

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

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

The Senate Committee on Revenue and Economic Development was called to order by Chair Michael Roberson at 3:42 p.m. on Tuesday, March 31, 2015, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael Roberson, Chair
Senator Greg Brower, Vice Chair
Senator Joe P. Hardy
Senator Ben Kieckhefer
Senator Ruben J. Kihuen
Senator Aaron D. Ford
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Senator Pete Goicoechea, Senatorial District No. 19
Senator David R. Parks, Senatorial District No. 7

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Bryan Fernley, Counsel
Jennifer Pearce, Committee Secretary

OTHERS PRESENT:

Dawn Lietz, Deputy Administrator, Motor Carrier Division, Department of Motor Vehicles
Josh Hicks, Brownstein Hyatt Farber Schreck
Michael Hillerby, Nevada Optometric Association

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Jeanette K. Belz, Nevada Academy of Ophthalmology
Bryan Wachter, Retail Association of Nevada
Jay Parmer, Fresenius Medical Care, NA

Chair Roberson:

We will start the work session with Senate Bill (S.B.) 155

SENATE BILL 155: Revises provisions relating to farm vehicles and implements of husbandry. (BDR 32-707)

On February 20, the Committee voted unanimously to amend and do pass S.B. 155. In the process of drafting the amendment, the Department of Motor Vehicles (DMV) indicated the amendment would cause a fiscal impact.

I will entertain a motion to reconsider and rescind the previous Committee action on S.B. 155 in order to consider the new amendment.

SENATOR KIECKHEFER MOVED TO RECONSIDER AND RESCIND THE PREVIOUS ACTION ON S.B. 155 TAKEN ON FEBRUARY 20, 2015.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Joe Reel (Deputy Fiscal Analyst):

I have a work session document for S.B. 155 ([Exhibit C](#)) that includes Proposed Amendment 9810.

Dawn Lietz (Deputy Administrator, Motor Carrier Division, Department of Motor Vehicles):

I will add that there was a change with regard to a farm vehicle and stipulations regarding the implementation of such vehicle as husbandry by definition.

Senator Pete Goicoechea (Senatorial District No. 19):

The change is that liability insurance must be maintained at all times.

Chair Roberson:

I will entertain a motion on S.B. 155.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 155 WITH PROPOSED AMENDMENT 9810.

SENATOR KIHUEN SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

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Mr. Reel:

We will now discuss S.B. 103.

SENATE BILL 103: Exempts certain persons from the modified business tax on
financial institutions. (BDR 32-42)

I have a work session document for S.B. 103 ([Exhibit D](#)). An amendment was
offered and is attached to the work session document.

Chair Roberson:

I will accept a motion to amend and do pass S.B. 103.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 103.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Mr. Reel:

The next bill on work session is S.B. 252. The work session document is
attached ([Exhibit E](#)) and includes Proposed Amendment 9814.

SENATE BILL 252: Revises provisions governing the state business license fee.
(BDR 32-1185)

Sponsored by this Committee on behalf of the Department of Administration, this bill was heard on March 18 in a joint committee meeting with the Assembly Committee on Taxation and also heard by the Committee of the Whole.

Chair Roberson:

Today's vote on S.B. 252 is an important step for the children of our State. This important legislation is critical to creating the Governor's vision of a new Nevada. Governor Brian Sandoval has shown the courage to lead, and now he is asking us to lead, as he said in the State of the State, so that the new Nevada can lead. To quote the Governor, "We all want to tell our grandchildren that we were the architects of the New Nevada—that we were here when Nevada needed us most."

I ask all members of the Committee to put aside partisanship and fear. We are on Day 58 of a presumably 120-day Session. Now is not the time to be timid or indecisive. Now is not the time to dither or delay. It is time to lead, and it is time to act.

I will accept a motion to amend and do pass S.B. 252.

SENATOR BROWER MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 252 WITH PROPOSED AMENDMENT 9814.

SENATOR HARDY SECONDED THE MOTION.

Senator Ford:

Neither timidity nor indecisiveness leads me to vote in opposition to this bill. As everyone knows, we sent out an email survey about a week ago. We sent out thousands of letters to business owners throughout the State. We cannot change our minds and say to them their input no longer matters to us. There are countless Nevadans and business owners we have not heard from. Many local business owners still have questions about S.B. 252, as do I. There needs to be more information. It would be disingenuous of me to vote for this bill today. I will be voting against this bill.

Senator Kihuen:

I echo my colleague, Senator Ford. There are several proposals before the Legislature to raise the necessary funds to improve Nevada's education system. We applaud the Governor for starting this conversation. These are

billion-dollar decisions. We should take the time to talk to the business owners of Nevada and explore the impact that S.B. 252 will have. At this time, it would be highly irresponsible of me to recommend S.B. 252. I will vote no on this bill.

Senator Spearman:

I echo the comments of my colleagues, Senator Kihuen and Senator Ford. I cannot be accused of timidity when it comes to a revenue plan that adequately funds education because I have made my position abundantly clear and introduced S.B. 378, which is a comprehensive revenue reform plan that would raise exactly the amount of revenue the Governor asked us to consider. It would fully fund not only education but other essential services. However, I will not recommend a bill that embraces the Modified Business Tax. I will vote no on this bill.

SENATE BILL 378: Makes various changes concerning governmental financial administration. (BDR 32-150)

Senator Hardy:

I am a Republican. I know we have to have revenue to meet the needs that we have. I hate to use the word needs. We have a constitutional obligation to educate. Our obligation is enormous. Whether this is the ideal plan or not, it is the best plan that we have at this time. It would be responsible to support this bill. It fulfills our duty to our children and grandchildren. We have a Governor who is willing to do something, and I am with him. This is the time.

Senator Brower:

It is strange that three of our colleagues vote no against this bill. The Governor is absolutely right. We need to lead. We cannot lead by survey or poll or numerous emails. We have spent an unprecedented amount of time on S.B. 252.

If anyone is confused about this bill or uncertain, it is not due to lack of time and effort put into this bill or not taking input from our constituents. If you believe in reforming the education of our State, that it needs funding and you are serious, you have to vote for this bill. If not today, I am confident you will get there. We must lead, and I will vote yes on this bill.

THE MOTION CARRIED. (SENATORS FORD, KIHUEN AND SPEARMAN VOTED NO.)

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Chair Roberson:

That ends the work session. We will now hear S.B. 334.

SENATE BILL 334: Proposes to exempt sales of certain durable medical equipment, mobility-enhancing equipment, hearing aids, hearing aid accessories, and ophthalmic or ocular devices or appliances from sales and use taxes and analogous taxes. (BDR 32-262)

Senator Michael Roberson (Senatorial District No. 20):

I am here to introduce S.B. 334 with regard to exempting sales of durable medical equipment. People using such medical devices have had to change their lifestyles. It can be costly, and typically insurance companies do not cover the sales tax on the medical equipment. Not everyone has the money or insurance to afford these basic, necessary devices, let alone the sales tax.

I will highlight the provisions of the bill. The voters must first approve exemptions from the State's 2 percent sales tax at the upcoming general election in 2016. Senate Bill 334 requires that three questions be placed on the ballot asking the voters whether they want to amend the Sales and Use Tax Act of 1955 to provide an exemption for: durable, medical equipment and mobility-enhancing equipment prescribed by a licensed provider of health care acting within his or her scope of practice; hearing aids and hearing aid accessories; and ophthalmic or ocular devices or appliances prescribed by a physician or optometrist. If the voters approve these changes, they will become effective January 1, 2017, and expire by limitation on December 31, 2026.

Briefly, this two-step procedure is necessary because of the requirement that it be approved by voters. Under the Streamlined Sales and Use Tax Agreement (SUDA), member states are required to have a single sales tax rate on items. Although SUDA permits exemptions, the exemptions must be the same for both the state and local sales tax rates so that online and mail-order vendors have an easier time calculating and collecting sales tax. Thus the need to keep the state and local rates identical explains the two-step process.

This bill will also bring Nevada into line with the majority of other states under SUDA as to how the sales and use tax is applied to durable medical equipment, mobility-enhancing equipment, hearing aids, and ophthalmic and ocular devices. For instance, of the 24 states that participate in SUDA, only three including Nevada impose tax on prescribed mobility-enhancing equipment. Only five, including Nevada, impose the tax on prescribed durable medical equipment for home use. Prescribed hearing aids are taxed in three states, and prescribed ophthalmic and ocular devices are taxed in nine states, including Nevada. Nevada is among the minority states that tax these devices as seen on the matrix I provided ([Exhibit F](#)).

This bill will help Nevada get in line with SUDA states that have recognized that this type of medical equipment is not appropriate for the imposition of sales and use tax. I urge support of S.B. 334.

Josh Hicks (Brownstein Hyatt Farber Schreck):

The sales and use tax with regard to the durable medical equipment is confusing for our taxpayers. Nevada is in the minority. Sellers of this equipment have multistate companies, and the tax requirement in Nevada is a surprise to them in comparison to other states that do not require this sales tax on necessary medical equipment.

Under Nevada law, durable medical equipment and mobility-enhancement devices are defined and found in the *Nevada Administrative Code* (NAC) 372. These medical devices are exempt under sales for Medicaid or Medicare. These terms are also found in the bundle transaction regulation. This regulation is designed to deal with how the tax applies in the sale of something where some components may be subject to sales tax and other components are not.

Under NAC 372.045, a laundry list of items considered nontaxable transactions include food, drugs, mobility enhancement equipment, prosthetic devices and medical supplies. These are all listed as exempt under the law.

There is significant confusion for taxpayers and where the tax applies. This bill will clarify this confusion and help with medical billing. Reimbursements are inconsistent, and this creates an administrative burden differentiating which products are covered under insurance and which are not. I support S.B. 334.

Senator Hardy:

With regard to durable medical equipment, does that include respiratory equipment such as oxygen concentrators?

Mr. Hicks:

The Streamlined Sales and Use Tax matrix depicts oxygen and respiratory devices differently. In my experience, the Department of Taxation in Nevada refers to oxygen concentrators as durable medical equipment.

Senator Hardy:

That is the legislative intent I was looking for.

Senator Brower:

Are there any others who would like to testify in support of S.B. 334?

Michael Hillerby (Nevada Optometric Association):

On behalf of our members, small business optometrists around the State, I support S.B. 334. The law is burdensome for these small businesses since an optometrist or physician eye doctor is considered the consumer for taxes and is required to pay the sales tax on eyeglasses, frames, contact lenses and other related products dispensed to a patient. Some wholesalers include that tax in the price, and the provider has to figure it out—some do not. Depending on what county the national wholesaler determines has the base tax rate, the provider has to decide whether the correct tax has been paid. Audits of these taxpayers can be quite burdensome as the law stands now. It is a convoluted system, and this bill will alleviate confusion. We support S.B. 334.

Jeanette K. Belz (Nevada Academy of Ophthalmology):

For the reasons stated by Mr. Hillerby, we support S.B. 334. We work hard to educate patients about this matter. It is confusing, and this bill will help a great deal.

Bryan Wachter (Retail Association of Nevada):

The Retail Association of Nevada supports S. B. 334. It goes a long way to strengthen the Nevada sales tax law. Once the ballot questions have been passed, we would like to see it applied to the total sales rate instead of attempting to apply it to everything except the 2 percent. That is problematic.

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Chair Roberson:

So you are in support of this bill or neutral?

Mr. Wachter:

We support S.B. 334.

Jay Parmer (Fresenius Medical Care, NA):

I represent Fresenius Medical Care, provider of dialysis services in Nevada. On page 3, lines 31 through 33 and lines 39 through 41 of S.B. 334 refer to the exemption of all sales products for hemodialysis. While we do not believe it was the intention to impose a prescription requirement on hemodialysis, it could be read that way. The language could be clarified; however, it is not our intention to impede the progress of this bill. We bring our concern to the attention of the Committee and ask for your consideration.

Chair Roberson:

The Committee will work with you on this. The hearing on S.B. 334 is closed.

Remainder of page intentionally left blank; signature page to follow.

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Chair Roberson:

The meeting is adjourned at 4:21 p.m.

RESPECTFULLY SUBMITTED:

Jennifer Pearce,
Committee Secretary

APPROVED BY:

Senator Michael Roberson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	3		Attendance Roster
S.B. 155	C	7	Joe Reel	Work Session Document
S.B. 103	D	3	Joe Reel	Work Session Document
S.B. 252	E	24	Joe Reel	Work Session Document
S.B. 334	F	1	Senator Michael Roberson	State Taxability Matrix