

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Seventy-Eighth Session
February 20, 2015**

The Senate Committee on Revenue and Economic Development was called to order by Chair Michael Roberson at 3:35 p.m. on Friday, February 20, 2015, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael Roberson, Chair
Senator Greg Brower, Vice Chair
Senator Joe P. Hardy
Senator Ben Kieckhefer
Senator Ruben J. Kihuen
Senator Aaron D. Ford
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Senator Pete Goicoechea, Senatorial District No. 19
Senator David R. Parks, Senatorial District No. 7
Senator James A. Settelmeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Bryan Fernley, Counsel
Tony Rivano, Committee Secretary

OTHERS PRESENT:

Dawn Lietz, Deputy Administrator, Motor Carrier Division, Department of Motor Vehicles,
Neena Laxalt, Nevada Cattlemen's Association
Steve Hill, Executive Director, Office of Economic Development, Office of the Governor
Randy Soltero, International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada
Joe Guild, Motion Picture Association of America
Joshua Cohen, Cohencidence Productions LLC; Nevada Camera & Lens LLC
Paul Moradkhan, Las Vegas Metro Chamber of Commerce
James Reid, JR Lighting, Inc.
Patrick Sanderson, Nevada Alliance for Retired Americans
Victor Joecks, Nevada Policy Research Institute
Adam Kilbourn, Black Raven Productions, LLC

Chair Roberson:

The first bill we will hear is Senate Bill (S.B.) 155. Let the record reflect that Senator Hardy, Senator Ford, Senator Kihuen and myself are present; the other members of the Committee will be here shortly since they are all in the building. Senator Goicoechea, would you like to present S.B. 155?

SENATE BILL 155: Revises provisions relating to farm vehicles and implements of husbandry. (BDR 32-707)

Senator Pete Goicoechea (Senatorial District No. 19):

Senate Bill 155 is about farm implements, implements of husbandry and fuel tax. The bottom line issue is the present fuel tax rebate on gas purchases. I am not aware if the refund extends to special fuels. Senate Bill 155 will allow an operator of farm equipment to apply for the special fuels, i.e., diesel refund. Eighty percent of the tax translates to roughly 22 cents a gallon on any bulk purchases. A farmer or rancher would be eligible for a refund if fuel is delivered to his or her farm or ranch in a quantity of greater than 50 gallons and is not placed in the vehicle's tank.

Eligibility requires that an operator requesting a refund for gasoline usage must account for the vehicle in which the fuel was used as well as the mileage.

Senate Bill 155 would circumvent the operator from maintaining the record-keeping now required for the refund.

Eligibility also requires the operator to be a bona fide farmer or rancher. A farmer or rancher who owns or operates an ancillary business, such as cement contracting, is not eligible for the refund.

Farm machinery that cannot exceed 25 miles per hour can be legally operated with just a slow-moving vehicle sign as long as it meets the federal requirements. In the bill, an operator towing or running an implement of husbandry above 25 miles per hour on a posted highway with a speed limit of 35 miles per hour shall obtain a farm license plate and decal from the Department of Motor Vehicles (DMV). Both the farm plate and decal must be displayed on the implement of husbandry.

Senator Settlemeyer prefers that the operator be permitted to obtain a lifetime plate rather than annually renewing the plates and proposes an amendment to the effect. The DMV has agreed to this proposal as long as the operator pays a \$200 fee to cover the lifetime registration. An important matter for this Committee to consider is the liability issue with respect to farm implements, such as old trucks or truck-mounted manure spreaders and feed wagons that access roads in the rural and semisuburban areas. The insurance industry considers any unlicensed and unregistered vehicle to be at fault if it were to be involved in an accident. This bill will require the operator to request a license plate from the DMV and provide proof that the operator has \$300,000 in ranch liability insurance that would extend to the vehicle or vehicles. This procedure would provide protection for both a motorist traveling along a rural road and the implement of husbandry.

Senate Bill 155 defines the types of vehicles covered, i.e., self-propelled machinery or a motor vehicle designed solely for tilling soil or harvesting or transporting crops or other agricultural products. The DMV's nonrefundable fee for registering these vehicles would be \$20.

Senator James A. Settlemeyer (Senatorial District No. 17):

I previously alerted the Senate about the need for licensing implements of husbandry. The DMV has questioned my use of a piece of equipment that is based on a modified truck frame which I use for hauling hay in Douglas County, Carson City and Lyon County. A vehicle capable of road speeds should have a

license plate, and S.B. 155 attempts to resolve this issue. I would also like to recommend that S.B. 155 include a provision for a lifetime registration fee concept of \$200, as this would avoid incurring late fees in connection with lapses in paying the \$20 annual fee.

Senator Kieckhefer:

If an implement of husbandry is nearing the end of its useful life, how willing do you think your colleagues would be to pay a \$200 lifetime fee, then buy another \$200 plate for the replacement vehicle?

Senator Goicoechea:

An operator would have the option to pay the \$20 annual fee or a \$200 one-time fee. This decision would be at the operator's discretion based on the condition and age of the vehicle.

Dawn Lietz (Deputy Administrator, Motor Carrier Division, Department of Motor Vehicles):

My testimony includes explanations of the provisions in S.B. 155 ([Exhibit C](#)). A bona fide farmer or rancher is someone who derives two-thirds of his or her income from farming or ranching. I have worked closely with Senator Settlemeyer and Senator Goicoechea on this bill.

Senator Hardy:

Does the fuel discussed in section 1 of S.B. 155 cover what is commonly called red fuel?

Ms. Lietz:

Yes. There is quite a bit of confusion on whether farm vehicles can or cannot use dyed fuel on a highway. Dyed fuel is not subject to State or federal taxes. The State does not have the authority to sanction the use of dyed fuel in vehicles on the highway unless they are implements of husbandry. The intent of S.B. 155 is to clarify the type of vehicle legally permitted to operate with dyed fuel and what must run on clear fuel. Several farmers believe that the intent of dyed fuel laws was to allow them to run their vehicles on the highway with dyed fuel, but the DMV has no authority to waive the federal tax. The intent of S.B. 155 is to provide the 80 percent refund to compensate for the use of the fuel on Nevada roadways.

Senator Settlemeyer:

Senate Bill 155 will help bring the State into compliance with federal law.

Senator Goicoechea:

Our hope is for the 80 percent—or 22 cents on the gallon—refund to bring the cost of clear fuel in line with red fuel, which eliminates the benefit for using red fuel. This will have the further advantage of distinguishing red and clear fuels, ultimately leading to more clear fuel usage for implements of husbandry.

Neena Laxalt (Nevada Cattlemen's Association):

The Nevada Cattlemen's Association fully supports S.B. 155.

Chair Roberson:

Given the noncontroversial nature of S.B. 155, I will entertain a motion for approval.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 155, ALLOWING FOR A \$200 LIFETIME REGISTRATION.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Roberson:

The next bill we will hear is S.B. 74. Steve Hill of the Governor's Office of Economic Development (GOED) will provide testimony.

SENATE BILL 74: Revises provisions governing the abatement of certain taxes for economic development purposes. (BDR 32-293)

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

The GOED's efforts in economic development as the economy improves have shifted from doing all we could to help unemployed Nevadans get back to work to a stronger focus on higher-paying jobs to lift the State's average wage and prosperity throughout the State. The core of S.B. 74 is addressed by that shift and focus on higher-paying jobs. The other topic covered in S.B. 74 is

tightening the process for abatements. *Nevada Revised Statutes* (NRS) 360 guides and governs our abatement process. Senate Bill 74 tightens that process to make it more clear and—particularly in times of economic prosperity—to focus GOED on higher-paying jobs and reducing eligible abatements to companies paying less than the State average wage.

Proposed GOED changes are shown on page 2 of my handout ([Exhibit D](#)). Near the bottom is the recommendation to reverse the deletion of the health benefit regulation requirement. We had miscommunicated our intent to Senate staff since the intent is to eliminate cost as a requirement for regulation in order to focus on the actual benefit that employees receive. The GOED uses a checklist of approximately ten benefits that we feel should be in employee health care policies, and we look at that relative health care cost to the employee, not just the employer. The law now focuses on the cost of the health care benefit to the employer. We have learned that this is a rough indication of the health care benefit's quality, but it is not a complete reflection of the quality to the employee. The GOED requests eliminating the cost from the requirement regulation and omitting the regulation for health care benefits from S.B. 74.

We propose to remove the authority granted to the Board of Economic Development to expand the definition of primary jobs, since GOED does not feel that this provision is correct policy at this time.

Other areas of S.B. 74 requiring further clarity and tightening include a request permitting GOED to contract with employees to have the jobs they commit to cover 8 calendar quarters rather than 4 calendar quarters. There are two reasons for this request; the first is that GOED audits these companies after Years 2 and 5. Compliance enforcement is difficult when the audit requirement and the employment contract are not coordinated. Second, having the jobs in place when the company moves into an existing facility is reasonable. If the company moves to or expands in the State and in doing so erects a building, the initial 4 quarters are essentially consumed by the construction process. It can take up to 6 months to draw up designs and obtain permits. The construction process can extend well beyond 6 months and if the building is complex, even longer. Aligning the investment requirements with the number of jobs created for a company building its own facility makes the contracting process difficult. This is the rationale for GOED's request to extend the time period for creating jobs from 4 calendar quarters to 8 calendar quarters.

The bill language requires that companies disclose all the jobs to be created when applying to GOED and the Board. All jobs created are included in the auditor's calculation. The statute is subject to abuse since companies can subvert the law by misrepresenting how they report the number of employees and their salaries. For example, a company looking to expand or move to Nevada intends to create 200 jobs. Statute requires a business to have 50 or more full-time employees paid at 100 percent of the lesser of the average statewide or countrywide hourly wage. A business could choose only to report the 50 highest-paid employees, which GOED views as being outside the spirit of the law.

The GOED tries to enforce a contract requiring all jobs be reported both on the application side and during the audit process. Having this clear in law would be appropriate and helpful. In addition, the average wage only applies to those new employees. This requirement is conveyed to companies, but statute is not clear.

These issues require tightening and clarification of the language GOED requests in S.B. 74.

Senator Kieckhefer:

Is data on page 4 of [Exhibit D](#) that shows abatement bands determined by county? Which counties are applicable to each of these bands?

Mr. Hill:

I will address this issue later in my testimony. Turning to page 4 of [Exhibit D](#), GOED has attempted to clarify the requirements in S.B. 74. Abatements in statute are a one-size economy fits all. The criteria companies need to meet are two of the three requirements regardless of the economic environment even though wage requirements are in the statute. The GOED feels good policy should have a minimum wage and additional wage threshold based on the economic conditions of counties, and that should be in statute.

A company need only meet two of the three criteria: commit to creating 200 jobs, invest \$1 million or more and pay the minimum wage. Conversely, a company could pay a much higher wage, invest at least \$1 million but only create one job. Neither of these scenarios is in the spirit of that intended through the abatement process. The recommendations we make are intended to close those openings.

The proposals made in S.B. 74 would start with the unemployment conditions in each of the State's counties. The abatement criteria would be different if the unemployment rate is 6 percent or above in that county or below 6 percent in that county. In each of these situations, there would be a minimum wage requirement regardless of the number of jobs created—below which a company would not be eligible for abatements. The rationale for these constraints is GOED's view that companies should create a certain level of jobs before the State incurs that job creation.

The proposal also includes a secondary level based on a county's unemployment level. If a county's unemployment level is above a certain level, that company would be eligible for the full abatements in statute. Whereas if the unemployment rate were below a certain level and down to the minimum wage, a company would be eligible for half of the personal property tax and Modified Business Tax abatements.

Approximately 18 months ago, these proposals were presented to the Board. The Committee previously questioned whether the Board had discretion with respect to making criteria more or less stringent within the law. Other than the minimum wage threshold, GOED has been implementing the outlined policy since making the Board presentation; GOED feels that these proposals belong in statute and this is our recommendation in S.B. 74.

For reference purposes, 100 percent of the statewide average wage is \$20.62 an hour. Approximately every 5 percent represents a \$1 an hour difference. The 60 percent threshold appearing on page 4 of [Exhibit D](#) would be \$12.50, and the 75 percent threshold would be \$15.50. From an annual standpoint, the wages of an employee working slightly over 2,000 hours in a year at the average State wage would equate to approximately \$42,000 or \$43,000 annually.

Chair Roberson:

Sixty percent of the average statewide hourly wage for counties where the unemployment rate is 6 percent or more and 75 percent of the average statewide hourly wage for counties where the unemployment rate is less than 6 percent seems arbitrary. What is the rationale for selecting these figures? What are your views on raising these benchmarks?

Mr. Hill:

The figures are not arbitrary; they are based on studies conducted over a number of years. The GOED studied the average wages for each of the companies provided with abatements. The thresholds were based on the results of these studies and include all companies surveyed. This is a part of the thought process in establishing the thresholds. The Board has discretion to make thresholds tighter. The thresholds were also formulated when the unemployment rate was in the 9 percent or 10 percent range. Our perspective is different than it was when the figures were originally derived. Potentially moving the 60 percent and 75 percent thresholds up to 65 percent and 80 percent, respectively, would be a policy worthy of consideration.

Chair Roberson:

I did not properly phrase my question. I did not assume the figures were arbitrary; I thought that there was a rationale for the figures, not that the numbers were randomly selected.

Mr. Hill:

That concludes my presentation on S.B. 74.

Chair Roberson:

How would a sales tax be treated for abatements within the parameters of S.B. 74?

Mr. Hill:

The sales tax portion of the abatements is not adjusted. The minimum average wage would make companies ineligible for all abatements; however, between the 75 percent and 100 percent thresholds when the unemployment rate is below 6 percent, the sales tax is not now adjusted.

Chair Roberson:

Would these businesses get the full abatement?

Mr. Hill:

Yes, these businesses would get the full abatement.

Chair Roberson:

Is there any reason why we should not require these businesses to pay a portion of the sales tax or a portion of the Local School Support Tax (LSST)?

Mr. Hill:

The GOED used that same timing and thought process when this policy was developed and applied to wages from a sales tax standpoint. A midpoint of the sales tax abatement would be the State's 2 percent portion and potentially the 2.6 percent portion for the LSST. That policy and midpoint would work for roughly 50 percent of the sales tax.

Chair Roberson:

As there are no further questions, we will close the hearing on S.B. 74 and open the hearing on S.B. 94.

SENATE BILL 94: Makes various changes relating to transferable tax credits for film and other productions. (BDR 32-58)

Senator Aaron D. Ford (Senatorial District No. 11):

In 2013, the Legislature passed S.B. No. 165 of the 77th Session establishing a program whereby a film or television producer can obtain transferrable tax credits based upon the producer's purchase of property or services from Nevada businesses. The program permitting transferable tax credits for film and other productions began in 2014, making up to \$20 million in tax credits available during any fiscal year with a total of \$80 million available over the life of this program. The legislation provided that any application for the credits be made by December 31, 2017, with the program sunseting on June 30, 2023.

Senate Bill No. 1 of the 28th Special Session reduced the cumulative total of the allowable tax credits from \$80 million to \$10 million. Senate Bill 94 will extend the life of the tax credits indefinitely by removing the 2023 sunset and the deadline for submitting the application for the tax credits. It also removes the \$10 million cap on tax credits. Instead of having a specific dollar cap, the Legislature will appropriate or authorize the amount for expenditure each year. Senate Bill 94 will also change the nature of the tax credit program from pilot status to a program in perpetuity that will only exist if the Legislature decides to fund it. If S.B. 94 is enacted and the Legislature decides not to fund the tax credits, the tax credit program will not exist.

Senator Kieckhefer:

The language in S.B. 94 states in section 14, "the amount appropriated or authorized for expenditure." Would you anticipate the Legislature appropriate General Fund money during a session to be used for tax credits over the ensuing 2 years, or would the Legislature pass a bill to authorize the issuance of tax credits to be debited against unappropriated General Fund money?

Senator Ford:

Either that or, as section 14 of S.B. 94 also states, any unused portion of the annual amount is carried forward and made available for approval during the immediate following 2 fiscal years. Senate Bill 94 also amends NRS 360 by utilizing film industry terminology. Senate Bill 94 also makes the process for applying and approving tax credits more consistent with the actual way film production is performed and removes impediments in Nevada law that do not exist in other states, thereby improving Nevada's ability to attract film productions. Senate Bill 94 makes various changes in terminology and revises existing definitions to conform to the usage and practices of the film industry. Section 2, lines 3 through 6 of S.B. 94 amend previous language from "qualified expenditures and production costs" to "qualified direct production expenditures."

Senate Bill 94 qualifies game and reality shows for tax credits. Previous legislation did not necessarily exempt game shows from obtaining tax credits, but game shows were also not specifically shown to qualify for the tax credits. The Nevada Film Office (NFO) and GOED both interpret that the language contained in S.B. 94 confirms that game shows should be considered qualified productions. Senate Bill 94 also changes provisions in the governing eligibility for the tax credits as well as the required application and deadline for submission of a postproduction audit. Existing legislation requires a producer to show that at least 50 percent of the funding for a production has been placed in an escrow account. In practice, the money is not placed in an escrow account. Thus, the requirement has been revised to "70 percent or more of the funding for the qualified production has been obtained." The monies do not need to be placed into an escrow account, but the producer must demonstrate to the NFO and GOED that 70 percent of the funding has been obtained.

Senate Bill 94 requires GOED to make a final determination of whether a tax credit will be issued 60 days after the production company submits an audit of the qualified production. This requirement represents an extension from the

14 days in statute. Production-related expenditures on which the tax credits are based may include the cost of renting or leasing property in addition to the cost of purchases, and it imposes limits on the inclusion of payments made to affiliated companies or for property acquired outside Nevada for immediate resale to the production company. These later provisions are necessary to prevent pass-through transactions in which a business is formed in Nevada to serve as a conduit for property used in a production, compared to providing business for an ongoing Nevada company. As a result, the bill will encourage additional economic opportunities for Nevadans and Nevada companies.

Section 12 of S.B. 94 increases the incentive to employ Nevada residents other than extras. Extras are typically local hires—this bill will incent companies to move beyond hiring locals for just extra roles. Section 12 also increases the ability for production work in Nevada counties that have been underutilized in the past.

Section 13 of the S.B. 94 progressively reduces and eliminates the amount of wages and salaries paid to certain non-Nevada residents that are included and calculated for the tax credit. Additionally, section 16 authorizes Nevada counties and cities to grant a producer of a qualified production an abatement of certain permitting or licensing fees by removing the December 31, 2017, expiration date.

Senate Bill 94 represents compromise legislation because it includes input from representatives from the NFO, the industry, companies involved in the industry, various unions and Chamber of Commerce members.

Chair Roberson:

Did you work with GOED?

Senator Ford:

We worked with the NFO.

Senator Hardy:

Will S.B. 94 provide Nevada residents with a better opportunity to work in the film industry?

Senator Ford:

Yes.

Senator Kihuen:

The film industry is an industry that Nevada should consider in connection with diversifying its economy. With respect to S.B. No. 165 of the 77th Session, can you tell us what progress has been made in the film industry? It is my understanding that a record number of applications have been submitted for producing films in Nevada. Do you think that this increase is related to the passage of S.B. No. 165 of the 77th Session?

Senator Ford:

Cities and counties have seen record increases in film permit applications, which is attributable at least in part to incentives provided in S.B. No. 165 of the 77th Session. The success Nevada experienced prior to the 28th Special Session was progressive and thus far, Nevada has brought in nine productions, three of which are television series, including one game show. Television productions are particularly desirable due to their enduring nature. A pilot series known as *Sin City Saints* streamed by Yahoo! Screen is currently in production and will debut March 23. On January 22, GOED approved incentives of \$2.5 million to incent the game show *Monopoly Millionaires Club* to begin production at the Rio Hotel and Casino in Las Vegas. A third television series called *In The Spotlight* is also coming to Nevada and will air on CBS. *Mall Cop 2* is the first movie that the transferrable tax credit program attracted.

Additional films S.B. No. 165 of the 77th Session is credited for attracting include *The Trust*, with Nicolas Cage, and *Katie Says Goodbye*. In total, nine films that accumulated a total of \$69.5 million are available for tax credits. The State has credited back \$10 million to these various production companies. Over the course of this abbreviated and attenuated program, the State has garnered a significant source of revenue which it would not otherwise have had. The transferrable tax credit program was responsible for attracting the productions noted, and S.B. 94 will facilitate administration of the tax credits.

Senator Kihuen:

Many films depicting the Las Vegas Strip have been filmed outside of Las Vegas and the State. As a representative of the Las Vegas area, my constituents want these productions filmed in Las Vegas. These productions are an economic stimulus to the region and promote Las Vegas throughout the world.

Senator Ford:

Sin City Saints would like to commence filming Season 2; however, the production company is reluctant to commence since S.B. No. 1 of the 28th Special Session scaled back the amount available for tax credits to \$10 million. I would appreciate the opportunity to convince the show's producers to return to Las Vegas to film a second season. Should *Sin City Saints* become a long-running program, it will create a number of jobs for our State. It is my understanding that the State's economic development plan specifically targets the film industry. Southern Nevada in particular is favored given its proximity to Hollywood. All of the issues outlined in my testimony support revising existing statute and facilitating the transferrable tax credit program going forward. I will be available for further testimony regarding the financial aspects of S.B. 94.

Senator Brower:

I appreciate Senator Ford's efforts on S.B. 94. Although we have not always agreed on the economic theory behind this legislation, Senator Ford has been persistent in promoting Nevada and presenting Las Vegas positively.

Randy Soltero (International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada):

The International Alliance of Theatrical Stage Employees, et al. (IATSE) is part of the stakeholder group working closely with the NFO, producers and Nevada business people to learn what works. The IATSE continues to be a part of this process and supports moving forward on this proposal.

Joe Guild (Motion Picture Association of America):

The Motion Picture Association of America fully supports S.B. 94.

Joshua Cohen (Cohencidence Productions LLC; Nevada Camera & Lens LLC):

I am a stakeholder, as I have worked on three of the qualified productions, and I rented gear to two of them. I have reviewed the text of S.B. 94 and support it entirely. Senate Bill 94 is better for the tax credit program, Nevada and business. I look forward to working with the Legislature for the continued success and evolution of this program.

Paul Moradkhan (Las Vegas Metro Chamber of Commerce):

The Metro Chamber of Commerce would like to offer its support on S.B. 94. The Metro Chamber supported S.B. No. 165 of the 77th Session, and the bill is consistent with the Metro Chamber's policy stance on this matter. The Metro Chamber also believes that S.B. 94 will be good for the entire State.

James Reid (JR Lighting, Inc.):

I am a stakeholder in this endeavor and a representative of the southern Nevada business community, since JR Lighting is located in Las Vegas. The incentives provided by the program worked well in the initial year, and S.B. 94 cleans up some of the issues contained in NRS. Senate Bill 94 will be more user-friendly to our customers, and we thoroughly support it.

Patrick Sanderson (Nevada Alliance for Retired Americans):

Senate Bill 94 is exactly what Nevada needs. It brands Nevada, it represents advertising, economic development and higher wages. As a child, I watched *Bonanza*, and to this day, Lake Tahoe visitors specifically seek out the Ponderosa Ranch, which, unfortunately, closed down several years ago. Movies that brand Nevada in a special way attract visitors from around the world. Senate Bill 94 is a tremendous bill and a tremendous idea. I hope that everyone can agree that this is a no-lose proposition.

Victor Joecks (Nevada Policy Research Institute):

I am here to detail some of the negative impacts similar transferable film tax credit programs have had in states around the Country. I have provided materials concerning film credit programs ([Exhibit E](#), [Exhibit F](#) and [Exhibit G](#)).

I am testifying as neutral. There are numerous structural problems with transferable tax credits. Instead of just being a reduction or abatement of taxes paid, these tax credits often exceed the actual amount of taxes paid by film companies. The film companies then sell these credits to other private businesses in Nevada—reducing taxes collected by the State.

In other words, government is picking winners and losers in the economy. The losers are the taxpayers and the vast majority of businesses in the State that have to pay more or receive reduced government services.

As you know, many other states have done this kind of transferable tax credit program, and there is good analysis done by these states. The Louisiana

Legislative Fiscal Office found that transferable tax credits reduced taxes collected by \$59 million a year but only generated \$10 million a year in additional state tax dollars. This includes all multiplier effects, not just from the film company but also from the other economic benefits touted. In other words, for every \$5 Louisiana spent, the state gained back just \$1 in new tax money.

In North Carolina, legislative fiscal staff found that film producers claimed \$30 million in film tax credits in 2011. Under the most plausible assumptions, the film tax credit likely attracted 55 to 70 new jobs to North Carolina in 2011. The film tax credit created 290 to 350 fewer jobs than would have been created through an across-the-board tax reduction of the same magnitude.

While film tax credits experienced enormous popularity in the 2000s, many states have trimmed back their film tax credit programs because of these problems. Since 2010, eight states—Arizona, Arkansas, Idaho, Iowa, Kansas, Maine, New Jersey and Washington—have ended their film tax subsidy programs and approximately six other states have scaled back their programs or placed limits on their use.

If interested in these types of programs, I urge the Committee to consider the tax credits to the actual amount of taxes paid and not make them transferrable.

Senator Kihuen:

Has the Nevada Policy Research Institute (NPRI) analyzed the efficacy of the State's transferrable tax credit program established in the 77th Legislative Session?

Mr. Joecks:

The institute has not analyzed Nevada's transferrable tax credit program. I encourage the legislative staff to conduct a review of the program. With respect to the \$69 million in economic activity that the program generated, this figure is not comparable to the \$10 million in tax credit costs. The \$69 million in economic activity generates a small fraction of new tax revenue to offset the \$10 million of transferrable tax credits.

Chair Roberson:

What is your estimate of new tax revenue the \$69 million in economic activity would generate?

Mr. Joecks:

As a comparison, Louisiana's economic activity led to tax revenue of \$3.5 million. This estimate is based on the tax revenues generated by Louisiana's economic activity.

Senator Hardy:

Would providing transferrable tax credits represent a tax cut?

Mr. Joecks:

Yes, it is a tax cut for the film companies. In addition to receiving benefits from a tax cut, S.B. 94 would allow film companies to receive credits up to 25 percent of their production costs, which represents an increase over the current 19 percent. Senate Bill 94 takes the tax cut to a tax subsidy because a company with a tax bill of \$100,000 may receive \$200,000 in tax credits. Continuing with this scenario, not only would the tax credits cover the tax bill, the film company can sell \$80,000 of the excess in tax credits to another Nevada business—moving the tax credits to a subsidy program.

Senator Hardy:

Would this then be a jobs bill?

Mr. Joecks:

Tax cuts are great, but you cannot create jobs by taking tax revenue from some businesses that will have to pay a higher tax because the film industry receives a subsidy.

Senator Hardy:

Nevada would then have an advantage over the other states that are eliminating their film tax credit programs.

Mr. Joecks:

States have found that their programs are tax losers. Louisiana is spending almost \$60 million a year but only recapturing \$10 million in new tax revenue. This is not abatement because the tax credits can be transferred and sold.

Senator Hardy:

Then this is a tax cut.

Mr. Joecks:

There is a difference between a tax cut and tax subsidy. One provides opportunities for businesses to thrive and the other is government picking winners and losers.

Senator Spearman:

Following your example, if a \$10 million tax credit generates \$69 million in revenue, the net result is \$59 million. How is this a loss?

Mr. Joecks:

The \$69 million represents economic activity, while the tax revenue captured by the State is only a small portion of that amount.

Senator Spearman:

I do not view your response as an answer to my question.

Mr. Joecks:

I would encourage you and your staff to review the issue since there is a difference between what is measured as economic activity and tax revenue that is collected. States collect a small portion of tax revenue from economic activity. A state's economic activity is much larger than the taxes collected by state and local governments.

Senator Spearman:

Mr. Joecks' testimony does not appear to be neutral. In yesterday's Committee meeting covering S.B. 93, sales and use tax abatements for the aviation industry were discussed, and we learned how abatements could be seen as a way for Nevada to invest money to earn money. I am unsure how the measures in S.B. 94 differ from the abatement program in S.B. 93. Those who testified yesterday also provided estimates showing the effect the abatements will have on the State's economy. Mr. Joecks' testimony does not provide any empirical evidence to refute the testimony of the other testifiers we have heard today.

SENATE BILL 93: Authorizes certain business to apply to the Office of Economic Development for a partial abatement from certain taxes. (BDR 32-291)

Chair Roberson:

A difference between a tax abatement and a transferrable tax credit could be seen as a tax subsidy.

Senator Kieckhefer:

I agree with the Chair's statement. If the total economic activity was \$69 million and all of it was taxable at the 8.1 percent sales tax rate, that represents tax revenue of less than \$6 million. If the State provided \$10 million in tax credits, it would be short \$4 million. This example does not include tax multipliers and other issues that may affect tax credits. The example also does not include the long-term business development impact.

Chair Roberson:

Mr. Joecks is testifying neutral because he is willing to support S.B. 94 as long as it is amended to exclude the transferrable tax credit and the amount of tax abated cannot exceed the amount owed by a filmmaker.

Mr. Joecks:

The NPRI looks at the impact of the legislation which would improve if tax credits were limited to actual taxes owed, since this would avoid the subsidy versus the abatement issue.

Chair Roberson:

Based on your testimony, it appears that you do not oppose S.B. 94 in total; do you see some positive aspects in this bill?

Mr. Joecks:

The NPRI's objective is to provide an analysis—this is why we traditionally testify neutral. The analyses we have performed around the Country shows that film tax credit programs have not produced the promised economic benefit but have cost taxpayers a significant amount of money.

Chair Roberson:

Then you oppose the S.B. 94?

Mr. Joecks:

The NPRI is merely providing facts.

Chair Roberson:

I am only attempting to discover NPRI's opinion with respect to S.B. 94.

Senator Spearman:

I agree with Senator Kieckhefer's comments. As I have previously mentioned, the State needs to invest money to make money. The transferrable tax credit program is relatively new and successful in its 2 years. The program has also had a positive impact in branding Las Vegas as part of the entertainment industry, which should not be underestimated.

Adam Kilbourn (Black Raven Productions, LLC):

I have provided the Committee with my written testimony ([Exhibit H](#)). Based on today's testimony, it appears the legislation will likely pass. I would like to voice my feelings on this legislation based on a matter of principle and do not want my testimony viewed antagonistically.

The number of productions that have been increased and reported in Las Vegas and the State have nothing to do with the tax credits. Much of the increase in production is due to the overall improvement in the State's economy. I want movies made in Nevada and in particular Las Vegas. I was the casting producer for Seasons 1 and 2 of the *National Geographic* program *None of the Above* and worked on major movies. I would love to see more movies filmed in Las Vegas, but I do not want films made in Nevada based on handing out tax dollars. It is not good business and not good for the State. I apologize to my colleagues who disagree with me, but my views are heartfelt and principled.

Chair Roberson:

This Committee has made no decisions regarding S.B. 94, nor have I.

Senator Kihuen:

How do we entice the film industry to produce movies in the State without offering any incentives?

Mr. Kilbourn:

The Las Vegas Convention and Visitors Authority (LVCVA) has an ample budget to promote the Nevada film industry. As an independent film producer, I must find the funding to make a film. Film producers are aware of the budgets necessary to make a film and seek funding from their investors and apply to states that provide tax incentives. These states act as slush funds to create films.

Several of the films produced in Nevada obtained tax credits. One such production garnered \$4 million, which will go directly to the film's producers. These funds were primarily responsible for launching the project. Why is the State giving taxpayer money to movie producers to make films? Good movies are made on their own merits without the need for taxpayer subsidies. In my opinion, no business should require taxpayer subsidies to operate. Why is Nevada creating an environment that creates the need for subsidies? While other states may also subsidize their film industry, this is no reason for Nevada to compete with them. Let the other states, such as Louisiana, squander their money.

While some films made in Nevada received tax credits, the vast majority did not. Films continue to be made in Nevada thanks to good labor quality and the great production houses. Nevada's wonderful landscapes also make it desirable for films to be made in the State. We do not need to give filmmakers money at the expense of the State.

Senator Kihuen:

The LVCVA promotes the entire City. It is not LVCVA's role to diversify the economy or entice new industries to the State. Its job is to promote Las Vegas around the world. I did not hear your suggestions as to how the State can lure film companies without incentives. How does Las Vegas become the next Hollywood? What does California offer the film industry that Nevada does not?

Mr. Kilbourn:

One way to entice filmmakers is to increase the State's promotional initiatives and, more specifically, increase the promotion of filmmaking. It is the NFO's role to promote the State's film industry and make it easier for filmmakers to produce films in the State. The State could facilitate filmmaker's access to open land through negotiations with the Bureau of Land Management. The State can also facilitate permitting requirements. There is no panacea to attract filmmakers, but giving filmmakers free money is not in the best interest of the State. We could also offer much higher tax incentives than those proposed, but this is not good economics or business practices and leaves small operators at a disadvantage.

Senator Ford:

This approach has disagreements. During the testimony for S.B. No. 165 of the 77th Session, there were those disagreeing with this approach based on

philosophical differences. I disagree with Mr. Kilbourn's views and support S.B. 94 since the State has benefited from the tax credits extended.

I would like to point out that the figures cited in my testimony are unaudited estimates. Contrary to statements made here, films will not simply come to the State. The number of films made in the State dropped precipitately over the course of a decade due to other states providing tax credits.

The estimated figures cited in my testimony are based on the \$10 million remaining in the transferrable tax credit program. The \$10 million allocated last year was ultimately removed. The amount of taxes earned compared to the amount of economic activity is an important corollary for this discussion.

We also need to look at this from a jobs perspective since this measure is not simply "filling the pockets of rich Hollywood folks." It is about helping a firm such as JR Lighting hire additional people. Senate Bill 94 is about new jobs and new money the State would not otherwise have. I support S.B. 94. It is important to note that statute already exists, and S.B. 94 was designed primarily to clean up statute and make it easier for the NFO to administer the program. The money issue is for another meeting.

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Senator Roberson:

The hearing on S.B. 94 is closed and the meeting adjourned at 5:06 p.m.

RESPECTFULLY SUBMITTED:

Tony Rivano,
Committee Secretary

APPROVED BY:

Senator Michael Roberson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	2		Agenda
	B	3		Attendance Roster
S.B. 155	C	2	Dawn Lietz	Testimony
S.B. 74	D	4	Governor's Office of Economic Development	Handout
S.B. 94	E	16	Nevada Policy Research Institute	Tax Foundation Special Report, <i>Movie Production Incentives: Blockbuster Support for Lackluster Policy</i>
S.B. 94	F	10	Nevada Policy Research Institute	North Carolina General Assembly, Film Tax Credits
S.B. 94	G	6	Nevada Policy Research Institute	State of Louisiana, Film and Video Tax Incentives, Estimated Economic and Fiscal Impacts
S.B. 94	H	1	Adam Kilbourn	Testimony