

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

**Eightieth Session
April 30, 2019**

The Committee on Taxation was called to order by Chair Dina Neal at 4:05 p.m. on Tuesday, April 30, 2019, 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/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Dina Neal, Chair
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblywoman Shea Backus
Assemblywoman Lesley E. Cohen
Assemblyman Chris Edwards
Assemblyman Edgar Flores
Assemblyman Gregory T. Hafen II
Assemblyman Al Kramer
Assemblywoman Susie Martinez
Assemblywoman Heidi Swank

COMMITTEE MEMBERS ABSENT:

Assemblywoman Teresa Benitez-Thompson (excused)

GUEST LEGISLATORS PRESENT:

Senator Ben Kieckhefer, Senate District No. 16

STAFF MEMBERS PRESENT:

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



OTHERS PRESENT:

Matthew Digesti, Vice President of Government Affairs and Strategic Initiatives,
Blockchains, LLC
Elisa Cafferata, representing Nevada Technology Association
Tyson K. Falk, representing Figure Technologies, Inc.
Gina Gavan, Chief Innovation Officer and Director of Economic Development,
City of North Las Vegas
Derek Armstrong, Deputy Director, Southern Nevada, Office of Economic Development,
Office of the Governor

Chair Neal:

[Roll was taken and Committee rules and protocol were reviewed.] We will hear two bills today. I will open the hearing for Senate Bill 164.

Senate Bill 164 (1st Reprint): Recognizes certain virtual currencies as a form of intangible personal property for purposes of taxation. (BDR 32-878)

Senator Ben Kieckhefer, Senate District No. 16:

Senate Bill 164 (1st Reprint) is designed primarily as clarifying language regarding Nevada's personal property tax statutes. Senate Bill 164 (1st Reprint) is part of a multibill effort to enhance Nevada's position as a leader in ecosystem development for blockchain technology as it relates, in this bill, to the use of cryptocurrency and virtual currency.

Section 1, subsection 1, of the bill adds "virtual currencies" to the list of other financial instruments which are currently exempt from intangible personal property tax in Nevada. It adds virtual currencies to things like stocks, bonds, mortgages, notes, bank deposits, and book accounts that are specifically listed out in statute as exempt from taxation when it comes to intangible personal property.

I believe this is clearly clarifying language, that virtual currencies are currently exempt, which begs the question, why are we bringing the bill? I think the purpose of the legislation is to demonstrate Nevada statutes are sophisticated when it comes to this new technology, as a way to encourage organic economic development in this space. That is the purpose of the bill and is why section 1 adds virtual currencies to that list of other items that are otherwise already exempt from intangible personal property tax.

Definitions that relate to that addition are included in section 1, subsection 4. These are definitions that are also being included in the other bills I originally referenced—as it relates to blockchain technology—that are working their way through the legislative process. We are including the definitions with all the other bills to ensure that there is uniformity among those efforts. The definition here is also important due to some of the definitions of virtual currency, state of the public blockchain, and other items.

That is the bill in a nutshell. To my left is Matthew Digesti, with Blockchains, LLC, whom I have been working with on this and some of the other legislation this session. He would like to offer some comments as well.

Matthew Digesti, Vice President of Government Affairs and Strategic Initiatives, Blockchains, LLC:

There are two points I would like to make in support of this bill. The first, I would like to briefly clarify the importance of the definition of public blockchain so the Committee can consider that; and the second is the economic development aspect of what this bill is attempting to accomplish.

As you know, in 2017 with Senate Bill 398 of the 79th Session, the Legislature passed the definition of blockchain in general. The way technology is evolving, there are two main categories for blockchain technology. There is public blockchain technology and there is private, or permissioned, blockchain technology. Those two terms, private and permissioned, can be used interchangeably. What we are attempting to do with the public blockchain definition is to clarify that we understand this technology, which is a great signal to the ecosystem that Nevada is a great state to invest in because we do understand the technology so deeply. The importance of the public blockchain and the distinction here is that anybody with a computer can download the software for a public blockchain network and participate in that network—with no restrictions, central authority, or administrator telling you that you cannot join the network. Bitcoin is the best example of this. Ethereum is the second-best example of this. Both are public blockchain architectures where anyone can join without being restricted in any way.

The other blockchain architecture is the private or permissioned blockchain architecture, which is primarily focused on the enterprise side right now. You will see banks, or supply chain management companies, getting together and creating their own private network of multiple companies. Banks are doing this in groups of 10, 12, or 15 for international payments right now, but it is a private network and they get to decide who joins that network and who can participate and determine what the rules of the game are.

Both blockchains are very important from an economic development perspective, but when it comes to legislation, it is important to have a distinction. Public blockchains have different policy considerations than private blockchains. Consumer protection issues are different in the public blockchain atmosphere compared to the private or permissioned blockchain atmosphere. I think it is important to have both definitions on the books so that as this technology evolves and policy implications become different, or consumer protection issues need to be discussed, we have both definitions to address both sides.

The other point that I would like to make is economic development. Thanks to Senator Kieckhefer's efforts in 2017 and this Legislature, S.B. 398 of the 79th Session was landmark legislation. Prior to that bill passing, I believe there was one blockchain company in Nevada. Since the passage of S.B. 398 of the 79th Session, I do not have the number of companies, but there are quite a few. My employer, Blockchains, LLC, was actually setting up in the

state of Washington and had begun the process of purchasing land. When the Nevada Legislature passed S.B. 398 of the 79th Session, my boss and cofounder, Jeffrey Berns, said maybe we need to go look at Nevada. He was introduced to the Tahoe Reno Industrial Center, which we are now calling Innovation Park. He abandoned the investment and business strategy for Washington State and came to Nevada. We have close to 100 employees and our company has made a substantial investment into Nevada.

This does not stop with just our company. By my very informal estimates, since S.B. 398 of the 79th Session passed, there has been well over \$250 million worth of direct economic investment into this state, along with hundreds of jobs. I think this legislation is important because it continues to signal to the ecosystem that we understand it, we are going to bring clarity to the ecosystem by defining what virtual currency is to help promote additional investment, and signal that Nevada is a great place to do business.

We are competing very heavily with Wyoming and Delaware on the blockchain front. Both of those states are doing quite a bit on the legislative side as well. Not coincidentally, those three states, including us, are the No. 1 states for business filings. There is a significant amount of revenue that comes to the Secretary of State's Office when it comes to attracting businesses that should incorporate in Nevada. We think this is a very good step to continue with that momentum ([Exhibit C](#)).

Assemblywoman Spiegel:

In section 1, subsection 1, paragraph (a), you have shares of stock, bonds, mortgages, notes, and bank deposits, and you are adding virtual currencies. Why would we not also include things on the private blockchain? Things like mortgages are permission-based, and I am curious why we are excluding them.

Senator Kieckhefer:

Those are already exempted—mortgages are specifically exempted. Those types of financial instruments that are traditionally going to be held in your more traditional financial institutions, leveraged against fiat currency, are already listed as exempt in the statute. The idea was to try to capture the emerging industry surrounding virtual currencies. That is an area that is very specific to public blockchains.

Assemblywoman Spiegel:

I understand that, but I am wondering why you would be excluding things from the private blockchain.

Senator Kieckhefer:

I do not think we are. If a mortgage is held on a private or permissioned blockchain through a traditional lender, that mortgage is still exempt under this statute because of its nature as a mortgage. The definition of virtual currency hinges on the public aspect. The definition in the bill is more contingent on what is being defined under virtual currency rather than any of the other financial instruments that would otherwise be exempt from personal property tax.

Assemblywoman Spiegel:

Let me ask my question a different way. If someone creates something that for all intents and purposes looks exactly like a virtual currency but it is created, issued, or maintained on a private blockchain, it would be exempt from this. My question is why would that be exempt when we have other things already in statute that are permission-based that are exempt? I understand the difference and the nuance in wanting to have two different definitions, but I am specifically wondering why one is included and one is not.

Senator Kieckhefer:

I think the evolution of virtual currencies—as we think of them as cryptocurrencies—function within the public realm. The concept behind the bill is to capture that space in that ecosystem. If we are expanding beyond that into a new type of product that might be offered, I would have to evaluate that as to its space within our existing exemptions from taxation. The purpose behind this was to capture things that were already traditionally exempt. We could certainly talk about case studies that might fit into the definition of a permissioned blockchain, but usually those are controlled and serving more of a specific purpose rather than being used as a currency more broadly. I think that presents some nuance there.

Assemblywoman Backus:

I want to confirm, for the purpose of our legislative intent, if we start doing public blockchains where people are doing financial transactions such as on eBay with a private seller, that we are not utilizing this category of virtual currency to avoid sales tax altogether. I do not think it does, but I want to ensure that we are confirming this is not just a way to escape that tax.

Senator Kieckhefer:

You are correct, this does not eliminate anyone's tax liability if they use a virtual currency for anything that would otherwise be a taxable transaction.

Chair Neal:

How are transactions verified in a public blockchain?

Matthew Digesti:

In full disclosure, I am an attorney, not a software developer or engineer. That might actually help in this instance in trying to articulate in a way that is not too technical. With public blockchain technology, what you are asking is what is the consensus mechanism, or how does the network of computers look at a particular transaction, and all agree that it is a legitimate or valid transaction. I will answer this in a way that the ecosystem looks now.

The first consensus mechanism that was created is called a proof of work. That is how the Bitcoin network and the Ethereum network—the two most well-known blockchain networks—work to validate transactions. There is a whole explanation that goes with it, but I will keep it as simple as I can. When I want to send one ether—which is a virtual currency for the Ethereum network—to Senator Kieckhefer, and I have one ether in my wallet—which

is a digital place where I store it—when I want to transfer that, the transaction data goes into a block and it says Matt wants to transfer one ether to Senator Kieckhefer, here is Matt's IP [Internet protocol] address where he holds the ether, this is how many ether he wants to transfer, and here is Senator Kieckhefer's IP address where the ether will go. That transaction data gets put into the block, it is run through a few hashing algorithms which I do not need to get into for purposes of this discussion, then the block is finalized. The computer that created that block—we will assume it was mine—then broadcasts that transaction to the entire network.

Let us say there are 1,000 computers on this public blockchain network. They receive that proposed transaction and all of the 1,000 computers on that network go through their own ledger of the entire history of what has happened from the very first transaction up until the current proposed one. Through the use of software protocol, they start from the beginning of time and go all the way up to current. In doing so they can verify that I, in fact, have one ether I would like to send to Senator Kieckhefer, that my IP address is valid, that Senator Kieckhefer's IP address is valid, and then they vote on it. If 51 percent, the majority of computers, agree that the transaction is legitimate, then that block is finalized and is appended to the blockchain. It is now a permanent and historical record.

Chair Neal:

How do you transfer value? What I understand is that although we are trying to normalize virtual or cryptocurrency, it still does not meet the traditional threshold of currency per se. How do you transfer value and how does it keep value, because the system on which it is measured is not necessarily an accepted system; it is a closed system. Talk to me about value, the transfer of it, and the maintenance of it.

Matthew Digesti:

Are you asking from a technical perspective, or are you asking from the perspective that Bitcoin is worth \$1,000; how do we determine it is worth \$1,000?

Chair Neal:

You can provide both.

Matthew Digesti:

The technical portion of my answer is regardless of what the digital asset is, let us assume it is one ether—a virtual currency—which is worth about \$160 to \$165 per ether today based on different exchanges. To prove ownership that I actually own that ether, it uses cryptography, which is the same encryption that your iPhone uses. When you send and receive messages to each other, those messages are encrypted and it works off a private and public key cryptographic algorithm. What that means is if I own one ether, I have a private key that is a string of 64 characters —letters and numbers. That is how I prove that I actually own it. No one in the world has it, hopefully, and I am charged with keeping the security of that key. I could do it with a service provider on the Internet, I can do it with a thumb drive that I unplug from the Internet, I can write it down on a piece of paper, I can go to a bank and put it in a security deposit box if I choose to. When I instruct the network

that I want to send Senator Kieckhefer my ether, I need to provide that private key—that string of characters. The network checks it to confirm that it matches the ether that I would like to send, and once it is transferred, the private key goes to Senator Kieckhefer and he is the one who controls that private key, which gives him ownership and control over that asset. From a technical perspective, that is how you transfer value over blockchain networks, whether they be public or private.

To answer your second question, it is like any other asset in the world when it comes to value. Today, ether is worth around \$165. You can go to different exchanges where people or companies are trading virtual currencies all the time and you can determine what the price is. They can match you with buyers and sellers, and you can do it that way. I would write my key down on a piece of paper and sell it to Senator Kieckhefer right now for \$165, if that is what we agree the value is for that particular virtual currency. It is very market driven and there are resources where you can look to see what the current value of any virtual currency is.

Chair Neal:

The conceptual part I am struggling with is we currently have a monetary system. The way I have interpreted what you are trying to create is your own monetary system. You are trying to build a market, get consensus through the blocks, and the more participants you get who want to engage in these transactions and give value, helps the system itself to work. What I am trying to figure out is why do we need a new system of currency other than the traditional? In a normal environment, the markets—domestic or global—work based on trends. Back in the day, we used gold and silver, but there was something to balance the currency against. You are asking us to balance currency against an unknown factor. That is the broad theoretical question. Why do we need your version or your market to be developed in alignment with what is already traditional?

Senator Kieckhefer:

If you and I wanted to conduct a transaction, we would do so in dollars. We might run it through a bank or use cash. We know that the cash has value because it is backed by the United States Government, and we have trust and faith in the financial institution that we are using if we are doing a wire transfer or something to that effect. Let us say I want to conduct a transaction with someone who lives on the other side of the globe, in an emerging economy, whom I do not know. I cannot hand him cash. He may not have access to a bank in the traditional sense. We may not agree over what currency we want to conduct our transaction in. This provides an opportunity for financial transactions to develop between parties who are not in similarly situated positions, and particularly allow for the emergence of new economies within spaces where those existing resources you and I may rely on do not exist. That is one example. Mr. Digesti may have other examples.

Matthew Digesti:

That is a very good question. I will answer it in two ways because I think real-life examples are quite powerful. I met a software developer in Prague when we were there for our announcement last November. He is from Europe and helps support his family back home in

Latin America. He sends a certain percentage of his salary home every single month to his parents to help support them. The traditional way of doing it was through Western Union, which cost about \$55 per transaction and would take five to seven days for his parents to receive it once it was actually sent. About a year and a half ago, he convinced his parents to download the Bitcoin application on their phone and every month he now sends that money to his folks through the Bitcoin application. It takes about 20 minutes and it costs \$2. That is a real-life example of using technology to make existing systems incredibly more efficient and less costly, which is really important for people where that money is meaningful to them.

The second example I will give, and Senator Kieckhefer eluded to it, is really emerging in third-world countries. Venezuela is going through incredible turmoil right now. I have read several articles where the currency is so manipulated that when people receive their paychecks, they cash out and go to the grocery store with a bag full of money to get a couple of bottles of milk because the inflation is so out of control and the government is so irresponsible that the money they receive is essentially worth nothing. Bitcoin is taking off in Venezuela because it is a much more stable store of value for people in that country than their own currency. I think in the third-world countries you are seeing a lot of adoption just because of the stability of the value and their ability to transact in bitcoin rather than their native currency, which is really important.

Those are good use cases, but how does it help people in the U.S.? On average, every dollar that everybody in this room earns loses about 2 to 3 percent of its value every single year. We do not get to choose whether the money we earn loses value. That choice is made for us by our government. When you introduce alternative systems, like Bitcoin or Ethereum, there is no central administrator—there is no federal reserve engaging in monetary policy you might not agree with. You can actually take the money you earn, put it into a cryptocurrency, and be fairly certain that asset is not going to lose value over the course of the year, and if you need to go back into U.S. dollars to purchase something, you can do so rather quickly, so I think that is very powerful.

Assemblywoman Cohen:

You discussed the voting of the computers. Because we are dealing with data, is it usually around 51 percent, or are their higher numbers of consensus?

Matthew Digesti:

The Bitcoin network and the Ethereum network both have written into their software code the protocol saying it is the majority of the computers active on the network at that time that need to agree. That being said, any blockchain network that anybody creates can create their own protocols and their own rules. It can be whatever the programmers decide it is going to be, or whatever a majority of the networks decide going forward. To answer your question, it is the majority of the computers active on the network at that time.

Assemblywoman Cohen:

Is it usually that low? I understand there are protocols, but do they tend to generally be in agreement and voting yes on the same thing or no on the same thing?

Matthew Digesti:

I do not know the statistics, but I am going to go out on a limb and say that these are not transactions that generally 51 percent are saying yes and 49 percent are saying no. I believe the consensus number is usually quite high because there are no issues where computers are disagreeing on those transactions. That being said, since they are public blockchain networks, there are tools out there you can download and actually scan those networks to see every single vote and transaction since the beginning of time. It is very transparent. Anybody can go look. If it is something you are particularly interested in, it is nice that there is the transparency there—that you can actually go look and search for that answer.

Assemblyman Hafen:

I appreciate all the education today. For clarification, what we are trying to add to NRS is a few definitions of some different types of blockchain, and then clarifying that virtual currency is not currency and is exempt from taxation as if it were a form of currency. Is that correct?

Senator Kieckhefer:

Yes. It adds virtual currency to our definition of existing financial instruments that are exempt from intangible personal property taxation, which I believe the Legislative Counsel Bureau has confirmed are already exempt. This is a clarifying addition to NRS 361.228. When we added the term "virtual currency" to that subsection, we felt it was appropriate to define it. In section 1, subsection 4, paragraph (d), you can see where we added the definition of virtual currency, and then the public blockchain definition needed to be included because public blockchain is referenced in the definition of virtual currency. So we add virtual currency, define virtual currency, and define some terms that are within the definition of virtual currency.

Assemblyman Kramer:

I am trying to understand how you make purchases and move money with blockchain. One of the functions I thought blockchain was going to help solve was records with a physician—my doctor has my records, I make payments and he acknowledges them, he shares my test results from the lab with me—those sorts of things. Those transactions could be conducted on a form of blockchain that my computer would be seeing, and even if it is not the payment side, at least it is the movement of my medical information. Is that a public or private blockchain? Is there a difference there? How does that work into this?

Senator Kieckhefer:

This bill is speaking specifically to virtual currency, which is really one functionality of a blockchain in its essence—a ledger of information or transactions. Health records are a great case study and use for a blockchain because it provides incredible security and access to a consumer to information that is rightfully his or hers. There are many others.

For example, a health care company could certainly create a permission to a private blockchain to control those records internally, where they then give access to the members of their network. It is not in a traditional public blockchain atmosphere, but it might be more of a permission network.

Chair Neal:

You gave the Venezuela example about value, and then being able to use Bitcoin. If they exchange their currency, which you are saying is already devalued within the system, what can they use the Bitcoin value for in exchange? Technically this is the alternative, but it is not ramped up in the same level as an international currency system. Although you say this is an alternative, how does Venezuela maintain the value of that Bitcoin and ensure it does not decrease in value. The way I understand Bitcoin is it does not maintain a stream of value. I know you said we lose value at 2 to 3 percent per year and you talked about how we do not get to determine the monetary policy, but there is a determination on the monetary policy. It exists. It is a structure. It is being maintained. I know people would like to move out of that system, which is clearly why we are pushing virtual currency. What I want to understand is, how does Venezuela exchange the Bitcoin for debt repayment? How does it have a relationship to the IMF [International Monetary Fund]? Is there a relationship? Is it a transferable value?

Senator Kieckhefer:

You are talking about government financial policy. The example Mr. Digesti gave was at the individual consumer level. It takes two to tango. You have to have someone who wants to conduct a transaction with you using this form of currency because they also see the value in it. In terms of the broad applicability, there are constraints on that now. You cannot go to every store you would want to and conduct a transaction using Bitcoin, ether, Litecoin, or whatever currency you choose to transact in, but some you can. The adoption of the technology and the adoption of the currency are taking place over time.

Chair Neal:

I understand this is a baby step and we are moving in a progression, and that progression started a few years ago. The actual process of adoption is the way to embed, and make it so that it is a competitor against traditional currency, or at least that is how I have interpreted this. The broad comment I have is that financial transactions are some of the most powerful things we have—the transfer of money and transfer of value is very significant. Some people might even say money rules the world. So why would we transfer and give away that power to a virtual realm? The implications of that power are significant because, if we adopt in the way this is envisioned, you will be our next bank. The focus of it is the decentralization—giving people power in banking, and trying to help navigate this sphere that allows people to take control of what is happening in their financial space by allowing this alternative movement. That is how I interpret it. It gives me consternation because although we have flaws in our current system, I do not want a block or users to determine or get ahold of financial capabilities and transactions that somehow give them that power as well. It is a transfer of power, and the transfer of financial power is the most powerful thing

you can get. It is very significant. It will determine who is in and who is out in a monetary system. That is how I have interpreted it. That is more commentary. I know there is not a specific response to that. I am just putting it on the record.

Assemblyman Flores:

If we look outside of Nevada, what other states have implemented this type of language when we talk about virtual currency? What are they doing when it comes to tax purposes? Are they exempting them as an intangible good? What is happening outside of Nevada?

Senator Kieckhefer:

This is similar to legislation that has been passed in other states. I cannot give you a full rundown. Perhaps Mr. Digesti has a better landscape nationwide. This is similar to some recent legislation that was passed in Wyoming, which was referenced earlier as a state that is trying to truly push forward as a destination for these types of companies. They have passed 13 blockchain-related bills in the past couple of years as part of their effort to give the full-court press on economic development in this space. It is modeled on at least what one other state has done, and a neighbor of ours, and truly one of our biggest competitors in this ecosystem.

Chair Neal:

We will now move into support. Anyone who wishes to testify in support of S.B. 164 (R1), please come to the table.

Elisa Cafferata, representing Nevada Technology Association:

We are in full support of this bill. I want to provide some context to put this bill in perspective with other bills. To come back to your first question, which is why do we even need virtual currency, Bitcoin was the first virtual currency created, launched by an individual or group of folks in response to the recession when folks felt they wanted to create a way to have financial transactions and move value around the globe that was not subject to corporate or government corruption. Now in America, we have a very solid monetary system, as you have pointed out, but that is not necessarily the case around the globe. Even though we have a pretty solid system, a lot of us lost a lot of value in our lives based on corporate corruption. The idea of a virtual currency that people could collectively agree on the rules and agree on the value was created. That is sort of the history of it.

I do not think any of us are trying to create or promote virtual currency to take over the monetary system in the world. I think it is one more tool in a whole suite, and most of us who follow finances know you should have a diversified portfolio. I am not a financial advisor or an attorney. I do not think anyone would advise you to put all of your financial eggs in this one basket, but it should be one of the tools that is available.

What this bill is doing is saying the technological world, the innovators, have created a way of holding and exchanging value in virtual currencies. Because it is kind of new and a hybrid, federal laws have not given us any guidance on how it should be taxed, how it should be held, or how we should manage this one particular asset in our financial portfolios.

What this bill does is say you are not taxed for holding virtual currencies whose value goes up and down, based on our collective agreement of what they are worth—just like stocks where their value goes up and down based on what we agree upon. You will be taxed in a different way, at a different time, when you cash them in and get a capital gain.

Several states are passing these bills to try to get the federal regulatory agencies to provide more clear guidance for people who hold these instruments—so they can figure out how to manage their portfolios and be in compliance. With this bill, we as a state are saying we think these should fall in the category of intangible properties and should not be subject to personal property tax.

Chair Neal:

I want to clarify something. Alternative currency, looking 20 to 30 years down the road, could be a competitor. I am not talking about now. I want to challenge your viewpoint about it being a tool. In terms of stock or other things, we have a governance structure which is the SEC [U.S. Securities and Exchange Commission]. Alternative currency is governed by what and whom?

Elisa Cafferata:

The SEC has weighed in with some guidance in terms of the value of virtual currencies and other instruments that can be built on blockchain, but it has been very slow to do so. I think this is an effort where our state has joined other states to look for more guidance. These innovations are going to continue and we are looking for more guidance. We are taking these very small steps, saying we think this is what this is similar to—other intangible products—and it should be treated for taxation in the same way. We would love to get more overarching clarity from the federal regulatory agencies that have opined on this and many other aspects of these instruments.

Chair Neal:

If the value is lost, who is on the hook? Who gets sued? Who is liable for the loss of value?

Elisa Cafferata:

In the case of virtual currencies, people who are getting into this arena need to be aware that it is not a financial instrument like others. It is not covered by the FDIC [Federal Deposit Insurance Corporation]. It is not insured like your money in a bank. You need to go into it with your eyes open. I do not believe there is someone to sue like the FDIC. The folks who manage these varying currencies have governing structures, have consensus mechanisms, and in the cases where there have been losses, that is the group that gets appealed to. You have a governing body that agrees on the rules and how we are going to move forward, and that is the group you have recourse with.

Chair Neal:

If it is a self-governance structure and there is consensus, meaning all agree, all eyes are wide open, you are assuming there is no discontent and there will be no one challenging that what was transferred was transferred accurately, was transferred with the correct value, because

everyone is supposed to read the crypto that comes over. Are there any legal cases where people have had to figure out what their protections are, open a suit, or are we just not there yet in terms of the process? You are saying it is a tool that should be in the tool kit. I am trying to figure out how the tool works—the legal ramifications and consumer protections around it. Even the sophisticated buyer still deserves protection, yes?

Elisa Cafferata:

This is a technical kind of a financial instrument. I am not a financial planner, investment planner, nor do I have any certificates in that area. I would not attempt to get into investing in futures or arbitrage or any of those things because I do not understand them and I would not invest in them. I would say if I started investing in those things, it would be incumbent upon me to get an education in those instruments before I start investing. I would say the same of virtual currency. It is incumbent upon someone who is investing to become educated before they invest. There have been lawsuits. I am hoping Mr. Digesti will come to the table to talk about some of the history there. This bill does not cover all of that waterfront.

Matthew Digesti:

I would like to give the Committee an overview of the regulatory framework in this space. This is a new and emerging technology. The federal government is paying very close attention and I think is doing a pretty good job of catching up with where we are. The SEC is very active with any digital asset they believe is a security. They do that through the SEC Acts of 1933 and 1934. They heavily regulate digital securities, and also the exchange of those digital securities through the SEC 1934 Act. They also have jurisdiction over broker-dealers, so any companies or persons in the United States who try to sell anybody in the public an actual security, they are subject to broker-dealer licensing and all the regulations that go along with that. In my opinion the SEC has done a really good job, up to today, to catch up to where we are. It took some time. They needed to get their hands around it to understand it, but they are very active in this space.

The next is FinCEN [Financial Crimes Enforcement Network], which some of you might be familiar with. It is a division of the United States Department of the Treasury. They are charged with analyzing data and financial transactions from all over the world, to ensure that anti-money laundering and terrorism financing activity is identified and prosecuted. Any virtual currency that is exchanged, that they believe had money laundering or terrorism financing concerns, they have jurisdiction over that, to prosecute criminally through the Justice Department, which they have been doing.

The third is the Commodity Futures Trading Commission (CFTC). The CFTC has jurisdiction over commodities and futures trading, through enabling legislation, and they have come out and said that Bitcoin, in their view, is actually a commodity. From my understanding they are also monitoring ether from the Ethereum network. Any time Bitcoin or ether is exchanged on the spot market, the CFTC is reviewing any criminal activity there and bringing enforcement actions to ensure there is no bad actor activity.

The next level we have, at the state level, is money transmitter licensing (MTL). Our NRS Chapter 671 is an example of how that works in Nevada. I believe there are about 39 states that have money transmission licensing laws, where if you transmit money between two parties, or if you help facilitate that transaction, you have to be licensed as a money transmitter. Not every state has come out and said virtual currency falls under our money transmitter licensing. Quite a few have. It is a gray area in some states. Our state provided some guidance in 2014 with our regulator that virtual currency probably falls under their money transmission licensing scheme. The MTL framework is really focused on consumer protection. The federal framework is about anti-money laundering and terrorism financing at the state level and is very focused on consumer protection, including our regulators here in the state.

The last is for those individuals who take custody of your digital assets. Those companies are largely governed at the state level, and, again, here in Nevada we have licensing requirements for any company that wants to take custody of your digital assets—very heavy on the licensing side and the consumer protection side. So if you want to do that on behalf of a resident of any state, you have to be licensed as a qualified custodian in that state.

I believe regulators at the federal level are doing a really good job to catch up and bring enforcement actions. You see a lot of stuff from the SEC on the criminal side, enforcement actions being sought, lawsuits being filed, and I think the states are also doing a good job of catching up.

Chair Neal:

I appreciate the dialogue.

Tyson K. Falk, representing Figure Technologies, Inc.:

Ditto. I think they covered everything extensively. Figure Technologies is one of those companies that looked to this legislation in 2017 [S.B. 398 of the 79th Session] when they passed it. Figure Technologies made the decision to move from the Bay Area, locate in Reno in a downtown office space, and are looking to hire a sizable workforce in the coming years. This is just the next step in that direction to signal to the venture world, or investment world, that this is a place to do business.

Chair Neal:

Is there anyone else who wishes to testify in support of S.B. 164 (R1)? [[There was no one.] Is there anyone who wishes to testify in opposition to S.B. 164 (R1)? [There was no one.] Is there anyone who wishes to testify neutral on S.B. 164 (R1)? [There was no one.] Senator Kieckhefer, do you have any final comments?

Senator Kieckhefer:

I appreciate your time and am happy to answer any future questions you may have.

Chair Neal:

I appreciate the dialogue. I will close the hearing on S.B. 164 (R1) and open the hearing on Senate Bill 410.

Senate Bill 410: Revises provisions relating to incentives for economic development. (BDR 32-881)

Senator Ben Kieckhefer, Senate District No. 16:

I am happy to present Senate Bill 410 to you today, which deals with a very different concept within economic development. The bill you just heard, Senate Bill 164 (1st Reprint), was in an effort to think of economic development very organically—by having companies look to Nevada based on our statutes and our laws. Senate Bill 410 relates to direct incentives and efforts we have made to attract companies and efforts that were done during different times in our economic lifecycle.

Senate Bill 410 in its most raw form repeals a section of statute—*Nevada Revised Statutes* (NRS) 360.891—which allows for the provision of transferable tax credits of up to \$38 million for a qualified project that meets certain threshold standards, and those thresholds are primarily \$1 billion worth of economic investment made in this state.

This was statute that was put in place during the 29th Special Session of the Legislature—called to approve an economic development project that unfortunately never materialized [Faraday]. The statute, however, was permanent, was in session law [Senate Bill 1 of the 29th Special Session], so that \$38 million of transferable tax credit liability remains on Nevada's books and could be issued by the Office of Economic Development, Office of the Governor (GOED) upon approval of a project with no additional input from the Legislature.

What S.B. 410 requests is the extraction of that from our statutes, with an understanding that if GOED were to identify a \$1 billion project that still meets those standards, they could come back to the Legislature and request authority for transferable tax credits to this amount. It is my opinion that having this type of liability on the books, with no additional oversight or review of the Legislature, is no longer appropriate. We approved it with a specific project in mind, and if another project comes forward that GOED thinks they can justify to the Legislature, they should come back and do so.

Chair Neal:

Have you had any conversations with GOED around any projects that may have been considered?

Senator Kieckhefer:

These were the tax credits that were made available for the Faraday project. I know there are continuing efforts by GOED, the City of North Las Vegas, the Las Vegas Global Economic Alliance (LVGEA), and others to attract large-scale investment in a variety of fashions. One of them would be this tool that remains available to them. As you well know, however, the nature of economic development often leads to a lot of nondisclosure agreements. I have

not been privy to any discussions about specific projects that could be placed either at Apex [Apex Industrial Park] or any other industrial park in the state using these credits. Hopefully, I have made it clear to those I have had these discussions with that I stand open to any conversations they want to have about the timing of these removals. I do not know of any specific projects that have been looking at the parks.

Chair Neal:

Seeing no questions from the Committee members, I will move to anyone who wishes to testify in support of S.B. 410. [There was no one.] I will move to those who wish to testify in opposition to S.B. 410. Please come to the table.

Gina Gavan, Chief Innovation Officer and Director of Economic Development, City of North Las Vegas:

We have had some great conversations with Senator Kieckhefer and the sponsors of this bill. As an economic development tool—for a city that has been growing its way out of a budget deficit and finding its way back into jobs, back into creating pathways for education—having economic development tools in our recruitment efforts is very critical. In the 29th Special Session for Faraday [S.B. 1 of the 29th Special Session], it was actually not created for just one company. It was created as an economic development tool for like companies that had a qualified project that met the threshold of \$1 billion or more over ten years. That threshold was for those companies that would meet that. Faraday did not materialize and we were all very disappointed in that. What we have been able to see for the benefits that passed in the 29th Special Session is we now have a 700-acre, pad-ready site. The cost of doing business for that company—Faraday—was a little over \$50 million. That was grading the site, engineering, design fees, and leased office space in North Las Vegas. There were operations. There was a benefit. There was a positive ripple effect for that company, and we were able to capture that cost. In the last two years we have had two companies, both solar manufacturing, look at Apex. They wanted to go out there. Apex was not quite ready with the water. Now we are in the first phase of water.

One company would have had 3,500 employees. It would have been an investment of \$2.5 billion. The second company would have had about 1,500 employees, and it would have been about \$1.5 billion in capital investment.

Apex now has a pad-ready site and can be competitive across the country. We have the first phase of the water line. We have 7,700 feet of pipe in the ground. We have an investment of \$4 million in an elevated water tank in the north. The Nevada Department of Transportation has invested in a new interchange and expansion of U.S. 93 for \$58 million. We have assets out there and do not want to leave them stranded without the opportunity to continue in an aggressive way to be competitive across the country. We would like to be able to have some consideration about how we could continue to work with the bill sponsors and come up with some opportunities so we can still continue to move forward and transform North Las Vegas.

Chair Neal:

Have you had any recent conversations with GOED?

Gina Gavan:

Yes.

Chair Neal:

Around which companies?

Gina Gavan:

We work with GOED and LVGEA on a daily basis.

Chair Neal:

If the authority in this bill were to continue, what would you do with it? Let us say either the \$38 million stayed on the books, or it was changed.

Gina Gavan:

We would continue to be able to use these tools. It becomes a competitive conversation out in the marketplace, so we would use them in our attraction. We currently have six requests for proposals. All of these would be heavy industrial companies that would make sense for Apex. Being able to use this tool as leverage, whether they are going to aggregate to meet that threshold of \$1 billion or not over ten years, it still puts out to the site selectors and other real estate professionals across the country that we are open for business and Nevada is competitive. Sometimes there are stepdowns to what we go out as the top leader. Being able to continue to use these abatements allows us to have a seat at the table.

Chair Neal:

Are there any questions from Committee members? [There were none.] Is there anyone else who wishes to testify in opposition to S.B. 410? [There was no one.] Is there anyone who wishes to testify as neutral on S.B. 410?

Derek Armstrong, Deputy Director, Southern Nevada, Office of Economic Development, Office of the Governor:

We are signed in as neutral today on S.B. 410. We definitely understand the policy decisions made by the bill sponsor in ensuring the public dollars are used for the best use, and if there is a project of that size, the concern that we could come back to the Legislature for that. We also recognize a lot of the challenges that are associated with that, specifically as North Las Vegas presented. They have that pad-ready site that recently came to the market, so there is an issue with this coming off the books so abruptly without giving them a final chance to find a deal that makes sense for North Las Vegas and the state to create a lot of those high-paying jobs. If a project is over \$1 billion, it does not automatically qualify for those \$38 million in transferable tax credits. There is a maximum amount per job created, so we would have some requirements of creating a certain number of jobs that are associated with that. We will definitely be working with the bill sponsor as we move forward to ensure that the best policy takes place.

Chair Neal:

Let us say the authority stays on the books. It is general law now. I know you see the trend shifting away from these \$1 billion projects. We have had enough. What are your thoughts on moving into a space of more moderate projects—projects that maybe break up the \$38 million tax abatements—that allow some other kinds of flexibility, high wages, and different criteria?

Derek Armstrong:

We have had one project that qualified for the \$3.5 billion package, which is not this statute, and we had one project that qualified—Faraday—that ultimately did not come to fruition. We have not had a project actually develop based off of this statute. How do I feel about changing the criteria for the higher-paying jobs? I would definitely be supportive to ensure we are creating high-quality, high-paying jobs that are helping improve the quality of life for Nevadans. I think that is a wise discussion to have, to ensure we are strategically presenting the right projects for this.

One area I have had a lot of thoughts about is we do not have any provisions that talk about the types of projects for this. In 2015 the Legislature specifically created a data center tax abatement [Senate Bill 170 of the 78th Session]. We know data centers have a lot of capital investment, but we did not exclude them from this package. There is a difference between data centers and this package and that is the possibility of abating real property tax. Knowing there is an opportunity for a data center, which has a large capital investment that could qualify for this, instead of that lane I think there are several different avenues we could take for this statute to ensure that it is reaching the strategic goals of the Legislature and the state.

Chair Neal:

Members, do you have any questions for Mr. Armstrong? [There were none.] I appreciate your dialogue. Maybe we will continue to have more conversation. I happily signed on to this bill as a joint sponsor—I wanted to get rid of this. Maybe there is another conversation I will have with Senator Kieckhefer.

Is there anyone else who wishes to testify in neutral on S.B. 410? [There was no one.] Senator Kieckhefer, could you come back up for closing remarks? Are you open to giving them until 2026, breaking up the abatements for more moderate smaller projects, different thresholds?

Senator Kieckhefer:

I appreciate this because it is an important conversation. To be clear, I supported these when we put them into statute. I think we have seen the power of a transformative project and what it can do for an entire area. We have seen it through the Tesla project and the power of that to attract additional business to a region. I thought the Faraday project was going to be that for Apex and North Las Vegas, an area that desperately needed it at the time, and still does.

I am not anti-economic development, but I think all economic development programs need to be evaluated based on the facts on the ground as they exist at the time. This was passed four years ago and conditions have changed—in our economy, national economy, what might be coming, things like that. I will note that these do already expire in 2025, so there is a natural expiration of these credits if they do not get used over the next six years.

I am open to any discussion I think strategically deploys the power of the state to incentivize the types of companies we want, at the wages we want. My door is open.

Chair Neal:

I would like to talk offline about strategically deploying and ensuring we see the economic power Tesla had, and trying to figure out if this bill is the vehicle to allow that to happen. The credits have not been triggered, so we are not going to affect the budget—they are just on the books.

Senator Kieckhefer:

They are not on the balance sheets.

Chair Neal:

Changing the structure so we can get the type of project, or multiple projects, that serve the greater need of economic development would be a worthy discussion. The City of North Las Vegas made a compelling argument that has shifted my viewpoint. I will close the hearing on S.B. 410. Is there anyone here or in Las Vegas for public comment? [There was no one.] We are adjourned [at 5:20 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblywoman Dina Neal, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a letter dated April 30, 2019, written and submitted by Matthew Digesti, Vice President of Government Affairs and Strategic Initiatives, Blockchains, LLC, in support of Senate Bill 164 (1st Reprint).