

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

**Seventy-Eighth Session
March 12, 2015**

The Committee on Taxation was called to order by Chairman Derek Armstrong at 1:38 p.m. on Thursday, March 12, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Gina Hall, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Caleb S. Cage, Director of Military and Veterans Policy, Office of the Governor
Carole Vilardo, President, Nevada Taxpayers Association

Chairman Armstrong:

[Roll was called and housekeeping items discussed.] On the agenda today we have a presentation and a work session. We are going to take them out of order, doing the work session first.

I will now open the work session on Senate Bill 22.

Senate Bill 22: Revises provisions relating to certain licenses pertaining to intoxicating liquor. (BDR 32-455)

Michael Nakamoto, Deputy Fiscal Analyst:

The first bill on the work session today is Senate Bill 22. For those of you who are looking at the work session document handout, this is on page 5, otherwise the work session document ([Exhibit C](#)) is also available on the Nevada Electronic Legislative Information System (NELIS). Senate Bill 22 was sponsored by the Senate Committee on Revenue and Economic Development, on behalf of the Nevada League of Cities and Municipalities. It was heard in this Committee on March 3.

The bill changes the administrative responsibility for issuing a liquor license if the applicant maintains his or her primary place of business within the boundaries of an incorporated city.

Under the bill, an application for a liquor license is made to the governing body of the city if the establishment is located within the city. It does not change the requirement to have the license issued by the county if it is outside of the incorporated city but within the jurisdiction of the county.

Testimony in support of the bill was brought forward by Mr. Henderson from the Nevada League of Cities and Municipalities, as well as Mr. Cathcart from the City of Henderson, and Ms. McElhone from the City of Las Vegas. Dagny Stapleton from the Nevada Association of Counties (NACO) testified as neutral with respect to the bill, and in her testimony, she indicated that she did not believe any of the counties were in opposition to the provisions of the bill. There was no testimony in opposition, and there were no amendments to the bill.

With that, I will answer any questions.

Assemblywoman Benitez-Thompson:

I had a constituent email me about a specific situation, and I just wanted this for the record, because I do not believe it applies to this bill.

There is a bar on the University of Nevada, Reno, campus right now that is having their liquor license pulled. The question my constituent asked was if the city was pulling their license, would this allow them to go to the county for a liquor license instead? I believe the answer is no. I just want to make sure I am correct.

Chairman Armstrong:

Is that bar located in the city limits?

Assemblywoman Benitez-Thompson:

Yes.

Michael Nakamoto:

The jurisdiction for the license within the city would stay with the city. They would not be able to go to the county to get a license in order to circumvent going to the city.

Chairman Armstrong:

Are there any other questions? [There were none.] At this point, I will entertain a motion to do pass S.B. 22.

ASSEMBLYMAN KIRNER MOTIONED TO DO PASS
SENATE BILL 22.

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let the record reflect there was a unanimous vote and S.B. 22 carries. The floor statement will be done by Assemblywoman Benitez-Thompson. I will close the work session on S.B. 22 and open the work session on Assembly Bill 71.

Assembly Bill 71: Revises provisions relating to military veterans and members and relatives of members of the Nevada National Guard. (BDR 32-297)

Michael Nakamoto, Deputy Fiscal Analyst:

Assembly Bill 71 was sponsored by this Committee on behalf of the Governor, and was heard in this Committee on February 17.

The bill provides for several deductions and exemptions from various state and local taxes for certain military veterans and relatives of members of the Nevada National Guard. The exemptions include the following: First, veterans with service-connected disabilities who receive an individual unemployability (IU) rating from the U.S. Department of Veterans Affairs would be entitled to receive the same exemption from the property tax and the Governmental Services Tax (GST) as a veteran with a 100 percent service-connected disability; second, regarding the modified business tax (MBT), employers who hire certain veterans may deduct 100 percent of the taxable wages paid for the first four calendar quarters, and 50 percent of the taxable wages paid in the fifth through twelfth quarters, for the purposes of determining liability for the MBT liability; third, a sales and use tax exemption would be granted to certain family members of Nevada National Guard members who were killed while on active duty for three years following the death of the Guard member.

The testimony in support of the bill was offered primarily by Mr. Cage from the Office of the Governor, who also submitted amendments. There was also testimony from Mr. Brown on behalf of the Vietnam Veterans of America, Carson Area Chapter 388, and Vicky Maltman. There was testimony that was neutral on the bill from Mr. Frischmann from the Department of Employment, Training and Rehabilitation (DETR). He had some concerns regarding the fiscal effects that may occur in the bill from DETR. There was no testimony in opposition to the bill.

On page 3 of the handout [or page 2, [Exhibit D](#)] is the list of amendments that were proposed to the bill. The first set of amendments was brought forward by the Chairman of the Committee on behalf of the Legislative Counsel Bureau's Fiscal Analysis Division staff, and these are technical amendments to sections 1 and 4 of this act, relating to the disabled veterans exemptions from the property tax and the GST. The amendments that were proposed are first on page 8, line 41 (section 4, subsection 10) of the bill, to change the calculation of the

Consumer Price Index (CPI) for the inflation adjustment for these exemptions from December 2003 to July 2003, and this is to align the dates in sections 1 and 4, so that they both read from July 2003 to the July preceding the fiscal year for which the adjustment was calculated.

The second change to these sections would be to specify that the inflation adjustment made in the sections would be based on the CPI (All Items) for the West Region, as published by the Bureau of Labor Statistics of the U.S. Department of Commerce, or if that particular index ceases to be published, a successor index. Those changes would require amendments to page 4, line 41 (section 1, subsection 10) of the bill, as well as page 8, lines 40 and 41 (section 4, subsection 10) of the bill.

There were also several amendments that were submitted subsequent to the hearing by Mr. Cage. The first would strike the new language in sections 1 and 4 of the bill that relate to the addition of IU provisions, with respect to those disabled veterans exemptions for the property tax and the GST. This would not be to delete the sections entirely, but rather to strike just that new language that would make those changes. The second change would be on page 5, lines 5 and 44 [section 2, subsection 1, paragraph (c), and section 3, subsection 1, paragraph (c)], relating to the deduction of certain wages from the MBT, and to change the six-month period of unemployment required for the eligibility to a three-month period. The third change would be on page 5, lines 9 through 13, to delete section 2, subsection 1, paragraph (c), subparagraph (2), and then the corresponding subparagraph on page 6, lines 3 through 7 [section 3, subsection 1, paragraph (c), subparagraph (2)]. These provisions specify, under the bill as proposed, that a person who would have been eligible to receive unemployment compensation continuously for the entire period of his or her unemployment, had his or her eligibility for unemployment compensation not expired within 24 months immediately preceding the date of hire, they would have been eligible to count as an employee for the MBT deductions. Those provisions are removed from the bill.

The last change would be to make amendments to sections 2 and 3, to specify that the employee who is being hired would be required to provide documentation to the employer to verify that they have been unemployed for the period specified in the bill.

In the document that was submitted by Mr. Cage, which is on page 4 of the work session handout document [page 3, [Exhibit D](#)], he referred to certain subsections within sections 2 and 3. I spoke with Mr. Cage on the phone a couple of days ago, and as long as the intent of that particular change is made, it is my understanding that it is not necessary to amend those specific

subsections. As long as this language appears within those sections, that would be acceptable to him. I believe Mr. Cage could agree with that, or not, at some point during this work session, as he is at the table.

The only other thing that I would note, with respect to this bill, is that it was declared eligible for exemption by the Fiscal Analysis Division on February 23. Those of you who have been around here long enough know exactly what that means.

With that, I will answer any questions.

Chairman Armstrong:

Mr. Cage, would you like to confirm?

Caleb S. Cage, Director of Military and Veterans Policy, Office of the Governor:

Mr. Chair and members of the Committee, that is correct.

Chairman Armstrong:

Before we start, just a disclosure for myself, I am a veteran and this will provide certain tax benefits for veterans and businesses that hire veterans. Because I will not obtain a benefit that is greater than the benefit available to all veterans generally, I am not required to abstain from voting on the record, but wanted to make this disclosure for the record. I believe there are other members of the Committee to whom that would apply. If they want to say ditto on the record, it would be appreciated.

Assemblyman Kirner:

Ditto.

Assemblywoman Bustamante Adams:

Ditto.

Assemblyman Trowbridge:

Ditto.

Assemblyman Kirner:

I just want to be clear on the fiscal note. The Department of Taxation put a pretty large fiscal note on that. Has it changed?

Caleb Cage:

My conversations with the appropriate people within the Department who worked on the fiscal note indicated that the fiscal note associated with this bill—the \$1.4 million or \$666,000 a year over the biennium—was associated

with that IU provision. All of our changes in the amendments had to do with trying to reduce that fiscal note as much as we could. Removing the IU provision should remove that portion of the fiscal note. However, in conversations with this individual at the Department, it was also confirmed that the MBT, or the payroll portion of this, did not have a fiscal note associated with it. The fact that the first part is gone but the payroll tax portion remains would mean that there is a fiscal note still on it.

Assemblyman Kirner:

Do you have any sense as to what that fiscal note is?

Caleb Cage:

We did a back-of-the-napkin sort of calculation over the phone; it is impossible to determine. We had to make a bunch of assumptions, the average income and all of that. The numbers of veterans receiving unemployment compensation for ex-servicemembers (UCX), which is the unemployment insurance given by Department of Defense, is about \$250 a week, maintained over time in Nevada. We multiplied that number by 40,000, made some other assumptions, and came up with about \$150,000 per year. There are more veterans receiving UCX, of course, as well, but that was just a first-blush, over-the-phone, back-of-the-napkin sort of thing.

Assemblywoman Kirkpatrick:

I support this because I know that we have an amazing Assembly Committee on Ways and Means fiscal staff, and they will pull it if they feel that it is going to teeter outside of what is in our budget. I support moving the process forward because if it gets pulled by the Assembly Committee on Ways and Means, that would be a whole different discussion, where people will have to come in and actually explain all of those pieces.

Assemblyman Kirner:

I support this as well, and understand the process. I just wanted to get a sense of what the number looked like.

Assemblyman Nelson:

I have a question about what Mr. Nakamoto said regarding it being eligible for exemption. Since I am a freshman legislator, I would appreciate an explanation.

Michael Nakamoto:

A bill that has been declared eligible for exemption by the Fiscal Analysis Division simply means that if the bill is referred to one of the money committees, either the Assembly Committee on Ways and Means or the Senate Committee on Finance, it is exempt from all deadlines related to

the 120-Day Calendar, obviously except for the 120th day provision. Generally, that designation is made by the Fiscal Analysis Division when it is believed that there would be some sort of adverse financial impact upon the State.

Chairman Armstrong:

Are there any other questions? Seeing none, I will entertain a motion to amend with all amendments, and do pass.

ASSEMBLYWOMAN KIRKPATRICK MOTIONED TO AMEND AND
DO PASS ASSEMBLY BILL 71.

ASSEMBLYMAN TROWBRIDGE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement for A.B. 71 will be done by Assemblywoman Kirkpatrick. I will now close the work session on A.B. 71. Next is Assemblyman Hickey's presentation, a discussion of the sales and use tax.

Assemblyman Pat Hickey, Assembly District No. 25:

Thank you for giving me the opportunity today to have a discussion about the sales and use tax. What I am going to be talking about is conceptual. This is an informational meeting.

I do not have a piece of legislation. I am anything but a tax expert, but like many of you, I certainly do qualify, being a small business owner, as a taxpayer.

This session, and in this Committee especially, we are going to be considering the various levels of existing taxes; possibly changing, restructuring, and reforming existing ones; and entertaining, as we will next week in the Governor's presentation, a new concept of a tax (Senate Bill 252).

The impetus for me today is to take up something we have heard our colleagues say. We probably all want to be part of this discussion, so let us put everything up on the board and look at all things.

I want to talk about the sales and use tax that we currently pay in Nevada, and I would like to begin talking about it in the context of my own business. I think many taxpayers and many businesses are going to look at the various options—should we choose any of them this session—to find more revenue or to allocate more revenue toward education. We all know there seems to be an appetite, and certainly a healthy budget from our Governor, to find ways to increase revenue and direct it primarily toward education. I say that because

the sales and use tax, and specifically the local school support tax (LSST) account specifically goes toward education.

Before getting into that, I would like to tell you a little bit about a business, a family business, that I have owned for 25 years. You cannot see this [holding up a piece of paper]. I wanted to share it with you, but my wife would not dare give out our profit and loss statement to the whole world to see.

Like most businesses in Nevada, if you were to look at these graphs, you would see some higher ones and some lower ones, and some that are coming back up. The last six or seven years tell the story of businesses in Nevada, mine included. During a few years, there were times when I thought I was in charge of a nonprofit corporation at Pat Hickey Painting, but, like everyone, we are trying to climb back up.

I think this is something for us to take into account when we begin to look at taxes we might be willing to vote for and therefore impose upon other businesses in the state.

When you look at where businesses like mine are right now, you see that last year we were nowhere near where we were before the recession. At one time, we actually grossed over \$2 million. As a painting business, I guess that is not bad. We are not a tiny company, and we certainly are not a large one. In 2014, we grossed a little over \$1.82 million. Of that, we spent \$267,000 on materials; we buy a lot of paint. About 25 percent of our total income was represented by that \$267,000 of materials at the sales tax price, or in other words, we paid over \$20,000 in sales taxes.

Sales tax is not such a bad tax for a company like mine. When competing against other companies—or God forbid unlicensed companies who do not go through the hoops we do and pay insurance, overhead, and all the related employee expenses properly—even the unlicensed companies or handymen all pay sales tax equally, so in that sense sales tax is fair to many businesses.

Looking further down on our profit and loss statement, you see that in labor we paid out \$462,000, or 43 percent. That meant the total cost of goods sold, or the direct business expenses, was about 68 percent for our company. We paid another 14 percent on employee payroll expenses. For example, we paid \$45,000 in Federal Insurance Contributions Act Tax, which is social security and Medicare expenses, matching the deductions for our employees. We had almost \$1,000 in Federal Unemployment Tax Act tax, which is the federal unemployment tax, but we had nearly \$9,000 in state unemployment tax, and for many business owners, you will recognize that is something we

have had to pay back. The state had some money in various funds, and when the recession hit, we expended those in taking care of our unemployed workers in the state. We then had to borrow some from the federal government, and now we are having to pay that back. In our case, that is another \$9,000 per year. We had \$2,500 a year in bonds.

We pay the modified business tax, and this might be of some interest because one of the ideas being looked at by this body would be to expand the MBT tax, to broaden it. Those of us who stuck our heads in on the Senate Committee on Revenue and Economic Development meetings learned something interesting, and that is what a small percentage of businesses in Nevada actually pay the MBT. Those of us who have been here for a couple sessions recall that we have reduced the amount that businesses have paid on the MBT. It was \$62,500 a quarter, and then we moved it up to \$85,000, meaning that the first \$340,000 or so in our case remained ours; we did not pay taxes. We did get some exemptions, and part of that, as the veterans here will know, was basically to justify extending the sunsets, and we reduced some taxes for our smallest businesses. We have heard it said that 70 percent of businesses do not even pay the MBT. I am not sure if the Senate Committee on Revenue and Economic Development was correct, but we heard recently it may be much higher than that.

When I look at the MBT for my business, I wonder if there will be some new taxes or will that be doubled or expanded? I know for a fact that we pay about \$3,000 per year currently on MBT. For licenses and fees, we pay \$2,500. Even when we think about expanding the business license fees, for many companies they are already paying business license fees in many jurisdictions.

Our company is based in Reno, but we work in Sparks, Carson Valley, Carson City, Fernley, Yerington, and in Lyon County, so we pay business license fees in all those places, besides of course what we pay to the state.

Another big expense, and it is the cost of doing business and doing the right things for your employees, is workers' compensation. It represents about 4 percent of our total revenues, or almost \$42,000 per year.

We do have some salaries for management, for myself, my son, and my wife; operating expenses; total expenses. The bottom line is, and I am not going to bore you with my business anymore, I guess we had a pretty good year. Our net income, from a company that grossed \$1,820,720, was \$1,040 last year.

This is a reality most of our businesses are dealing with. We are glad to employ all the people we do. We are glad to contribute and pay our taxes. You are hearing from some who are even willing to pay more for the needs of the state.

The reality for many of our businesses, and one of the challenges we face with passing taxes or expanding taxes—and in my opinion what people are paying in taxes here in Nevada is actually quite small—is the other related expenses, whether it is workers' compensation, employee deductions, or liability. That may change a little bit with construction defect legislation. I certainly hope so. We say it is supposed to over time.

What I want to talk about, and what popped out at me when I looked at the numbers my small business paid, was that the largest amount of taxes I pay are sales taxes. Sometimes we hear that sales taxes are regressive. I am going to touch upon that a bit, and I am going to make the argument that at least in certain small businesses, I think they are not necessarily regressive.

There were a couple of Republican governors who were close to us, one from this state and one that many Republicans revere—Ronald Reagan from California—who both raised sales taxes, and it was primarily for education. In the case of Senator Paul Laxalt, in his first term when he wanted to create, or essentially expand, the community college system, he raised sales taxes a whopping 50 percent in order to do it. Interestingly, he said this in 1967, "In order to make the tax hike 'fair,' I tried to spread the burden as broadly as possible."

The question is, does the sales and use tax spread that evenly or fairly? I would make the argument, for consideration, that quite possibly it does. Now sales taxes already make up a large portion. In fact, if you look at the Tax Foundation Study ([Exhibit E](#)), sales taxes make up the largest portion of that pie chart at 37.3 percent, property taxes make up 27.9 percent, gaming taxes only make up 8.2 percent, transportation taxes make up 9 percent, and I assume that is essentially gas taxes. The MBT is only 4.1 percent of the current pie.

Sales taxes are big. I would like to refer to the North American Industry Classification System (NAICS) study now ([Exhibit F](#)). This study looks at the hundred top categories in Nevada of tax collections. Let us look at 2014. The highlights in yellow are the major industries. You have construction of buildings, specialty trade contractors (construction workers), merchant wholesalers of durable goods, merchant wholesalers of nondurable goods, motor vehicles and parts dealers, furniture and home furnishings stores, electronics and appliance stores, building material and garden equipment and

supplies (meaning Lowe's and Home Depot stores) and food and beverage stores. You can see the percentage for all of those.

On page 2 ([Exhibit F](#)), some of these are higher, such as health and personal care stores. One of the reasons why experts say Nevada's sale tax system is not regressive is that we have done something California did, and that is exempt groceries and prescription medicines, which are two essentials for families. That is one of the reasons why Nevada is not currently rated as one of the most regressive states, with respect to its sales tax.

On the third page ([Exhibit F](#)), under NAICS codes 721 and 722, you will see accommodation and food services and drinking establishments. If you go all the way down the line for accommodations, the taxable amount is \$109 million annually, or at least in 2014, and you see it has gone up rather significantly. In 2012, it was only \$57 million, and in 2013, it was up to \$78 million, so we have seen an increase in traffic on the Strip, in Reno, maybe Elko, and other places. The accommodations portion makes up about .23 percent. The most important one to me is food services and drinking establishments, where the state's taxable sales were \$10,625,199,308, or 22 percent of the pie (Exhibit E). I am guessing this is from entertainment, primarily from the Strip, which is essentially from tourism. This is one of the reasons why the Tax Foundation, who we heard from the other night at the Nugget, and for those of us who have read through their book, they say this about it, "sales taxes are easily exported to nonresidents," and here they refer to lodging taxes, sales and excise taxes on tourist purchases, and entertainment taxes.

One of the things that goes directly to schools is the LSST. The justification, and maybe the impetus, for some of us to look at more taxes or to find more revenues this time, is to pay for expanded programs in education. There are programs outlined in the Governor's budget, or whatever we come up with in addition to, or instead of. Currently in the LSST, which comes out of the sales tax, there are some different levels. We know the state is guaranteed 2 percent in the *Constitution of the State of Nevada*, regardless of whether sales tax goes up or down, and it does include the taxes scheduled to sunset. Currently, it is 2.6 percent, and the good news about that portion of the tax with respect to education is that it goes directly into the State Distributive School Account (DSA).

One idea, and I am just throwing it out there, and I expect to be looking like Swiss cheese by the time this discussion finishes, is if we were to consider increasing the LSST, it would go directly into the DSA, which could offset money from the General Fund, or be a part of the money we are looking for in the General Fund to provide for education.

In conclusion, I would like to share some figures from a study by the Institute on Taxation & Economic Policy [Who Pays?: A Distributional Analysis of the Tax Systems in All 50 States, 5th ed., January 2015], where the figures reflect the degree to which sales taxes are regressive. Again, regressivity reflects a situation where lower-income individuals are paying a larger percentage of their total income for a particular tax than are other income groups. The categories of income earners used in the study are: the lowest 20 percent [those making less than \$19,000 per year nationally, and less than \$20,000 in Nevada], the second 20 percent, the middle 20 percent, the fourth 20 percent, the next 15 percent, the next 4 percent [those making \$190,000-\$471,000 nationally and \$151,000-\$406,000 in Nevada], and the top 1 percent.

On a national average, for the lowest 20 percent of income earners, 10.9 percent of their total income goes to pay sales taxes, but in Nevada, it is 8.4 percent. For those in the second 20 percent, the average is 9.9 percent nationally and 6.9 percent in Nevada. The middle 20 percent pay 9.4 percent nationally and 6.9 percent in Nevada. The fourth 20 percent pay 8.7 percent and 5.8 percent, respectively. For the next 15 percent, it is 7.7 percent and 4.8 percent. For the next 4 percent, the percentage of sales taxes is a still smaller percentage, but the amount paid is greater because they have more wealth, income, or discretionary funds. Although the national average for that group is 7 percent, it is 3.4 percent in Nevada. For the top 1 percent, which we have heard a lot about in recent years, the national average of sales tax paid as a percentage of income is 5.4 percent, with Nevada at only 1.4 percent.

My point in all of this is to say we are not currently more regressive than the national average with the sales taxes that we do collect; more than that, I would say the largest portion of the sales taxes we collect are coming from tourists.

We have heard that the biggest problems with Nevada's taxes are that they are too narrow, too complex, and are inequitable. I am not here to argue that sales tax, or considering increasing sales tax, is a big solution, although I could give you some numbers staff got for me about what that might result in.

Based on the Economic Forum's forecast in December 2014, if we were to increase the sales tax .1 percent and tie it to the LSST, which again would go into the DSA, it would generate additional revenue of approximately \$55 million per year in fiscal year (FY) 2016, and \$55.4 million in FY 2017. A total of approximately \$110 million could be added by just a .1 percent increase. At .5 percent, you would get an additional \$261 million in FY 2016 and an additional \$276 million in FY 2017, for a combined total of \$538 million.

One of the arguments about service taxes that we have heard about, and Assemblywoman Kirkpatrick has talked about this regarding the live entertainment tax (LET), is that you want to raise some part so you can lower others. The premise on service taxes, should Nevada get to that point, and there are strong arguments why it is the more relevant tax in a contemporary economy, is that you hope as you raise the service tax you can lower the sales tax. One option for this body might be to tie a certain increase to a trigger to lower sales tax. I will argue again, right or wrong, it would primarily come from tourists on the Strip. We could tie it to a service tax, should it be implemented, and begin to lower the sales tax as the service tax replaces it.

Thank you for indulging me. I am sure no expert, but I just wanted to throw my thoughts out there. Go ahead and shoot me full of holes.

Chairman Armstrong:

Thank you, Assemblyman Hickey, for being brave enough to come forward with this proposal. We have quite a few questions.

As a business owner myself, I do not have the same quantity of sales subject to the sales tax. You noted that you have about 25 percent, or \$250,000 worth, of your goods subject to sales tax. Doing a quick calculation, it seems that if we were to enact your proposal, you would go from a net income that is something barely profitable, to even less than a nonprofit. My question is, if that happened, what would your response be as a business owner? Would you then raise your prices? How would you address that situation?

Assemblyman Hickey:

We would have to raise our prices somewhat, to incorporate the cost and greater expenses for sales tax on our products. Not every business purchases the amount of materials that we do. It is easier for us to pass the cost along to our customers, as we have to do at times when we get paint cost increases. We have to adjust accordingly.

Assemblywoman Kirkpatrick:

I worry when we talk about this that logistically it does not work. When you talk about the dollars going to the LSST, they do not all go to the DSA. Some of them stay in the county they were generated in, and some of them go for other uses. I do not know if you thought about how you would absorb that, because some of them are based on bond rates. Some of it is already allocated, so this could be a bit problematic. Second, we have the Consolidated Tax Distribution (CTX), and a large portion of that is based on sales tax. What would be to the state's benefit if we raised the sales tax, because we only get

2 percent? I like local government, but I do not know that I want to fund them beyond what they need, at the state's expense. It concerns me because in our state, unlike many others, the sales tax is a key component of many of our tax policies. It works in Europe; they pay nothing else but a 20 percent sales tax. We have different counties with different rates because they have gone to the voters and asked for different things, so we would be consistent. Logistically, how do we ensure that the state actually gets a piece of it, as opposed to giving it to everybody else?

Assemblyman Hickey:

I am not the one to answer that. I will fall back on my position that this is a conceptual idea. I am not a tax expert. There may be enough problems in this sphere to make this not as great an option as I might suggest. I have a few thoughts, but I do not think I am the best one to answer your question.

Assemblywoman Kirkpatrick:

I am not trying to blow holes in it, but I like good tax policy, so we know what to expect in the future. For me, that starts with the mechanism of how you make it start. Logistically, at some point, I would be curious if anyone has thoughts on how that would play out.

Assemblywoman Neal:

You started talking about the regressiveness of sales tax, and I think the argument you made was that sales tax would not be as regressive on our citizens because it would mostly hit the tourists.

Assemblyman Hickey:

I implied that.

Assemblywoman Neal:

If we went with that implied argument, what would you do when our tourism base fluctuates as it has historically? It is not stable. It has an inequitable flow. How would you deal with the instability of tourism if you increased that sales tax rate to those individuals?

Assemblyman Hickey:

We have certainly seen that fluctuation. I do not think we are prepared to call the education needs of the state an emergency, but we are looking to try to match and find money for a pretty ambitious budget. It has been argued by people far more capable than I that service taxes are much more broadly spread, more in keeping with the current economy. The MBT is simple. It is easy to calculate, based on your payroll, but it does affect businesses as well, and therefore, I think it could affect hiring, which then affects revenues and money

in our accounts. In other words, if the MBT is double or larger, I would say companies like mine are going to look at how many more people we want to hire if the tax is based upon payroll. There are pros and cons of every tax. I think we might consider tying the sales tax to the possible implementation of a service tax, maybe with a trigger to lower it. Temporary taxes are almost a misnomer in this day and age because the government rarely gives back what it has taken, so I am not saying it could sunset. It is not perfect either.

Dr. Harold Somers, who was the chair of the Economics Department of the University of California, Los Angeles, did a study a long time ago, and it still holds true. Many seniors, especially in this day and age, are pretty well-off. Even though we worry about them, because they are seniors and they may have fixed incomes, a lot of them have significant savings. There are not many of them who do not have savings, and I see my colleague over there cringing. We are less regressive in that we exempt some of the necessities, prescription medicines and groceries.

Back in the 1980s, it was also decided to not tax sodas and candy, if they are bought as groceries. Some other states have determined that those really are not the kind of food items intended. In other words, if Charlie over at Adele's goes to Costco and buys all of his sodas for a party, he is not paying sales tax on those sodas. Sales taxes are not perfect.

If Ms. Vilardo wants to weigh in on some of these questions, she could certainly answer your question better than I could.

Assemblywoman Neal:

If you are going to pass this to Ms. Vilardo, can you tell me what your trigger would be, and maybe she could explain how your trigger would work?

Assemblyman Hickey:

This is conceptual. It is just one more idea.

Carole Vilardo, President, Nevada Taxpayers Association:

The first thing I will say is I do not do concepts. There are multiple concepts on sales tax. I would like to very briefly go over them.

You have the issue that we have constantly dealt with, primarily since the 1981 Session, where when we need more revenue, the quickest and easiest way to do that has been to raise the sales tax rate.

I will elaborate a little bit on what Assemblyman Hickey said about the regressivity of sales tax. Our state is not as regressive as some other states,

because regressivity in sales tax is actually based on how much of a tax is imposed on those items that you spend disposable income on, and the things that you cannot avoid spending on. In Nevada, we do not tax food or medicines. We also do not tax rent or mortgage payments. Now we do tax utilities with franchise taxes, but not as part of the sales tax. Probably the one thing we would be considered regressive on, which some of the East Coast states have addressed in another manner, is clothing, because you have to have clothing. This goes back 40 years, I have not checked it, but some of the East Coast states that I was quite familiar with, particularly Connecticut, did not collect tax on a clothing item under \$100, and that was to minimize that regressivity. When you really look at it, Assemblyman Hickey is right; we export a great deal of our taxes because of our tourism-based economy, but that being said, the other danger in what we have continued to do, is that at some point you hit the loft of diminishing return, not necessarily on the items you buy at a 99-cent store, or at Target, but on those items that represent a substantial purchase to somebody, such as a vehicle, whether it is new or it is used. There is a certain necessity to kitchen appliances, and heating and air conditioning units. Those are durable goods. The more expensive they become, the more you take a look at what you are willing to put into the dollar amount of the purchase, because in most cases you cannot finance the tax on them.

That being said, we dealt with the rate issue. The reality is, and I have been before the Committee before to say we do support, at some point and at some level, a tax on services. I could not tell you exactly what they would be, but I could give you an idea and some general outline. The reason we do is that we have an economy that went over 50 percent service-based gross state product in the 1985 service census. It is well over 70 percent at this point. A good tax structure, and that is looking at all of your taxes, requires that those taxes reflect your economy, and we absolutely are not doing that at this point.

Assemblywoman Kirkpatrick and I have had a conversation about this because we have a bit of a difference of opinion on how live entertainment should be restructured. I have said, "Hell, if you want to do something, repeal it and make it part of your services tax collected by the Department of Taxation."

I used to walk around with a Chicago Cubs baseball ticket, which I would show at committee hearings, where the sales tax was part of a tax applied to my ticket. It is not uncommon. Maybe that becomes the first structure we use to capture the beginning of a services tax.

Now, relative to triggers, we have looked at triggers before. Let us say you did a very limited services tax. Maybe you did what I was talking about with the

live entertainment. If 1 percent as a rate on live entertainment generated \$100 million and you did not want to give up a total \$100 million, the first year that you triggered maybe \$50 million you would reduce your sales tax one-half of a percent, or whatever that comparable percentage was, based on the revenue generated from that increased proportion in the sales tax.

The one that seems to be the lowest-hanging fruit right now, and I hope we are going to see a bill on it, is the collection of sales tax for Internet purchases. That was part of the 1955 law, when the first U.S. Supreme Court case came up, which I remember was 1968 or 1969. You could not require an out-of-state seller, who was selling to the public, to collect the sales tax unless it had a physical presence in the state. From that point on, we were unable to do what we had previously done. At that time, the only thing you were talking about were things like catalog and phone sales.

In 1992, another U.S. Supreme Court case reaffirmed the fact that you had to have situs, physical presence, but in fact, that decision also contained a provision that was an out, and everyone who tracked this issue thought it was an out, because it said that Congress could change the definition of situs.

When those discussions started in 2000, when the committee was formed and a streamlined sales tax was created, what we were looking at was creating a definition of economic incidence, generally accepted to be something along the lines of systematic solicitation, that would allow you to capture people who were coming into your state relative to promotions on the Internet, et cetera.

Internet sales tax collection is not a tax issue. You have people who will try to say that you are imposing a new tax. I will tell you right now, if they have never paid the tax, it is a new tax to them. It does not negate the fact that the use tax requirement has been on the books in Nevada statutes since 1955. The process now is the honor system. If you purchase something on the Internet, you as the consumer, if you did not pay the sales tax, are supposed to go to the Department of Taxation's website, download the use tax form, and submit the tax. Everyone knows who has purchased over the Internet and how many times people may or may not have downloaded the tax form. In my opinion, that is low-hanging fruit, and it is something I believe we can address. It does not require anything additional. It is a collection issue. The problem is there are still unsettled legal issues out there as to whether a state can do it.

There are a couple of states that at this point have survived their highest court rulings. I think it is worth a try to at least get that. Do we know how much we are going to get from it? No. It might be \$10 million, it might be \$20 million, it might be \$40 million. The point is, it is revenue we should be collecting that

we are not collecting, and exponentially every year it becomes a larger amount. All you need to do is talk to Bryan Wachter or read the releases from the Retail Association to see what the increase is from one Cyber Monday to the next Cyber Monday.

Those are my issues with sales tax. I would like to see us do something with services. I would like to see us do something with the Internet sales tax. I think it would be great if we could reduce the sales tax itself, because we are starting to get up there a bit, and again, you have that law of diminishing returns. You make it efficient for people to go to California and pick up appliances. We have taken care of the issue of cars, because you have to register with the Department of Motor Vehicles and show proof of tax. I would be happy to answer any questions.

Chairman Armstrong:

You mentioned, regarding the regressivity of taxes, about clothing as it has been addressed by many East Coast states. One idea I have heard that I want to toss out for your opinion, is doing a tax holiday for things like school clothing, and for other situations like that. Do you have any thoughts on a tax holiday?

Carole Vilardo:

Yes, and I do not like the idea, for a specific reason. I spent the first years of my life as a retailer. With the restrictions we have on the 2 percent, if we had a sales tax holiday and you could not do the 2 percent, do you know what it is going to cost to reprogram the registers and get the employees used to this? In 1981, when we had to have the registers reprogrammed for the new sales tax, there was a six-month backlog, plus a sizeable cost. Employees were walking around with sheets of paper so they could manually calculate it, because the Department of Taxation at one point ran out of the cards.

I do not think it is an efficient use of exemptions. It sounds nice, and it might be nice if you could do it. You are going to have to have the Department be able to segregate those amounts during that time for which they legitimately should not have collected sales tax on items. I can tell you, since we have dealt with this issue before with clothing, how about items worn on appendages? If you take a look at some of the other state laws, did you intend for a vest to be exempted from clothing? You have no idea the interesting things you get into with this one.

Chairman Armstrong:

Thank you for that. I know that we have a couple other members who want to shoot some more holes into Assemblyman Hickey, but do any other Committee members have questions for Ms. Vilardo?

Assemblyman Nelson:

As I have been studying this tax policy, one of the things that has been said is that one of the benefits of a sales tax is it is easy to collect and administer, to calculate. Whereas, with the MBT and some of the other proposals, if you had 30 different categories and different rates for every category, it would be pretty difficult to do that and would also probably involve a bigger bureaucracy. Is that true?

Carole Vilardo:

In my opinion, yes. The more provisions you put in relative to the collection and administration of a tax, the more it is going to cost the person who has to comply with it and administer it. I am on my two and half times reading of Senate Bill 252, and I cannot call it a fee, because it supports general government, and that makes it a tax. It is written much better than I expected, but do I see some problems with it? Yes, I do.

I was amazed that there was no amount of money for the Department of Taxation. There is nothing in that bill that allows the Department to automate their system to collect the money. You know there has to be a cost.

Chairman Armstrong:

We will stop there, because we will have the hearing on Senate Bill 252 next Wednesday.

I appreciate Ms. Vilardo for coming up. Assemblyman Hickey, I have one more question before the other members. You had mentioned that you would behave differently if the MBT were increased versus the sales tax. I am wondering why the behavior would not be the same if the MBT increased. Why would you not just go back to your then contracts, or the people you are doing business with, and say your labor costs went up, so your costs went up? Why would your behavior be different to not hire more employees if the MBT changes versus the sales tax increase?

Assemblyman Hickey:

Businesses are fluid. You more or less react to the market, to the market share that is out there. When I say it is easier to pass along a sales tax, I do not want to make this argument for the sales tax based on a business like mine, because I am a miniscule part. I am not trying to look at it, but you naturally do look at

it through the prism of your own experience, and in my case as a business owner I think it is easier because I think it levels the competition with respect to my company, because every other company is going to have to pay more in sales tax, whether they are small, large, or nonlicensed.

It is troubling to me that Nevada pays a very small portion of state taxes, with 5 percent of businesses, or whatever the percentage is, paying a state business tax. As a business owner, I think we all ought to have a little skin in the game. I think that is what good tax policy is after.

At least I know when sales tax increases, as it relates to businesses, similar businesses are going to see that increase equally, and then possibly more easily pass it along, to stay viable as a company.

Assemblywoman Dickman:

Since we brought up the business license fee, I was wondering if you have calculated what your fee would be. Do you know approximately what additional sales tax would cost your business? Have you looked at that?

Assemblyman Hickey:

I have. In the category we are in, a painting company like mine, we would pay less under the Governor's proposed tax than we would doubling the MBT, and again we do not know if that is the way this body will decide to go. I think, in that regard, seemingly, the business license fee is not as tough on us as a huge expansion of the MBT would be, at least initially.

Assemblywoman Dickman:

And that is probably because you have a lot of employees, right?

Assemblyman Hickey:

Right. Quite a large percentage in our company, in terms of our total expenses, is for labor.

Assemblywoman Dickman:

I was actually talking about the sales tax increase that you presented. The business license fee would cost you a lot more than that, right?

Assemblyman Hickey:

Over time it would. I have not looked at it, because I do not know, hypothetically, if we were to do an increase in sales taxes, what percentage that would be. I could pretty easily calculate it. We could just add the increase to what we are currently paying annually on sales taxes and figure out what that would be. They are all greater expenses, and that is the challenge and the

push-back we are all going to get from business folks about raising taxes. It is a very heavy lift in Nevada. I do not think I am saying anything everyone does not know or experience.

Assemblywoman Benitez-Thompson:

While there are certain points, with regressivity and especially the number of seniors we have living in poverty, where I might disagree with you, I want to thank you for being bold enough to have the conversation. It can be very hard to mention the "T" word in this building, and I think sometimes constituencies can be very unforgiving about allowing us, as legislators, to entertain a conversation about revenues, but it is what we are obligated to do—which is to fund state services and to provide good state services.

I have heard it said that when you start talking about taxes, legislators scatter like cockroaches when the lights come on. We move that fast away from it. I want to thank you for being bold enough to sit there and have this conversation.

Chairman Armstrong:

I will close this presentation. Prior to taking public comment, I want to remind the Committee about one of the Assembly Standing Rules for this session, Rule No. 57, section 13. It states, "Unless a committee member advises the chair otherwise, it will be presumed that the member will vote on an amendment or on a measure, during a floor session, consistent with his or her vote in the committee." I just wanted to remind the Committee about that Assembly Standing Rule.

With that, I will open it up for public comment. Would anyone like to have public comment? Seeing no one, I will close public comment, and we are adjourned [at 2:55 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblyman Derek Armstrong, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: March 12, 2015

Time of Meeting: 1:38 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 22	C	Michael Nakamoto, Fiscal Analysis Division	Work Session Document
A.B. 71	D	Michael Nakamoto, Fiscal Analysis Division	Work Session Document
	E	Assemblyman Pat Hickey	Tax Foundation Study handout
	F	Assemblyman Pat Hickey	NAICS study handout