

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

**Seventy-Sixth Session  
March 31, 2011**

The Committee on Taxation was called to order by Chair Marilyn K. Kirkpatrick at 8:01 a.m. on Thursday, March 31, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Marilyn K. Kirkpatrick, Chair  
Assemblyman Harvey J. Munford, Vice Chair  
Assemblyman Elliot T. Anderson  
Assemblywoman Teresa Benitez-Thompson  
Assemblywoman Irene Bustamante Adams  
Assemblyman John Ellison  
Assemblywoman Lucy Flores  
Assemblyman Ed A. Goedhart  
Assemblyman Pete Livermore  
Assemblywoman Dina Neal  
Assemblywoman Peggy Pierce  
Assemblyman Lynn D. Stewart  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Steven J. Brooks, Clark County Assembly District No. 19

**STAFF MEMBERS PRESENT:**

Russell Guindon, Principal Deputy Fiscal Analyst  
Michael Nakamoto, Deputy Fiscal Analyst  
Cyndie Carter, Committee Manager  
Mary Garcia, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Chris Nielsen, Interim Executive Director, Department of Taxation  
Matthew A. Taylor, President, Nevada Registered Agent Association  
Tray Abney, Director, Government Relations, Reno Sparks Chamber of  
Commerce  
Bryan Wachter, Director, Government Affairs, Retail Association of  
Nevada  
Randi Thompson, State Director, National Federation of Independent  
Business  
Terry Graves, representing Henderson Chamber of Commerce  
Brody Leiser, Deputy Executive Director, Department of Taxation  
Lindsay Anderson, Director, Business Development and Research,  
Commission on Economic Development  
Jane Nichols, Vice Chancellor for Academic and Student Affairs, Nevada  
System of Higher Education  
Tim Porter, Dean, College of Sciences, University of Nevada, Las Vegas  
Rama Venkat, Interim Dean, Howard R. Hughes College of Engineering,  
University of Nevada, Las Vegas  
Frank Hawkins Jr., Business Owner, Las Vegas, Nevada  
Joe Neal, Private Citizen, Las Vegas, Nevada  
Carole Vilardo, President, Nevada Taxpayers Association  
Wes Henderson, Deputy Director, Nevada Association of Counties  
Andrew Clinger, Director, Department of Administration

**Chair Kirkpatrick:**

[Called the meeting to order. Roll called.] We are going to get started this morning by inviting Mr. Brooks up to introduce Assembly Bill 443.

**Assembly Bill 443:** Provides a deduction from the payroll tax for wages paid to newly hired full-time employees under certain circumstances. (BDR 32-711)

**Assemblyman Steven J. Brooks, Clark County Assembly District No. 19:**

I will be testifying on A.B. 443, and I will briefly go through the bill. This bill creates incentives for businesses to hire unemployed persons. Currently, businesses pay the Modified Business Tax (MBT) at a rate based on the amount of quarterly wages. The tax is 2 percent for financial institutions and 0.63 percent for all other businesses. The bill has two parallel sections. Section 1 is for the financial institutions, Chapter 363A of *Nevada Revised Statutes* (NRS), and section 2 covers all other businesses, Chapter 363B of NRS.

Simply stated, this bill will allow employers to deduct the wages of any full-time employees they hire on or after July 1, 2011, from the quarterly payroll when calculating the MBT. The business will be able to deduct 100 percent of an eligible employee's wages for four quarters, or one year. If that person is still employed full-time after one year, the employer will be able to deduct 50 percent of their wages for another four quarters. The bill sets out four other conditions in section 1, subsection 1, paragraphs (b) through (e), that must be met to deduct wages. Those are:

1. The person has been continuously unemployed for at least sixty days.
2. The person is employed full-time for the full calendar quarter.
3. The business is employing more persons than it was the same quarter the previous year.
4. The number of employee hours being worked is greater than it was in the same quarter the previous year.

These criteria will ensure that, when a business takes advantage of the tax deduction, the business is growing and not playing games with employment hiring practices. The bill will not allow a deduction if the employer's payroll is less than it was during the same calendar quarter the previous year.

The bill also says the employer cannot deduct more than the increase in the payroll from the same calendar quarter the previous year. Say, for example, the payroll in the fourth quarter last year was \$100,000, and the payroll in the fourth quarter this year is \$150,000. The most the employer can deduct is \$50,000. The bill compares a calendar quarter to the same calendar quarter the previous year to account for businesses that hire seasonally. Again, these are all safeguards to ensure the bill is rewarding businesses that are hiring new workers and not just replacing old ones.

As to enacting tax benefits for hiring new workers, a number of other states are already doing the same thing or something similar. At least ten other states created new job tax programs in 2010, and at least four of which are directly aimed at unemployed persons. Alabama allows businesses to deduct up to 50 percent of a newly-hired employee's wages if that person had been drawing unemployment or had run out of benefits. Likewise, Maryland gives a \$5,000 tax credit for certain newly-hired employees who had been drawing unemployment or whose benefits had run out. Connecticut grants a \$1,500 tax credit for hiring unemployed workers in certain fields. Georgia's legislature passed a tax credit for hiring unemployed workers, but the Governor vetoed it to wait for the results of a tax reform study.

However, I do not think Nevada has the luxury of waiting. Unemployment in Nevada has tripled since 2007, and we have led the nation in unemployment for over a year. That is right; no other state has been hit harder in unemployment than the state of Nevada.

One other positive aspect of this bill is that it may help counteract the prejudice against hiring unemployed persons. It seems unfair, but some employers avoid hiring unemployed persons because of the stigma associated with unemployment, even though many qualified and hard-working people lost their jobs through no fault of their own. Lastly, it goes without saying that an employed person is better than a person living off of unemployment, given the multiplier effect in the community when a person is bringing home a steady paycheck and feeling confident about spending money on themselves and their family.

This bill is perhaps a small step in the right direction, but it is definitely a step in the right direction. That concludes my remarks. I would be happy to answer any questions.

**Chair Kirkpatrick:**

Thank you, Mr. Brooks. Does anybody have any questions?

**Assemblywoman Benitez-Thompson:**

Can you tell me what the impacts have been for Alabama and those other states that have enacted such provisions?

**Assemblyman Brooks:**

I wish I could, but I cannot. I will have to get back to you on that.

The way the bill is tailored, there will not be a negative impact to the state. Whatever the state is getting now is what we will continue to get. What the

bill does is offer businesses an incentive to hire additional employees as we move forward.

**Assemblyman Ellison:**

After the employee is hired and the deduction is made for the wages, how long does this go on?

**Assemblyman Brooks:**

This is only a two-year program. For each additional employee, the MBT would be waived for the first year. If that employee is kept on full-time for the second year, 50 percent of the MBT would be deducted. In the third year and beyond, the entire MBT would be paid.

**Chair Kirkpatrick:**

Does anybody else have any questions? [There were none.] Let me ask you this. Would the business get the credit up front, or would they get the credit after the person has been employed for that length of time?

**Assemblyman Brooks:**

They get the credit after the person has been employed. The employee has to be there for the first quarter, second quarter, third quarter, and then they get to apply for that MBT credit after the fourth quarter.

**Chair Kirkpatrick:**

How would you enforce that? Do businesses just submit the names and wages?

**Assemblyman Brooks:**

There is certain paperwork that businesses have to fill out every quarter regarding their employees when they are applying for the MBT. In section 2 of the bill, let me show you how we would monitor it.

We would take a look at the quarterly deductions from the prior year—say 2010—and compare it to 2011. The example I gave was an employer who reported wages of \$100,000 one year and \$150,000 the next year. They would only be able to take up to the maximum of \$50,000 for this. So they could not pay less than they did the previous year. That is one of the safeguards.

We are also able to determine whether or not the employer has more employees. If they are reporting 20 employees, and the following year they are reporting 25, then only those additional 5 would be eligible. Also, those five

must have worked full-time, so you will be able to determine this based not only on the number of employees but also on the salary.

**Chair Kirkpatrick:**

Bear with me, because I am not sure how the process works. My boss always says he cannot give me a raise because he would have to pay more taxes. I know that much.

So, what happens if the employer gives three of his employees raises to bring his wages up and then hires four people at a much lower wage? Is the data reported broken out based on individual wages, or is it the overall picture?

**Assemblyman Brooks:**

I would have to research that a bit more, but I believe when an employer fills out the report for the MBT—there are probably some business people in the room who could help us with that—he has to report the number of employees, the number of hours, and the amount of money he has paid for that MBT.

**Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:**

I will ask someone from the Department of Taxation to come up to give a more complete answer. It is my understanding, though, that for the current MBT, all that is reported to the Department is the wages paid by an employer to employees. The employer does not report anything on who those employees are or how many hours they are working, so that would have to be something the Department would have to add.

When I look at this bill, it looks like the deduction is specifically tied to the employee. The deduction can be taken against each new employee that meets the criteria rather than the total wages paid to all employees.

**Chair Kirkpatrick:**

Thank you. Mr. Nielsen, can you enlighten us?

**Chris Nielsen, Interim Executive Director, Department of Taxation:**

That is correct. We rely upon wage information fed to us through the Employment Security Division of the Department of Employment, Training and Rehabilitation. That is how the tax is set up. Gross wages are reported to us less any exemption, which is the health care deduction. Then we get to a taxable base and apply either the tiered general business rate or the financial institution rate to come up with the tax.

**Chair Kirkpatrick:**

I know there was a federal program last year. So, you verify an employer's wages for a business via the Employment Security Division. Does that necessarily verify the employee? What I want to know is what would stop an employer from giving a couple of employees raises and hiring a couple of new employees at a minimum rate?

**Chris Nielsen:**

Nothing would stop an employer from doing that. Obviously, we audit these businesses, and this would have to be included if this bill were to pass. We are neutral on this and we are not questioning the policy, but it would probably require a more detailed audit because we would not be looking for just the total number of employees and whether the tax rate had been applied correctly.

**Chair Kirkpatrick:**

I realize other states do use this, but they probably have a little bit different mechanism.

**Assemblyman Goedhart:**

Currently, with what was enacted during the last legislative session, is the MBT roughly 1.2 percent? If not, what is it?

**Chris Nielsen:**

Currently the tiered rate, set to expire unless legislative action occurs, is 0.5 percent up to the first \$62,500 dollars. The next tier is 1.17 percent on anything beyond \$62,500. The financial rate is still 2 percent for all taxable wages.

**Assemblyman Goedhart:**

There are only two tiers, then, is that correct?

**Chris Nielsen:**

For general business, yes, there are just two tiers.

**Assemblyman Goedhart:**

So if we were to do nothing this session, and we allowed that two-tier system to sunset, it would go down to 0.7 percent for everybody, is that correct?

**Chris Nielsen:**

That would be correct.

**Assemblyman Goedhart:**

So, in that case, if we just let that temporary tax rate expire, we would already be giving everyone an incentive to hire more people. Thank you.

**Assemblyman Livermore:**

Mr. Brooks, we are talking about just total employees here. How do you find an employee on a quarterly basis? Is it the number of employees or the number of hours? How do you know they are working full time?

**Assemblyman Brooks:**

Both. We are going to look at the amount of money the businesses are bringing in to work full time and the number of employees they add. Both those factors will be looked at.

**Assemblyman Livermore:**

I understand about the employees, but in a quarter, an employee has worked 520 hours, which is full time. If I am an employer with 8 employees, I know that if I bring that up to 10, I would get credit for hiring 2 and I may not have increased the number of hours. I just increased the number of employees. What prevents an employer from taking advantage of that?

**Assemblyman Brooks:**

I am confused about your question.

**Assemblyman Livermore:**

I had 8 employees who each worked 40 hours a week. Now I have 10 employees who each work 35 hours a week, because you reduced the hours of the original 8 to gain 2 more employees. How would you prevent an employer from doing that?

**Assemblyman Brooks:**

There is a stipulation in this bill that requires them to keep their employees at the same amount of hours they worked the previous year. We would probably have to work with the Department of Taxation on this bill to see if we could add an hourly reporting [requirement] as well.

**Assemblyman Livermore:**

That would be a recommendation.

**Assemblyman Ellison:**

I have ten employees. Our accounting people break everything down. Once a year they have a tax audit. Then, at the end of the year, the Taxation people formulate everything. It is not a big deal; it is just a tracking device.



**Assemblyman Brooks:**

You have a lot of employees, so you would know it is not a big deal. From what I understand, this can be tracked. The way this bill is written, we can definitely track it.

**Chair Kirkpatrick:**

Thank you. Does anybody else have any questions? [There was no response.] Mr. Brooks, we just want to make sure there is a tracking mechanism. I would bet the Department of Taxation is going to have to put a fiscal note on it, though, because they will have to do some extra work in order to track this. I would think there would almost have to be a separate form so they could track it more easily. If a business was taking the exemption, it would have to show the employees and the wages.

**Assemblyman Brooks:**

I am not sure about a fiscal note on the bill.

**Chris Nielsen:**

We were not requested to do a fiscal note, but this is on our radar, and we will be submitting an unsolicited fiscal note. I do not have the dollar amount yet but, as the bill is written, modifications would have to be made to our computer system. It would have an impact on high-volume processing, so there would be some costs. I do not yet know what they would be. We are neutral on the bill, but the administration of it would cost money.

**Chair Kirkpatrick:**

That is the legislative process, Mr. Brooks. If we are going to ask them to audit something, there is bound to be a cost. Are there any other questions? [There were none.] Is there anybody you would like to bring up in support?

**Assemblyman Brooks:**

Yes, there are a couple of people.

**Chair Kirkpatrick:**

Should we start down south first? [Assemblyman Brooks indicated his assent.] Is there anybody down south who would like to testify in support of this bill? [There was no response.] Okay, we will come back up to northern Nevada.

**Matthew A. Taylor, President, Nevada Registered Agent Association:**

The Nevada Registered Agent Association is a trade association representing a majority of the incorporators in the State of Nevada and representing a large number of corporations and limited liability companies (LLCs) here in the state. We worked with Assemblyman Brooks on this bill. We approve of the concept,

and we will be working with him on a couple of detail issues just to make sure that everything goes smoothly.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] So how many employees are you going to hire?

**Matthew A. Taylor:**

For me personally, I am trying to go from my three current employees to the five I had in 2008.

**Chair Kirkpatrick:**

I think I saw a study that showed this deduction would average out to about \$600 per employee. Is that about what you were thinking?

**Matthew A. Taylor:**

It really depends on the employee and what staff position we are trying to fill. I have everything from entry-level positions to an office manager who makes quite a bit more. The entry-level positions are the easiest to cut and to ask everyone else to pick up the slack. If this would enable us to hire back a couple of employees—we have already hired one back and are looking to hire a couple more—then yes, this would be an incentive to us.

**Chair Kirkpatrick:**

Does anybody else have any questions? [There was no response.]

**Tray Abney, Director, Government Relations, Reno Sparks Chamber of Commerce:**

We are strongly in support of this bill and this concept. I do have one minor question. On page 2, line 13, it says that at the time of hiring, the employee must have been unemployed for a continuous period of not less than 60 days. I was just wondering how we would set up a system where they could prove they had been unemployed.

I understand that someone can prove that if he has been on unemployment. However, there may be somebody who has been unemployed but has not taken unemployment compensation. That is the only thing that popped out at us.

Again, we strongly support this concept and thank Mr. Brooks for bringing this forward.

**Chair Kirkpatrick:**

Thank you. You bring up a good point because there are a lot of people who have exhausted their unemployment benefits and who have probably been unemployed for two years. It would be hard for them to prove their unemployment, also.

Are there any questions? [There were none.]

**Bryan Wachter, Director, Government Affairs, Retail Association of Nevada:**

We, too, are in support of this bill. We would be happy to work with the sponsor on any technical issues that need to be addressed in order to make it more palatable. We would like it even more if the financial institutions were brought on par with the rest of the business community. Barring that, we are happy to support the bill.

**Chair Kirkpatrick:**

Thank you. Does anybody have any questions? [There was no response.]

**Randi Thompson, State Director, National Federation of Independent Business:**

We represent more than 2,000 businesses across the state. We, too, are in support of this bill and thank Mr. Brooks for it. I will just echo the two comments made by my colleagues and reiterate the whole splitting of the rolls as more of a concern. Even though I do represent the people who pay less tax, I do not want to be considered someone who is not willing to pay my fair share. I think that is part of the challenge of the way we split the roles. Small business is more than willing to pay its fair share. Thank you.

**Chair Kirkpatrick:**

Thank you, Ms. Thompson. Does anybody have any questions? [No one did.]

**Terry Graves, representing Henderson Chamber of Commerce:**

We also support the bill and will certainly work with the parties here. Thank you.

**Chair Kirkpatrick:**

Thank you. Does anybody have any questions? [There was no response.] At this time, is there anyone who wishes to testify in opposition to A.B. 443? Is there anybody who is neutral?

Mr. Brooks, just so you know, we are the policy committee so we need to get the policy right. Because this is a giving from our regular budget, we, as the policy committee, could pass the bill out, but it would still be captured by the Assembly Committee on Ways and Means and the Senate Committee

on Finance. The important thing is to get the policy right here first, so if you could continue to work to get the policy right, that would be most helpful.

**Assemblyman Brooks:**

Thank you, Madam Chair. I will work with the parties who were at the table to rectify some of those issues we talked about. I will work with the Department of Taxation, as well.

**Chair Kirkpatrick:**

Perfect. Thank you. We are going to close the hearing on A.B. 443 and open the hearing on Assembly Bill 414.

**Assembly Bill 414:** Requires a contribution to higher education for technology commercialization by businesses which are granted certain tax abatements. (BDR 34-771)

**Assemblywoman Dina Neal, Clark County Assembly District No. 7:**

I want to give you an introduction because I know there are similar bills out there and I appreciate being able to present my ideas. I actually came up with my bill a long time ago. When I came up with this idea, I had considered several things. I felt Nevada could be a participant in emerging markets, and I thought the best way for Nevada to become involved in market competition was through innovation.

I found out about the Nevada Institute for Renewable Energy Commercialization (NIREC) grant in 2009, and it helped spur my thought processes. It was a grant that helped people get involved earlier in the development of renewable technology, either in the form of an idea or through an existing product that could be brought to market.

This made me focus on patents. I had been teaching patent law for about two years, and I had been teaching business law for about three years. I started telling students how they could become entrepreneurs through this process.

I started to look at the state capacity to build a patent process. I looked at the University of Portland, the Pennsylvania State University, and the University of Chicago, and they were all privately funded. Then I considered how I could fund such an idea.

I wanted the state to have the capacity to either make money or to recycle money that had been given out. I wanted a shared royalty arrangement between the state inventors and higher education. I also believed students

should be allowed to participate. I was told any bill that had a fiscal note would die, so I chose to use the recycled money approach, which you will see in this bill.

I had been listening to how the Nevada System of Higher Education (NSHE) did not have any money and could not do anything. So, I came up with this idea that if it is going to cost money to do something, and we have already given money out in abatements, why can we not ask for a portion of that money back in order to fund another need we have in the state. That is how I came up with and crafted that language about abatements.

Those were the factors that brought this into play for me. I just wanted to state them for the record because you never know, sometimes, what factors go into play in how an idea emerges or is conceptualized.

In section 3, on page 2 of the bill, is a definition of commercialization revenue. It is the monies received by a university as a result of commercial applications developed through the program, less revenue allocated to the inventors and costs to the university of protecting that intellectual property. So, although we are creating a shared arrangement, the university will actually be able to keep the costs of its efforts to legally protect intellectual property. They will not have to give that up. Whatever the inventor has for his portion of the revenue in the creation of that idea, he will at least be able to get some financial benefit for moving forward.

Section 4 breaks out what is a research university. It lists the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno (UNR); and later the Desert Research Institute (DRI).

Section 6 says there will be a Nevada System of Higher Education Science Technology and Research Trust Fund created through the State Treasury. It specifies that this will be a continuing fund without reversion. Because we are taking 3 percent from the abatement, what is it going to revert to? It is just going to stay in that pot; I particularly like that provision of the bill.

Section 6, subsection 3, talks about grants, donations, and anything else that is given. I was asked if someone has already gotten a grant at the university, will this now go into the Trust Fund? It will not because, the way the bill is structured, whatever activity the university puts forth—if they actively go out and pursue revenue or attempt to commercialize—it is proportionately set apart. Each university will get their portion for their activity in whatever they chose to do. You will only have given up a portion, but whatever you have done, the bill will actually credit your activity.

Section 7 says that, in order to ensure the money in the Trust Fund is used by the research universities and DRI, the allocation of the money will be as set forth in sections 2 to 10. Basically, they are going to enter into agreements to obtain private equity investment in programs. They are going to enhance and support efforts of existing technology. They are going to broker ideas and new technologies, engage local entrepreneurs and students, and then connect the market ideas and technologies. If a person comes forward with an idea, how do you take that idea to market? How do you commercialize what you have already established? You have to go through the full patent process to determine whether or not it is novelty. Then you have to figure out whether it is a novelty idea and how to bring it to market. This simply sets up the very important process whereby the universities will act as brokers—as intermediaries—to bring the idea forward and make it public.

The reason I have section 8, subsection 2, paragraph (c) about engaging local entrepreneurs and students is because I believe Nevada has a lot of talent. We have a lot of smart people throughout the state. We have a lot of really interesting students who come up with great ideas. If students had the capacity to participate in the university in the sense of innovation, what better chance could there be for recruiting students to come to your school?

On page 4, which has the rest of the section, is basically the same thing—dissemination, designing, and operating. Section 9 is recruiting and hiring a research team to conduct the science and technology research. It also creates research laboratories in order to have something on campus—or on all of the campuses—where you have a go-to place or a center where you can go.

In section 10, we get into the breakdown of that money I was talking about. For the first \$15 million received, \$10 million will be distributed proportionately among the research universities and DRI based on which entity conducted the research and generated the commercialization revenues. The remaining \$5 million will go into the Trust Fund. For all subsequent money received, 50 percent will be distributed proportionately among research universities and DRI based on which entity conducted the research and generated the commercialization revenue. It is set up based on activity.

Of course, you want to keep a certain percentage of the money going into the Trust Fund because you want the Fund to continue to build and be able to maintain itself. I think if you did not have that component in there, that would be a problem.

Skipping all the way to the back of the bill, section 13, subsection 6 tells how this abatement is going to work. Subsection 6 says on or before July 1 of the

year following the year in which the partial abatement of taxes was imposed on a business pursuant to Chapters 361 and 374 of *Nevada Revised Statutes* (NRS) and before July 1 of each year thereafter, up to and including the year following the year the partial abatement ends, the business receiving the partial abatement shall pay to the Nevada System of Higher Education Science Technology and Research Trust Fund an amount equal to 3 percent of the dollar amount by which the taxes were abated during the preceding year pursuant to Chapters 361 and 374 of NRS. Further language says any business failing to comply will pay interest on the amount due.

This was the piece I talked about in my introduction where I thought I could recycle money. We have given incentive money away, and the recipients have used that money and made a profit. I was thinking, if the state does not have any money, then why can we not try to get back a small portion of that incentive to fund one of our needs? We give money out to help businesses, yet we are still looking for money to deal with the needs we have, and higher education is one of our needs.

I was asked how we would know how much the state has actually given in abatements in order to even make this idea work. I contacted Lindsay Anderson at Business Development and Research and asked if she could tell me how much we have given out. She sent me this chart ([Exhibit C](#)) that shows the estimates for the 2010 abatements and lists all these companies. It gives the total amounts of what has been given out. That gave me hope that there is money that can be taken back and recycled for the needs of the state.

I put the other big booklet, *Report on Tax Abatements, Tax Exemptions, Tax Incentives for Economic Development and Tax Increment Financing in Nevada* ([Exhibit D](#)), on the Nevada Electronic Legislative Information System (NELIS) to show there was a study in 2007 to see whether companies were actually using the abatements. Among other good information in the booklet, it shows that companies do not use all the abatements available to them. I included this just to give you an alternative source to read and maybe understand what the trend has been. There is not necessarily a guaranteed pot where people are using all the abatements, but they are using them, and there is a chance for us to get at least some of the money back and move forward with a similar idea.

I know people have seen Assembly Bill 449, but I wanted to present my idea because I thought about it and I came up with it before I even saw A.B. 449, and I came up with it before I saw the Nevada 2.0: New Economies for a Sustainable Future conference. When I was pitching my bill, I saw I was not

alone in my thought process, and that was all right with me. Basically, that is my bill. If you have any questions, I would be more than happy to take them.

**Chair Kirkpatrick:**

Thank you, Ms. Neal. Just so you know, we all try to work together so everybody gets a piece of the pie because everybody is thinking. Some of this is probably part of the Utah Science Technology and Research initiative (USTAR) program.

**Assemblywoman Bustamante Adams:**

I want to thank Ms. Neal for bringing this bill forth. I applaud her passion. In my district I have the only magnet engineering middle school. Even though this applies to universities, I know this is something that would benefit those students down the line.

In section 4, you were talking about what "research universities" means. You mentioned Desert Research Institute (DRI), but I did not see the name there.

**Assemblywoman Neal:**

It is actually listed later, and that is something that needs to be amended. I think DRI is already treated as a research university, but in section 4, I think that was just an oversight in drafting. I did notice that. In the rest of the bill, DRI is discussed along with the research universities, but it was not included in section 4.

**Chair Kirkpatrick:**

Maybe I could help. In section 7, it refers to DRI and relates back to sections 2 to 10. I think that is how it works. I am sure DRI is already defined within statute.

Are there any other questions? [There were none.] I just want to make sure how this pencils out. I will tell the Committee that we do not have a tracking method for our abatements. Starting last session, after that report was done, we have been working very closely with the Commission on Economic Development (NCED), and we have been keeping better track because we had had a lot of abatements on the books, but we did not necessarily know if people were using them. The one thing I found is that businesses come here, want an abatement, and then go to Arizona and get a better one. We really want them to use ours, and we are working really hard at that.

Let me understand how this works with the abatement process. Currently, we have abatements on sales tax and property tax. Those are our two most consistent types. Would they have to take the abatement first and then give it



back to the university? I am unclear on how that process would work, how we would pencil it out. Do they pay the property tax and then we give them a rebate minus the 3 percent for the Trust Fund?

**Assemblywoman Neal:**

I asked the Legal Division that same question. As I understood them, they said when you look at section 13 and section 6—and you really have to sit there with a pencil and flesh all this out—in the year we actually impose the abatement and it becomes effective, the businesses will take their abatements and pay their taxes. Then we are going to take the 3 percent. We cannot take what they have not paid.

I know we can project what somebody has, but that is not really realistic. We have to see the dollar amount given. We actually have to give the abatement to someone and know they are going to use it. Then we can turn around and say we are going to take 3 percent of that and use it. Just as you said, someone could apply for the abatement and not use it. So, until an abatement is actually used, it is a number that really has no value.

That is the way I envision this working, and that is the way I understood it was being fleshed out in section 6. To me, that is the only logical way to do it.

**Chair Kirkpatrick:**

My understanding of how the abatements work is a company gets a tax bill but, if they are getting a 50 percent abatement, they are only responsible for paying half that amount. In turn, would they actually write two separate checks, or would the Department of Taxation have to forward that to the university system?

**Assemblywoman Neal:**

After July 1, that check would come. My understanding is that the taxes are quarterly, so by July, we would already be in the fourth quarter, so we would know exactly what had been given out. Then the 3 percent can be taken from that amount.

**Chair Kirkpatrick:**

Maybe the Department of Taxation can help us with this.

**Chris Nielsen, Interim Executive Director, Department of Taxation:**

The Department is neutral on this, and we are not questioning the policy. We are here to answer any technical questions. I am going to turn this over to Brody Leiser, who should be able to assist Assemblywoman Neal. Then we have a couple of clarification questions of our own.

**Chair Kirkpatrick:**

Okay. As long as you are here, Mr. Leiser, typically we have regulations we put in process when we do things like this, so it is pretty streamlined. I do not see any reference to that in the bill.

**Brody Leiser, Deputy Executive Director, Department of Taxation:**

I just want to help clarify the preceding discussion in terms of the taxes that would be abated—the property tax and the sales tax under Chapters 361 and 374 of NRS. For abatements that are granted under sales tax, the taxpayers remit a portion of the tax to the Department. Under this abatement, they remit the 2 percent. For everything else that is abated, they never remit payment to the Department. We never see the other six-point-whatever percent or 4.85 percent. We only receive the 2 percent amount for sales tax. Our understanding is that the 3 percent calculation would be determined on the amount of tax that is abated, so that payment would have to come directly from the business.

**Chair Kirkpatrick:**

We already struggle with making sure everybody pays their sales tax. I know that typically, in the past, we have given certificates to those who get the resale portion of the tax. The *Nevada Constitution* says they have to at least pay the 2 percent, so that is where that comes in. Then, typically, I thought we issue certificates to businesses so they know that they do not pay the sales tax. Is that not how it works?

**Brody Leiser:**

That is correct.

**Chair Kirkpatrick:**

So, if the business did not keep up its part of the agreement—and we would have a list of who gets the abatement—there is a clawback provision in here that they would have to pay it plus interest. But we currently do not audit except for every two years, so how would that work?

**Chris Nielsen:**

There is a regular audit cycle. This bill works with the existing framework of the traditional economic development abatement. The way I read the bill, it would create additional audit responsibilities because we would be auditing not just for additional businesses but for additional reasons. We have a regular audit program. We did ten in the last year. It is very important, obviously, to make sure that when the state is giving away money, the recipients are complying with the capital investment requirements, the labor requirements, et cetera. As you stated earlier, there has historically been a problem with

businesses being up and running and then going to other states. We have recovered some of the money, but when they go out of state, it becomes more difficult to recoup that money.

**Chair Kirkpatrick:**

Let me ask you about the property tax and about the regulation process, because I am kind of shocked that we have something that does not require regulations.

**Chris Nielsen:**

The Nevada Tax Commission has general authority to enact regulations for any tax types within Title 32 of NRS, which would include the chapters here. Certainly, the NCED has that general authority as well. I do not know if a regulation is necessarily needed in this. It is possible, but if we can ever get anything into statute, it makes us happy.

**Chair Kirkpatrick:**

I appreciate that. However, at the same time—and trust me, I am not one for regulations—there seems to be, at least from my perspective, some mechanisms that would have to be worked out. What happens sometimes when it is in statute, if we do not allow for a regulation process, is that it does not pencil out and it is two years until the next legislative session before we can actually implement it.

Tell me about the property tax, then. Currently, the local governments assess the property tax, and then the taxpayers remit the difference. I am wondering how we would ask the business to give us those dollars.

**Chris Nielsen:**

Before I answer that, with respect to the sales tax, obviously that is remitted to the Department, and we can certainly assist the business to come up with the 3 percent calculation. It is not that big of a deal; you just back it out. There would not be any real cost to the Department on that end of it.

As for the property tax, you are correct. They are typically assessed at the local level. The county assessors send a bill twice a year. It would be up to those individual county assessors to work with the businesses receiving the abatement to determine the amount. That is about as far as the Department can go in speaking on an issue that is the purview of the county assessors.

**Chair Kirkpatrick:**

Ms. Neal, I think you are on the right track toward putting money back into our System of Higher Education. We have been hearing that for a long time, and

I am just wondering how we can pencil some of this out. Say the tax rate is 6.85 percent, the abatement is for all but the 2 percent, and 3 percent of the abated amount goes to the Trust Fund in the bill. You would not use the tax rate; you would use the amount of the total abatement. But if we do not get that abatement number but typically only give a receipt, how would we verify what the 3 percent is?

Let me restate that. This bill says a business would pay 3 percent of the total tax abated, is that correct?

**Chris Nielsen:**

That is correct.

**Chair Kirkpatrick:**

On the sales tax, the business would typically be abated 100 percent for a short time. Although it is not stated in the bill, we try to rein in the time frame so it does not last forever. We give a receipt, but we never go back to figure out how much that total abatement was on sales tax. We just have a projection. So, how would you know what the 3 percent was? How would you back it out?

**Chris Nielsen:**

Perhaps Economic Development would have to weigh in on this question to a certain extent. Typically, a business goes to the Commission on Economic Development to present their plan, their list of equipment they would like to purchase if approved for the abatement. The Commission on Economic Development approves the abatement. They come to the Department of Taxation with that approval letter. We issue a certificate that allows that business to purchase certain equipment at the 2 percent sales tax rate. The taxpayer will then submit a special return to us reporting only the 2 percent.

Typically, this is for big-ticket items. The way the business would have to back into that 3 percent would be to look at what the total sales tax would have been for those items without the abatement—and that varies slightly from county to county—minus the 2 percent, and calculate 3 percent of the remainder. Clark County's sales tax rate is 8 percent. The business would multiply the remaining 6 percent sales tax by the price of the qualified purchases to come up with the dollar amount of the abatement. They would then multiply that number by 3 percent to come up with the amount that should go into this Trust Fund.

**Chair Kirkpatrick:**

I think we are all confused on this because you have to include the voter overrides. Those cannot be abated. Is that correct?

**Lindsay Anderson, Director, Business Development and Research, Commission on Economic Development:**

The way it works is when companies spend money, they save money on their taxes. No cash changes hands between the state and the company. As I interpret it, we do know exactly how much they spend. Through the approval process, they give us an upper threshold, so we know they cannot spend more than that. There is a lower threshold, too, so we know they spend somewhere between those figures. They have two years to do that spending in order to take advantage of the abatement period. From my understanding, we have to wait the whole two years, see how much they spent, and then calculate what the value of the abatement was to calculate the 3 percent that would be remitted. That would be a cash payment from the company and not a reduction of a transfer from the state. Does that help?

**Chair Kirkpatrick:**

Yes, that does help. Thank you.

Ms. Neal, I am sure it was not your intent to wait the whole two years to get the money back and into the Fund, or was it?

**Assemblywoman Neal:**

No, but I was operating on the assumption that since we had already abated a certain amount of money already, that there was still a window. In some cases, we would already be at the end of the two-year period, so there might be some possibility, at this point, to access something—not all, but something.

**Chair Kirkpatrick:**

It would be hard, once the company had a business plan, to go back now after two years and tell them they have to give up some cash, because that was not part of their overall plan. I think, going forward, that they could put it in their plan. We talk about that all the time.

Going back retroactively would be problematic, though. One thing we have seen in the past, and one reason we try not to do things retroactively, is that it makes for an enforcement nightmare. Also, it sets a bad policy for the people in the state, and it seems to spread like wildfire across the nation. The way it plays out is that we are going back on our word.

However, going forward, you could maybe change the language to say "quarterly upon the initial abatement." The assessors will have to be involved at the local level. For this to be able to be penciled out, you have to work through some of that.

**Assemblywoman Neal:**

Okay, I agree. When you look at it that way, you have reality, you have a theory, and then you assume, since you have a great idea, that people will do the extra work or do other things outside of that in order to make something happen. That is not necessarily real.

**Chair Kirkpatrick:**

I would not say it like that. I lean heavily on Economic Development and Taxation, but I think we have to be fair about the tools we give them. But listen, I am not shy about bringing amendments to my own bills and walking away knowing I need to make more amendments to my bills to make them work. The Legal Division does a very good job, but what they come up with may not reflect my legislative intent or it may not work the way I envision it.

I was working late last night on amendments to my own bills because they did not work. We want this to work, and to work for the long-term.

**Assemblywoman Neal:**

Can I also mention one thing I forgot when I was rushing through my introduction? This is another amendment I have to make. In section 9, subsection 3, when I came up with those areas of pharmaceuticals, medical devices, and chemistry, those were not the only areas I intended this to include. I had researched patent and innovation areas that had withstood recession, and I had looked from 2002 to 2009. There were more areas that should have been included in that section but, because I was hit with something else, I was not able to go back and amend it. It was not all-inclusive. The reason I selected those things was that I was trying to figure out what areas had made money and what needs had been constant throughout a period of years, where people never stopped innovating. That will probably be adjusted, too.

**Chair Kirkpatrick:**

To my knowledge, studies done in the last couple of years show that, in 2014, these are going to be the key areas of need. In some respects, it might be good to focus on a few areas to begin with and then morph into others. What I have learned about these particular areas is that there are so many ancillary pieces. In Utah they had something I had never heard of, but it was derived from medical devices. I think you are probably better off if you leave it focused on

this because there are so many more and because, from studies I have seen, Nevada's key industry, in 2014, is supposed to be in the medical field.

**Assemblywoman Neal:**

The University of Nevada, Reno, had mentioned to me that aviation and marine technology were the other two areas that were very advanced and had withstood time. Because we focus on our airports and such, I thought that was also a possible avenue.

**Chair Kirkpatrick:**

Okay, maybe you can make it a bit broader so you can negotiate and be flexible.

**Assemblywoman Pierce:**

When you first described this to me, I could not quite conceptualize what you were talking about. Looking at this, though, I think it encourages companies that come here to think not just about coming here to make money, but also to be part of the community and have some connection to our higher education system. There is clearly some work to be done, but thank you for bringing this forward.

**Chair Kirkpatrick:**

Does anyone else have any comments? [There was no response.] Thank you, Ms. Neal. I would be happy to work with you, as I am sure everyone on the Committee is, to see if we can make this right.

**Brody Leiser:**

There are a couple of things we would be more than happy to work with Ms. Neal on for purposes of clarification. In section 13, subsection 6, we want to make sure business would be responsible for remitting payment directly to the Nevada System of Higher Education Science Technology and Research Trust Fund. We just want to make sure that is the intent of the legislation and not that the payment would be routed through the county assessor and/or the Department of Taxation.

Then, in section 13, subsection 7, the clawback provision, if the entity does not meet the requirements set forth in the abatement statute, as written, the legislation is allowing for a credit for any amount paid to the Nevada System of Higher Education (NSHE) pursuant to subsection 6. We would like to work with Ms. Neal on the hierarchy of payment and what would be applied to the property tax portion versus the sales tax portion.

**Assemblyman Munford:**

I think the bill itself has a good idea in its intent to create some interest in bringing fresh ideas and to lend some credibility to the university system. I think that is very good. Ms. Neal, thank you for this bill.

**Chair Kirkpatrick:**

Thank you, Mr. Munford. Does anyone else have any comments? [No one did.] Okay, would anyone who wishes to testify neutral on this bill please come up to the table?

**Brody Leiser:**

We do have a neutral stance on this bill. I believe we have covered everything we wanted to bring forward to the Committee. Again, we are more than willing to work with Ms. Neal on the sections I mentioned earlier.

**Chair Kirkpatrick:**

Perfect, thank you. I appreciate your willingness to work with Ms. Neal. Are there any questions? [There were none.] Anyone else who would like to testify as neutral please come forward.

**Jane Nichols, Vice Chancellor for Academic and Student Affairs,  
Nevada System of Higher Education:**

I have with me Tim Porter, who is the Dean of Science at the University of Nevada, Las Vegas.

First, we would like to thank Assemblywoman Neal for her foresight and vision in bringing forth this bill. It identifies a key need of NSHE—a need that was laid out clearly at the December meeting of the Board of Regents when it authorized us to come and work with the Legislature to try to find some source of money to support technology transfer and research. We think it is critical to building the future of the state, and a lot of people have heard that message.

At this point, we are aware of three bills coming through the Assembly that address that in various ways. All of them have certain key ingredients. All of them provide additional funds, from whatever source, to researchers and our three research institutions. This will enable those institutions to bring in world-class researchers who will be able to invent products, get patents, and transfer those into the business sector. There, they will create new businesses and a cluster of industry that will enable Nevada to move forward in the years to come. We are very supportive of this.

We do have concerns about section 10. That section basically takes the money that has come from commercialization and returns it to the Trust Fund, which is



with the State of Nevada and not with the Board of Regents. Doing so would actually take away a very important part of this model, which is to have an incentive on our campuses for researchers to be interested in and engaged in technology transfer.

All three institutions have technology transfer operations that work very hard with faculty. Thinking about whether something has commercial applications does not come naturally to faculty in the laboratory. That takes a strong support system, which is another reason this money is so badly needed.

Another incentive is that, as it says in the bill, the scientists will get a portion of the commercial proceeds from intellectual property. The university will also get some benefit.

I can assure you if section 10 were omitted and the money stayed at the universities or at DRI, that money would be put back into research and into the support of technology transfer offices. Putting that money back into the Trust Fund is a bit awkward and unnecessary.

I have not heard a reliable projection of what money might be generated from this model. However, that is not what I am here to speak to today.

Regarding the issue that came up earlier about the identification of areas and clusters you want higher education to focus on, we think the Commission on Economic Development is going to put a process in place to identify those clusters, taking into account the areas of innovation likely to be marketable to businesses. Also, you have to take into account what kind of expertise we can build on that we already have in our faculty. Utah did that, and it was a critical part of their success. I would encourage you not to name any particular areas at this point but to say areas will be identified that will lead the state forward in economic development.

Those are my comments on behalf of the Board, and I would turn, now, to Dr. Porter.

**Tim Porter, Dean, College of Sciences, University of Nevada, Las Vegas:**

Science and technology-based economic development, like we are talking about in this bill and in other bills, requires success at a number of different stages of what is virtually an economic development pipeline. The initial stage of this process is where the research, invention, and new technologies are put on the table.

A little later stage, the intellectual property stage, is where some of these inventions, technologies, or therapies that have been triaged and that show a certain degree of potential for economic development are identified. They can then be provisionally patented or, in some cases, can go through the full patenting process both here in the United States and on an international scale.

Once that is done, the hard work begins. Patents tend to just sit on the shelf. Far and away, most of the patents generated, even those that are good ideas and that have some economic development potential, sit on the shelf and nothing ever becomes of them.

The next phase in the development process might be called the start-up or incubation phase. This where the new idea, technology, or device is developed to the prototype stage. This is where outside investors, venture investors, or high-net-worth individuals can come in, look at the technology, work with it a little bit, and decide whether this technology is worth investing in. These investments are usually very large sums of money for the creation of a new company or for the licensing of that technology to the company.

This incubation process is an extremely important part of the pipeline. When this fails, the whole technology fails. For science and technology-based inventions, this process normally takes place at incubator facilities that may be in southern Nevada, northern Nevada, or probably both. These facilities are wet laboratories, or wetlab facilities, that are literally showcases for these new technologies that are coming from the research laboratories.

We mentioned investment capital. This is extremely important in the process, and a successful incubation process tends to lend to a successful investment capital process.

Finally, the end game stage is where we hope to have success. This is where a new company can actually be formed that sells a product and begins to make money and generate royalties to the inventor, to the universities or DRI, and to the State of Nevada. Another successful outcome could be a licensing agreement where an existing company, here in Nevada or outside Nevada, simply licenses the product or technology and begins to manufacture or distribute it themselves. This also brings a flow of money back into the state.

In many cases, the inventors or investors are simply taken out of the process by a purchase by another company. This is also considered to be a success in the invention pipeline.

Failure to address any one of these stages along the economic development pipeline puts an end to the whole thing. The vast majority of new endeavors of this type do fail.

One of the things we like about this bill is that it supports a lot of the various components along this pipeline, not just one or two. It potentially supports the whole pipeline itself in many ways.

[Chair Kirkpatrick left the dais and handed the gavel to Vice Chair Munford at 9:14 a.m.]

We have a few minor suggestions for the wording in the bill that might help in this. The bill supports the creation of new technologies, products, and therapies through the Nevada System of Higher Education Science Technology and Research Trust Fund. It funnels money into the two research institutions and DRI for the inventors in the hiring of new faculty who are focused on both the invention and development of new technologies with the potential for economic development and the creation of centers for research or entrepreneurship.

This bill also can assist in the intellectual property (IP) section of the pipeline. This is where money is fed into the technology transfer offices at the institutions to help them triage these proposals to help them in the patent process and to identify which of these new technologies will have the greatest potential for economic development. This bill also potentially helps in the start-up, or incubation, phase of the process which, in my opinion, is the most important part of the process.

While not mentioned explicitly in the bill, the bill would support the investment into capital infrastructure, into buildings, and into wetlab business incubators, preferably in both the northern and southern parts of the state. These business incubators are mostly run by local governments—the cities themselves—in which the facilities are located. However, an investment by the state or federal government to help get these facilities built and off the ground is sometimes very important, or even necessary, in get a facility like this started.

Finally, this bill addresses the marketing of new technologies. Marketing is extremely important, whether it occurs at the IP stage, the incubation stage, or the later stages of the development pipeline. We have to go out and sell these technologies to investors or to companies that might potentially license or ultimately purchase these technologies. This bill, in many ways, addresses that stage of the pipeline as well.

I would suggest a few minor changes to the language of the bill, and these have been addressed already by more than one person. In terms of the areas that are targeted for development here in Nevada, we agree with NSHE that a statewide road map needs to be developed that leverages core competencies, whether they are in northern or southern Nevada. We need to recognize the differences that exist between the northern and southern parts of the state in order to effectively leverage what we already do into areas that might be potentially lucrative for future economic development. We need to concentrate not on areas that compete directly with Silicon Valley or with the San Diego area, but areas in which Nevada actually has a chance to be successful. We would also support areas other than just biotechnology, such as renewable energy, transportation, and nuclear science as well, as well as the areas brought up earlier for UNR, which would be marine and aviation.

One suggestion might be to mention explicitly the idea of business incubation somewhere in this or another bill. That would address some of the concerns. Incubation is so important, and it is critical if new inventions in the economic development pipeline are to succeed here in Nevada. So, we strongly encourage the insertion of the words "wetlab business incubation" at some point in this bill or one of the other bills.

Another potential suggestion might be to insert the word "biosciences" in section 9, subsection 3 and to clarify that it includes biotechnology, bioengineering, biomedical sciences, pharmaceuticals, medical devices, and biochemistry. That is a lot, but it helps to specify more clearly the areas that have been identified as growth areas in the broad area of biosciences where money can be made.

**Vice Chair Munford:**

Thank you very much. That was valuable information.

**Tim Porter:**

Thank you. I spent most of my career in Arizona, moving to Nevada only seven or eight months ago. During the last ten years of my time in Arizona, we were engaged in this very sort of activity. It is gratifying to see some of this being put on the table now and being discussed. I hope we can be successful.

These types of efforts are long-term. We really have to commit ourselves to something like a ten-year plan, and we have to persevere doggedly in order for this type of economic development to be successful over the years.

**Vice Chair Munford:**

Thank you. I would like to open it up to questions from the Committee.

**Assemblywoman Bustamante Adams:**

Ms. Nichols mentioned Utah's model, and I know Ms. Neal mentioned some other models. So, this is nothing new across the United States, but I know it will be new to Nevada. Have you studied the models of Utah and Pennsylvania? If so, are you at the beginning stage of studying those?

**Jane Nichols:**

We have studied those in depth for a number of years, and we have put a number of proposals before the Legislature over the last ten years related to those kinds of models. The very first one was Georgia, and then it spread across the country.

The models are similar in stating the need to include private business. They are similar in the need to find a funding source. In Utah, it is the state's general funds. In Georgia, I believe they relied, to some extent, on property taxes with the support of the real estate industry. In Oregon, they used a business incentive to donate to the universities for research; if a business donated, it counted toward their taxes.

Various models have been used. We have studied these, and we are in complete support of this and anxious to get started on a more aggressive implementation. We need a couple of things. We need money, and we need direction from the state. We need the state to step up with economic development initiatives and give us some direction as to the particular areas on which we need to focus. We eagerly await the implementation of a USTAR-like model or some such model that will enable us to move forward more aggressively in this area.

**Assemblyman Stewart:**

Mr. Porter, did you attend the Nevada 2.0 conference? Also, what was your experience in Arizona with the Arizona State University and the presentation they gave?

**Tim Porter:**

Yes, I did attend Nevada 2.0. My experience in Arizona was directly related to much of what we are discussing here. The process in Arizona began about ten years ago and was funded by a 0.25 percent sales tax surcharge throughout the state. That money was funneled into the research entities within the state with the sole purpose of leveraging the expertise in the various regions of Arizona into the type of economic development that best suited those regions and was competitive on a national and international scale.

Arizona borrowed a little bit from the USTAR model. As Ms. Nichols explained, Georgia has also been involved in this sort of thing. We have some competition with states, such as Iowa and Colorado, that are beginning this process we are talking about today. We are not alone in trying to initiate a process like this.

**Assemblyman Stewart:**

How did we get you away from Arizona?

**Tim Porter:**

I was in the Physics Department for 22 years in Arizona. I served as the department chair and then as the director of the growing biotechnology consortium in Arizona. These biotechnology areas are so diverse in terms of disciplines that they bring in physics, chemistry, engineering, and even business components.

My opportunity in Nevada was to serve as Dean of the College of Sciences at UNLV and to help participate in a process just like this. We discussed this at length during my interview with UNLV President Smatresk and other leaders within the state. It was an exciting opportunity. I am grateful to have this on the table and to be able to discuss these issues here.

**Assemblyman Stewart:**

Thank you for coming, and I hope you will be here for a long time.

**Assemblywoman Pierce:**

Mr. Porter, you suggested some other areas to add to the list in the part of the bill that specifies the kinds of research we are looking for. Is it better, for your purposes, to specify areas of research or to be more vague so it would be expandable at some future time?

**Tim Porter:**

I would say maybe some combination of both would be best. It would work for us in some ways not to be specific in the bill but to rely on a core competency study or a road map process here in Nevada to identify the important areas in the northern and southern parts of the state. Invariably, those areas are going to be some of those listed here, so whichever route we take, the same areas will appear, with maybe some others as well.

I will defer to my colleague here and say maybe we should leave it general at this point and rely on a road map or core competency study in the first stage of the process to identify those areas. Some other studies conducted over the past few years by some economic entities here in Nevada have also named some areas, and they are those same areas as well. Let us be logical, use

common sense, and put the right areas in place through the core competency study or road map process.

**Vice Chair Munford:**

Are there any other questions from the Committee? [There were none.] We appreciate very much your valuable information and input. It made many of us much more knowledgeable. At this point, we are going to move to testimony from the south. Anyone in support of this bill can move to the table.

**Rama Venkat, Interim Dean, Howard R. Hughes College of Engineering, University of Nevada, Las Vegas:**

Our college is appropriately named the Howard R. Hughes College of Engineering. Howard Hughes was a great entrepreneur. I believe in entrepreneurship, and I think this bill hits it right on the head. Entrepreneurship is a big deal for our state.

I have been in Nevada for 21 years. I started as an assistant professor, and now I am Dean of the College. We have talked about economic diversification for all 21 of the years I have been here. We have talked about it but have never done anything about it. This bill does something about it, and I really like this bill.

The bill uses business revenue to grow new businesses. That is the part I like. If we grow more businesses, we will have more revenue and we can bring taxes down. I like that idea.

Another idea I like is that this involves homegrown talent and businesses. Chances are, if our students and professors come up with these ideas, the businesses will stay in Nevada and will employ our own people. Before this, we talked about hiring people back. I think this bill paves the way for that.

Another thing I really like is that we have been talking about funding for higher education. If we enable our institutions of higher education to grow businesses, to pay back to society, to pay back the state, and grow our wealth, I think that is a great thing.

Regarding the couple of things my colleagues talked about related to areas of focus, I would really like it to be a bit open. We should really look at the competencies of different institutions and different colleges. We have certain strengths, and we should grow those things. Also, we should attract other businesses. I really like the biomedical and nuclear areas.

Renewable energy is a big deal. I think there are a lot of technologies that can come from renewables, and we are the renewable energy capital of the world. We should use that area.

Transportation is a big deal, especially in Clark County. I would like this to be open to the transportation area.

In terms of identifying areas, leave that to the universities. We will work with the Commission on Economic Development and economic development boards to come up with the right areas so we can make Nevada a better state. Thank you.

**Frank Hawkins Jr., Business Owner, Las Vegas, Nevada:**

As a proud graduate of UNR and a supporter of UNLV, I come before you in support of A.B. 414, and the direction the bill is pointing. With all of the negative challenges you have to deal with, especially the cutting of the budget as it relates to the Nevada System of Higher Education, I think this is something positive, and it is a way to do a couple of things that have already been stated.

First and foremost, this would help recruit the young talent, convince them to go to our research universities, take part in patenting, and have an opportunity as far as investing, inventing, and technology transfer. This would be a great opportunity for these universities.

The goal is to create the Trust Fund, and I am in support of that. I will speak later about one concern I have as we talk about creating this Fund and how we will get the money into the Fund. We have already invested money in businesses or new businesses to help them be more successful. This would create a way to work with those businesses to get them to reinvest a portion of those abatement monies back in our university system to build more business and technology and to create opportunities to recruit young people.

I have a couple of questions. We were not able to see the study ([Exhibit C](#)) most of the members there have, so I would ask that a copy of that be made available so we could use it as a reference point because it spoke to the study done in 2010. Did the study talk about the issue of lifetime abatements?

We know the sales tax and property tax abatements have been discussed earlier and in different committees, and business was discussed earlier in a bill. How long do these tax abatements go on? Are they lifetime measures, and is there any opportunity to ensure some of that money gets reinvested in this Fund we are talking about?



I only have one concern about the Fund. As a business owner—I own multiple businesses as a developer, a general contractor, and a property manager—I think that if you are expecting the business owners to pay this directly to the university system or into the Trust Fund, that is not very likely to happen. I would encourage you to have the state collect that money and deposit it in the Fund set forth in the bill.

I think this is a great idea. It is a start. We are talking about looking at this as a long-term endowment. I appreciate Assemblywoman Neal's bill and other bills that may have the same goal. I would just like to make sure we have a mechanism where we can feel confident that the money is captured and put in the right place for the universities.

**Vice Chair Munford:**

Thank you. Those were very good comments. Are there any questions from the Committee? [There were none.]

**Joe Neal, Private Citizen, Las Vegas, Nevada:**

I just had an opportunity this morning to read this bill and get an understanding of what it is supposed to do. This bill is enormous in its activity and the things it can do in economic diversity. We have talked a lot about economic diversity in the past legislative sessions, and even in this session, and about finding jobs. Assembly Bill 414 is the key.

As you probably have already seen, this bill allows the intellectual community to step out front and get involved in economic diversification. One aspect of the bill that caught my attention would allow the students to participate in some of these inventions and creative activities. This would have enormous action in terms of getting grants and money, and it would be in line with the federal government's science, technology, engineering, and mathematics (STEM) program. I think this would act to encourage our students to become involved in these particular activities.

The bill itself hits a home run in getting us a kick-start in economic development and in not being dependent upon just the business community to push this forward toward economic development and the diversification of our industry.

I think it behooves the Committee and this Legislature to act on this bill as quickly as possible so the universities and others can get involved in pushing this idea. It would be good for the state, and it would bring a lot of intellectual properties to the state. I think we need this not only because it bears the family name, but because it is a very good bill.

**Vice Chair Munford:**

Thank you, Mr. Neal. It is very good and has a lot of merit. It makes a lot of sense. Are there any questions anyone would like to ask? [There were none.] Are there any opponents of this bill? Is there anyone neutral on this bill? Is there any public comment on this bill? [There was no response.] Are there closing comments you would like to make, Assemblywoman Neal?

**Assemblywoman Neal:**

I just want to say that I am going to work some more on this bill. When I thought about the areas I put into the bill, I knew there were a lot of out-of-state companies that had their bases here. Many of them are pharmaceutical-based companies, and they have been doing a lot of things.

As a final comment, we have a list of export companies. They are currently creating, building, selling, and doing all kinds of things and then sending them out of the state. I looked at that entire list, and it is worth considering, when you start to develop ideas, what activity is actually going on in the state and what businesses are doing what.

Those businesses are possible partners for the future because they are already here. They are already part of an export base and so, when you talk about marketing a product and then taking it outside the state or dealing with it in-state, that is another avenue to look at. Thank you for hearing my bill.

**Vice Chair Munford:**

Thank you. It is a very good bill, and I hope it goes forward. With that, we will close the hearing on A.B. 414 and open the hearing on Assembly Bill 505.

**Assembly Bill 505:** Revises provisions relating to governmental financial administration. (BDR 32-1147)

**Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1:**

Before you today is a Committee bill I introduced last week with the help of all the members of this Committee. We have heard, from The Brookings Institution, that we needed to do a better job with our tax expenditure report. Ms. Neal brought up a very good point today when she said we had no way to go back and track some of this data. I think we grew very fast and did not put the reporting mechanisms in place as we would have wanted to. The tax expenditure report has been something that this legislative body has talked about since the early 1990s, and I am sure Ms. Vilaro would attest to that.

I sent each of you a copy of a report from April 2009, *Promoting State Budget Accountability Through Tax Expenditure Reporting* ([Exhibit E](#)) that I received

some time ago, and it is also on the Nevada Electronic Legislative Information System (NELIS). It talks about state budget accountability, which is important going forward. As we look at term limits, and as we look at staff retiring, we have to have some historical knowledge for our state so the state can continue to make the best choices for everyone going forward.

Within the first few pages, the report tells you that some states' expenditure reports are better than others. It cites those of Oregon, Minnesota, and Connecticut as very good examples. They also say that some tax expenditure reports are somewhat useful, but they could be much better. Those states are Arkansas, Maryland, and Rhode Island.

Here is what this report says about Nevada. We do nothing. I do not think I want the rest of the nation to know that we do not do our reports well. There is also a map in the report that shows that all of our surrounding states do at least some type of reporting.

This is a great way for the public to know what we are doing. This is a great way for future governors and our current Governor to know where we stand as a state. In Assembly Bill No. 193 of the 75th Session, I did put a sunset on tax abatements so we could go back and revisit them. That passed, and that has been standard practice for this legislative body since last session.

As times are changing, we need to stay on the cutting edge. We need to take old things off the books and put new things on. This report will allow the Executive Branch to work with our legislative staff to do some key things.

A lot of the data listed in section 1, subsection 2, paragraphs (a) through (d) of the bill is currently available to us. As we move through lines 10–17, I believe this is something we will need to do to enhance our report. We do not want to be one of those states that gives just a little information. If we are going to do this, we need to do it right. However, it will come at a price. We will need new software and more staff in order to be able to do this.

We at the Legislature have heard, through all the presentations we have had, that we do these reports maybe every 10 or 15 years when there is a crisis or we have too much money, but we do not do it consistently. This bill puts a process in place for the report to be done every two years so historical knowledge is available for the future.

Those of you on the Committee know I love to give you the legislative historical value of everything because it is important. Someday, though, you are going to

be the person sitting in that same chair telling your colleagues what the history is and why you have seen the same bill 12 times.

This does cost money, but I think we have to invest in our state for the long term. I hope each of you will go through this report. It is very interesting. It lays out some of the different expenditures you would see and some of the processes that other states do. I spent the weekend going through the reports of Minnesota, Connecticut, and Oregon.

I think the first part of this bill actually came from Oregon. However, I felt that Oregon's information was a little much for our state to start with. They are very articulate about what they collect. I think we have to start small and be consistent. Connecticut had a very good report. They were very thorough. Minnesota had a very simple report that laid out the grand scheme of things.

I think this is a good report for Nevada because it contains what is important to our state. Working through the information from the other states helped me decide where we should at least start.

With that, I would be happy to answer any questions.

**Assemblywoman Bustamante Adams:**

I know that, in the Assembly Committee on Government Affairs, we had talked about reporting expenditures over a certain amount on our website. The report in this bill would include all expenditures, right? There is no cap or starting base, is that correct?

**Assemblywoman Kirkpatrick:**

Assembly Bill 276, which we heard in Government Affairs, is a different type of thing. That is basically putting our checkbook online. That is about the grander scheme of things, which some of the states do. Utah is one that does something very similar to that.

This bill, though, talks about all of our reporting mechanisms. There are some things out there such as deductions. There are deductions where we need to see what revenue was generated. There are deductions for food. There are all different types of things encompassed within this report.

Together, both processes will give the public, as well as our staff and future legislators, access to a lot of information.

**Assemblywoman Neal:**

Section 3 of the bill says this act becomes effective upon passage and approval. So, is this going to allow us to take inventory of everything that comes through this session so we will know what we have?

**Assemblywoman Kirkpatrick:**

I will tell you that the report you referenced earlier today ([Exhibit D](#)) took our staff well over a year and a half to put together because we did not have all of the correct information. They worked a lot of hours on it.

This report is not required to be back to the Legislature for two years, but the bill will allow them to start the process now. If we are going to put the onus on them to give that information to us, the legislators, we need to give them as much time as necessary to coordinate with each other. They will need a lot of extra time.

**Assemblywoman Bustamante Adams:**

On page 2, line 16, it refers to the number of taxpayers receiving the benefit. I know the report you gave us talked about getting details on the taxpayers. Is your recommendation that, right now, we just collect the number of taxpayers receiving the benefit and no other information regarding the taxpayers at this time?

**Assemblywoman Kirkpatrick:**

There needs to be a starting point, and I think the Legislature needs to be aware that when special legislation is passed for special people, this will definitely be right out there for the public. At least within my time, I have seen us give abatements to different groups which may only impact five people. For the public, and for ourselves, we need to justify such things and show they are worth it.

I believe we have to have abatements. I looked at trying to get rid of them. I was their biggest opponent. I was going to change the world and get rid of all the abatements.

Here is what I found, though. We would definitely be on the map as the only state without any. I do not know if that is necessarily the direction we want to go, but I do think that, to be good stewards of the public's money, we need to make sure we are doing this right.

I mentioned earlier that we have some abatements on the books that have never actually been utilized. Let me give you one example. We have an exemption

where we do not charge tax on our food. That benefits three million people in our state. That is a good example of doing a great job.

There is one I have seen, and Senator Townsend would probably kill me for saying this, that is an exemption for a car museum. That benefits whom? I think you, as legislators, are going to have to keep in mind, when you come forward with these types of things in the future, that the public will be scrutinizing you. I think it is important to put that information out there.

**Assemblyman Stewart:**

I applaud you. I think this brings Nevada into the 21st century on this issue, and I think it is much needed. Do you have a ballpark figure on what the cost would be?

**Assemblywoman Kirkpatrick:**

I do not. I know Mr. Clinger does not have a figure available yet, either, but there will be a fiscal note. I believe we have to invest in our state for the future. I can tell you that, in Oregon, the initial cost was \$130,000. Since then, it has become standard practice, so the maintenance stays up on it. We spent more than that on the Governor's Task Force on Tax Policy in Nevada, and that was just a one-time thing. Had we kept it up, that would probably have been a different situation.

**Assemblyman Stewart:**

It is very minimal, then. Thank you.

**Assemblywoman Flores:**

I was briefly able to look over the report that is on NELIS. There was quite a bit of analysis based on the reports that are available in other states. Do you anticipate, if this passes and the reports are subsequently done, that legislators and the public will then just be able to have the information and will be able to make their own analyses, or do you anticipate that staff will use the information to perform an analysis? Who do you anticipate actually using the information?

**Assemblywoman Kirkpatrick:**

In Minnesota, the Governor uses it in planning his budget. As abatements sunset, it is clearly within his letter to the legislature saying this is his budget and they need to look at certain things. I believe the information will help our Fiscal staff as they participate in the Economic Forum. I believe they will be able to use it for resources as legislators call and ask for information. I believe the legislators can use it as a tool to determine the best policy for our state. And I believe the public wins by everybody using it because then it will be in such layman's terms that they can understand it.

Also, we can go back to them and say this is what we do. The sales tax exemption for food is a perfect example because that is a huge benefit we give away in our state. It helps so many people. I think there is not one person within the state that would not benefit from this.

**Assemblywoman Pierce:**

On page 2, line 10, you are asking for estimates of the fiscal impact. Is there a reason we cannot actually get a dollar amount on some of this?

**Assemblywoman Kirkpatrick:**

I think Ms. Anderson alluded to it. First, you will not know specifically who is going to take what portion of this. Second, there is information for which we currently do not even have a reporting mechanism, so we have to do our best estimate. I would believe, over time, that can be refined, but until we have a starting point, I do not think you want to demand a specific amount because that would put us where we are today with the uncollected taxes—we would be putting false numbers out there. Going in, we know it is an estimate, and people can adjust to that.

**Assemblywoman Bustamante Adams:**

In the State Controller's bill that we heard, we also talked about sharing the information on the website. I know that is not mentioned anywhere here, but what are your thoughts about being able to access the information?

**Assemblywoman Kirkpatrick:**

I have not put the website in the bill yet. I think the first thing we need to do is evaluate the first set of data to see what we actually get. If we throw things out to the public that do not necessarily mean anything, they will not continue to look for it. With the State Treasurer putting her information on there, I think we have to be careful about throwing the information out there without even seeing it. I also believe that would give me another fiscal note because it would have to be adjusted. Regarding section 1, subsection 4 of the bill, we do have to work with local governments on the tax abatements for veterans and senior citizens. I think we have to fine-tune this before we mandate that the information automatically goes to the website.

**Vice Chair Munford:**

Are there any other questions from the Committee? [There were none.] Would anyone in support of the bill please take a seat?

**Carole Vilardo, President, Nevada Taxpayers Association:**

We are in support of the bill. We think the information will be very important not only to the revenue committees but to the fiscal committees once it is fully

developed. Insofar as understanding what we are doing with the exemptions and abatements, one of our positions has been that we like a sunset on everything because we want to be able to review it. That is what we have looked at in putting reviews before the Legislature, and those are not always palatable to the elected officials who have to vote on those sunsets. This gives us a mechanism by which to look at it.

I spoke to the maker of the bill and told her I thought an amendment was needed. On line 27 of page 2, you will notice we talked about tax exclusions. The definition we have used for an exclusion is that when you create a tax bill but do not attempt to carve something out as an exemption, by omission it becomes an exclusion. Some tax exclusions may be known quantities, but in a number of other cases, there is no way to determine what that number is. Our suggestion would be that you add language similar to "to the extent that the information is available" on line 28 of that page.

There is one other thing. When Chair Kirkpatrick was testifying, I realized that, on line 16, "the number of taxpayers receiving benefit from the tax expenditure" may not be totally known. It may be a case of, say, the veterans' exemptions. What we have seen happen sometimes is that we know the base that should be available for the exemption but, not everybody is taking advantage of it. So, for subparagraph (3) [lines 18–22], it might be helpful to also put in "to the extent the information is available."

Other than that, we hope you will process the bill. Thank you. If there are any questions, I will try to answer them.

**Vice Chair Munford:**

Are there any questions for Ms. Vilardo? [There were none.]

**Wes Henderson, Deputy Director, Nevada Association of Counties:**

I would like to thank the sponsor for bringing this bill forward. We think this information is vital not only to this body, to staff, and to the state, but also to local governments. Local governments would like to see the totality of the abatements that have been granted. They can use those to examine whether they are effective. It would also help them develop positions regarding the abatement policy to bring back to this body to help in the formulation of future abatement policies. I would be glad to answer any questions.

**Vice Chair Munford:**

Are there any questions from the Committee? [There were none.]



**Bryan Wachter, Director, Government Affairs, Retail Association of Nevada:**

We, too, would like to thank the Chair for her leadership on this bill and in bringing it forward. We in the Retail Association think the playing field should be level for everybody. In doing so, it is helpful to know exactly where the playing field is. We think this bill goes a long way toward being able to do that. We would be happy to help with any technical amendments or anything that might come up, but we wanted to express our support for this concept.

**Vice Chair Munford:**

Thank you. Are there any questions? [There were none.] Are there any other supporters of this bill? Are there any opponents of this bill? [There was no response.] Is anyone neutral on this bill?

**Andrew Clinger, Director, Department of Administration:**

We are neutral on this bill, and we appreciate what Chair Kirkpatrick is trying to accomplish. I think this would be great information. I just wanted to raise two concerns we had. One is we will have a fiscal note on this, but we have not developed it yet. We will need at least one staff person to accomplish this, and there may be some database costs and other things we may have to include in it. The other thing I would point out is that on page 2, lines 10–17, the estimates in subparagraphs (1) through (3), some of that data we currently just do not have. Part of it would be difficult to put together because we simply do not have some of that data. We are certainly willing to work with Chair Kirkpatrick on this and make any necessary adjustments so we can move forward with this. Again, I think it is a good idea. I just wanted to raise those concerns.

**Vice Chair Munford:**

Are there any questions for Mr. Clinger? [There were none.] Thank you.

**Assemblywoman Benitez-Thompson:**

You were talking about data we do not currently collect. Is that because it is uncollectable data, or do we just not have a means by which it is currently collected?

**Chris Nielsen, Interim Executive Director, Department of Taxation:**

I believe I can answer that better than Mr. Clinger can. We do collect much of that data. Some of the sales tax, for example, has exemptions that were voted in by the people in the 1950s. I was not alive in the 1950s, so I do not know why they were voted in. We track those exemptions in the aggregate so, as far as the dollar amount, we can certainly provide that to the Department of Administration. As far as going down each individual exemption for sales tax, we do not have that data. There are other exemptions that are not

self-executing. Nonprofits and churches, for example, have to come to the Department of Taxation and apply to be exempt from sales tax. We do track the number of entities receiving those exemptions, assuming they qualify under the law. We turn down entities every day and approve entities every day. It just depends on how those organizations are set up. As far as their purchasing habits, we do not track that. We would literally have to audit every nonprofit and church, which we currently do not do.

That is just one example. For other tax types, for example the MBT (Modified Business Tax), the major exemption from which is the healthcare deduction, we can give a dollar amount. That is one of the data pieces we do track. There are various other exemptions and tax types that we do and do not collect. I think that reflects what Chair Kirkpatrick, Mr. Clinger, and Ms. Vilardo have described to you. I hope that answers your question.

**Vice Chair Munford:**

Are there any other questions from the Committee? [There were none.] Is there anyone else who has a neutral position? Is there any public comment? [There was no response.] Madam Chair, do you have any closing comments?

**Assemblywoman Kirkpatrick:**

Thank you for indulging this. I think we had some good discussion because a lot of you are going to be here in 12 years. This is a good policy decision that our state can move forward with. I am happy to work with Ms. Vilardo and Mr. Clinger on the small amendments. I realize this will have to go to the Assembly Committee on Ways and Means, and I am comfortable with that.

**Vice Chair Munford:**

Thank you, Madam Chair. We will have a comment from our fiscal analyst.

**Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:**

The Chair wanted me to let the members know that our meeting next Tuesday will start at 9 a.m. rather than 8 a.m., and we will be hearing two bills. One of them is Assemblywoman Pierce's bill regarding taxes on liquor, cigarettes, and other tobacco. The other bill is being brought forward by the Speaker regarding the MBT. That is all I have.

**Vice Chair Munford:**

If there are no other comments and no other business, I call today's meeting adjourned [at 10:13 a.m.].

[Assembly Bill 276, Assembly Bill 449 and Senate Bill 395 were mentioned during the meeting but were neither on the agenda nor within the jurisdiction of the Assembly Committee on Taxation.]

RESPECTFULLY SUBMITTED:

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Mary Garcia  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Taxation

**Date:** March 31, 2011

**Time of Meeting:** 8:01 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 414	C	Assemblywoman Neal	Table of estimated abatements
A.B. 414	D	Assemblywoman Neal	Report: <i>Report on Tax Abatements, Tax Exemptions, Tax Incentives for Economic Development and Tax Increment Financing in Nevada</i>
A.B. 505	E	Assemblywoman Kirkpatrick	Report: <i>Promoting State Budget Accountability Through Tax Expenditure Reporting</i>