

NEVADA TAX COMMISSION MEETING
MINUTES

Nevada Division of Public and Behavioral Health
4150 Technology Way, Room 303
Carson City, Nevada 89706

Video Conference

Desert Regional Center (DRC)
1391 S. Jones Blvd., Training Room
Las Vegas, Nevada 89146

March 4, 2019
9:00 a.m.

Members Present:

James DeVold, Chairman
George Kelesis, Commissioner
Francine Lipman, Commissioner
Ann Bersi, Commissioner
Craig Witt, Commissioner
Tony Wren, Commissioner
Randy Brown, Commissioner
Sharon Rigby, Commissioner

Chairman DeVold called the meeting to order at 9:00 a.m.

Melanie Young, Executive Director, administered an oath to all parties testifying.

I. **Public Comment.**

There was no public comment.

II. **Meeting Minutes:**

- A. Consideration for Approval of the January 14, 2019 Nevada Tax Commission Meeting Minutes.

Commissioner Witt moved to approve the minutes for the January 14, 2019 Nevada Tax Commission Meeting. The motion was seconded by Commissioner Rigby and carried unanimously.

III. **CONSENT CALENDAR:**

A. **Matters of General Concern:**

- 1) **Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):**
 - a) 1st Manufacturing Inc.
 - b) Arnash LLC
 - c) Awcommon Co.
 - d) Boston Pizza LLC
 - e) Codfather LLC
 - f) Creative Door & Moulding LLC
 - g) Inhwon Song
 - h) Ozone Repairs LLC
 - i) Viva Las Arepas LLC

j) Zlatas Fashions LLC

B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax):

- 1) Acrow Export Inc.
- 2) Aetna Specialty Pharmacy LLC
- 3) Ain't it Nice LLC
- 4) Ateb Inc.
- 5) AVI Systems Inc.
- 6) California Steel Industries Inc.
- 7) NARSTCO Inc.
- 8) PAX Labs Inc.
- 9) Pure Ground Ingredients
- 10) Southern Aluminum Manufacturing
- 11) Trackman Inc.
- 12) Vionic Group
- 13) Woodbolt Distribution LLC dba Nutrabort

C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) Low Book Sales
- 2) Star Nursery, Inc.
- 3) WBF McDonalds Management LLC
- 4) LHoist North America of Arizona, Inc.
- 5) Pulmonary Associates, Inc.
- 6) internalDrive, Inc. dba id Tech

D. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (civil penalties)

- 1) Zaytoon Inc. dba Zaytoon Mediterranean Market & Kabob

E. Consideration for Approval of Payment Plan Request: 12 Month Review (Sales/Use and/or Modified Business Tax):

- 1) Santa Rosa Taco Shop

F. Consideration for the Approval of the Administrative Law Judge's Recommended Decision regarding an Appeal of the Department's Denial of Waiver of Penalty and/or Interest pursuant to NRS 360.419:

- 1) A2Z Auto Exclusive LLC

Commissioner Wren requested to pull Item 3. E. 1) Santa Rosa Taco Shop for further discussion.

Commissioner Kelesis motioned to approve the consent calendar, excluding Item 3. E. 1). The motion was seconded by Commissioner Bersi and carried unanimously.

Item 3. E. 1) Santa Rosa Taco Shop. Commissioner Wren mentioned that this has been an ongoing matter for 12 years and asked the Department if the taxpayer has paid all of the tax due. Commissioner Wren also inquired if this matter is continuing to accrue interest and penalty.

Adrienne Roberts Larson, Tax Program Supervisor, stated that the base tax has been paid in full and interest is not being accrued. The remaining balance for penalties and interest is currently just over \$59k. Interest continued to accrue while payments were being made on any unpaid tax balance.

Commissioner Wren mentioned the taxpayer has been paying \$800 a month for twelve years. Commissioner Wren stated his first recommendation would be to write this off; and his second suggestion is to modify the payment plan to \$800 a month for fourteen months. This would satisfy the interest owed.

Adriane Roberts Larson acknowledged that the payment plan has been ongoing for quite some time. The taxpayer would not qualify for a penalty and interest waiver or for an offer in compromise.

Commissioner Kelesis made a motion to refer the matter of Santa Rosa Taco Shop back to the Department for further consideration of adjustment to the payment plan or to possibly write off the remaining balance. The motion was seconded by Commissioner Witt. All in favor. Motion carried unanimously

IV. **DIVISION OF LOCAL GOVERNMENT SERVICES:**

A. **LOCAL GOVERNMENT SERVICES:**

1) **Review and Consideration for Approval of the Assessor's Handbook of Rural Building Costs for 2020-2021, as authorized under NAC 361.128(a)**

Cheryl Erskine, Coordinator of Assessment Standards for Local Government Services, was present on behalf of the Department of Taxation.

Commissioner Brown disclosed that the manual includes prefabricated telecom communication equipment, although it does not affect Commissioner Brown's employer.

Commissioner Rigby asked if Ms. Erskine sees land and sea containers being used on ranch property, and are they considered mobile property or real property.

Ms. Erskine answered it depends on how it is attached to the land and if they are considered a permanent improvement with electricity or other amenities.

Commissioner Witt moved to approve the manual as presented. Motion was seconded by Commissioner Wren. All in favor. Motion carries.

2) **Review and Consideration for Approval of Exemption(s) as authorized under NRS 361.068(2) where Administrative Costs Exceed Revenue from Tax on Personal Property for application in FY 2019 - 2020**

Shannon Silva, Locally Assessed Supervisor, appeared on behalf of the Department of Taxation.

Commissioner Rigby moved to approve the exemption(s) as authorized under NRS 361.068(2) where administrative costs exceed revenue from tax on personal property for application in FY 2019-2020. The motion was seconded by Commissioner Witt. All in favor. Motion carries.

3) **Discussion and Consideration for Granting the Waiver to remain on Guaranteed Status for Supplemental City-County Relief Tax pursuant to NRS 377.057(2):**

Kevin Williams, Management Analyst II, was present on behalf of the Department of Taxation.

a) Lander County

Rex Massey appeared on behalf of Lander County. Lander County is requesting to remain on guaranteed status. The County's view is that not much has changed in the conditions that led the County to be a guaranteed status county. Lander County's population in the year 2000 was approximately 5800 and today there are approximately 6000 people. During this time period, there has been a sizeable increase in taxable sales generated, but this has largely come from the mining sector, mining construction and some geothermal

power plant construction. With respect to construction, these are non-recurring sources. Mining in itself is not sustainable, as it is a non-renewable natural resource. When the mining is over and the deposit is gone, those activities cease. Without mining, we turn back to the conditions in which the guaranteed status was granted. To remind the Commission, between 1988 and 2005, the County saw three significant downturns and busts. Those situations lead to community problems, like community cleanup, reductions in staff, utility operations take a big hit because people move out. There are a lot of problems to deal with when those busts occur, and they will occur because that is the nature of the industry that props up the sales tax generation in Lander County. For all of those reasons, the County Commission has decided to seek the waiver and stay on the guaranteed status and they encourage the Commission to support this.

Commissioner Rigby stated she understands that the decision on this matter is based on if the County has non-recurring taxable sales, we would grant this, or if there is normal sustainable growth for sales tax purposes, we would not. By looking at Sales and Use Tax in a bubble, we are ignoring the Net Proceeds of Minerals Tax and other factors in Lander County. What are the net proceeds of revenue that came into Lander County in 2017?

Cindy Benson, Lander County Fiscal Officer, appeared on behalf of Lander County.

Commissioner Rigby stated that \$43.4M went to Lander County in 2017. This is the highest of any county in the State.

Mr. Massey stated when the taxable sales go away, so does the net proceeds. It all collapses at the same time. When activity ends, it puts the County right back in the position to where the County's economic activity is at approximately 20% of what it is today.

Commissioner Rigby – Disagrees. In the presentation, mining projects and expansion that are currently underway that contribute to Sales and Use Tax. Those projects bode well for the future of minerals tax. In the presentation, you have mining development, Barrick's Cortez Hills/Pipeline expansion, Newmont's Phoenix Gold Mine expanded, the Phoenix Copper Leach Project and \$124.8M in geothermal projects. It makes sense to grant the waiver if you were struggling or in a situation that was very volatile. Construction is being done and is going to bode well for many years into the future. Commissioner Rigby stated that she has been in the mining industry for over 30 years in Nevada and sees the long-term trends on the mining bulletin. Lander County is doing very well financially and hopefully investing in infrastructure to encourage people to live there after the construction work is finished and to work in the mining industry. I do not believe a waiver should be granted in the case of Lander County.

Commissioner Brown pointed out NRS 377.057(3) requires that any application for waiver must be accompanied by evidence to support the waiver. No evidence has been submitted by the County. For this reason, Commissioner Brown concurred with Commissioner Rigby's assessment.

Commissioner Witt commented on page seven of the presentation and asked for an explanation regarding the percent differences and negative numbers. Lander, Pershing and White Pine are the only percent difference with positive numbers. Compared to farming, we are familiar with negative numbers, we don't like them, but it makes sense as to why you want to remain on this status.

Mr. Massey noted taxable sales would have declined in 2018 if the County did not have a large construction project associated with the geothermal power plant. There was \$35M of taxable sales in this category. Had this not occurred, taxable sales year over year would have been lower.

Commissioner Rigby suggested that the County collected quite a bit that they do not expect to continue to collect year after year. The County distributed less, 47% of what was collected, and the County wants to stay in the position where you're able to get to keep more of what you collect rather than distribute it to other counties, even though you are in the highest position of net proceeds in the State.

Mr. Massey stated the experience that elected officials have had over the years doesn't have a lot to do with if we are keeping or giving more, it is a better position for the County to be in in the long run when these mining upticks eventually end.

Commissioner Rigby moved to deny the waiver to remain on guaranteed status for Lander County. Commissioner Brown seconds the motion. Commissioner Witt voted - No. Motion carries by majority.

b) White Pine County

Elizabeth Frances, Finance Director, appeared on behalf of White Pine County. Ms. Frances stated there has been an increase in sales tax due to mining. We have been working hard to diversify, but we do not have anything solid. Our retailers cannot even connect to the internet in order to run credit cards. We are working with the Governor's office to bring infrastructure in. We are trying to develop housing to get people to move to our area. If we remove ourselves from guaranteed status too quickly, it could be of great consequence once the mining industry does end. We have had financial emergencies in the past and the Department of Taxation was required to come in. For these reasons, we would like to remain on guaranteed status.

Commissioner Rigby commented that White Pine County's situation is exactly why this waiver exists. They need to invest in some infrastructure and they are doing that.

Commissioner Rigby moved to approve White Pine County to remain on guaranteed status. Commissioner Kelesis seconds the motion. All in favor. Motion carries.

c) Pershing County

A representative from Pershing County was not present.

Commissioner Rigby commented that she believes that Pershing County is not quite in the same situation as White Pine County, but not far off. Commissioner Rigby moved to approve Pershing County to remain on guaranteed status. Commissioner Lipman seconds the motion. All in favor. Motion carries.

V. **COMPLIANCE DIVISION:**

A. Department's Recommendation to the Commission for Denial of an Offer-In-Compromise pursuant to NRS 360.263:

1) Brent Orchard

Lizette Arceo, Tax Manager, was present on behalf of the Department of Taxation. Ms. Arceo stated that Mr. Orchard submitted an offer in compromise on the debt of Orchard Blind Manufacturing Inc., a Nevada corporation that began operations on January 1, 2005 and closed May 5, 2011.

Brent Orchard with Orchard Blind Manufacturing, Inc. was present. Mr. Orchard stated the business continued to operate and he did stay in business, but the business went from having 39 employees, a 12,000 square foot warehouse and a ton of bills to no revenue. A lot of vendors chose not pay. A lot of inventory ended up in the landfill because Mr. Orchard could not afford to move it. Equipment was sold for \$2,000 or \$3,000. Mr. Orchard stated the money was used to pay other people, and he apologized.

Commissioner Rigby asked why a year and a half went by before there was a response made by the Department of Taxation.

Ms. Arceo stated the Department does have backlog on the offer in compromise process. The administrative law judges will begin reviewing these. Mr. Orchard has been making payments, which shows good faith.

Commissioner Rigby motioned to uphold the denial of the offer in compromise with the caveat that Mr. Orchard continue to work with the Department on another offer. Commissioner Wren seconds the motion. All in favor. Motion carries.

2) Bryan Shepherd

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation. Mr. Shepherd has submitted an offer in compromise on the debt of Specialty Tile Inc. The business operated from 2003 to 2009. Mr. Shepherd currently resides out of state, is self-employed and is operating a similar business.

The Taxpayer was not present.

Commissioner Kelesis moved to approve the Department's denial of the offer in compromise for Bryan Shepherd. Commissioner Lipman seconds the motion. All in favor. Motion carries.

3) Franz R. Gaiter, Sr. and Franz Gaiter II

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation. Mr. Franz Gaiter, Sr. and Mr. Franz Gaiter II have submitted a joint offer in compromise on the debt of Auto Truck Exchange LLC. The business operated as a used car dealership from May 1, 2005 through December 31, 2009.

Franz Gaiter, Sr. and Mr. Curtis Cannon were present. Mr. Curtis Cannon stated that this offer was made on the recommendation of Jennifer Baker in 2012. The company had been in business since 2009 and failed. From 2009 through 2012 Colonel Gaiter and his son have been trying to make payments on this debt. The offer in compromise was submitted on March 9, 2012, almost a full seven years ago. In October 2012 Mr. Cannon stated he called Ms. Baker for the status of the offer in compromise. We had heard nothing and Colonel Gaiter continued to make the payments for five years and beyond.

Colonel Gaiter stated Auto Truck Exchange LLC was the family's first business. We dealt with a lot of high end vehicles. When the recession hit, we were not able to stay in business. Liens have been placed on credit.

Commissioner Bersi stated the original offer was \$9600 and it was paid and satisfied. Testimony stated the payments went further.

Mr. Gaiter stated he paid for five years and then spoke with the Department regarding the status. The Department suggested that it would be best if the payments continued. Mr. Gaiter confirmed that he continued the payments for an additional year.

Ms. Roberts Larson stated the \$9600 was paid in full but no further payments were received according to her records. The Department made a counter offer asking that the taxpayer to pay all of the tax.

Commissioner Kelesis stated that the detriment of teleconferencing is that we do not see all of the people in front of us. This gentleman was in the military for 30 years, his wife worked for the county for 20 years, and they are on a pension. Commissioner Kelesis made a motion to approve the offer in compromise. Commissioner Rigby seconds the motion. This motion was rescinded by Commissioner Kelesis.

Commissioner Kelesis made a motion to reject the denial of the Department and approve the offer in compromise of Franz R. Gaiter, Sr. and Franz Gaiter II. Commissioner Rigby seconds the motion. All in favor. Motion carries.

B. Consideration for Approval of Motion to Dismiss Taxpayer's appeal of Advisory Opinion 17-019:

- 1) Burning Man Project, a non-profit public benefit corporation and its wholly owned subsidiary Black Rock City LLC

Andrea Nichols, Senior Deputy Attorney General – This is the Department’s request to dismiss the appeal of an advisory opinion.

Josh Hicks, with McDonald Carano, was present on behalf of the Taxpayer. Mr. Hicks stated that the Department of Taxation issued an advisory opinion even though the Taxpayer did not ask for one. The taxpayer appealed and the appeal has been pending ever since. The taxpayer’s request was for guidance on how to comply with the regulation regarding tax being paid before asking for a refund. It was a process question. We have been trying to develop a factual record for the last year to then go before the ALJ or to the Tax Commission.

Andrea Nichols stated the issue is whether or not to dismiss the advisory opinion. In 2015 the Legislature made amendments to the Live Entertainment Tax that made it clear that it applies to Burning Man. The Department has not been involved with developing a factual record with Mr. Hicks. The Department has not had an opportunity to address the facts that have been raised. Burning Man can withdraw their request for an advisory opinion.

Commissioner Kelesis asked if the taxpayer plans to file a refund request.

Josh Hicks – We are putting together all of the facts of Burning Man and we are now in the process requesting a refund. We do not want the refund to be dismissed because of the advisory opinion that is standing right now. That is why we are here today. The problem with the advisory opinion is that it doesn’t review the procedures of the over collection regulations. It says that Burning Man owes the LET and therefore the only way that they can get a refund is if they collected at the wrong rate. The issue here is if the tax is not due at all, Burning Man should get a refund.

Andrea Nichols respectfully disagreed with Mr. Hicks’ characterization of what the advisory opinion says. Under NRS 362.060, the Tax Commission has the power to direct what proceedings, actions or prosecutions shall be instituted to support the law. Burning Man has not sought a determination as to why the LET applies.

Mr. Hicks stated they are in the process of doing this. Because this is such a complex question, and it depends so much on the facts as to what goes on at Burning Man, we want to do a refund request so there is an administration hearing, a chance for witnesses to be questioned and a chance for evidence to be presented so there is a full record.

Commissioner Rigby – When requesting a formal advisory opinion from the Department, what do you normally see?

Andrea Nichols stated the Department issues formal advisory opinions and also non-binding information.

Mr. Hicks stated an advisory opinion was never requested in accordance with NRS 360.190(3). The problem is that we received a response that is an advisory opinion. This put the taxpayer in a very difficult position.

Commissioner Brown disclosed a personal friendship with Mr. Hicks and recused himself from this matter.

Commissioner Kelesis made a motion to grant the Department’s Motion to Dismiss the taxpayer’s appeal of Advisory Opinion 17-019. The motion was seconded by Commissioner Wren. Commissioner Brown recused himself. All in favor. Motion carries.

C. REGULATION:

- 1) Consideration for approval of Third Revised Proposed Regulation of the Nevada Tax Commission - LCB File No. R002-17; a regulation relating to taxation; revising provisions governing the application of sales and use taxes to charges for postage or the transportation or shipping of tangible personal property in connection with a sale of that property; and providing other matters properly relating thereto.

LCB File No. R002-17 was not heard.

A. Consideration of Approval of the Taxpayer's Motion for Leave to Admit Additional Exhibits; Department's Opposition to Petitioner's Motion for Leave to Admit Additional Exhibits; and Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:

- 1) Big Burger Beer & More LLC dba Street Food

Michael Singer appeared on behalf of the Petitioner. Mr. Singer stated that without these additional exhibits, there is no doubt that the decision of the Administrative Law Judge would be upheld. The additional evidence will have a bearing on the case before you today.

Louis Csoka, Deputy Attorney General – Under NAC 360.175 there are two requirements to admit additional evidence. One is good cause and the second is that the evidence must be material. To constitute good cause, the evidence must have been unavailable at the time of the hearing. The tax returns and the video were both available at the time of the hearing. During the audit by the Department, the taxpayer stated they only had one food truck in operation, and then for the next year they said that they had two trucks. The video shows that they had three food trucks in operation. The tax returns are unsigned and show a four percent markup on food costs. In a food and beverage business the markup is 60%-70%.

Mr. Singer – With respect to 2016, the inventory was a carryover from 2015. We still have only \$20k total income that would have been generated in the first month of 2016 using the 40% cost of goods sold formula. The federal corporate tax returns were filed electronically and not signed.

Mr. Csoka – Their new argument is that taxpayer is unsophisticated. This is not true. The same individual that owns the food trucks has owned five or six Indian restaurants in Las Vegas for a substantial amount of time. Jennifer Hampton represented the taxpayer.

Commissioner Kelesis stated his father was in the restaurant business until he died in 1993. He did not speak or write English, he was not sophisticated, but he was a successful restaurateur. To say he is unsophisticated is an unfair statement. Commissioner Kelesis asked, if we allow this evidence, do you need time to respond. Commissioner Kelesis motioned to admit the evidence and allow the Department time to respond.

Chairman DeVold suggested allowing the evidence and remanding it back to the Administrative Law Judge.

Commissioner Kelesis withdrew his previous motion and made a motion to remand the matter back to the Administrative Law Judge.

Louis Csoka suggested that the whole record be sent to the Administrative Law Judge.

Commissioner Rigby asked that an IRS transcript be requested.

Mr. Singer stated he would stipulate to this.

Commissioner Lipman mentioned that the 2015 tax returns are dated December of 2018.

Mr. Singer stated the returns were amended.

Commissioner Lipman stated this was an initial 2015 return. The tax returns are not complete.

Commissioner Kelesis restated his motion to leave to admit additional evidence and to remand the matter to the Administrative Law Judge. The motion was seconded by Commissioner Rigby. All in favor. Motion carries.

B. Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:

1) Steven S. Acor for the debts of Vision Airlines, Inc. dba Vision Air
Louis Csoka, Deputy Attorney General, was present on behalf of the Department of Taxation. Steven Acor was present.

Steven Acor stated he was the first pilot for the company in 1994, he was a mechanic, and he flew the entire time it was in operation. Mr. Acor was named secretary of the company, but he stated he was not involved with the day to day finances. Mr. Steven Acor held the titles of VP of Operations, Director of Operations, Chief Pilot and Director of Maintenance. The company failed because a large contract with the U.S. State Department was cancelled. At the time there were 700 employees and the business fell apart. Mr. Acor stated his brother was always responsible for the finances. Mr. Acor stated he never wrote a check and his job was to fly airplanes and keep the pilots trained. There was never an accident/incident.

Deputy Attorney General Csoka acknowledged the impressive résumé of Steven Acor. This matter came before us as a default judgment before the Administrative Law Judge (ALJ). The individual did not show up for the hearings before the ALJ. We have not seen any discussion of excusable neglect. In prior correspondence to the Department, Mr. Acor acknowledged that he helped grow the company from the ground up and stated he did sign some company checks. The Department presented hundreds of pages of financial documents of the company at the ALJ hearing. Mr. Acor was the Secretary of the company for over a decade and identified himself as the Vice President in various correspondence. The ALJ correctly found that he is a responsible person for purposes of the statutes.

Commissioner Brown asked if the Department has tried to locate the brother of Steven Acor.

Mary Patton – Bill Acor was also found as a responsible person, signed a payment plan and a personal guarantee.

Commissioner Brown asked why we are pursuing someone else if the president of the company signed a personal guarantee.

Mary Patton stated the Department does its due diligence when pursuing responsible persons. We sometimes pursue all officers of companies and sometimes even key employees. If you look on paper, they are both equally responsible. Both of their signatures were on everything, including bank accounts. We feel that we have met the burden to find Mr. Acor as a responsible person and the judge agreed with us.

Mr. Acor stated he was not notified of the first ALJ hearing and he did not know there was a hearing.

Commissioner Bersi asked Mary Patton what were the terms of William Acor's agreement.

Mary Patton stated William Acor signed a personal guarantee and a payment plan for the entire amount owed.

Commissioner Wren asked Mary Patton if the payment plan is being paid.

Mary Patton stated the business has been closed and no payments are being made.

Mr. Steven Acor stated his brother is now selling parts acquired by the company. Mr. Acor stated he was told by his brother that he had to be an authorized signer on bank accounts. He mentioned that he never signed payroll, but may have bought a part or something with a check, which only happened rarely.

Commissioner Bersi made a motion to set aside the default judgment and remove Steven Acor from responsible person status. Motion failed due to lack of a second.

Chairman DeVold stated he believes Mr. Steven Acor is a responsible party. He was a vice president, and was signing on the bank accounts.

Commissioner Witt made a motion to uphold the Administrative Law Judge's decision and asked that the Department work with the Taxpayer on an offer in compromise. Commissioner Wren seconds the motion. All in favor. Motion carries.

C. Request for Closed Hearing pursuant to NRS 360.247 (2-4); Consideration for Approval to Include Additional Evidence into the Record; and Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175.

1) Bob Kingston Productions, Inc. dba Saddle N Spurs Saloon

The matter of Bob Kingston Productions, Inc. dba Saddle N Spurs Saloon was not heard.

VI. **INFORMATIONAL ITEMS:**

- A. Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- B. Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

There were no questions from the Commission with regard to the informational items.

VII. **BRIEFING:**

A. Briefing to/from the Commission and the Executive Director.

Melanie Young, Executive Director – Nevada Department of Taxation. Since the last meeting, the Department had five presentations to the Legislature. There has been a pre-session budget hearing, an overview of the Department of Taxation, a sales and use tax presentation, a marijuana tax presentation, a property tax presentation, and a budget hearing. The Governor issued an Executive Order creating an Advisory Panel for the Creation of a Cannabis Compliance Board. There have been two meetings. The Chairman is Brin Gibson, General Counsel for the Governor's office. We presented an overview of the Department at the first meeting. At the last meeting, banking with regard to marijuana was presented.

Senate Bill 81 revises the statutes for tobacco and other tobacco products. Currently, the Department is tracking 31 bills.

With regard to the backlog of offer in compromise matters, the Administrative Law Judges have offered their assistance in reviewing these matters. At the next meeting, we anticipate eight to ten to be heard.

During 2018, LCB audited the Department on the marijuana program. The marijuana program was approximately seven months into its implementation when the audit began. We received our final letter last

week and we have submitted a response to the Legislature. The Department does agree that we have some areas that need to improvement. At the next meeting, we expect to present this to you.

Commissioner Kelesis mentioned to the Director that a number of taxpayers have petitioned the Department with regard to cannabis. The Department has declined the petitions. The taxpayers have filed appeals. Commissioner Kelesis asked the Director when these matters will be brought to the Commission.

Director Young stated that she will need to get back to Commissioner Kelesis with the status.

Commissioner Kelesis asked for a ten day response.

Commissioner Rigby asked if a brief overview of the net proceeds of minerals bulletin could be presented to the Commission.

Director Young answered - yes, this could be put on a future agenda.

VIII. Next Meeting Date: May 6, 2019

IX. Public Comment.

Nick Spirtos – At the January Tax Commission meeting, Commissioner Kelesis made the Commission aware of the issues relating to the marijuana application process and asked for a hearing to be scheduled as soon as possible, the Chair stated “I will make sure it is on a future agenda”. The only thing that has happened is a denial has been issued. All that one has to do is look at the MME presentation to the Governor’s Advisory Board. The slides are disingenuous and misrepresent the actions of the division. On page 59, it misrepresents the application process. The Advisory Board’s presentation uses the word county, and the actual application uses the word jurisdiction. This is completely changed from the regulations. Additionally, on page 59, the regulations are accurately represented as they pertain to the anti-monopolistic measures in that the Department does not issue to any person, group of persons, or entity greater than one license or more than ten percent of the applicable retail licenses. Unfortunately, the division ignores this and allows at least two or three of the companies, Essence Tropicana and Essence Henderson being two of them, to be considered as separate entities. Included in the packet is Essence’s own claim that they are one company. They say that they have three stores, and one of them is their most popular or busiest. On page 58, the division presented a slide in which five criteria on the application were merged into two, yet the regulations clearly provide that we would get a score for each criterion. We have never received the scores as required by the regulations. The division insists on providing misleading information to the public and government agencies by presenting this kind of material at a public forum. Mr. Spirtos asked that this item be placed on the next agenda.

X. Items for Future Agendas.

Chairman DeVold asked if we can all agree to add an agenda item regarding marijuana. Commissioner Kelesis supported this suggestion.

Commissioner Kelesis stated that he is in support of adding an item to the next agenda.

XI. Meeting adjourned.