

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fourth Session
March 22, 2007**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 1:38 p.m. on Thursday, March 22, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Mike McGinness, Chair
Senator Randolph J. Townsend, Vice Chair
Senator Dean A. Rhoads
Senator Mark E. Amodei
Senator Bob Coffin
Senator Michael A. Schneider
Senator Terry Care

GUEST LEGISLATORS PRESENT:

Senator Joseph J. Heck, Clark County Senatorial District No. 5
Senator Bob Beers, Clark County Senatorial District No. 6

STAFF MEMBERS PRESENT:

Tina Calilung, Deputy Fiscal Analyst
Russell J. Guindon, Senior Deputy Fiscal Analyst
Josh Martinmaas, Committee Secretary

OTHERS PRESENT:

William R. Uffelman, President, Nevada Bankers Association
Carole A. Vilaro, Nevada Taxpayers Association
Jan Gilbert, Progressive Leadership Alliance of Nevada
Al Bellister, Nevada State Education Association
Dino DiCianno, Executive Director, Department of Taxation

Senate Committee on Taxation
March 22, 2007
Page 2

Laura Billman, Nye County
Gary Hollis, Chair, Board of Commissioners, Nye County
Anthony L. DeMeo, Sheriff, Nye County
Scott F. Lewis, Fire Chief, Pahrump Valley Fire-Rescue Services
Timothy C. Murray, President, International Association of Fire Fighters
Local 4068
Brent Jones, Supervisor, Emergency Management, Nye County
Frank Adams, Nevada Sheriffs' and Chiefs' Association
Lorinda Wichman, Regional Governmental Affairs Representative, Round
Mountain Gold Corporation
Tinker Fannin, Executive Secretary, Round Mountain Gold Corporation
Laurayne C. Murray, Chair, Pahrump Town Board

CHAIR MCGINNESS:

I call the Senate Committee on Taxation to order. We are not considering Senate Bill (S.B.) 152 or S.B. 172 on the work session today. Senator Beers has an updated fiscal note ([Exhibit C](#)) for S.B. 96.

SENATE BILL 96: Reduces the rate and revises the distribution of the basic governmental services tax. (BDR 32-32)

Senator Townsend asked for the average wage by private sector industry and government in every state ([Exhibit D](#), original is on file in the Research Library).

Senate Bill 257, the Nye County bill in your bill books, is not being considered. A number of changes were made. This bill authorizes the Board of Commissioners in Nye County to impose a local sales tax option. As originally drafted, it did not reflect the provisions of the advisory question. Staff worked with representatives of Nye County and the Legal Division to prepare a mock-up of the bill that reflects the amendments ([Exhibit E](#)). Nye County officials have seen the mock-up and concur with the proposed amendments.

SENATE BILL 257: Authorizes the Board of County Commissioners of Nye County to increase the sales tax to recruit, employ and equip additional deputy sheriffs. (BDR S-137)

We open the hearing on S.B. 233.

SENATE BILL 233: Revises and repeals certain taxes on financial institutions.
(BDR 32-951)

SENATOR JOSEPH J. HECK (Clark County Senatorial District No. 5):

This is a bill about equity and fairness. The preamble to the bill adequately sets the stage for my testimony. In his book, *The World is Flat*, Thomas L. Friedman writes in the chapter titled "The Quiet Crisis" that wealth in the age of flatness will increasingly gravitate to those countries that get three basic things right: the infrastructure to connect as speedily and efficiently as possible, the right education programs and the right governance that is, among other things, the right tax policies. Those same factors can be applied to states, especially Nevada—with a thriving economy due in no small part, to its pro-business climate—which is in competition for business both regionally and nationally. While the specific infrastructure Friedman refers to is technology to connect across the world platform, Nevada faces its own not-so-quiet crisis in transportation, where the critical lack of highway infrastructure will negatively impact commerce. In education, the recurring theme is Nevada falling behind not only the nation but the world in providing an adequately prepared workforce. It seems the last vestige of our state's pro-business advantage is maintaining an environment with governance via the right tax policies.

The handout ([Exhibit F](#)) shows revenue generated by the Banks Excise Tax and the Modified Business Tax on financial institutions since the date of inception and the potential impact on the General Fund when this bill passes. All actual and projected numbers are taken from Economic Forum reports. I have calculated the adjusted revenue, the amount financial institutions have paid or will pay if assessed in an equitable manner. In the 2004-2005 biennium, the net decrease in revenue would have amounted to approximately \$29,000. For the same biennium, actual revenue exceed the Forum's binding projection by more than \$500 million. The theoretical decrease in revenue attributable to the modification of the bank tax still nets the state \$492,633 more than the amount used to balance the budget for the same time period. Due to incomplete data for fiscal year (FY) 2007, the same analysis cannot be made for the 2006-2007 biennium, but the first year reveals a theoretical revenue decrease of about \$18 million. Actual revenue for FY 2006 was \$170 million more than the Forum's projection. Looking ahead to the 2008-2009 biennium, the impact on the General Fund is estimated at \$44 million. As of November 30, 2006, the Forum's preliminary projected revenue for this time period is an approximate \$6.9 billion. The decrease in revenue from changing the Bank Excise Tax

amounts to less than 1 percent of the total estimated revenue. I appreciate the fact that there are many pieces of legislation before the Committee requesting specific tax exemptions, abatements and waivers, but the passage of this bill sends an important message to businesses across the country that Nevada is not only a low-tax state but a fair and equitable state. To maintain one of our last competitive advantages in a flat global marketplace, I urge your support of S.B. 233.

SENATOR SCHNEIDER:

You said this is one thing we can get right by adjusting this tax. After the 2003 Session when we did the whole tax package, I heard Senator Amodei say, "We did all these taxes and obviously we got something right because our economy is booming. We did not screw it up." This is not a big tax. I have not seen a bank go out of business in this state; the banks I am aware of are setting record profits. Meanwhile, education and highway funding is woeful—you mentioned both of those things—and you are repealing a tax now. The banking climate in this state is good; they do not have income tax, corporate tax or any high banking taxes of the other states. Is this needed to keep banks strong? Banks seem strong. Does this cut into things you said we need to fix: education and roads?

SENATOR HECK:

You can argue the reason our economy does so well in Nevada has nothing to do with the tax package enacted but the natural cycle of the pre- and post-tragedy of September 11, 2001 (9/11), and where we are today. This bill is not about banks—this could be a bill about basket weavers—this bill is about an inequitable system that singles out an industry for a tax the rest of business and industry does not pay. What message does that send to those looking to locate to Nevada for a new business-industry venture or expansion in our state? We have difficulties in education and transportation, but we are coming up against the legislative cap. Why collect more money than we are able to spend due to the legislative cap? While it may not affect us this cycle, it most assuredly will in 2009. It is not about whether banks are doing well, it is about the perception given to business and industry of an inequitable two-tiered business tax in Nevada.

SENATOR SCHNEIDER:

The industries with two-tier taxes are gaming and mining.

Senate Committee on Taxation
March 22, 2007
Page 5

SENATOR HECK:

The tiered tax gaming pays is more a privilege tax than a business tax. They pay the same Modified Business Tax as everybody else on wages and so does mining. Other taxes imposed are not a two-tiered Modified Business Tax, they are separate taxes.

SENATOR COFFIN:

My wife has a substantial amount of stock in Community Bank of Nevada. She was formerly a director and holder of about 1 percent of the shares of Valley Bank. Since then, Valley Bank has been purchased by Community Bancorp. I give notice that we have a substantial interest in a bank. I did vote for the taxes despite that in 2003. I will cast a vote on this bill when it comes since I do not have a conflict.

WILLIAM R. UFFELMAN (President, Nevada Bankers Association):

I have prepared testimony ([Exhibit G](#)).

The Nevada Bankers Association asks that you support S.B. 233.

SENATOR CARE:

Recitals in the bill imply the tax on financial institutions—both taxes but the branch tax in particular—is somehow a result of the Legislature accounting for 9/11. While I have been in the Legislature, we increasingly see these statements like they are findings of fact. I personally find them disturbing. Sometimes, they are necessary as in last session when we said a severe economic hardship gives some history of legislative intent when talking about a property tax cap. In reviewing A.C.R. No. 1 of the 17th Special Session that led to the Governor's Task Force on Tax Policy in Nevada, the language that leaps out is "structural deficit" in the state tax system. That is why we did what we did in 2003, not 9/11; 9/11 had an economic impact on why we did the bank tax, directly or indirectly.

SENATOR HECK:

The Bank Excise Tax was not directly due to the events of 9/11. Part of the reason the state experienced an economic downturn and decreased revenue at that time was due to the global economic impact of 9/11. No direct implication was intended.

SENATOR CARE:

I agree 9/11 did have an impact on the economy of this state and nation. Let me go back to the 2003 Session, if you search for the legislative history, you do not find it. We did this in the first special session. As you understand it, what was the deal? When I say the deal, I do not mean what is in the law. I mean the conferences and meetings held between the banking industry and everybody else. Though I was not present, you will find people who say, "The banks agreed to this."

MR. UFFELMAN:

I was not there either. I came here Memorial Day of 2004. If 100 people are in the room, there are 212 stories about what happened. For financial institutions—everyone always talks about banks, but financial institutions are broader than banks—basically \$25 million was on the table. The Bank Excise Taxes on the branches is labeled a franchise tax because you have both state-chartered and nationally chartered banks; franchise taxes are the only way to tax all of them across-the-board. The alternative was a gross receipts or some other tax. My understanding was about a 14-percent gross income tax. Those numbers are different than these numbers and impact each bank differently. The payroll tax differential of the Modified Business Tax achieved agreement because it was a measurable thing. Few people recall how the branch tax came to be, but somebody did arithmetic and said the Bank Excise Tax gets you \$3 million or \$4 million so that is the number.

SENATOR CARE:

I neither recall discussion about 9/11 nor what led to the franchise tax. I would like somebody to address how the Bank Excise Tax was created in the first instance. Everybody on the Committee was here, and a couple of us had a tax bill without the franchise tax. Senator Amodei and I are familiar with this discussion.

SENATOR COFFIN:

Having served on the Senate Committee on Taxation in all my sessions including 2003, I remember being curious because my wife was a member of a board who held a substantial amount of shares; I did not let it interfere with my judgment. I did ask the chief executive officer (CEO) of the bank at the time how that would impact the bank financially, and he said, "We could absorb it easily." That reassured me because that meant—when you think about taxes, you think about new ones—you also consider ability to pay even though that is

not in the legislation. You do not go after people who have money and say, "They ought to be taxed so therefore they are able to tax so let's tax them." In this particular case, they were able and willing because they knew they could absorb it without any cuts in earning. They have prospered continuously since legislation passed. Has this tax had an effect on banks earnings?

MR. UFFELMAN:

Branch taxes have one effect and the payroll tax another. The tax on one of the smaller banks, with branches in rural Nevada—marginal economies with not a lot of people to serve, not a lot of money around to put in the bank—put a couple of those branches into negative numbers in terms of earnings. In meeting with that CEO about a year after, he said their net earnings had gone from \$189,000 to \$80,000 as a direct result of the taxes; \$189,000 net earnings for a rural bank are real numbers.

Each bank is structured differently. You could have a community bank totally self-contained with a set number of people doing various jobs in the branch—7 to 12 people, whatever—times 2 percent of payroll. Another bank could be part of a large organization where the holding company is somewhere else. The holding company may provide a number of backroom office operations where those people are not physically located in Nevada, so the company does not pay 2 percent of payroll for those people. Both these taxes are literally built around the physical location that contains the branch and people.

The differential consequence of the branch taxes depends on how many branches. From my membership, I have banks with the same number of branches, of about the same size, except one has all its branches in Clark County so they get one exemption whereas another bank with five branches located in five counties pays no branch taxes even though the banks are the same size. There is a disparate application of taxes to banks within a given size range.

You then get back to the fairness and equity question of financial institutions, including banks, paying 2 percent. All other employers pay 0.63 percent while we pay 0.65 percent. The privileged industries have other taxes and fees than us. A state-chartered bank pays the Division of Financial Institutions and the Federal Deposit Insurance Corporation to come inspect the bank. Depending on the controlling organization, nationally chartered banks also pay for the privilege. If I own one branch and want to open another branch, if you have four bank

branches on four corners instead of four gas stations, some may pay the \$7,000 and some may not depending on which side of the street you are on and which county you are in at the time.

SENATOR COFFIN:

When we went through this in 2003, we had to have two-thirds of the members to pass or kill a bill because of the Gibbons Tax Restraint Initiative. Every other bill since then is either repealed, reduced or changed because of the two-thirds tax rule. Senator Heck, how is it in the bill drafting process S.B. 233 does not require a two-thirds vote to change the tax? I do not see that on the bill, am I missing something?

SENATOR HECK:

I do not know why it does not have that annotation or whether it requires the two-thirds vote. I was under the impression the Initiative required a two-thirds vote to raise but not to remove or lessen the tax. Perhaps the fiscal analyst can answer that.

CHAIR MCGINNESS:

A tax increase needs two-thirds, a decrease does not.

RUSSELL J. GUINDON (Senior Deputy Fiscal Analyst):

The constitutional provisions for the two-thirds language is if it increases public or government revenue. That is the trigger. This bill reduces revenue, and that is why the Legal Division was not required to put the two-thirds language at the top of the bill. Just to make sure Mr. Chair, Fiscal Analysis Division staff can check with the Legal Division.

SENATOR COFFIN:

Since the Initiative, I have seen bills that made a change—lowering in some cases, and I thought it was required both ways. Maybe a legislative opinion was issued on this. I do not remember it being so simple as to go up two-thirds, go down simple majority.

SENATOR HECK:

As noted, I was not here in the 2003 Session to know what conversations took place. This is not a bill about the banking industry, it is about a disparity in tax application. If the widget industry was subjected to the two-tiered Modified Business Tax, I would put forth this same bill. My concern is the perception of

potential inequities to businesses across the country that may look to move or expand their business in Nevada.

SENATOR SCHNEIDER:

I declare I am on the board of a federal credit union; it is a nonprofit entity, and I do not get paid to be on the board. Mr. Uffelman said banks get severe competition from credit unions that do not pay taxes because they are nonprofit. Banks are growing in size and accounts while credit unions nationwide are shrinking in size. That is not a competition.

SENATOR TOWNSEND:

For the record, I sit on the board of a bank and am a shareholder in a bank.

CAROLE A. VILARDO (Nevada Taxpayers Association):

I support this bill. I do not need to give a lot of testimony because Senator Heck was most eloquent. The biggest issue you have is one of equity. Opponents talk about the revenue side, and that is an unfortunate consequence when we do not look at tax policy. In the 20th Special Session, we enacted legislation expedient to generate revenue that not necessarily reflected equity in tax policy.

JAN GILBERT (Progressive Leadership Alliance of Nevada):

I speak in support of this bill for a multitude of reasons. In 2003, we urged a broader base of taxes. If you eliminate this tax, it narrows the base of our taxes. A lot of people called 2003 a terrible session, but the reality for me, our organization and the State of Nevada made a compromise. Everyone was in that compromise to raise taxes; gaming paid more, businessmen paid more. This backs out of the compromise. That session resulted in some wonderful things. We increased our mental health funding, did the pilot program for at-risk schools and full-day kindergarten, decreased waiting lists for disabled and elderly services, and increased funding for children's health care. Many things from that session made a big difference in the lives of Nevadans. Though \$44 million was expressed as only a small amount of money at less than 1 percent of the total revenue, I contend \$44 million is a lot of money. Our index of appropriation bills shows about four or five pages of appropriations requested this session from all of us. Every single agency and nonprofit is asking for money.

We have \$50 million per year less in sales tax revenue this session. That is \$100 million over the biennium; add to this \$44 million and that is a lot of money. During the 2003 Session, banks said the sky was falling, it was a

terrible tax. The reality is every other state has a form of franchise tax. People spoke of leaving the state because the tax was going to be so onerous. How many people left the state? Zero, no banks left the state. They are doing well; in fact, one bank's net profit went up 23.77 percent. I urge you to not eliminate this tax.

AL BELLISTER (Nevada State Education Association):

As you consider this proposal and its tax implications, as well the many others for various exemptions and abatement, we urge you to remember the impact these proposals have on state programs and goals. I agree with what Ms. Gilbert said. You cannot minimize the impact of this proposal; virtually every dollar in the state General Fund is allocated for some purpose or program. If you reduce it by \$44 million, it has an impact somewhere in the budget. While this particular revenue is not earmarked for education, it is a General Fund revenue, and Kindergarten through Grade 12 (K-12) rely heavily on the General Fund. As we are 33 percent of the General Fund, this could have a disparate impact on K-12 education. When you think of the entire K-16 education package, we are over 50 percent of the budget. This proposal reduces the General Fund by \$44 million, and as Ms. Gilbert said, we are looking at a potential shortfall in sales tax receipts of \$40 million to 50 million. When compounded with this proposal, it is a significant loss. The Nevada State Education Association is concerned about the impact of this loss of revenue on K-12, and particularly because we are down about \$100 million in the proposed budget.

We have lost funding for the incentive programs to attract and retain teachers to Nevada. We have seen a reduction in programs for innovative teaching and learning opportunities and remediation funding. This only exacerbates that problem. We urge you to consider that as well as the ability of this state to implement findings of the A.C.R. No. 10 of the 73rd Session interim study on School Funding Adequacy and the study to determine whether funding of K-12 education was adequate. The conclusion was it is not. A loss of revenue will not help us move forward to accomplish those goals recommended in the interim study.

TINA CALILUNG (Deputy Fiscal Analyst):

Article 4, section 18 of the Nevada Constitution states:

An affirmative vote of not fewer than two-thirds of the members elected to each House is necessary to pass a bill or joint resolution which creates, generates, or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates.

SENATOR CARE:

Because of the lack of legislative intent, I do not suppose there is any way of ever knowing the source of the \$1.75 million figure in taxable revenue; that was probably a compromise. I do remember the discussion, and I need to know what constitutes a financial institution before the work session. We discussed whether that is an ATM machine, a counter in a grocery store etc. I do not know how the Nevada Tax Commission resolved that issue. I would like some idea of how many so-called financial institutions we are talking about in this state and what is behind the quarterly \$1,750 branch tax. The statute is discriminatory—I would not dispute that—the only question is, what is a fair price for discrimination?

CHAIR MCGINNESS:

We will open the hearing on S.B. 262.

SENATE BILL 262: Provides for reduction of certain excise taxes payable by employers that contribute to health savings accounts for their employees. (BDR 32-88)

SENATOR BEERS:

The federal government program called Health Savings Account (HSA) is like a section 401(k) plan for health care. The amount of money an employee contributes to an HSA is deferred for income tax purposes but available to spend tax-free for medical expenses whenever needed. Employers can contribute as well as third parties. They can only be used in combination with a high-deductible health insurance policy. The high-deductible policy covers catastrophic incidences and the HSA is available for ongoing current costs—the normal costs of relatively healthy people as they go through their lives. Health Savings Accounts are portable, controlled and owned by individuals or employees of a business, and they follow the employee from job to job. They roll over from year to year and end up accumulated as tax-free savings. The interest and dividends earned remain tax free inside the HSA plan. They are an

inheritable asset. At the end of your life, the HSA is available for ancillary things like assisted living costs and typically higher costs one experiences upon retirement.

It is also thought HSAs will encourage participants to become better health care consumers. Initial research indicates that twice as many people ask their medical provider about the cost for a particular visit, procedure or drug if they have an HSA compared to those without an HSA. An interesting phenomenon according to a May 2006 study by eHealthInsurance Services, Incorporated has 41 percent of HSA-qualified plan purchasers previously uninsured for at least 6 months. It appears these are attractive alternatives to people who are uninsured through life circumstances.

If you decide to process S.B. 233, we can eliminate section 1 of S.B. 262 because that duplicates the provisions of this bill contained in section 2 for financial institutions. This says an employer can reduce their payroll tax payments to the state—up to 50 percent—by an amount equaling contributions to their employees' HSAs as long as they meet certain criteria. The criteria in section 2, subsection 2, are that the contribution amount be equal for each employee regardless of the wage level, which is unlike a 401(k). People eligible for Medicaid, Medicare or medical benefits under a collective bargaining agreement are excluded. The employer has to go through an application process.

I would entertain an amendment that would allow medical costs of employers—currently taken as a reduction of the wages paid before we apply the rate of the tax—to be applied consistent with this bill as a reduction of the tax paid rather than a reduction of the wages to which we apply a percentage.

DINO DICIANNO (Executive Director, Department of Taxation):

The Department is neutral with respect to the bill. We merely administer the laws this body passes. As you process all these bills related to the Modified Business Tax, I request that you consider changing the effective date to January 1, 2008, to remove six months of the fiscal impact for the first year of the biennium. More importantly, this affords us the opportunity, if those changes are made, to notify taxpayers of the consequence of those changes. Better notification leads to better compliance. The other benefit is that the majority of these changes require a program change within our new system.

Once we know which ones are processed, we make that change once and benefit from economies of scale.

CHAIR MCGINNESS:

We close the hearing on S.B. 262 and open the hearing on S.B. 257.

SENATE BILL 257: Authorizes the Board of County Commissioners of Nye County to increase the sales tax to recruit, employ and equip additional deputy sheriffs. (BDR S-137)

LAURA BILLMAN (Nye County):

The amended bill in [Exhibit E](#) allows Nye County to impose up to 0.5 percent. Half the tax imposed would go to fire services and the other half would go to the sheriffs.

You have a letter from Round Mountain Gold Corporation (RMGC) ([Exhibit H](#)). In anticipation of these issues, we did get information from the Department of Taxation. The RMGC letter argues this issue only passed by 18 votes because Pahrump outvoted the north. When we received the statement of votes, we found Pahrump had not outvoted the north; it was pretty much a 50-50 split across-the-board. Had the communities of Duckwater, Gabbs and Lone voted no, this ballot issue would not have passed. Eighteen votes is not a lot of votes, but we operate on a 50-percent-plus-1 rule during elections; 18 votes or not, the ballot issue did pass.

While I respect RMGC and their opinion—we absolutely need them so northern and southern Nye County can survive, we are only dealing with the sales and use tax.

According to the numbers provided by Warner Ambrose from the Department of Taxation, Pahrump paid 85 percent in FY 2004 and 87 percent in FY 2005 of the sales and use tax. Pahrump receives 80 percent of the proceeds, but that is 5 percent less than they contribute. By the population formula allocation they use, communities essentially receive about the same amount of money they put into the sales and use tax.

Whether RMGC feels they require help or not, the Nye County Sheriff and Fire Chief of Pahrump Valley Fire-Rescue Services say they need this money and are here to testify. The letter in front of you, [Exhibit H](#), correctly states the northern

communities are at the cap but argues that Pahrump should increase their own taxes. While the northern communities say they need help, Pahrump helps those northern communities with services since a large percent of that money is paid in through southern Nye County and Pahrump.

GARY HOLLIS (Chair, Board of Commissioners, Nye County):

I have done my job. My residents come to me asking for more police and fire protection. I was not going to just raise taxes so I put it on the advisory ballot. The residents of Nye County passed this advisory question. Senate bill 257 is a good bill. It spreads the tax evenly between police and fire all over the county, not just Pahrump. Some residents think snowbirds who come to southern Nye County are not paying their fair share. This sales tax ensures those snowbirds pay their fair share. Impact fees do not pay for personnel and equipment; the impact fees we charge developers are only used for brick and mortar. Nye County needs more police and fire. I support this bill.

SENATOR CARE:

Looking at the ballot question, the issue was raising the tax in Nye County. In section 15, subsection 2 of the [Exhibit E](#) mock-up, you scratched "board." That would be the Board of Commissioners, correct?

Ms. BILLMAN:

The reason for this wording is we have some stand-alone town boards and sheriff departments in Nye County that manage their own budgets. The Board of Commissioners would approve expenditures for those areas.

SENATOR CARE:

I wanted to ensure consistency for voters between Nye County and Nye County Board of Commissioners. We have the new language in section 15 where "board" has been stricken.

Ms. BILLMAN:

Part of what happened was this bill got confused with Clark County's 2005 tax increase. They were only dealing with the Sheriff at that point. Because of the wording of our question and directing the money toward communities inside Nye County, Legislative Counsel Bureau helped us word S.B. 257 in such a way so the Nye County Treasurer knows what to do with the different amounts.

SENATOR CARE:

You are convinced the mock-up reflects the intent of the voters in Nye County.

MS. BILLMAN:

I read it as such.

ANTHONY L. DEMEO (Sheriff, Nye County):

When I was first approached with this initiative, I looked at what was happening within Nye County. Not only is the Sheriff's office experiencing challenges in growth, Nye County is the largest in the state and third largest in the United States. In 2004, we were in *The Wall Street Journal*; Pahrump Valley was considered the second-fastest growing micropolitan area. Most recently, Nye County was the sixth-fastest growing county in the United States. *The Business Journal* has rated Pahrump Valley the No. 3 retirement destination in our country.

Unlike Pahrump Valley that attracts other agencies if they need help, the rural areas are out there by themselves. Amargosa Valley, Beatty, Duckwater, Lone, Gabbs, Round Mountain and Tonopah use all volunteers. I would only support this if the fire services and Emergency Management for Nye County were included. It was brought to the voters without any notices, this was a raw vote. The residents of Nye County looked at the ballot question, and they voted in the affirmative.

Let me explain challenges we are facing within the Sheriff's office. Since I have been Sheriff, the population has grown over 30 percent. Deputy incidents have risen over 63.7 percent in the last 4 years. We last added manpower from a grant for school resource officers over three years ago. We have not had any increase in deputies in the Nye County Sheriff's office. My people are out there on a daily basis protecting life and property; they are extended beyond belief. In Nevada, the average law enforcement personnel per 1,000 residents is 2.2 deputies. It is 1.3 deputies in Pahrump Valley, and 3.87 deputies in the rural areas. Those statistics are available in the report of *Crime and Justice in Nevada 2005*.

My deputies are doing the best they can. The problem we have with growth is we are close to Las Vegas. Over 6,500 approved homes are going in Pahrump Valley within the next 5 years. Talking to my area commanders in the north, there are rumors of growth in mining. That will challenge the Sheriff's office in

the northern part of our county. There are only 13 officers in my northern area command—an area bigger than the state of Massachusetts. Central area command is also challenged. It is not just Pahrump Valley that needs these people, it is the overall county. I have one deputy in Gabbs whose nearest backup is 120 miles away; he is out there by himself. People in those areas looked at the needs for their area, not just Pahrump Valley. This was passed by not as much in Pahrump Valley as northern Nye County where they see the need for adequate protection in police, fire and emergency services. On behalf of Nye County Sheriff's office, I ask for your support on this bill.

SCOTT F. LEWIS (Fire Chief, Pahrump Valley Fire-Rescue Services):

Sheriff DeMeo did an eloquent job of describing our situation. Pahrump Valley Fire-Rescue continues to be challenged with many of the same factors the Sheriff described. We are dealing with an extraordinary call volume and a tremendous growth in population, yet we have had the same staffing levels since 1999. In that particular year, we had one career firefighter for every 3,857 residents and averaged 6 calls per 24-hour period. In 2006, with no additions to staff, we handled 7,200 calls for fire and emergency medical services (EMS) and averaged one career firefighter for almost 5,000 residents. The national average is 1.5 firefighters for 1,000 residents. Our growth for 2007 is already over 100 additional EMS and fire calls in proportion to that.

We are responsible for providing all that coverage for Pahrump Valley, and yet our other antiquated facilities have not grown. While making strides in the apparatus arena, we continue to deal with the same staffing and facility issues as in 1999 when we first became a combination of career-volunteer members. I ask you to support the bill as amended and help us help our community.

TIMOTHY C. MURRAY (President, International Association of Fire Fighters Local 4068):

I am speaking in support of S.B. 257. As the previous gentleman has stated, we serve an area of about 380-square miles. The population estimates go between 30,000 and 40,000. We have five casinos, three multistory hotels and numerous, medium-sized businesses—Wal-Mart Stores Incorporated and everything found in most small communities. We are no longer the agricultural community a lot of people thought of Pahrump. We are a paid combination department that provides the same services as every other fire department does. Our community has the same problems as every other community. As the Fire Chief stated, we responded to about 7,200 calls in 2006, and those

numbers are going to jump in the near future. We respond to those calls with seven firefighters on duty at any given time. That is all there is. The Chief gave you some numbers about how many firefighters are required to serve a community population; we are at about one-third the national average. We handle fire and EMS calls, and we are beyond a critical need. Somebody is going to be seriously hurt or dead if the numbers continue.

We call Highway 160 our widow maker; last year we had over 20 fatalities on that road. We respond to an accident on that road with a minimum of four people: a fire engine with only two people and a medic unit with two additional people. We have just depleted 50 percent of our staff. Our Fire Chief is with us and on the hose line fighting. He works seven days a week and nights because of our staffing situation. I have personally responded to structure fires by myself because all others were out on calls. I have responded to a CPR-in-progress call alone. Every firefighter in the station can give you those stories. It is a very critical situation.

The sales tax is reasonable. Additional firefighters we hire as a result of the revenue are worth the pennies residents and visitors will likely pay. I request you forward S.B. 257 to the Senate Floor for approval.

CHAIR MCGINNESS:

Could you give the Committee an idea of the width and breadth of Pahrump Valley?

MR. MURRAY:

It is approximately 380-square miles. We do a lot of mutual aid going from Pahrump to the top of the Mount Potosi area and responding to Highway 95 on the north end and 15 miles in either direction on Highway 160.

MR. HOLLIS:

Pahrump is approximately 27 miles long by 17 miles wide. Nye County is approximately 18,000-square miles. We can fit New Jersey in the Nevada Test Site and not touch the borders.

CHAIR MCGINNESS:

If we authorize S.B. 257, we are not passing the tax. We are putting the question to you, Mr. Hollis. You have the power to impose the tax.

MR. HOLLIS:

You are right. You are passing the heat on to me. As a front-runner of local government, they may not get to you, but they sure can get to me. It is our responsibility to take it from there.

SENATOR COFFIN:

In some of these supplied affidavits, your question was close, but I did not realize it was the advisory question that passed 18 votes out of almost 12,000.

MR. HOLLIS:

I won my last election by 110 votes. One commissioner won by seven votes. Because she did not run away with the race, does that mean she should not be a County Commissioner?

SENATOR COFFIN:

How did the vote break down between parts of the county? I am sure you have Pahrump versus the rest of Nye County.

MS. BILLMAN:

We obtained the statement of votes from the Nye County Clerk, and it is the strangest thing I have ever seen. When people say Pahrump outvotes the north, normally, they are correct. It almost came down to a 50-50 vote in Pahrump. Gabbs is in a dire situation with absolutely no ambulance, no driver and very little fire service and they voted yes in a large block. The same thing happened in Duckwater; lone was slightly higher by a good deal more than 18 votes. I can supply a copy of the statement of vote if you like.

SENATOR COFFIN:

How many commissioners are committed to vote for this, and what are their names?

MS. BILLMAN:

I have not polled my commissioners.

SENATOR COFFIN:

They have to consider this. Mr. Chair, I would appreciate an answer from Nye County before we process the bill. I am hoping to have a statement from the Board of Commissioners.

MR. HOLLIS:

At the time of this ballot question, two members who voted in the affirmative are no longer here. By law, I cannot poll the board. It is against the Open Meeting Law. I can ask one of those new members, but I cannot ask the second one. I would have to agendize this again and go through the process of seeing who votes for what.

SENATOR COFFIN:

I am curious whether the Governor will sign this bill if it is passed. We still have conflicting information and do not all understand it thoroughly. Do we want to vote for a tax bill that is going to be vetoed? I have been told that in some cases, if everybody wants the tax, the bill will not be vetoed. Have you personally asked for a signature by the Governor on the bill?

MS. BILLMAN:

We are having conversations with the Governor regarding this issue. I cannot give any guarantee he will sign or veto S.B. 257. As we continue, I can keep you up to date. I do not know if we can get a resolution from our Board of Commissioners in time for the cutoff date because of the Open Meeting Law.

CHAIR MCGINNESS:

Senator Coffin, this bill is in the same category as another that may be referred to Senate Finance. This Committee cannot operate based on bill consideration by Senate Finance or the Governor. We take the policy of the issue and trust the Nye County Commissioners to do their job just like we trust the Senate Finance Committee to do their job and the Governor to do his if we get a bill on his desk. This Committee will continue working on the policy; we do not need a letter from the Nye County Commissioners to process this bill.

SENATOR COFFIN:

The Committee does not need that sort of letter, just this Senator. You can have an individual note from each commissioner to me. They do not need a meeting to discuss individual notes to me; they know what has gone on today.

BRENT JONES (Supervisor, Emergency Management, Nye County):

It is an exciting time for those in emergency response in Nye County. It may be a light at the end of the tunnel instead of a train. We desperately need support of S.B. 257. As the community of Pahrump grows, we are tasked with protecting the rest of the 18,000-square miles. We have wonderful, dedicated

volunteer services across the county. The volunteers give up countless hours for training and to respond. We also support the Duckwater Shoshone Tribe as much as we can to provide EMS and fire protection. Population numbers are not as great throughout the rest of Nye County, but the need is definitely there. The number of vehicular accidents we handle on Highway 95 is ever-increasing due to the traffic. We need support to cover where we always need to be ready. This tax revenue keeps us in the state of readiness. We need to develop better volunteer recruitment and retention programs. This money helps enhance and maintain our training programs.

Out in the rural communities, equipping an entry-level firefighter in structure gear costs in excess of \$3,000 for turnout gear not including the self-contained breathing apparatus. Costs are exorbitant to get an oil and tire change on a fire truck or a hazmat response truck, but the need is there. The mandated testing requirements for pumps, hydrostatic testing of air packs, fire extinguishers and other requirements we fulfill on a yearly basis for all these departments has to be paid by someone. Over the last two years with Nye County Emergency Services, I got approximately \$3,500 to take care of those departments. That amount does not even repair a garage door in a rural community.

We rely deeply on grants and any form of donations. Larger departments throughout the state have kindly supported us with turnouts in equipments. We get grants from the U.S. Department of Homeland Security and the Bureau of Land Management (BLM), but the BLM grants went away this year due to federal funding cuts, and Homeland Security grants are more in the planning stage to incorporate how we plan to respond. Therefore, equipment and purchases of that nature are not available.

A county so large and diverse is in dire need of money. With Yucca Mountain, Nevada Test Site, Round Mountain Gold and beautiful historic towns to protect, the responsibility is great and dedication of volunteers is remarkable, but we need dependable funding. Supporting S.B. 257 gives us a great deal of hope to solve problems and crisis that exist throughout the county.

FRANK ADAMS (Nevada Sheriffs' and Chiefs' Association):

The Sheriffs' and Chiefs' Association throughout the state want you to know we support this. Funding is always a big issue for us, especially in our rural communities. We have a real problem out there. We were here last session in support of the bill for Clark County. Nye County is a huge county that needs the

support not only in the Pahrump area but the rest of the county. We hope you consider this bill favorably.

MR. DiCIANNO:

I have some technical concerns with the amendatory language contained in section 13, page 5, paragraph 5 of the bill which is what we call the contractors' exemption. We normally issue a contractor's exemption letter to contractors who have contracts in place prior to the effective date of a tax change. This particular situation removes that exemption and adds a provision for a refund. My concern with this ordinance is it bifurcates a method not found in any other ordinance provisions for any type option tax that currently exists. I ask the amendatory language be reconsidered or removed.

MR. GUINDON:

When Fiscal staff was reviewing the bill, that language interested us as well. I conversed with the individual in the Legal Division who drafted this and said the language maintains compliance with the Streamlined Sales and Use Tax Agreement. Since this is only a local tax, with the exemption, it refers to *Nevada Revised Statute* (NRS) 374 that establishes all provisions and links local taxes. If we leave an exemption, the Legal Division has the concern it potentially creates two tax bases, the local tax base and a state base, which would cause problems with the Streamline Sales and Use Tax Agreement. Thus, they go to the refund method. Mr. DiCianno, Legal Division and Fiscal Analysis Division can probably get together to review this because language like this may appear in other bills that deal with sales tax. I suggest the Department of Taxation, Fiscal Analysis Division and Legal Division get together and resolve this.

MR. DiCIANNO:

I would be happy to participate.

LORINDA WICHMAN (Regional Governmental Affairs Representative, Round Mountain Gold Corporation):

No one here disputes that our sheriff and fire services need financial help. Our accounting staff at RMGC displays this bill has the potential to raise our tax liability by about \$200,000. If that is the case, and they use the formulas outlined in the bill, it will bring back approximately \$20,000 to our community for our sheriff and firefighters. The RMGC supports the sheriff, emergency medical technicians (EMT) and entire valley. They have already contributed

\$24,000 to build the sheriff's substation. Our own EMTs on staff are on loan to Nye County, and we share training with the county for all our EMTs and staff in Pahrump Valley.

I do not dispute that 87 percent of all the sales and use tax is paid by Pahrump, the potential of \$200,000 gets RMGC a return of \$20,000. I wish they could find another way to get the funding. We would support another type of tax that did not hit RMGC as hard. Not only is it hitting RMGC as a business, but we also contribute as individual taxpayers in that valley.

TINKER FANNIN (Executive Secretary, Round Mountain Gold Corporation):

I have worked for RMGC for 20 years, and I am from Smoky Valley; these issues are near and dear to my heart. I have been in my present job for seven years. In that time, RMGC is the only game in town and the only industry—we are it. The RMGC tries to buy locally. We buy tires from D&D Tire Incorporated in Tonopah; huge amounts of money go into that. We have bought all the fuel that a corporation in Tonopah could supply.

We want to make our community as people-friendly as possibly for recruiting and retention. We employ our own physician's assistant out there because medical services are so far away. Like Ms. Wichman said, we are in a cooperative effort with Nye County and the town of Round Mountain. The RMGC, Nye County and Round Mountain all train our EMTs, hazmat and fire and mine rescue personnel. I agree with Ms. Wichman, we do not oppose S.B. 257, we need the services. My son became an EMT a month ago. He has already been through two fatalities, and he said, "I wanted experience but not like this." We donate not only to Round Mountain. Our EMTs cover a much larger place than just Round Mountain. We go up as far as Austin, which is 50 miles one way, and we have backed up Gabbs. We have gone as far on an EMT run to the other side of Tonopah when that bus from England rolled sideways. The English consul sent us plaques and awards for saving many of their people. We do not discount the need for more help. While RMGC also donates to barbeque fund-raisers for the Kingston and Manhattan Volunteer Fire Departments, the list goes on and on of what we support. Our people are out there every day, and we definitely want them covered.

We have two deputies in our town of close to 1,800 people in the whole Valley. I voted no on the tax increase, and I can see why Duckwater and Gabbs would vote for that. They are living out there in the middle of nowhere. We all pay

more ad valorem property tax than Pahrump. I urge you to revisit their issue and maybe find the money elsewhere.

CHAIR MCGINNESS:

I used to represent that part of Nye County, and I have no doubt that RMGC is a great community partner.

SENATOR TOWNSEND:

Based on your testimony, am I to understand that RMGC would pay an additional \$200,000 in sales and use taxes were this bill in place?

Ms. WICHMAN:

I was given that by our accountants as a potential figure.

SENATOR TOWNSEND:

Were the tax in place last year, how much would you have paid additionally?

Ms. WICHMAN:

That figure was \$208,000.

SENATOR TOWNSEND:

The [Exhibit E](#) mock-up on page 4, section 12, subsection 3, paragraph (a) talks about that allocated for expenditures, specifically mentioning "the remaining unincorporated area of Nye County on a pro rata basis ... or in any other manner that the Board and the governing body of each of those areas agree to be appropriate to carry out the purposes set forth" They are asking for local control over the tax and an ability to decide where to apportion the assets based on that. You are not comfortable with that. Am I correct?

Ms. WICHMAN:

The only heartburn involves the potential for us to pay \$200,000 into this tax with 10 percent coming back to the community without any consideration to our contributions to Nye County totaling over 25 percent of their tax base. Normally, we handle these situations with the Nye County Commissioners.

When I took this to the Board of Commissioners and showed them what it looked like from our point of view, there was a 3-to-2 split in the vote by the Commissioners to put this on the ballot. No one argued that RMGC does not do their fair share. In Pahrump, the Sheriff and deputies probably need 88 percent

of everything right now; if 88 percent of this tax goes down there, we need a way to tax the 88 percent who benefit. The RMGC does not want to increase any of their expenditures. Anything that increases expenditures and forces them to buy in other areas hurts the people around us, our neighbors. Economics dictates what we do. If we go elsewhere to buy tires because S.B. 257 triggers \$200,000 in costs, that does not hurt RMGC as much as D&D Tire. We are looking for something more equitable.

SENATOR CARE:

The vote by the Board for the advisory question on the ballot was three in favor and two against, correct?

Ms. WICHMAN:

Yes, it was.

SENATOR CARE:

That is after you met with the Nye County Commissioners?

Ms. WICHMAN:

I went to a Board of Commissioners meeting and explained our position.

SENATOR CARE:

Did RMGC make any effort toward advertising or did they remain quiet during the period leading up to the balloting?

Ms. WICHMAN:

I have several newspaper articles. I only spoke at the Board of Commissioners meeting. A lot of outreach was done by our former general manager who attended the town meetings. They solicited letters from each of the individual towns; I have a copy from the Round Mountain Advisory Board to the Board of Commissioners opposing the question. Our position was well-documented in Nye County.

SENATOR CARE:

The Sheriff points out no advertising by the Board of Commissioners, Nye County Sheriff's office or any fire services pushing for the measure. I am wondering about public opposition. Was there any advertising campaign?

Ms. WICHMAN:

I am not aware of any.

Ms. FANNIN:

Donning one of my other hats, I have the local newspaper in Smoky Valley that is through RMGC. We are careful to not tell our people how to vote, not give them any position and not do politics in my paper at all; we stay very neutral.

LAURAYNE C. MURRAY (Chair, Pahrump Town Board):

The Nye County Board of Commissioners made a large financial investment hiring a consultant company to come to the Pahrump Valley Regional Planning District and put together a master plan for us. Part of that plan involved a significant, statistical survey of the Valley that presented a series of questions to our citizens asking whether they would be willing to pay more for various services. When you go to the voters and the title of the item up for vote says raise your taxes, the expectation is an overwhelming no. In this survey, one question they asked got an overwhelming positive response. Seventy percent of the respondents said they would be willing to pay more for fire protection in Pahrump.

Our audit is done each year by Daniel C. McArthur, Limited. Even though I have only been on the Town Board for the last two years, I looked at the audit for several years prior. Each year, Mr. McArthur looks at our finances and community operations and gives us his management response letter. Every year, the letter has the same sentence, "We need to establish a sustainable, ongoing, reliable revenue source to fund our public safety and fire." Direction from our consultants and citizens says we need to invest in our public safety.

A resident who spoke yesterday at a public meeting said,

When are we going to pay more for our fire protection? We need more fire protection. I have a burglar alarm on my house. I have dogs. I have guns. I feel I have that covered. I have a one-inch garden hose to protect my house. I'd be willing to pay more for fire protection.

I ask that you support this bill; that gives authority to our County Commissioners and citizens to invest in our public safety.

MS. VILARDO:

I am not expressing a position on the bill; I have not had enough time to read it. If I see anything, I will share it with the Committee and Ms. Billman. If the bill is processed, please require a specific report on revenue collected, where that revenue is spent and how it is spent. I am hard-pressed to figure out how you do the ambitious programs in here, even with a 0.5-percent sales tax in some areas. The taxpayers deserve to know what happens if this processes.

CHAIR MCGINNESS:

That is a good recommendation. We will close the hearing on S.B. 257. We will open the hearing on S.B. 154.

SENATE BILL 154: Revises provisions governing taxes on transfers of real property. (BDR 32-712)

There was a huge fiscal note and a recommendation to amend section 1 by deleting lines 11 through 13 on page 3. Mr. DiCianno said that nullified the fiscal note for the bill. Otherwise, there was no testimony in opposition.

SENATOR AMODEI:

During the hearing, I indicated a member of my law firm testified on this bill. For purposes of the record today, I remind those folks that before the vote on this, I have filed a disclosure under *NRS 281.501*. In consultation with Legislative Counsel, I have been advised that I have not accepted a gift or loan from my law firm in respect to this legislation. I do not have pecuniary interest in its passage, and I do not have a commitment in a private capacity to the interest of others who may be affected by this on whom the effect is universal and not specific to the client of my firm.

SENATOR RHOADS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 154.

SENATOR COFFIN SECONDED THE MOTION.

SENATOR CARE:

Mr. DiCianno said the amendment had no fiscal impact. That implies this is clarifying language; this is the practice already.

Senate Committee on Taxation
March 22, 2007
Page 27

CHAIR MCGINNESS:

That is correct, this is the practice. It says this is a new exemption for transfers between a business entity and its owners. That is happening already, we are just putting it in statute.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR MCGINNESS:

This meeting is adjourned at 3:27 p.m.

RESPECTFULLY SUBMITTED:

Josh Martinmaas,
Committee Secretary

APPROVED BY:

Senator Mike McGinness, Chair

DATE: _____