

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

**Eightieth Session  
May 31, 2019**

The Committee on Taxation was called to order by Chair Dina Neal at 1:12 p.m. on Friday, May 31, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/80th2019](http://www.leg.state.nv.us/App/NELIS/REL/80th2019).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Dina Neal, Chair  
Assemblywoman Ellen B. Spiegel, Vice Chair  
Assemblywoman Shea Backus  
Assemblywoman Teresa Benitez-Thompson  
Assemblywoman Lesley E. Cohen  
Assemblyman Chris Edwards  
Assemblyman Edgar Flores  
Assemblyman Gregory T. Hafen II  
Assemblyman Al Kramer  
Assemblywoman Susie Martinez  
Assemblywoman Heidi Swank

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Julia Ratti, Senate District No. 13

**STAFF MEMBERS PRESENT:**

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

Minutes ID: 1364



**OTHERS PRESENT:**

Michael Hackett, representing Nevada Tobacco Prevention Coalition; Nevada Public Health Association; Nevada Primary Care Association; Nevada Academy of Physician Assistants; and Immunize Nevada  
Susan L. Fisher, representing American Cancer Society Cancer Action Network  
Liz MacMenamin, Vice President of Government Affairs, Retail Association of Nevada  
Jared Busker, Associate Director/Government Affairs Manager, Children's Advocacy Alliance  
Matt Robinson, representing Southern Nevada Health District  
Jeffrey F. Allen, General Counsel, North Las Vegas Police Officers Association, Inc.  
Noel E. Eidsmore, Chief Deputy City Attorney, City of North Las Vegas  
Delen Goldberg, Chief of Staff, City of North Las Vegas

**Chair Neal:**

[Roll was taken and Committee rules and protocol were reviewed.] Members, you are familiar with Senate Bill 263 (2nd Reprint). It has been amended since the May 27, 2019, hearing. We are going to hear the simple highlights and then we will work session this bill today. I will open the hearing for S.B. 263 (2nd Reprint).

**Senate Bill 263 (2nd Reprint): Revises provisions relating to the regulation and taxation of certain vapor products, alternative nicotine products and tobacco products. (BDR 32-700)**

**Senator Julia Ratti, Senate District No. 13:**

I am very happy to be here today to talk again about Senate Bill 263 (2nd Reprint). I think you will recall from the hearing on May 27, 2019, why we are doing this bill, so I will not spend a whole lot of time on the epidemic that is the growth and use of vaping and e-cigarettes [electronic cigarettes], and rather will quickly talk about the four things this bill does:

1. This bill re-categorizes e-cigarette, vaping, and other nicotine products as other tobacco products (OTP), which is a class we have in our current taxation and regulation structure for the purposes of taxation and regulation. This entire category of products has escaped adequate regulation, and it is only appropriate that they be classified and regulated like similar products, where the state's concern is the long-term effect on consumers.
2. This bill tightens up the enforcement system. Currently, we do not have the authority to target enforcement efforts specifically at vaping and e-cigarettes. What this does is it takes the current system of placing a criminal fine on a clerk and changes that to a civil penalty, and then adds a new category of infraction—civil penalties for business owners who have repeat infractions of selling to minors.

3. This bill makes an appropriation to fund prevention. It is a broad-based, multipronged approach to prevention that includes media, direct media campaigns, and interaction directly with youth. It has a surveillance and evaluation piece to it, so we can make sure it is working.
4. This bill extends the Nevada Clean Indoor Air Act [2006] in its current form to vaping and e-cigarettes. The mechanism for that is that it basically defines e-cigarettes, vaping, and other nicotine products as smoking for the purposes of the Nevada Clean Indoor Air Act.

Those are the four things the bill does. There was an amendment you saw at the last meeting [May 27, 2019]. When the final version came out, I was approached by the representatives of the medical marijuana licensees. There are a small number of these products that are sold in marijuana dispensaries, and because they are under an entirely different taxation and regulatory structure—which many of you remember was a large discussion from the last session—they did not want to be covered in both the OTP taxation structure and the marijuana taxation structure. I agreed that would be a lot, and so I accepted that amendment from them. We have some public health folks here if you want more detail on that, but I suspect that is not where the questions will be. I am available to answer any questions.

**Assemblyman Kramer:**

I do have some questions. I do not think your answers are going to satisfy me, but I will ask the questions and see where we are. Would you consider this bill to be primarily a public health bill or a revenue bill? I say that because if it is a public health bill, it seems like the tax would be higher on higher concentrations of nicotine than products that have no nicotine. You would be trying to discourage people from going to the nicotine products. Also, I think this would be the time to look for an age 21 on vaping, and maybe even cigarettes. If it is a revenue bill, then I can understand moving this to OTP and doing 30 percent. If it is a public health bill and not a revenue bill, it seems like you might move other things into OTP, but the tax would then be less than 30 percent to seek a revenue-neutral amount. Those are concerns I have, and if you could, comment on whether you see it as a public health bill or a revenue bill.

**Senator Ratti:**

I choose to look at it a little bit differently. I think there are a lot of places in this bill you and I can agree on, Assemblyman Kramer. It is 100 percent a public health bill. We have a long and well-researched track record on cigarette smoking and tobacco use that shows one of the most effective prevention strategies that reduces use among individuals, and youth in particular, is an economic practice of making the product more expensive. The taxation of cigarettes was a significant part, along with other public health strategies, in reducing usage. It is well documented. The evidence is there, moving these products into the OTP structure for the purposes of regulation and taxation, paired with enforcement, prevention, and the Clean Indoor Air Act. And, the Nevada Clean Indoor Air Act, where it has been particularly

effective is by de-normalizing, making it clear to members of our society that these are not healthy products. And when the Clean Indoor Air Act was passed across the nation we again saw tremendous results in reducing usage. So there are four clear and proven public health strategies in this bill.

I know at this point in the session that folks are trying to do a lot of other things to add into this bill, but my premise is this is already a lot. I have a broad coalition that I am trying to hold together to get this bill to the finish line, and I am not interested in adding anything else to the bill at this time. I have said to the advocates for Tobacco 21 that I would be more than happy to work with them in the interim, but I think the bill is in good shape as it is. It stands alone on its own merits.

**Chair Neal:**

Members, are there any additional questions? [There were none.] I will open the hearing to those who would like to testify in support of S.B. 263 (R2) and ask that you keep your testimony to two minutes.

**Michael Hackett, representing Nevada Tobacco Prevention Coalition; Nevada Public Health Association; Nevada Primary Care Association; Nevada Academy of Physician Assistants; and Immunize Nevada:**

We are all in support of this bill. You have heard my testimony in the past. The only thing I want to touch on today is a document we did not provide the first time this bill was heard ([Exhibit C](#)), and this has to do to an extent to Assemblyman Kramer's question in terms of what this bill is. According to the Tobacco Control Network, their recommendations for policy and system changes incorporate the provisions that are in this bill: Applying an excise tax to these products; funding sustainable comprehensive tobacco prevention and control programs; including these products under our Nevada Clean Indoor Air Act; and requiring the retailers of these products to have a tobacco retailer's license do that. In regard to your question about Tobacco 21, according to the Tobacco Control Network, that is the 15th-rated best practice in trying to address issues of tobacco, e-cigarette, and vapor product use. So again, on behalf of all those organizations, we are very much in support of the bill as it currently stands.

**Susan L. Fisher, representing American Cancer Society Cancer Action Network:**

We are very supportive of S.B. 263 (R2) as it stands; as it has been amended. All of our reasons for supporting the bill are the same as what Mr. Hackett stated, so I will not restate any of those. The only thing I do want to say is we have taken a very significant bite at this apple, as we have done with a number of other pieces of legislation this session, and as in prior sessions, you take a bite, then take another bite the next session after there has been some time and you have data to evaluate. We support the bill as it stands here before you today.

**Liz MacMenamin, Vice President of Government Affairs, Retail Association of Nevada:**  
We come to the table in support of this legislation and want to thank the bill sponsor for working with us. We appreciate the fining mechanism and the way this bill reaches and helps with the retailer in this epidemic battle.

**Jared Busker, Associate Director/Government Affairs Manager, Children's Advocacy Alliance:**

This legislation is one of our top priorities for this session, as we have continually seen that vaping use among our children has increased significantly over the years and is becoming epidemic. Anything we can do to reduce the use among our children should be a significant priority for this legislative body. We urge your support of this legislation in its current form.

**Matt Robinson, representing Southern Nevada Health District:**

For all the reasons Mr. Hackett has already stated, we are in strong support of this bill in its current form. We do believe there is a place for Tobacco 21, and that would be in the interim.

**Chair Neal:**

Is there anyone else who would like to testify in support of S.B. 263 (R2)? [There was no one.] Is there anyone who would like to testify in opposition to S.B. 263 (R2)? [There was no one.] Is there anyone who would like to testify as neutral on S.B. 263 (R2)? [There was no one.] Senator Ratti has no closing remarks. I will close the hearing on S.B. 263 (R2) and open the work session on Senate Bill 263 (2nd Reprint).

**Senate Bill 263 (2nd Reprint): Revises provisions relating to the regulation and taxation of certain vapor products, alternative nicotine products and tobacco products. (BDR 32-700)**

**Chair Neal:**

I will entertain a motion to do pass Senate Bill 263 (2nd Reprint).

ASSEMBLYMAN FLORES MOVED TO DO PASS SENATE BILL 263 (2ND REPRINT).

ASSEMBLYWOMAN SWANK SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Hafen:**

I still have some concerns with my colleague's comments and would like to reserve the right to change my vote on the floor.

**Assemblyman Edwards:**

With the age 21 I could support it, but without it, I will be a no.

THE MOTION PASSED. (ASSEMBLYMEN EDWARDS, HAFEN, AND KRAMER VOTED NO. ASSEMBLYWOMAN BENITEZ-THOMPSON WAS ABSENT FOR THE VOTE.)

**Chair Neal:**

I will assign the floor statement to myself. I will close the work session on S.B. 263 (R2) and move to our next agenda item. We have an informational item on More Cops. We have presenters down south.

**Jeffrey F. Allen, General Counsel, North Las Vegas Police Officers Association, Inc.:**

We worked hand in hand with the City of North Las Vegas in the recent promotional process. That was through collective bargaining in the last round of negotiations, leading to the current collective bargaining agreement between the city and North Las Vegas Police Officers Association (NLVPOA).

**Noel E. Eidsmore, Chief Deputy City Attorney, City of North Las Vegas:**

We are aware you and the Assembly had some questions regarding some hiring practices and related items. I am here to answer any questions I can. As you are aware, there is pending litigation and some pending grievances related to some of those practices. So to those questions I may have to defer until those investigations or issues have been dealt with; otherwise, I am happy to answer your questions.

**Chair Neal:**

The main questions I have are regarding the actual testing process, or the promotion process that is going on. I sent you questions about the written tests—whether there are written answer guides that exist, what the current appeals process is if an individual feels it was unfair or biased.

**Noel Eidsmore:**

I will take the first part of that question and have Mr. Allen speak to the appeals process. Initially, when sergeants or lieutenants are in a promotional position, they will go through what is called the assessment center. The assessment center consists mainly of officers or higher-ups from different departments around southern Nevada. In this most recent promotion period, that generated about 300 questions. Our command staff reviews those questions to see which questions are most valuable for the incoming class of sergeants or lieutenants, and then selects 100 of those questions. Those questions are then sent back for the assessment center to present to the officers. The officers are given a bibliography as it relates to the contract, to *Nevada Revised Statutes* (NRS), and to North Las Vegas policy and procedures for the department. That is what their general review is, and the assessment center gives the test.

In your questions, I remember your asking whether answers are given out at a later time. The answer is no, they are not. We want to ensure that the integrity of the process is maintained, so in the future these are fresh questions for anybody who is being promoted. That is the initial process. Once candidates pass the assessment center, they move to the next

step, which in this most recent promotion period was an interview with a panel of five people who represent command staff, city legal department, and city management. For sergeants, the NLVPOA union president sat in, and for lieutenants, the PSA [North Las Vegas Police Supervisors Association] union president sat in. Each candidate was asked the same questions. Those questions were scored. Then there was a review of their history as an officer that contained commendations, issues they may have had in the past, community work, and specialized assignments. That was all taken into account to create a score, and after that score was arrived at, lists were created. That is a general overview of the process.

**Chair Neal:**

Was HR [human resources] involved at all in the selection of the questions, or just command staff?

**Noel Eidsmore:**

My understanding is that HR is not part of selecting the questions, but I would have to double-check to be 100 percent certain.

**Chair Neal:**

You saw my questions. What was alleged was that the questions selected were biased and subjective, and it was an unfair process. That is clearly open for discussion, but if that is something a person believes, what is the current process or remedy to get their test appealed?

**Jeff Allen:**

Just so you understand, the NLVPOA represents police officers, marshals, and detectives. We are involved in the promotional process to the extent we are talking about a promotion to detective or sergeant, so we are not involved in the process to become promoted to a lieutenant. Command staff-level positions are appointed, so there is no formal promotional process I am aware of. I can speak with respect to the appeals process for the promotional testing process for sergeants and detectives. I can tell you that the collective bargaining agreement between NLVPOA and the city has a specific section—Article 17 on promotions—and it outlines an appeals process. I will summarize it for you.

I think you are interested in whether, if a candidate for promotion believes one of the questions was outside the scope or was unfair in some respect, there is an opportunity to challenge that question. That is in Article 17, section 3, paragraph (d). Basically, the standard is if the question or practical exercise was outside the scope of the position or is irrelevant to the duties of the promotional position, then you would challenge that. You would submit that to HR and they would take a look at it. If they agreed, then the question would be stricken and the remaining questions would be used to evaluate the score of the candidate for promotion.

I have been with the NLVPOA as inside counsel for ten years. Before that I was at a law firm and helped out with the NLVPOA for several years, so I have been around for a while. I have never seen anybody challenge a question like that. I have seen people feel like they did not score as high as they thought they did, so they will challenge whether the score

they were given for an answer was reasonable. But I do not think I have ever seen anybody say the question was irrelevant or outside the scope. That is the process for how you would challenge a question. I hope that helps.

**Chair Neal:**

It does help. So from sergeant to lieutenant, that is not covered by the collective bargaining agreement, or is it?

**Jeff Allen:**

That is covered under the separate collective bargaining agreement between the North Las Vegas Police Supervisors Association, which consists of sergeants and lieutenants, and the City of North Las Vegas. I would venture to guess that they have very similar language to that which is found in our collective bargaining agreement, because at one point around 2012 or so, the supervisors and the nonsupervisors were part of the same union. The supervisors branched off to start their own union, but they basically cut and pasted our collective bargaining agreement, so all the sections are very similar. I would venture to guess the appeals process is going to be the same.

**Noel Eidsmore:**

While Mr. Allen was speaking, I looked up the North Las Vegas Police Supervisors Association process and it is basically the same.

**Chair Neal:**

Is there an answer guide being used when you have these interviews for promotion that has a written response from that officer that they can go back and review?

**Noel Eidsmore:**

As far as the assessment portion, there is no answer guide. As far as the interview portion goes, there has been no guide created. I would say the questions, in general, do not lend themselves to a guide format. The questions are more along the lines of understanding someone's desire to move up into a supervisory position—what they think that means, what they do as a supervisor will help change the city for the better, how they will change the community for the better, and what changes they would make to better the department. These types of questions in that situation do not lend themselves to an answer guide.

**Chair Neal:**

In the report you received about suggestions and best practices you should adopt from the consultant you hired, were those things suggested as things you should do?

**Noel Eidsmore:**

Yes, things have begun to be implemented. I believe the most recent promotional session is where we started to implement some of Mr. Roberts' suggestions to ensure the rank-and-file officer understands the process is as fair as we can possibly make it.



**Delen Goldberg, Chief of Staff, City of North Las Vegas:**

That is exactly right. I believe now-Assemblyman Roberts did an interview with 72 officers throughout the ranks and it is my understanding there was almost universal derision of the old process of testing. Part of the recommendations in his report, which have been adopted, was to look at a more holistic view of the officer—their accomplishments and have there been any disciplinary actions—and I do not know if that was necessarily done in the past. So that is what has been adopted. My understanding is it has been widely successful.

**Chair Neal:**

Thank you for coming and answering the questions. I wanted to follow up from the hearing on March 7, 2019, and get an understanding of the discrepancies we heard. Hopefully in the interim we can work together around these issues. I will now close this informational hearing and open the hearing for public comment. Is there anyone here signed in for public comment? [There was no one.] We are adjourned [at 1:40 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblywoman Dina Neal, Chair

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

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a document titled "Tobacco Control Network, 2016 Policy Recommendations Guide," submitted by Michael Hackett, representing Nevada Tobacco Prevention Coalition; Nevada Public Health Association; Nevada Primary Care Association; Nevada Academy of Physician Assistants; and Immunize Nevada, concerning Senate Bill 263 (2nd Reprint).