

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

**Seventy-Eighth Session  
April 14, 2015**

The Committee on Taxation was called to order by Chairman Derek Armstrong at 2:55 p.m. on Tuesday, April 14, 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](http://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](mailto: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:**

None



**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:**

Steve Hill, Executive Director, Office of Economic Development, Office of the Governor  
Steven T. Polikalas, representing Unique Infrastructure Group, LLC  
Michael D. Hillerby, representing V5 Technologies, LLC  
Dean Nelson, Vice President, Global Foundation Services, eBay, Inc., San Jose, California  
Randy Robison, Director, State Legislative Affairs, CenturyLink  
Pat Whitten, County Manager, Storey County  
Jeremy Aguero, Principal Analyst, Applied Analysis  
Dagny Stapleton, Deputy Director, Nevada Association of Counties

**Chairman Armstrong:**

[Roll was called and housekeeping items discussed.] On the agenda today we have two bills, Senate Bill 74 (1st Reprint) and Senate Bill 170 (1st Reprint). We are going to go out of order and we will hear S.B. 170 (R1) first. I will open the hearing for S.B. 170 (R1).

**Senate Bill 170 (1st Reprint): Provides for a partial abatement of certain taxes for new or expanding data centers and related businesses in this State. (BDR 32-765)**

**Steve Hill, Executive Director, Office of Economic Development, Office of the Governor:**

I appreciate the opportunity to testify this afternoon. There are four bills that affect abatements this session. Two of those are Senate Bill 93 (1st Reprint) and Assembly Bill 161, which are virtually identical bills and deal with aviation abatements, and you have already heard them. Taken as a whole, the pieces of legislation represent a more targeted, or more focused, approach to abatement policy in the state. Soon you will hear Senate Bill 74 (1st Reprint), which narrows abatements for companies paying less than the state average wage. The other two topics, the aviation abatement bills and this bill, Senate Bill 170 (1st Reprint), are a targeted approach to specific industries that we feel have great potential importance to the state, the opportunity to improve

the economy in Nevada, and bring very high-paying jobs to the state. Certainly, as our economy improves, this is a target and a focus for what we hope to be able to do in economic development moving forward.

As I am sure you well know, "the cloud" and, therefore, data centers are becoming an increasingly important part of our lives, and of the economy. Where the cloud is located—in data centers—will happen in hubs across the country. We think the bill we have today is a very important step in making sure that Nevada is one of the locations where the cloud is housed and the jobs and industry that will revolve around those data center hubs will be in this state.

In 2012, when we released the State Plan for Economic Development ["Moving Nevada Forward: A Plan for Excellence in Economic Development, 2012-2014"], we identified information technology as one of the seven targeted sectors in the state. If you look back at the Plan, you will see not only did we identify larger targeted sectors, but also about 30 specific opportunities housed within those sectors that we felt provided the highest and best opportunities for the state.

Data centers were identified as one of the highest and best opportunities in the information technology sector. The importance of that is more than just having the data centers in the state; it is what they draw and what they bring—the ability to grow an information technology sector around that cluster. For Nevada to be able to grow an information technology sector, we need those types of foundational parts of the industry.

A different way to look at it would be the spark that would allow that industry to grow in the state. We think that data centers offer not only a great opportunity in and of themselves, but are also one of those foundational subsectors that will allow the entire industry to grow. In order to do that, we have to be competitive. In particular, this is an industry that is driven by a couple of factors. You have to have the technology infrastructure in place in order to allow the industry to locate. Nevada is fortunate enough to be in that situation. The state also has to have a competitive tax structure, and in particular, a competitive tax structure for this industry. There are a couple of industries—the aviation maintenance and data center industries—where the tax environment really drives the decision a business makes. It is such a significant component of their cost structure that to be uncompetitive in a tax situation would be enough to drive those industries away from the state.

If this bill is ultimately passed, there will still be a number of states, between 10 and 15, that will have a more competitive tax environment than Nevada. We not only feel strongly that this measure will allow Nevada to be competitive

enough to attract this industry and continue to attract this industry to the state, but just over the past couple of months, since the bill was introduced in the Senate, I have had several companies personally reach out to me, major, well-known brands, saying if this bill passes they will move to this state. In fact, last week one of those companies started the application process in anticipation of this bill potentially passing. We will see results and we will see them soon if you see fit to pass this bill.

The other point I will make before I outline what is in the legislation is that for this industry, we have reached a fork in the road. This Committee has a decision to make that will send this industry in one direction or another. You all have seen how much the cloud has grown just over the past few years, changing pretty dramatically in that period of time. The locations of where these hubs for housing the cloud will be located will be decided now if Nevada chooses to be competitive in this area. I think we have an exceptional opportunity to grow this industry in the state, and to be a permanent location for one of the critical crossroads of infrastructure for cloud computing into the future. If we do not pass this legislation, our projection is, and this is what we have been told, the industry in Nevada will gradually decline. At this point, stability is probably not an option. We are looking at real growth or some sense of decline over the next several years.

The bill allows a sales tax abatement down to 2 percent on the state portion of the sales tax, and a personal property tax abatement of 75 percent. This abatement package would be available for both the data centers and their colocation tenants. The criteria for approval of the abatements is split into two different time frames. Approval for a ten-year set of abatements requires that the data center employ 25 employees, invest the minimum of \$50 million within the five years after the abatement is approved, and pay their employees a minimum of the state average wage. They also must provide health insurance benefits that meet the regulations the Office of Economic Development, Office of the Governor (GOED) will have in place within two years of the approval of the abatement. For a 20-year abatement of those taxes, the data center would need to employ 50 employees, and the data center and the colocation tenants would need to invest a minimum of \$100 million.

The bill also repeals a current provision in *Nevada Revised Statutes* (NRS) Chapter 274 that deals directly with data centers, and was passed at the end of the 77th Legislative Session. That provision provides the same set of abatements for a period of 15 years, as long as the data center invests

a minimum of \$100 million. In the current statute there is no requirement for employment, and it also does not include the colocation tenants as a part of the abatement package. That statute works well for corporate data centers, but it does not work well for colocation facilities.

You probably know this already, but just to make it clear, a corporation may come and build a data center solely for their own use, and we call those corporate data centers. There are also colocation data centers where the data center company basically builds the building and provides the infrastructure necessary for a whole series of customers to move their servers into that facility.

I want to point out that these facilities attract more jobs than may be known. The data center company, particularly in a colocation facility, may not employ thousands of people, but when you have a large colocation facility, the numbers of employees tend to be pretty large. You may hear some testimony regarding that today. In addition, these jobs are exceptionally good jobs. In the past couple of days, I was talking to a company that is a colocation tenant of one of the facilities here in the state now; they have a handful of employees and are just one of the customers of this data center. The average wage for those employees is about \$124 per hour. If you do the math, the average wage for their handful of employees is about \$250,000 per year. The economic impact of having employees like that in Nevada is a very outsized one. It allows other people to be employed as well. The indirect impact of the quality of jobs you find in data centers really multiplies throughout the community.

In addition to that, to having all of those customers and all of those companies—world-renowned, name-brand companies—with an exposure to Nevada, provides us an opportunity to showcase what we have throughout the state, and for other potential opportunities these companies may have for doing business in the state. We think this is an important piece of legislation. It provides great opportunity. Thank you for your interest, and I am happy to answer any questions you may have.

**Chairman Armstrong:**

Can you talk more about the abatement, and what is actually being abated in this bill?

**Steve Hill:**

Yes. There are two abatements in this bill. One is a sales tax abatement that abates the sales tax from the prevailing county rate. It differs somewhat from county to county, depending on what the override is. The prevailing sales tax rates in the state are typically between 7.5 and 8.1 percent. This bill would

allow that sales tax to be paid at 2 percent, rather than the prevailing rate in the county. A number of states surrounding Nevada have completely exempted data centers from sales tax. That is not the provision in this bill.

The other tax that is abated is the personal property tax. It does not include the real property tax. Basically the difference is real property is fixed to the ground and not easily moved. Land and buildings—permanent structures—would not be considered for personal property tax. They would be considered for real property tax, and the real property tax would be paid in full. What the abatement would apply to is what the industry calls "gear" inside the facility, which is basically the servers. The personal property tax would be reduced by 75 percent; therefore the companies that own those servers inside the facility would be paying 25 percent of the personal property tax.

I appreciate your question because it brings up another point. Because of the rapid constant improvement in technology, the "gear" or "personal property" inside the facility is typically repurchased or refreshed, as the industry refers to it, on about a three-year cycle. The sales tax at 2 percent would be paid every three years when that gear is repurchased and replaced. Over the course of time, the amount of sales tax that is paid on the value of the equipment is very significant, and will probably be higher than would be paid on a typical asset that lasts longer than 10 or 12 years.

**Assemblywoman Neal:**

I was reading the Department of Taxation's fiscal note ([Exhibit C](#)), and they did a few comparisons with the \$50 million or \$100 million. There is an effect on the Washoe County School District's debt. Can you talk to me more about that?

We have other bills this session where we are trying to relieve the debt, and we are trying to put them in a better position so they can function, yet we are taking away a significant amount of money when you do the calculation on what the estimated abatement is. I want to be clear going forward. We want to bring business in, but we also need to stabilize where we are going.

**Steve Hill:**

That is correct. There is a fiscal note attached to the bill ([Exhibit C](#)). It identifies the Department of Taxation's estimate of what the impact would be on the reduction side as a result of implementation of the bill. As most taxes are, the personal property tax is collected in one place, but the proceeds are divided in a number of different areas, and the fiscal note outlines the impact in each of these areas.

What the fiscal note does not take into account is what the growth of the industry will do in order to compensate for this. The projections that I have seen show that while the growth in the industry will probably not fully compensate for the reduction in revenue over the next two years, sometime in Year 4 those lines will cross and then the positive impact will be substantially higher than the current situation.

**Assemblywoman Neal:**

The bill allows for establishing and expanding, so what are the projections on the expanding entity, and what they will capture in terms of revenue? I am assuming it reflects the existing data centers and their expansion.

**Steve Hill:**

I believe that you will hear some testimony on that today. I do not have those numbers, but I think another witness does. The abatements on the expansion are not a part of the fiscal note, and really never are because that is new business that does not have a tax associated with it that is currently being collected. This is the outlook for what the impact for refreshing the gear inside of the facilities would be.

**Chairman Armstrong:**

Can you talk to us about some of the indirect benefits of the data centers? We have seen at least one indirect benefit in southern Nevada. When they brought in the data center, they also brought in a colocation for a lot of emerging companies. This is some of the most innovative technology we have, and at the same time it brings some of the brightest minds available. Also, what are some of the benefits we have seen for the university systems and the education systems by bringing some of these things into our state?

**Steve Hill:**

Yes, that is certainly correct. In particular, Switch has made a significant contribution to a number of different areas in the state, including economic development and maybe more importantly, to kindergarten through twelfth grade (K-12) education. I think you will hear from their representative today. Certainly the connectivity that comes from having these facilities in the state is a real benefit, not only for the data center and their customers, but for the state as a whole. The number of employees that reside in Nevada as a result of this industry is certainly a couple thousand. I think there are many more that commute periodically to Nevada as is necessary for their companies and the upkeep of their systems.

In addition to that, the partnership between Switch, Intel, and the University of Nevada, Las Vegas (UNLV) has enabled a real advancement in both education and research and development. In fact, one of the Knowledge Account projects is built on that technology platform. We think it is very important to bring that type of technology innovation and those employees to the state. Those employees sometimes spin off their own companies, so you can see an entrepreneurial and innovative effort as a result of having that kind of workforce in the state.

**Assemblyman Hickey:**

Flesh out a little bit more for me the 10- and 20-year extensions of the abatement. There are 25 employees for 10 years and if you want 20 years, I assume the additional 25 employees is in addition to the existing 25 employees. Therefore, they have grown to 50 employees and then can apply for another 10 years. There was no mention of any abatements to either the modified business tax (MBT) or the proposed business license fee (BLF), so I assume these are not to be considered in any of these abatements.

**Steve Hill:**

Yes, that is correct. There is no abatement in this bill with respect to the MBT, nor is there any abatement for any potential new tax that may be implemented. That would not be necessary or contemplated.

You stated the thresholds and the time frames correctly. The 10-year time frame for the abatements would require that a company employ 25 people and invest a minimum of \$50 million. For a 20-year period, it would be 50 employees and a \$100 million investment.

**Assemblywoman Bustamante Adams:**

In your opening statements you talked about this being one of the sectors that is interested in Nevada. There are other states offering better abatements than we are, but how many of those 10 to 15 states are focused on data centers? Who is our competition? There are some states we are not going to be competing with because they might be interested in another industry. What is our return on investment? For every dollar we put in, what is the expectation we are going to get back?

**Steve Hill:**

The competitive landscape is actually specific to data centers. There are a number of states that have enacted similar legislation over the past several years, or are in the process of reviewing and potentially enacting it now,



specifically for the data center industry. There are four or five states that do not have a state sales tax, which gives them a very competitive platform as a starting point for this industry. Oregon is the state, and really the western United States, that that applies to.

Oregon has been successful in attracting data centers. They have done that, in combination with a specific portion of the state, for a complete exemption from the personal property tax specifically for data centers in that location as well. Oregon is one of the states where in a portion of the state there is no tax on personal property and they do not have a sales tax.

Arizona has recently passed legislation that basically creates a tax-free environment specifically for data centers. There are a number of states, around ten, that have legislation specifically for data centers that is either a no-tax environment or a very, very low-tax environment. We think Nevada can continue to be competitive with the 2 percent sales tax rate and the 25 percent personal property tax rate.

**Assemblywoman Bustamante Adams:**

What is the return on investment in the state?

**Steve Hill:**

It depends on how you think about that. For the most part, the abatements we will offer will apply to the industry that does not exist at this point. It is kind of an infinite return on investment. We are not really giving an abatement, or lowering taxes, on an industry that is already here. There is certainly a part of that industry that is here now, but I think you will hear testimony today that will show that over the course of 20 years, we are projecting about a \$47 billion investment in the state if this bill is passed, and somewhere in the neighborhood of about \$10 billion over the same 20-year period if this bill does not pass. The benefit to the state is a significant multiple more than any tax abatement that is associated with that growth.

**Assemblywoman Benitez-Thompson:**

I am looking for some help with understanding a couple different pieces of the bill. I think you mentioned it, but I want to make sure I understand it correctly. If they were approved for an application by your office, then their existing business in the state would be covered by their abatement as well as any expansions. Is that correct?

I am having trouble understanding the length of time this language is giving for your office to grant an abatement. It looks like it could be no longer than 20 years, but then you could potentially add additional years. Can you clarify what the language is entitling you to do, in terms of the total length of potential time, for the abatement?

**Steve Hill:**

To answer your first question, yes, that is correct. That situation is different than any other.

**Assemblywoman Benitez-Thompson:**

Are you saying yes to 20 years or longer than 20 years?

**Steve Hill:**

I am saying yes that it applies to the existing gear inside of a facility, which is different than any other abatement we have. The reason for that is a computer server is highly mobile. If a current company built a new data center, the next time a customer wanted to locate one of those servers, if one building was ineligible for the abatements but the building next door was eligible, they would just move their server to the building next door. It is impractical and really detrimental not to allow the continued investment to be eligible within the current data center. The building itself would not be eligible for abatements retroactively, or in the future, because real property would not be covered.

**Assemblywoman Benitez-Thompson:**

Yes, and the second part of the question was that I was trying to understand the actual length of time that could potentially be granted under this abatement.

**Steve Hill:**

The length of time is either 10 or 20 years. On the other hand, we allow existing businesses in Nevada to apply for expansions in the future, regardless of the types of abatements they have. If they would again grow and meet the criteria, the first investment and the first employees would not count in that expansion mode, but Nevada businesses that look to expand, they hire additional people and invest additional money.

**Assemblywoman Benitez-Thompson:**

Is that under a different set of criteria or would it still be under this criteria?

**Steve Hill:**

It would still be under this criteria.

**Assemblywoman Benitez-Thompson:**

With the expansion?

**Steve Hill:**

Correct.

**Assemblywoman Benitez-Thompson:**

The potential length of the abatement could be 20 years, and then an additional 10 or 20 years depending on the date of their expansion?

**Steve Hill:**

Yes, that is correct.

**Assemblywoman Benitez-Thompson:**

Would it be fair to categorize it as indefinite, if they meet the criteria?

**Chairman Armstrong:**

I think the bill expires. It would be indefinite until the expiration date of this bill.

**Steve Hill:**

Yes, that is correct.

**Assemblywoman Benitez-Thompson:**

Indefinite until 2052, that seems like a great date. I see we are changing the requirement for health care benefits from one year to two years. I was wondering what the rationale was behind that?

**Steve Hill:**

You will see this in Senate Bill 74 (1st Reprint) as well. The Department of Taxation audits these agreements after Year 2 and Year 5, so we are trying to align the requirements with the audit period. In the meantime, it is difficult for us to tell what has been produced, either from a job standpoint or a benefits standpoint. The two years is meant to align with when we will actually audit those results.

**Assemblyman Nelson:**

Assemblyman Hickey brought up some of the other taxes and you said that they would be subject to all of those. Have you analyzed how Senate Bill 252 would affect these companies the way it is written?

**Steve Hill:**

Yes, we certainly have. I pointed this out during testimony on that bill, but for companies that are exporting their products and services out of the state and, in this particular case, generating the revenue from a service they provide to companies out of the state, that tax does not apply. Senate Bill 252 does not tax exports, but it does tax businesses that are doing business in Nevada but do not necessarily have a physical location here. We see that as a very positive aspect of Senate Bill 252 as it relates to all economic development, not just this industry.

**Assemblywoman Kirkpatrick:**

I have a lot of questions and I apologize for missing the beginning of your testimony. I first want to say that I signed on to this bill when I thought the 2.6 percent was going to stay with education. That has changed, so now I have a lot of questions on what the intent was.

What is the intent of page 5, lines 16 through 22? Can you explain the process to me? There are a lot of words like "shall" and then "approve," but then we are referring back to a lot of pieces. I want to know what the legislative intent is.

At some point I want to understand how the 25 employees works. I also want to understand what other taxes they would be subject to. This is a big investment and we have been talking about it for a long time.

**Steve Hill:**

You are referring to "Approve an application for a partial abatement pursuant to this section...."

**Assemblywoman Kirkpatrick:**

Yes.

**Steve Hill:**

That language is standard language in all of NRS Chapter 360, which allows the Board of Economic Development some discretion as far as criteria in approving abatements.

**Assemblywoman Kirkpatrick:**

Let me understand page 5, lines 20 and 21, "... (e) of subsection 2 more stringent; or (3) Add additional requirements...." I believe in the past we have had a threshold of no exceptions at the very bottom. We have said to the Board that at the very least you cannot do less than this, but we would like to see more. I think you have done that in some instances. Does that take away

from making them have the threshold at the bottom? I do not want to open the floodgates. I am not going to make any friends asking the hard questions, but I like to do that. There are a lot of factors that go into determining if a data center fits the location.

I talked to the Speaker of the Iowa House of Representatives last session and he said no one is ever really coming, but it is "sexy," so we want to talk about data centers. Colorado says they are going to get a few, but the weather is a concern, and there are different issues. Oregon works for some, but you have to look at weather and locations. If you are in charge of all of these data centers, you cannot afford to be out of cell phone service or your phone will be ringing off the hook and you can lose a client base. There are other factors that go into it besides just a tax climate. I want to be sure as we grow this sector that the expectations, at least for the Board, are that there is a minimum threshold. Is that what you are promising me?

**Steve Hill:**

Currently the law does not have any minimum thresholds in it. It does give that complete discretion to the Board. Senate Bill 74 (R1), the next bill you will hear, is our recommendation to put those minimum thresholds in the law. There will be minimum wages. The current law does not have a minimum threshold for any of the criteria. Throughout that statute, it does give our Board the discretion to raise or lower those criteria. They have been lowered a couple of times for very extenuating circumstances. More often, and certainly more recently, the Board put in place as policy what we are recommending in Senate Bill 74 (R1), the minimum threshold.

**Assemblywoman Kirkpatrick:**

On page 6, line 24, I am concerned about clawbacks, knowing that these are two separate bills and one may pass and one may not. Page 7, lines 11 through 35 talks about everybody being able to adopt regulations. What I would remind you at least is that green building was adopted by regulations because there was no meat and potatoes in this, and it cost the state about \$944 million trying to entice people to come here. I want to understand what this would mean. It seems interesting to me that you do not have thresholds, because every other state may have a great climate for revenues for us, but they have some thresholds.

I talked to the Speaker of the Arizona House of Representatives. They have some thresholds. They know what they want. The Speaker of the Tennessee House of Representatives, she knows what she wants. It is one thing to be in the game for the sake of being in the game, but you cannot give away the farm to get in the game.

At the end of the day we did not gain anything. I want to understand how if one bill does not pass, what is the expectation from economic development in the data center sector?

**Steve Hill:**

With respect to clawbacks, the way the bill is structured, there will be a data center company and then there will be colocation tenants. The clawbacks would actually apply to the data center company if they do not perform as to the agreement that we have structured with them, and that would be at the minimum thresholds in the bill. The abatements for colocation tenants would cease at the point the data center in which they were housed was no longer in compliance with the contract we had structured with the data center company. There would not be a clawback associated with the colocation tenants. To the extent that they had been the beneficiary of the abatements, they would be able to keep that up until the point the abatements were severed.

**Assemblywoman Kirkpatrick:**

I feel that there is not enough clawback. With the 2.6 percent, how will we track what the potential loss was, because currently there are some servers within our state, both north and south, that are paying the 2.6 percent that could be subject to this in the future? At some point we need to understand what we need to put back. I understand that it is very hard to track, but at least going forward we have to track that if we are going to live up to our performance standards. That is the whole reason why we have the tax expenditure report, but there is nothing in this bill that requires that to be tracked.

**Steve Hill:**

That is correct. That is probably a question the Department of Taxation would be better able to answer, but my understanding at this point is that the systems we have in place do not allow the specific types of products that go into the data center to be tracked for purposes of calculation of the abated sales tax.

**Assemblywoman Kirkpatrick:**

I know. At least for me they have to go hand in hand. It does us no good to have all the data centers here if we do not know what the expectation is for our performance. I want to understand who is subject to what tax. Are the people who have their servers within these locations subject to the proposed business license fee and the MBT? I have a hard time believing they would be subject to the MBT if some of them are from out of state and bring their own employees into Nevada.

**Steve Hill:**

Yes. The only two taxes that would be abated as a part of this bill would be sales tax and personal property tax. Real property tax is not included. Any other tax that a business either does or might pay in the future would be a tax that both the data center and the colocation tenants would pay. If those tenants have employees in the state, they would pay the MBT.

**Assemblywoman Kirkpatrick:**

You are not answering my question so I will ask it differently. What I want to know is what do you envision? I spoke to other people across the country and in some states they envision that one of those servers is considered a colocator, and they would be subject to a BLF. I think that colocating in the data world is different than colocating in the regular business world. You could say a shopping mall is colocating. We have heard in live entertainment that a swap meet is a colocator to the actual function that is there. In my mind, a data center is not like a shopping mall, but those individual servers are colocators. I am asking for some clarity. I think each and every one of those servers would be subject to something, but I do not know if that is what you are envisioning.

**Chairman Armstrong:**

I can help clarify this. It seems like there would be a possibility to track this. If they apply for the abatement, would it be a reimbursement of what they paid or would they have some sort of permit, so when they purchase it they only pay a 2 percent tax?

**Steve Hill:**

Yes, a company that receives abatements receives a letter from the Department of Taxation that they are able to present when they purchase something. It is a reduction of the tax rate at that time and not a reimbursement later.

The sale of the server into Nevada would be subject to the BLF, then that becomes a tool the company uses to generate revenue. If they are generating that revenue out of state, then the BLF would not apply to that transaction. If they are generating that revenue in state, it would.

**Assemblywoman Kirkpatrick:**

I do not think that is a clear message that has been put out there. I think that many people think that they fall under a different category as a whole. I believe that the servers, in particular, are subject to the individual BLF, because that is colocating within one facility but they are different businesses.

As an example, I think this means that people are going to have a park and they are going to have people who are colocating within the parcels of the park, that is a double. If Assemblywoman Diaz' electronics is on the right hand side and Assemblyman Trowbridge is on the left hand side, that is colocating, but also within their facility they colocate with Assemblywoman Benitez-Thompson. It is a business within a business within a parcel, correct? I am clear in what I think it should be, but I want to make sure that the economic development is clear.

**Steve Hill:**

If I understood exactly what you just said, I believe it is correct.

**Assemblywoman Neal:**

My question is coming from pages 5 and 6. On page 6, lines 8 through 10, "the colocated business is not required to repay the amount of the abatement that was allowed before the date on which the abatement ceases to be in effect." Hold that in mind and go to page 5, lines 40 through 45. "The duration of a partial abatement approved for a colocated business...", and then it mentions all of these four statements in terms of "or contracts entered into between the colocated business and the data center, including the duration of any contract or contracts extended or renewed by the parties." You talk about colocation, and the relationship between the data center and the colocator. Now that you have all of these contracts or subcontracts that are extended or renewed, what is the relationship to the provision about if the data center ceases to exist? Who is not responsible for repaying under those subcontracts? It could be several entities. I am assuming it is envisioned that there will be several because on page 6, line 12, it says "...the Department with a list of the colocated businesses...."

**Steve Hill:**

Basically the way this works is the data center itself provides the application to our office, commits to employing people, and commits to—between itself and its tenants—invest \$50 million, \$100 million, or more in order to receive the abatements. The tenants are basically along for the ride. If the data center is eligible, then the tenants that it attracts—large, small, or in the middle—are all eligible as long as they have a contract with that data center for at least two years, and then they can renew that contract. As long as that data center stays eligible, which means it continues to employ people and it has made sure within the five-year time frame it has invested either \$50 or \$100 million, then the tenants are just along for the ride. For that reason, if the data center becomes ineligible for the abatements, we did not think it was good policy and that is why it is not in the bill to go back to the tenants who really have no control over whether the data center is still meeting the qualifications in order to



be eligible for the abatements or not. We are not asking for the tenants themselves to repay the abatements they have received; we are just saying that at the point the parent data center becomes ineligible for abatements, the tenants are no longer eligible for the abatements moving forward.

**Assemblywoman Neal:**

Even though it says, "may also be approved," they potentially could have received or will receive a partial abatement. They are along for the ride, and if the data center goes out of business then they get a free ride. They do not have to repay it?

I know you said you did not think it was good policy and that it is somehow unfair, but at the end of the day they did get a benefit; they walked away with a benefit. Even if by no fault of their own the data center decided to disappear, cease operations, that language allows someone to have benefitted and not have to repay it because their relationship ceased to be in effect. I do not see how that is fair for the state of Nevada.

**Steve Hill:**

I will address that from a fairness standpoint and a competitive standpoint. On the fair side, and maybe this is just restating the same answer, but when a company goes out, buys a server, and puts it in Nevada with the understanding that they are going to be able to receive an abatement, they immediately receive it. The sales tax they pay is 2 percent rather than about 8 percent. By no fault of their own, at some point in the future that data center may become ineligible. It is certainly possible they may go out of business, but more likely it would be that they fell below the employment threshold, or the entire data center has not invested the required amount of money in order to be eligible. Because that is not in the control of that tenant, we did not feel that it was right to go back and ask them to repay it. We still have the servers. They still moved here and installed them in the state.

From a competitive standpoint, we are competing with a number of states including two on our borders that are really two of the most direct competitors we have that do not charge these taxes at all. Adding that risk, which frankly we think has a fairly low probability of happening but adds a level of risk to the decision that each of these companies has to make, we thought was not the right course.

**Assemblywoman Benitez-Thompson:**

I know that there has been a lot of talk, and you just mentioned that there is competition with other states that are providing incentive packages around data centers. I think you mentioned Oregon and Arizona. I do not know about Oregon, but in Arizona such data centers still pay a corporate income tax rate, which I believe is close to 7 percent or just shy of it. Is that correct?

**Steve Hill:**

Yes.

**Assemblywoman Benitez-Thompson:**

What I am trying to figure out is in Nevada, where we have no such tax, why that in and of itself is not enough of an incentive. I obviously cannot do someone's math and look at the bottom lines, but I would think that would be a very compelling reason to locate here.

The other thing I am thinking about, and it is following up on the Chairman's question, is the transparency piece of this bill. If I remember correctly, a good deal of the application process and the information contained within the application process and on the tax side none of the information is subject to public records. Is that correct?

**Steve Hill:**

Yes.

**Assemblywoman Benitez-Thompson:**

So once we give the authority to your office to negotiate such deals, and the latitude to make such deals, that information and details are all in an area where we do not get to see them. Confidentiality agreements are signed by parties who are involved, with the understanding that we will never really know what these agreements are, other than the very basics that are outlined here. That is where I get concerned when reading language that seems to give a lot of latitude and discretion, because ultimately I, as a legislator, will never know what that materializes into.

I do not know what the Oregon tax structure is, and we can talk about that offline. I do not expect you to have every other state's tax codes memorized.

**Steve Hill:**

I can give you a quick answer and we can discuss it more if you would like. One thing I think is important to point out is that the data center itself is not really the recipient of the benefit of this legislation, other than the fact that it will help attract customers. To the extent that personal property is currently purchased for the installation of the data center itself, right now

those companies are already eligible under our current statute. There is a two-year time frame for the same sales tax abatement—50 percent personal property tax reduction rather than the 75 percent—but the data center itself has been a beneficiary of these types of abatements already. It would be a benefit for potential customers, the tenants, and an extended time frame for the data centers. I point that out for a couple of reasons, but primarily in relation to the corporate income tax thought process. For the data center itself, this is hopefully a money-making opportunity. In a different state that had a corporate income tax they would pay the corporate income tax. That could be a significant factor someone might consider in locating a data center, but for the tenants, the data centers are cost centers, they are not really profit centers. It is just a place where they put a bunch of servers that have expense, but it is not really where they generate their income. That happens at the point of the transaction. The data center is just keeping track of that transaction. So, if the transaction does not happen in Nevada, for the most part, a corporate income tax would not apply for all of those customers as it relates to a data center. That particular tax is not really much of a criteria in that conversation. I will say that the sales tax on refreshing billions of dollars of equipment every three years significantly outweighs most any other tax consideration that would be out there.

With respect to the confidentiality of information, I will provide the Chairman and the Committee with a summary sheet of the information we put together for every abatement application we have and every approval we have. It is a significant amount of information, and the information the company provides that goes into the criteria for the bill is typically confidential, but to the extent that it is confidential, your staff still has access to it. The Legislature would continue to have access to that information.

**Chairman Armstrong:**

We talked about if a data center went out of business we would not hold a tenant in harm, but what about the opposite? They do have a contract with the data center? What would stop a tenant from purchasing gear and then breaking the lease and moving it out? Is there a clawback in that situation?

**Steve Hill:**

I should know that answer. I do not think so. I would like to be able to get back with you with a final answer if that is all right.

**Chairman Armstrong:**

Thank you. I know that some of the simulations were billions of dollars and about if we had a company that has a contract, buys it, and then moves out of our state to a state with a higher tax rate. I am not sure if we are really trying to have that policy instituted as well.

**Assemblywoman Bustamante Adams:**

In the Senate you obviously made some amendments and you lowered the amounts. I would like to hear what the discussion was for lowering the amounts?

On the audits, you mentioned the two- and five-year audits. Is it standard policy for it to go beyond the five year audit? I do not remember if they do or not?

**Steve Hill:**

The reason that the thresholds were lowered in the Senate from what was originally proposed in the bill was simply a concern that because the sales tax environment in particular is such a determining factor with respect to where tenants locate, if the thresholds were really high, we would risk putting smaller data centers either currently in Nevada, or potentially in Nevada, out of business. The difference between having to charge your customer, or having your customer have to pay 8 percent sales tax, versus 2 percent sales tax, could possibly be debilitating. That is what drove the numbers to be lowered. What was your second question?

**Assemblywoman Bustamante Adams:**

You mentioned the two-year and five-year audits. I cannot remember if it goes beyond that.

**Steve Hill:**

Our standard audits are after two and five years. In specific instances, where abatements are awarded that are longer than the standard abatement package, we have increased the number of audits and the length of time. For example, Senate Bill No. 1 of the 28th Special Session audits extend out to 20 years.

**Assemblywoman Bustamante Adams:**

Would that be the case for this bill, even though it is not stated?

**Steve Hill:**

Yes, we would include audits at additional time frames.

**Assemblywoman Kirkpatrick:**

I am troubled. I know why we have to do something, but I feel like we are in a revolving rodeo. For ten years we focused on property tax and we gave everybody property tax abatements when they came to our state, and now we are focused on giving everybody sales tax abatements when they come to our state. Those are the two pieces that fund our state. When you give away the sales tax in a county, which I see in this bill, you are going to notify them, as opposed to letting them participate in the process in deciding whether or not they can absorb it so that the county has some ownership in it. I believe Tom Grady would choke me if I did not ask why it was not the other way around. Those are the two sources of money to fund our state, so I am struggling with that.

When we have done other abatements, we have put construction requirements in it so that we can point to Nevada jobs. When we did solar, we said they had to hire Nevada people, et cetera. I do not know where that is in this bill. I cannot seem to locate it. I am struggling with the piece of not letting the counties decide if it is doable within their county. I would have to think that not a lot of this equipment is actually purchased in our state, and that is why I am struggling with why the sales tax makes such a big deal. I do not know that they purchase a lot of the initial equipment, but they probably pay the sales tax on different components of it, or the value. Please explain that.

On page 8, lines 1 through 4, it talks about what a full-time employee is. What does it mean when it says, "works an average of 30 hours"? I am asking because this session we have a bill to get rid of overtime, and a bill to change the hourly requirements [Senate Bill 193 (1st Reprint)]. Unfortunately, it is a real discussion we have to have. I do not see any of that in this bill.

Why in the world would we not require a technology fee? Other states pay technology fees. They pay something that could go back to benefit everyone else.

I promise that we are going to have more conversations offline. These are real discussions. When we talked about Tesla Motors, we had it lined out section by section what the expectation was. We told them who they were going to hire and what they were going to do. We put a performance mechanism in because we have done this game before and we did not do it very well. Everybody has gamed us. We cannot afford to do that this time, so I want to understand. I think the clawbacks are pretty weak. I am shocked to see that because in the past we have been a little bit tougher on clawbacks. Give me some thoughts.

**Steve Hill:**

On local government control issues, a notification that our Board will be considering an application goes out 30 days in advance. That is obviously the direct language in the law, and it is what we have done so far. It is a notification of the meeting. It is not a command that this will happen. We are inviting their input through that process.

Frankly, we receive very little input. The input we have received before Board meetings has been 100 percent in support of what we have done. I hear other things at times, but that is the feedback we have received.

In practice, approving abatements is going to happen in one place or another, not both. At a local government level, you have a county and often you have cities within that county. Sometimes they have the same opinion on things and sometimes they do not. We think having a statewide policy, having the decision made there with input from local governments, which we are more than willing to accept, is the right policy for the state.

Let us look at the taxes that are to be abated and why. This session we have three abatement proposals. They provide what we think is a more targeted approach to what we are trying to do with abatements. We are narrowing abatements for lower paying jobs, which we will hear in Senate Bill 74 (R1), and providing some targeted abatements in areas for aviation parts and for data centers where we think there is great opportunity and high paying jobs. Those abatements will produce substantially more in revenue than if we do not provide those abatements. That is our thought with any abatements for this situation and others.

We have not included construction, and I assume you mean the 50 percent Nevadans criteria. That is certainly not in this bill. The size of the actual construction of these projects is certainly significantly less than what was contemplated in Senate Bill No. 1 of the 28th Special Session, so that has not been included.

The servers are the primary source of spending and personal property tax. I do not know the answer as to where the servers are being purchased. I sense that most of the equipment is purchased directly into Nevada. It is replenished so frequently that I would think that most of it is purchased here in the state.

We have included a definition of full-time employees in this bill that we are working to include in all of our abatement laws in NRS Chapter 360. Currently, there is not a definition for a full-time employee. This was the language approved in Senate Bill No. 1 of the 28th Special Session, and we wanted to be consistent, so that is the language included in this bill.

I am not familiar with technology fees in other states, but I will say that most other states we are in competition with, in respect to data centers, are not charging them anything with respect to sales tax or personal property tax. The sales tax component is really an exceptionally large number, because the investment in the state is really an exceptionally large number as well. I do not know how a technology fee would actually compare to that.

From a clawback standpoint, I have explained a good portion of that answer already. The other thing I will point out is that, in relation to your earlier question, we are not quite sure how we would track the sales tax abatement for all of the tenants because there are a thousand of them. We cannot track what they are purchasing now, so we are not sure how we would be able to track what should be clawed back, in addition to the other answers on that subject I provided earlier.

**Assemblywoman Kirkpatrick:**

The definition of what they are subject to on the sales tax looks like a federal code on what machinery is. What is that? I do not know the federal codes. I have personally been down the road where mules and all kinds of different things end up being equipment because we did not think it through, so I always ask this question. I want to understand what type of stuff would be subject to the personal property tax abatement. There is also the piece for the sales tax. I see that it is not subject to the construction, but what does that mean on the inside?

You do not have to give this information to me today. I know you will be around. I think we need to know what that means and what the expectation is. At some point you can explain to me why the Nevada Tax Commission would ever be adopting regulations on this type of abatement.

**Assemblyman Nelson:**

We have all received an email from a gentleman, Mr. Minkle, and he mentioned that he thought the thresholds were a little bit high. I know you did amend it down between the Senate version and the Assembly version, but he is suggesting that we go down to the \$25 million of the 10-year abatement. He says, for example, just yesterday Missouri signed legislation at the \$25 million level. Do you think there is any validity to that? His thesis is that

the more we lower the levels, the more businesses we will attract, otherwise we are really just protecting current Nevada businesses. Does that sound right to you?

**Steve Hill:**

It is certainly a potentially valid point. It was the basic concern that caused the thresholds to be lowered in the Senate. Certainly, depending on the resolution of Assemblywoman Kirkpatrick's concern about absolute thresholds versus discretion, there would be some possibility that the Board could take that into consideration going forward, or potentially not, depending on the resolution.

If you look at what a broad variety of states have done, there are a handful of states that have made the threshold exceptionally low—\$1 million range—and I am sure it is for that specific purpose. Most other states, and really the competitive states that we have around us, have thresholds that are very similar, if not identical, to the thresholds that are proposed in this bill. It is why we ultimately came to the conclusion that in order to be regionally competitive, these were the thresholds that were necessary.

**Chairman Armstrong:**

Does the Committee have any other questions? Seeing none, at this point we will take testimony in support of Senate Bill 170 (1st Reprint).

**Steven T. Polikalas, representing Unique Infrastructure Group, LLC:**

We are the developers of the Reno Technology Park in Washoe County. We were able to attract Apple, Inc. to Nevada, as an enterprise level data center, to build their ongoing growing enterprise. I wanted to say we support this important innovative, evolutionary modification and expansion of the data center abatement law in Nevada. It has been an ongoing exercise to try to get to a place where this law can get to a competitive place with other laws in other states.

Mr. Hill made an important point that this space is competitive, and how competitive it is with respect to our neighbors Oregon and Arizona, and how Missouri indeed just passed data center abatement laws, and the Governor of Arizona vetoed some anti-data center legislation.

I would say this bill is related to the Missouri bill. I think their jobs threshold was ten on an initial data center facility and five with an expansion, and a little bit lower spending thresholds. As I think we all know, these data centers spend quite a bit of money on servers, which is the important part of the abatement in relation to the sales and use tax. I can answer any questions.



**Assemblywoman Benitez-Thompson:**

As I look at the information for the deal that Missouri struck, they have the wage requirement at 150 percent of the average wage versus ours at 100 percent. Is that correct?

**Steven Polikalas:**

I do not know what ours is exactly; Mr. Hill may know. I do think the 150 percent wage threshold would not be a problem for this industry, certainly in Washoe County.

**Assemblywoman Benitez-Thompson:**

I neglected to ask about the average wage, average number of hours, and how that works with colocators, whether it is just a primary business or whether any of those provisions also apply to colocators, but I can ask Mr. Hill offline.

Tell me about the geographic advantages when businesses are considering coming to Nevada, or are looking at Missouri as an option. I know a little bit about weather, and when I think of Missouri, I think of tornados. I just wonder about some of those benefits that are unique to our state and how we would be competitive with other regions. That is why I want to keep the conversation more to the western region where we have more similar features than the Midwest. I think it gets tricky.

**Steven Polikalas:**

I have never been to Missouri, but I was just speaking to the competitive nature and how different states are continuing to enact aggressive data center abatements and other economic development legislation to help this industry. I think Nevada does have some geographical features that are of benefit to this industry—particularly northern Nevada but also southern Nevada. We are in a relatively safe zone. There is no substantial seismic activity up here. There are no major cities other than Las Vegas, of course. In northern Nevada there can be other attractors of man-made threats, perhaps. It is not just natural hazards that can be of concern to the data center industry. What these companies are looking for is redundancy of power and energy and safety from natural disasters and man-made disasters.

To the other point, it is a highly innovative space and one I think is important to Nevada and our endeavor to diversify the types of businesses we have had here in the past. We may be safe from earthquakes and tornados, and we are near California, which is another benefit, but we are not on the list of states that are competitive when they talk about this industry. We would like to encourage this Committee and the state to get on those lists for site selectors.

**Assemblywoman Kirkpatrick:**

What was it that we did not do right to keep Apple from investing all of their stuff here once we gave the initial abatement? This is not our first rodeo trying to bring data centers to our state. We have made energy concessions. We have done all kinds of things, so what was it that kept your client from investing their whole enchilada here.

**Steven Polikalas:**

Apple is not my client. We attracted them from the real estate development side on the Reno Technology Park development.

**Assemblywoman Kirkpatrick:**

You were their spokesman a few sessions ago.

**Steven Polikalas:**

I cannot speak for them. I would like to say that I do not know what the whole enchilada is as it relates to their diversifying in other markets, and they were heading to Prineville, Oregon, prior to us attracting them here. They are expanding here. I do think they are looking in Arizona. Maybe they have consummated a deal, but I do know they are large users of data centers. They continue to expand their footprint in all areas of media and technology, and part of the diversification of this industry is to be geographically diverse.

I do not think any one state is ever going to capture the entire level of data storage needs for a company the size of Apple which is the biggest company in the world. They are primarily in this space, and they just bought Spotify, an online music-streaming service. They just came out with their Apple Watch. They are the big gorilla in this space, or one of them. Facebook, Amazon, and these other enterprise-sized users, are always going to have a need for more data centers in different geographies, both domestically and internationally. I do think as this bill really tries to get to a colocation side, there are going to be other companies that want to be in a place and can be in Nevada, and I think this bill can go a long way toward encouraging that.

**Michael D. Hillerby, representing V5 Technologies, LLC:**

V5 Technologies, LLC, operates the Cobalt Data Centers in Las Vegas. I hope I signed up under the correct category in support. We do support the concept of abatements. Cobalt Data Centers is one of a smaller group of companies, six or seven companies, that would not qualify under the current levels—either of the two tiers of the bill—much as the email that Assemblyman Nelson referenced a few minutes ago. We would encourage the Committee to consider either cutting the existing lower tier in half or creating a third tier that looks something like that, and perhaps with a lower abatement rate.

To tell you quickly about the industry, you have also received a letter from ViaWest, Inc. ([Exhibit D](#)), which is another one of the smaller companies in this market. These companies have been working hard the last few years to establish a vibrant and competitive marketplace for data centers.

V5 Technologies, began operations in 2012 and has invested about \$15 million to date. They currently have eight full-time employees, and the average salary is \$82,000. These companies will grow in this competitive space, but only if the market is not artificially structured to give an advantage to one particular company. The current [bill], we know, would advantage one company or perhaps a small group of companies. There are a number that are already operating here that would like to take advantage of this, to continue to serve the Nevada market.

V5 Technologies and some of the other smaller companies exist in no small part to serve Nevada-based companies. When you talked about cloud storage for small- and medium-size enterprises located in Nevada, as well as entities that are located outside of the state, companies like V5 Technologies have come here and invested to serve this market.

We would encourage you to take a look at potentially lowering that tier. We have had some conversations with Mr. Hill and others about the idea. He was able to answer that question himself. Obviously it is a policy discussion for you. It is a burgeoning industry, so to the extent we can create a very similar set of rules for all of those players in that space to allow them to take advantage of any abatements, bring these kinds of jobs, and continue to expand in Nevada, we think it is appropriate. I would be happy to answer any questions and will work with the Committee moving forward with whatever version of the bill you would like to pass.

**Chairman Armstrong:**

I would consider that more of a neutral testimony, or support with amendments, because I am not sure if they are friendly amendments or not.

**Michael Hillerby:**

My apology, I was not sure where to sign up, so we will move it to neutral on the sign-in sheet.

**Dean Nelson, Vice President, Global Foundation Services, eBay, Inc.,  
San Jose, California**

I want to just give you a quick glimpse into our world, as far as what we do as a business, and why this infrastructure is important to our business and to the industry itself.

Last year we enabled \$255 billion worth of commerce across the globe. We have 155 million active buyers on eBay. We have 162 million active users on PayPal. We have over 800 million items for sale at any given second. The volumes just continue to increase, and I think the important part of this conversation is, you are either in this game or you are not.

I have data centers in Arizona, Utah, Colorado, California, and globally. I will tell you right now that the significant amount of my investment goes to Utah and Arizona for a few specific reasons. All of our transactions go through there. The \$255 billion are actually transacted there. We have incentives within the states that make it easy for me, as the budget owner, to make those choices to invest. I have to spend this money. I am always in a race to go back and have the infrastructure ready for the demand of the Internet. If you think of our users and what they are looking to do, they are constantly on their devices looking for things to purchase. I have been with the company for about six years and I have watched it go from 160 million items to 800 million items. I watched our infrastructure triple in some areas, and go up by ten times in others.

I will tell you that to be competitive in this space, you have to have the incentives. I think in a lot of the previous testimony there is a site selection list, and it does not matter if you are Apple, eBay, Facebook, Microsoft Corporation, or any other company that has to have infrastructure; we all have very similar interests and tax is one of them. It needs to be competitive with other offerings in the market. The next one is availability of resources—power. I also want to address that the climate is a little counterintuitive. Cold climates are actually very good for data centers because we can use the outside air to cool the equipment itself, and it is a lower cost to us. The threat, when it comes to earthquakes, tornadoes, floods, et cetera, is also a very significant piece within our selection.

There are a couple other aspects that people and economic development offices miss. We must have an on-ramp to the Internet. We have a concept called digital hubs, and that works out to be like railroads or the highway system. There are off-ramps or stop points where trade happens. The digital economy is very similar to that. When you pick up your phone and you search the Internet for a new pair of shoes or a car, that transaction is going over the Internet, landing in a data center, getting processed, and then it is coming back to your device. Those connections, the concentration of that processing power, and the data storage is what data centers are all about.

You are blessed with a couple things in this state. You have two major off-ramps today, and that is because of the investments by a number of different companies. Las Vegas is one of those off-ramps. There is a high concentration of fiber within that location. There is a significant concentration of carriers—AT&T, Level 3 Communications, Inc.—and I could name 60 of them that are concentrated there as well. Reno is right in that pathway when it comes to that fiber.

You also have a very low-risk state. Assemblywoman Benitez-Thompson mentioned Missouri with an average of 45 tornadoes a year. We do look at that and it is a great equalizer in this business because they can have great uptime in the data center, but whether you are a data center or a house, when a tornado comes through it hits them the same way. We do look at natural disasters as significant to our choice within our list.

I would say that today you are a state that is actually easy to do business with, and I am pleased with that. I will tell you we are a significant consumer of data center colocation space within Las Vegas today. When it comes to the investment level it is disproportionate to Utah and Arizona, specifically because all of our side traffic is actually concentrated and developed in those two areas. What I need to do is expand our business. I would like more locations, and I will spend the money and invest it in a new location; it just comes down to how much. We have invested a good amount within Las Vegas and we are looking at how much we are going to invest within Reno, and how much bigger we are going to go in Las Vegas.

The one thing that is actually a disadvantage today is the tax abatement. The reason we are supporting this bill is it makes it very simple for me to go back and say, I can now make Nevada the third site. I can level my investments of what I have within the other locations. Just to give you an idea, we are one company of a huge number that are trying to deal with the explosive growth of the Internet. Every device you have in front of you, everyone with a smart car, every smart device you have in your house is transmitting data to a data center somewhere. To be in this game, you want to make sure you are attracting companies that invest in that space.

In my opinion, what is important is when you do that, and you attract eBay, Microsoft, Apple, et cetera, to invest, you now get second, third, and fourth level investments. You also get additional jobs; for example, we are going to buy a significant amount of computer hardware and we are going to land it in a data center, a colocal place. The equipment needs to be supported, so the thousands of jobs that you heard Mr. Hill talk about at Dell, Hewlett-Packard, Cisco Systems, Arista Networks, all of these other technology

companies and product companies are actually supporting the infrastructure that we purchase. Software companies, consulting companies, all different types of businesses are here to support this infrastructure that drives this digital economy, which is where all the growth is going on.

I will tell you that when you land a data center, you have them for a long time because it is extremely difficult to get out of a data center, but I will tell you the computer infrastructure is decided every year. For example, the growth I talked about, every year I am trying to buy the latest and greatest equipment to do two things: deal with my capacity and give me a competitive advantage to be able to process that information faster than our competitors. The reason we drive technology refresh is to give us the speed. We are doing two pieces: adding capacity and increasing the actual performance of our site. Where we do that is what is important in all of this.

I will tell you right now the reason I am so interested, and why I am spending the time here today, is because I want to do more business in Nevada. As an industry representative, I do a lot of work with my peers in the industry. They are looking for the exact same thing. We have almost the same top ten criteria in how we choose a location. I talked to a significant number of government economic development offices across the United States, and globally, and I have expressed the same things. There are a small number of states in the United States that get it. Right now, Nevada has got it, from what you have been able to enable in Las Vegas. I believe you have the opportunity to do the same thing, and even bigger, in Reno. You are geographically placed, as someone mentioned before, right next to California. You are also on the on-ramps, as we have also said. North and south have great pathways, and you will attract more companies like us to invest more dollars.

We believe in paying tax. We believe that when we come into a state like this and we invest, we are going to add a significant amount of tax because every three years we replace our entire infrastructure. That is what I was talking about with new technology. It is a perpetual construction of new data center capacity, it is a perpetual investment in technology, which is the information technology internally that allows the engines to happen. The difference is I have owned data centers in Arizona and Utah, and I chose to colocate here because there is strength in numbers when it comes to how many people come together within a colocation facility. There are some great offerings within Nevada today. We plan to continue to do that, because we believe there is more power as a community than there is with all of us investing our same dollars in all of these different individual data centers.

I want to make sure you understand this is a significant decision for us. We are going to be making these decisions soon and we will be investing dollars that keep up with the Internet in our locations that concentrate with the data centers. I will answer any questions.

**Assemblywoman Kirkpatrick:**

I want to start off by saying this Committee has been a fair Committee as far as bringing abatements to our state for some time, but that does not mean we cannot ask the hard questions or talk about the things that people do not want to talk about.

I do not live in Reno; I live in southern Nevada. As much as you say you are going to do things up here, I have to go home and explain why they have to pay more in something else to subsidize something different. We are not split. We do not divide that way, but it does not help the situation. I have to explain it to my constituents, just like Assemblywoman Benitez-Thompson has to explain it to her constituents in the north.

I am in sales in my day job. I am fair, tough, and competitive too. I want to know from your perspective, because what I heard was a sales pitch. No disrespect, but my job is to ensure that my constituents know what I voted for, and why and how we are going to pay for it. I want to understand if there is going to come a point in time where you will invest just until the next best state comes along, because you have Arizona and you have Utah, or is this something where you are going to invest in Nevada for the long term? I ask that in all fairness, because I have been in this game for a long time and we have played this game poorly.

People come in and say, you have to do this, then they go on to the next state where they get a little bit more. I am in sales and that is exactly what you do, but at some point the money and incentives end and you have to be a community partner. Win it by the cheapest and lose it by the next cheapest. I want to buy quality, so I can keep it and be that great state to work in.

I want to know if it is a long-term commitment. In my mind we are investing in a long-term commitment. I am passionate about this because I get the game. I also want to understand that when you said people were going to come in droves, my concern is are they all going to colocate on that one area, which is not going to get us the additional revenue? Where does the revenue come back to us?

Today's kid, at five years old, knows what eBay is and they know how to tell mom or dad to go shopping and buy them something, and you can have it tomorrow. I know it is a sign of where we are headed today, but I also have to educate, provide roadways, medicate, and incarcerate those same kids. I have a job to do.

I understand that you are buying servers, but if I am giving you all of my sales tax and my local school support, where do I see the revenue? I think those are fair questions. I am a tough negotiator when it comes to giving things away, because I do not want to be in the game for the sake of being in the game; I want to be in the game to get the quality. I am not going anywhere. Nevada is stuck with me. I guarantee that every person here wants this same conversation. If you can show me where these three things are going to come then I can find three more questions. This is not a 40-minute hearing. I am not in a rush. I know that your company and many others are in a rush, but we have to do this right or you are going to another state anyway.

**Dean Nelson:**

I do believe you should ask me everything you possibly can. I represent the infrastructure for our company. I make the decisions on our investments, end of story. Regarding your first question about the long term, data centers are by their very nature long term. Every time you build a facility, you have a 30-year depreciation on the data center. You want to stay in that place or else you are losing money.

The infrastructure that is put in place is very difficult to move. For example, it is like flying an airplane and changing the engine while you fly. Data centers are built to not go down. As you mentioned before, there are concerns like instability of power, et cetera. We put in a backup of the backup of the backup. The reason data centers are so expensive, and I am sure the colocation providers can explain as well, is that you have to build in safeguards, which means I have 21 megawatts worth of generators and 21 megawatts worth of uninterruptible power supply (UPS) to deliver 7 megawatts of power to equipment, because I can have concurrent failures within the infrastructure and it will still run. I can have the utility grid completely go away and eBay is still on. Those are the kind of things you have to put in place for data centers. When you do that, you are putting this redundancy in, and you do not want to move it.

To be in this space, when you attract companies that make significant serious investments in infrastructure, they usually stay and they usually grow. I will give you two examples of that. When we went into Utah we had a dirt patch. Our first investment was \$287 million for one data center. We have now



quadrupled it within that state, because it is easier to expand than it is to go back and say it is cheaper in another state. It is very different than going over to T-Mobile versus AT&T because there the cost of change is really simple. Whereas with the data center, it is in the hundreds of millions, if not billions, of dollars for us to change.

What we are looking for in this bill is a reason to stay, because investments we make we want to be able to say we can predict this going forward. We know what the budget is as the company grows, because honestly that is my number one concern, being ahead of this infrastructure. If I do not have it in place, we lose and someone else will take the revenue from us. Yes, it is long term, absolutely, a minimum of ten years, because we are going to go through three technology refreshes.

What was your other question?

**Assemblywoman Kirkpatrick:**

You told me that businesses were going to come and I am concerned about colocation.

**Dean Nelson:**

Do you mean concentrate into one? I hope I did not convey that this is about a single data center. This bill, and why it is attractive to us, is it levels the playing field for anyone who wants to be in this space. The beauty of it is whether you are a colocator or an enterprise customer building your own, it is the same thing. You have to comply with the rules. I think what you were saying is it is a very specific checklist; great, I know my rules, I can actually comply with the rules. We have a lot of people who go back and make sure we do comply with the rules. I will say that with the colocation and what will attract the people inside of that, is that the colocation provider now makes it easy to move in. Once they move in, it is very difficult to move out. When you have any of these, I now start landing it. Mr. Hill mentioned that we would get a letter or a certificate to say we are in a qualified colocation facility and now qualify for the tax abatement for the extra equipment put inside of the colocation.

The reason I believe they will come is that the checklist I talked about is really the only one left that is disadvantaging Nevada. In Utah there is zero tax. If I was looking for the lowest cost, I would put everything in Utah, but I have to diversify and I have to balance. Utah is at 2 percent and they do not have any minimums. They have it based on the type of business that actually goes in to Utah. What we are asking for here is a very fair approach in how to attract businesses. It does not actually burden or take away. We do not want to not

pay sales tax. We do not want to not enable you to educate the children within Nevada. What I would like to be able to do is continuously invest more money in Nevada, because 2 percent of a large number hopefully will add more back into your education system as well.

**Assemblywoman Kirkpatrick:**

I appreciate you indulging us, because this is a real conversation that we have to have. We have seen this happen; what prevents you from moving from Las Vegas to northern Nevada to get the incentive? I do not see anything in the bill that protects us. The devil is in the detail. We are in this business because we read something very different than what the Legislature thought it was. I want to be clear on where the protections are for us.

About a good corporate business environment, I could argue with you about Utah all day, because I have a piece of property in Utah and I pay their triple property tax, and I pay their income tax, et cetera. It is a balance all the time, and I do not want to be like Utah because if I was, Nevada would not be unique for the reasons it is.

Where are all of those provisions within this bill? If we are in a negotiation and a bill happens to be in the middle of it, you want things to come to my state and I want things to keep you in my state, and in between I have to explain to my constituents what they got out of it. They need to understand what the benefit is for them. If you are from southern Nevada you do not understand the benefit in northern Nevada, and if you are in northern Nevada you do not understand the benefit in keeping some of it in southern Nevada.

At some point, at least if I am going to buy into this conversation, we have to have a much longer conversation. I hope you will stay here from San Francisco, as I assume that is where you came from. We work late into the night to have real discussions.

**Dean Nelson:**

Every time we buy equipment, there is a destination and we pay sales tax for the place it is actually landing. If it is received in Nevada, we pay sales tax. If we buy Dell equipment, we pay the sales tax directly to Dell, and Dell is reporting the income back into Nevada.

**Assemblywoman Kirkpatrick:**

Why are you on that point? Currently you are talking about going into a foreign trade zone, so you would not necessarily be subject to some of those taxes.

**Dean Nelson:**

Are you giving me money back?

**Assemblywoman Kirkpatrick:**

I am trying not to, but I am fair and honest. I want to put all of the cards out. Has that been considered? You do not have to pay on many of your things that come into a foreign trade zone until they go back out. Have we talked about this?

**Dean Nelson:**

Yes. I am not a tax expert; I am an infrastructure expert. We have all of our tax experts here if you would like to talk to them about that specifically. I do know that we pay tax in Nevada, Arizona, and Utah because it comes out of my budget. We pay at those rates, and the reason I am here is that there is a significant difference in the actual tax that I would pay here if I landed infrastructure, if this bill does not pass. It would force me to invest that money somewhere else.

How do we protect Las Vegas from us moving everything to Reno? This is what I like about the bill. I had nothing to do with the writing of this bill. I am just here to support it. The bill itself is not location specific. It says "a data center," which is defined as a building. Whether it is in Reno, Las Vegas, or Sparks it does not matter. There happens to be investment going on in Las Vegas and in Reno. We are already planning to actually land infrastructure in Reno. We already have significant amounts within Las Vegas that are going to stay. Reno is an 18-month proposition in which we will now start to invest. How much I invest depends on this bill. Las Vegas is an investment we are already doing now, and I am doing it for 2016 and 2017, within our budgets. It all comes down to what infrastructure I need to have in what place. I still drive the majority of my stuff in Utah and Arizona, because of the things we talked about before. We are giving you money and we plan to continue to give you money.

**Assemblywoman Kirkpatrick:**

I still have not seen that, but I know the Committee has another bill. I still do not understand where it comes from, because we are exempting you from the sales tax with the exception of the 2 percent. Unfortunately, in our state, which is different from both Arizona and Utah, we rely on sales taxes. Usually somebody else pays it, so it is much easier to rely on sales tax if everybody else pays it, but it funds our entire state, from the local level to the state level. If I have to give it away, I need to understand how I am going to get it back. Is it through MBT on jobs? Is it through other components? I will be honest, I am looking at this and trying to understand the federal definition of data

centers. Is it cars over 6,000 pounds? Is it furniture over this? It is so broad that I can drive a truck or two through it, and that is why I am asking the hard questions. I do not believe this is a 45-minute conversation and I am sure the Senate did not give you the time that the Assembly does. We are the people's house and we want to be able to explain it. I do not see the dollar signs coming back, so at some point I might need a visual and I am sure a few others would agree.

**Assemblyman Nelson:**

Your last name is Nelson, correct?

**Dean Nelson:**

Yes.

**Assemblyman Nelson:**

I want to tell you a success story about Nelsons who relocated from Utah to Nevada. I am really glad we did that 40 years ago so please consider that.

We took a tour in December in Las Vegas of the Switch facilities. I remember them pointing out the servers that were dedicated to eBay and other companies. Is that your main presence in southern Nevada, or are you saying that you are going to have a stand-alone building of your own? I am curious what you are planning to do in southern Nevada and also in Reno.

**Dean Nelson:**

Our current investment is in Las Vegas, and it is with the company Switch. We have gone from zero presence in 2010 to being the largest consumer of infrastructure at Switch. Will they come? Yes, we definitely came here. It is not balanced with what I do in other states. We are a significant cost within the eBay business, but the engine drives the business. Everything we do is online. What keeps me up at night is if the data center is still live and do I have enough capacity to deal with the demands that keep going up? We have gone from 160 million to 800 million items at any given second, and 1 billion is right around the corner; that is global volume.

We plan to expand into Reno, not to move. What I am looking for here is how much I am going to expand. Today we have data analytics. We store a lot of data within the facility, but we do not do the direct transactions. We do those in Utah and Arizona. There is a significant amount of other infrastructure so that we can now say we can make three locations. In the data center business, from an application standpoint, there is a thing called "active-active,"

so basically I have the same data in any location. It does not matter if we are going to Utah, Arizona, or Nevada; you can serve customers. Today they go to the other two, they do not go to Nevada. I want to make Nevada the third, and if we do this right, I want to make the fourth, which would be Reno.

**Assemblyman Hickey:**

I am from Reno, but we are state lawmakers. Assemblywoman Kirkpatrick was instrumental in putting together the deal that resulted in Tesla Motors coming to Nevada, so her questions come with great merit. Simply put, the 2 percent sales tax is in the *Nevada Constitution*, so it cannot be negotiated away. Two percent represents money that goes to the state. There will be a take away from your expansion, should it happen in Washoe County, in that abatements will be made that the county will not receive ordinarily from the sales taxes. As things expand and you renew those machinery purchases every three years, the size of the 2 percent pie grows and that benefits our entire state.

**Randy Robison, Director, State Legislative Affairs, CenturyLink:**

The previous speaker pretty much covered everything so I just want to say, "me too."

CenturyLink operates 58 data centers across the country and internationally. This bill sets up a very regionally competitive situation with the existing thresholds. Mr. Nelson went through, in detail, the factors that come into play when people are looking at site selection, along with some of the natural factors that we already have here in Nevada. Without belaboring the point, we would just like to indicate our support for this bill.

**Pat Whitten, County Manager, Storey County:**

We are here today to express Storey County's full and absolute support for S.B. 170 (R1). Like many bills, this bill seems to create a brand of its own, the Switch bill. I would like to change that notion to any extent that I possibly can.

Certainly if this bill passes it will help Switch in their decision to not only expand their campus in southern Nevada, but also to establish a presence here in northern Nevada, but that is not all there is to this bill.

I spoke with Lance Gilman, the principal developer of the Tahoe Reno Industrial Center this morning. He shared with me that he is currently in negotiations with four Fortune 500's top 10 and top 50 companies that most likely would qualify as a data center and are very interested in the provisions this bill contains.

I just want to be clear that those are not colocates—those are separate opportunities for us. Will they all choose Nevada? We do not know at this point. We can be pretty sure they will not without something like this bill being passed.

Over the last 15 years, I have worked closely with Mr. Gilman under our public-private partnership that had your tremendous support during the 28th Special Session, which brought great opportunities with companies like Tesla Motors, and I can assure you there are many competitive factors that are considered when companies choose where to locate or expand. These include land costs, geographic positioning, power reliability, end cost, and tax incentives, to name a few. Nevada has every reason to be proud of what we have to offer these companies, especially through Mr. Hill and GOED.

What I refer to as our "shelf incentive programs" work very effectively in bringing many of the marquee companies that have chosen Nevada to locate and employ our families and our friends. But with Tesla Motors and the giga-investment they are willing to make here, we also learned that we must be even more competitive, at least when the scale of the project is very large. That is the case with data centers, too, including not only Switch but, hopefully at least those other four that Mr. Gilman is working with, plus many more as Nevada strives to become the technology-driven, upscale neighbor to the Silicon Valley. The size of their investments and the companies they bring with them, such as eBay, warrant enhancements to our normal incentives, and this bill will provide all of that without sacrificing 100 percent of the revenues. Real property taxes will get paid, as well as a sizeable amount of personal property taxes, that is well on top of the 2 percent in sales tax.

In closing, I will start by saying that Tesla Motors is an excellent company to work with and call a corporate citizen here. They are young, dynamic, and exemplify the future of our state and our country. As candidly as I dare be, I can tell you that Rob Roy, the founder and chief executive officer of Switch, and his Switch team are even cooler to work with. They are the Internet; they are the cloud; and it is companies like Switch and others that make me so glad I continue working at my advanced age.

We fully support this bill and we are deeply appreciative of the sponsors, supporters, bill drafters, and others that have crafted a piece of legislation that works for everyone; the companies, state and local governments, and most importantly, our citizens that will have an even greater opportunity to live, work, and play in our great state. We appreciate your support and consideration and are available for any questions.

**Assemblywoman Kirkpatrick:**

This is not political but I am asking, does your Legislator support giving away the tax abatements? At some point we are going to have to give them back, and it is a real discussion. I think we had that during Tesla Motors. We said that government works when we do it right.

**Pat Whitten:**

If you are asking if Senator Settlemeyer and Assemblyman Wheeler, our local delegation, support this bill, I have not had direct discussions with them other than to tell them we are very supportive of this bill. We have not received any pushback.

**Assemblywoman Kirkpatrick:**

I am curious. We need to have a real discussion with people. It has to come from somewhere.

**Pat Whitten:**

I will seek them out tomorrow. Senator Settlemeyer must be supportive of this bill, because I believe this came out of the Senate with 21 in favor of the bill and 0 against.

**Assemblywoman Benitez-Thompson:**

I have a question about colocating, and some of our practices learned from the Sales Tax Anticipated Revenue (STAR) bonds in northern Nevada. If we allow businesses to colocate, if they have a current business here in Nevada, are we going to allow them to move to a site that is abated? I was just thinking about the current data centers we have. I know it is not easy to move them, but if it balances out on the ledger correctly, it could potentially be worth it. We saw it happen with STAR bonds in the north. It is a legitimate concern. I think that question is more for Mr. Hill.

I know you are here on behalf of Storey County, and you were talking a lot about Mr. Gilman's support for this and different types of negotiations he is engaged in, but if he is very supportive of abatements can you tell me about the different types of tax policies he is going to be supportive of this session? I would hate to think that people are coming to the table, asking for all of these abatements, without being supportive of a general theory on revenue to offset costs and help support education and infrastructure in the state. I think any answer would be appropriate except personal income tax.

**Pat Whitten:**

Today I am not prepared to express Mr. Gilman's tax policies; he is also a Storey County Commissioner. He has mentioned publicly in meetings that as opportunities, not so much related to this data center, but all of the residual companies that are coming because of Tesla Motors and the media we are getting in northern Nevada, not just in Storey County, he is potentially beginning to look at the fiscal stability of the county. And, I am here as the chief fiscal officer—the County Manager—to attest that as it has solidified over the past several years, even despite some of the challenges of the downturns, we are actually doing something innovative and looking at maybe trying to peel back a tax rate.

**Assemblywoman Benitez-Thompson:**

I appreciate that, but as your neighbor in Washoe County, we know that you people are very supportive of abatements for infrastructure that comes into Storey County, but the residents end up living in Washoe County and their children go to Washoe County schools. Please be cognizant that as a legislator, that is what I have in the back of my mind. Just like you are looking out for your county and your residents, I have to look out for my county and my residents. Hopefully we come to some terms where we are not pitted against each other in the way that states race to the bottom on abatements.

**Pat Whitten:**

I totally agree with you. I think we have excellent working relationships, particularly with our peer group in Washoe County, John Slaughter the Washoe County Manager. We understand the challenges and we think we also understand some of the mutual benefits. Obviously, if I am going to buy a car tomorrow, I am probably going to buy it in Washoe County or in Carson City, but those are ongoing dialogues and conversations that we definitely are sympathetic to our neighbors and appreciative of them too.

**Chairman Armstrong:**

We will now move to opposition. Does anyone want to speak in opposition to the bill? Seeing no one, I will move to those that are neutral. Would anyone like to speak neutral on the bill?

**Jeremy Aguero, Principal Analyst, Applied Analysis:**

Our firm was retained by Switch to do some analysis relative to the economic impact associated with their proposed investment that is contingent upon the passage of this bill. I am going to go through a few summary statistics and then I will try to answer some of the questions that have been asked, because I think I can provide some insight.



With regard to the level of investment, I think putting it into perspective is helpful. As Mr. Nelson spoke of earlier, the order of magnitude relative to the size of some of these businesses is massive. If we just think about eBay by itself, the total amount of economic activity that eBay does is roughly double the size of the entire gross state product from the state of Nevada. If we take a facility such as Switch, in terms of the amount of economic activity that is facilitated through a facility like that, and if we think about it as an industrial building, it does more economic activity than every other industrial building in the state of Nevada combined. Again, it is something we have to think about in terms of order of magnitude.

The investment that is being proposed is an investment in both southern Nevada and northern Nevada relative to those sizes. I think there were questions earlier about what would happen in southern Nevada versus northern Nevada. In southern Nevada, the estimate is for a total investment of roughly 20,000 cabinets. I will talk about things in terms of a cabinet, sometimes referred to as a rack; this is where all of the servers and other equipment are placed. There are 8,000 in Switch today, and 20,000 in terms of the investment that is proposed in the southern portion of the state. Within each one of those cabinets, there is roughly \$250,000 worth of investment. I believe there was testimony in the Senate that there is at least one company with an average cabinet roughly three times that amount, so we will take that as something of a conservative figure.

The combined build-out of the facility itself in southern Nevada is estimated at \$375 million. If we think about everything added together, we are talking about \$5.375 billion worth of investment. The turnover, or refresh rate, for the gear—the equipment that is in there—has been discussed as roughly three years, but we used roughly four years in our analysis in order to be conservative, which translates into about \$1.25 billion annually. Once the facility is fully constructed, over the 20-year time horizon, that amounts to about \$21.6 billion worth of aggregate investment.

If we think about the northern Nevada counterpart, that is estimated to be roughly 15,000 cabinets in size. Using the same \$250,000 per cabinet and the same relative level of investment, we are talking about \$3.75 billion in technology hardware investments. That is \$4.1 billion through the build-out and about \$16.3 billion worth of investment, again assuming the same rate of refresh over the 20-year time horizon. We try to translate that into economic impacts.

When we think about economic impacts, there are generally three. One is jobs, another is wages and salaries paid to Nevada working families, and we also think about it as aggregate economic output. Generally speaking, our economy produces somewhere in the neighborhood of \$110,000 for every employee. That is all of our gross state product roughly divided by the total number of people that live and work in the state of Nevada.

We look at the total amount of economic activity and its direct, indirect, and induced impacts. I will focus first on the direct impacts. These are essentially the people who will receive their payments either from a physical facility or from someone choosing to colocate there. We believe those are estimated at somewhere between 6,500 and 7,500 employees at build-out. The direct impacts are supplier purchases and some of those were discussed today.

Indirect impacts are, for example, I have a job and go back to my community and go to a movie theater, a doctor's office, or a grocery store where someone is dependent on the spending of my salary at each one of those locations. If we add all of that together, we are looking at a job impact of somewhere between 12,500 and 13,500 jobs.

Wages and salaries are the second major component of an economic impact statement. If we think about it in these terms, in some cases the average wage is as much as \$200,000 per employee. For modeling purposes, and it will certainly be argued with me later as being too conservative, we estimated it at just under \$60,000 per employee per year. That totals about \$688 million annually, or \$12.3 billion over the 20-year time horizon in aggregate.

There has been a lot of discussion relative to taxes, both the 75 percent of sales tax and the 75 percent of personal property tax, and again those are areas of abatement. If we think about it in terms of the 20-year investment horizon for sales tax, we are talking about roughly \$33 million due over the entire investment horizon, or \$644 million if we add up all 20 years, both in terms of the capital construction and the reoccurring operations. If we are talking about it in terms of the personal property, that number is roughly \$253 million over the 20-year investment horizon, or roughly \$12.7 million per year. Again, these assume the rapid depreciation of those assets and their turnover every three years. If we think about it in terms of magnitude of investment, not only is it substantial relative to what the state of Nevada has today, but I would argue that it is very substantial relative to what the state of Nevada has the opportunity to become.

The state of Nevada must make something of a choice. We either will make a choice to see an increase relative to the investment in this particular sector, or we need to accept the reality that there will be something of a decline in the investment. In terms of taxes, there has been some discussion of the fact that those are currently paid by the gear inside of the facility. From a point of clarification, I want to make sure that we are talking about gear that is sales taxed. The sales tax is paid one time, at the point at which it is purchased or used in the state of Nevada. The question before you today is the comparison between taxes we paid yesterday and whether or not we will continue to pay them tomorrow.

Assemblywoman Bustamante Adams asked a question about the return on investment. If we think about it relative to the aggregate size of the expected investment, we are talking about roughly \$47.9 billion worth of investment. If we think about it relative to what is given up from an abatement, we are getting \$17.40 for every \$1 that we are giving up. If we think about it in terms of aggregate economic output, which is the total amount of economic output that would go through a facility such as Switch, it is about \$235 billion, which is about \$86 for every \$1 that we abate. If we think about it in terms of labor income, how much goes back to working families as a result of that, that number is roughly \$4.10 for every \$1 we invest; however, I would suggest to you that it is a bit of an apples to oranges comparison. We always need to be cautious about going through that exercise. What I have just gone through now is the expectation of what happens if all of the things I have talked about, all of this investment, these 35,000 cabinets, \$47 billion worth of investment, if all of that takes place, and it would have taken place anyway. That is what I just went through.

I would suggest that based on the testimony that has already been provided, that it is something of an unrealistic scenario. Anticipating this question and having gotten it before, I compared and prepared an analysis that looked at it a little bit differently. One is the expectation that we take the path that is growth, investment, and expansion within this particular industry. The second one essentially says that we have an industry today and we are going to choose not to make the investment, we are going to choose not to go forward in this particular industry. And then I made the assumption that essentially that industry would see a 10 percent decline every year over a 5-year period, giving a 50 percent reduction. That is to say that every year, over the next five years, 10 percent of the businesses located within a specific center, in this case the existing facilities of Switch, would essentially decide

that they would relocate somewhere else. The testimony has already been provided that data centers are not easy to move. It is not like everyone is going to relocate overnight, but this is just one scenario to provide the difference between those two particular alternatives.

If we think about it in those terms, we are talking about the difference in terms of aggregate investment, with the bill, of roughly \$47.9 billion. The difference in the alternative would be \$5.5 billion. If we look at that in terms of employment, we are talking about the difference between 12,500 jobs and about 2,092 jobs. If we look at it in terms of personal income, we are talking about the difference of between \$630 million versus \$105 million at the end.

Let me take a step back before I talk about the fiscal implications and try to answer a few of those questions. If I think about it in its simplest terms relative to the amount that would be generated under the scenarios that I just gave you in sales tax, with and without, we are talking about the difference of about \$665 million with and \$331 million without. In property tax, we are talking about \$255 million with and \$119 million without. Under that scenario, you are talking about an abatement of roughly \$432 million over a 20-year period. If I divide that against \$47 billion of investment, the return is something on the order of \$111 for every \$1 we abate.

We could look at that in any number of different ways, but arguably the more germane to the questions that were asked here today is relative to what the fiscal implications would be for the state. If we look at it from that standpoint, and we go through all the exercises that we just did—we assumed that only 70 percent of all of the equipment would be subject, that there would be equipment that would come in, that there was a four-year turnover for that equipment just to make sure we are on the same page—if we look at it in terms of the return on investment.

**Chairman Armstrong:**

Can I interrupt? I think your scenario was based on a 5-year, 10 percent reduction and I did not hear that from the testimony. What I heard was not whether they are going to relocate, but how much they are actually going to invest. We have heard that Nevada has one on-ramp and we are building another one. I am not sure if the analysis of saying that there is going to be a 10 percent relocation every year is an appropriate scenario. Really what I have heard today is whether or not we are going to have an existing amount with a limited amount of expansion versus an incredible amount of more expansion or building-out the second on-ramp in Reno.

**Jeremy Aguero:**

I will allow other people to come up and have a conversation whether they believe they would see a decline relative to the investment or whether we would remain stable. If it would please the Committee, I am more than happy to make the adjustment right here and essentially do it based upon the assumption it is flat if you prefer.

**Chairman Armstrong:**

No, you can go on. I just wanted to put that thought out there because I heard conflicting testimony on that today.

**Jeremy Aguero:**

If you want to see it both ways, I am more than happy to give it to you. We are just going to be talking about the order of magnitude. If we look at it in terms of the scenario, I did draw the idea that we would lose at least some investment going forward. We are talking about the difference between \$644 million in sales tax versus \$311 million, which is essentially a return on investment of roughly \$2.13 for every \$1 that we invest. The question was brought up—and I am thinking about all of the sales tax now, not just the sales tax that inures in some way to the benefit of the state. I will get back to that in just a moment.

If there was some concern relative to local governments, if the state so chose, it would have more than enough money to make the local governments whole by simply reallocating some of those funds back to the local governments. We are essentially two times higher than we would be at the end if we were charging 8.1 percent and something around 7.5 to 7.75 percent in the entire state on a reduced base. Even at 2 points inuring only to the benefit of the state, we are still two times better than we would be if we start to lose, again with the assumptions I made respecting the fact that those may need to be adjusted to ensure that the scenario is the one that the Committee wants to hear. But at that level, we would have a little bit more than twice as much money, both in terms of sales tax and property tax.

If I run the exact same scenario and I go through the exact same exercise, but instead of including all of the sales tax, I simply include the sales tax that is the 2 percent that is going to be deposited in the State General Fund and the 2.6 percent that is technically not a state revenue but a State General Fund

offset, you are talking about the difference between \$644 million and \$177 million in terms of sales tax collected, again under the same assumptions I provided before. That is \$3.75 for every \$1 as compared to the one I provided earlier which looked at the entirety of the sales tax. Of course that same

differential does not exist relative to personal property tax because it does not apply the same way. Nonetheless, if we add the two together we are talking about the difference between \$920 million collected from both revenue sources, as compared with roughly \$300 million, which is roughly a three to one differential if we only look at the state's portion of the sales tax. That is my testimony relative to the economic and fiscal impacts associated with this bill and Switch in particular. I would be more than happy to answer any questions.

**Chairman Armstrong:**

Are you prepared to submit the impact assessment ([Exhibit E](#) and [Exhibit F](#)) of the two scenarios for the record?

**Jeremy Aguero:**

Yes, sir.

**Assemblywoman Kirkpatrick:**

Based on your assumption you, must know how much of the current equipment is going to be eligible for the 2 percent as opposed to the 8.1 percent, correct? That would be helpful to us as a state. We know the lingo; it is how much of this is going to be put on the sheets for 2016 and how much is going to come off the sheets in 2017. I think that is a real concern. We have to think about that, and I know you have been helping to fill those sheets, but this is going to take something off of those sheets. At the end of the day, we might have to agree to disagree if that is how we have to get there.

You are telling me \$60,000 per employee, so when can I count that revenue within the northern part of the state? I think it makes a difference. If we are talking about how this is going to turn the economic model, I want to know when, because eBay told us they have to make a decision right away. We also heard from Storey County that they have people who are ready right away. I want to know when that projected revenue is supposed to start. If it is real and people can stand behind any modeling, I would bet our people could put it on the sheets. That is as serious as the conversation has to be. It can either go on the sheets or it cannot.

**Jeremy Aguero:**

With regard to the state-only component, the 2 percent, and we are on the same page that the 2.6 should also be included, I did run the analysis relative to the existing facilities only. I have not decreased it in this particular scenario. I am just running it as though it has the existing facility. If we look at that relative to just the retail sales and use tax, the amount collected would be roughly \$7 million in each year and the amount abated would be \$9.1 million

each year. So if you were going to ask me theoretically again what is going to have to be pulled off of the sheets if there was an expectation that the people who paid the tax yesterday would continue to pay it tomorrow into perpetuity, from my model perspective, that number is \$18.2 million. However, I would also suggest to you that my model does not account for in this scenario, the one path versus the other. In addition to that, relative to the incremental investment, I will tell you—also, I believe, somewhat conservatively—that I have assumed a three-year construction period with the investment starting in Year 4. Is that too conservative? I think based on the testimony today, and maybe as part of the Chairman's request to make some adjustment, we may also need to make an adjustment for that. In terms of specifically answering your question relative to the model that I have created, assuming everything I talked about and what we just went through, those would be the numbers I would provide to you.

In regard to your other question as to if it needs to be pulled off the sheets or included on the sheets, it will depend on the assumptions that were ultimately made relative to who is paying and how much and whether they would continue to pay on a going forward basis, or whether some share of them might consider going elsewhere. I would guess that what you are going to ask is, what happens if somebody else would have moved in otherwise? Would we have had some loss or benefit there? Hopefully I put it down the middle of the fairway.

You asked when the \$60,000 per employee will happen in northern Nevada. I can tell you that based on the analysis we did, there is a construction phase and I tried to analyze the construction phase. Then there is a reoccurring activity phase. Relative to the construction phase, I will defer to the people who are here from Switch to talk about when they would start turning dirt. I want to be careful about speaking for the firm for things that I do not know. We know that construction jobs are also very important and we are talking about several hundred million dollars of construction. It is my understanding that it would start relatively soon. I think you are asking about the reoccurring employees that are there. The way that I have modeled it is that those reoccurring employees would really start in Years 3 and 4, as they go through the ramp-up period. If you were to press me on it, I would say that I think it would happen sooner than that, given both the testimony today and all the other information that has been provided to me throughout this process.

**Assemblywoman Kirkpatrick:**

I have no problem with zero percent of zero. It is when we are not taking away existing revenue to give it somewhere else. If it is new, and we keep going back to what we did last year, there were projections, expectations, boundaries, et cetera. We are still struggling with the sheets. For the people who do not know what the sheets are, they are how we balance our budget. We call them the sheets so we can determine if we have the revenue coming in or not, and if we expect there to be a bump in the revenue. We know if a project is built on the Strip there is going to be an increase in MBT, because construction is going to gear up, there are going to be employees, and we are going to see some spikes in our sales tax, but it may not be long-term. It is all the forecasting that everybody does. I am trying to forecast in my crystal ball what am I not going to have for 2016, because we are talking about two separate things. We are talking about people who are currently paying 8.1 percent, or the 7.75 percent in Washoe County, going down to 2 percent and, if we passed a law that said they could do it, they would be foolish not to.

I am trying to understand, based on your modeling, what is that impact. If it is four years, and you believe that reoccurring every four years, people should be able to turn over their gear. I wish CenturyLink were here, because I would bet they, too, could benefit from this bill. They store in data centers, as do many other people. I truly have to understand the impact because the state may get that guarantee, but who will not is the local school support tax, which is 2.6 percent. I have been fighting for local government every single time because I feel they are getting hosed every time we give something away. That is their formula, which makes them make or break on what they can do with their budget. For all of those numbers, the state has to pick up the difference. We have to provide the service if they cannot do it. Was any of that figured into the model?

**Jeremy Aguero:**

The brief answer is yes, that is exactly what was built into the model. Can I tell you for every potential data center and every potential location, who would come? There was testimony here that said there might be ten companies who will come into the state and consider taking advantage of this. I can tell you for the analysis that I did, for what I believe is the largest competitor by a very wide margin in the market today, that if we make the assumption that essentially 4.6 percent becomes 2 percent for some period of time, that is going to require \$9.1 million a year to be abated. The reality is, if we are going to provide an abatement, and if we are going to take the time to invest in the development of a new data center in which someone else can come in and make that investment, it is going to take time in order to make it happen. The benefit will take more time than that initial imprint. We are going to have



to think about it as making the investment at the front end, or think about it in terms of bearing the cost at the front end; however you want to think about that. We need to construct it so we can put 35,000 additional racks with \$250,000 worth of gear into each one; we just cannot do it overnight. Yes, there will be an impact at the front end. The number I gave you would be the right one.

I also am concerned about the potential implications on the state, schools, and local governments, and that is why we ran the analysis the way we did. Over the long term, the fact that we could essentially generate a multiple of the receipts that we would if these investments come to fruition and we become an even larger competitor than we are in the particular market, that is the policy choice that has to be weighed by this Committee.

**Assemblywoman Kirkpatrick:**

I do not support a rack fee or a charge, but when you looked at other states do they have that?

**Jeremy Aguero:**

Some do.

**Chairman Armstrong:**

Are there any other questions? Seeing none, thank you Mr. Aguero. Would anyone else like to speak neutral to the bill?

**Dagny Stapleton, Deputy Director, Nevada Association of Counties:**

Though the bill does require GOED to request a letter from the county providing notice to local government, the counties do not have a decision-making role in granting of the abatement, and counties would like to have the opportunity to participate in that process.

**Chairman Armstrong:**

Does anybody else want to speak neutral on the bill? Seeing no one, Mr. Hill, would you like to make any final comments?

**Steve Hill:**

No, thank you.

**Assemblywoman Dickman:**

Assemblywoman Kirkpatrick, are you a joint sponsor on this bill?

**Assemblywoman Kirkpatrick:**

I was, but the parameters changed from what we first talked about. Sometimes that is what happens with bills. I do not care if my name is on it or not, I am going to ask the hard questions.

**Chairman Armstrong:**

I will close the hearing on S.B. 170 (R1). Senate Bill 74 (1st Reprint) will be moved to another day. Is there any public comment? Seeing none, I will close public comment. We are adjourned [at 5:41 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblyman Derek Armstrong, Chairman

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

**EXHIBITS**

**Committee Name:** Assembly Committee on Taxation

**Date:** April 14, 2015

**Time of Meeting:** 2:55 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 170 (R1)	C	Department of Taxation	Fiscal Note
S.B. 170 (R1)	D	Joseph A. Guerriero ViaWest, Inc.	Letter in opposition
S.B. 170 (R1)	E	Jeremy Aguero Applied Analysis	Switch Economic Development Impact Assessment, Nevada, Combined Impact
S.B. 170 (R1)	F	Jeremy Aguero Applied Analysis	Switch Economic Development Impact Assessment, Existing Facilities, Comparative Analysis