

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

**Seventy-Ninth Session  
March 14, 2017**

The Committee on Taxation was called to order by Chair Dina Neal at 4:04 p.m. on Tuesday, March 14, 2017, 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/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Dina Neal, Chair  
Assemblywoman Irene Bustamante Adams, Vice Chair  
Assemblyman Paul Anderson  
Assemblywoman Teresa Benitez-Thompson  
Assemblywoman Lesley E. Cohen  
Assemblyman Edgar Flores  
Assemblyman Al Kramer  
Assemblyman Jim Marchant  
Assemblyman Keith Pickard  
Assemblywoman Ellen B. Spiegel

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Jason Frierson (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Maggie Carlton, Assembly District No. 14

**STAFF MEMBERS PRESENT:**

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



**OTHERS PRESENT:**

Dan Musgrove, representing CSAA Insurance Group  
Michael D. Geeser, Regional Director, Government Affairs, CSAA Insurance Group  
John J. Richmond, Vice President and Associate General Counsel, Legal Division,  
CSAA Insurance Group  
Steven D. Hill, Executive Director, Office of Economic Development, Office of the  
Governor  
Ray Bacon, representing Nevada Manufacturers Association  
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber  
of Commerce  
David Cherry, Communications and Intergovernmental Relations Manager,  
City of Henderson  
Barry Smith, Executive Director, Nevada Press Association

**Chair Neal:**

The first order of business today is Assembly Bill 137. Will the presenter please come to the table.

**Assembly Bill 137: Revises provisions relating to tax credits for film and certain other productions and certain credits against the insurance premium tax. (BDR 32-68)**

**Assemblywoman Maggie Carlton, Assembly District No. 14:**

Thank you for taking the time earlier this month to have the conversation with me in your office about Assembly Bill 137. There are times in our legislative careers when we put a bill in, work on it, things happen, we work on it more, but it does not quite come out the way we thought it would. With the preface that the last thing you want to do when the Legal Division of the Legislative Counsel Bureau is really busy is send it back to fix it, you just want to get it moving forward, knowing you can have a conversation with the committee about the bill and what the real intent is.

I take full responsibility for some of the confusion that has surrounded this bill since it started. The original bill was the film tax credit bill, and we added in the insurance premium tax credit. An amendment was provided to you and the Committee ([Exhibit C](#)) on A.B. 137. The reason this whole bill came to you was because the insurance tax credit policy still needs to be decided. That policy was changed during the 28th Special Session [Assembly Bill 3 of the 28th Special Session], so we will have another discussion about that policy here today. The film tax credit policy has already been decided on by this body, and it now comes down to the dollars and cents of how it is going to be funded. The Governor has placed money in the *Executive Budget*, \$2.5 million each year of the biennium, toward this endeavor. You will see in the proposed amendment to A.B. 137, all the language that pertains to the film tax credit has been deleted from this bill. This issue will be discussed in a budget implementation bill that will come before the Assembly Committee on Ways and Means. We will start with the basic amounts, then people will come and testify on how they feel the

Assembly Committee on Ways and Means should fund the film tax credit. Again, my apologies, but I wanted to make sure everyone understood what happened with this bill. The film tax credit is not going away; it is merely going to a different committee to have the dollars and cents conversation. With that, I would be happy to answer any questions.

**Chair Neal:**

Do you want the members to ask any questions on section 3—the home office?

**Assemblywoman Carlton:**

I would be happy to try, but I do have experts here to deal with that. I can give you a little of the basic history. There were a number of us who were here for the 28th Special Session, but I believe it might be more appropriate coming from them as far as the true overview.

**Chair Neal:**

Do the members have any questions for Assemblywoman Carlton on the film tax language?

**Assemblyman Kramer:**

Could you give us a brief explanation on how the film tax credit is designed and how it will bring pictures to Nevada?

**Assemblywoman Carlton:**

The film tax credit has been discussed in this Legislature numerous times. It ended up being funded at about \$80 million—\$20 million over a four-year pilot period—to bring different films into the state. It is a transferable tax credit. The discussion behind a transferable tax credit was basically if the movie came here, they may not come back for a number of years, so they would be able to sell the credit to someone else and apply that credit toward their tax responsibilities due in the state. That is the elevator speech version of the film tax credit.

**Chair Neal:**

Do the members have any additional questions? [There were none.]

**Assemblywoman Carlton:**

I will ask Mr. Musgrove, Mr. Geeser, and Mr. Richmond to come up for the insurance premium portion. Thank you for your understanding on how this bill turned into what it did today. These gentlemen will answer all your questions.

**Dan Musgrove, representing CSAA Insurance Group:**

I want to thank Assemblywoman Carlton for bringing this issue in front of the Legislature. It is something that we have been talking to her about since the 28th Special Session in 2014. Her believing in this process and helping us was much appreciated. This was a tax credit that was in the law, and we believed we would have the opportunity to get it. We went through the steps to achieve that tax credit. Less than six months after we received the letter from the Department of Taxation saying we had performed all the things required, the 28th Special Session came along and everything changed at that point. We appreciate the

opportunity we had to talk to many of you and answer your questions. I would like to hand it off to my colleagues. They will walk you through the bill and the amendment ([Exhibit C](#)). Thank you for the opportunity to present this bill.

**Michael D. Geeser, Regional Director, Government Affairs, CSAA Insurance Group:**

I would like to begin by thanking Assemblywoman Carlton for taking the time to bring this before you. In 2014, we received a letter from the Nevada Department of Taxation notifying us that we qualified for a tax credit to use that would offset the premium tax we pay the state each year. We used that credit to buy a building at 2445 Saint Rose Parkway in Henderson, Nevada, right off of Interstate 215 where Pecos Road goes one way and Saint Rose Parkway goes the other. The building size is over 111,000 square feet, and we house 435 employees in that building.

The bill and the attached amendment ([Exhibit C](#)) today say two things. If an insurance company wants to move to Nevada and make a significant investment to be here in the state, only then will it receive a tax credit. Secondly, it goes on to say that the credit can only last for ten years, not in perpetuity. There is a sunset, a limit of time. We have made that investment with our AAA [American Automobile Association, Inc.] claims center. We certainly do not think we have all of the answers in the industry, but we do invite other insurers to follow our lead and relocate their operations to Nevada as well. By purchasing a building and housing more than 250 employees, I think that sends the message they are serious about relocating their operation to Nevada. If they do, we think whoever makes that investment should receive the exact same benefit we are asking for in this bill. John Richmond with CSAA will help you understand the mechanics of the bill a little better.

**John J. Richmond, Vice President and Associate General Counsel, Legal Division, CSAA Insurance Group:**

I run our government affairs and regulatory affairs functions. My part this afternoon is to explain how the bill would work for us in its proposed form. We are an insurance company here in Nevada. We pay a gross receipts tax, called a premium tax. For every premium dollar we collect, the rate is 3.5 percent in Nevada. Based on our current level of writings in Nevada we pay just over \$5 million a year in premium taxes to the state. What the old law provided and what we are asking be restored is that we receive a credit equal to half of what we pay in premium taxes. For us, at our current level of writings, that would be about \$2.5 million per year. Because we began qualifying for the credit a few years ago and there is a ten-year limitation on how many years you can take the credit, we would only be entitled to another seven years' worth of the credit were this bill to be enacted.

The final point I would like to make is that we typically, as do most other insurance companies, lease our real estate. We have several regional facilities around the country. All of them are leased, as was our facility here in Nevada. When we outgrew the old leased facilities we had a decision to make as to whether we were going to stay, going to go, going to build, or going to continue to lease. The credit that existed at the time was a critical part of

the thinking that went into our decision to stay here in Nevada and to buy the building. We are asking for your consideration for a bill that we feel is equitable to our company. If there are any questions, I would be happy to answer them.

**Assemblywoman Cohen:**

Are you saying you would not have built the building if you did not get the tax credit?

**John Richmond:**

We would not have purchased the building.

**Assemblywoman Cohen:**

What happens if this bill does not pass?

**John Richmond:**

Eventually we would sell it and lease it back until we are ready to move.

**Assemblywoman Cohen:**

Do you have an estimate of when that would be?

**John Richmond:**

I hesitate to say because it would not be my decision. I am not sure what the thinking would be at the company. Because we typically lease everywhere else, we would probably return to a lease situation fairly soon.

**Assemblywoman Cohen:**

How many employees are at that facility?

**John Richmond:**

There are 435.

**Assemblyman Pickard:**

I appreciate Assemblywoman Carlton for bringing this bill, not only because you are in my district, but I think this is the kind of thing we want to do. We want to encourage the larger, in this case insurance, companies to locate here, to bring their employees here, and to make Nevada their home.

I want to make sure I have understood. You were told about the tax credit. You based your purchase on that representation, and then in the 28th Special Session that was removed and you lost that credit. Is that correct?

**John Richmond:**

That is correct.

**Assemblyman Pickard:**

This bill ultimately seeks to restore that, but you would only get seven years. Was that part of the original deal as well?

**Dan Musgrove:**

One of the things that happened during the 28th Special Session was the Legislature realized folks were going to be impacted negatively. They created a pool of \$5 million, so those that could qualify would essentially be able to get a portion of the premium tax credit they would be owed. There was a calculation of percentage that would work out. What we thought was going to be a \$2.5 million tax credit when we first applied all changed in September 2014.

One of the concerns the Office of the Governor and the Legislature had about this tax credit was it had been open-ended. That is why we feel in our amendment ([Exhibit D](#)), by capping it at ten years, it establishes a sunset on it. Since we have been getting it for three years, we should not have an additional three years. We should just get the remainder of the ten years, which we are willing to put upon ourselves and any other company. We would just get seven more years.

**Assemblyman Pickard:**

If I understand correctly, your company is willing to agree to that imposition of ten years. In your original calculation, it was open-ended, but you are willing to step into a limited period. That does not upset the financial calculation for you. Is that correct?

**John Richmond:**

Yes, that is correct. When you do your financial planning, you do not go out into perpetuity. You look over a finite period of time. It is not magic to ten years, but that seems like a pretty reasonable period of time in which to look out into the future.

**Dan Musgrove:**

We think it is good public policy.

**Assemblyman Pickard:**

I agree.

**Assemblywoman Bustamante Adams:**

Mr. Musgrove, I need help remembering. The credit limit was just reduced; it did not go away. Was there an open-ended amount?

**Dan Musgrove:**

I guess you could consider it as an open-ended amount. I think the Department of Taxation and staff at the Fiscal Analysis Division of the Legislative Counsel Bureau were able to determine who was out there that could qualify for it, what amount they would be paying in premium tax, and what their credit would be. But again, there was no cap on it. It was whatever company came in and qualified gets 50 percent of their tax credit in perpetuity—at least based on the original legislation that was passed in the early 1970s.

**John Richmond:**

In the 28th Special Session when the old law was repealed, the transition period of the fund Mr. Musgrove was describing of \$5 million per year sunsets in 2020. It was only going to last for a few years.

**Assemblywoman Bustamante Adams:**

From my understanding then, there was a cap that was set. What was the amount after the 28th Special Session? There was a cap that we placed.

**Dan Musgrove:**

It was \$5 million total.

**Assemblywoman Bustamante Adams:**

Was it \$5 million total up until 2020, until it sunsets?

**Dan Musgrove:**

Each year through 2020 for any company applying, the most they could get out of the home office tax credit, the total state credit they would get would be \$5 million.

**Assemblywoman Bustamante Adams:**

There was one company that already used the \$5 million, right? Is it tapped out?

**Dan Musgrove:**

I think the Department of Taxation figured out a calculation. They get the lion's share of it. We were able to get about \$300,000 out of the \$5 million pool. For the last three years, including this year as one, we would be able to get \$300,000 under Assembly Bill 3 of the 28th Special Session.

**Assemblywoman Bustamante Adams:**

So you have gotten \$300,000 for three years.

**Dan Musgrove:**

Correct.

**Assemblywoman Bustamante Adams:**

So technically you have gotten right under \$1 million. What would you have received if we had not put the cap on it, versus the \$1 million?

**John Richmond:**

When we first qualified for the credit, it was for the full \$2.5 million. That lasted for three years. Starting this year, when the pool goes into effect, our amount will be roughly \$300,000.

**Assemblywoman Bustamante Adams:**

I just want to know where the gap is. How do I do the math? Do I subtract the \$2.5 million against the \$900,000?

**John Richmond:**

If the law had not changed with the 28th Special Session, we would have gotten \$2.5 million for three years, or \$7.5 million, plus four years at \$300,000 per year, so an additional \$1.2 million. However, if we were to get ten years, under the bill we propose, that works out to \$25 million over ten years.

**Assemblywoman Bustamante Adams:**

That does help me understand. This is my last question. Because it is \$5 million each year with the sunset in 2020, can the other companies that qualified for this abatement still continue to take it, or are they cut off? The goal of the abatement is to help to have home offices established here, and I think this is a perfect example of something that we did in the past, in the '70s, and other bills we did in the '50s and '60s that we never review. We then find ourselves in this predicament where the industry has already taken off and maybe does not need our assistance as much anymore. Is that other entity capped out, or can they still take the \$5 million?

**Michael Geeser:**

Under the amendment, anyone who has taken the tax credit for ten calendar years prior to now would be capped out. They would not qualify for this. This really shifts to people or companies that are coming into Nevada for the next period of ten years or, in our case, who have taken years already off of that limit.

**Assemblywoman Bustamante Adams:**

I just wanted to make sure we got that on the record.

**Assemblyman Paul Anderson:**

I need some clarification. It is my understanding that there are approximately 16 companies currently utilizing the tax credit, the \$5 million scheduled to sunset in 2020. The amendment ([Exhibit D](#)) would essentially eliminate those 15 companies. I assume you are still part of this current tax abatement or rebate program. You are getting it now, but we would remove the other 15 companies based on the certain date and time, which would include you and how many others? Maybe staff could look into this for us, but it would include you moving forward up until the new sunset period. Is that accurate?

**Dan Musgrove:**

Again, I think staff would have to look at whether they were beyond the ten-year provision and whether they have employees of 250 or more in their Nevada based home office. Under our amendment, if there were other companies like us that had applied and not exceeded the ten years, they would still qualify for any tax credit available.



**Chair Neal:**

Are there any additional questions from the members? [There were none.] What I have been trying to figure out is when we capped it in Assembly Bill 3 of the 28th Special Session, it was done because we wanted to free up a certain amount of money. At the time, it was projected the home office credit was around \$25 million. It is my understanding that the projections came in at around \$40 million for the home office credit.

If we do not know how many are going to walk through the door under the 250-employee provision and take advantage of seven years, five years, or whatever time they have left, what is the financial impact? We set aside money to make sure it was available for the credit issued in Assembly Bill 3 of the 28th Special Session, and now a number of you want to get it back. What is that financial impact? I know there will not be one in 2018 per se, but we are also talking about 2020.

**Dan Musgrove:**

I think that is a question to be decided by the Assembly Committee on Ways and Means. They would need to determine those that qualify, those that may apply, and at least the current companies that they project will meet the standards. There may be those that do not meet the 250-employee standard, but may meet the 25-employee standard.

We are trying to set the bar higher because it is a generous tax incentive and is one of the reasons why we chose to locate our bill in this Committee. I think the policy—or whether or not you think it is a good tax incentive—is what we are asking today.

I do not have the answer. We could try to do the research, but I think staff may also be able to look and see which companies would meet the 25 threshold and had not taken it for a period longer than ten years.

**Chair Neal:**

Under your amendment, I do think it is a policy question to know how many companies meet the 250-employee threshold and whether or not we are targeting one company or three companies because we do not do legislation for one company. I think those are important questions that need to be answered. We will figure it out as we go along, right?

**Michael Geeser:**

I would like to add that clearly we do not have the number you are looking for, but I want to highlight what the flip side of that question is. If Nevada is going to give some sort of tax credit, what is the state going to get for that? What we are saying with this amendment ([Exhibit D](#)) is that you are going to get a company that owns a building in the state and houses more than 250 employees, which is really something I think everybody would like in their district. If Nevada is going to give that incentive and companies are going to take advantage of it, to us that is a great thing for the state. That is true economic development.

**Chair Neal:**

I appreciate those comments. I am sure Assemblywoman Carlton will get this bill in the Assembly Committee on Ways and Means. I just want to know what holes we are creating because we have set aside a certain amount of money, and the idea of capping the money was to free up money. Do the members have any additional comments on this bill?

**Assemblyman Pickard:**

My heartburn is over the bait-and-switch nature of what appears to happen. I do not have the benefit of having been present either during the 28th Special Session or the 78th Session, but I agree with the Chair in that we do not legislate for one outfit. By the same token, we are trying to attract the larger businesses to come here, establish roots, and employ our residents. I think this is the kind of thing that is probably worthwhile.

**Chair Neal:**

Seeing no further questions, we will move to those in support of A.B. 137. Is there anyone signed in to speak in support of A.B. 137 as amended? [There was no one.] I will now take testimony from those who are neutral on A.B. 137. [There was none.] I will now take testimony from those who are speaking in opposition to A.B. 137. [There was none.] I would like the presenters to come back to the table. Do you have any final comments?

**Assemblywoman Carlton:**

We appreciate the Committee's time. This is a complicated issue, and it has evolved over the last few years since the 28th Special Session. I am one of those folks who feels like if we made a commitment, we need to follow through on it. I found out about this after the 28th Special Session. I was concerned about it and felt we needed to have another discussion about it. I thought it was only fair to the company to at least have the discussion and have them make their case. Last session was not the session to do that as we were still dealing with other issues. I made the commitment to them that we would have this conversation and look at it. Having good companies come to this state, hire folks, and give them good jobs is what it is all about. There are a lot of different ways to get there, and this is one of the ways we can do it. I apologize again for some of the confusion in the bill, but your hard-working Assembly Committee on Ways and Means will address all the unanswered questions. A number of the members on your Committee are also on that committee and will hear this bill again. We are happy to follow up on any other concerns your members have after the hearing.

**Chair Neal:**

Thank you Assemblywoman Carlton. We are going to close the hearing on A.B. 137 and open the hearing on Assembly Bill 231.

**Assembly Bill 231: Revises provisions relating to economic development. (BDR 18-294)**

**Assemblywoman Irene Bustamante Adams, Assembly District No. 42:**

With me today is Steve Hill, Executive Director of the Office of Economic Development in the Office of the Governor. I am bringing forth today Assembly Bill 231 for your consideration. This bill provides clarity on five things: the State Plan for Economic Development and the removal of the requirement to report on the State's weaknesses; membership for nonprofits that the Office of the Governor of Economic Development (GOED) is allowed to create; what constitutes confidentiality on records and documents; makes a small adjustment on reporting dates for the emerging small business programs so there is uniformity; and revises the requirements for inland port planning, since we are a landlocked state.

Assemblywoman Carlton said it best in her previous presentation. My portion was on emerging small businesses, but after talking to the Executive Director of GOED, there was some other clean-up language so we included it in this bill. I will turn it over to Mr. Hill, and he can go through the sections and talk about each one of the clarifying statements for GOED.

**Steven D. Hill, Executive Director, Office of Economic Development, Office of the Governor:**

I will walk through each section of the bill and pause for questions. Section 1, subsection 2, paragraph (a), subparagraphs (2), (3), and (4) eliminate the requirement that our office include the weaknesses of the State of Nevada in our State Plan for Economic Development. There are a couple of reasons for this. One is that we do not feel it is the best place to include a list of weaknesses, in that this is something that we use to try to recruit and attract companies to the state. We do try to help to address the weaknesses we see, but we do not think this is the appropriate place for that list. I would also add, I am not sure GOED is the right organization to make a comprehensive list of the weaknesses of the state because we do not deal with all aspects of the state or services the state provides. Our recommendation is for this to be eliminated as a requirement and allowed to be addressed as appropriate in the State Plan for Economic Development.

Section 1, subsection 6 also relates directly with the entirety of section 2. Section 2 is predominantly language that currently exists in state law. This was adopted by the Legislature during the 78th Session [Assembly Bill 17 of the 78th Session], and this allows GOED and the Board of Economic Development in the Office of the Governor to create nonprofit organizations or corporations for public benefit when it would help advance the economic development effort in the state. The language in section 2 has a couple of

subsections that are very specific to the initial reason this piece was part of the legislation passed. We have talked often about the U.S. Treasury State Small Business Credit Initiative and the fact that the process to transfer it into a nonprofit corporation is underway.

If we were to create a different nonprofit corporation, there are two areas in section 2 that may not be appropriate for a different nonprofit. The first is in section 2, subsection 3, paragraph (b), where the requirements for the members in the nonprofit are, in this legislation, specific to the purposes of the Nevada Battle Born Growth Escalator, Inc. (NBBGE) nonprofit. The second area is in section 2, subsection 9, paragraph (a), which requires we have an external asset manager or venture capital or private equity investment firm which is also language specific to NBBGE.

In order to potentially correct those two issues, section 1, subsection 6 was drafted. This is language we already have authority for; it separates what is basically the NBBGE section and the authority for that specific purpose, which is in section 2. It would be our recommendation that there be two amendments to the language, adding the pieces of section 2 back into section 1, subsection 6, that applies generally to nonprofits. As it is currently structured, section 1, subsection 6 would allow different nonprofits, but there is no framework or set parameters in the law for nonprofits created under section 1, subsection 6. We would recommend adding—and we could provide this language—the same language of section 1, subsection 6 into section 2, subsections 2 through 8 and into section 2, subsection 10.

**Assemblywoman Spiegel:**

What is the underlying reason for the need to form the nonprofit corporation? I know the state is not allowed to make investments in companies, so I wonder where this came from. How this would not be in conflict with that?

**Steve Hill:**

There are a couple of examples of potential nonprofits. We do not currently have any plans to create an additional nonprofit. One of the opportunities that came up in the last interim was the potential for an organization called Nevada Industry Excellence (NVIE) to be merged into GOED. Right now, NVIE is housed at the University of Nevada, Reno (UNR), and there are some good reasons for that.

There may be reasons that moving it would make sense, so we had that conversation with NVIE and UNR. It is largely federally funded so the most appropriate structure, if NVIE were going to be merged into GOED, would be for it to be its own separate nonprofit. That is an example of something that may come up. We already have the authority to do it. The only change we are recommending is to be able to put a board in place that would line up with the responsibilities of NVIE rather than follow this prescription for board membership that was really designed specifically for NBBGE.

**Assemblywoman Benitez-Thompson:**

Was the current board that was set up with UNR an allocation of federal dollars and some state dollars? Then those were moved to the board for board oversight? I believe you serve on that board. That is where it is presently being managed. Am I correct in my recollection? Was it a mix of federal and state dollars or grants?

**Steve Hill:**

No. It is actually all federally funded. There is no state money in the NBBGE. The example I used with NVIE, that is a mix of funding from the State General Fund and the federal government.

**Assemblywoman Benitez-Thompson:**

So many of us have a deep appreciation for economic development and how GOED has performed with different programs to get dollars out as incentives for business. Then there are those who do not support or believe in these abatements or cash dollars. If we start talking about state dollars and support coming from your office—state dollars in that office and state personnel sitting on that Board of Economic Development—I wonder if we are getting too close to constitutionality issues that have been a problem in the past, having something that walks and talks like a state agency but is called a nonprofit. Perhaps we should think about some very clear parameters to show an arm's length of separation, if indeed that is what we are after.

**Steve Hill:**

Yes. We did have that conversation with this Committee and your staff during the 2015 Session [Assembly Bill 17 of the 78th Session] to make sure the concerns you spoke of just now were addressed. There was a conversation about the balance between the tie being too close and a certain level of control, because the state still has great interest in the funds being spent appropriately. That balance, at least during the last session, was defined in this legislation where it is required if the Executive Director of GOED were to be the chairman of these nonprofits, the Legislature has two appointments to the nonprofit's board and the Board of Economic Development has four appointments to the nonprofit's board. There is a seven-person board, and that is currently the requirement for the structure. The only change we are asking for in this bill is that the people who would be on the board for NVIE, which is largely a service organization for the manufacturing industry, would be permitted to have manufacturing experience rather than finance and venture capital experience. This might be helpful, but it would not be the only set of requirements.

**Assemblywoman Benitez-Thompson:**

Thank you for putting it on the record that there has been some dialogue and what sounds like some legal feedback. With the federal dollars, we do not have the same issue as what our *Nevada Constitution* directs about where our dollars can go. Something else I think about is legislative oversight. If something is housed in your office, we have a direct nexus to you and a direct path by which to ask questions and draw out information.

Talk to me about the relationship of the Legislature and these nonprofits. At one point we need them to feel at arm's length for things to work. Obviously there is a conscious decision to move them out of GOED, to plant their own seed, and to be in their own space. As a Legislature, what type of oversight do we have, especially if state dollars are flowing to the nonprofits?

**Steve Hill:**

That was part of the conversation during the last session as well. I believe it is one of the primary reasons the job that I have is required to also be the chair of the organization, to help maintain that tie and oversight. Frankly, if you wanted to change that, I would be okay with it. I think it is one of the appropriate ways to maintain oversight on the part of the Legislature because you also have oversight on my activity in GOED.

We also require any nonprofit that is created to file an annual report that the Legislature, the Governor, and the Board of Economic Development receive. The Board of Economic Development has oversight over the organization as well. The last point is the appointments that are made are partially made by the Legislature, and that provides a link as well.

**Assemblywoman Benitez-Thompson:**

For clarification, under section 2, subsection 3 of the bill, you are talking about a revision in that board structure. You would intend to keep the legislative appointments and yourself. Other than those three, the composition of the board would change to open it up for more industry sector folks.

**Steve Hill:**

Yes, that is correct.

**Chair Neal:**

How many nonprofit corporations have been created?

**Steve Hill:**

Through this bill, just the NBBGE.

**Chair Neal:**

Not through this bill but in general. You mentioned another one funded with federal money.

**Steve Hill:**

The NVIE was an example of an opportunity we ended up deciding it was best to leave at UNR, so that nonprofit has not been created and is still a part of the UNR system.

**Chair Neal:**

So you just have one, which is the future one this bill could create?

**Steve Hill:**

We do just have one. It has been created, is up, and is operating now.

**Chair Neal:**

Do the members have any further questions? [There were none.] You were jumping in and out of sections. Can you go through each section please?

**Steve Hill:**

Certainly. Section 1, subsection 6 separates additional potential new nonprofits from what is the NBBGE nonprofit that is all of section 2. The language in section 2, subsection 1, paragraph (a) is indirectly making it clear that section 2 then becomes the section just for the NBBGE. As I said, we would recommend an amendment that copies the rest of the language that was appropriate from section 2 into section 1, subsection 6, so the same framework and structure would apply to the current nonprofit and any potential future nonprofits. Section 2, subsection 10 makes it clear that GOED has the ability to provide administrative support to the nonprofits as they are created.

**Chair Neal:**

It is my understanding under *Nevada Revised Statutes* (NRS) 231.0545 that the Executive Director, which is you, also has a seat on the nonprofit board. How does the administrative support work and how does the level of separation work when you are sitting on two boards? You are the oversight and also the chair of the board governing the nonprofit. How is there separation in the decision-making if you are the decision-maker and also sitting on the board that is handling additional activities? Can you help me understand the legal separation that exists between you and the nonprofit?

**Steve Hill:**

I could probably approach that from two different directions. It is a question better answered by your staff. I think the determination was that there did not have to be complete and utter separation between our office and the corporation for public benefit that was formed, and there are a couple of other examples in the state. The Department of Business and Industry has at least one or two that function similarly. I do not think there is a legal requirement to have complete separation of the entities. It allows some level of influence and control, but there is still oversight by the Legislature, the board of the organization of which I chair, and the Board of Economic Development.

**Chair Neal:**

In section 3, I am looking at the confidentiality of communication an employee or a representative of the nonprofit has with you as the Executive Director of GOED. What is the "corporation" in this line of communication and the confidentiality that is expressed in this relationship—a client or a representative? I am not clear on who is what. The nonprofit has what status?

**Steve Hill:**

Again, this question may be better answered by staff. We will get to this in section 3 with the nondisclosure issues and communication, but I think there was a desire to keep the language that we recommended on the GOED side consistent throughout this statute.

I do not know this for sure, but I do not think the nonprofit necessarily needs legislative approval for their decisions on confidentiality. I am not sure it is necessary to have that language in the statute, but I may be wrong about that.

From a who-is-who standpoint, this is directed at the nonprofit. In the NBBGE example, which is the only nonprofit we currently have, we deal with companies that are applying for either an equity investment or a loan; they would be providing financial information to the nonprofit in order for them to make those decisions, and that financial information would almost universally be considered proprietary.

**Assemblywoman Spiegel:**

It strikes me that there could be a conflict of fiduciary responsibility if the Executive Director of GOED, who might have a priority that is separate and apart from other job responsibilities, is on the board of the nonprofit corporation. I am wondering how those types of conflicts could be avoided?

**Steve Hill:**

When we talk about these as nonprofits, we can also talk about them as corporations for public benefit. The idea was that this is an effort that flows through our office and we still have responsibility for at some level. That is the most appropriate and efficient structure—to do so through that corporation for public benefit. An example would be when the Legislature put the home mortgage program together. That was done through a nonprofit organization because that was the right structure. This is the same kind of concept. The fiduciary responsibility flows through. You could look at it similarly to a corporation where the chairman is also the chief executive officer. That happens quite often. They have an operating responsibility as well as a board responsibility.

**Assemblywoman Spiegel:**

My next question has to do with transparency. As a government entity, I know there are transparency requirements that go above and beyond just having some records being made available—such as the Open Meeting Law. Even if you are not subject to that, many of us, like the Legislature, operate in that spirit. If operations by GOED are moved into a nonprofit entity, that is technically not a government entity because it is a private corporation, so many of those public safeguards are going to be lost. Could you speak to that?

**Steve Hill:**

You are right. Because it is a separate corporation and a nonprofit, it is not currently subject to the Open Meeting Law. The real operations of the current nonprofit, NBBGE, are largely performed through our office and through our Board of Economic Development. The oversight of NBBGE, NBBGE itself is not making the investment decisions, which is the full extent of what NBBGE does. The oversight is monitoring how those decisions are performing, not making them. If the implied question is, Should they operate in compliance or in conformity in the spirit of the Open Meeting Law, I would need to talk to the board



of that organization to get their concurrence because they cannot be compelled to do that. I am not sure there would be an objection from the board, and if the next question is, Would I ask them, the answer is yes, I would.

**Assemblywoman Spiegel:**

Some of that goes back to my colleague's questions about oversight and what happens when you take something that is funded by the state, presumably in the state's interest, and move it into the private sector. It creates levels of complexity that are different.

**Chair Neal:**

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

**Steve Hill:**

Section 3 deals with GOED's confidentiality statute. During the 78th Session, our confidentiality statute was changed [A.B. 17 of the 78th Session]. There is a dividing time frame starting when companies come to us considering the possibility of moving to or expanding in Nevada, and subsequent to that, once the decision has been made public. Prior to the 78th Session we had the language in place that we are recommending be included today. That language basically provides confidentiality for proprietary information, and what amounts to a nondisclosure agreement, so our office will not broadcast that companies are considering Nevada. If the company has not announced it to their employees, suppliers, or the communities they are in, it could be very disruptive, particularly when many times that consideration does not necessarily lead to the decision to come. Until they make that public, we keep that information confidential. I think a strong argument can be made, and we treat it this way, that the proprietary information and trade secret umbrella already provides us that nondisclosure authority.

We have had several companies express concern because that language was removed during the last legislative session, and it is not very explicit that we are going to be required to keep our mouths shut. The corollary aspect of that, and what we are asking be put back into the law, is that the nondisclosure aspect of the confidentiality ends at the point the company makes their decision to come to Nevada. Right now, because we have taken that end point out of the law, that nondisclosure could be left in place into the future. We do not think that is the right thing either. This is the last amendment we would recommend in the bill. In section 3, subsection 4, paragraph (b), which is one of the two triggers that ends the nondisclosure, it is currently written, "Submits an application to the Office for an incentive for economic development." We often receive applications in preparation for a potential decision, and the company subsequently decides not to locate or expand in Nevada. We think that particular trigger should coincide and be triggered by the 30-day notice we provide to local governments prior to the board meeting. That is when we make these deals public. This stands the chance of making something prematurely public that ultimately does not happen. That is the recommendation we would make there. That is what the language in section 3 says.

**Chair Neal:**

You are going to submit the amendments in writing?

**Steve Hill:**

I am sure we will, yes.

**Assemblyman Pickard:**

Do you know why the confidentiality language was removed last session? Was there a reason or was it inadvertent? Do you know?

**Steve Hill:**

From my perspective, it was inadvertent, and it may have been a mistake on our part. We did expand the confidentiality statute because we had no provision for confidentiality after the company made the decision to come, so if they gave us trade secrets, we could not hold those confidential. One example we use is when we were administering the film tax credit program. We are required to get the script to make sure it is a real production. This was prior to the production. Someone could file a public records request and get that script. Those types of things, appropriately, should be kept confidential. This language was removed in that change. It is probably just our fault that we did not catch it at the time.

**Assemblywoman Benitez-Thompson:**

Is there a balance that could be achieved? My concern with being excluded from public records is at some point, when there are legitimate reasons for legislators to get information or to ask you questions and have a flow of information, it gets shut down by Chapter 231 of NRS.

In this last interim, we saw a process by which an abatement was discussed in open venues; the Raiders process. I am wondering if there could be more of a balance? If you want more confidentiality in communication, information we will never see, I feel like there has to be a trade-off where the Legislature has more information about things that are being discussed other than typically finding out about them 24 hours before you are asked to vote on them in a special session, for example. If there is more confidentiality for your office and if information will never go to the Division of State Library, Archives and Public Records in the Department of Administration, never be shared, never see sunlight—then what is the trade-off for how legislators get information? Where is the public discourse and dialogue about how decisions are made for these abatements?

**Steve Hill:**

With respect to what we are asking, I think we are limiting, or cutting back somewhat, on the confidentiality statute that is in place right now. We are clarifying the fact that this includes communication prior to the company making a decision to come here. The nondisclosure is stopped at the point they do make that declaration. Now, we could keep that moving forward at some level, at the point the company makes a declaration, because it is not specifically ended.

There is a separate conversation about whether the confidentiality general provision is the appropriate balance. I frankly think it is. All we are permitted to keep confidential is information that is proprietary or a trade secret. We did include some information in a handout ([Exhibit E](#)). Depending on how you want to phrase it, we are tough or lenient. Most every other state around us allows more confidentiality more easily than we do.

**Assemblywoman Benitez-Thompson:**

I am always most concerned about what the Nevada Legislature does for Nevadans, not what the Utah Legislature does for their residents. For the record, I would like you to flesh out what you mean when you say "any communications" because, to me, that is not just proprietary information. That is anything that was talked about in an email, in a text, or on the phone. It is not just proprietary information; it is anything. It is any and all. Could you talk more about what you mean by "any communication"?

**Steve Hill:**

You are right about that. That is what is meant, prior to the company deciding to come to Nevada. At that point only the confidential information that happened before and after the decision to come can remain confidential. Once they decide to come, as appropriate, those types of communication would not be covered under the confidentiality statute anymore. We do not think it is appropriate to say a company is considering Nevada when they have not had the opportunity to decide they are coming, they have not told their employees, and have not told their suppliers or communities. That is their decision on when that timing should happen.

**Chair Neal:**

Are there any other questions? [There were none.] Please continue.

**Steve Hill:**

In section 4, this simply changes the reporting date for the emerging small business program. Moving it from September 15 to December 1 of each year allows us to include the local government information that is necessary in order to complete the report. Right now, when we file the report on September 15, we do not have most of the local government information to include. There is a six-month lag in that information. If we could just shift our reporting required date forward by 75 days, we would be able to include all of the information for that report.

In the repealed text of section 5, this simply eliminates the requirement that we promote inland ports in Nevada. This is not intended to denigrate inland ports. If inland ports would be an opportunity in the state, we would certainly pursue it. Three or four years ago, we did a study on the possibility of inland ports in the state, and while it turned up good information on transportation generally, the conclusion was that a true inland port would be difficult to create in the state. There are a couple of reasons for that. It is the only specific economic initiative that is in the law. We would certainly continue to pursue it if that opportunity presented itself, but we do not think that it is something that should be specifically required of our office at this point.

**Chair Neal:**

Are there any additional questions from the Committee members? [There were none.] We will move to those in support of Assembly Bill 231.

**Ray Bacon, representing Nevada Manufacturers Association:**

We are in support of the vast majority of what GOED has done. There were some questions that came up on NVIE. I am a founding board member of NVIE, so let me do a little clarification.

Nevada Industry Excellence is a partnership with the National Institute of Standards and Technology (NIST), which is a subsection of the U.S. Department of Commerce, to promote technology and productivity gains throughout the manufacturing sector. Under the federal law, the NVIE is referred to as a "manufacturing extension partnership" (MEP). There is some sort of a MEP organization that supplies most of the states. This started off as a creation between the Nevada Manufacturers Association and UNR. At one point in time it was transferred to the Chancellor's office, where it stayed for several years. With recent changes that have taken place in the Chancellor's office they decided they wanted to shift it back to UNR. That relationship is ongoing at this stage of the game. It has been rocky at points in time, so that is the reason the nonprofit option was opened up and was considered. At some point in time, it is still something that may want to be on the table. Nevada Industry Excellence has lost a little bit of favor in southern Nevada because it appears to be connected to UNR. I hate to say there is any regionalism in this state, but we do not have as many customers in southern Nevada as we did. There are about 13 people involved. They not only service the manufacturing sector, but when requested, they help the mining sector and the logistics sector on a statewide basis. Most of them are manufacturing professionals. Some of them are engineers, so they can help with technical issues. The mission that we gave when we created the program about 15 years ago was to do what it takes to provide the training and the productivity improvements to make our companies more competitive. They have been pretty successful in that.

Part of the reason that NVIE was not put under the old Commission on Economic Development in the first place was that they made very limited connections with existing industry. The primary target when we created NVIE was to help our existing industry become more productive. The Governor's Office of Economic Development has changed that model. Consequently, they now deal with the existing industry on a regular basis, and that is part of the reason that change may be considered in the future. I think Steve Hill did a good job on a confusing issue, making things as clear as possible.

**Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:**

The Las Vegas Metro Chamber of Commerce would first like to thank the bill sponsor, Assemblywoman Bustamante Adams, for bringing this bill forward. I think Mr. Hill did a good job explaining the clarifying components of the bill. We do agree with the changes.

The Chamber did originally support the creation of inland ports. Mr. Hill did a good job explaining why we need to repeal this today, unfortunately. The Chamber is supportive of this bill, and we do support economic development in the state.

**David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson:**

I represent the City of Henderson and our economic development department. We want to express our support for the bill, and also thank Mr. Hill for the opportunity to work with GOED. They have created some great economic development opportunities in the City of Henderson. We look forward to continuing that. We hope this bill will be a catalyst to even better things to come.

**Assemblywoman Benitez-Thompson:**

Mr. Bacon, how long did you say NVIE has been around as a nonprofit?

**Ray Bacon:**

About 15 to 18 years. I cannot remember exactly when we started it. It is not a nonprofit at this stage of the game. About 50 percent of the MEP organizations that are funded partially by NIST and partially by using funds, and in most cases some level of state funding, are nonprofits. About 50 percent of those are a function of either a part of state government or the Nevada System of Higher Education in the state. It is kind of a mixed bag, and it all seems to work successfully. Some of them work on what they call a "broker model," in which the primary function of the people in the organization is to find somebody who can give them the assistance. In some cases, they actually deliver this assistance directly. We do some of both in this state, so we are kind of a complex model.

**Chair Neal:**

Do the members have any additional questions? [There were none.] I will now take testimony from those who are neutral on A.B. 231.

**Barry Smith, Executive Director, Nevada Press Association:**

I first want to apologize because I had not signed in to speak, but in listening to the conversation, I heard mention of a proposed potential amendment that I was curious about. What I believe was said is that the confidentiality would end not when an application was submitted, but on a 30-day notification to local governments. I am not familiar with that. It sounds like a situation where a lot of effort, momentum, and decisions have been made already, so after it is pretty much set this is when the information becomes available. To me, it worked right in with all the very appropriate questions on the complexity of the oversight and the transparency of this. It raised a question in my mind, not knowing exactly what that trigger at the end was. So that is what I wanted to raise.

**Chair Neal:**

Do the members have any questions? [There were none.] Mr. Bacon, are you coming back to answer a question that was brought up?

**Ray Bacon:**

Yes. If these companies that are potentially coming to the state of Nevada are publicly traded companies and if we were to disclose that, we would upset the stock market and we would violate some federal laws. Consequently, the confidentiality before a decision is formally announced is a very serious issue, and that is why when I get involved with GOED on some company that is looking at coming to the state, I sign a nondisclosure agreement, just like his staff does on every single project. If we were to violate those things, we are dealing with violations of federal law.

**Chair Neal:**

Thank you for that response. I will allow that leeway just for today because Mr. Hill exited. I will now take testimony from those who are speaking in opposition to A.B. 231. [There was no one.] Does the bill sponsor have any closing remarks?

**Assemblywoman Bustamante Adams:**

Thank you for the consideration of the bill. I wanted to reiterate on the confidentiality. It really is about cutting back on that confidentiality—to make it clear we only have to keep things confidential up until the time they decide to pick Nevada, come here, and open their business. Right now, they would not have to disclose, even after they came. This is just to clarify that, but I can see how that could be of concern, and I appreciate the questions.

**Chair Neal:**

I will close the hearing on A.B. 231. I will open the hearing for public comment. Seeing none, we are adjourned [at 5:30 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblywoman Dina Neal, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to Assembly Bill 137, dated March 9, 2017, presented by Assemblywoman Maggie Carlton, Assembly District No. 14.

[Exhibit D](#) is a proposed amendment to Assembly Bill 137, presented by Dan Musgrove, representing CSAA Insurance Group.

[Exhibit E](#) is a copy of a PowerPoint presentation titled "NRS 231 - GOED Confidentiality," dated March 14, 2017, submitted by Assemblywoman Irene Bustamante Adams, Assembly District No. 42 and presented by Steven D. Hill, Executive Director, Office of Economic Development, Office of the Governor.