

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

**Eightieth Session  
March 26, 2019**

The Committee on Taxation was called to order by Chair Dina Neal at 4:05 p.m. on Tuesday, March 26, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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](http://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:**

None

**STAFF MEMBERS PRESENT:**

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

Minutes ID: 701



**OTHERS PRESENT:**

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities  
Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson  
Alisa D. Nave-Worth, representing Nevada Dispensary Association  
Riana Durrett, Executive Director, Nevada Dispensary Association  
Melanie Young, Executive Director, Department of Taxation  
Alex Ortiz, Assistant Director, Department of Administrative Services, Clark County  
Lisa Logsdon, Deputy District Attorney, Office of the Clark County District Attorney  
Mary C. Walker, representing Carson City  
Dagny Stapleton, Executive Director, Nevada Association of Counties  
Shani J. Coleman, Deputy Director, Office of Administrative Services, City of Las Vegas

**Chair Neal:**

[Roll was taken and Committee rules and protocol were reviewed.] We have two bills to be heard today in this Committee. I want to warn Committee members, as we move towards first house passage, bring a snack. We will be here past 7 p.m., maybe even a little later. I am expecting full participation on all the bills that move through this Committee. I will open the hearing on Assembly Bill 3.

**Assembly Bill 3: Authorizes the Department of Taxation to issue additional licenses for retail marijuana stores and certificates for medical marijuana dispensaries upon the request of a city. (BDR 40-431)**

**Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:**

It is a pleasure to appear before you today and present Assembly Bill 3. The purpose of the bill is straightforward. This measure would allow the Department of Taxation to issue licenses for medical marijuana dispensaries or marijuana retail stores that exceed the limits currently in place in Chapter 453A of *Nevada Revised Statutes* (NRS) for medical marijuana and Chapter 453D of NRS for adult use.

Question 2, the ballot initiative that legalized adult use marijuana [Regulation and Taxation of Marijuana Act on November 8, 2016], which has now been codified as Chapter 453D of NRS, contained a provision that allocated the number of retail stores that could be licensed by county based on population [NRS 453D.210]. The initiative also contained a provision that additional licenses could be issued by the Department of Taxation at the request of a county commission. This bill would allow the Department of Taxation to issue additional licenses at the request of the governing body of an incorporated city. We do not believe that the governing body of an incorporated city should have to ask a county commission to let the Department of Taxation know that it is okay to issue the additional licenses. Under Nevada's system of government, cities and counties are equal branches of government and should have the same authorities when charged with providing the same services, in this case the regulation of marijuana businesses located within a political subdivision.

As a practical matter, during the last round of retail licenses being issued by the Department of Taxation, one of our cities had two marijuana businesses that wanted to open a retail store. The applications were turned down because the number of licenses allocated to that county had been met. This provision would have allowed the city to request that the Department of Taxation issue a license.

We are requesting a similar change to Chapter 453A of NRS to allow for additional medical marijuana dispensary licenses. Some of our members have adopted ordinances or regulations that require the holder of an adult use marijuana store license to also offer medical marijuana products to medical marijuana patients. The number of medical marijuana dispensary licenses allowable under Chapter 453A of NRS is half the number of retail store licenses allowable in Chapter 453D of NRS, so this provision is needed to ensure that co-located medical and retail dispensaries can obtain the required licenses. That is the end of my prepared statement. I am happy to answer to any questions.

**Chair Neal:**

Could you go through the provisions in the bill and explain it for the members of the Committee?

**Wes Henderson:**

Section 1, subsection 2, paragraph (c), adds to Chapter 453A of NRS: "May, upon the request of the governing body of an incorporated city and in addition to any medical marijuana establishment registration certificates required to be issued pursuant to subsection 1, issue one or more medical marijuana establishment registration certificates for the operation of a medical marijuana dispensary located within the incorporated city." As I said earlier, that section is in the bill so if a city requires a co-location of retail and medical, there are medical licenses available.

On page 5 of the bill, line 27, "Except as otherwise provided in subsection 6," that is the existing language in statute that allocates the number of retail licenses per county. You can see in section 3, subsection 5, paragraph (d), subparagraphs (1) through (4), there are 80 in a county of 700,000 or more population; 20 in a county between 100,000 and 700,000; 4 in a county with a population of less than 100,000 but more than 55,000; and 2 in all other counties. It strikes out the language in subparagraph (5) which dealt with the county government and added it into section 3, subsection 6: "Notwithstanding the provisions of paragraph (d) of subsection 5, the Department may, upon the request of the governing body of a county or an incorporated city and in addition to any license applications required to be approved pursuant to paragraph (d) of subsection 5, issue one or more licenses for the operation of a retail marijuana store located within the county or the incorporated city, as applicable." That is the provision that would have allowed the city to have the two applicants this year to apply for and hopefully get a license issued to a marijuana business to open a dispensary in their city.

**Chair Neal:**

If we go back to section 3, subsection 5, paragraph (d), where you are saying, "Except as otherwise provided in subsection 6," where the licenses are listed, are you still going to be under that limit?

**Wes Henderson:**

The answer is yes and no. The limits will still stay in statute—80, 20, 4, and 2. This would expand the existing ability to exceed those licenses. In statute there is a path where those caps can be exceeded at the request of the county commission. We are seeking to add language that would give that same exemption to the governing body of an incorporated city.

**Chair Neal:**

The expansion to exceed will then allow you to go to unlimited licenses for their boundaries?

**Wes Henderson:**

It would be on a case-by-case basis. The governing body of the incorporated city would have to request to the Department of Taxation that they would welcome that marijuana business in the city.

**Chair Neal:**

I am trying to set up the conversation. Members, do you have any questions on A.B. 3?

**Assemblyman Kramer:**

Some of the counties did not support the recreational marijuana and are not thrilled about having more shops opened. For those counties, would this be a work-around by going straight to the Department of Taxation to be able to open a store, even when there has been an effort from the county commissioners not to have any more stores?

**Wes Henderson:**

I do not think "work-around" is the way we look at it, but in a way, yes it would. In the example I gave about the city that could not get a license issued for the stores that had applied there, that particular county has put a moratorium on marijuana stores within the county; however, there is already at least one city in that county that has a marijuana retail store. To me it is no different than any other business that a county may not have but a city wants, and under the current system there are businesses in cities that the counties do not have in the unincorporated areas.

**Assemblyman Kramer:**

You do not mention anything about the Indian reservations that have stores. Are they exempt from this completely?

**Wes Henderson:**

That is correct. We have nothing to do with marijuana establishments on any reservations.

**Assemblywoman Swank:**

This may be more of a comment than a question, but it just makes me a little nervous with where I live and where a lot of my constituents reside. I feel like it is a bit of a game to have to go to the county for the city where I live and my district—right off the Las Vegas Strip. We have a lot of dispensaries in our neighborhood. I think having a few stops before you can bring in additional dispensaries is a good idea.

**Chair Neal:**

Although the League of Cities and Municipalities is presenting this bill, I am hoping you could answer this question, Mr. Henderson. If this bill were to pass, it would allow the cities of Henderson, North Las Vegas, and other cities to possibly have unlimited licenses as well. Is that correct?

**Wes Henderson:**

I do not think anyone wants unlimited licenses, but technically, yes, I suppose this would allow a city to request numerous licenses. I do not think any city is going to try to become the "pot haven" of Nevada. Each request would have to go in front of the city council and be voted on at a public meeting.

**Chair Neal:**

Members, do you have any additional questions? [There were none.] There were some concerns brought up. I know I shared with you my concerns. It is interesting that you use the language "pot haven." What I find concerning is the industry is moving in such a way—it is growing at a fast rate, it is growing at a rate where I think we need to put some ground rules in place. We need to figure out how they grow and how this industry is going to be seriously managed. I know people see the dollar signs piling up and their eyes get all glossy. They want some of that money. However, there should be a limit to how we grow and where we grow. Assemblyman Kramer brought up a very important point. If there are counties that did not want this, this would then allow a city to bring it to a space where the residents disagree with it. What do we do with that? What do we do when the constituents are saying no, and the city is saying yes? I know you are saying it should go to a vote, but sometimes politics override what a constituent wants.

**Wes Henderson:**

Under the Nevada system of government, counties and cities are equal. Cities are not subservient to the counties and vice versa. There are instances now where a county has voted not to authorize a license for a marijuana business in the unincorporated areas of the county, but an incorporated city located within that county has chosen to endorse a marijuana business. An example right now is Elko County. Elko County does not allow marijuana licenses in the unincorporated areas of the county, but the City of West Wendover does have a license in the incorporated West Wendover area.

**Chair Neal:**

I am not going to belabor the point. I know how I feel about it. I want some amendments to this bill. I said I would allow this hearing, but there need to be some amendments to this bill in order to get it to a place where I, as the Chair, feel comfortable.

**Assemblywoman Swank:**

In my district I have unincorporated Clark County, which has most of the Las Vegas Strip, and then I have the City of Las Vegas. I can see a little bit of an issue there, and correct me if I am wrong. Clark County could permit itself to exceed that limit but limit other jurisdictions within Clark County to exceed their limit. How can that work as far as competing interests?

**Wes Henderson:**

That is actually a great example. Under existing statute there are 80 licenses allowed for retail marijuana stores in Clark County. I do not know how they are divided—some in the incorporated areas of the county and some within the cities. Once that limit of 80 is reached, if Clark County wanted to have more licenses issued, they have a way to go to the Department of Taxation and ask that additional licenses be issued. The City of Henderson and the City of Las Vegas, right across the street, do not have that same avenue available to them.

**Chair Neal:**

I will now call those individuals in support of A.B. 3 to the table.

**Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson:**

We want to thank the League of Cities and Municipalities for bringing this bill forward and the Committee for hearing it. We are open to reading any amendments the Chair comes up with. We are specifically supportive of section 1, subsection 2, paragraph (c), on the medical side of things. The reason we are supportive of this and being able to add medical licenses is that currently in the Henderson municipal code we require co-location of a medical facility, a medical dispensary, and a retail location for recreational sales. In the last iteration of licenses that were distributed to cities and counties, we were actually given six additional retail licenses. But there is a cap in state law for the medical licenses. Under our current code we could not move forward and have a co-located facility at this time. Even though we have a list of potential certificate holders for Henderson for recreational, we cannot move forward because of the medical side at this time.

**Assemblywoman Spiegel:**

Is that ordinance something the City of Henderson could change if it wanted to?

**Mike Cathcart:**

Yes. The city council can change the Henderson municipal code and they could in the future. We could move to something like a dual license type—where we license them both under one roof. That would be ideal at some point in the future, then we just have a marijuana establishment.

**Assemblywoman Spiegel:**

I have not checked lately, but I remember when the maps originally came out it seemed like the majority of the dispensaries were in my Assembly district—in my tiny little part of the city. Are there things in the municipal code that would require there to be a disbursement of the establishments and dispensaries throughout the city in an equal distribution? My concern is, if this bill were to go forward as it is, my neighborhood could become nonstop dispensaries.

**Mike Cathcart:**

I think our city council has the same concerns as you. We do not want multiple marijuana facilities next door to each other. Currently we have five facilities open in the city. Three of them are on the Eastern Avenue corridor and two are in other parts of the city. Having additional licenses may be a way for us to get more coverage, especially in the medical program. I know that was one concern we had. We had no applicants on the east side of town during the initial application period. We have been approached by some folks who would like to look at the east side of town eventually, but at this time even for a medical dispensary, we would not be able to move forward. We do have distance separations of one mile between dispensaries, but there is no map that says so many have to be in each part of the city.

**Chair Neal:**

Members, do you have any additional questions? [There were none.] You keep talking about the co-location piece of this, but there was not a discussion around trying to change the co-location requirement which is statutory. That was not in the ballot question. When you look at the numbers, medical is not selling at the same amount as recreational. Why was there not an effort to try to change the co-location requirement?

**Mike Cathcart:**

The co-location requirement is in our Henderson municipal code. It can be changed by the Henderson City Council. Whether they choose to do that in the future, that is not for me to speculate on. The reason they moved forward with the co-location to begin with is they wanted to ensure the community benefits of the medical program stayed because it was starting to become evident that some of the sales were dropping. There are still patients who use those facilities with their medical marijuana cards, and we wanted to ensure that continued in the City of Henderson. We would have to see it go completely to only a recreational facility.

**Chair Neal:**

I am not suggesting that; I am saying for the future licenses you are trying to receive. Is there anyone else to speak in support of A.B. 3? If you are, come to the table. We are going to move to those opposed to A.B. 3. When we move to neutral, I will call the Department of Taxation to the table, as I have questions.

**Alisa D. Nave-Worth, representing Nevada Dispensary Association:**

The Nevada Dispensary Association considers cities our partners, and we reach out to regulators and law enforcement on a regular basis. However, in light of the governor's call for the Cannabis Compliance Board to provide consistent statewide regulation, and the fact that dispensary licenses are set to double following the final implementation of Question 2, we believe we should wait, especially in regards to the second issue, until those dispensaries are fully developed and the new market has matured before considering increasing the number of dispensary licenses.

Accordingly, the Nevada Dispensary Association opposes the bill in its current form. We want to thank Chair Neal for her open-door policy and her willingness to discuss this matter with us on an ongoing basis.

**Assemblyman Kramer:**

You are saying they should wait. You mentioned the full development of Question 2. I am not sure what it is that we would be waiting for. What would be the trigger where you would say it has been a long enough time period?

**Alisa Nave-Worth:**

We know there are going to be twice the number of licenses that will be available once the issues have worked out as a whole. The question is what the market can bear across Nevada and across the municipalities. There is an underlying presumption that the market is demanding and more than doubling of the cannabis will create additional revenue. But one of the things we are concerned about is that overflowing the market does not necessarily mean more quality revenue for municipalities. We think it would be more prudent not to allow an uncapped proliferation of dispensaries at this time, and weigh the consequences as the market develops over the next two years.

**Assemblyman Kramer:**

It sounds like you are saying do not allow more dispensaries until you have allowed more dispensaries. I do not see what the trigger is. You are saying there will be a doubling, so do not do this first. I do not see what would allow this.

**Alisa Nave-Worth:**

Section 3, subsection 6, allows for an uncapped number of licenses in the municipalities. We think that is premature given we are about to see a number of licenses come online and dispensaries open, and we would like to see the market work its way out in that situation before we give the authority to the municipalities across Nevada to open as many dispensaries as possible.



**Assemblywoman Backus:**

I am also trying to understand the doubling. Right now with the medical facilities we have, are there any that stand on their own, or are they combined with the recreational facilities?

**Alisa Nave-Worth:**

I would like Riana Durrett to address that technical question. She is the Executive Director of the Nevada Dispensary Association.

**Riana Durrett, Executive Director, Nevada Dispensary Association:**

There may be one independent medical marijuana dispensary in the state.

**Assemblywoman Backus:**

In light of that, does the Nevada Dispensary Association have a problem with the medical licenses being increased if they are overlapping with the recreational? Is that an issue? I understand the floodgates, but right now I think the county has the ability to go to the Department of Taxation to increase the licenses as written in current statute. I am trying to figure out where the heartburn is, if it is just not wanting unlimited licenses available for recreation; if that is going to increase in the future; or if the increase in the medical could potentially cause more of an increase—if you understand what I am asking.

**Riana Durrett:**

The problem would be with raising the caps on current licenses because there is currently a specific number. In regard to medical specifically, there are only 17,000 patients in the entire state. When we first started the medical program, there was a projection that there would be 100,000 in Nevada based on looking at other states and how many patients they had. We peaked at about 26,000 to 27,000 patients. We now have about 17,000 patients. The Nevada Dispensary Association is very supportive of anything we can do to support that program. We worked with former Assemblyman Nelson Araujo last session to do everything we could envision to protect the medical program. But right now there is not a demand for more medical dispensary licenses because of that.

**Assemblywoman Backus:**

This is more of a statement than a question. It seems as if the increase of medical would allow the recreation facilities to offer that, if they are doing co-licenses like the requirement in Henderson, that it is not going to create an overgrowth of the industry.

**Assemblywoman Cohen:**

So now that you are in the hot seat, it has been a couple of weeks since the audit ([Exhibit C](#)) came out. Can you tell us what the Nevada Dispensary Association is doing to improve the problems that the audit showed?

**Riana Durrett:**

There were a couple of issues in the audit that looked like maybe the industry could help improve. Off the top of my head, one of those would be to provide more inventory control training. I spoke with leadership in the Assembly about this and we have requested that

METRC [Marijuana Enforcement Tracking Reporting and Compliance] make themselves available to work with us to provide training. The Nevada Dispensary Association was established to develop and promote best practices. We have done a great job of that, offering a wide spectrum of training from financial compliance, testing compliance, packaging and labeling compliance, and advertising compliance. We even had a class on commercial weighing device compliance. One area we have not been able to offer substantial training in is inventory compliance because we have not been able to get METRC to offer those classes with us. We think that is necessary. We have also requested a demo account, so we would resubmit those requests.

There was another issue on monthly sales reports being filed. I have reached out to members and have received responses from at least 90 percent of them. Most of them said they started doing this when the listserv came out in January. You may remember that the Department of Taxation sent out a listserv just this January saying these monthly reports are required. Apparently there was a lot of confusion as to whether that was required. We have already stepped in to say, What is going on with these? Are you filing these? And the overwhelming response is, Yes. We started as soon as that listserv came out.

Something we are actively involved in is ensuring there is compliance in recording sales being made to medical patients. I have not confirmed this, but we believe a lot of the sales in that report were indicated that they could have been medical products sold to adult use customers. I believe those could have been sold to medical patients and it just was not properly documented. There is already legislation that would aim to ensure that dispensaries are properly documenting when a sale is made to a medical patient.

**Chair Neal:**

Are there any additional questions from the Committee members? [There were none.] Just a quick follow-up around what you were saying to Assemblywoman Cohen about the process and ensuring what is sold to medical patients. I was not clear on that. Could you repeat that?

**Riana Durrett:**

I have not asked the authors of the report, but I think it is possible—and they could confirm either way—that the issue they identified with medical products being sold to adult use customers may not be that medical products were sold to adult use customers. If you have a 500 mg chocolate bar, that cannot be sold to an adult use customer. That can only be sold to a medical marijuana patient. I believe there is a possibility the records showed it was sold to an adult use customer because it was not properly designated as a sale to a medical marijuana patient. It may have been sold to a medical marijuana patient, but it just was not properly documented. I would have to ask the authors of the report if that is a possibility.

**Chair Neal:**

As the Chair of the Assembly Committee on Taxation, Assemblywoman Cohen and I sat in on the audit and we listened to the recommendations. There was more than one chocolate bar sold at 500 mg to a recreational user [page 15, ([Exhibit C](#))]. You are saying it is a documentation issue. How do you account for the other chocolate bars that were sold, that

were 500 mg, in the recommendation that was discussed? There were 13 recommendations that came from the audit. I do not know if you want to go down this rabbit hole or not, but you opened it up. Assemblywoman Cohen and I literally sat through the whole audit in the audience. When you say things I know I heard Mr. Cooper explain, and then the Committee asked round and round different questions, I never heard the explanation that it was potentially documented the wrong way.

**Alisa Nave-Worth:**

The Nevada Dispensary Association, just like this Committee and this contemplative body, is still trying to digest the results of the audit. They are actively working to understand where the deficiencies in the system are and how the Nevada Dispensary Association, which is an outside association, can intervene to bring compliance in to do the work of the state. They are very respectful of the process. On page 25 of the audit [page 29, ([Exhibit C](#))] there is discussion where lab reports indicated the materials were actually medical grade marijuana materials that did not match up in the way they were coded. We are trying to go through that. Rather than focus on whether we fully agree with the outcome of the audit or the numbers of the audit, what we are trying to do in the meantime is proactively develop and implement strategies to the extent that we can, as an association, to provide necessary education and facilitate education so we can bring members into compliance with the state, whether that be through additional METRC training or other issues.

**Chair Neal:**

Are there any additional questions from the Committee? [There were none.] Is there anyone else who would like to speak in opposition to A.B. 3? [There was no one.] We will take neutral testimony after we hear from the Department of Taxation.

I want to open a conversation with you around A.B. 3, in terms of implementation of this, and the additional licenses, because there seems to be a debate on whether it is limited or not knowing what the potential number could be. What do you see as some of the administrative issues? Would you be able to deal with this bill administratively, knowing that the audit came down, knowing that there are some things internally that need to be fixed?

**Melanie Young, Executive Director, Department of Taxation:**

We would need some administrative support for this because we do not have any dedicated license approval staff, meaning the application process. We typically have to hire out for manpower to do that and bring in contracted employees. It is an owner's process and it is a time-sensitive process. Doing this, and opening it up from the city, we would have to open it competitively. Not having staff to be able to do that and manage that would be a burden for the Department of Taxation. For enforcement on the increased licensing, based on the workload statistics we have for the number of investigators, auditors, and inspectors, that would have to be looked at as well—depending on how many requests we did get.

**Chair Neal:**

If this bill moves, knowing the audit, how long will it take for your department to work with the industry to potentially get some enforcement mechanisms together? I do not know the low-hanging fruit that was in the audit, in regard to trying to ensure the industry is growing in such a way that everyone is clear on how it is going to work, with proper documentation, et cetera. Do you see that happening sooner rather than later?

**Melanie Young:**

We are working on our corrective action plan on that audit right now. Based on the due date for the internal audit to the Office of Finance within the Office of the Governor, we have six months to perfect that plan.

**Assemblywoman Swank:**

If a county came to you with a request for additional licenses, what is the process you go through?

**Melanie Young:**

We have not had that happen yet. We would have to again go back and announce an application period based on the county coming forward, how many licenses they are interested in, and do an application process as we have in the past.

**Assemblyman Kramer:**

For the record, we talked a little bit about the audit, about how some items were counted as recreational instead of medical when they were medical-type items. What is the tax differential between recreational products and medical marijuana products?

**Melanie Young:**

A medical product would not pay the 10 percent retail tax, as a retail customer would, on those products, but they both pay sales tax.

**Chair Neal:**

I know I brought you to the table so we could ask questions, but were you signed in at all to speak about the bill, or were you just in the audience in case we needed to call on you?

**Melanie Young:**

I was in the audience in case you needed me.

**Chair Neal:**

I appreciate that. Thank you for coming to the table and answering our questions. We do not have any additional questions. Is there anyone signed in as neutral on the bill? [There was no one.] I would like Mr. Henderson to give his closing comments.

**Wes Henderson:**

I cannot see a city going out and actively trying to recruit a business—maybe occasionally if there is not one in the city. This is set up so if a business wants to establish a marijuana business within an incorporated city, that would be a business decision on their part.

They would have to think they could make money at it, and then they would have to go to the city council to get approval. This just creates an option so if the licenses for that particular county have all been used at that time, there is a way that the city council can request the Department of Taxation to issue the marijuana business license, not the city. The city is not going to be running the marijuana business.

I do not think any city council wants a high concentration of marijuana businesses within any incorporated city; nor would they allow it. This would just be to get marijuana businesses where they currently do not have licenses—if a business wants to come there and if the city wants them there. It would have to be a mutual agreement. We will be happy to work with you on your amendments to the bill. We stand ready to help.

**Chair Neal:**

Thank you. [([Exhibit D](#))] was submitted but not discussed and is included as an exhibit for the meeting.] I will close the hearing on A.B. 3 and open the hearing on Assembly Bill 79.

**Assembly Bill 79: Revises provisions governing the collection of delinquent property taxes. (BDR 32-490)**

**Alex Ortiz, Assistant Director, Department of Administrative Services, Clark County:**

In Las Vegas today is Clark County Deputy District Attorney Lisa Logsdon, who will provide some technical assistance for me, and with your indulgence, provide testimony after I speak with responses to some of the questions I was asked during the briefings I had with each of you.

Clark County is proposing enabling and permissive legislation to the delinquent tax sale process in Chapter 361 of *Nevada Revised Statutes* (NRS) in order to address abandoned and vacant properties in our state so they do not become nuisance or squatter problems in our respective neighborhoods. This legislation allows the county treasurers in the state flexibility in collecting taxes for properties that have been abandoned by the property owners and are falling into a state of disrepair and therefore accruing additional fines, such as nuisance abatements, sewer and water liens—such that can cause the liens on the property to be more than the property is worth—thereby, making it difficult for the counties to sell the property at a tax sale. This bill proposes to shorten the redemption period—the period of time in which a property owner can pay the back taxes to prevent the property from being sold at auction—from three years to two years for properties that meet the definition of abandoned in the bill.

Currently, a property must be delinquent for three years before the property is eligible for the county treasurer to sell the property at a public auction. The proposed change in Assembly Bill 79 reduces it to two years of delinquent taxes before the property could be sold, if the property is deemed abandoned. If the county treasurer elects to use this expedited process, the county treasurer must first have a reasonable belief that a property with delinquent taxes is abandoned. This is determined, for example, by returned mail or various

complaints about the property received by the municipality. Upon that belief, the county treasurer or designee—for Clark County we may use our code enforcement division—will inspect the property to determine whether the abandonment criteria in section 1, subsection 6, of this bill is met. If after that inspection the county treasurer determines the property is abandoned, notice is given to the owner by certified and first-class mail, and the same notice is published in the newspaper, on our Internet website, and posted on the property.

The property owner then has 30 days to dispute the abandoned determination. If the property owner fails to respond to the notice, the property is determined to be abandoned. The county treasurer then submits an affidavit to the clerk of the board of county commissioners setting forth the facts that support the abandoned determination. Thereafter, a tax certificate is issued authorizing the county treasurer to hold the property, subject to the redemption, for one year if the property is deemed abandoned.

Section 1, subsection 6, lists the set of criteria that is used to determine a property is deemed abandoned. This criteria is similar to the language in NRS 107.0795, subsection 1, paragraph (b), subparagraphs (3) and (7), that allows mortgage companies to foreclose quicker on abandoned residential properties.

As you may remember, NRS 107.0795 was passed during the 2013 Session [Senate Bill 278 of the 77th Session]. Once a property is deemed abandoned, the applicable notices have been given, and the property is eligible for sale—which requires a board of county commissioners' approval—the property is auctioned.

Section 5 of the bill shortens the notice provided of the upcoming auction from 90 days before the sale for nonabandoned properties to 30 days before the sale for abandoned properties. Again, this expedited process will allow the county treasurers the flexibility to auction these properties faster and get the properties rehabilitated by the current owner by engaging with the county to pay the back taxes, or the new owners.

The rest of the bill makes conforming changes to reflect the difference between properties deemed abandoned, in accordance with section 1, and all other properties. The same process and notices are required for both types of properties with the only two differences being the shorter redemption period and shorter notice of the proposed auction. Finally, this bill becomes effective on July 1, 2019.

While several states have an accelerated process for bank foreclosures similar to the process adopted by S.B. 278 of the 77th Session [NRS 107.0795], a few states also have an accelerated process for tax sales when the property is deemed abandoned. In addition, Assembly Bill 249, which is being considered this session, provides enabling legislation for the creation of government and/or nongovernment land banks for the purpose of facilitating the return of vacant, abandoned, and tax-delinquent properties to productive use. Assembly Bill 79 would provide the local governments with the tools necessary to address these abandoned properties.

Thank you for your time and allowing us to present this important legislation that will enable our local governments, through their respective county treasurers, to expedite the enhancement or sale of these abandoned properties and help revitalize our communities. Would it be possible to have our Deputy District Attorney speak now?

**Chair Neal:**

Yes.

**Lisa Logsdon, Deputy District Attorney, Office of the Clark County District Attorney:**

I am with the Civil Division of the Clark County District Attorney's Office. I would like to try to answer some of the questions that have arisen from the Committee.

First, pursuant to NRS 361.450, taxes are a perpetual lien against the property that attached on July 1 and remain until the taxes are paid. Most taxpayers elect to pay their taxes in four equal installments—payable in August, October, January, and March. Once a taxpayer misses an installment payment, the Clark County Treasurer's Office mails a courtesy past due notice. After a 10-day grace period, if the installment payment is not paid, a penalty is then assessed [NRS 361.483].

In April, after all the taxes are supposed to be paid, the treasurer mails a Notice to Publish letter to the owner and to any holder of a recorded security interest, if the holder has requested in writing to receive this notice [NRS 361.5648]. This would allow a mortgage company or other person with a security interest in the property to contact the owner or pay the taxes to keep the property from potentially being eligible for a tax sale. During this time the county treasurer makes multiple efforts to contact the owner—they research any returned mail, they do Internet searches, check the Secretary of State website, check other government records such as the county recorder's office. If the taxes are still not paid by June, the county treasurer issues a tax certificate where the county holds the property in trust. At this point the owner has two years from the date of the June letter to redeem the property by paying all the accrued taxes, penalties, interest, and costs. This is what is called the redemption period. In the case of abandoned properties, we are seeking to reduce that redemption period from two years to one year.

Now remember, the next year's taxes are due again in August, so the taxpayer will continue to receive past due notices. But, if the taxes still are not paid 60 days before the expiration of the applicable redemption periods—either two years for non-abandoned properties or one year for abandoned properties—the county sends another notice that if you do not pay your taxes by the end of that redemption period, the property can be sold for nonpayment of taxes.

After the redemption periods have expired, the county treasurer seeks the permission of the board of county commissioners to auction off the property for the nonpayment of taxes. Upon that approval of the board of county commissioners, the county treasurer then mails a notice of sale. They mail that to all owners and all persons who appear in the records of the

county to have a lien or other interest in the property. This notice of sale is sent 90 days before the scheduled sale for nonabandoned properties, and, under the proposed bill, 30 days for abandoned properties. The owners or any interested parties still have until three days before that sale to pay the taxes. If the taxes are not paid, the property will be auctioned.

If there are excess proceeds from the sale, NRS 361.610 lays out the priority of how those claims are paid. The county is paid first, then any municipal sewer lien, mortgage companies, judgment creditors, the state if there is a Medicaid lien, HOA [homeowners' association] assessments, and lastly, the property owner.

Assembly Bill 79 makes three changes to the current delinquent tax process: It sets criteria to allow the county treasurer to determine when a property is abandoned; it shortens the redemption period from two years to one year; and it allows the county to provide a 30-day notice instead of a 90-day notice. This expedited process will allow the county the ability to address these properties that have been abandoned, but also provide the property owner with sufficient time and notice to pay their taxes. I am happy to answer any questions.

**Assemblyman Flores:**

How often, when we encounter some of these homes, is it a squatter problem—the owner passed away, it is somebody who lives out of state and they are investing in properties? Do we have any significant data so we can try to parse out what is leading the charge in some of these abandoned homes? It may be difficult to make that determination, but I was just curious.

**Alex Ortiz:**

We do not have that data. There are a lot of different reasons why homes or properties are abandoned, to include those you mentioned. That is not something we would track. It is unfortunate that those neighbors have to continue to call, whether it is law enforcement or us through the code enforcement division, to come out and address the issues that are happening in those abandoned properties.

**Assemblyman Flores:**

Do we have a number of how many homes we have per year that are deemed abandoned now?

**Alex Ortiz:**

We do not have an actual number of that on a per-year basis per se, but currently there are about 52 properties that are tax delinquent in property taxes and also could be declared as abandoned property if A.B. 79 were to pass.

**Assemblyman Flores:**

You highlighted an example that sometimes, because of the amount of liens on the properties, they are no longer worth what you could sell for because of the amount of those liens. Do we have a number of how normal that is—how many homes in the last five years



went up for sale but, because of the amount of debt that had been accrued through liens and all these other things, it did not even make sense to sell them anymore? Do you have any data on that?

**Alex Ortiz:**

We do not track data on that either. I think it is very unfortunate when that is the situation on some properties.

**Assemblywoman Cohen:**

This is more of a comment and a concern. I am very concerned about the person who responds that this property is not abandoned. I say that understanding that we do not want blight and I certainly do not want to live next to a home that appears to be abandoned. It seems very odd to me that if someone is contacting you, saying they have not abandoned their home, that the determination is able to be made that it is abandoned even though the owner is saying it is not abandoned.

**Alex Ortiz:**

I will defer this question to Lisa Logsdon in Las Vegas.

**Lisa Logsdon:**

I believe that process is addressed in section 1, subsection 4—within 30 days of receiving that notice—and in section 1, subsection 4, paragraph (b)—can submit a written objection to the tax receiver, which would be the county treasurer, and we would still make that decision. They could come to us and say, We do not think we meet any of this criteria, and the county treasurer could disagree and show them the documentation why, and we would still deem it abandoned. The bill is written to that person, like most government decisions, who then does have the ability for the district court to review that decision under a petition for judicial review. The district court would review whether the county treasurer has abused its discretion in making that decision. I think it is somewhat addressed, a little bit lengthier process of the county, but the county could still make that determination, assuming they have the support to back it up, that would be upheld by the court.

**Assemblywoman Cohen:**

That is my concern—that you are saying these are properties that are abandoned, but the owners are saying they have not abandoned their property. The owners are probably having some sort of financial issue, and now you are telling them they have to file in district court to protect their property. That is very disconcerting for me. I think if someone is coming forward and saying, I have not abandoned my property, they should not be treated as someone who has abandoned their property.

**Alex Ortiz:**

Assemblywoman Cohen, what we could do is reach out to you and have this conversation. We will ask Lisa Logsdon to be on the phone with us, to talk through that a little bit more.

**Assemblywoman Cohen:**

I would appreciate that.

**Assemblywoman Swank:**

If it is not expedited, how long does it currently take for the county to be able to take possession of an abandoned home?

**Alex Ortiz:**

It is a minimum three-year process. There is a two-year redemption period in that three-year process. The taxpayer is delinquent in paying their property taxes within the first year. There are four installments—August, October, January, and March—and they miss one of those installments or a combination of those installments. After that, there is a two-year redemption period which allows the taxpayer to come back and pay. That takes you out to the three-year mark, at a minimum.

**Assemblywoman Swank:**

I had been told at some point that it was a five-year period. There was an additional two years. I may not be remembering correctly. I am getting to the idea that these are properties that would have been sitting for a long time, and with living in the older neighborhoods in Las Vegas and working in older neighborhoods, my concern is such as in Berkley Square. There is a home I believe is abandoned that is half burned out and has been there for quite some time. In my neighborhood, there is another house that we keep boarding up because it is abandoned and it has been sitting there for quite some time. I am just wondering if you know how frequently these houses that sit for a long period of time end up burning and are not able to be salvaged because they have sat there for so long.

**Alex Ortiz:**

I do not have that data in terms of how many of these homes have burned. I do know if there is imminent danger, if these homes are in a condition that is uninhabitable and may also be a safety issue, a concern for the neighborhood and the community, at least in Clark County and I would imagine the other jurisdictions could go out—code enforcement, building department, and fire department—and assess that and make a determination of what the next step would be for those properties.

**Assemblywoman Swank:**

I remember having a conversation with someone in the county or the city who said to me that by the time you get to the end of this process, you should just park the fire truck outside the house and wait.

**Assemblyman Edwards:**

Is there any reason we should not reduce the two years down to one year? Who gets paid first? What is the order of priority?

**Lisa Logsdon:**

I think that is a legislative call, as far as reducing from two years to one year, if you are talking about all properties. Currently that is what Nevada law is—two years. As far as who gets paid first: the county taxes get paid first and any administrative costs such as the auction process, and then it goes to municipal sewer liens, then mortgage companies, judgment creditors, and then I think it is the state Medicaid if there is a Medicaid lien, HOAs, and finally, if there is anything left, it would go to the property owner at that point in time. That is already laid out in statute in NRS 361.610.

**Assemblyman Kramer:**

I am pretty familiar with the process and I have talked with Laura Fitzpatrick [Clark County Treasurer] on this, so I am pretty much in favor. I have a question about the 30-day warning before the sale versus a 60-day warning for everyone else. I am just saying how much of a difference it makes between those two, and why we think one group is less deserving of that extra 30 days.

**Alex Ortiz:**

I will defer this question to Lisa Logsdon.

**Lisa Logsdon:**

I do not think there is any particular reason. The 90 days was already in statute. As far as the abandoned property, I think we just wanted to keep the momentum of the one-year and then 30-day notice. A 90-day notice can be lengthy and push out some time frame so the county was just keeping with the expedited process. A 30-day notice should be sufficient for property owners who generally have not been involved in the process in any way. Normally by this time, if we have a person engaged, they are engaged and we are able to work with them. We felt a 30-day notice for the sale was sufficient. That is open to amendment as well if the Committee has any issues with it.

**Chair Neal:**

Do the members have any additional questions? [There were none.] I am happy Assemblyman Kramer brought that up, because one of my questions was, What is the logic or the methodology behind how you arrived at the 90 days to 30 days? Hearing you say that there was no thought process to that, and it was just because it is abandoned and therefore there is a human interest or nonhuman interest, gives cause for concern because that creates an inequity. There needs to be a reason for why you are treating property owners differently. Regardless of whether it is abandoned, it is still property interest. True or false?

**Lisa Logsdon:**

Yes, that is true. There is still property interest. We would like to give them the notice they are entitled to under statute.

**Chair Neal:**

While we are on the 30-day to 90-day subject, and the question has been asked about the two years, what was the reasoning behind the two years to one year? Was there a methodology or logical purpose for that?

**Alex Ortiz:**

I will have to defer. I apologize, Lisa.

**Lisa Logsdon:**

I think the purpose of bringing the bill was for this expedited process because a lot of times what we find out is that for the county there is so much work during that first year and also that second year. If the taxpayer comes to us and there is a financial problem, the county will work with them. When we are getting no response from the taxpayer, there is no involvement; waiting that additional year can cause more problems on these properties that are already potentially falling into disrepair. That was the intent of the bill, to allow the county treasurer this expedited process, so we do not have properties that keep incurring fines and nuisance problems, things like that, so we can get them more quickly back into a state of rehabilitation for the communities.

**Chair Neal:**

My next question is around the tax receiver language that is in the bill. Why did you select to have the tax receiver or the county treasurer determine whether the property is abandoned? Why not another individual?

**Alex Ortiz:**

We put the tax receiver or his or her designee, and in the case of Clark County we would more than likely utilize our code enforcement division, who may already have some history, having been out in the community, and having had some actions or cases on these properties that are deemed abandoned.

**Chair Neal:**

Based on that example, if you read the bill it is saying they are identifying and deeming it abandoned, and now you are saying it would be the code enforcer who would then become the designee for the treasurer, or would they work together? Walk me through the mechanism.

**Alex Ortiz:**

In the case of Clark County alone—that I can speak to—the code enforcement officers are out in our community and have experience and have actually worked in some of these areas. There may be a case on these types of properties, what we would consider abandoned properties. They would go out and inspect the property. Based on section 1, subsection 6, paragraphs (a) through (j), if at least two of those conditions are met, they would then write up the report and state that this property may be deemed abandoned and take that to the

county treasurer. The county treasurer would then put forth or submit an affidavit to the board of county commissioners, making the request that we believe these properties are abandoned, following the definition of this legislation, and therefore potentially move forward for auction of these properties.

**Chair Neal:**

My question is to section 1, subsection 4, paragraph (b), when the individual submits the written objection about the determination by the tax receiver that the property is abandoned, and then the tax receiver is conducting a review of the property. Does this now enable the tax receiver to enter the property where they were not allowed to enter the property in section 1, subsection 2? How is this review going to be conducted? If I am challenging the abandonment and you were able to do the abandonment by using several factors. You were not able to enter the structure, you were not able to perform an inspection, but you had the reasonable belief that it was abandoned based on the criteria. What review will be conducted and what is the manner of that review?

**Alex Ortiz:**

I will defer to Lisa Logsdon.

**Chair Neal:**

It begins on line 31 of page 3 of the bill. It says, "Submits a written objection to the determination of the tax receiver that the property is abandoned, the tax receiver must conduct a review of the property and issue a decision on whether to uphold the original determination that the property is abandoned."

**Lisa Logsdon:**

What I envision is, at this point in time, the taxpayer has objected to that finding by the county, so the taxpayer would have given some reasons why they believe under that criteria the county has said the property is abandoned, why it is not abandoned, and at that point in time the county treasurer would look at the information the taxpayer has presented to them and determine whether there is some exception to why that criteria was met or not met. For example, if utility services to the property were disconnected. Maybe the taxpayer would say, after they got this letter that the county has deemed their property abandoned, that it is not really abandoned and they were going through some financial problems. Utilities were turned off for a period of time. Maybe they were vacant from the property for some reason, that the county treasurer would then determine that criteria was not met. That is what that review process would entail.

**Chair Neal:**

The biggest concern I still have with this bill is you have the tax receiver in the position as the sole determiner of whether my property interest will be taken away, and when I object, it is still the tax receiver who determines if I am correct. My only option then is to have judicial review in the district court in order to overturn that decision. It seems like there should still be some additional steps for the homeowner, or the person with the property interest, before they rise to the level of court. It is as if the county is in a position of power

against the person with the property interest. You are only operating under a reasonable belief. I know there is nothing in statute because I looked for it—whether there was some kind of burden of proof that must be established when you are taking a property interest. I do feel there should be something of a higher standard, or higher legal standard, other than reasonable belief, for you to come in and take a property interest from me.

I will give you my line of reasoning. To get property is a significant asset for an individual. It is also something a family or individual potentially works hard to achieve in determining a value or asset they have in their life. You get to come in and expedite the process, under reasonable belief, and when I fight it, I am now arguing with the county treasurer about the criteria you said in law, and my only option is to go to district court to overturn it. I feel as if it is an imbalance of power. That is how I interpret it.

I understand you have reasonable belief that it is delinquent, but then you add these other criteria. I am still trying to find comfort there. How did you arrive at the reasonable belief? Would you be open to once and for all putting a true standard, a legal standard, for taking someone's property, whether it be abandoned, whether you feel the nonhuman interest is there or not? There should be some standard to taking someone's property interest, because it is a very strong interest that a person has in law. It is not random. We are not talking about a scooter. We are talking about a house or land that you get to turn over to someone else and they still want to keep it for whatever purpose they choose to keep it for.

**Alex Ortiz:**

I will defer that question to Lisa as well.

**Lisa Logsdon:**

We took the criteria from the foreclosure legislation passed in 2013—similar to when a person does not pay their mortgage. It is a similar analysis as far as you have not paid your taxes at this point in time and we have tried to reach out to you. We then make this criteria finding. I think it is a reasonable belief in order to go look at that criteria, and once we look at that criteria there has to be some substance behind it. We cannot believe that the utilities are turned off. We are going to have to get evidence of that. As far as protecting their property interest, we are trying to do that in accordance with the laws that are already in place, and also mirroring that off of the foreclosure laws.

**Chair Neal:**

It was brought up when Assemblyman Flores asked how many houses, do you have data, and so the bill passes, in a real-life example you implement this. What can you expect to be the real-life results that will happen? You do not have data on how many houses are abandoned, and if they are in blighted areas—we all see the public policy advantage to making blighted areas better. It is still not clear on what public policy interest you are serving and how wide that interest is, because we do not have a number and we do not have the randomness of it—if it is two here, if it is five over there. Do you understand what I am saying?

I understand the public policy that you are moving, but you are moving it without data. You are moving it without us understanding the real public policy interest and what we are solving. I know we had this conversation offline, but is there any point where you are going to get us that actual data? Does it exist? Can it be manufactured?

**Alex Ortiz:**

In response to the questions that were asked about the data, I think the questions were the reasons why they are abandoned. That is not an answer I can provide because I do not know why these properties are abandoned. There may be 1,000 reasons why properties are abandoned throughout the state and in particular Clark County. The other response was regarding homes that are burned down. I do not have that information. We could probably get that information from our fire department. That is the kind of data I believe I was being asked for. What we can do going forward, and if this legislation does get through, we would know the abandoned properties that we would utilize this process on and we could track that because we would know those. So going forward, yes, we would know. At this point in time I do not know in response to the other questions.

**Chair Neal:**

I am happy to hear you are open to some minor amendments to this bill. There may be at least three. Do the members have any additional questions? [There were none.] I will now call up those in support of A.B. 79.

**Mary C. Walker, representing Carson City:**

I am here today representing Carson City. We do support this bill.

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

We polled our members on this bill. They were all in support of the mechanisms proposed, which would create an expedited process, as you have heard, for counties to dispose of properties determined abandoned. We think this would give counties another tool in their toolbox to help put vacant and abandoned properties—properties that could be a safety risk to the community—to a higher use.

**Shani J. Coleman, Deputy Director, Office of Administrative Services, City of Las Vegas:**

We are not a county but we support this bill. The City of Las Vegas has a very active redevelopment agency and this is a tool in the toolbox that we can use as we talk about addressing blight. We understand the concerns of the Committee that were addressed. We believe that process should follow through, but from a concept perspective, if a city or an agency has the ability to address a blighted or abandoned property sooner, trying to put that to a higher and best use, we support that concept.

**Chair Neal:**

Do the members have any questions for those in support of the bill? [There were none.] Is there anyone else speaking in support? [There was no one.] Is there anyone in Las Vegas speaking in support of A.B. 79? [There was no one.] I will now take testimony from those who

are neutral on A.B. 79. [There was no one.] I will now take testimony from those who are speaking in opposition to A.B. 79. [There was no one.] Mr. Ortiz, do you have any final comments?

**Alex Ortiz:**

I have no final comments except just to thank you for your time and allowing us to present this bill. We will be in contact with you, Chair Neal, and any of the members, to continue addressing the concerns you have going forward. Hopefully we will be able to provide you some additional information.

**Chair Neal:**

We will definitely corral the amendments so you know exactly what you are working with. I will close the hearing on A.B. 79 and open the meeting for public comment. Is there anyone in Carson City or Las Vegas for public comment? [There was no one.] We are adjourned [at 5:28 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 document titled "State of Nevada, Performance Audit, Department of Taxation, Marijuana Regulation and Enforcement, 2019," submitted by the Assemblywoman Dina Neal, Assembly District No. 7.

[Exhibit D](#) is a document titled "NLC&M, Bill Information Sheet, AB3," submitted by Nevada League of Cities and Municipalities.