

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

**Seventy-Ninth Session
April 13, 2017**

The Committee on Taxation was called to order by Chair Dina Neal at 4:19 p.m. on Thursday, April 13, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Dina Neal, Chair
Assemblywoman Irene Bustamante Adams, Vice Chair
Assemblyman Paul Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Lesley E. Cohen
Assemblyman Edgar Flores
Assemblyman Jason Frierson
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Keith Pickard
Assemblywoman Ellen B. Spiegel

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

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



OTHERS PRESENT:

Bryan Wachter, Senior Vice President, Public and Government Affairs,
Retail Association of Nevada
Jonathan P. Leleu, representing Live Nation Entertainment, and AEG LIVE
Joshua J. Hicks, Member, Board of Directors, Barracuda Championship
Greg Ferraro, representing Nevada Resort Association
Deonne E. Contine, Executive Director, Department of Taxation
Les Lee Shell, Director, Office of Risk Management, Department of Finance,
Clark County
Terry Johnson, Board Member, Nevada Gaming Control Board

Chair Neal:

[Roll was taken and Committee rules and protocol were reviewed.] The first order of business today is a work session. We will work session three bills [[Assembly Bill 231](#), [Assembly Bill 266](#), and [Assembly Bill 294](#)], and then hear [Assembly Bill 441](#). I will open the hearing on [A.B. 231](#).

[Assembly Bill 231](#): Revises provisions relating to economic development. (BDR 18-294)

Michael Nakamoto, Deputy Fiscal Analyst:

The first bill on today's work session is [Assembly Bill 231](#) ([Exhibit C](#)), which was sponsored by Assemblywoman Bustamante Adams, and heard in this Committee on March 14, 2017. The bill makes several changes to Nevada's economic development laws, which are as follows: removing any references to weaknesses from the State Plan for Economic Development; allowing the Executive Director of the Office of Economic Development, Office of the Governor (GOED) to cause the formation of a nonprofit corporation for the promotion, aid, and encouragement of economic development in Nevada; expanding the current confidentiality provisions between GOED and its clients to include representatives of the clients; expanding the confidentiality provisions to additionally include communications between employees and representatives of GOED and clients or representatives of the clients; revising the date for the annual report to be submitted by GOED relating to emerging small businesses from September 15 to December 1 of each year; and eliminating GOED's role in the development of inland ports in Nevada.

For the work session there are a couple sets of amendments that are referenced in the work session document ([Exhibit C](#)). The first is a set of amendments proposed by GOED, which makes various changes to the structure of the proposed nonprofit corporation in section 1 of the bill. There are revisions to the confidentiality requirements in section 3 of the bill that specify that communications between an employee or representative of GOED and a client or representative of a client are only confidential until either: the client or representative of the client publishes for public distribution or otherwise makes available to the public generally or in the public domain information indicating that the client is considering locating the

client's business in Nevada or has decided to locate the client's business in Nevada; or GOED provides public notice at least 30 days prior to any public meeting to take action on an application for any abatement of taxes pursuant to *Nevada Revised Statutes* (NRS) 360.757, NRS 360.890, and NRS 360.950.

The last amendment proposed by GOED would be to amend NRS 231.037 to require GOED to review each proposal for a nonprofit corporation made by the Executive Director, and either approve, disapprove, or modify the proposal, as the Board of Economic Development within the Office of the Governor determines to be in the best interests of the state.

Assemblywoman Bustamante Adams brought forward the second set of amendments. These require the nonprofit corporations that are in existence in section 2 of the bill, as well as those that are proposed in section 1 of the bill, to provide annual reports. The Executive Director must additionally present those reports, and any other information deemed appropriate, to the Governor and the Director of the Legislative Counsel Bureau or the Legislative Commission.

There is a third set of amendments Assemblywoman Bustamante Adams has also brought forward. It is not included in the work session document. It was brought to my attention earlier this afternoon. Assemblywoman Bustamante Adams has proposed to delete all of the provisions of the bill except for the provisions revising the date for the annual report on emerging small businesses and the provisions relating to eliminating GOED's role in the development of inland ports within the state. I am happy to answer any questions the Committee may have.

Chair Neal:

Do the members have any questions on the work session document ([Exhibit C](#))?

Assemblyman Pickard:

Can you repeat the last description of the amendment? I lost you somewhere in the middle.

Michael Nakamoto:

The amendment that is being brought forward by Assemblywoman Bustamante Adams would delete all of the provisions of the bill, I believe in sections 1, 2, and 3, that relate to the nonprofit corporations and the confidentiality requirement changes. As the amendment has been relayed to me, the only provisions that would remain in the bill would be to revise the date for the annual report that GOED must submit relating to emerging small businesses, and the provisions that eliminate GOED's role in the development of inland ports. Anything else that is in the bill, that is not related to those two things, would be deleted as part of the amendment.

Chair Neal:

Are there any additional questions on the work session document ([Exhibit C](#))? [There were none.] I will entertain a motion to amend and do pass A.B. 231, keeping only the provisions related to the report on emerging small businesses and inland ports.

ASSEMBLYMAN FRIERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 231.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Kramer:

I have spent a lot of time looking at this to see what this bill did and to get comfortable with it only to find out it is now something else.

Assemblyman Frierson:

With respect to my motion, I will clarify that I do not think the amendment or my motion changed anything for certain. It focused on two sections that are currently in it, but not the other. I believe it is sections 5 and 6 of the bill, but I may have those numbers wrong.

Michael Nakamoto:

The amendment, as it has been brought forward, and the motion that has been made, would definitely delete sections 1, 2, and 3 of the bill. There may be other deletions that would be required in other sections further into the bill, but other than that it is the provisions that begin in section 4 and go toward the back of the bill that would still remain as part of the bill.

Assemblyman Frierson:

Thank you. I just wanted to clarify that it is not changing anything. It is limiting what is currently in the proposed bill to a few of the existing provisions. That was at least the intention of my motion.

Chair Neal:

Does anyone need further clarification on the motion? [There was no one.] I will take a vote on the motion to amend and do pass A.B. 231, keeping the amended version of the bill relating to emerging small businesses and inland ports, deleting sections 1, 2, and 3.

THE MOTION PASSED. (ASSEMBLYWOMAN BENITEZ-THOMPSON
WAS ABSENT FOR THE VOTE.)

The floor statement will be assigned to Assemblywoman Bustamante Adams. I will close the hearing on A.B. 231 and open the hearing on Assembly Bill 266.

Assembly Bill 266: Authorizes tax credits for employers who provide paid family medical leave for employees. (BDR 32-709)

Michael Nakamoto, Deputy Fiscal Analyst:

Assembly Bill 266 is an Assembly Committee on Taxation bill, heard in this Committee on March 30, 2017. The bill allows employers who have an eligible paid family medical leave program to obtain tax credits against the modified business tax (MBT) or the commerce tax

for certain paid family medical leave wages paid to employees who take leave from their employer under certain circumstances. The credit, as the bill was written, is equal to the amount of wages paid to the employee under the policy, up to a maximum of \$500 per week or for a period of 12 weeks.

At the hearing there was a proposed amendment, beginning on page 3 ([Exhibit D](#)). This proposed amendment to A.B. 266 makes the following changes: (1) The proposal credits against the employer's MBT liability are charged to an allowable deduction against the employer's taxable wages; (2) The deduction is limited to \$500 per employee per week, with a maximum length of 12 weeks; (3) The credit may not be taken if the employer is receiving any benefit or compensation from a governmental agency that directly relates to the family medical leave wages paid to the employee; and (4) The proposed credit against the employer's commerce tax liability is deleted.

After the hearing there were several amendments brought forward by Assemblywoman Neal. They are listed at the bottom of page 1 and the top of page 2 ([Exhibit D](#)). The first amendment in sections 1 and 2 would add language to subsection 4, allowing the employee to provide certification from an adoption agency, if the paid leave is taken because of the placement of a child with the employee for adoption or foster care, as is one of the conditions that is allowed under the bill. The second amendment would be to subsection 1, to expand the eligible circumstances for which leave may be taken and an employee may become eligible under the program: grandparents providing care for a grandchild; a legal guardian providing care for his or her ward; and a person providing care for his or her domestic partner. If those are circumstances for which leave is taken for a serious health condition, those would be added to this. The only other thing that I would add for this particular bill is that it has been declared eligible for exemption by the Fiscal Analysis Division. I am happy to answer any questions the Committee may have.

Chair Neal:

Do the members have any questions on the work session document ([Exhibit D](#))?

Assemblyman Paul Anderson:

I wanted to clarify that this is all a voluntary program for an employer and employee who want to participate. It is on a voluntary basis. Is that accurate?

Michael Nakamoto:

Yes, it is a voluntary program. Anybody who meets the conditions and has the wages that would be deemed eligible could then submit a statement to the Department of Taxation and claim this deduction. It is by no means mandatory that they have to do this.

Chair Neal:

Are there any additional questions?

Assemblyman Marchant:

I am going to vote this out of Committee but want to reserve my right to change my vote on the floor. I still have some issues.

Chair Neal:

I will save that remark for discussion on the motion. Are there any questions on the actual work session explanation? [There were none.] I will entertain a motion to amend and do pass A.B. 266 with the proposed amendment, and the further amendments discussed in the work session document ([Exhibit D](#)).

ASSEMBLYMAN PAUL ANDERSON MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 266.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE
MOTION.

Now I will take discussion on the motion.

Assemblyman Marchant:

I am going to vote this out of Committee but I reserve my right to change my vote on the floor. I still have some issues.

Assemblyman Flores:

I was actually going to make a motion to amend and do pass, and I was going to see if the Committee would entertain an amendment of my own, which would include the language from the Family and Medical Leave Act of 1993 (FMLA), to ensure we have qualifying exigency defined. As the bill reads now, it does not define that. I think it would be important for us to lay some parameters around that. I am comfortable moving it out of Committee if you are willing to work with me. We could do that at a later time.

Chair Neal:

I do know that you brought that up in the original hearing, and it was an issue that was mistakenly left out. I will take other conversations on the motion and if the Committee so desires, I will restate the motion.

Assemblyman Pickard:

I have that same concern. I certainly support the intent of the bill. I particularly like the idea of incentivizing businesses to provide this on a voluntary basis. I will vote yes and hopefully the amendment language will not convince me to change my mind.

Chair Neal:

Assemblyman Paul Anderson made the motion. Assemblyman Anderson, are you willing to rescind your motion or accept Assemblyman Flores' amendment?

Assemblyman Paul Anderson:

I am happy to clarify the motion, if it is the sponsor's desire to include Assemblyman Flores' amendment.

Chair Neal:

I do not have a problem including it. Would you like to clarify your motion or do you want us to rescind it?

Assemblyman Paul Anderson:

I withdraw my motion.

Assemblywoman Bustamante Adams:

I withdraw my second.

Chair Neal:

I will entertain a motion to amend and do pass A.B. 266 with the proposed amendment, the further amendments discussed in the work session document ([Exhibit D](#)), and Assemblyman Flores' amendment that we add qualifying exigency requirements that are listed under the federal FMLA.

ASSEMBLYMAN FLORES MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 266.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Pickard:

I had the same concerns about the definition of exigent circumstances, and I generally hesitate to sign on wholeheartedly with a bill I have not read. I am voting yes. I certainly agree with the intent. I just want to make sure I am comfortable with the language before I make my final vote on the floor.

Chair Neal:

Is there any additional discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

The floor statement will be assigned to Assemblyman Flores. I will close the hearing on A.B. 266 and open the hearing on Assembly Bill 294. After we work session A.B. 294 we will hear Assembly Bill 441. Then we will resume the work session after that bill hearing.

Assembly Bill 294: Requires a hosting platform to collect and remit room taxes under certain circumstances. (BDR 20-874)

Michael Nakamoto, Deputy Fiscal Analyst:

The next bill on today's work session is Assembly Bill 294, which was heard in this Committee on March 30, 2017, and was sponsored by Assemblywoman Bustamante Adams. Assembly Bill 294 requires that, if a county or city authorizes an owner or lessee of a residential unit located in that county or city to rent all or part of that unit for the purposes of transient lodging, a hosting platform that collects the gross receipts from that rental on behalf of the owner or lessee must be considered to be engaged in the business of providing transient lodging in that jurisdiction and is the person providing the transient lodging. The hosting platform is additionally required to collect the applicable transient lodging taxes and remit the proceeds to the proper taxing authority.

There were two amendments brought forward by Assemblywoman Bustamante Adams on this particular bill. They are listed on the work session document ([Exhibit E](#)). The first amendment is to remove references to residential units, and instead specify that these provisions apply to any transient lodging authorized under city or county ordinance that is rented through a hosting platform. It also specifies that the provisions of the bill apply to any intermediary conducting a transaction for the rental of transient lodging and collecting the payment for the rental, regardless of whether the transaction is conducted through an Internet website or not. I am happy to answer any questions the Committee may have.

Chair Neal:

Do the members have any questions on the work session document explanation?

Assemblywoman Bustamante Adams:

I would like clarification from staff. Some of the concern was that the local governments would have to be mandated, but I do not see that as a provision of this bill.

Michael Nakamoto:

The bill does not require any city or county to be forced to accept these rentals. They still have the option under ordinance of whether they wish to allow them or not. This is just saying that if the rentals do occur and they are permitted, the taxes must be collected through these platforms.

Assemblywoman Bustamante Adams:

Thank you for the clarification.

Assemblyman Paul Anderson:

If I am participating with Airbnb, am I actually registering my unit as a rental property with someone or simply with the hosting platform itself?

Michael Nakamoto:

I believe that would depend on the ordinance or the rules within the jurisdiction as to whether there would have to be a licensing requirement or some sort of registration with that entity.

Assemblyman Paul Anderson:

I know we had a lot of folks testify from the cities about this bill. In an effort to understand the enforcement process, I am unsure of anything stating you have to register if you have a rental in most of these cities or counties, unless it is inside of a homeowners' association. I am trying to understand what the enforcement mechanism would be for somebody to have a listing on a hosting platform such as Airbnb in order to have an enforcement of the tax that is looked to be required through this bill.

Michael Nakamoto:

I believe again that this would still be at the discretion of the local government, as to how they wish to enforce it in terms of whether licenses would be required, or some other arrangement would need to be made between the owner of the property and that local government. In the instance of Airbnb—or whatever hosting platform it is—they would merely be the conduit collecting the taxes and remitting them on behalf of that person.

Chair Neal:

Are there any additional questions on the work session explanation? [There were none.] I will entertain a motion to amend and do pass A.B. 294 with the amendments discussed in the work session document ([Exhibit E](#)).

ASSEMBLYWOMAN BENITEZ-THOMPSON MOVED TO AMEND AND
DO PASS ASSEMBLY BILL 294.

ASSEMBLYWOMAN COHEN SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Pickard:

I do not have a philosophical problem with asking these platforms to collect tax, but my concern is rooted in the patchwork approach we are going to be forcing them to adhere to. For example, I understand the City of Las Vegas will allow these. They will tax them, but they put them through a special use permit process, which is very expensive and takes time. The City of Henderson does not technically allow these, but they know it is going on and they seem to be okay with that. I am really concerned we do not have a coherent policy with respect to these hosting platforms in the first place. When we overlay that with a tax scheme that is going to be different in every single jurisdiction, I think this would be very difficult to manage. I understand the premise. I am going to be voting no but reserve my right to change that on the floor if between now and then someone can make me feel more comfortable with it.

Chair Neal:

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
KRAMER, MARCHANT, AND PICKARD VOTED NO.)

The floor statement will be assigned to Assemblywoman Bustamante Adams. I will close the hearing on A.B. 294. We will take a pause from the work session. I will open the hearing for Assembly Bill 441. I will call Mr. Leleu and Mr. Wachter to the table. They will copresent. Mr. Wachter is going to discuss section 1 and Mr. Leleu will discuss the rest of the bill.

Assembly Bill 441: Revises provisions relating to taxes. (BDR 32-710)

**Bryan Wachter, Senior Vice President, Public and Government Affairs,
Retail Association of Nevada:**

I have been asked to fill in some history on section 1. You have the proposed amendment ([Exhibit F](#)) to section 1 that was submitted by the former president of the Nevada Taxpayers Association [Carole Vilardo]. The reason I am here is because I was involved in the process on the commerce tax, and this is really what has, in a way, started this section. What it seeks to do is provide clarification with the taxpayers and the Department of Taxation on the forms and the instructions on how to fill out the forms, and clarify what needs to happen in order for those to become actual forms.

In the original bill, everything would need to go through the regulatory process in order to make changes to those forms. The amendment, in the new subsection 3 of section 1 ([Exhibit F](#)), clarifies that a rate change is not enough to subject something to an additional regulatory review. The issue becomes, especially under new taxes when we are trying to figure out what the definitions mean and what the forms are, what information needs to be collected or should be collected.

We feel there should be a conversation between the taxpayer and the Department. Going through the regulatory process allows us to have that conversation through workshops, hearings, and eventually through the Department of Taxation's Nevada Tax Commission, and then back to you with the Legislative Commission. We feel those conversations are important. The Department learns just as much from the taxpayer as the taxpayer is learning from the Department on how something should proceed. I think this will go a long way to solving some problems I know have come before the Committee previously in changes that were made or not made and how those arrived. Hopefully the additional conversation that section 1 would require would clarify all of those points going forward. With that, I am happy to answer any questions.

We certainly understand sections 2 through 4, and we think there is merit to the conversation. We look forward to supporting those additional sections as well. With that, I am happy to answer any questions.

Chair Neal:

I will allow Mr. Leleu to explain the rest of the bill, then take questions.

Jonathan P. Leleu, representing Live Nation Entertainment, and AEG LIVE:

I would like to start off by thanking a whole bunch of different people, with the Chair's indulgence. I would like to thank Mr. Nakamoto and Mr. Guindon. We have talked a lot over the last several years, but particularly over the last several weeks, regarding the live entertainment tax (LET). You two are professionals and it has been a joy to work with you. Assemblywoman Benitez-Thompson, thank you very much for your counsel on this. Mr. Ferraro, representative of the Nevada Resort Association, thank you as well for your counsel. We look forward to continuing to work with you on this matter.

I have been working on the LET since about 2005. At that time I represented the Las Vegas Wranglers and the LET was something new to the state. It is unfortunate that it has been a topic of discussion before this body every single session since that time.

There were issues with the LET. It did not tax what it was supposed to. It was unwieldy and there were too many exemptions. As a result of that, former Assemblywoman Kirkpatrick assembled a committee in 2014 and named me, as well as Mr. Ferraro and a number of other industry representatives, to this committee with the purpose of reforming the LET. We met several times over the interim between the 2013 Session and the 2015 Session, and we came up with language we thought was going to reform the LET—and ultimately did. Those of you who were here in 2015 recall we ended up having approximately five LET bills. The vehicle bill, which ultimately did pass, was Senate Bill 266 of the 78th Session, which was sponsored by Senator Lipparelli and cosponsored by Assemblywoman Kirkpatrick. That bill was the culmination of a tremendous amount of work on behalf of the industry.

That being said, once S.B. 266 of the 78th Session passed, it came time to implement the tax and do some rule-making. The Nevada Gaming Control Board, as well as the Department of Taxation, undertook the rule-making process. From the beginning it was noticed that there were several oversights made when it came time to implement and assess this tax. Those oversights were really crucial to the ticketing industry and how the ticketing industry in particular does business in this state.

We went through approximately 18 months of rule-making. I believe we eventually finalized the rules in September 2016. As a result of these negotiations and rule-making sessions, we were on the doorstep of beginning the 2017 Session. During this time we saw several oversights and we made very public what the oversights were. We worked with Mr. Terry Johnson and the Gaming Control Board; Deputy Attorney General Edward Magaw; and Paulina Oliver on the Department of Taxation side. It was ultimately determined the fixes that were needed were not going to be obtainable on the regulatory level. We had to bring a cleanup bill.

I have to say that I did not want to be here today. I did not want to open this up again, and I do not want to substantively change the LET. The industry does not want this. We have been talking about it for far too long, and my clients have been involved in this for far too long.

With that being said, it was determined that these gaps were important enough to bring to your attention via this bill, and for that reason we are presenting Assembly Bill 441 today. I would like to go over the issues we saw at the regulatory level and explain how sections 2 through 4 work. We have no involvement or interest in section 1.

With respect to the LET portions of the bill, let me begin with service charges. Service charges were undefined. Accordingly, the agencies were left to define what "service charges" meant. The problem with that is in the ticketing industry there are varied and many service charges. There are convenience charges and facilities charges, just to name two. The problem is that the LET taxes admissions but not service charges. Service charges are how companies like Ticketmaster make money, but Ticketmaster does not make money from admissions. Live entertainment tax taxes admissions so, accordingly, what we needed was certainty with respect to how we are going to deal with service charges. Are the service charges being paid in exchange for admission or not? We do not know. Senate Bill 266 of the 78th Session left us and the regulatory agencies to answer that question. That was one of the issues.

Another issue was memberships. Memberships are an admittedly goofy form of admission. For instance, Live Nation owns House of Blues Entertainment, which funds the Foundation Room. The Foundation Room offers, as part of its business model, admissions via annual membership. Those annual memberships have three tiers—gold, silver, and bronze. The gold and silver tiers get the membership holder into the club nationwide. If a person in Boston bought a gold membership and then wanted to come to Las Vegas, the membership is taxed based on whether there is live entertainment on that particular night—because again the way the LET works is you can only tax when there is entertainment. Senate Bill 266 of the 78th Session, with best intentions, sought to tax memberships but did not define the contours of that, and that created an issue. What if the membership was purchased by a nonresident in their state? That is another issue that came up.

Package sales was another question that came up. What are package sales? Package sales are sales of admissions, plus other things that are not admissions like parking, a T-shirt, or a button. How do we tax these items and how do we tax the package? Do we tax the entire package or do we tax just the admission? At the regulatory level it was determined we were going to only tax the admission. The next question was, how do we strip that down, and what do we tax, because there are different levels of admission. Is it the front row, is it general admission, or is it something in between? How do we tax that? Again, the regulatory bodies were left to struggle with this concept and to try to figure it out on their own.

Ticket service provider fees was another issue. What is a ticket service provider? That is easy. That is Ticketmaster. How do we tax them, or do we tax them? As mentioned earlier regarding service fees, those are not in exchange for admission. They are not LET. They are taxable through commerce tax. They are MBT-tax taxable, but not LET-taxable. Again, this was not addressed in S.B. 266 of the 78th Session, and that was something that was left for the regulators to figure out.

Installment plans are another. I did not even know they had installment plans. I remember camping outside for my Ticketmaster tickets, waiting for the ticket broker to open so I could purchase my concert tickets. Now, apparently, tickets are so expensive you can buy them on credit. Things have changed and, accordingly, we have to change with them. Now tickets are sold on installment plans. How do we tax those things? Do we apply the tax at the beginning, and collect it all upfront so we make sure the state gets its tax? Do we collect it at the very end of the plan, or do we collect it along the way? Again, that business model was not accounted for in S.B. 266 of the 78th Session, and it was something we were left to ask the regulators.

To the extent the timing of payment is addressed in S.B. 266 of the 78th Session—the way we time payment of the tax is inconsistent with how the ticketing industry works. The ticketing industry—Ticketmaster—collects the fees. A common misconception is that Ticketmaster collects those fees and keeps that money. That is not how it works. Ticketmaster is actually a third party. The ticket always belongs to the artist of the venue. The third party in this transaction is the consumer. Ticketmaster is a service provider. They are a third-party vendor. For their \$1.50 fee or \$2.50 service charge they provide the service of selling the ticket for the artist of the venue. There is an issue though: As the money is collected by Ticketmaster, that money is not paid immediately to the artist of the venue. It is held until the show occurs. The reason for this is sometimes, as we all know, shows get canceled. Everything is held in escrow, if you will, until the show occurs, then the payment is made and all associated costs are paid, such as the LET. The way the statute is written, the LET should be paid upfront, which I understand. The state does need to collect its money. Again, this is something that is inconsistent with how the ticketing industry generally works. It is always paid at the end, after the show, as opposed to when the sale occurs.

We went through 18 months of regulatory meetings and rule-making, and the *Nevada Administrative Code* from the Nevada Gaming Commission and the Department of Taxation represents the very best these agencies could do with what they had. These agencies did a good job, and we worked long and hard with them. Given the gaps, we knew and said publicly that we were going to have to come back and discuss a couple of these finite regulatory issues in 2017. Assembly Bill 441 attempts to fill those gaps. I would now like to walk through how A.B. 441 works.

Chair Neal:

Thank you for that introduction. Please walk us through each section. I know that some of the statements you made in your explanation are associated with the sections. It would be helpful to make sure the conversation of your amendments is in the bill explanation.

Jonathan Leleu:

That is correct. As Chair Neal pointed out, what you hear and see before you today represents an ongoing discussion. We do have a working amendment ([Exhibit G](#)) that we are working on, along with the Nevada Resort Association and Greg Ferraro. While we do not have full agreement, or agreement for that matter on the contents of where we are and where we want to be, we do have talking points and we do have an ongoing discussion. With that, I will dive into the bill.

Section 2 clarifies that the LET is to be assessed on service fees, only when those fees are required to be paid in exchange for admission to the facility. I mentioned how service fees work. Ticketmaster collects fees for providing ticketing services to the venue or the artist. For a \$100 ticket, Ticketmaster does not make \$100 of the ticket. Ticketmaster makes \$1.50, or whatever the service fee is, for the convenience fee. Why is section 2 important? Not all fees are paid in exchange for admission to a live entertainment event. Some fees are paid in exchange for the way in which the consumer wishes to receive their ticket. If I am buying my ticket on the computer and Ticketmaster charges me a \$1.50 convenience fee, that is in exchange for Ticketmaster having the technology apparatus set up such that they can provide me with a ticket online. The distinction is pretty subtle, but very significant. For that same seat, if I were to get out of my computer chair and go to the box office at the MGM Grand, I could buy that same seat without the service fee—so what is that service fee for? Again, it is not in exchange for admission, it is in exchange for me being able to buy that ticket at home, and it pays for Ticketmaster's technology apparatus, so that they could provide the ticket in that way. Section 2 clarifies that issue.

Section 3 has undergone quite a bit of discussion with Mr. Nakamoto, Mr. Guindon, and Chair Neal. It has changed quite a bit. I would simply like to discuss how it was amended, as opposed to going through what it said in the original bill. With respect to the amendment ([Exhibit G](#)), what we did is simply clarify that the exemption for charitable events applies on a per diem basis. What does that mean? In S.B. 266 of the 78th Session we left in an exemption for charities. We said charitable events that had attendance up to 7,500 persons were exempt from the LET. What we did not say is how we were going to apply that 7,500-person limit. What if we have a multiday event? Does it apply to one day or all of them? We also did not say anything about whether this exemption applied as a credit for the entire event. If we go over the 7,500 persons, and we have 15,000, is there a 7,500-person credit? The answer to that last question is no.

We went through the minutes in the hearing for Senate Bill 266 of the 78th Session [Senate Committee on Revenue and Economic Development, May 20, 2015]. Senator Lipparelli was very clear on the record that what the intent of S.B. 266 of the 78th Session was is that as soon as it eclipses 7,500 people we get into a true

commercial event, and accordingly the entire event would be assessed the LET. With the amendment ([Exhibit G](#)), we removed that particular credit language from the bill. We left in a clarification that for an event that has 7,500 people and is held over multiple days, the 7,500-person cap applies per day. It would be 7,500 people each day.

Moving on, in section 3 we clarify that fees charged by an independent service provider of ticket services is not LET. It is commerce tax, it is MBT, but it is not LET. We do have ongoing discussions regarding whether the word "independent" needs to be in the language. I do not think it does. The Nevada Gaming Control Board suggested it does not either. I tend to agree with them and we will probably be making that change over time.

Membership fees is one of the larger and more complex issues that brings us before you today. I want to clarify that membership fees are taxable. The Nevada Gaming Control Board and the Department of Taxation's interpretation of this is right—memberships are taxable. What it does not capture is what the membership business model is. What I did, with respect to this bill, was make that clarification.

This bill limits memberships to facilities located in Nevada, that are sold in Nevada, or are sold to a resident of Nevada. We cannot tax events that are outside of the state of Nevada. When we sell our memberships to our facilities and events here in Nevada, those memberships ought to be taxable. If a resident of Nevada is at a Foundation Room in New York, and purchases the membership at the Foundation Room in New York, and that membership is a gold or silver membership and gets them into their Nevada home Foundation Room, our systems obviously pick up the fact that they are a resident of Nevada. This is the computer age after all. We take down all sorts of information on people, including what their address is. If they are a resident of Nevada, they should be taxed as if they were in Nevada.

Memberships are taxable if the venue is in Nevada, they are sold in Nevada, or they are sold to a resident of Nevada. Why do we do that? Taxing nonresidents with no nexus to this state creates an equal protection problem. It is a constitutional issue. This bill cures this issue by limiting the application of the tax to memberships in Nevada, memberships to Nevada facilities purchased in Nevada, or memberships purchased by a Nevada resident.

Regarding package sales—for an admission sold along with other items, as part of a single priced package, the tax should apply. Nobody disputes this. Live Nation and AEG believe that the tax should apply. The question is how? That is the hole that was left by S.B. 266 of the 78th Session, how we do it.

As the bill currently reads, it applies the LET to the lowest-priced ticket available, and I would suggest that it is on the date of the sale. As we all know, as the event gets closer, you see some dynamic pricing. The lower-priced tickets tend to evaporate first so it should be taxed on the date of the sale. Even though that section in the current bill does not have the date of sale language, I would suggest that it ought to.

In our proposed amendment ([Exhibit G](#)), we made a change that suggests the price that we tax be on a stripped-down ticket in the same respective section or category. For example, I am in the front row and I bought a \$500 package that includes the event ticket, parking, a T-shirt, and a button. The person sitting next to me only purchased a ticket for the event, and that ticket cost \$300. The tax should be on \$300 because that was the cost of admission. Additionally, the tax on that front-row ticket should not be based on a \$50 general admission ticket in the back. That is a recipe for losing money and that is not what we want to do here. We want to be fair in how we apply this tax, and we want certainty in how we apply it.

Regarding installment plans, the bill ensures that tax is collected as payments are made. That is important for a number of reasons. First, it is not fair to charge the ticket service provider with the tax when they have not collected it yet. Similarly, it does not make a whole lot of sense to wait until the very end. It is not fair to the state to wait until the very end of the payment plan before the tax is paid. We laid it out in a very simple fashion, that the tax is collected and remitted every time a payment is made.

Chair Neal:

Are you on section 3, subsection 3, where you are talking about the installment plan?

Jonathan Leleu:

That is correct. We are at section 3, subsection 3. The beginning of subsection 3 contains verbiage regarding escorts. That is not our verbiage. That is conforming language; however, it is the language later within subsection 3 that deals with payment plans.

Chair Neal:

I wanted to quickly explain that to the members. The beginning of section 3, subsection 3, on the escorts is probably not a section to ask a question on. I talked with our Legal Division and whenever we make changes to another part of the law, we have to make changes to this part. It is new language but it is not language Mr. Leleu added or suggested. It is a conforming change the Legal Division made. I would prefer we not ask any questions on escorts.

Jonathan Leleu:

The final portion of the bill is section 4. For the sake of brevity, during a meeting yesterday with Mr. Ferraro from the Nevada Resort Association and Ms. Contine with the Department of Taxation, Mr. Ferraro asked that we delete the language in section 4. We have agreed. Accordingly, there is no need to present that section to you.

Chair Neal:

Are there any questions on the bill?

Assemblyman Pickard:

We have two amendments—one from Clark County ([Exhibit H](#)) and one from your office ([Exhibit G](#)), and they look substantively very similar but they are not identical. What do we make of this? Which one is accurate? Are we expecting to blend them somehow? Can you walk me through the differences?

Jonathan Leleu:

In full disclosure, I did not know about the Clark County amendment ([Exhibit H](#)) until I was sitting in the gallery here today, right before the hearing. I have not had a chance to review it. I have heard the proposed amendment ([Exhibit H](#)) contains a suggestion of an exemption. I would like to remind the Committee of what I said at the very beginning and have been saying for 18 months: we are not amenable to structural changes of this tax. To the extent that it does contain the suggestion of an exemption, it is not something we are looking to blend. The amendment we are working through with the Nevada Resort Association is the proposed amended language from my office ([Exhibit G](#)).

Assemblywoman Spiegel:

You spoke about the convenience of not having to go to the box office and pay for a ticket, using that as the basis for writing out ticket service providers, if that is the correct term. I can understand your point except it has been years since I have been able to go a box office and buy tickets without paying a Ticketmaster fee. When I asked about that, telling them I am not going through Ticketmaster, and I am here at the box office, I was told they were using Ticketmaster technology and because of that they had to assess this fee on every ticket sold. If there is no way for a consumer to purchase a ticket for an event without paying this service fee, which I call a cash register fee, then should that not be built into the price of the ticket and then subject to the LET if it is not actually presenting a convenience?

Jonathan Leleu:

You are absolutely, 100 percent correct. There are fees that are charged by venues that are assessed on tickets, whether or not you purchase them at home, over the phone, or at the box office. Those fees are not avoidable by purchasing it in a certain way, are in exchange for admission to the facility, and are 100 percent subject to the LET.

Assemblywoman Spiegel:

Thank you for that clarification.

Assemblywoman Benitez-Thompson:

Looking at the proposed amendment ([Exhibit G](#)) to A.B. 441, explain what the practical implementation change is with a definition for the 7,500 for charitable nonprofits and fraternal organizations, when we look at it day by day versus the aggregate.

Jonathan Leleu:

The practical effect is to place a 7,500-person cap per day on the event. If you have a multiday event, as soon as any single day eclipses 7,500 people, that triggers the tax on the entire attendance—per Senator Lipparelli's testimony on S.B. 266 of the 78th Session

and subsequent interpretation of the intent of the Legislature on that bill. The LET is assessed on that day. The way the statute currently reads, it just simply says 7,500. It does not say per day. What it does not take into account are multiday events.

I will use Opportunity Village as an example. This is something that did come up during the testimony on S.B. 266 of the 78th Session. The way I have read it, it lands in such a way that the intent of the Legislature was not to simply assess a 7,500-person cap on the entire event, as was suggested in the testimony in 2015, because Opportunity Village eclipses 7,500 people within a week, and they are open for a month and a half. What we did not want to do was blow through that cap on multiday charitable events. Instead, the intent was to apply the 7,500-person cap per day, to the extent that if any one day is eclipsed, that day's admission revenues are taxed per the LET.

Assemblywoman Benitez-Thompson:

Are you telling me the way it is being administered presently through the Department of Taxation is if you have more than 7,500 attendees aggregate at your event, you are no longer exempted out? You would fall into the full collection of tax, or up to 7,500, whatever is below that is not taxed, and then what is over that is taxed? As I sit here I am having LET flashbacks from last session because of the who is in and who is out. To Chair Neal's point, we were talking about nonprofit brothels. Is there such a thing? Why are we putting this in language?

Everyone came forward with why their client was so special and had to be exempted out. There was a lot of wrangling to come to any kind of consensus. I feel what we did was very purposeful. There are many tax-exempt events out there. When we were looking at what it means to be tax-exempt, it is a looser definition than what many of us may have thought it was. There are very large events in the state that, while they are nonprofit, are still generating a ton of revenue. Do we collect them or not? I am trying to figure that out.

I have a letter here from one organization that says if we make the change they will not be subject to the tax ([Exhibit I](#)). In the end, I want to know with this change in the language, how many events are then in and how many events are out? What does that functionally look like on our balance sheets for who is being assessed and remitting?

Jonathan Leleu:

Unfortunately I do not have the dollars and cents figures of who is in and who is out; however, the intent of the language on the 7,500-person per day cap is to codify the way the tax is being implemented for the charitable exemption right now, and put into words what the legislative intent stated on the record was in 2015, and not go any further. Ms. Contine may have those numbers for you.

Assemblywoman Bustamante Adams:

You mention that the intent is to codify the way it is being applied now. Can you state which entity is applying it the way you are proposing it?

Jonathan Leleu:

I believe the Department of Taxation is applying it that way, but Ms. Contine is here and if I am wrong, I am sure she will let you know.

Assemblywoman Bustamante Adams:

Can you also speak about the Nevada Gaming Control Board—is their interpretation the same as the way it is stated here?

Jonathan Leleu:

We received a packet of comments from the Gaming Control Board regarding this bill, and this exemption in particular. You will recall that this particular section has been written in two parts. We have taken out the first part. The comment we got back was the Gaming Control Board believed the first part was in error, and that is not how it is being applied right now. That first part was the 7,500-person credit, if you will, on events. The way I conceptualized that, in error, was for a charitable event that had 15,000, the charitable event would receive a 7,500-person credit and everything over that would be taxed as was hypothesized by Assemblywoman Benitez-Thompson in her question to me previously. That was wrong. The Gaming Control Board pointed that out. We deleted that portion. We left in the remaining portion and that is how it is being applied.

Assemblywoman Bustamante Adams:

Thank you for putting that on the record.

Chair Neal:

Are there any additional questions? [There were none.] The letter we received from the National Championship Air Races ([Exhibit I](#)) was based on the original language, and that language is no longer being considered as an option. We will now hear from those speaking in support of A.B. 441, as amended. [There was no one.] We will now hear from those speaking in opposition to A.B. 441, as amended.

Joshua J. Hicks, Member, Board of Directors, Barracuda Championship:

I actually had not signed in but I was asked to testify. I am on the Board of Directors of the Barracuda Championship, which is a golf tournament. It is run by a charity [Reno-Tahoe Open Foundation]. I wanted to put my comments on the record in support of the bill as drafted, so I came up in opposition. We do support the bill as drafted but we have some concerns about the bill with the amendment on it. These concerns are really twofold. One issue is with the threshold. As drafted, the bill creates sort of a cushion. The first 7,499 tickets on a multiday event are actually not taxed. In a tournament like the Barracuda Championship, which takes place at the Montrêux Golf & Country Club every year, they will sell the vast majority of tickets as "good any day" tickets. They are usually part of a package and people can just show up. You may or may not have people over that threshold. Right now, under the law, what we have is if we are over 7,500 for any day, it is all subject to the LET. We realized the bill, as drafted, would make a change to that law.

We think that would really help some of these tournaments, especially when they sell the tickets as part of a package. It gets really complicated to deal with the LET, so that would be helpful.

The other piece of it was confusion on the comparably priced tickets in the amendment. That really does not happen at a golf tournament. There are no sections. There are no cheap seats. There are no front row seats. You just get a ticket, go in, walk around, and watch the tournament. That causes some confusion for me, as did the example that was put out there that you should not use a \$50 ticket to value a \$300 ticket. I am not exactly sure how that would work in the context where the tickets are not done that way, so it does not quite fit together. The threshold piece was an important piece for the Barracuda Championship. We did support that part of it and would oppose that coming out in the amendment.

Chair Neal:

We would rather stick with the original intent from 2015, and that is what the Gaming Control Board came back with, and we agree with that. That is probably not coming back at all.

Greg Ferraro, representing Nevada Resort Association:

I was not going to testify but I thought I at least ought to place these comments on the record. First and foremost, I am disappointed that this is the fifth session in a row we have to keep working on the LET, but I suppose that is the way it goes.

Mr. Leleu is correct in his representation to you that we have talked. I would want to make sure that this is on the record. I will say to you what I have said to him: it is our opinion and view that the items addressed in this bill are better addressed in regulation than in statute. We have said we are willing to continue to talk about it but, for your benefit and for the record, we really do not think this should be done in statute. I think it is important to not, in any way, undermine or damage the work that has been done, culminating in the 2015 Session that the Chair just referenced. I think these issues, in Mr. Leleu's words, are important. I think you will perhaps agree with me that these are issues best addressed in rule-making and not in a bill. I wanted that to be on the record.

Chair Neal:

Members, do you have any questions? [There were none.] We will now hear from those who are neutral on A.B. 441. Is there anyone in Las Vegas from the Gaming Control Board? [There was no one.]

Deonne E. Contine, Executive Director, Department of Taxation:

I wanted to make a couple of observations with respect to some of the provisions in the bill. I think Mr. Leleu represented them this way: Some of these issues are addressed in regulation and they are currently in our regulations and the Nevada Gaming Control Board. The only issue I think might require a little more work is the issue he discussed regarding the Foundation Room and the memberships that are sold out of state. I understand that problem and understand that issue—coming up with a value for what they might attend in

live entertainment when they are in this state is probably a challenge. My concern with the way that it is worded, and with that in the statute, is it could be interpreted more broadly. I would not want people to use it as an attempt to get around the LET when they have some type of a membership. Tightening this up was a goal of the last session because what we saw was instead of charging admission fees, they would charge a membership fee and argue that it was not an admission charge. There are some issues around that and I feel with a little more discussion we could figure out a narrow solution to that problem in the regulatory process.

With respect to section 1, I spoke with Mr. Wachter before the meeting, and he has this amendment ([Exhibit F](#)) I have not had a chance to review yet. We have a rather large fiscal note on that section because of the fact that the regulatory process is a long and extensive process. If we are going to use that process a lot, we are going to have to have people who keep that process going. With that amendment and the conversations we have had with him, I will keep talking with him to see if we can figure out what they are trying to get at and narrow it down, to try to better understand what the intent is, and then we can perhaps work on that fiscal note. We are in that discussion process now.

Chair Neal:

Are there any questions from the members? [There were none.] It was my understanding that conversations were attempted to try to get some of the regulatory changes within your Department around the LET that Mr. Leleu was seeking in the interim, and it was suggested that he bring a bill.

Deonne Contine:

I think what he said, during the discussions and in the regulatory process, was what they identified needing would require a statutory change. I think that is what he was talking about. We have all been involved in the regulatory process together over the last few years. Some of this is in regulation. Some of what is attempting to be codified now is in the regulations. The one piece that is not, and I think that might need work, is the issue of the out-of-state purchase of a membership that is good throughout the country and how we pick up the LET when the person uses that membership, comes to Nevada, and attends a live entertainment event. I think we could have some discussions about a solution to that problem in the regulatory process. It was not that there was not an attempt to have that discussion before. I do not think we have addressed that issue in regulation.

Chair Neal:

Thank you for your testimony.

**Les Lee Shell, Director, Office of Risk Management, Department of Finance,
Clark County:**

I just wanted to address our amendment ([Exhibit H](#)). I did reach out to Chair Neal to speak to the language in that amendment. Mr. Leleu is correct, I did not reach out to him and I apologize for that. The reason the language has been presented by Clark County, and it

may be very unique to our entity, is because we do have events that are hosted by our Department of Parks and Recreation that have large attendance. We were subject to this tax as a result of that. I am looking at the language. It is possible that it may take care of itself with this 7,499 cap, but I would have to take that back to our folks to get clarification.

Assemblyman Pickard:

The language between the two amendments [([Exhibit G](#)) and ([Exhibit H](#))] is very similar. I would ask you to go ahead and work with Mr. Leleu to see if there is not a way to blend the two because they are very similar. In fact, at first glance I thought they were the same document. Then upon closer review, when I was into the details, I recognized there were some differences. I do not see them as being particularly exclusive of one another.

Chair Neal:

Ms. Contine, could you talk about the local government language? Were we capturing their activities? We did not understand that this was actually occurring, and that could have been something addressed as well without having a bill. I thought that an activity that was brought on by a local government was not being captured by the LET.

Deonne Contine:

The change was from the previous session, for the most part. Prior to 2015, outdoor events—which generally included concerts for the most part—were not subject to the LET unless they were in a gaming footprint. That was in 2015 when we made that change.

There is no specific exemption in the LET for governmental entities. When that change happened, and these outdoor events came under the purview of the LET no matter where they occurred, I think some of the local government events that may be put on by them, or other quasi-governmental entities that are related to the local governments, are now captured in the LET.

Assemblywoman Benitez-Thompson:

Would this be like a quasi-local government agency, or the local government, happens to own big facilities that are then rented out and used, or multiple local agencies have come together to build a venue or help support a venue. I cannot honestly recall if we discussed that intentionally on the record last session or not. I cannot remember if they came up with a conversation about local government. Could you give us an example of some of the events that are being taxed that would be helped?

Les Lee Shell:

To my understanding, we have one specific event and it is the Renaissance Fair. It is a large, multiday event, that is attended by a large volume of people.

Assemblyman Pickard:

The Henderson Events Plaza is in my district. We are constantly seeing events there. Is that somehow not taxed, or is that just because they are typically independent operations that are leasing the space out? Do you know?

Les Lee Shell:

I unfortunately do not know, but I can find that information for you.

Chair Neal:

Our fiscal staff would like to add to this discussion.

Russell Guindon, Principal Deputy Fiscal Analyst:

Perhaps your staff can talk to them off line. In Chapter 368A of *Nevada Revised Statutes*, which is the LET chapter, the definition of "business entity" says: "The term does not include a governmental entity." As Assemblywoman Benitez-Thompson was saying, the clarity is to who is putting on the event. Is it the government that is owning the event, and actually putting on the event, or are they letting someone else use the government building to put it on? That is what we would need clarity on. If Clark County is putting on this Age of Chivalry Renaissance Festival, then it would seem to me that we would need clarity as to whether it is a governmental entity putting on the event versus the festival being put on by another entity that is using that government building, and if that matters or not with regard to how the Gaming Control Board and the Department of Taxation would interpret it. When we looked at the definition of "business entity," it says the term does not include a governmental entity. We would need to get some clarification from the people as to what the events are, who is doing it, and how Department of Taxation and Gaming Control Board would interpret that.

Deonne Contine:

We have had this issue with multiple local governments. They have come to us and asked if they have to pay tax. We get the information from them and run it by the Office of the Attorney General as to how it is set up. They do a review and then we give them guidance based on that. I think the "taxpayer" is defined as well, and the taxpayer can be different entities. It could be the promoter, the owner of the facility, or if it is on public lands, it could be whoever collects the receipts. There are various definitions of taxpayer. I think some of that comes into play as well.

Chair Neal:

Have you actually provided guidance to Clark County since this has been going on in the interim?

Deonne Contine:

I do not know specifically about Clark County, but I know some local governments have asked us.

Chair Neal:

We will go down south to hear from Mr. Johnson with the Nevada Gaming Control Board. Are you here to testify neutral on A.B. 441?

Terry Johnson, Board Member, Nevada Gaming Control Board:

You had asked a few moments ago if there was anyone here from the Nevada Gaming Control Board. I just wanted to register our presence for the record, for the Committee's benefit. If there are any items the Nevada Gaming Control Board could assist this Committee with, we certainly stand ready.

Chair Neal:

Members, do you have any questions for the Gaming Control Board around any provisions in the bill? [There were none.]. We appreciate you showing up and making yourself available to answer questions. I will ask the bill sponsor back to the table for closing remarks.

Jonathan Leleu:

I would like to thank everyone who testified, and I appreciate all the thoughtful questions today—particularly Mr. Ferraro. I look forward to working with Mr. Ferraro on the language, as well as Ms. Contine and Mr. Johnson.

Bryan Wachter:

Ms. Contine mentioned the fiscal note. Because of that and the conversations we are having with her, we would enjoy an opportunity to address that fiscal note for section 1, in the Assembly Committee on Ways and Means. If your Committee could find in its very generous hearts to amend and do pass this bill, to send it to the Assembly Committee on Ways and Means, then we can continue that conversation.

Chair Neal:

Members, we will now work session A.B. 441. Think deeply upon it. I will now entertain a motion to rerefer A.B. 441 to the Assembly Committee on Ways and Means without recommendation.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO REREFER
ASSEMBLY BILL 441 TO THE ASSEMBLY COMMITTEE ON
WAYS AND MEANS WITHOUT RECOMMENDATION.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE
MOTION.

Is there any discussion on the motion?

Assemblyman Pickard:

I am interested to know which amendment we are referring to? We have two proposed, one from Clark County ([Exhibit H](#)) and one from Mr. Leleu ([Exhibit G](#)).

Michael Nakamoto, Deputy Fiscal Analyst:

The motion, as I believe it was just stated, is to rerefer the bill to the Assembly Committee on Ways and Means, without any recommendation. None of the amendments that have been proposed would be included in that motion. The amendments could be taken up by the Assembly Committee on Ways and Means at the point where it is heard in that committee.

Chair Neal:

Are there any additional questions on the motion? [There were none.]

THE MOTION PASSED. (ASSEMBLYMAN FRIERSON WAS ABSENT FOR THE VOTE.)

I will close the hearing on A.B. 441 and open the hearing on Assembly Bill 375.

Assembly Bill 375: Allows the imposition of certain taxes in a county to fund flood management projects of a flood management authority based on the recommendations of a flood control project needs committee and voter approval. (BDR S-473)

Michael Nakamoto, Deputy Fiscal Analyst:

The next bill on today's work session is Assembly Bill 375 ([Exhibit J](#)). This bill is sponsored by Assemblyman Sprinkle and was heard in this Committee on April 4, 2017. The bill authorizes the governing body of a flood management authority, under certain specified circumstances, to adopt a resolution establishing a flood control project needs committee to recommend the imposition of certain taxes to fund the flood management projects of that flood management authority.

If such a committee is established and submits its recommendations to the board of county commissioners no later than April 2, 2018, the board of county commissioners is required to submit a question to the voters on the November 2018 general election ballot, seeking approval of the tax or taxes recommended. If a majority of the voters approve the question, the tax or taxes must be imposed in the county at the rates specified in the question, with the proceeds to be used for certain flood management projects in the county.

There were several amendments brought forward on this particular bill. The first was from Assemblyman Sprinkle. He submitted an amendment that would permit the committee, in addition to the five taxes specifically mentioned in section 3 of the bill, to recommend any other tax, fee, levy, or other assessment that is currently authorized in statute.

The second amendment was from the Reno-Tahoe Airport Authority. They submitted an amendment to section 1 of the bill which would specify the member of the committee representing the largest airport in the county serve as an ex officio—or nonvoting member—of that committee.

The third set of amendments was submitted by the City of Sparks, which had amendments to two different sections of the bill. The first was to amend section 1 of the bill to specify that, for the purposes of that section, the terms "flood management project" and "flood control projects" specifically refer to projects that have been agreed upon unanimously by the flood management authority to regulate the flow and control of floodwaters and management of floodplains along the Truckee River. There were several amendments to section 5, relating to the reporting requirements and obligations of the committee relating to that report, which are outlined on page 2 ([Exhibit J](#)).

There was also a conceptual amendment, not brought forward in writing but discussed in testimony by Mr. Leleu on behalf of NAIOP, the Commercial Real Estate Development Association, as a technical change to the name of his organization. The bill currently reads "the Northern Nevada Chapter of the National Association of Industrial and Office Properties." In his testimony, Mr. Leleu referred to the organization as "NAIOP Commercial Real Estate Development Association."

That is the summary of this particular bill. I am happy to answer any questions the Committee may have.

Chair Neal:

Do the members have any questions on the work session document? [There were none.] I will entertain a motion to amend and do pass A.B. 375 with the amendments proposed in the work session document, except for the City of Sparks' amendment.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO AMEND
AND DO PASS ASSEMBLY BILL 375.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE
MOTION.

Is there any discussion on the motion?

Assemblyman Pickard:

Why we are leaving out the amendment from the City of Sparks?

Chair Neal:

There were conversations with the sponsor of the bill. They want to take the amendment off. It was their choice. There is going to be further conversation between the City of Reno and the City of Sparks. There was an agreement to take that amendment off. Is there any additional discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN FRIERSON WAS ABSENT
FOR THE VOTE.)

The floor statement will be assigned to Assemblyman Sprinkle. I will close the hearing on A.B. 375 and open the hearing on Assembly Bill 402.

Assembly Bill 402: Proposes to exempt sales of feminine hygiene products and diapers from sales and use taxes and analogous taxes. (BDR 32-830)

Michael Nakamoto, Deputy Fiscal Analyst:

Assembly Bill 402 is sponsored by Assemblywoman Jauregui and was heard in this Committee on April 6, 2017. This bill provides for the submission of a ballot question on the November 2018 general election ballot, seeking approval to amend the Sales and Use Tax Act of 1955 to provide an exemption for feminine hygiene products and diapers. If the ballot question is approved by the voters, these products would be exempt from all state and local sales and use taxes between January 1, 2019, and December 30, 2028.

There were amendments submitted on behalf of Assemblywoman Jauregui. The first [pages 6 and 7, ([Exhibit K](#))] limits the definition of "feminine hygiene products" for the purposes of the proposed exemption to tampons and sanitary napkins only. There was also an additional amendment requested to add Assemblywoman Krasner as a sponsor on the legislation. That is all I have on this particular bill. I am happy to answer any questions the Committee may have.

Chair Neal:

Do the members have any questions on the work session document explanation? [There were none.] I will entertain a motion to amend and do pass Assembly Bill 402, with the changes outlined in the mock-up and the further amendment proposed by Assemblywoman Jauregui.

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 402.

ASSEMBLYMAN FLORES SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN MARCHANT VOTED NO.
ASSEMBLYMAN FRIERSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Jauregui. I will close the hearing on A.B. 402 and open the hearing on Assembly Bill 436.

Assembly Bill 436: Revises provisions governing small business loans. (BDR 18-1079)

Michael Nakamoto, Deputy Fiscal Analyst:

The next bill on today's work session is Assembly Bill 436, which was heard in this Committee April 6, 2017, and is sponsored by Assemblywoman Monroe-Moreno. This bill requires the Office of Economic Development, Office of the Governor (GOED), the Office of the Secretary of State, and the Regional Business Development Advisory Council for Clark County to provide information regarding public and private programs for small business funding to be provided to certain businesses in the state.

The bill additionally requires the Secretary of State's Office to inquire, at the time of an application or renewal for the state business registration, whether the business is woman-owned or minority-owned and, if the business indicates that it is woman-owned or minority-owned, to provide information to that business regarding how that business may become certified as a disadvantaged business enterprise.

There are several amendments to the bill [page 2, ([Exhibit L](#))] that were proposed by Assemblywoman Monroe-Moreno. The first amendment is in section 1 of the bill, to allow GOED to provide the required information either in written or electronic form. It would also limit the information regarding private programs that must be provided by GOED to only certain private funding sources that already have been vetted by GOED.

There are changes to section 2, which governs the initial application of the state business registration through the Secretary of State's Office. The first change would allow the Secretary of State's Office to provide the required information in either written or electronic form. The second change would expand the information that must be collected from the business to also include whether the business is veteran-owned. The third change would clarify that the information required to be collected from the business can either be done through an online portal or through a paper application.

There would also be changes to section 4 of the bill, which is the renewal of the state business registration, that would track the changes I discussed previously in section 2 of the bill. There would be an amendment to section 5 of the bill, which governs the Regional Business Development Advisory Council for Clark County. The requirement for the Council to provide information regarding private funding sources is to be limited only to selected private lenders with whom the Council already has a working relationship.

There would be a change to the effective dates relating to the Secretary of State's portion of this—sections 2, 3, and 4. That effective date would be changed to January 1, 2018. The effective date of the changes in sections 1 and 5 would remain at July 1, 2017.

The last note I have, as you can see at the bottom of page 2 ([Exhibit L](#)), is this bill was determined by the Fiscal Analysis Division as being eligible for exemption on April 10, 2017. I am happy to answer any questions the Committee may have.

Chair Neal:

Are there any questions on the work session document ([Exhibit L](#))? [There were none.] I will entertain a motion to amend and do pass [A.B. 436](#) with the changes outlined in the work session document.

ASSEMBLYMAN KRAMER MOVED TO AMEND AND DO PASS
[ASSEMBLY BILL 436](#).

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE
MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN FRIERSON WAS ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Monroe-Moreno. I will close the hearing on [A.B. 436](#) and open the hearing on [Assembly Bill 463](#).

**[Assembly Bill 463](#): Revises provisions relating to the taxation of marijuana.
(BDR 32-982)**

Michael Nakamoto, Deputy Fiscal Analyst:

[Assembly Bill 463](#) was heard in this Committee on April 11, 2017, and is sponsored by Assemblyman Araujo ([Exhibit M](#)). [Assembly Bill 463](#) revises the current provisions relating to state and local taxes imposed on medical marijuana in Nevada. The bill removes the current 2 percent tax imposed on producers of edible marijuana products or marijuana-infused products, as well as the 2 percent tax imposed on the retail sale of marijuana products at a medical marijuana dispensary. The rate on the wholesale sale of marijuana by a cultivation facility is increased from 2 percent to 15 percent, which would then mirror the retail tax that was approved by the voters at the last ballot in November 2016.

[Assembly Bill 463](#) additionally limits the license tax that may be imposed by cities and counties on marijuana establishments or medical marijuana establishments to 5 percent of the gross revenue of the establishment.

You can see on the work session document ([Exhibit M](#)) those who testified in support of and neutral on the bill. There were no amendments proposed on this legislation. The other note is on page 2 ([Exhibit M](#)). This bill is also eligible for exemption, and was determined as such earlier this week. I am happy to answer any questions the Committee may have.

Chair Neal:

Are there any questions on the work session document ([Exhibit M](#))? [There were none.] I will entertain a motion to do pass [A.B. 463](#).

ASSEMBLYWOMAN BENITEZ-THOMPSON MOVED TO DO PASS
ASSEMBLY BILL 463.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE
MOTION.

Is there any discussion on the motion?

Assemblyman Kramer:

Could you have Mr. Nakamoto explain to me if the 5 percent restriction for city and county is 5 percent for city and 5 percent for county, or is it a total of 5 percent between the two?

Michael Nakamoto:

The 5 percent limit is for each jurisdiction. It is not a combined limit. Each entity could go up to the 5 percent.

Assemblyman Kramer:

As you know I represent Carson City, which is a consolidated city/county municipality. Could you explain to me how that would apply to Carson City?

Michael Nakamoto:

It is my understanding for the purposes of *Nevada Revised Statutes*, and the rules relating to cities and counties, as it relates to Carson City, Carson City is treated as a county for those purposes. Thus Carson City, being the county in which a facility would be located, could have a license up to 5 percent of the gross revenue of the establishment.

Chair Neal:

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN MERCHANT VOTED NO.
ASSEMBLYMAN FRIERSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Araujo. I will close the hearing on A.B. 463 and open the hearing on Assembly Bill 486.

Assembly Bill 486: Revises provisions governing the distribution of the governmental services tax. (BDR 43-978)

Michael Nakamoto, Deputy Fiscal Analyst:

The last bill on today's work session is Assembly Bill 486 ([Exhibit N](#)). This bill is sponsored by the Assembly Committee on Transportation, on behalf of the Office of Finance in the Office of the Governor, and was heard in this Committee on April 11, 2017.

The Legislature, in Senate Bill 429 of the 75th Session, increased the depreciation factor for all ages and categories of vehicles subject to the Governmental Services Tax, except for new vehicles, by 10 percent, effective September 1, 2009. Under current law, 100 percent of the proceeds generated from this change in the depreciation schedule are to be deposited in the State Highway Fund beginning in fiscal year (FY) 2018.

Assembly Bill 486 permanently revises the distribution of these proceeds, such that 75 percent are deposited in the State Highway Fund and 25 percent are deposited in the State General Fund beginning in FY 2018. Again, as I noted, this is a permanent change so going forward, every fiscal year, if this bill were approved that would be the distribution.

The testimony in support was given by Michael Willden, Chief of Staff, Office of the Governor. There were no amendments presented at the hearing. This bill is eligible for exemption, as it is one of the provisions of the Governor's *Executive Budget* that would be needed to implement it. I am happy to answer any questions the Committee may have.

Chair Neal:

Are there any questions on the work session document ([Exhibit N](#))?

Assemblywoman Spiegel:

I know during the hearing there was some discussion about a sunset on this. I was surprised there was not an amendment.

Michael Nakamoto:

It is within the purview of this Committee to choose to add a sunset on this bill. The only thing I would note with respect to that is the Governor's *Executive Budget* does recommend the distribution of 75 percent to the State Highway Fund and 25 percent to the State General Fund for fiscal years 2018 and 2019. Anything beyond that would be subject to a future *Executive Budget* by the next Governor for consideration in the 2019 Session.

Chair Neal:

I want to make an amendment to this bill to add the sunset for two years—it reverts back to the 100 percent in FY 2020. The motion that we would be making is to amend and do pass A.B. 486, to require the provisions of the bill only apply to FY 2018 and FY 2019, and that 100 percent of the proceeds be deposited in the State Highway Fund beginning FY 2020.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO AMEND
AND DO PASS ASSEMBLY BILL 486.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN FRIERSON WAS ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblyman Paul Anderson. I will close the hearing on A.B. 486. I will now open the meeting for public comment. Seeing none, I will close public comment. We are in recess [at 6:11 p.m.], until the call of the Chair. [The meeting was adjourned at 11:59 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblywoman Dina Neal, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Assembly Bill 231](#), dated April 13, 2017, presented by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 266](#), dated April 13, 2017, presented by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 294](#), dated April 13, 2017, presented by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit F](#) is a proposed amendment to [Assembly Bill 441](#), dated April 13, 2017, submitted by Carole Vilardo, Private Citizen, Las Vegas, Nevada, presented by Bryan Wachter, Senior Vice President, Public and Government Affairs, Retail Association of Nevada.

[Exhibit G](#) is a proposed amendment to [Assembly Bill 441](#), submitted by Jonathan P. Leleu, representing Live Nation Entertainment, and AEG LIVE.

[Exhibit H](#) is a proposed amendment to [Assembly Bill 441](#) from Clark County, dated April 10, 2017, submitted by Les Lee Shell, Director, Office of Risk Management, Department of Finance, Clark County.

[Exhibit I](#) is a letter dated April 10, 2017, in support of [Assembly Bill 441](#) to Chair Neal and the members of the Assembly Committee on Taxation, authored and submitted by C. Micheal Crowell, President and Chief Executive Officer, Reno Air Racing Association.

[Exhibit J](#) is the Work Session Document for [Assembly Bill 375](#), dated April 13, 2017, presented by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Assembly Bill 402](#), dated April 13, 2017, presented by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Assembly Bill 436](#), dated April 13, 2017, presented by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit M](#) is the Work Session Document for Assembly Bill 463, dated April 13, 2017, presented by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit N](#) is the Work Session Document for Assembly Bill 486, dated April 13, 2017, presented by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.