

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

**Eighty-second Session
February 23, 2023**

The Senate Committee on Revenue and Economic Development was called to order by Chair Dina Neal at 1:05 p.m. on Thursday, February 23, 2023, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Dina Neal, Chair
Senator Fabian Doñate, Vice Chair
Senator Pat Spearman
Senator Heidi Seevers Gansert
Senator Carrie A. Buck

STAFF MEMBERS PRESENT:

Michael Nakamoto, Chief Principal Deputy Fiscal Analyst
Christian Thauer, Deputy Fiscal Analyst
Connie Summers, Committee Secretary

OTHERS PRESENT:

Shellie Hughes, Executive Director, Executive Division, Nevada Department of Taxation
Jennifer Roebuck, Deputy Executive Director, Compliance Division, Nevada Department of Taxation

CHAIR NEAL:

We call the Nevada Department of Taxation to the table to discuss Senate Bill (S.B.) 29.

SENATE BILL 29: Revises provisions related to refunds of overpayments of taxes. (BDR 32-216)

SHELLIE HUGHES (Executive Director, Executive Division, Nevada Department of Taxation):

The Department of Taxation views S.B. 29 as a housekeeping measure. *Nevada Revised Statutes* (NRS) 360.2935 requires the Department to pay interest to a taxpayer on any refund requested by the taxpayer on an overpayment of taxes.

Certain tax types such as sales tax and Live Entertainment Tax (LET) are collected by the taxpayer from their customer and then remitted to the Department. The taxpayer for sales tax purposes is often referred to as the retailer, and the taxpayer for LET purposes is often referred to as the owner or operator of the facility where the activity takes place. With these tax types, we refer to these circumstances as taxes collected from the customer and held in trust by the taxpayer.

The sales tax and LET are imposed on the taxpayer, but the taxpayer collects the tax from the customer and then remits the tax to the Department. If a refund is due for the overcollection of taxes, provisions in NRS and *Nevada Administrative Code* 368A and 372 require the taxpayer to refund the taxes overcollected to its customer prior to the Department issuing a refund to the taxpayer. These statutes do not require the taxpayer refund any interest to the customer. As a result, the Department refunds the interest associated with the overcollection to the taxpayer. This results in a windfall to the taxpayer as the payment of overcollected tax was not made by the taxpayer's funds. This revision is intended to eliminate the refunding of interest to the inappropriate party.

Section 1 of S.B. 29 amends NRS 360.2935 to provide that no interest is allowed on any tax overcollected by the taxpayer when the taxpayer is required to refund the tax to the person from whom it was collected.

Section 2 of S.B. 29 amends NRS 360.2937 to exclude subsection 1 of NRS 360.2935 for the requirement that interest must be paid upon an overpayment of tax provided for by applicable chapters of NRS. Interest will still be paid on the overpayment of tax for the tax types found in those chapters, but the tax is paid by the taxpayer and not collected and remitted on behalf of someone else. It will exclude any tax types where the taxpayer collects and remits the tax on behalf of someone else.

Section 3 of S.B. 29 amends NRS 368A.270 to exclude any other specific statute from the requirement to pay interest on any overpayment imposed by NRS 368A.140. This will exclude the refund of interest on any overcollection and subsequent refund of the LET.

Section 4 of S.B. 29 provides that the mandatory provisions of the bill apply to any refund of any overpayment of taxes issued by the Department on or after July 1, 2023, regardless of when the tax was paid or the date when the claim for refund was submitted to the Department.

Section 5 of S.B. 29 indicates the bill will become effective on July 1, 2023.

CHAIR NEAL:

How many instances of overpayments occurred with LET transactions?

Ms. HUGHES:

In many instances, it was not an issue of overpayment. We saw many refund requests during COVID-19 when events were being cancelled. The owner or operator of the event was required to request a refund and prove to the Department that the amount of the ticket and the tax was refunded to the customer before the Department could issue a refund. If requested, the Department would either deny or allow interest.

CHAIR NEAL:

Do you track to ensure the company issued the refund?

Ms. HUGHES:

The Department's audit section tracks refunds to ensure the refund was issued.

SENATOR SEEVERS GANSERT:

Is it correct that in the case of a pass-through tax, the Department does not refund anything collected by a vendor or from an individual to a vendor and then sent to the Department because there is not a way for the vendor to refund that money? In cases when it is a pass-through tax, there would be no interest or penalties refunded to that taxpayer, correct?

Ms. HUGHES:

That is correct.

SENATOR SEEVERS GANSERT:

What are examples of pass-through taxes?

Ms. HUGHES:

Sales and use tax and LET are two main pass-through taxes.

SENATOR SEEVERS GANSERT:

Are there any others? The NRS chapters are noted, but I would like clarification that all the sections are taken into consideration.

Ms. HUGHES:

I believe those are the only two pass-through taxes included in S.B. 29. The remaining NRS chapters are listed, together with the tax types we collect in section 2, and those will have interest available.

SENATOR SEEVERS GANSERT:

Individuals pay the insurance premium tax which is the fourth-highest income source in the State. What happens if there is a refund on any insurance premium tax?

Ms. HUGHES:

Insurance premium taxes are paid quarterly, and a reconciliation takes place at the end of the year. A refund may be issued then if credits were not already taken by an individual. The insurance premium tax is not considered a pass-through tax.

SENATOR SEEVERS GANSERT:

When an individual receives an insurance bill, the insurance premium tax is not necessarily disclosed. On my last bill, I happened to notice the premium includes an insurance premium tax. It is a large tax not disclosed as being a separate tax but rather a percentage of the premium. This is something the Department may want to consider.

CHAIR NEAL:

My insurance premium has changed for various reasons, but I do not recall ever receiving a refund check.

SENATOR SEEVERS GANSERT:

The insurance premium tax is approximately 3.89 percent of the premium, and premiums may be altered during the coverage period.

CHAIR NEAL:

How does the refund mechanism work on ticket resales when a ticket is sold by a broker and the event is canceled?

JENNIFER ROEBUCK (Deputy Executive Director, Compliance Division, Nevada Department of Taxation):

To clarify, you are asking how a live entertainment facility would request the refund?

CHAIR NEAL:

If a ticket for an event is sold by a platform or a broker and the event is canceled, I am assuming the broker would claim the refund and then reimburse the person who purchased the ticket. Is there an exemption for that broker because a resale of a ticket is a different kind of transaction?

Ms. HUGHES:

The broker is not the reporting taxpayer. The owner or the operator would request the refund. In this situation, if a broker is reselling the ticket, I am assuming the broker would go to the individual from whom it bought the ticket and request a refund.

CHAIR NEAL:

The broker is probably not doing that so an individual may be reimbursed for a cancelled event depending on the owner or operator.

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CHAIR NEAL:

The hearing on S.B. 29 is closed. The meeting is adjourned at 1:19 p.m.

RESPECTFULLY SUBMITTED:

Connie Summers,
Committee Secretary

APPROVED BY:

Senator Dina Neal, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster