MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TAXATION

Seventy-Eighth Session
April 30, 2015

The Committee on Taxation was called to order by Chairman Derek Armstrong at 1:46 p.m. on Thursday, April 30, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Derek Armstrong, Chairman
Assemblyman Randy Kirner, Vice Chairman
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Olivia Diaz
Assemblywoman Jill Dickman
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblywoman Dina Neal
Assemblyman Erven T. Nelson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Aaron D. Ford, Senate District No. 11

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Terry E. Rubald, Chief Deputy Director, Local Government Services, Department of Taxation
James (JR) Reid, President, JR Lighting, Inc., North Las Vegas, Nevada
Tray Abney, Director of Government Relations, Chamber of Commerce of Reno, Sparks, and Northern Nevada
Randy Soltero, representing International Alliance of Theatrical Stage Employees
Bryan Wachter, Senior Vice President, Retail Association of Nevada
C. Joseph Guild, III, representing Motion Picture Association of America
Jason Miller, Owner/Chief Executive Officer, Downtown Films and Silver State Production Services, Las Vegas, Nevada
Jonathan P. Leleu, representing Greenberg Traurig, LLP
Darrin R. Miller, Actor, Carson City, Nevada
Joshua A. Cohen, Owner, CohenCidence Productions, LLC, and Nevada Camera and Lens, LLC, Las Vegas, Negative
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce
Victor Joecks, Executive Vice President, Nevada Policy Research Institute

Chairman Armstrong:
[Roll was called and housekeeping items discussed.] Today we have two bills on the agenda, Senate Bill 78 and Senate Bill 94 (1st Reprint). We will start with S.B. 78.

Senate Bill 78: Makes various changes to provisions relating to taxation. (BDR 32-303)

Terry E. Rubald, Chief Deputy Director, Local Government Services, Department of Taxation:
Last year an appeal of property taxes that were assessed to a mine property by the Department of Taxation brought to light the question of what the appropriate forum is for hearing a mine property tax appeal. Based on advice

the Department received from the Attorney General last year, a county board of equalization under *Nevada Revised Statutes* (NRS) 361.345 does not have the authority to determine the value of real or personal property assessed by the Department. A county board's authority is limited to determining the value of real or personal property that is assessed by the county assessor. This is because the county board is created by statute and has only limited and special powers.

The authority to review values established by the Department is more appropriately vested in the State Board of Equalization. Right now the statutes, particularly NRS 361.403, provide for direct appeals to the State Board for valuations determined by the Department for various utilities, airlines, telecommunications, and other centrally assessed property. We also have NRS 362.135 that indicates all net proceeds of minerals tax appeals should be heard directly by the State Board of Equalization, but it does not reference the property tax of a mine, even though mine property is appraised and assessed by the Department pursuant to NRS 362.100. Because we asked the counties to bill the mine taxpayers and collect the taxes on our behalf, it can be confusing to taxpayers as to which agency is the correct forum for appeal. We wanted to make it clear what the proper forum is for an appeal of property taxes on a mine property. Based on the advice of the Attorney General, that forum is the State Board of Equalization.

Section 1 of the bill is the new section that provides for direct appeals of mine property valuations to the State Board, and consistent with other types of property valuation appeals, the deadline will be January 15. The balance of the language in the bill contains references to this change in section 1, so the definition of "property" includes mine property; and, as for other appeals, the State Board would give at least 10 days notice about when the appeal would be heard and would give notice of any increased valuation.

I would be happy to answer any questions.

Assemblyman Kirner:
I understand what is going on here. Is the timing you have proposed similar to what the counties are using?

Terry Rubald:
It is identical.

Chairman Armstrong:
Are there any other questions from the Committee? [There were none.] We will move to testimony. Would anyone like to speak in support of S.B. 78? Seeing no one, we will move to opposition. Would anyone like to speak in opposition to S.B. 78? Seeing no one, we will move to neutral. Would anyone like to speak as neutral on S.B. 78? Seeing no one, do you have any closing comments, Ms. Rubald?

Terry Rubald:
Thank you for the opportunity to present the bill and we hope you pass it.

Chairman Armstrong:
I will close the hearing on S.B. 78. I will now open the hearing on Senate Bill 94 (1st Reprint).

Senate Bill 94 (1st Reprint): Makes various changes relating to transferable tax credits for film and other productions. (BDR 32-58)

Senator Aaron D. Ford, Senate District No. 11:
Had I known at the end of testimony last session on Senate Bill No. 165 of the 77th Session, which is the bill that enacted the film incentive, that I would be returning so quickly, I would have ended my testimony with, "I'll be back."

I am back, and to borrow another famous line from another movie, although a paraphrased one, and one I think Chairman Armstrong can appreciate, the question for today is, "Can you handle the truth?" The truth of the matter is the film incentive of S.B. No. 165 of the 77th Session has been quite successful. I am here today to make it easier for us to see more success, and to talk to you about Senate Bill 94 (1st Reprint), which looks to slightly amend S.B. No. 165 of the 77th Session to make it more efficient and more effective, and to allow Nevada a better opportunity for success in attracting, not just new jobs, not just new money, but a new industry to our state.

Some of you will recall we passed S.B. No. 165 of the 77th Session in 2013 and created a program to attract the film industry to our state. That program allowed for transferable tax credits of up to $20 million a year, with a cap of $80 million over the life of the program, with a sunset in 2023.

Unfortunately, as part of the 2014 Special Session for Tesla Motors, the amount of the total transferable tax credits was cut to $10 million.

That brings us to today and S.B. 94 (R1), which extends the life of the film tax credit program indefinitely by removing the sunset provision and the 2017 application deadline.

This bill also eliminates the cap on the amount of transferable tax credits and will instead let the Legislature determine on a session by session basis the amount of funding committed to the program each biennium—either by authorization or by appropriation. For example, if we as a body decide to appropriate zero dollars, then for all intents and purposes, the program does not exist. But if we decide to appropriate a certain amount of funds, then the program exists up to that particular limit. So each session, depending on the economy and other factors, the Legislature can decide what the state needs and what the state can afford in the way of a tax credit to attract film productions.

With that basic explanation of the bill in mind, I would like to highlight some of the other key changes.

Throughout the bill we have redefined terms to reflect the actual terminology used in the film industry, and to remove impediments that are not found in other states. Terms like "qualified expenditures," "production costs," and "production company" have been substituted, along with a clarification that a "qualified direct production expenditure" includes rentals of tangible personal property, in addition to purchases from a Nevada business. Another key definitional change in the bill is the inclusion of postproduction expenditures as a "qualified direct production expenditure," but only if the postproduction expenditure occurs in Nevada.

Section 9 clarifies that reality shows and game shows are eligible for tax credits and spells out the conditions applicable to reality shows.

Section 10 changes the criteria for eligibility related to funding of a production, showing that 50 percent of the funding has to be in an escrow account—which is not the way it works in real life—to requiring proof that 70 percent of the funding has been obtained.

Sections 10 and 15 revise some deadlines in the original bill that are too short. The first change increases the length of time the Office of Economic Development, Office of the Governor (GOED) has to approve an audit, and to approve a certificate of transferable tax credits from 14 days to 60 days. The second change is to modify the production deadline from 1 year to 18 months.

Section 11 excludes certain pass-through transactions from being considered a "qualified direct production expenditure."

Section 12 increases the incentives for hiring Nevada residents by excluding the hiring of extras from the "below-the-line personnel" calculation. Film companies already routinely hire locals for extras, so this change would ensure that more Nevada residents are used on films shot here in Nevada.

Section 13 progressively reduces, and ultimately eliminates by January 2017, the consideration of wages paid to non-Nevada residents as a basis for the tax credits. This is another way we will encourage and ensure Nevadans are actually the ones who are being hired and are able to take advantage of this film incentive.

Section 14 allows unused authorizations or appropriations from the Legislature to be carried forward to the next year.

Section 16 removes the deadline for applications to local governments for an abatement of taxes by the local government connected to a qualified production.

Before offering my closing remarks I want to remind those of you who were on the Committee last session, and let those of you who are new to the Committee this session know that S.B. No. 165 of the 77th Session was what I have called "the quintessential example of compromise legislation." It had Democrats and Republicans supporting the bill. It had both houses in this building supporting the bill. It had both unions and chambers of commerce from north and south supporting the bill, so in that instance it was bi-industrial. For all intents and purposes it was the quintessential example of compromise legislation.

Over the course of the passage of S.B. No. 165 of the 77th Session we saw the bill go into operation. By working hand-in-hand with the Nevada Film Office, we saw that certain things needed to be changed to make it more effective and efficient for them to administer the program. We had the same group of individuals at the table talking about what changes were necessary to improve the program.

When I say the film incentive program has been successful, notwithstanding the fact that $70 million was stripped from the program, let me offer you proof that is in the pudding.

The movie *Mall Cop 2* was filmed in Nevada. This was the first film that applied for and received the incentive. The total budget for that film was $46 million.

In order to qualify for the incentive, 60 percent of that money had to be spent here in Nevada. They were able to do that, and hired a minimum of 3,000 Nevadans. We were able to bring a lot of activity here economically. It released two weeks ago and raised $23 million for the first weekend. I do not know where they are right now, but the point is we do not have to have a *Gone with the Wind* type production in order to have good jobs, new money, and a new industry come to our state, which is all this bill has ever been about.

The movie *Lake Mead* was filmed in Nevada. We have an untitled project that filmed here as well. A CBS *In the Spotlight* production has filmed in Nevada, as well as a Yahoo Screen series that filmed in my district called *Sin City Saints*. Nicholas Cage wrapped up the production called *The Trust* two months ago.

We have a new game show here called *Monopoly Millionaires' Club*—it has been clarified under this revised bill that game shows qualify—and they are going to be building a sound stage to accompany that production. Local producers filmed *Frank & Lola* here. We had another film called *Katie Says Goodbye*. This was just with the $10 million worth of incentives left in the program after we stripped it down.

You will hear from people in the audience today that there has been a lot of success in terms of being able to hire people, people being able to make a living, additional hires being made at different companies, and actual benefits inuring to our Nevada economy.

If you are wondering what the Senate amendment did, at my request we restored the listing of positions to the definition of "below-the-line personnel," along with a few other things. I am hoping you will be able to get behind this bill. I am happy to answer any questions you may have.

Chairman Armstrong:
Section 14 removes the $10 million cap, and you testified it would be up to the Legislature each session to determine the amount, and in lines 9 through 15 on page 11 it talks about the two-year carry-forward if GOED does not authorize a full credit. I am wondering about the policy discussion behind that.

With us determining the budget for two years, we are not able to determine what credits we are going to have to reimburse, because there is a two-year carry-forward. Could you respond to the timing of that?

Senator Ford:
If I understand your question, I could see this playing out a couple of ways. For example, if this year we decide to put $20 million into the program, and $10 million remains at the end of the year, when we come back in 2017, we would look at what is left over and recognize that we have allowed that money to rollover. That would play into our calculations as to how much, if any additional, we wanted to add to the program for that particular year.

The policy consideration behind this is a carryover from last session. It allowed the carryover to take place but expire, as we are doing it here, the following year. The initial bill only had a cap of $20 million per year, and it had a cap of $6 million per production, because we did not want one blockbuster film coming in and taking the entire credit. The idea is to have people be able to go from job to job, and have multiple productions here. Many people want to classify film as temporary jobs, but so are construction jobs, going from project to project, which lets you have more than a temporary job. The impetus behind the carryover was to allow additional films to come in, and to continue to grow the industry as a general matter.

Assemblyman Kirner:
You gave a longer list than I was expecting.

Senator Ford:
In terms of the productions?

Assemblyman Kirner:
Yes.

Senator Ford:
It would have been much longer had the tax credits not been cut.

Assemblyman Kirner:
I appreciate your list but I do not recall any of those being filmed in northern Nevada. Is that right?

Senator Ford:
As far as I know you are correct.

Assemblyman Kirner:
So maybe Clark County should have this kind of program, not the whole state?

Senator Ford:
I think this money has been generated to support the entire state, so ultimately this is a statewide decision. Reno has a very good convention and visitors bureau that has set up three different sound stages in order to help attract productions. There are a lot of activities that were going on, but got truncated because the program was truncated.

The fact that no productions have taken place in northern Nevada is not a fair assessment of the program, not to mention the fact that while the productions I listed previously may have been in Clark County, they were not in Las Vegas particularly. One of them was not even in Las Vegas at all; it was out in the desert. We were able to show portions of our state that otherwise are not seen, which is another part of the tourism aspect this bill adds.

Assemblyman Kirner:
I am just yanking your chain. On a serious note though, I recall there being tax credits that could be sold. Is that correct?

Senator Ford:
Yes, they are transferrable tax credits.

Assemblyman Kirner:
Can you walk me through that a little bit?

Senator Ford:
The way it works in most of the states we looked at, and is suggested in S.B. No. 165 of the 77th Session, is that these tax credits that are received by a production, such as *Mall Cop* 2, which received $4,383,987 in tax credits, may be sold for 80 cents on the dollar, as an example. It could be 80 cents, it could be 75 cents, it could be 95 cents on the dollar. The point is, it creates an entire secondary market and a secondary opportunity for economic activity, as well as jobs in an industry. They could be used to go to the next production, to help fund their next movie, or they could be sold so that others can finance films, and things of that sort as well.

Assemblywoman Kirkpatrick:
I want to step back a little bit, because I think with all the excitement of the different productions we have missed the meat and potatoes of the bill.

Senate Bill 94 (1st Reprint) is a cleanup bill on the accountability that we, the Legislature, asked for last session. I want this to be clear for the Committee. This is not re-creating or adding anything. This is about going through and talking about the specifics of what we should be looking for—the expectation we should have.

I understand that you want to get rid of the sunset date. My concern is if we currently have $10 million left in transferrable credits, and we assume about $5 million or more is going to be used this fiscal year, in 2016, regardless of whether they get 70 cents on the dollar or the full dollar, we have to account for the full dollar. We have $10 million within our fiscal budget to determine how it works.

The way I believe we have it calculated within our budget is that the entire $10 million will be used within the next fiscal year, so it creates something of a secondary market for the folks who want to buy and use those credits. We still have to account dollar for dollar on our side, which we have done, and we have made sure it stays in place.

I want to be clear that we are not taking out the ability for when those tax credits can be used. It is important from a fiscal side that it not be hanging out there because it is doable. We owe it and we have to pay it.

The way I am reading section 14 is that by striking language it may take out the timeframe, but I believe that on line 15, paragraph (b), subsection 1, the bill says that you have to use it in the next biennium.

I want to make sure we are having a clear conversation on what this bill does. I do like policy and I do believe that the program did much better than we anticipated. I believe there was a commitment from the previous leadership in this house to ensure we worked with the film industry to help it continue to thrive.

I want to be clear on what the bill specifically does. So is that the legislative intent, that you could have the tax credit out there, so we could put it on our books, and then within the next fiscal year you use it or lose it? But you want to be able to say that on top of that this program stays in place regardless? We have many programs that stay in place all the time, so I want to be sure that is your legislative intent.

I do want to commend the film industry on coming back and tweaking the language on the accountability. I think there was some concern that it did not show enough of what we needed to see, that it was productive, and that it made sense to keep this program in place. I specifically talked to some of the people in the film industry to say we have to do a better job of showing what the return on our investment is, and I believe this is what sections 1 through 12 do. Is that correct?

Senator Ford:
What you have indicated is exactly correct, but this bill does not change the expiration dates and the requirements already existing in the law. For example, regarding the transfer of the credits, before the transfer you have to declare how you are going to use it, so it allows us to be able to base budgets on that information.

I also wanted to clarify one thing. At the time the monies were removed, during the 28th Special Session, we may have had about $2 million left, definitely less than $10 million, but there are no funds left right now. No other productions have been able to apply for this since the 28th Special Session, to utilize and take advantage of the program. This is the complete and ultimate culmination of all activity at this point, because we have a zero-funded incentive program at this juncture.

Chairman Armstrong:
In reference to section 20, when this goes into effect for the amended provisions of sections 12, 13, and 14, would this be retroactive for some of the productions that are happening right now?

Senator Ford:
No, there is no retroactivity contemplated. Each production has already applied for and has been approved for a certain amount of potential tax credit. As I understand it, there are no applications pending at this juncture, so all the productions that have applied have received the benefit of the tax incentive. There is nothing in this bill that is going to retroactively change.

Assemblywoman Neal:
On page 9 of the bill, section 12, beginning on line 29, what did you find were some of the problems or the issues in terms of using different language? Instead of using eligible "producer" you changed it to "production company." Instead of using "cumulative," you now have qualified "direct production" expenditures.

What did you learn in the interim as to why you needed to make those adjustments? What was happening in the application of the previous language?

Senator Ford:
What we found, working hand-in-hand with the Nevada Film Office, was some of the terminology was incorrect. The language was not what was being used in the industry. Some of these are merely changes to reflect phrases that are actually used in the industry, as opposed to having the Nevada Film Office interpret and make them apply to the phrases being used. Now everyone who reads this bill and wants to apply for the incentives will actually understand what we are talking about.

That is the case with "producer" as opposed to "production company." I think production company was found to be a more appropriate phrase, because in using producer you might think of an individual or a person who would particularly be a producer as opposed to an entity in that role. My understanding is, with "direct production expenditures" versus "cumulative qualified expenditures," there was a comparable consideration. In a broader sense, as I have indicated, the issue was that the terminology was just not the same as in the industry.

We also found we had placed into the bill some unnecessary impediments to the administration of the bill. It would not change the numbers that were already authorized, the $20 million for example. It would not change the six member production. But in administering this act, we found the Nevada Film Office was encumbered by the requirement that 50 percent of all money be in an escrow account demonstrated with a letter of credit, or something of that sort. That is just not how it is done, and that was an impediment to getting some productions to come here or even apply, let alone actually go through the production process here.

What we have attempted to do is work with the Nevada Film Office from an administrative perspective, GOED, the industry and the representatives, and those who work in that area to fix this in a way that would make it more effective and efficient for the film office to administer.

Assemblywoman Neal:
On page 4, section 10, subsection 1, of the bill, there are two things. I am assuming the strikeout of the date is because there are changes in the date at the end, in terms of a "production company that produces a qualified production in this State in whole or in part...," on or before a certain date, so now there is no date that they need to start production. Can you give me examples?

On lines 43 and 44 (page 4), we talk about the "certificate of eligibility for transferable tax credits for any qualified direct production expenditures," and then the strikeout is on "production costs," which I assume is there because production costs were struck out in the other parts of the bill. What would now be the qualifying direct production expenditures that make them eligible for the transferrable credit?

Senator Ford:
That is a very complicated question for me to answer. I can give you a list of examples of what direct production expenditures would be. In my view, the striking out of production costs and the inclusion of direct production expenditures is an effort to combine definitions. There is a definitional section that would help explain what these mean in film parlance, but if you want actual examples of what a direct production expenditure would be, there are those here to testify in support of the bill who could offer you examples, or I can follow up with a list of examples.

Assemblywoman Neal:
That would be great.

Chairman Armstrong:
I have another question about some of the policy, because I was not here last session. In section 11 you changed it from only being available for purchases, and you added language for rentals and leases. I am wondering about the policy decision behind that. Are we going to now see fewer purchases of the items spelled out, and only see rentals of the same equipment over and over? What was the decision behind that policy?

Senator Ford:
In terms of the specifics of that question, I would leave it to those who could testify from the film industry. What I can say is that purchases, completely excluding rentals and leases, probably made the opportunity for interactions with some of our local Nevada businesses less likely. Now you would be able to bring in additional companies.

I know there is a lighting company that will speak in a minute, and it could very well be that they rent, they lease, and they sell, but only the sale under this particular bill would have been something that would have qualified.

Chairman Armstrong:
If the policy was to incentivize companies to purchase items from Nevada businesses, I am not sure we are accomplishing that by now including leases and rentals, and that was my discussion.

Assemblywoman Kirkpatrick:
Maybe I can help you out, Senator Ford. This bill has been around for a very long time. When we talked about purchases, we had to talk about all sorts of little things. When you come out and do a setup, typically you have a laydown yard that has all your equipment. Purchases could have meant things as small as the nuts and bolts that you needed to set up some of your scaffolding to the food that you were purchasing, so it was very broad to purchase. There are some things, when you put together a stage or you do these other things, that you do not necessarily want to purchase if you are only going to use it for 20 or 30 minutes.

I do not want to speak for the film industry, but I did follow this for a long time. That was one of the things we found—they were leasing a lot of ancillary pieces to make it all come together, and we were not tracking any of that. It made it much harder to include that in the overall economic value of what the expectations were.

The whole goal was to ensure that Nevada businesses were the ones getting the business. When folks travel, such as with concert equipment, it is expensive to bring that equipment along. We wanted to be sure we made it easy for them to get it locally.

There were plenty of Nevada businesses that were not getting any of the business in our state, and it was a way to ensure their equipment was being leased first, rather than a production company having to shuttle all of that equipment from California, or put it on a plane, because it is expensive to do that. That was a missing category we did not anticipate.

Chairman Armstrong:
So that would not have qualified under section 11, subsection 1, paragraph (e), that specifically says, "The rental or leasing of facilities, equipment and vehicles?"

Assemblywoman Kirkpatrick:
It would not, because on the application process we made it too specific.

Assemblyman Nelson:
You mentioned the successes of the program and the number of films that have been produced. I was looking through the regulations and I see that they have to report, for example, how many people have been employed, how much money was spent, and all that. Is there any way to possibly calculate how

much tax revenue has come to the state? For example, if we give a $10 million tax credit here, in addition to promoting the state for tours and other purposes, are we expecting to get at least $10 million back in sales taxes, or other things like that? Is that part of the program?

Senator Ford:
Yes. In fact, reporting requirements will have GOED and the Nevada Film Office submit to the Legislature a detailed compilation of how successful or unsuccessful this program has been, so at some juncture we will have that information.

I can give you some rough numbers right now relative to the productions that have come in under the $10,540,852 total incentive approved before the money was scrapped for the special session. We have these nine films with a total budget of nearly $100 million. Of that money, 60 percent had to be spent here, so we had at least a total direct Nevada economic impact from these productions of $70 million. That is spread out, because you have to hire people so you have a Nevada payroll, which would amount to about $15 million, and they spent that money within our cities. They had to go out and pay for the carpentry, the cakes, the dry cleaning, et cetera, so all that type of activity spreads out. There was a multiplier effect that would testify to this last go around, and we are looking to see what the actual multiplier effect was, based on the audits that will come back to us from GOED and the Nevada Film Office.

Assemblyman Nelson:
I was looking through the statute and the regulations. I could not find the provision, which I think exists, that a transferrable tax credit must be used in the same realm. If you are going to transfer the tax, it has to be someone who is going to use it for a movie production, I presume. Is that right?

Senator Ford:
No. The way the transferability works is that you can sell it and it can only be applied in different areas—toward the insurance premium for instance. You would have to actually make an election when you sell the transferrable tax credit, and it can only be used for that purpose going forward. It does not have to be used in film production. A big casino could buy them and use that credit to count against its tax credit in that particular arena.

Assemblyman Nelson:
Does it have to be used within Nevada?

Senator Ford:
Yes. In other states it operates differently because they have business taxes, and things of that sort, so they could simply apply it to a business tax liability they have. We had to be a little more ingenious and figure out which types of taxes we would have it apply to.

Assemblyman Hickey:
I supported this bill last session. I would like to think I had a little bit of a premonition about helping out Tesla, so I felt good on two fronts.

There are a number of films that would be coming to Las Vegas anyway, such as if they were going to make another sequel to *Ocean's Eleven*, or *Last Vegas* starring Robert DeNiro and Morgan Freeman. They would have come here regardless of the tax credit.

Do you think most of those companies are going to take advantage of this when they come to Las Vegas, whether this was an enticement or an incentive anyway? Is that an intended or an unintended consequence?

Senator Ford:
The productions you just gave examples of are not on the list of those who applied for the incentive because they would not have qualified. The reason is that typically what was happening when films came here is they would film the outside of a casino and a couple of indoor shots; they would spend around three days here. They would then go to another state like Louisiana or Georgia, or up to Vancouver, and film the rest of their six weeks or two months' worth of activity in that locale because they had incentive programs.

In order to qualify for the incentive program here, you must spend 60 percent of your qualified expenditures in this state. Those programs that would have come here and left would not have qualified, and would not have applied because they would not have the qualifications. So, we are reaching different productions with this incentive, and we are impacting our state's coffers to that greater extent.

Assemblyman Hickey:
So what you are hoping for is to build an infrastructure of sorts that will help the industry come here in significant ongoing ways. I believe an element of the bill last time was to look at how it was performing over a period of time and get those reports, to know if we are seeing a rate of return that seems positive.

In this bill, are we going to just lift that cap, whereas we discussed it as a pilot last time? If that is what you are asking for now, is there enough evidence to justify that it is a success and for us to remove that cap?

Senator Ford:
It took a lot of gumption for me to come up here and ask you to remove the word pilot from the program, but here is the tempering component. It remains a pilot program as long as we do not fund it. While we are removing the name "pilot" from the program, it can exist in perpetuity for all intents and purposes, but if we do not fund it every session at some particular level, it does not exist. That is the check on what I am requesting. If we get the data back from GOED or the Nevada Film Office and it indicates this has been unsuccessful, as opposed to being successful as it appears now, then I would imagine my colleagues and I will decide not to fund the program, and at that juncture there is no harm, no foul. If it is a pilot program, it is a perpetual program that has no money in it, so it will be utilized and used against us. Does that make sense?

Assemblyman Hickey:
Yes, thank you.

Chairman Armstrong:
Are there any other questions from the Committee? Seeing none, we will move to testimony. Would anyone like to speak in support of S.B. 94 (R1)?

James (JR) Reid, President, JR Lighting, Inc., North Las Vegas, Nevada:
We are one of the stakeholders in the industry. We helped put some of this language together. The film program worked very well for us. We saw a lot of feature and television work, so much so that we were able to hire four new employees during this time period. This bills cleans up some of the issues we noticed in the first year, and makes this bill a lot more user-friendly.

Tray Abney, Director of Government Relations, Chamber of Commerce of Reno, Sparks, and Northern Nevada:
We support S.B. 94 (R1) and appreciate Senator Ford bringing it forward. Nevada is right next to the movie capital of the world. We are close; we are convenient. Bringing films here can showcase our state to the entire world. It helps with tourism, and there is a lot of talk about the middle class and creating middle-class jobs here in Nevada. This bill can certainly help do that.

Randy Soltero, representing International Alliance of Theatrical Stage Employees:
We were also part of the stakeholder group that started back in 2012 that worked on finding what language did and did not work around the country, and ended up with S.B. No. 165 of the 77th Session. The stakeholders continued to work together to be involved in what we knew could be not just jobs being created, but careers and an industry being created. We have worked with a lot of other folks and we continue to do that. That is why we are all here today.

We believe this is a good program. We support the changes that have been made in S.B. 94 (R1), from the language of the original bill, and we ask that you please support that effort.

Bryan Wachter, Senior Vice President, Retail Association of Nevada:
We were one of the strongest opponents of this bill two years ago. It was an untested pilot program that was borrowing language and ideas from ten or so different states that were moving toward getting rid of their movie tax credits. Because they were over-abating their taxes, they were moving away from it, so we were against the bill. There was no evidence that suggested that it worked. I have since been happily proven wrong. Senator Ford was very pleased to show me the report that showed it did work and that we were creating jobs.

We need to recognize programs like this that prove themselves, as opposed to abatements for which we have yet to identify if they produce money, are working, or are we actually seeing a return on that investment.

When it gets to the other portion of the bill, there needs to be a policy discussion on which abatements are and are not appropriate. We may be getting money back into the State General Fund in a roundabout way through sales tax, room rates, or insurance premiums, but it is still a dollar amount you have to account for in your budget. The more money you give away, a lot of the time is the more money you have to ask for in taxes. We ask that you take that into account and support abatements like this one that have proven they have a return, and go forward with good legislation. We are proud to be in support today.

C. Joseph Guild, III, representing Motion Picture Association of America:
As we were in 2013, we are in support of this bill, and urge your passage of it.

Chairman Armstrong:
We will move down to Las Vegas next.

Jason Miller, Owner/Chief Executive Officer, Downtown Films and Silver State Production Services, Las Vegas, Nevada:
My company was able to take advantage of the credit. We had two films we were able to produce, and I was able to executive produce the Nicholas Cage film *The Trust*. We were able to employ multiple local individuals for over 90 days in total for the productions. We saw a lot of hotel rooms being used—over 1,200 hotel rooms. We were able to be part of finding out the good and the bad of how the bill is currently written. I can tell you the changes that are made are going to be very helpful for the film community.

Chairman Armstrong:
We will come back up to Carson City.

Jonathan P. Leleu, representing Greenberg Traurig, LLP:
We are here in support of the bill. We would like to thank Senator Ford for bringing the bill forward.

My firm represents Scientific Games, which is the owner of the *Monopoly Millionaires' Club* game show and, in fact, I am counsel for that game show. The game show has been very successful; they are doing quite well. They are housed in the largest sound stage in Nevada. This would not have happened had it not been for this film tax credit. We are strongly in support of this bill, and further economic development just like it.

Darrin R. Miller, Actor, Carson City, Nevada:
I am a professional actor and a member of the Screen Actors Guild. I want to speak to a couple of things, one of which is I am a local here in Carson City. The suggestion was brought up that maybe this should be something specific to Clark County. I understand that a lot of films do come to that area, but being a professional actor in this area, I am working closely with a local casting director and am privy to a lot of information that maybe others are not. Some of that information is that we have a working script production company that is ready to go, with a script that is slated and written for Reno. They were ready to go and the incentive went away, and that production got put on the back burner. There is another production company, not even out of Los Angeles, that literally finished production meetings last week and is ready to go at the end of July here in northern Nevada, pending S.B. 94 (R1) and Assembly Bill 147 moving forward. They are ready to go. They are ready to pull the trigger. This is work for our local actors, local production companies, and local businesses.

Being a professional actor I am called to go to different locations. Right now I frequently go to San Francisco. I may be going to New Mexico later in the year. I want to work in my own backyard, and most of my fellow actors and fellow production company people do as well.

Joshua A. Cohen, Owner, CohenCidence Productions, LLC, and Nevada Camera and Lens, LLC, Las Vegas, Nevada:
I would like to start by commending Eric Preiss of the Nevada Film Office. He is finishing up his first year running the office. He has done a great job in stewarding the program and representing the program and the state. He certainly deserves praise.

As for my involvement, I got to work on three of the productions. I also rented gear to two of them. Combined, my two companies had a 50 percent increase in gross revenues, with two out of every five new dollars coming from incentivized productions.

I have reviewed the text of S.B. 94 (R1) and support it in its entirety. It is better for the program. It is better for Nevada. It is better for business.

I would also like to respond to a few questions from earlier. Mr. Chairman, you asked about how many productions are coming. The last time I spoke with the Nevada Film Office the number was around 12 that were ready to apply as soon as the credits were available, but I would recommend speaking to Mr. Preiss to get an exact number on that.

Assemblyman Kirner, you asked about the exchange rates. What we have been finding so far is Nevada is enjoying a higher exchange rate than just about anywhere else in the country. There are a couple of reasons for that. First, we have a lot of qualified buyers in the casinos and insurance companies. Second, they get to use the tax credits right away because they pay taxes every month, whereas companies in other states only have to pay taxes once a year. They might earn a credit in February and not get to use it until December, whereas in Nevada a casino can buy the credit in February and use it in February, so they are willing to pay a higher rate. There is less need for brokers. There is less loss there. There is a greater benefit to the filmmaker than they would get in other states.

You asked about shooting in rural counties. We have a provision in the bill that provides a bonus for shooting outside of centers of large production, which basically means anywhere but Clark County right now, so there is financial incentive to do so.

Assemblyman Nelson, calculating the return to the state, Ernst & Young released a report in 2013 showing a 90 percent secondary impact, so if we are thinking about $60 million-plus actually spent here, we can probably think in terms of about $110 million in total economic impact. The study that Mr. Reid and I conducted in 2013 found there was an average tax rate of about 12 percent paid, between payroll taxes, sales taxes, et cetera. So, if you are looking at $100 million even in total economic activity, with about a 12 percent tax rate, we should be over that $10 million the state is committing.

Assemblyman Hickey, as far as attracting movies here, as you said, in addition to those productions that are only going to spend a few days here, it is important to appeal to those productions that could shoot here, or could shoot in New Mexico, or could shoot in Utah, or just about anywhere else. There are a lot of productions, a lot of crews, and a lot of stars that want to film here, specifically because we are so close, we have a 24/7 culture, and we have such an amazing array of scenery that they do not have in other states.

We looked at all the specific productions filmed here in 2012, with details provided by the Nevada Film Office, and not a single one would have qualified for the production incentive.

We also wanted to set the minimums higher than you see in other states, which is why we require 60 percent filmed in state and a minimum of $500,000 because, again, we were looking at those minimum thresholds. The four movies that were shooting here were low budget—a couple hundred thousand dollars, and then the bigger production ones were only giving us a couple of days, so what we really crafted this bill to do was be attractive to those low to medium budget productions, in the $1 million to $20 million range, to get them to shoot the majority of their production schedules here.

As for calling it a pilot program, by removing that language from the bill we are trying to make it more user-friendly. Those are very scary words to Hollywood producers, especially if someone is trying to produce a television show. If they want to set up somewhere that is going to film for five or ten years, and there is a definite sunset clause in three years, there is no reason for them to consider this state versus if it were an ongoing program. They can assume we may be funded in future years, we just have to see. It makes it more appealing to our prospective customers.

I look forward to working with the Legislature and the Nevada Film Office for the continued success and evolution of the program.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:
I will keep my comments very brief this afternoon. The Metro Chamber did support S.B. No. 165 of the 77th Session. We supported S.B. 94 (R1) on the Senate side, and we continue to do so today in front of your Committee. As has been stated, we do believe this bill has significant economic development opportunities ahead of it, and we would like to support that. Thank you for your time.

Chairman Armstrong:
Would anyone else like to speak in support of S.B. 94 (R1)? Seeing no one, we will move to those in opposition. Would anyone like to speak in opposition to S.B. 94 (R1)?

Victor Joecks, Executive Vice President, Nevada Policy Research Institute:
We are opposed to S.B. 94 (R1) and think it is important to note, as has been referenced, that this is not just a cleanup bill. Section 19 removes the sunset provision, making it permanent. Section 14 also removes the $10 million yearly cap on transferrable tax credits although, as has been mentioned, funding would be determined each session.

I am here today to detail some of the negative impacts similar transferrable film tax credit programs have had in states around the country, but before I do I think it is great to hear so many elected officials acknowledge that lower taxes help entrepreneurs create jobs and grow the economy. I hope you acknowledge that reality when you are forced to consider whether or not to impose the largest tax increase in Nevada history on the Nevada families and businesses that are not here seeking a handout.

There are numerous structural problems with transferrable tax credits. Instead of just being a reduction or an abatement in taxes paid, these tax credits can exceed, and usually do, the actual amount of taxes paid by film companies. The film companies then sell these credits to other private businesses in Nevada, reducing taxes collected by the state. This makes transferrable tax credits an indirect government subsidy, not an abatement like Tesla received. In other words, government is picking winners and losers in the economy. The losers are the taxpayers and the vast majority of businesses in the state that have to pay more or receive reduced government services.

In Louisiana, the Legislative Fiscal Office, similar to our Legislative Counsel Bureau, found that transferrable tax credits reduced taxes collected by $59 million per year, but only generated $10 million a year in additional state tax dollars.

Chairman Armstrong:
I am going to ask you to be Nevada specific, because we will receive a report that directly affects Nevada on this.

Victor Joecks:
I am excited to see that report. I am excited that it is being produced. These are very similar programs around the country and with your permission I would like to…

Chairman Armstrong:
I want you to be specific to Nevada with this.

Victor Joecks:
Programs around the country have found that the amount returned in taxes is less than the film tax credit. I think it is important to note that the $70 million in economic activity is a far cry from any additional tax revenue raised. I know we heard that 12 percent rate on economic activity, and I would be interested in seeing that report, but even that 12 percent rate times $70 million is less than the $10 million in credit. Now folks will say there is a multiplier effect, and I would say if you reduced taxes by $10 million there also would be a multiplier effect.

While tax credits experienced enormous popularity in the 2000s, many states have trimmed back their film tax credit programs because of the problems that other states have seen. Since 2010 eight states—Arizona, Arkansas, Idaho, Iowa, Kansas, Maine, New Jersey…

Chairman Armstrong:
Again, I am going to ask you to just specifically address Nevada for this bill. Our policy is Nevada policy.

Victor Joecks:
Thank you, Mr. Chairman. I will close and urge you to oppose the bill.

Chairman Armstrong:
Would anyone else like to speak in opposition to S.B. 94 (R1)? Seeing no one, we will move to neutral. Would anyone like to speak as neutral on S.B. 94 (R1)? Seeing no one, do you have any final comments, Senator Ford?

Senator Ford:
I will say in the interest of full disclosure that during the Senate hearing we had one opposition testimony, and someone in neutral—Nevada Policy Research Institute was in neutral. I am not certain what changed between the Senate hearing on this bill and the Assembly hearing on this bill, but I think the Committee would be interested in noting that for the record.

At the very end of *Mall Cop 2*, the very end of *The Trust*, and the very end of all these other productions that are coming, people stay and watch the credits. When I testified last time in support of S.B. No. 165 of the 77th Session, I said I wanted to see Nevada names there. You will see Nevada names in those credits. Those credits are folks who got jobs because those productions filmed here, and that is what this bill is about. It is about new jobs, it is about new money, and it is about a new industry. I urge you to support S.B. 94 (R1) and I thank you for your consideration.

Chairman Armstrong:
With that I will close the hearing on S.B. 94 (R1) and open it up for public comment. Would anyone like to speak in public comment? Seeing no one, I will close public comment. We are adjourned [at 2:51 p.m.].

RESPECTFULLY SUBMITTED:

____
Gina Hall
Committee Secretary

APPROVED BY:

____
Assemblyman Derek Armstrong, Chairman

DATE: ______________________________________

EXHIBITS

Committee Name: Assembly Committee on Taxation

Date: April 30, 2015 **Time of Meeting: 1:46 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster