

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

**Eighty-first Session
April 6, 2021**

The Senate Committee on Revenue and Economic Development was called to order by Chair Dina Neal at 1:06 p.m. on Tuesday, April 6, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dina Neal, Chair
Senator Julia Ratti, Vice Chair
Senator Moises Denis
Senator Ben Kieckhefer
Senator Heidi Seevers Gansert

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Alex Polley, Committee Secretary

OTHERS PRESENT:

Melanie Young, Executive Director, Department of Taxation
Bryan Wachter, Retail Association of Nevada
Warren Hardy, Urban Consortium
Alexander Marks, Nevada State Education Association
Rebecca Garcia, Nevada Parent Teacher Association
Priscilla Maloney, American Federation of State, County & Municipal Employees,
Nevada Retirees Chapter 4041
Benjamin Challinor Mendez, Faith in Action Nevada
Dagny Stapleton, Nevada Association of Counties
Mary Walker, Carson City; Lyon County
Jenn Blackhurst, HOPE for Nevada
Michelle Booth, Educate Nevada Now
Andrea Cole
Jamie Rodriguez, Washoe County

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Dylan O'Neill, Institute on Taxation and Economic Policy
Randi Thompson, National Federation of Independent Business
David Dazlich, Vegas Chamber
Hawah Ahmad, Clark County Education Association
Carter Bundy, American Federation of State, County & Municipal Employees
Christine Saunders, Progressive Leadership Alliance of Nevada
Marc Badain, Las Vegas Raiders
Chip Seigel, Vegas Golden Knights
Michael Alonso, Turo
Jon Van Arsdell, Avail
Brian Rothery, Enterprise Holdings

CHAIR NEAL:

We will begin with a work session on Senate Bill (S.B.) 278.

SENATE BILL 278: Revises provisions relating to taxation of cannabis. (BDR 32-660)

JOE REEL (Deputy Fiscal Analyst):

Senate Bill 278 is sponsored by Senator Settelmeyer. It was heard by the Committee on March 23 and is summarized on the work session document ([Exhibit B](#)).

Proposed amendment 3159 is attached to the work session document, and it eliminates the amendments that were made to *Nevada Revised Statutes* (NRS) 372A.290 in section 1. The amendment reinstates existing provisions in NRS 372A.290 that require the 15 percent Marijuana Wholesale Tax (MWT) to be imposed on each cannabis wholesale sale. Summarized on page 2 of [Exhibit B](#), the amendment adds a new paragraph (g) to subsection 8 of NRS 372A.290 to provide a definition for "wholesale sale."

SENATOR KIECKHEFER:

In regard to the new language in paragraph (g), would a transfer between cannabis cultivation facilities under different ownership be considered a wholesale sale?

MR. REEL:

Yes. If cannabis cultivation facilities are not under identical ownership, it would be considered a sale and subject to the MWT.

SENATOR KIECKHEFER:

Would a subsequent transfer from a second cultivation facility to a dispensary be taxed as wholesale again?

MR. REEL:

Do you mean at the first transfer between facilities with identical ownership?

SENATOR KIECKHEFER:

I am asking about transfers between cultivation facilities not under identical ownership. Is the transfer from a secondary cultivation facility to a dispensary a wholesale sale?

RUSSELL GUINDON (Principal Deputy Fiscal Analyst):

The 15 percent MWT is on the first transfer. The MWT would be assessed on the transfer from a secondary cultivation facility to a dispensary.

MELANIE YOUNG (Executive Director, Department of Taxation):

A transfer from a cultivation facility to a production or retail store would not be taxed. The MWT is imposed on the first transfer, and subsequent transfers are not taxed.

SENATOR RATTI:

Not taxing subsequent transfers is the current state of NRS, and not the potential result of S.B. 278?

MS. YOUNG:

That is correct. Currently, the MWT is only assessed on the first transfer. Senate Bill 278 would allow a cultivation facility to transfer product to another cultivation facility under the same ownership and not be taxed.

SENATOR RATTI:

For the cultivation-to-cultivation transfer to not be taxed, the facilities have to have identical ownership?

MS. YOUNG:

Yes.

SENATOR RATTI:

The transfer from a cultivation facility to another cultivation facility under identical ownership is not treated like other subsequent transfers, and it is not taxed. The next transfer from a cultivation facility to a facility not under identical ownership is taxed. Is this correct?

Ms. YOUNG:

That is correct.

SENATOR RATTI:

I am inclined to pass this legislation; however, I have reservations because I want to make sure the language is correct.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 278.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MR. REEL:

Senate Bill 284 is sponsored by Senator Ratti. It was heard by the Committee on March 30 and is summarized on the work session document ([Exhibit C](#)).

SENATE BILL 284: Revises provisions relating to transferable tax credits for affordable housing. (BDR 32-651)

Page 2 of [Exhibit C](#) outlines an amendment to section 1, subsection 6, paragraph (b), subparagraph (3). The amendment adds "or more" with regard to transferring tax credits.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 284.

CHAIR NEAL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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VICE CHAIR RATTI:

I will open the hearing on S.B. 346.

SENATE BILL 346: Imposes a tax on the retail sale of certain digital products.
(BDR 32-9)

SENATOR DINA NEAL (Senatorial District No. 4):

Senate Bill 346 seeks to address erosion to the tax base. It touches on digital goods that have transformed out of the tax bases. We used to buy physical vinyl records at retail stores for music. We do not purchase music this way anymore. We do not purchase cassettes, which were printed and payed for. Companion goods, such as cassette players, are no longer in the tax base. We now download music. Books have become digital. Similarly, we do not go to physical stores to buy VHS movies. These goods transformed into a digital format. We have moved on, and these goods are no longer in the tax base.

Senate Bill 346 tries to recapture these digital goods and evolve the tax structure. Russel Guindon will present entities that provide digital goods and the potential revenue S.B. 346 could generate. Bryan Watcher will discuss the consumption rate of digital goods to understand how the policy will broaden the tax base. This will demonstrate why S.B. 346 is needed to modernize revenue and tax statutes.

MR. GUINDON:

Chart 1 ([Exhibit D](#)) uses data from the Bureau of Economic Analysis of the U.S. Department of Commerce. This graph displays U.S. personal consumption expenditures. This information covers consumer spending, and it is released quarterly. The glossary has lines that indicate the consumption of different goods and services. Within goods, these are broken down into durable and nondurable goods. Tangible personal property that is subject to sales tax is in the durable category.

The solid blue line is durable goods for audio and video recording media. This category covers the goods Senator Neal presented. The graph displays the amount spent on these goods from the years 2000 to 2020. The short-dash

blue line is the video component. The long-dash blue line is the audio component. This data includes permanent digital downloads, which is not in the estimated sales tax base. Some goods are considered durable because these are downloaded and retained. I argue that the short-dash blue line is beginning to increase partly because of digital downloads, and not due to the tangible versions. The solid green line has shot up since 2013 and 2014. This line is categorized as services, and it includes audio and video streaming and rentals. The long-dash green line is the audio component, and the short-dash green line is the video component. This data demonstrates the types of goods and how these have been purchased at the U.S. level. I do not have this data on the State level.

Table 1 ([Exhibit E](#)) interpolates U.S. personal consumption expenditures to an estimated Nevada personal expenditures that is per capita. This is a reference point for a potential video and audio streaming tax base in Nevada. These estimates do not include all the digital products included in S.B. 346. Table 1A in [Exhibit E](#) is the U.S. level data from Chart 1, [Exhibit D](#). I added cable and satellite television services because those may be in play. Table 1B shows the video and audio streaming as a percent of cable and satellite expenditures. Video and audio streaming was roughly 18 percent of cable and satellite expenditures in calendar year (CY) 2015 and nearly 41 percent in CY 2020.

Table 1C in [Exhibit E](#) has Nevada estimated personal consumption expenditures, which were interpolated from the U.S. level data. The potential tax base is near \$362 million for CY 2020. Video and audio streaming is broken down in Table 1C. Table 1D is a breakdown of the 2 percent tax yield for the General Fund. If the tax base for video and audio streaming services is \$362 million, it would yield approximately \$7.2 million for the General Fund with a 2 percent sales tax.

Tables 1E and 1F in [Exhibit E](#) have data used for U.S. population and per capita estimations. Table 1F shows that video and audio streaming is approximately \$115 per capita. U.S. video streaming is \$79 per capita and audio streaming is \$36 per capita.

This data was a starting point for the fiscal staff to determine the potential tax base for digital goods.

Table 2 ([Exhibit F](#)) displays estimates for the potential digital goods tax base, revenue for various rates and the impact to the General Fund. These estimations are based on the data in [Exhibit E](#), internet research and Commerce Tax data on taxpayers under the provisions of NRS 218F.620.

Table 2A in [Exhibit F](#) is the actual taxable sales in Nevada for fiscal year (FY) 2020-2021. The imputed taxable sales are based on the Economic Forum's December 2020 *Forecast of Future State Revenues* and a 2 percent sales tax collection. Section 2 of Table 2A estimates the taxable sales for digital goods is \$394 million if these products were taxed in FY 2020-2021. The forecasts and estimations for future fiscal years are calculated with demographic and inflationary factors.

SENATOR NEAL:

We do not have the full tax base for digital goods. Will you explain what is included in this estimation and the estimation for an expanded tax base?

MR. GUINDON:

Audio streaming is included, and it can be used to gage what the potential tax base could be. We can use Commerce Tax information and find the entities that provide digital products. I have to maintain confidentiality with that information, and I cannot provide the names of taxpayers. We look at streaming services data where people pay for the opportunity to consume a digital product, such as Netflix or Hulu. There are probably more service providers that we do not have data on. We are able to look at surveys to determine how many people use these services and how much they pay on average. This is a dynamic and growing industry.

Table 2B in [Exhibit F](#) takes our estimated digital goods tax base and produces an estimated yield for each tax rate component. This includes the 2 percent General Fund tax, the 2.6 percent Local School Support Tax (LLST), and the 2.25 percent Basic City-County Relief Tax (BCCRT) and Supplemental City-County Relief Tax (SCCRT) that goes toward local governments. We did not attempt estimates for each county. Instead, we have an estimated Statewide weighted average for taxable sales. Fiscal year 2018-2019 taxable sales were used to determine the rate, rather than FY 2020-2021 because of the pandemic's effects. The Statewide weighted average tax rate is 1.37 percent. The 2 percent tax rate for the General Fund would generate nearly \$8.4 million for FY 2021-2022 and \$8.6 million for FY 2022-2023. The

LLST may generate \$11 million. Table 2B in [Exhibit F](#) has the remaining estimations.

Table 2C in [Exhibit F](#) is from the State's prospective. Based on the Economic Forum December 2020 forecast, section 1 of Table 2C shows the 2 percent rate for the General Fund. Section 2 of Table 2C displays General Fund commissions on the other rates. A few hundred thousand dollars will be collected from commissions. Section 3 of Table 2C shows the impact to the General Fund by adding the digital goods estimate from section 2 of Table 2C to the Economic Forum December 2020 forecast in section 1 of Table 2C. The estimated General Fund impact from the 2 percent rate and General Fund commissions would generate approximately \$8.7 million for FY 2021-2022 and \$9 million for FY 2022-2023.

SENATOR NEAL:

Will you explain how the \$400 million impact is determined?

MR. GUINDON:

We used the available data and looked at other states. We may be missing potential revenue sources in our analysis.

SENATOR NEAL:

Do we have games in the base?

MR. GUINDON:

I cannot truly determine if a portion of the estimate is from games. However, we do have limited data that allows us to infer what could contribute to the impact, and digital games may have an impact. Due to the novelty of some streaming products, there may be services that are not included in FY 2021-2022 tax base as a streaming product.

Table 3 ([Exhibit G](#)) takes the Statewide taxable sales for FY 2019-2020 by North American Industry Classification System business category. The Department of Taxation reports and ranks them from largest to smallest. These categories are in billions of dollars. The first 15 categories are a billion dollars or more. If [S.B. 346](#) had been in place for FY 2019-2020, we estimate digital goods would have been a \$394 million tax base. This estimate is based on available data and inferences the fiscal staff made about potential taxable services and products. This table provides a reference point for where taxable

sales of digital products would be situated compared to other business categories. Digital product sales would be in the top third of categories; it would be ranked 28th out of 98 categories.

It may be suggested that the tax base could be more than \$394 million. Our estimate is based on the available data. A family of four may only need one service subscription to stream a product. Whereas in other categories, say food service, a family may spend \$150 in a night. That is equal to ten months of a streaming service. The price of one golf club could cover the cost of a streaming service for a year. We thought that digital products could be closer to \$800 million; but with these considerations, it probably is not. It could be larger than the estimated \$394 million. The way multiple people can use the same subscription affects the potential tax base. The way digital products are consumed is different than other products assessed sales tax. Table 3 provides prospective for what the digital product taxable sales base could be as compared to other taxable items.

SENATOR NEAL:

The expected tax base for digital products is \$394 million based on the limited data. This estimate does not include the potential taxable products that we lack data on. We will know the true fiscal impact if S.B. 346 passes.

MR. GUINDON:

That is correct. The \$394 million would have been generated in FY 2019-2020, and the tax base grows as time goes on. It is data reported by taxpayers for the Fiscal Division. Since we are not currently taxing digital goods, we do not have any actual data for Nevada. The Commerce Tax data is the best proxy. The U.S. Bureau of Economic Analysis data and other research provided information for potential taxable digital products. The tax base estimates are still a work in progress. Our estimate for FY 2021-2022 is a tax base of \$419 million, and FY 2022-2023 is estimated to be \$431 million.

VICE CHAIR RATTI:

A new tax can be predicted, but we do not really know the impact until a tax is implemented.

BRYAN WACHTER (Retail Association of Nevada):

Nevada tax laws do not treat consumers equally when the same product is purchased in different formats. This disadvantages customers of physical goods

compared to buyers of digital goods. This asymmetry adds to the regressive sales tax as the average income of households with internet access is greater than the average income of households without internet access. A lack of internet access makes purchasing digital goods difficult. Of the households with internet access, those who buy online tend to have higher average incomes. There is unequal tax treatment for businesses that sell media goods. The vendors of physical books, music and movies are required to charge tax while vendors of specialized and digital goods are not; although, they are selling the exact same content.

It is undeniable that the digital economy continues to encompass a larger share of economic activity. More consumers are streaming or downloading digital products as opposed to purchasing physical versions. In 2019, ten states expanded, considered or proposed digital product taxes. States that do not impose a sales tax on digital products have other assessments. Florida does not levy a sales tax on digital products, but it imposes nearly an 8 percent communications services tax on video and streaming services. Chicago imposes a 9 percent personal property lease transaction tax on cloud computing services.

According to *The Global Rise of Digital Goods and Services*, nearly 75 percent of online purchases are digital goods and services. Currently, 42 percent of State and local tax revenue in Nevada is derived from the sales and use tax base. The digital economy makes up 9 percent of the national gross domestic product or \$1.8 trillion.

Nevada has updated the Sales and Use Tax Act of 1955. This Act is older than the previous education funding formula. An Act from 1955 funds the State.

Senate Bill 346 strengthens the State's tax foundation; it ends the erosion to the tax base and brings parity between customers and vendors. In 2005, DVD sales reached \$16.3 billion. In 2018, DVD sales reached \$2.2 billion. Blu-ray Discs have been more expensive than DVDs. Sales reached \$2,730,000,000 in 2013 before falling to \$1.8 billion in 2018. It is likely Blu-ray sales impacted DVD sales, but DVD sales outpaced Blu-ray sales, which means that was not the main factor. There is a hyperadaptation with digital services. This has been encouraged by the pandemic and market evolution. Disposable income diminished during the Great Recession. As incomes have grown over the last decade, consumer habits have changed. Once someone

goes digital, they do not go back to physical. Changes in consumer behavior will likely be permanent.

The pandemic encouraged the adaptation to digital goods because people had to stay in their homes and could not access retailers. Online subscriptions are not new. These have become more prevalent. Digital products are packaged and sold as online services, and access is permitted via subscription. Subscription companies are building long-term relationships with customers. In the U.S., 95 percent of people have a video subscription service, about half have a music subscription service, 25 percent have an audio book subscription and 20 percent pay for podcasts. All of these services are included in S.B. 346.

The video game market has transformed dramatically with mobility, cloud services and artificial intelligence. Nearly 45 percent of people in Generation Z have purchased a game in the last 12 months, 50 percent for Millennials, 14 percent for Baby Boomers and 35 percent of Generation X have done the same. On average, a person will buy 7.38 mobile games each year. We purchase or download 5.8 console games every year and 4.7 computer games each year. Video game revenue is split between downloads and in-game purchases. Senate Bill 346 outlines and clarifies video games.

Sales tax base erosion has repercussions. Local governments struggle to get the revenue needed to provide services. Fees and licensing requirements are often increased for business to make up lost revenue. We are worried continued erosion to the tax base will cause more insecurity for local governments' sales tax base. This may lead to seeking revenue in other areas. The LLST is the largest portion of the sales tax that funds schools, and it is more than property taxes or General Fund contributions. In Clark County, every \$1 lost to the sales tax base is \$1 that needs to be made up through the General Fund or tax increases.

Increasing and broadening the sales tax base is appropriate because the sales tax rate does not have to be raised. Senate Bill 346 helps decrease regressiveness to sales tax, and it sets Nevada up for the future.

SENATOR NEAL:

A proposed Amendment ([Exhibit H](#)) deletes sections 118 through 138 in S.B. 346. Sections 139 through 149 make conforming changes. Section 21, subsection 3 of a proposed amendment ([Exhibit I](#)) defines "Digital code." There

were conversations about public and private keys that were associated with blockchains. Blockchains are not included because those are currency, and we do not tax that. We had struck out language, but the amendment [Exhibit H](#) returns it to say cable operators and satellite companies are not digital goods providers or included in the digital goods definition.

Sections 1 through 13 provide definitions for "gross receipts," "electronically transferred," "end user" and "digital books." Sections 15 through 20 layout a definition for a "retail sale," which brings in language from existing sales tax statutes. We have mimicked the exact sales tax NRS, but have it move and act as an excise tax for digital goods. Section 17 defines "ringtone." Section 18 defines "sales." Section 19 defines "sales price."

Section 21 defines "specified digital products" and the types that are electronically transferred. This includes digital audio works, digital audio-visual works, digital books and digital codes. People receive a digital code at Redbox to download movies. The code acts as an electronic transfer for media, which is consumable and seen as a digital product.

Section 22 covers subscriptions and subscription arraignments. Although a subscription is a service, it has to be included because a subscription service may be bundled with a good. This is an important component to [S.B. 346](#) because there have been efforts to capture subscriptions, but it has been difficult to extract due to how the service is bundled.

Section 24 lays out how the excise tax is imposed. It will be imposed at the exact sales tax rate that is in each county. The sales tax rate in Carson City is 7.76 percent. The digital goods tax acts as a seventh revenue that goes into the county as digital goods. Clark County, where the sales tax rate is 8.375 percent, will see a seventh revenue of 8.375 percent go to the County. The same thing will happen for Washoe County that has an 8.265 percent sales tax rate.

If [S.B. 346](#) were to pass, the excise tax on digital goods would be a seventh revenue that would go into a county and the first tier of the Consolidated Tax Distribution (CTX) base.

VICE CHAIR RATTI:

Is it a sales tax or does S.B. 346 create something that resembles a sales tax? If a county raises its sales tax rate, will it raise the digital goods tax, or will it remain the current rate indefinitely?

SENATOR NEAL:

The tax on digital goods will resemble and act like a sales tax. It is called an Excise Tax because the Sales and Use Tax Act of 1955 limits our capacity. We have applied several excise taxes in Nevada. If a county raises their sales tax, the digital goods tax would need to rise to the same rate because there would be inequities and potential legal issues.

MR. GUINDON:

The digital goods tax would be a new excise tax, and it would have a new chapter in NRS. It has all the functional elements of a sales tax. The bulk of S.B. 346 is based on sections in NRS 372. The definitions Senator Neal discussed are Streamlined Sales and Use Tax Agreement (SSUTA) definitions. The digital goods tax has structural elements from the sales tax, and it is SSUTA compliant. We have provisions for Chapter 360B to be consistent with Nevada being a SSUTA member.

Current sales tax rates are attached to the digital products tax. The digital goods tax rate would change if the Legislature authorizes or imposes a new sales tax rate at the State or local level. If the sales tax were to change, the digital goods tax would change too. The proceeds would be distributed and required to be used with the same authority as the sales tax rates.

VICE CHAIR RATTI:

Has the Streamlined Sales Tax Governing Board (STTGB) weighed in on digital goods? It appears that it has, and S.B. 346 would be SSUTA compliant. Is that correct?

SENATOR NEAL:

Yes. We have spent a lot of time working with the STTGB on how to construct S.B. 346. I got to work on this bill the last two years to codify SSUTA rules and build in protections. We included language from Chapters 360B and 372 to account for SSUTA rules. If it was claimed we were out of SSUTA compliance, we would have clear language that comports with what the STTGB suggested to ensure the digital goods tax was not out of compliance. We had several

stakeholders meetings with the STTGB and the Department of Taxation to be on the same page.

VICE CHAIR RATTI:

Does the revenue from the digital goods tax flow into CTX?

SENATOR NEAL:

Yes. It goes into the first tier.

VICE CHAIR RATTI:

The digital goods tax comports with SSUTA, it flows into the CTX and it resembles and works like sales tax. There is roughly a \$400 million tax base. The 2 percent State sales tax rate would generate nearly \$9 million for the first year and \$10 million the second year, which would only be the State's portion. We are unable to estimate what would flow into CTX and benefit local governments. Is this an accurate summary of the bill?

MR. GUINDON:

Yes. The tax base is in the \$400 million range. The digital goods tax estimated General Fund impact for FY 2022-2023 is in the \$9 million to \$10 million range.

VICE CHAIR RATTI:

The \$400 million is not the potential revenue but the value of the products that could be taxed?

MR. GUINDON:

Yes. The \$400 million is considered the taxable sales to which the digital goods tax rate applies. Retailers would collect the rates based on taxable sales.

VICE CHAIR RATTI:

We do not have an estimation for what would flow to CTX and go to the local level?

MR. GUINDON:

No. There is an estimate for a Statewide weighted average in Table 2, [Exhibit F](#), but there is not a county.

VICE CHAIR RATTI:

There is an estimated \$8 million going to the General Fund with a 2 percent rate. Is there an amount that goes through the CTX to local governments?

MR. GUINDON:

Yes. Table 2B in Table 2 [Exhibit F](#) has the BCCRT and SCCRT, which would approximately yield \$9.5 million in FY 2021-2022 through FY 2022-2023 based on estimated taxable sales. This is the amount that would be distributed to the county in which the sale took place.

VICE CHAIR RATTI:

The \$9 million and \$10 million is not to the State but the Statewide revenue generated from the rate based on \$400 million tax base.

MR. GUINDON:

The \$9 million to \$10 million is the BCCRT and SCCRT. The expected revenue generated Statewide by the digital goods tax is \$34 million to \$35 million. That is all the rates combined. There would be \$8 million to \$9 million for the General Fund, \$10 million to \$11 million for the LSST to fund schools and \$9 million to \$10 million for the BCCRT and SCCRT to distribute to local governments. A further \$5 million to \$6 million would be going to the counties based on the local option rates that are imposed. That is just the Statewide weighted average because we did not estimate each county individually.

VICE CHAIR RATTI:

The digital goods tax would generate \$35 million in total. The \$400 million tax base includes everything listed in section 21 of [S.B. 346](#). Is the projection based on Commerce Tax data because we do not have detailed records of these product types?

MR. GUINDON:

That is correct. We compared this bill to other states that have taxes on digital products to determine what should be included. We will continue to fine-tune the estimates as new information becomes available.

SENATOR KIECKHEFER:

It was mentioned that satellite providers are being removed by the deletion of sections 118 through section 138 with the proposed amendments. Are satellite

providers being added specifically to the definition of "marketplace facilitator" in section 92, subsection 1?

SENATOR NEAL:

Yes. Satellite providers are taxed in other states. We attempted to create tax parity between cable and satellite providers by including this in the bill. This was our original intent. We had discussions with local governments about whether they would give up their local franchise fee for us to create tax parity. There was a county that would not do this.

The franchise fee is not a tax. Cable pays a 5 percent fee, and we knew we could do a 5 percent tax on satellite. When S.B. 346 was made public, issues arose. I then removed the tax on satellite providers. There is not tax parity between cable and satellite providers. Creating parity would expand the tax base and increase expected revenue.

In regard to "marketplace facilitator" in section 92, subsection 1, there are applications that are paid for and bundled into services. A provider would act as a marketplace facilitator that would collect and remit the excise tax to the State. This was put in the bill because Cox Communications has an application that fits this situation. People can play games on Cox Communications. There are satellite providers that might provide similar services in the future. I wanted to ensure the bill could cover future activity since satellite providers are not brought under the digital goods portion of S.B. 346. We will be able to collect if there are any applications in the future that fit this scenario. The digital goods industry is always changing with the way products are bundled and how companies perform and act. This language deals with how providers might adapt their platforms.

SENATOR KIECKHEFER:

Would this create parity between streaming services, satellite and cable providers?

SENATOR NEAL:

No. Satellite and cable providers are not brought under this bill.

SENATOR KIECKHEFER:

We do not pay sales tax on satellite and cable services?

SENATOR NEAL:

No. If these services had sales tax, we would have brought these under the excise tax by mimicking the language in NRS Chapter 372. There are states that do impose sales tax on these services. I tried to do this with the sections deleted by the proposed amendment [Exhibit H](#).

MR. GUINDON:

There is no sales tax on satellite and cable services because these are not a tangible personal property. Local governments have authority to impose a 5 percent franchise fee on the gross receipts on cable operators. The proceeds are retained for their use. There is a federal prohibition on imposing a local rate on satellite companies. [Senate Bill 346](#) intended to balance this disparity by imposing a 5 percent tax on satellite. There would be a 5 percent local tax on cable and a 5 percent State tax on satellite. The sales tax rate would be imposed on digital products.

Hulu + Live TV as a digital streaming service would have the sales tax rate. The sales tax rate will be imposed on digital streaming services. Under the proposed amendments [Exhibit H](#) and [Exhibit I](#), the 5 percent franchise fee for cable is still in place. Satellite companies will not have a tax on services.

SENATOR KIECKHEFER:

Section 40, subsection 2 of [S.B. 346](#) says "Every business that purchases specified digital products ... shall ... register with the Department." Does this mean if an office has a music subscription, it will have to file something with the Department of Taxation?

SENATOR NEAL:

There will be personal consumption in that situation. A business would register with the Department of Taxation and provide the names and addresses of all the agents and office locations. We were asked if [S.B. 346](#) creates a burden for businesses. Our intent was to create one column on the tax form to insert digital goods. While determining how this situation would play out, we asked what the tax form would look like if the tax form needed to be changed and how can it be changed. We tried to determine how many businesses would have to consider the tax registration and how we could make it less burdensome.

MR. GUINDON:

Section 40, subsection 2 is the digital goods version of NRS 372.220. This is a use tax construct and not a sales tax construct. This section specifies "products for use in this State." Section 40, subsection 2 mirrors the tangible use tax that is administered by the Department of Taxation. This covers businesses that purchase products for use, which is taxed under the use tax and not the sales tax.

SENATOR KIECKHEFER:

If a business purchases a product that the section 24 excise tax applies to at the point of sale, then section 40, subsection 2 does not apply? Rather, it would be taxed under section 24 and not section 33?

MR. GUINDON:

Yes. Section 40, subsection 2 captures a product that is purchased with the intention to use it. If it was not a retail transaction, and tax was not collected, the use tax would be applied to the final consumer who uses it. Once a product is consumed, it is being used.

SENATOR KIECKHEFER:

That makes sense. Does section 50, which covers nonprofit status, mirror what is in NRS Chapter 372?

MR. GUINDON:

All the exemptions that are in Chapter 372 were carried over to S.B. 346. The structural elements of Chapter 372 are mirrored in the bill. The exemptions to tangible goods are the same for digital goods to the extent possible for this excise tax. The educational, charitable and religious exemptions were carried over for textbooks, newspapers and all the exemptions in Chapter 372.

SENATOR KIECKHEFER:

Is the 0.25 percent holdback in Section 63, subsection 1 of S.B. 346 consistent with NRS Chapter 372?

MR. GUINDON:

Yes. The 0.25 percent is what a retailer of tangible personal property is allowed to retain for collecting and remitting the tax to the Department of Taxation. This is in NRS 372.370.

SENATOR KIECKHEFER:

What is meant in section 106, subsection 1 that says "Every seller, every retailer and every person storing, using or otherwise consuming in this State specified digital products purchased from a retailer shall keep records, receipts, invoices."? This seems like someone will have to maintain a complete record of the streaming services they are subscribed to for the Department of Taxation.

MR. GUINDON:

Section 106 is equivalent to NRS 372.735. The Department of Taxation has that requirement for retailers for tangible personal property. We brought this requirement over for the digital goods excise tax. The Department will administer the same tangible goods provisions for digital goods.

SENATOR KIECKHEFER:

Section 106, subsection 1 seems that individual people will have to maintain records, receipts, invoices and other pertinent papers in such a form as the Department of Taxation may require. Is this correct?

SENATOR NEAL:

No. That is not the intent.

WARREN HARDY (Urban Consortium):

We support S.B. 346. New technology has led to tax erosion and impacts to the tax structure. We advocated with the Nevada League of Cities for a study of tax revenues in Nevada. We wanted something similar to the Price Waterhouse study in the late 1980s. This bill is a move in the right direction.

ALEXANDER MARKS (Nevada State Education Association):

The Nevada State Education Association supports S.B. 346 to establish parity for digital goods that are not subject to sales tax. Hundreds of education advocates rallied in Carson City to bring attention to education funding. The K-12 public education system is threatened by more funding cuts. There is a proposed \$33 million cut for the next biennium. There are \$156 million cuts for class size reduction. This will lead to overcrowded classes while Nevada has the largest class sizes in the Country. Federal funding from the Coronavirus Aid, Relief and Economic Security Act and the American Rescue Plan Act of 2021 will help Nevada weather this crisis. However, Nevada faces a funding shortage. Nevada ranks near the bottom of states in funding for public education.

The economy is moving toward a digital format. This has created a loophole in sales tax, which is only applied to the purchase of physical products. Sales tax is a main revenue stream for K-12 public education. Educators have been calling on leaders to invest in Nevada. We need new and progressive revenue to move Nevada from the bottom in education funding. Senate Bill 346 will expand revenue to help funding challenges.

REBECCA GARCIA (Nevada Parent Teacher Association):

Nevada Parent Teacher Association's (PTA) mission is to make every child's potential a reality by engaging and empowering families and communities to advocate for children. This year has shown a light on the essential role schools play, not only in the education of our children but the fabric of our communities. Nevada schools have been chronically underfunded for decades. For too long, our class sizes have led the Country and our funding has ranked poorly. As a mother of four and School Organizational Teams chair for many years, I have seen the impact of meager school budgets directly on students and classrooms. My daughter returned to her classroom today. They had to move to a larger room to accommodate the 33 students in her class. In Nevada we think this is normal, but it does not have to be our reality. Senate Bill 346 is a step the Legislature can take to provide additional funding for schools. Nevada PTA is in support of S.B. 346.

In 2019 the Nevada Legislature, after more than five decades, updated the education funding formula with S.B. No. 543 of the 80th Session. A new funding formula and the critical efforts of the Commission on School Funding provided progress towards addressing historical challenges. Without additional revenue to increase education funding, the new formula will simply redistribute inadequate funding without improving our education system. Nevada needs to move out of the past and ensure parity in digital goods. We cannot afford to lose revenue that could be used to improve our schools. Nevada school funding relies heavily on local taxes, and we know that additional funds are needed.

Federal relief funding coming to our State is needed, but it is only a short-term band-aid and not a sustainable long-term solution. Now is the time to plan and implement legislation that will provide for our students and the future of our State. We need to invest in the health and wellbeing of Nevada's children and families, and this requires resources. Nevada needs a strong, stable and diverse mix of revenue that effectively meets the needs of our residents. We urge your

support for S.B. 346 to close the sales tax loophole, increase funds available for our schools and help better prepare Nevada for a strong future.

PRISCILLA MALONEY (American Federation of State, County & Municipal Employees, Nevada Retirees Chapter 4041):

We support S.B. 346. Nevada has had poorly funded education and health care prior to the pandemic. There was a budget hearing I attended where millions of dollars were cut from the State healthcare system because of budget shortfalls. Nevada would join 28 states and 52 counties that have adopted some form of taxation on digital products. The transition to digital products will reduce sales tax revenue, which will hurt education and workforce budgets.

BENJAMIN CHALLINOR MENDEZ (Faith in Action Nevada):

We support S.B. 346, and I echo the comments of the previous speakers. Education, health care and mental health services are always cut during economic downturns. This bill will reduce budget cuts and provide stability for local governments. It will provide more to the education system. We need more revenue to help the economy recover. We need to adjust tax policy to include digital goods.

DAGNY STAPLETON (Nevada Association of Counties):

The Nevada Association of Counties supports S.B. 346, which captures revenue from the growing share of digital products that do not contribute to sales tax. This will create equity for these types of goods. Through the CTX formula, Nevada counties receive a distribution of sales taxes. Counties would receive additional revenue if this bill were to pass. Sales taxes are the primary or secondary source of revenue for counties. Additional revenue from digital goods is important and welcomed by the counties. Collecting taxes on digital goods can be an important contribution to assist counties with critical services to Nevadans. These include services for the most vulnerable people, local justice systems, emergency response, roads, parks, pools, libraries and local election systems.

MARY WALKER (Carson City; Lyon County):

We support S.B. 346. It is ethical, shares burden and it helps stop tax erosion caused by changing technology.

JENN BLACKHURST (HOPE for Nevada):

We support S.B. 346. A discussion on Nevada's tax structure is the most important conversation that needs to happen this Session. While mining has garnered the most attention in the media, we know adjusting that tax alone will not yield enough revenue. It is not specifically designated to support public education. If we are going to stabilize Nevada's economy, we need to look to multiple revenue sources. Our safety net of one-time federal funds will end. Implementing this bill will provide us with much needed revenue at a critical time. Waiting for the next Session to address shortfalls is not an option we should consider.

Last Session the Legislature took the first step in modernizing Nevada's education funding by passing the Pupil Centered Funding Plan. We ask that you show that same commitment this Session by modernizing our sales tax. This tax is one step toward providing necessary funds to implement this new plan as intended.

We are in support of this legislation because it goes directly to the existing Local School Support Tax; it broadens our sales tax base, which aligns with recommendations from the Commission on School Funding; it brings more stability to our revenue system; it makes sales tax less regressive as it does not disproportionately affect those who can least afford it. Once passed, we could start accumulating much needed revenue within six months. Supporting S.B. 346 shows that you prioritize Nevada's children and is an act of leadership.

MICHELLE BOOTH (Educate Nevada Now):

We support S.B. 346 because Nevada is in need of solutions to the grossly underfunded public education system. Before the pandemic, students faced significant obstacles, including the largest class sizes in the Nation.

The link between education funding and student outcomes is well established. A wide-ranging study by the Learning Policy Institute found that states cannot reliably improve student outcomes without long term investments. The federal dollars expected to help lift the State out of the current crisis are only temporary resources. Nevada schools will face an enormous cliff as these funds expire, meaning any gains achieved with this historic federal investment will likely be lost. Educate Nevada Now supports long and stable revenue solutions that create a path towards a quality education system.

ANDREA COLE:

I support S.B. 346 because Nevada's school funding relies on revenue generated by the Local Support Tax. This bill provides parity in sales tax. It ensures digital sales will support schools. Nevada has education-funding issues, and this bill is a solution. My friends and family say they would never live in Nevada because of our schools. We are accustomed to the state of our public schools. People in other states are offered a better public education for their children. They value education and do not defund it. We will not be able to diversify our economy or quality of our residents if education is not made a priority.

Senate Bill 346 closes a loophole. Schools face decisions on what to cut year after year. Cutting one teacher raises class sizes by eight kids. My friend has 57 kids in his middle school class.

JAMIE RODRIGUEZ (Washoe County):

We support S.B. 346. Bringing parity to the tax structure is a good thing moving forward.

DYLAN O'NEILL (Institute on Taxation and Economic Policy):

We support S.B. 346. It would advance important tax policy principles to help the people and the economy of Nevada. For the sake of adequate and stable funding of public services, consumption tax bases should be broad. Consumer spending is slow to recover when coming out of recessions. When people reduce their consumption and shift it into untaxed sectors, as has happened with digital products during the current downturn, the impact on a state's budget is larger and longer lasting. A broad tax base is important.

From the perspective of horizontal equity and neutrality, unless there is a clear policy reason to favor a particular product, consumer or business over another, a consumption tax should not do so. Digital products being untaxed in Nevada, while physical versions of essentially identical products are taxed, has no policy rationale. This is largely a historical accident.

Nevada's tax code is the fifth most regressive in the Nation. Overall tax rates on low-income families are five times higher than those paid by the richest one percent. Because lower-income families are more likely to lack internet access and less able to take advantage of existing tax breaks for

digital products, putting physical and digital products on even footing improve tax fairness.

RANDI THOMPSON (National Federation of Independent Business):

We are neutral to S.B. 346. We have some concerns about the bill. We are concerned that small businesses are at a disadvantage because customers have to pay sales tax at store fronts, but people can download a book digitally and not pay sales tax. There are small business implications. We support the elements that bring parity to the tax system.

DAVID DAZLICH (Vegas Chamber):

The Vegas Chamber is neutral on S.B. 346.

SENATOR NEAL:

We want to craft policy that stabilizes the Nevada economy, modernizes tax statutes and deals with tax erosion from digital goods, which are longer in the tax base.

VICE CHAIR RATTI:

We will open the hearing on S.B. 367.

SENATE BILL 367: Removes certain exemptions from the excise tax on live entertainment. (BDR 32-571)

SENATOR NEAL:

We have not discussed the Live Entertainment Tax (LET) since S.B. No. 266 of the 78th Session. Focus on the bold row in the table ([Exhibit J](#)). The pandemic changed our lives. I have been concerned about tax fairness. We saw a significant drop in the LET. Fiscal year 2021-2022 is forecasted to be in the hole 937 percent. We are not even at zero percent; we are beyond zero percent, and the LET tanked.

Senate Bill 367 removes the LET exemption for sports teams, which have grown in Nevada. It is a good time to remove this LET exemption because there is not any live entertainment activity, there was a recession and teams could build this into their costs. This bill would have an effective date in calendar year 2022. Gaming pays the LET, and major sports teams in Nevada should too.

The bill removes the LET exemption for professional sports teams operating in the State. There is a proposed amendment ([Exhibit K](#)) that ensures amateur and minor league teams are not affected by this bill. There are amateur and minor league teams whose base are locals and families. Their bases are not made up of tourists who we are seeking to build the tax base. Senate Bill 367 broadens the LET base. Since the State took such a bad hit, where the LET is forecasted to be negative 93 percent for FY 2020-2021, I wanted to capture more entities that provide live entertainment. Section 1, subsection 2, paragraph (a) lowers 7,500 to 5,000. This change could pick up entities that have events with more than 5,000 attendees. A lot of nonprofit events never made it to a 7,500 threshold. I think it is fair to have sporting events pay the LET because the gaming industry has to pay it.

It has been suggested that the Las Vegas Raiders have a contract that disallows a targeted tax on the franchise. The LET is not a targeted tax; rather, this bill removes an exemption. There is no contract that can tell the Legislature what to do. The Legislature's power is plenary. That term cannot be activated. This bill addresses the loss Nevada has experienced with the LET.

SENATOR SEEVERS GANSERT:

The amendment [Exhibit K](#) includes minor league and amateur sports. How are minor league teams differentiated from amateur teams if these are the same sport?

SENATOR NEAL:

Armature teams are considered professional. We want to delineate between armature teams and the National Football League or the Woman's National Basketball Association (WNBA). The conceptual amendment will need more to delineate the differences.

SENATOR SEEVERS GANSERT:

Determining what is taxed and not taxed, whether it is the same activity, is important.

SENATOR KIECKHEFER:

There are leagues with different status. We have professional soccer teams that are not considered minor league teams. How do you intend on addressing the different tiers within professional sports?

SENATOR NEAL:

It is something I need to flesh out. The best way to do it may be to base it on a team's revenue or size. I understand that there are minor league and amateur soccer teams, but nothing to the level of the WNBA.

SENATOR KIECKHEFER:

Would the Las Vegas Lights Football Club be taxed if S.B. 367 were to pass?

SENATOR NEAL:

No. I did not expect to capture them. Is it an amateur team?

SENATOR KIECKHEFER:

It is a professional team. It is another league, but it may have affiliations with Major League Soccer (MLS) teams. Does S.B. 367 cover the Las Vegas Golden Knights, Las Vegas Raiders, Las Vegas Aces and special events?

SENATOR NEAL:

Yes.

SENATOR DENIS:

Why are there LET exemptions?

SENATOR NEAL:

It was difficult determining why the exemptions exist. These may exist to promote bringing teams to Nevada. The exemption could have been a carrot and a stick. I could not find any minute reports that discussed this matter.

SENATOR DENIS:

I agree that LET exemptions are used as an incentive to bring teams to Nevada. How many states tax professional sports teams?

SENATOR NEAL:

I believe a lot of states do. I will find data and send it to you. I think Nevada is unique in providing an LET exemption.

I understand S.B. 367 would get some pushback. I feel the fairness argument is important. Why should the gaming industry pay the LET and not professional sports teams, especially considering Clark County has roughly 32 million visitors a year. A low year for Las Vegas is 28 million visitors in a year. When the

economy opens back up, we should broaden the tax base so we do not experience a 937 percent drop in the LET again. There should be fairness with the LET. This bill will effect Washoe County, but there is gaming in Reno. I understand the LET exemption is a carrot and a stick, but the teams are already here. I do not see a legal argument for live entertainment providers to not pay the LET. There is great opportunity for revenue as the economy opens back up.

SENATOR DENIS:

I do not disagree with the premise. Gaming is a well-established industry in the economy. Whereas, professional sports is something we are trying to establish. We do not have a Men's National Basketball Association team or MLS team, and we want to compete against other cities. We just started expanding into this industry, and this may be a disincentive to attract other teams. We want to expand Nevada's economy beyond gaming.

SENATOR NEAL:

If the LET exemption is not removed during a recession with no live entertainment activity, it would be harder to remove it five years from now when there are high levels of activity, and sports teams are making a lot of money. There are no tax revenue from ticket sales. When a sports team attracts visitors, those people use roads and services. The gaming industry is the same situation, but it is required to pay the LET. I do not understand why professional sports team get the benefit. We use incentives to bring activity to the economy, but sometimes these actually hurt the State. The industries that receive incentives never want to give these up. This is not fair in the long term.

HAWAH AHMAD (Clark County Education Association):

We support S.B. 367. The LET should be extended to provide a more diverse and expanded revenue base. We support providing funding for S.B. No. 543 of the 80th Session. We need to look at taxes holistically, and this is just one portion. We all need to compromise to put students first.

CARTER BUNDY (American Federation of State, County & Municipal Employees):

We support S.B. 367. A key element to a good tax code is fairness. There is disparity between some groups paying the LTE and some groups that are exempt. The more exemptions that can be closed, the more fair it will be. Nevada is nearly last in the Country in revenue per capita. New revenue is

needed for K-12 education, higher education, public safety, health care and infrastructure.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):

We support S.B. 367. We need to stop prioritizing corporations over Nevadans. Removing exemptions can ensure teams are giving back to the State during this moment of crisis.

MARC BADAIN (Las Vegas Raiders):

We oppose S.B. 367. More than 12,000 people were employed while building Allegiant Stadium. We finished construction on time and on budget. The stadium will host Raider and University of Nevada, Las Vegas games, concerts and a super bowl. Concession stand sales generate tax revenue. Hotel rooms occupied by visitors generate room tax revenue. Thousands of jobs are generated by the stadium. We have generated over \$1 million for charitable causes through the sale of State-sponsored Raiders license plates by the Raiders Foundation.

Before committing to Las Vegas, we discussed the lack of tax on tickets as a specifically negotiated part of the financing structure that brought the team to Nevada. Imposing the LET on Nevada sports teams will be viewed negatively by teams considering relocation.

CHIP SEIGEL (Vegas Golden Knights):

Nearly 70 percent of the Vegas Golden Knights' revenue is from ticket sales. Las Vegas has a small local media market, which means less revenue from television and radio broadcasts. We are the 39th largest media market. The National Hockey League average ticket sale revenue is 65 percent. This is high compared to other professional sports that get revenue from broadcasts. The team's ticket sales are mostly to local buyers and not tourists. This tax will hurt local fans. The restrictions on large gatherings has hurt the team because of the heavy reliance on ticket sales. There has been no revenue from ticket sales during the pandemic. If minor league teams are removed from S.B. 367, this will be a targeted tax.

The LET exemption was relied on when moving to Las Vegas. Removing the exemption will deter other professional sports teams from moving to the State. Other markets with similar taxes are used for building projects or renovations that were paid for with public funds. The T-Mobile Arena, where the team

plays, was not paid for with public money. The removal of the LET exemption would have a negative impact on the Vegas Golden Knights. The team has generated millions of dollars for the local economy. We oppose S.B. 367.

SENATOR NEAL:

My goal is to highlight the 937 percent loss in revenue. I wanted to make the fair play argument that if the gaming industry pays the LET, then other industries should too. The gaming industry pays the LET even though it employs thousands of people. The gaming industry does not receive exemptions. There should be fair play for operators in Nevada. We need to think about how to fund services in Nevada.

SENATOR DENIS:

I will open the hearing on S.B. 389.

SENATE BILL 389: Establishes provisions governing peer-to-peer car sharing programs. (BDR 43-585)

SENATOR NEAL:

I was introduced to peer-to-peer (PTP) car sharing at a National Conference of State Legislatures meeting on State and Local Taxation. Peer-to-peer car sharing is analogous to Airbnb. This program allows someone to rent a personal vehicle to another person through a platform. Senate Bill 389 is an agreement between several stakeholders for what the tax structure on PTP car sharing should be. There is a proposed amendment No. 3163 ([Exhibit L](#)).

Section 1 of S.B. 389 amends NRS Title 43, which governs public safety, vehicles and watercrafts. A chapter is added to include provisions in this bill. Section 3 and section 4 of S.B. 389 are deleted by the amendment [Exhibit L](#). Section 5 defines "car sharing program agreement" as "an agreement entered into between a peer-to-peer car sharing program and a shared vehicle driver or shared vehicle owner which establishes terms and conditions governing the sharing of a vehicle." Sections 6 and 7 are deleted by the amendment [Exhibit L](#).

Section 7.5 in the amendment defines "Passenger car" as having the meaning ascribed in NRS 482.087. A passenger car is anything carrying ten persons or less except for motorcycles, electric bicycles and electric scooters. Section 8 in the amendment defines a "peer-to-peer car sharing program" as a platform that connects owners of shared vehicles with shared vehicle drivers to enable the

sharing of vehicles in exchange for money. Section 9 defines a "shared vehicle." Section 10 defines a "shared vehicle driver."

Section 10.3, subsection 1, paragraph (a) in the amendment provides tax information. This is an agreement with the PTP platforms to take on similar burdens that car rental companies have. There is a Governmental Services Tax (GST) of 10 percent that will be applied to the shared vehicle driver. This was added because PTP car sharing platforms have elements of rental car companies. The shared vehicle used is a personal car. Senate Bill 389 covers taxation. The policy governing PTP car sharing is in Assembly Bill (A.B.) 429.

ASSEMBLY BILL 429: Establishes provisions governing peer-to-peer car sharing programs. (BDR 43-861)

Section 10.3, subsection 2 in the amendment says the fees due from a PTP car sharing program to the Department of Taxation are due on the last day of each calendar quarter. Section 10.3, subsection 2 covers what should be filed with the Department, the form and how it will be remitted. Section 10.3, subsection 3 holds that if a contract is made pursuant to NRS 244A.820 or 244A.870, the Department shall deposit all money received from a PTP car sharing program.

There was discussion about whether there should be sales tax associated with PTP car sharing. There will not be sales tax unless PTP platforms have their own cars on the platform that sales tax has not been paid on. The PTP platform will have to do a memorandum of understanding (MOU) with the Department of Taxation to collect remitted tax. If that happens, sales tax will have to be submitted.

Sections 11 to 30 are deleted by the amendment Exhibit L. Section 31 amends NRS 482.300, and it establishes the short-term lessor will secure licenses, bonding, pay a license fee of \$125 and go through a formalized process in NRS 482.300. Section 31.1, subsection 1 in the amendment amends NRS 482.313 to require upon the lease of a passenger car by a short-term lessor in this State, the short-term lessor shall charge and collect from the short-term lessee. The bill makes other conforming changes.

The majority of S.B. 389 establishes a tax structure for PTP car sharing where these companies pay taxes to the State for operating.

MICHAEL ALONSO (Turo):

We agreed to pay the GST and the two fees under NRS 244A.810 and NRS 244A.860. There is language in A.B. 429 that differentiates between a short-term lessor and a PTP car sharing platform. If a person is purchasing something subject to sales or use tax, and an exemption is taken because they intend to lease or rent that personal property, they have to take an election with the Department of Taxation, become a registered taxpayer, file returns and charge sales tax on a transaction-by-transaction basis. We do not believe our owners will avail themselves to a sales tax exemption, but we have agreed to the MOU with the Department where we would collect sales tax on transactions and remit it to the State.

MS. YOUNG:

The Department of Taxation is in agreement with the MOU and working with the industry to collect sales tax on transactions when it is not collected at the time the vehicle is purchased.

SENATOR SEEVERS GANSERT:

What is the 10 percent GST going to be charged against?

MR. ALONSO:

It would be charged against the cost of the share or rental, but excluding the cost of gasoline, insurance and the like.

SENATOR SEEVERS GANSERT:

If someone shares or rents a car for \$50, are the cost of goods, such as fuel and insurance, subtracted?

MR. ALONSO:

Yes.

SENATOR SEEVERS GANSERT:

If someone owns a car and shares it 3 percent of the time, it may be prorated. The fee is collected quarterly. You could charge against someone's income a portion of insurance, fuel and other fees. Is the net income amount what the fee is charged against?

MR. ALONSO:

We collect and remit the sales tax. A fee would be charged to the vehicle driver on a transaction-by-transaction basis, and this happens through an application. The platform would have to keep records pursuant to S.B. 389 and A.B. 429. The sales tax would be remitted and not charged on the cost of goods, such as fuel and insurance.

SENATOR SEEVERS GANSERT:

This bill is not clear if the sales tax will be assessed on the price of the rental or the price of the rental minus the cost of goods.

MR. ALONSO:

The PTP car sharing platform will figure this out. If the rental fee is \$100, the sales tax would be charged on the \$100. The fueling arrangement will be between the renter and the car owner. The cost of goods are not taxable, and this mirrors NRS 372.922, section 9, paragraph (a).

SENATOR SEEVERS GANSERT:

Is the cost of goods between the renter and owner? Is it not assessed sales tax?

MR. ALONSO:

That is correct. The PTP car sharing platform would be required by S.B. 389, section 13, subsection 4 to provide insurance coverage to prevent insurance coverage gaps. The base insurance is provided at no charge. The vehicle owner could increase insurance fees, and those would not be subject to sales tax. The fee to rent a shared car would be taxed.

SENATOR DENIS:

Do the people that share their cars on an application need a license to do this?

MR. ALONSO:

The PTP platform would be licensed with the Department of Motor Vehicles (DMV) under A.B. 429. The renter and owner will have to have a driver's license, vehicle insurance and meet certain requirements to be on the PTP car sharing platform as a vehicle owner or driver. Assembly Bill 429 would require a platform to file an application and be licensed by the DMV. Assembly Bill 429 has insurance requirements, consumer protection, licensing and record keeping provisions.

JON VAN ARSDELL (Avail):

We support S.B. 389. We believe in a regulatory structure and paying our fair share of taxes to promote this innovative transportation model.

BRIAN ROTHERY (Enterprise Holdings):

We are taking a neutral position on S.B. 389. To the extent to which car owners pay or do not pay sales tax at the time the time of purchase was accurately discussed. Michael Alanso indicated that Turo vehicle owners are not taking advantage of a tax break. There are more competitors in the industry. Creating policy relating to sales tax would better be supported by data. Credit or reimbursement could be awarded if an owner can prove sales tax was paid at purchase. The amount of times sales tax is paid matters. If local governments charge sales tax on rentals, you must pay sales tax on earnings. However, sales tax generally does not have to be paid on vehicles purchased for business. We need to know if sales tax must be paid at the time of purchase.

SENATOR NEAL:

If the PTP car sharing platform starts to engage in activities where vehicles have not paid the sales tax, the platform would act as a marketplace facilitator. The bill mockup did not include taxes when it originated. There are rare circumstances where personal vehicles have not already paid sales tax. We did not want to tax a vehicle twice. Sales tax is remitted at the time of sale for the vehicle. If the PTP car sharing companies begin to purchase vehicles, then the sales tax would have to be remitted. We agree with that. The final version of S.B. 389 will not tax a personal vehicle twice. If PTP sharing platforms purchase vehicles, these companies will be a remitter of sales tax on cars. These companies will be acting as marketplace facilitators to remit sales tax or submit MOUs.

Senate Committee on Revenue and Economic Development
April 6, 2021
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CHAIR NEAL:

Seeing no public comment, I will adjourn this meeting at 4:05 p.m.

RESPECTFULLY SUBMITTED:

Alex Polley,
Committee Secretary

APPROVED BY:

Senator Dina Neal, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
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S.B. 284	C	1	Joe Reel	Work Session Document
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S.B. 346	E	1	Russel Guindon	Table 1
S.B. 346	F	1	Russel Guindon	Table 2
S.B. 346	G	1	Russel Guindon	Table 3
S.B. 346	H	1	Senator Dina Neal	Proposed Amendment 2
S.B. 346	I	1	Senator Dina Neal	Proposed Amendment 1
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S.B. 367	K	1	Senator Dina Neal	Proposed Amendment
S.B. 389	L	1	Senator Dina Neal	Proposed Amendment