Senator Lipparelli:**

It is hard to do an estimate on that much speculation. If you could tell me how many events are going to be on the MGM Resort's Rock in Rio site, we would be able to give you a better idea. That facility just started a couple of

weeks ago. If they are going to program that area of town for events every other week, it could be a fairly substantial contributor. We are also capturing all other outdoor venues as well.

**Assemblywoman Benitez-Thompson:**

I want to ask about a definitional matter on page 6, lines 10 and 11, which is in section 2, subsection 2, paragraph (a). In other places in statute we have been very thorough on how we defined certain types of activities. I do not see a reference anywhere in the bill capturing the language on lines 10 and 11.

Knowing that the LET has traditionally been a big loophole that people could drive a truck through, I can see lots of different types of arguments being made for what that would mean.

**Senator Lipparelli:**

I will try to answer that question based on where you are going. This would incorporate strip clubs. The information we have from the Department of Taxation is that strip clubs are included and they are already taxpayers for the purposes of live entertainment, to the extent they charge an admission fee.

**Assemblywoman Benitez-Thompson:**

Are there other businesses that may have partially nude people walking around, or where that might be argued, but the intent would be the strip clubs?

**Senator Lipparelli:**

Remember, this is a two-stage test. First, it has to have an admission; and, second, it has to fall into the inclusions, which are section 2, subsection 2, paragraph (a), subparagraphs (1) through (10). To the extent there is another business, and I am not sure what you are referring to, they would have to pass these tests to avoid the tax.

**Assemblywoman Kirkpatrick:**

I wanted to add an additional thought to Assemblywoman Dickman's question. When numbers were being created, that is how we were able to take out food and beverage and provide a rate. The intent was always to be revenue neutral, with the expectation that we could not have anything less come in because food and beverage was such a big part of it. It is just to clean up some of the loopholes.

The other piece is that food and beverage was a big part of live entertainment, so they were paying it twice. To give you an example, if you went into a venue that was less than 7,500 persons, you were paying 10 percent, plus the sales

tax, which was 18.1 percent in Clark County; this now makes you only pay 9 percent. So it is somewhat of a reduction in broadening out, to make it neutral. It was never intended to be one penny over.

**Senator Lipparelli:**

Our vision was first to get the policy right, second to broaden the base, third to eliminate the loopholes, and fourth to try to provide simplicity for enforcement. Those were the major policy goals of the bill.

I believe there is an incoming amendment, that I would consider friendly, for the purposes of Mr. Ferraro's presentation.

**Chairman Armstrong:**

Are there any other questions from the Committee? Seeing none, we will move to testimony. Would anyone like to speak in support of S.B. 266 (R2)?

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

We have been involved in attempting to fix this area of law since it was first enacted in 2003. For the past 12 years, we have worked with Assemblywoman Kirkpatrick and others. We now find ourselves with what we think is an excellent solution, removing the ambiguity that has existed in this statute for far too long. We commend Senator Lipparelli for doing an excellent job on this. Taking advantage of his experience as the former chairman of the State Gaming Control Board has helped greatly in this area.

I think what he and Assemblywoman Kirkpatrick have put forward is exceptional legislation. The friendly amendment we are offering here is some clarifying language in section 4 ([Exhibit C](#)). In section 4, subsection 2, we want to add after "a licensed gaming establishment" the words "with the intent to avoid payment," so it will be willful intent to avoid. We think this is a minor clarification for the expanse of the bill, but it is an important clarification in the area of collections, and for the Nevada Gaming Commission and the State Gaming Control Board to determine whether it was willful or not.

In conclusion, this is great work. Some of you have seen me appear before you over the years on this issue. I am very pleased to be at this place, where we think we have finally got a solid fix that establishes predictable taxation policy in this area of the law. Thank you.

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

I was not happy with this bill the first time I saw it. I think this amendment does a tremendous amount to clean up some real problem areas. It does not go as far as I would like, but it is a perfect first start.

I urge you to please pass this out of Committee. One of the most important things in this is that we have had bifurcated administration and bifurcated rates. At this point we are at least getting rid of the bifurcated rates, and we are not double taxing, because we have removed food, beverage, and merchandise. That is something we have argued over since this was enacted in 2003, and there are a number of us who have been back since 2005, trying to get it cleaned up. Please pass it.

**Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce**

I want to thank Senator Lipparelli and Assemblywoman Kirkpatrick on their efforts. As you know, this has been an ongoing conversation in this building for many sessions. I would like to thank Assemblywoman Kirkpatrick for her ongoing efforts dedicated to fixing the policy issues with this bill, and that is why we support this. As you have heard, it broadens the base, brings predictability and stability, and is good public policy. We would like to offer our support.

**Chairman Armstrong:**

Is there anyone else here in support of S.B. 266 (R2)? Seeing no one, is there anyone who would like to speak in opposition to S.B. 266 (R2)? Seeing no one, is there anyone who is neutral on S.B. 266 (R2)? Seeing no one, do you have any final comments, Senator Lipparelli?

**Senator Lipparelli:**

I look forward to seeing this pass tomorrow.

**Chairman Armstrong:**

I will close the hearing on S.B. 266 (R2). I will now open the hearing on Assembly Bill 497.

**Assembly Bill 497: Revises certain provisions relating to taxes. (BDR 22-1295)**

**Assemblywoman Marilyn K. Kirkpatrick, Assembly District No. 1:**

I want to give an overview of this bill. This is enabling legislation. As many of you may know, we have been talking about the infrastructure problem we have in southern Nevada when it comes to land that is available, but there are no utilities and no way to get utilities to it very quickly. Southern Nevada has some available pieces, a little over 7,000 acres, which help with economic development; however, they have no water or utility systems.

Earlier in the session, we passed a bill that allowed for gas infrastructure to come [Senate Bill 151]. This would be enabling legislation for a local government to put together a tax increment finance and to keep the proceeds from it, subject to Interim Finance Committee (IFC) approval.

Currently, many entities can do tax increment financing; however, this one is a little unique because it would allow them to keep up to 50 percent of the modified business tax (MBT) and sales tax that is generated from it. This would require IFC approval, and this would also have to be specific for a water project.

This is the ability for a municipality to do this so they have to understand the repercussions of giving up some of their sales tax, which could affect their consolidated tax distribution (CTX) rate; giving up the state's MBT; being a partner with them, because economic development has 7,000 acres that are available; and also some of the property tax. So the local government, by ordinance, would be very invested in this, and this, in my mind, is somewhat better than most, because in most, the Legislature has not been able to follow the process or be part of it. I am going to now turn it over to Matt Griffin.

**Matt Griffin, representing APEX Holding Company:**

APEX would be one of the developments that could benefit from this legislation. As Assemblywoman Kirkpatrick said, this is not an incentive legislation; it is an enabling legislation, so that a municipality that creates a tax increment district, which currently is available to get incentives based upon property tax, can also have available to them incentives based upon the MBT and the sales tax, but subject to IFC approval.

The project would come and present itself in the interim to the IFC and they would decide whether those incentives were available. I should correct myself. This is a bonding and repayment mechanism for the construction of water infrastructure.

On behalf of APEX, I would like to give you an idea of what this development could benefit. APEX was created through a congressional act in 1989 [H.R. 1485, Apex Project, Nevada Land Transfer and Authorization Act of 1989] for heavy industrial uses. It went into private hands in 2002 and has sat largely dormant, except for a few small-scale projects. We currently have three large developments interested in APEX, the first of which has not asked for incentives from the state and is awaiting action to help in paying for the water line. This one project would employ over 2,500 southern Nevadans and create approximately \$10 billion in total economic impact. Two other large projects looking at APEX would create close to 5,000 jobs and have a total

capital investment of close to \$2 billion. As Assemblywoman Kirkpatrick stated, the ability to use MBT and sales taxes in this proposal, 50 percent of it would go to the Municipal Bond Bank if that were to be employed for the mechanism to fund the structure, and once that is repaid, 100 percent goes to the existing Department of Taxation procedures. The other 50 percent, while the bond is being paid back, also goes to the Department of Taxation.

Hopefully, a lot of the members of the Committee have heard of APEX, the potential APEX has, and the benefits it can bring to southern Nevada. It is an exciting project, it is a large project, and from my experience and understanding it is an extraordinarily unique project. We would really appreciate your support on this bill, and thank you for your time.

**Chairman Armstrong:**

Is this setting a precedent by allowing us to pledge against the MBT wages? I do not remember that being any part of tax incremental plans.

**Assemblywoman Kirkpatrick:**

It may be setting a new precedent, but much better than the Sales Tax Anticipation Revenue (STAR) bonds that this Legislature has passed in the past, and it is much better than the tourism improvement district that has passed, because the Legislature gets to continue to follow the process.

One of the reasons Tesla came to northern Nevada is that they had a tract of land where they could grow and expand. We knew that the folks in southern Nevada had a meltdown over them not choosing southern Nevada. I can tell you, rightfully so, they came to the north because it made sense, because of the location, and because of the ability to have large tracts of land.

This is probably the last large tract of land in southern Nevada, with the exception of a couple of smaller ones. This is an attempt to help put in infrastructure, and make them pay it back. I believe ten years is the goal they are trying to get to.

So, yes, it may be a precedent, but unfortunately for southern Nevada, if we do not do something to help them get the infrastructure, then we could see things change.

**Chairman Armstrong:**

Is there a time period for that payback?

**Assemblywoman Kirkpatrick:**

That is why we want them to come before IFC, which is all of you. With any of the other things that we have ever done, this is how it has worked out. The general improvement district goes to the lieutenant governor, so we never got to see anything. The STAR bonds went to the city council folks, so we never got to see anything. This is why we would expect them to come to the IFC with a payback plan. Ms. Vilardo has taught me to always be very consistent and hold people to a date, so it would be my expectation that they would come with a pretty aggressive date to get this paid off, and get the state's portion paid back.

**Assemblyman Trowbridge:**

I like the looks of this bill, but I do have two thoughts. One is that you may be restricting yourself by using the word "water." Would it be more appropriate to use the word "utilities." Also, you talk about "municipalities" where you might want to talk about "political subdivisions." That would enable you to get sewage and electrical in, and let the county bill it on another event.

**Assemblywoman Kirkpatrick:**

I understand where you are coming from, but I want to be pretty narrow with the way we are headed. North Las Vegas is fortunate to have their own sewage treatment center close by the location, that is, fortunate or unfortunate depending on who you ask.

There are some utilities already out there. We did pass another bill, so NV Energy has some self-generating stations—generation plants—out there. Southwest Gas will now work across the state as a whole to put in their infrastructure, as Utah does. I do want to limit it because in my experience when you go a little bit too far, they will go 100 miles past you. They will always find a way around it, so I was hoping to limit it.

**Matt Griffin:**

I am not a bond counsel but it is my understanding in working with bond counsel on this that there are two issues we ran into as far as being able to use the Municipal Bond Bank. We are restricted by Nevada Supreme Court case law to natural resources, and it is my understanding that "utilities" is too broad a characterization. That is why it was restricted to just water usage.

Secondly, to the best of my recollection, the tax increment area is not currently available to all local subdivisions and political subdivisions. It is available currently only to municipalities. This is not an expansion upon the existing authority outside of this legislation. It is just trying to take those two funding mechanisms that are not currently available.

**Assemblyman Trowbridge:**

When I saw this I knew you were talking about APEX, but another issue may be coming up in your near future where you start thinking about the Ivanpah Valley Airport on the other end of town.

**Assemblywoman Kirkpatrick:**

This would not prohibit that, and this would be enabling legislation for any municipality to put an ordinance in place. Yes, this does help the tract of land. There are a couple different large tracts of land. We do not write special legislation in this building, so this does not prohibit any other municipality from using this to their benefit, as long as the IFC approves it.

**Chairman Armstrong:**

Through IFC, we will be able to know the fiscal impacts that this would possibly have, correct?

**Matt Griffin:**

Yes, you would. I think what Assemblywoman Kirkpatrick said earlier is important; the revenue that would be captured to repay the Municipal Bond Bank is revenue that would not exist unless the projects go forward. There is nobody working there generating the MBT right now. There is nobody selling anything that is generating sales tax. We are only talking about increased figures, not existing figures. That applies equally to the property tax. The existing amount of property tax is not subject to this; it is any increase that might come to property tax that would be available for the repayment.

**Assemblywoman Kirkpatrick:**

I want to reiterate, if businesses do go out there, they are subject to the commerce tax, they are subject to the sales tax—the 2 percent that the state gets—so this does not take any of that away. This does allow us to have infrastructure, to try to ensure we can get some economic development.

**Assemblyman Nelson:**

As a follow-up on the dialogue between Assemblywoman Kirkpatrick and Assemblyman Trowbridge, can the county, dealing with the unincorporated land, already do this? Is that why you excluded the counties?

**Assemblywoman Kirkpatrick:**

I know that they can do a tax increment financing district, such as when the City of Las Vegas did a tax increment financing district downtown where The Smith Center is located. I know they have done them up here. I think the counties call them something different, maybe special improvement districts.



Everybody has something different, but this one is a little bit unique because it allows them to use the sales tax and the MBT, but therefore requires the Legislature to sign off once they have made that decision.

**Chairman Armstrong:**

Our legal staff has some clarification on that.

**Bryan Fernley, Committee Counsel:**

In Chapter 278C of *Nevada Revised Statutes* (NRS), which is the chapter where these provisions are, "municipality" is defined to mean a county or a city, so both counties and cities have this authority.

**Matt Griffin:**

It is my understanding that Storey County is currently using this mechanism, at least for the property tax.

**Chairman Armstrong:**

Are there any other questions from the Committee? Seeing none, we will move to testimony. Would anyone like to speak in support of A.B. 497?

**Samuel P. McMullen, representing Las Vegas Global Economic Alliance:**

I want to make one simple and very supportive observation based on alliance members' experience of multiple tours at APEX as an example. They have found that in this much more competitive environment of economic development, the ability to offer a fully infrastructured property, with all the utilities, just like you did on gas and water this year, is really key because the development time for some of these projects does not want to include bringing the property up to speed with all the utility infrastructure.

Ideas like this are extremely critical to the utilization of APEX and other large areas in the state, where this vehicle can be used. They have found it to be extremely important in their discussions to have this put together in a way that can make it just the development time of the project, not the development time of their infrastructure on project life.

**Ryann Juden, Chief of Staff, Office of the Mayor/City Council, City of North Las Vegas:**

First of all, I would like to thank Assemblywoman Kirkpatrick for bringing this forward. This is something, as a city, we have been working on throughout the session. We believe this is something that is not just important for North Las Vegas, but is important for the entire region.

We are unique in southern Nevada, in the fact that we do not have something that exists like APEX. In 1941, Basic Magnesium, Inc. came in and built a development in Henderson. It later became home to multiple Fortune 500 companies such as Kerr-McGee. These companies were able to come into an area that was separate from the rest of the town, and they could do heavy industrial uses. We are talking about large employers that were not encumbered by development. Then, as the Valley grew, it began to encumber this area and prevented growth.

Those who follow news in southern Nevada just saw where an ice cream distributor was not able to go into Henderson because the residents did not want it because of the increased traffic. We, in North Las Vegas, over the last two years, have seen multiple companies that employ thousands of people come and look. When they come and look, they are looking for something outside. They do not want to deal with the traditional "not in my backyard" type things that happen in communities. They want to be farther out.

In southern Nevada, we do not have that, and that is really a pillar of any region that wants to develop. What is unique once APEX is brought online with its rail connectivity and road connectivity, is that by having infrastructure, it is not something that is just unique in our region, but it is unique in the entire southern region. It is something that does not exist in California. It is something that does not exist in Phoenix. It provides real opportunity for us. With all of the discussion we have had this session about economic development and bringing jobs in, if we do not prepare the land, it becomes very difficult for companies that are looking for a turnkey opportunity to move. They do not have anything like that right now. This provides real opportunities for southern Nevada, and as southern Nevada goes, so goes the state of Nevada.

**Chairman Armstrong:**

Is there anyone else who would like to speak in support of A.B. 497? Seeing no one, I will move to opposition. Is anyone opposed to A.B. 497?

**Victor Joecks, Executive Vice President, Nevada Policy Research Institute:**

We are opposed. I think one of the problems with taxpayer increment financing is that it siphons off increases in the property tax to pay off the bonds used in the project. The increase in property tax is necessary, however, to fund the functions of government. As we all just saw a few hours ago on the floor, when there is less tax revenue than is desired, it creates pressure to increase taxes. That is why I am very concerned about diverting both sales tax and the MBT to pay for a specific project. I simply do not think it is a good policy

precedent to divert, and promise to divert, future state funds to a region-specific project. If you remember, after the Economic Forum, we had a \$150 million budget hole this biennium because of transferrable tax credits. I am worried about a budget hole of tens of millions of dollars in the future because of this diversion.

I think it is important that this is not just about the one project; it is about the precedent that this will set. I think Assemblywoman Kirkpatrick has wisely made this very narrow, as something she wants it to apply to, but I am concerned that as time goes on in the Legislature, these things tend to expand. I think it is a very dangerous precedent to set. If private business wants to invest there and make it a good, profitable plot of land, I hope they do that. I wish them the best, but I do not think that they should divert state tax dollars to do it.

**Chairman Armstrong:**

Would anyone else like to speak in opposition to A.B. 497? Seeing no one, I will move to neutral. Is there anyone as neutral on A.B. 497? Seeing no one, do you have any closing remarks, Assemblywoman Kirkpatrick?

**Assemblywoman Kirkpatrick:**

I want to refute what was said. Since 2002, nothing has been built out there, and zero percent of zero is nothing. This is an opportunity to up the entire state growth, as well as the county. I would hope that after a few hours of rest, we could all think this through.

**Chairman Armstrong:**

With that, I will close the hearing on A.B. 497 and open the hearing for the work session. The first bill on the agenda is 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)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

The work session document ([Exhibit D](#)) is available on the Nevada Electronic Legislative Information System (NELIS).

The first bill is Senate Bill 412. It was heard in this Committee on May 28, and was sponsored by Senator Harris and Senator Lipparelli.

Senate Bill 412 provides a tax credit against the modified business tax (MBT) to an employer who matches the contribution of an employee to either the Nevada College Savings Program, effective January 1, 2016, or the Nevada Higher Education Prepaid Tuition Program, effective July 1, 2016.

The tax credit is in an amount equal to 25 percent of the matching contribution, not to exceed \$500 per contributing employee per year, and any unused credits toward the MBT may be carried forward for five years.

There was testimony in support, neutral, and opposition to the bill. There were no amendments.

I will be happy to answer any questions.

**Chairman Armstrong:**

Are there any questions from the Committee? Seeing none, I will entertain a motion to do pass.

ASSEMBLYWOMAN DICKMAN MOVED TO DO PASS  
SENATE BILL 412.

ASSEMBLYMAN TROWBRIDGE SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblywoman Bustamante Adams:**

I just want to reserve my right to change my vote on the floor.

**Assemblywoman Neal:**

Ditto.

**Assemblywoman Kirkpatrick:**

Ditto.

**Assemblywoman Diaz:**

Ditto.

**Assemblywoman Benitez-Thompson:**

I will vote no. I like the concept. I just do not feel that it is quite soup yet, with some of the transparency issues I mentioned on the record. The concept is a decent one, but I am not sure the language is there with the concept.

THE MOTION PASSED. (ASSEMBLYWOMAN BENITEZ-THOMPSON VOTED NO. ASSEMBLYMAN HICKEY WAS ABSENT FOR THE VOTE.)

Assemblywoman Dickman will do the floor statement. I will close the hearing on S.B. 412 and open the hearing on Senate Joint Resolution 13 (1st Reprint).

**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)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

The final bill on the work session is Senate Joint Resolution 13 (1st Reprint), which was heard in this Committee on May 28. It was sponsored by Senator Settlemeyer.

Senate Joint Resolution 13 (1st Reprint) proposes to amend the *Nevada Constitution* to limit the total amount of property taxes that may be levied on real property to 1 percent of the base value of the property. The base value is defined, with certain exceptions, as the taxable value from which the assessed value for the fiscal year 2017-2018 was calculated.

In the work session document ([Exhibit E](#)) you can see the various provisions by which the base value was reset. There are also provisions specifying the amount by which the base value may be increased or decreased in any given year, as well as provisions relating to how that base value is recalculated or reset, or may be transferred under certain circumstances without any sort of penalty.

There was an amendment submitted to the bill, after the hearing, by Senator Settlemeyer. This is Proposed Amendment 7763, which is attached to the work session document (pages 3 through 7, [Exhibit E](#)) and makes two changes to this particular resolution.

The first change is that the maximum tax rate that may be imposed is increased from 1 percent of the base value of the property to 1.25 percent of the base value. The second change is a clarification that specifies that, for the purposes of determining whether the base value of property must be increased as a result of material enhancements to the property, an improvement to real property is not materially enhanced if the enhancement to the improvement does not increase the area of the improvement, as measured in square feet, by more than 15 percent.

If there are any questions about the resolution or the amendment, I am happy to answer them.

**Chairman Armstrong:**

Are there any questions from the Committee?

**Assemblyman Nelson:**

At the hearing, Ms. King from Clark County testified there would be some statutes on our current property tax system that would need to be changed. Ms. King are you still concerned about that? I do not want to pass something that is going to cause a domino effect, where we will have to change a bunch of other statutes.

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

The concern I have is not knowing what the effect will be on the current tax system in place. There are many unknowns with regard to how that property tax system would work should this pass.

Currently we have a property tax abatement of 3 percent residential and 8 percent commercial. So one question is, does that policy statute go away or does it stay in place? There is a cap, constitutionally, of \$5. I do not think that would go away because it would take a constitutional change, but there is a limit in *Nevada Revised Statutes* (NRS) of \$3.64 with regard to property tax rates. Again, does that stay in place or does it go away?

There are just a lot of questions with regard to what happens to the current statutes or laws that are in place today, and how that would work should this pass. If those things stay in place, then there could be some negative impacts on local government. There are too many unknowns as to how all of this would work.

**Assemblyman Trowbridge:**

I would also like to hear from someone a definition of base value of the property. Are we talking about the land only? Are we talking about the land, plus the improvements? Are we talking about the improvements only?

**Chairman Armstrong:**

Since I have been notified that there are a couple questions that have come up, I am going to take this resolution off work session for tonight. Maybe we will have some time, working through the night, to get some of those questions answered.

At this time I will open it up for public comment. [There was none.] At this time we are not adjourning, because we still have to work session the bills we heard tonight, as well as S.J.R. 13 (R1). We are in recess [at 1:24 a.m. on June 1, 2015.].

[The meeting was reconvened at 10:25 a.m. on June 1, 2015, behind the bar of the Assembly. There was a quorum present.] I would like to call the Assembly Committee on Taxation back to order. We are going to work session Senate Joint Resolution 13 (1st Reprint) and Senate Bill 79 (1st Reprint). We will start with S.J.R. 13 (R1).

**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)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

Senate Joint Resolution 13 (1st Reprint) proposes, in part, to amend the *Nevada Constitution* to limit the total amount of property taxes that may be levied on real property to 1 percent of the base value of the property. Base value is defined, with certain exceptions, as the taxable value from which the assessed value for the fiscal year 2017-2018 was calculated. (Continued to read from the work session document ([Exhibit E](#)).

I would be happy to answer any questions.

**Chairman Armstrong:**

I will entertain a motion to amend and do pass S.J.R. 13 (R1).

ASSEMBLYWOMAN DICKMAN MOVED TO AMEND AND DO PASS  
SENATE JOINT RESOLUTION 13 (1ST REPRINT).

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BENITEZ-THOMPSON,  
BUSTAMANTE ADAMS, DIAZ, NEAL, AND NELSON VOTED NO.  
ASSEMBLYMAN KIRNER WAS ABSENT FOR THE VOTE.)

The floor statement will be assigned to Assemblywoman Dickman.

**Senate Bill 79 (1st Reprint)**: Revises provisions governing the taxation of alternative nicotine products and vapor products. (BDR 32-307)

**Michael Nakamoto, Deputy Fiscal Analyst:**

Senate Bill 79 (1st Reprint) revises the definition of other tobacco products to specify that the term does not include an alternative nicotine product or a vapor product as those terms are defined pursuant to the bill.

The bill establishes that a vapor product is not taxable as an "other tobacco product" regardless of whether or not the nicotine in the product is derived from tobacco. The bill further establishes that an alternative nicotine product that is made or derived from tobacco is considered to be an "other tobacco product," and is subject to regulation and taxation in a manner consistent with other tobacco products.

Additionally, the bill clarifies that any alternative nicotine product or vapor product that is regulated by the United States Food and Drug Administration under certain provisions are excluded from the definitions of those terms.

I would be happy to answer any questions.

**Chairman Armstrong:**

I will entertain a motion to do pass S.B. 79 (R1).

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS  
SENATE BILL 79 (1ST REPRINT).

ASSEMBLYMAN NELSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DICKMAN, NEAL, AND  
TROWBRIDGE VOTED NO. ASSEMBLYMAN KIRNER WAS  
ABSENT FOR THE VOTE.)

The floor statement will be assigned to Assemblyman Hickey. We are in recess [at 10:31 a.m.].

[The meeting was reconvened at 6:08 p.m. behind the bar of the Assembly. There was a quorum present.] I would like to call the Assembly Committee on Taxation back to order. This evening we are going to work session two bills, Senate Bill 266 (2nd Reprint) and Assembly Bill 497. We will start with S.B. 266 (R2).



**Senate Bill 266 (2nd Reprint): Revises provisions relating to the tax on live entertainment. (BDR 32-720)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

Senate Bill 266 (2nd Reprint) is Senator Lipparelli's live entertainment tax (LET) bill, which was heard early this morning. The bill establishes that the tax is based on an admission charge being paid for the right or privilege to enter or have access to either indoor or outdoor facilities where live entertainment is provided. The bill establishes provisions requiring the LET be imposed on escort services, certain nude dancing, performances by disc jockeys, and certain live entertainment provided at a facility with a maximum occupancy of 15,000 or more. The current LET rates of 10 percent or 5 percent, based on the 7,500 seat threshold, are deleted and replaced by a single rate of 9 percent. Provisions of the current law requiring the tax to be imposed on food, refreshments, and merchandise were also deleted.

I am not going to go through the rest of the bill. It primarily deals with what is in the base and what is not in the base. There was an amendment submitted by Mr. Ferraro ([Exhibit C](#)) that would specify that for the purposes of the LET, a violation of the provisions by a licensed gaming establishment is considered to be an unsuitable method of operation, and subject to investigative proceedings by the Nevada Gaming Commission, only if the violation occurs with the intent to avoid taxes known to be due.

I would be happy to answer any questions.

**Chairman Armstrong:**

At this point, I will entertain a motion to amend and do pass S.B. 266 (R2).

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS  
SENATE BILL 266 (2ND REPRINT).

ASSEMBLYMAN NELSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement will be assigned to Assemblywoman Kirkpatrick. The next bill on the work session is Assembly Bill 497.

**Assembly Bill 497: Revises certain provisions relating to taxes. (BDR 22-1295)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

Assembly Bill 497 was heard in the Committee early this morning and was sponsored by Assemblywoman Kirkpatrick. The bill expands current provisions in law relating to the designation of a tax increment area for the purpose of undertaking certain public works projects to specify that a portion of the sales and use taxes and modified business taxes imposed in the tax increment area may be allocated to pay the debt incurred by the municipality to finance or refinance the undertaking if the undertaking is a water project, the estimated cost exceeds \$50 million, and such financing is approved by the Interim Finance Committee.

The bill additionally authorizes a municipality to obtain financing through the Municipal Bond Bank for an undertaking located within a tax increment area if the undertaking is a water project, the estimated cost exceeds \$50 million, and such financing is approved by the Interim Finance Committee.

If there are any questions, I would be happy to answer them at this time.

**Chairman Armstrong:**

I will entertain a motion to do pass A.B. 497.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO DO PASS  
ASSEMBLY BILL 497.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DICKMAN AND KIRNER  
VOTED NO.)

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The floor statement will be assigned to Assemblywoman Bustamante Adams.  
We are in recess [at 6:11 p.m.].

[The meeting was adjourned at 11:59 p.m.]

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblyman Derek Armstrong, Chairman

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

**EXHIBITS**

**Committee Name:** Assembly Committee on Taxation

**Date:** May 31, 2015

**Time of Meeting:** 11:32 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 266 (R2)	C	Greg Ferraro, Nevada Resort Association	Proposed Amendment
S.B. 412	D	Michael Nakamoto, Fiscal Analysis Division	Work Session Document
S.J.R. 13 (R1)	E	Michael Nakamoto, Fiscal Analysis Division	Work Session Document