MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON REVENUE

Eighty-First Session
February 18, 2021

The Committee on Revenue was called to order by Chair Lesley E. Cohen at 4:07 p.m. on Thursday, February 18, 2021, Online. 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/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Lesley E. Cohen, Chair
Assemblywoman Teresa Benitez-Thompson, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Venicia Considine
Assemblyman Gregory T. Hafen II
Assemblywoman Heidi Kasama
Assemblyman C.H. Miller
Assemblyman P.K. O'Neill
Assemblyman David Orentlicher
Assemblyman Tom Roberts
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Terri McBride, Committee Manager
Gina Hall, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Michael Brown, Executive Director, Office of Economic Development, Office of the Governor
Eric Preiss, Director, Division of Motion Pictures (Nevada Film Office), Office of Economic Development, Office of the Governor
Kim Spurgeon, Analyst, Division of Motion Pictures (Nevada Film Office), Office of Economic Development, Office of the Governor
George Ross, representing Las Vegas Global Economic Alliance
Dylan Keith, Policy Analyst, Government Affairs, Vegas Chamber
Alfredo Alonso, representing UFC/Endeavor
Steven Cohen, Private Citizen, Las Vegas, Nevada
Melanie Sheldon, Director of Business Development, Office of Economic Development, Office of the Governor
William Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Union

Chair Cohen:
[Roll was taken and Committee rules and protocol were reviewed.] As a reminder, pursuant to Rule No. 54 of the Assembly Standing Rules, the definition of support of a bill or resolution is approval of the measure as written; or approval of the measure as written along with proposed amendments that have been approved by the sponsor of the measure. Opposition to a bill or resolution is construed as not supporting the measure as written; or opposing the measure as revised by an amendment that has not been approved by the sponsor of the measure. Neutral position on a bill or resolution is one in which the person offers particular insight on the measure but expresses no opinion on the measure either way. As an example, you can love a bill, want it to pass, and think it is great, but if you think there is even the slightest thing that needs to be changed and your amendment has not been accepted by the sponsor, you must testify in opposition. You can certainly share with us that you love the bill and just want that little tweak to be made.

Also, please note that everyone on the video is a presenter, a member of the Assembly, or staff. This may change in the future, but for the sake of fairness, for now support, opposition, and neutral testimony will be taken over the phone.

We will now move on to our bill hearings. As a reminder to the members of the Committee, Director Brown detailed the differences between abatements and tax credits in his presentation on February 9, 2021, if you need to refresh yourself on the differences between those two. I will open the hearing on Assembly Bill 20, which revises provisions relating to transferable tax credits for film and other productions.

Assembly Bill 20: Revises provisions relating to transferable tax credits for film and other productions. (BDR 32-267)

Michael Brown, Executive Director, Office of Economic Development, Office of the Governor:

When I became the Executive Director of the Office of Economic Development, Office of the Governor (GOED), I did not know very much about the Nevada Film Office, and have come to learn more. As GOED was ten years old and some of these programs were even older, one of the first things I challenged my staff was to look at our statutes and see what might need updating so we could take ten years of experience to the Legislature. We have also placed a high standard of compliance. James Humm, who is handling our legislative affairs, is the compliance officer at GOED. He came over from Attorney General Aaron Ford's Office at Brin Gibson's request a month before I arrived at GOED, to strengthen a variety of our compliance programs.

I will let Eric Preiss, the Director of the Nevada Film Office [Division of Motion Pictures] at GOED, walk you through the bill. The main issue here is that these are transferable tax credits. These are tax credits given to production companies that can then be sold to other parties. When that legislation was put together many years ago, there was a list of nonqualified activities, and these included sports. Las Vegas has changed and we now have a sports economy there with sports teams. We were starting to get numerous requests about projects that were not the actual competition, but were related to the sporting event. I do not want to color outside the lines on these things. Transferable tax credits do not rise to the level of the Board of Economic Development, Office of the Governor for final approval, so it ultimately rests with Eric Preiss and me to make that decision. We have reached a point where we do not know what to do in this space because the Legislature clearly set a strong signal when they wrote the original bill [Senate Bill 165 of the 77th Session]. Eric Preiss will cover this in more detail for you. The draft in front of you is a conservative version. This is not anything we are wedded to. We need policy guidance in this area from the revenue committees with respect to how they wish these to be treated. I will turn it over to my colleague, Eric Preiss, who is also a certified public account (CPA). I am really pleased to have him on our team.

Eric Preiss, Director, Division of Motion Pictures (Nevada Film Office), Office of Economic Development, Office of the Governor:

Thank you for the opportunity to present Assembly Bill 20. I am here today with my colleagues, Executive Director Michael Brown; Kim Spurgeon, the Nevada Film Office Analyst; and James Humm, our Director of Compliance and Regulatory Affairs [Reading from prepared testimony, Exhibit C]. I will give you a quick background on the Nevada Film Office.

Since 1983 the Nevada Film Office has facilitated the creation of content in Nevada, drawing global attention to the state's businesses, individuals, and iconic locations. This has resulted in job creation, small-business diversification, and driving our tourism economy. The content creation and media industry drive attention to Nevada that has resulted in widespread economic development and tourism as economic development.

Before turning to A.B. 20, I would like to provide some additional background on the program. The transferable tax credits for film and other productions program was passed with S.B. 165 of the 77th Session and went into effect on January 1, 2014. It is intended to incentivize production companies to film and create content in Nevada that directly results in the creation of high-quality local jobs and an injection of millions of dollars into the local economy, all while furthering the promotion of Nevada as a destination to the world. Having administered this program for seven years, I am bringing A.B. 20 before you today in an effort to improve the law to reflect the best practices for the state and to align them with industry standards based on our experiences. The bill seeks to further clarify certain aspects of the program to reflect GOED's working and functional interpretation. It is primarily a housekeeping bill to properly reflect the best practices for the program.

Turning to the bill, section 1 addresses the types of productions that can qualify for the program. Interstitial television programming and interstitial advertisements have been removed as qualified productions, as their inclusion is redundant and inconsistent with industry terminology. This section also clarifies that an episode of a series can qualify for a tax credit, and removes the limitation of a minimum number of episodes for a reality show. Due to the rise in influence of sports in Nevada, the definition of a sporting event has been further articulated. Similar clarification was intended when adding pageants to award shows and galas as excluded production types.

The law currently states that GOED shall approve an application that meets the specified requirements. Section 2 of the bill updates the language from "shall" approve to "may" approve, which would allow GOED to prioritize productions in the best interest of the state. It also extends the allowable time to complete the required audit from 90 to 270 days, which is more consistent with the actual time frame required for an auditor to complete the work. The requirement of a Nevada business address to be included on the application has been removed, as a production will typically apply before they have established that address.

We are also proposing an amendment [Exhibit D] to section 2 that would require productions to include an acknowledgment at the end of the screen credits that the production was filmed in Nevada by including the Nevada Film Office logo. This would raise awareness in the industry that Nevada is a premier destination to film content and encourage other productions to pursue filming opportunities in Nevada.

Section 3 of the bill removes the requirement that the application must be submitted before any qualified costs can be incurred and instead allows qualified costs to be incurred during a defined qualified production period. This section also addresses the manner in which a Nevada business can acquire tangible personal property for the benefit of a qualified production. Section 3, subsection 1 was initially intended to prevent pass-through benefits to non-Nevada businesses, but it also unintentionally prevented Nevada businesses from growing their inventories. This change allows Nevada businesses to grow their inventories to accommodate bigger productions, while still preventing pass-through benefits to non-Nevada businesses. This section also addresses tangible personal property acquired as an asset by the production company [section 3, subsection 4], allowing GOED to limit the amount of the asset that can qualify through adopted regulations. Similar limitations are employed by other film tax credit programs to prevent incentive dollars from going toward large asset purchases.

Section 4, subsection 4, paragraph (b), subparagraphs (2) and (3) of the bill allows GOED to withhold credits to production companies that are found to be in violation of laws or that attempt fraud. It expands the protections already in place to ensure that no tax incentive credits are awarded to unwarranted productions.

In summary, while this is primarily a cleanup bill, these changes will make needed improvements to the program's functionality. I appreciate your time and welcome any questions you may have for us.

Assemblywoman Considine:
You mentioned sporting events on page 3 of the bill [section 1, subsection 2, paragraph (e)]. Currently sporting events, and in the additional language preshows and postshows, are not qualified productions. Is that correct? In section 2, subsection 1, where it says you "may" approve an application, would that open the door to allow any of those nonqualified productions to become a qualified production?

Eric Preiss:
It does not. The *Nevada Revised Statutes* (NRS) specifically states what is not a qualified production. The subsequent change from "shall" to "may" would not in any way override productions that are specifically excluded from qualifying.

Assemblywoman Considine:
I was adding up the transferable tax credits—15 percent, 12 percent, 5 percent for above-the-line folks not in Nevada, and the 5 percent below. Does that mean a production can obtain 37 percent of the available transferable tax credits—almost a third of their production tax credits—they could get them in the aggregate?

Eric Preiss:
The maximum allowable tax credit is 25 percent. That is calculated as 15 percent is the base rate, plus a 5 percent bonus if your crew are more than 50 percent Nevada residents, and another 5 percent bonus if your production is filmed in a more rural area of Nevada outside of Clark County, for a total of 25 percent. The 12 percent rate is in lieu of the 15 percent. If you are a Nevada resident, you could qualify for 15 percent. If you are a non-Nevada, above-the-line talent coming into Nevada, they can only qualify at 12 percent. The maximum rate they could qualify for with all the bonuses added together would be 25 percent, and if they were above-the-line coming in, it would be 22 percent.

Assemblywoman Anderson:
Thank you for meeting with me earlier today. I had a lot of questions and I appreciated the education you all provided me. On page 4 of the bill [section 2, subsection 3, paragraph (e)] that is an incredible increase—three times as much time. That is a pretty lengthy time frame. My concern has to do with it being three times as much time. How does that impact the calendar? Could you walk us through how that will impact the $10 million maximum in transferable tax credits that can be used for one year?

Eric Preiss:
This requirement changes the amount of time in which the audit can be completed. It was originally 90 days. We are proposing to change it to 270 days. I have been a CPA for 20-plus years. In working with the productions, once a production is completed, they take all their information and send it to their outside CPA—which is a requirement in Nevada—to audit that production and ensure the costs are correct and accurate based on our law. Depending on the books and records of the company and how organized they are, that procedure can take a lot of time. The procedures themselves take time. The CPAs can be very busy, and there are a limited number of CPAs who are approved through our program.

Because of the nature of productions, sometimes they are complete, they go to edit the footage to create the content, and they need to come back and do reshoots in Nevada to ensure they get additional footage. By increasing the time frame, we are allowing all those costs to accurately get captured so that the audit is as accurate as possible. When this process is all said and done, we want to ensure the accuracy is there, the compliance is there, and the artificial, subjective 90-day time frame was proven to be too short. We wanted to ensure these were as accurate as possible, allowing the CPAs, the productions, their accountants, their attorneys, whoever is involved, to make sure they can be done accurately.

When a production company applies for the incentive, we take the money they apply for and allocate it to that production, so it is in effect set aside for them. The extension of days available is not going to affect that calculation in any way. It actually gives us a little more time to process, and 90 days was proving to be too short of a time frame.

Assemblywoman Bilbray-Axelrod:
Piggybacking off of Assemblywoman Considine's question, when you broke out the percentages, you stated another 5 percent bonus if the production was filmed in rural areas, and then clarified it with being outside of Clark County. Does that mean if you film in Reno, you would get that 5 percent deduction?

Eric Preiss:
They definitely qualify for the 5 percent bonus in Reno.

Assemblywoman Bilbray-Axelrod:
When you removed the business address of the production company [section 2, subsection 4, paragraph (g)], I understand a lot of these applications would be in first, but I wonder if that would push them not to set up an office here and try to do more unconventional things.

I am wondering if we might want to put in there that they do not have to have their physical address in Nevada before, but at some point they might want to update that so we know they have a production company within the state of Nevada. I would hate for us to lose that revenue.

Eric Preiss:
They definitely do set up an office here in Nevada. All we are saying here is at the time of the application they do not need to have that business address, but when they do film here, they typically will set up that production office.

Assemblywoman Bilbray-Axelrod:
I would hate for us to lose any revenue on this. I wish we could get some verbiage in here to say, ". . .but please update once you do have the Nevada address," so they understand we want them to have a production office here, and that will help drive revenue as well.

Eric Preiss:
The law currently does not require them to have a Nevada business license or to set up a Nevada business to produce content in Nevada. For example, Sony Pictures Entertainment may come here to film a movie. They will not necessarily set up a business in Nevada to film that movie, but they will set up a production office during the production of the film. This change would not affect business license revenue in any way. It is merely stating that during the application process and once it is completed, they do not have to know that location, but at the time they do come and start filming, they have to know what that address is.

Assemblywoman Bilbray-Axelrod:
Since we are striking the other words, I feel that should be stated in the law. I will leave it at that.

Assemblyman Hafen:
I have a follow-up on Assemblywoman Bilbray-Axelrod's question regarding the physical location, basically ditto to what she said. I appreciate those comments.

In your presentation you mention the economic impact and the benefits to the state of Nevada for these tax credits. Is there a quantitative figure you have showing what the benefit is in relation to the tax credit?

Eric Preiss:
Per NRS, the Nevada Film Office through GOED is required to prepare an annual report [Exhibit E] regarding the film tax incentive program and the productions that have applied. That is an annual report we prepare every year and I believe is due annually on October 17.

Assemblyman Hafen:
I would like to see those numbers, just so we can ensure we are getting the economic benefit versus the tax credits. Back to what my colleague was saying regarding removing the

physical address portion. I know you said typically they form an office after they have filed the application and are about to produce. Is there anything in there that requires that? The reason I am asking is for property taxes, commerce tax, et cetera, once they have a physical address.

Eric Preiss:
There is currently no requirement for a company to produce content in Nevada to set up a business in Nevada. It is not a requirement in the NRS. That would be something that would have to be added.

Assemblyman Hafen:
This may be for Legal, but I thought it was a requirement in the state of Nevada that if you are going to be doing business to actually have a business license and an established business in the state. Is that not the case for the film industry?

Kim Spurgeon, Analyst, Division of Motion Pictures (Nevada Film Office), Office of Economic Development, Office of the Governor:
Typically when a production comes to film, they will apply for a film permit. That permit allows them to operate in the state. Some film permits they do have to pay for in that way, but it is not licensed in the same way a typical permanent business would be. Due to the nature of filming productions, they are temporary, so they get those temporary permits issued through the various jurisdictions throughout the state as opposed to a permanent business license.

Assemblyman Roberts:
To follow up on the question asked by Assemblywoman Anderson regarding the extension of the audits. You talked about the 270 days, but I also see you added language to allow an extension, an additional 90 days. Am I reading that correctly? That would take it to almost one year.

Eric Preiss:
Correct.

Assemblyman Roberts:
You have already extended it to 270 days. What would necessitate an additional 90-day extension?

Eric Preiss:
A production is a very unique business in itself. It is not predictable. There are times when reshoots need to be made; when an actor is pulled from a production and all the scenes need to be refilmed. We wanted to give the productions the ability to do that effectively, without restricting them to an arbitrary time frame, by creating 270 days and then giving a little leeway for extenuating circumstances as they become necessary.

Assemblyman Roberts:
In essence we could extend it up to four times what we are doing now. You are adding a number of events to clean up. You explain the sporting industry and some of the driving forces behind that. I am curious why pageants were specifically added to this list.

Eric Preiss:
The language as originally written included a gala or an awards show. The addition of "pageant" was simply to provide more clarity, to help us administer the program more effectively. As the administrators of the program, we are trying to execute the legislative intent. Galas and award shows were vague terms. The including of pageants was to try to be as accurate as possible, given the questions we have had through our experience in the past.

Assemblyman Roberts:
Were pageants given tax credits previously?

Eric Preiss:
They were not, so we are just trying to put that consistency into the language.

Assemblyman Yeager:
In section 1, subsection 1, paragraph (j), you are deleting interstitial advertisement. I am not familiar with the term "interstitial."

Eric Preiss:
No one is. That is why we are removing it. These were terms used very early on in the process. They are not common industry terms. They have never been addressed. No one has ever tried to apply for one and most people ask that same question. We are trying to take it out to provide clarity, as we did not see any benefit of it being there.

Assemblyman Yeager:
In section 1, subsection 2, paragraph (e) you are talking about amplifying the definition of "sporting event" to include sportscast preshows and postshows. Could you talk about the decision to amplify that definition and why you believe that better reflects what the intent of the original bill was.

Eric Preiss:
In section 1, subsection 2, it says "does not include:" and then in paragraph (a) it says "news, weather or current events program," and then all the way down to paragraph (e) it says, "sporting event." This is one area where the language specifically excluded news and current events, and then separately excluded sporting events. We were getting productions considering applying for news sports shows that were around sporting events. The show before the event and the show right after the event, where they talked about the event itself. Those blurred the lines. Were they current programs about sporting events, both of which would have been excluded? This was to try to clarify the legislative intent and be better administrators of the program. We were looking to get some more language in there that clearly defined what we were saying here in the statute as nonqualifying productions,

whether they were sports events or news events. Some of these preshows and postshows fell into both these categories as excluded. We wanted to clarify that based on the experience we have had administering the program.

Michael Brown:
This is a new phenomenon. As Las Vegas is becoming a sports capital and these issues were forming, we simply did not know what to do with those types of applications. Then the pandemic hit and the issue became moot because those types of things were not occurring. We decided this needed to be brought to the Legislature and we needed to get guidance. This was not written by the finger of God, but it does say "shall not" or [unintelligible] not. I do not think we have a strong position either way. Obviously getting big production movies and television series is important. There is a finite amount of transferable tax credits, so we want to ensure they are deployed with the greatest possible return. As this is a revenue committee, we welcome your input on this.

Chair Cohen:
Can you tell us why you would want one entertainment event over another? Why a reality show but not a sports show? Why are some making the cut and others are not? What is the benefit to the state with the difference?

Eric Preiss:
The bill was originally written in 2013. We were not participating in writing the bill at that time. We are just trying to clarify what the intent was as the administrators of it. However, my assumption would be that there is a limited amount of tax credits in the state of Nevada. Currently we have $10 million available per year. Certain types of content are going to get a broader reach and generate more attention to the state of Nevada over a longer term period of time than other types of content. Certain television shows that have a longer shelf life would over the longer term draw more attention to and drive more tourism to Nevada. I believe that certain types of programs do not just generate that much, as well as the nature of the productions, how many jobs they create, and the amount of economic activity they create. Traditional television shows, films, and other types of productions have in the past shown to generate larger employment and larger spending in Nevada than the brief-type newscasts and current event shows.

Assemblyman Miller:
In section 1, subsection 1, paragraph (g), it looks to me like we are expanding what is included as a qualified project. You are removing the $500,000 threshold per episode. Is it correct that a project could come here and shoot one episode without meeting that $500,000 threshold?

Eric Preiss:
That criteria has not changed. What we have done is, the $500,000 threshold still remains but we added that it could be one episode of a show instead of the whole series.

For example, if someone wants to film a pilot for a new show and that pilot meets all the criteria, we would still like to see if they could film that pilot here. They do not necessarily need to film the whole series as long as the pilot meets the existing criteria.

Assemblyman Miller:
Have we had any conversations about lowering that threshold or allowing some of the smaller guys to our state, maybe even exclusively, to be able to collectively put projects together to qualify for that threshold, to meet that threshold, and possibly benefit from the tax credit?

Eric Preiss:
We have not had any of those conversations. We are open to those if people would like to have them, but we have not discussed that or added any language in the bill to address it.

Assemblyman Miller:
As an independent filmmaker who would look to take advantage of some of our tax credits here in the state locally, I think it would be advantageous for us to even [unintelligible] the industry here, to look at creating the situation where our local producers can also take advantage of this, and not be so focused on our major producers.

Assemblyman O'Neill:
I understood you to say you are now going to require shows that get tax credits to say the episode was filmed with the assistance of the tax credit, or assistance from GOED. I cannot find it in the bill. Could you tell me where that is?

Eric Preiss:
It was added to the bill in the amendment [page 7, Exhibit D]. You will find it in section 2, subsection 4, paragraph (k) of the amendment.

Chair Cohen:
Can you tell us what the term "production" means that is used in the amendment [section 2, subsection 4, paragraph (k)]? Is there a specific definition for the industry—this production was made in Nevada—that means something?

Eric Preiss:
I do not know if there is a standard in the industry. I do know that most other programs that offer incentives to films have a logo requirement, so we were adding that to the end, which allows us to get more acknowledgement on the screen and potentially within databases such as IMDb and others. Having it there gets Nevada into that for future reference as data gets collected around productions.

Chair Cohen:
In reference to the word "produced" again, in section 3, subsection 1, line 27, not referring to the logo, but I wanted to know is there an actual industry standard definition for that word?

Eric Preiss:
I do not believe there is. Kim Spurgeon may be able to add to this if she understands your question differently.

Kim Spurgeon:
I think I know what you are asking and yes, "production" is an industry standard term. Anyone who applies for this program is considered a production. It is kind of a general term as opposed to delineating it out to a television series, a feature film, or commercial. They are all together considered a production.

Assemblywoman Benitez-Thompson:
One of the great things about GOED is every piece of legislation we have written over the past decade requires an annual report or biannual report. Is there a trend in the usage of the transferable tax credits? I looked at the most recent report and saw it was about $1.5 million in 2019 and about $1.6 million in 2020. Over the last biennium, are those numbers reflective of what the actual allocations of transferable tax credits have been?

Eric Preiss:
I want to make sure I understand your question. We are allocated approximately $10 million in tax credits per year for the program. Annually we produce a report through GOED that shows the amount of the tax credits that were awarded that year, what the productions spent on their expenses for those credits, and other economic data on those credits. I want to say it has been approximately $5 million to $7 million per year in tax credits that have been awarded annually. Does that answer your question?

Assemblywoman Benitez-Thompson:
It does. It has kind of been a pretty steady trend for that. I recall that maybe we had more variations in the usage of the tax credit but I may not be remembering this accurately. So you would say closer to between $5 million to $7 million is actually what has been awarded?

Eric Preiss:
Yes. I will also ask Kim Spurgeon to jump in here if she can correct my numbers. The production business is unlike most businesses. There is not a lot of predictability to it. One year we might get a very large production and the next year a couple of small productions. It has a unique business cycle of when content is created. It is really hard to graph out in a predictable way.

Assemblywoman Benitez-Thompson:
The thing about tax credits and the way they are tricky is we never know, as they say, when they are going to hit the sheets—the timing between when a project starts and a project ends, an audit happens, and they get the certificate of the tax credit. Typically the trend has been the end receiver of the tax credit immediately puts it out there to collect and redeem it, but it is always hard for us on our side to know when that $5 million to $7 million dollars is going to come due and is no longer income we can count for Nevada.

Should I have concerns if we are increasing the amount of time for the audit to be done—the 270 days and then 90 days for the audit certificate to be produced— that we [unintelligible] looking at potentially a separate calendar year in which those tax credits might hit? I am thinking of a production beginning the last of this biennium year and then being redeemed in another budget cycle.

Eric Preiss:
The timing is always difficult to predict. Productions have different lengths of time. From the time they submit the application to the time they start principal photography, they have 18 months to complete principal photography, and then so many months after that to complete the audit. Because of the length of the production, they typically will fall in the following fiscal year, or even the next fiscal year depending on the size of the production. They vary so greatly in their size and complexity that they typically will most definitely not be redeemed in the same year they are applied for and awarded. It is definitely a one- to two-year process.

Assemblywoman Benitez-Thompson:
We already have that dynamic right now. We are not introducing anything new.

Eric Preiss:
Exactly.

Assemblywoman Anderson:
How long do those tax credits carry over if they are unused? How much is there currently unused that we might have to be held accountable for that time frame?

Eric Preiss:
We are allocated $10 million per year in tax credits. If those tax credits are not used the remainder will roll over for two years, and after that they will begin to drop off. Because of our annual allocations, less what is being used and what has dropped off, it has left us with $25 million available.

Michael Brown:
I am not sure we have visibility as to how that is actually managed at the macro level with the state. We get periodic inquiries from the Legislative Counsel Bureau (LCB), as they are getting ready for the Economic Forum, to factor those matters into projections.

Eric Preiss:
We typically coordinate that effort with the LCB so they are always aware and can use that data to budget effectively.

Assemblywoman Considine:
How does Nevada's tax credit system and the rollovers compare to other states that are competing for the same films and productions? Where do we fall among all those states?

Eric Preiss:
That is a complex question. There are currently 43 states that offer film tax incentives, and even more countries around the world that offer film tax incentives. They vary greatly in the type of tax incentive that is offered, whether they are transferable tax credits, cash rebates, or refundable tax credits. States such as Georgia have a 30 percent tax credit with an unlimited amount of available credits to be awarded. I believe last fiscal year they awarded over $900 million in tax credits. California offers a 25 percent tax incentive and has a cap of about $330 million per year. New York has a $420 million program and offers 25 to 30 percent tax credits. They vary greatly throughout the country and throughout the world, different sizes and different types of credits.

Assemblywoman Considine:
Are we constantly reviewing our system to see how it does compare? I know it is very hard to compare the states you mentioned as I believe they all have state income tax, which is something we probably have to factor in to allowing all these credits. Nevada is incredibly competitive just because we are Nevada, and I wanted to ensure we are looking at this and trying to find our area where we can be competitive.

Michael Brown:
That is one of the reasons I asked Eric Preiss to bring forward some legislation, so we could have this kind of informed discussion and educate the Assembly Committee on Revenue.

When I was appointed Director of GOED, there were concerns across the board about the use of abatements, incentives, and transferable tax credits. Whenever I got to an issue that was outside the lines, I wanted to bring it back during this session for a discussion.

Where we struggle in Nevada is having an adequate production studio. That keeps us from being competitive. It is a major infrastructure gap. Despite being the entertainment capital of the world in gaming, theater, shows, and Cirque, we do not have the kind of facility needed in Las Vegas for these kinds of productions despite our close proximity to California.

Assemblywoman Considine:
That is a discussion I would like to continue at some other point.

Michael Brown:
We have identified that in the economic plan as an infrastructure gap. We believe, with the advent of the streaming companies as Eric has explained to me, there is more content being produced now than ever before. I think *Friends* was ten seasons. Now it is a fixed 26 shows over 3 years and you are done—move on to the next show. There is a lot of change coming in this sector, so it is useful to begin to credential these issues with you today because this world is evolving and it is evolving fast.

Chair Cohen:
In section 4 there is reference made to the audit. When we met, we discussed whether there needed to be a clawback or not. It is my understanding, and correct me if I am wrong, that

there is a possibility you do not need to claw back because the audit is done first. I am wondering what happens if there is a discrepancy or a problem that happens after the audit is done. In talking to staff, they reminded me that a lot of our statutes with audits still have the claw-back provision. I just want to know if there is a way we could put in a claw-back provision so if we find something out after the credits have been given and sold, that we have a chance to recoup some of that.

Eric Preiss:
The way the program currently works is after the production is complete and all costs have been incurred, it is then audited by an independent CPA, approved, and licensed in the state of Nevada. When the audit has been completed, the certificate of transferable tax credits is then issued. Typically that production will transfer that to a local Nevada buyer who will purchase the credits and apply them on their particular return, whether that be one of the approved taxes, gaming, insurance, or modified business tax. There is no claw-back provision because of the protections in place from the independent CPA audit. I am not sure how the other incentive programs work that have audits with claw-back provisions. For a clawback after the audit has been completed, I do not know what would come to light that would change it. The audit is designed to catch all that. The application of a subsequent claw-back provision may affect our ability to attract the productions in the first place if there is a risk that something could be clawed back after an audit has been completed and credits have been issued.

Kim Spurgeon:
I have the law pulled up in front of me and I am not sure if in the A.B. 20 you have, I compared the two and I do not see it in there, *Nevada Revised Statutes* (NRS) 360.7597—Repayment of amount of credit required under certain circumstances. This section of NRS does allow if a production company is found to have submitted any false statement, representation, or certification in any document submitted for the purpose of obtaining transferable tax credits or who otherwise becomes ineligible for transferable tax credits after receiving the transferable tax credits pursuant, they shall repay to the Department of Taxation or Nevada Gaming Control Board, as applicable, any portion of the transferable tax credits to which the production company is not entitled. If those transferable tax credits were purchased in good faith by someone and not used by the production company, the transferee is not liable for repaying, just the production company that applied.

Chair Cohen:
In section 4, subsection 4, paragraph (b), subparagraph (2), it says, "If a production company violates any state or local law." Is there a threshold for that? If someone in the production company is driving a production van and gets a speeding ticket, is that enough? Can you put some guidelines on what violates any state or local law?

Eric Preiss:
Our intention with this is not to penalize the production or not to provide tax credits, but to protect the local crew, employees, and businesses working on the production. It is not our

intent to use this punitively. It says GOED "may" withhold that. This is mainly to protect vendors who may not have been paid, or if there were contract disputes with a vendor or damages were done.

Chair Cohen:
I just wanted there to be clear legislative history.

Assemblywoman Benitez-Thompson:
My favorite part of the bill is changing the "shall" to "may" in terms of giving GOED more discretion in the approval of what is a qualified project. Could you talk about how you imagine things will look going forward with that change? I am thinking you have to approve them as they come in, and without any discretion there might be a project you know is coming in that you would rather reserve credits for, that is a much better deal for Nevada than something that just got handed to you. Can you talk about how this is going to change the workings of the offices, or what we might see with this language change.

Eric Preiss:
The rationale for this change was we currently have a small program with $10 million available per year, and it is very likely we could be in a situation where we have multiple applications at the same time that would push us over the limit and we would have to make a decision. Changing it from "shall" to "may" gives us more flexibility in that area. Again, our desire is to approve productions that benefit the state of Nevada—our small businesses and local industry here. We are not looking forward to saying "No," but it gives us a little bit of flexibility when we are forced to make a decision.

Assemblywoman Benitez-Thompson:
Has that been a scenario you have encountered frequently with GOED?

Eric Preiss:
We have not had to incur that, but due to the small nature of our program, we foresee it as being a potential issue in the future.

Michael Brown:
That was also inspired by a conversation we had about ensuring we understand there has to be some level of discretion. This is not an entitlement program.

Chair Cohen:
Seeing no further questions from the members of the Committee, I will open the hearing to those in support of A.B. 20.

George Ross, representing Las Vegas Global Economic Alliance:
The Las Vegas Global Economic Alliance strongly supports the changes to the film credit program contained in A.B. 20. They reflect the lessons that have been learned over the last ten years, and hopefully will make it an even more successful program, especially with the

use of the word "may," the ability to build up an inventory, and the extension of the auditing time to a more practical period. We strongly urge you to support this program because along with a lot of things we are trying to do, it will help the economy of southern Nevada.

Dylan Keith, Policy Analyst, Government Affairs, Vegas Chamber:
The Vegas Chamber has been in support of film tax credits for the last several sessions and we are in support of clarifying language and expansion of different types of programs, such as sporting, that would qualify in section 1. Thank you for your consideration, and I ask for your support on this bill.

Chair Cohen:
Are there any other callers on the line in support of A.B. 20? [There were none.] We will move to those speaking in opposition to A.B. 20.

Alfredo Alonso, representing UFC/Endeavor:
Our position is very supportive in most of the areas. We would like to have a conversation regarding both the sporting events section and the pageants, and the reason being the way section 1, subsection 2, paragraph (e) is written, where we are basically saying without limitation, the preshow and postshow could negate some really important content. If you have ever watched a Super Bowl or a championship game of any kind with any of the leagues, you know there is a ton of content on the front end and on the back end. Oftentimes there are biopics on players. Many times, for instance, you would have a situation where you might have a biopic on Tom Brady, and if you have a Super Bowl in Las Vegas, we would be prevented from doing that type of content. I think that is important because these could already be consistent with other parts of the statute, but unwillingly we would be taking them out of play. I do not know if you have ever seen any of those, but they basically do a five-minute production on a player and then you may see that later in a full documentary. I think the state would be better off having those types of programming.

With respect to the pageants, I understand that the policy has been to keep tabs on galas and award shows, but I think the pageants are a different animal. Obviously not everyone agrees with the concept, but if you look at something such as the Miss Universe pageant, that is an international reach of over 500 million people. I think that is exactly what you are looking for, for Las Vegas in terms of the advertising side of it, which I think is very important as you look at this type of event. They normally last a full week, so you have all the content that goes with that. It is not just an award show for one night. It is an event. I think that is important to remember. Most pageants would probably never meet the spend requirements anyway, but I would tell you there are probably one or two that would.

Perhaps having that conversation as to how we can distinguish some of these from each other and perhaps allow some of that content that is not sporting event-related necessarily. I totally get the fact that they want to get sportscasts and newscast-related types of events out and that makes perfect sense, but I think you want to have some flexibility. Again, as was discussed earlier, I think the discretion piece is going to help with that as well because you are going to be able to choose some of the better content and it would make complete sense to add some of that back in if possible. I would be glad to answer any questions.

Chair Cohen:
I do not see any questions for you at this time, but I will encourage the members of the Committee to reach out to you if they have questions later on. Is there anyone else on the line in opposition? [There was no one.] We will now move to neutral testimony.

Steven Cohen, Private Citizen, Las Vegas, Nevada:
In light of the Sia controversy that kind of went viral around Thanksgiving and then rehashing itself a couple of weeks ago, I would love to see a disability talent preference somehow worked into this. I am happy to work with the agency and/or Committee to accomplish that.

Chair Cohen:
Is there anyone else in neutral? [There was no one.] Do the presenters have any closing remarks?

Michael Brown:
Thank you for hearing us today. In Congress they often put a date for legislation to be reauthorized. While that might not be common in Nevada, and this is not a reauthorization, I did think it was important to bring these issues forward to ensure we have a moderate statute. We welcome any input. There is no urgency on this legislation. If the Committee wishes to take time to deliberate on it, there is no problem on our end.

Chair Cohen:
I think we would also like to ensure it is modern and up to date, and we get the best bang for Nevada's buck. I will close the hearing on A.B. 20 and open the hearing on Assembly Bill 66, which revises provisions relating to the abatement of certain taxes.

[Exhibit F and Exhibit G were submitted but not discussed and are included as exhibits for the hearing.]

Assembly Bill 66: Revises provisions relating to the abatement of certain taxes. (BDR 32-266)

Michael Brown, Executive Director, Office of Economic Development, Office of the Governor:
Melanie Sheldon will be presenting on this. Bob Potts and James Humm are also here to answer any questions. I asked my team to look at some of the issues we could update. One of the things I discovered was some of our abatements we get approved were taking a long time for the contract to be finalized—so long that you could see personnel changes on both sides. The review of any abatements and incentives we are doing includes a cross-agency check with all the regulatory agencies in state government, including a check

with Good Jobs First through their national violators database. I thought for all the effort we make in the recruitment process and review process, when we bring these companies forward we have confidence that they are good corporate citizens. We go through all of that, then a contract is put together with the Office of Economic Development, Office of the Governor (GOED). I discovered that these were stretching on forever. I was not sure whether some people were forum shopping—now that they have their Nevada deal, they were out shopping for another deal. What we are proposing is the contract has to be put in place within one year. If a company were to bring an extenuating circumstance, we would certainly take that to the Board of Economic Development (Board) if needed.

Melanie Sheldon is a professional economic development officer in our Las Vegas office. I will let her walk you through this. As a revenue committee, it is very important for you to understand how these programs are working. There is a lot of public interest in this. We want to ensure we are good stewards of these programs.

Melanie Sheldon, Director of Business Development, Office of Economic Development, Office of the Governor:
Thank you for the opportunity to present Assembly Bill 66. I am here today with my colleagues, Executive Director Michael Brown, Deputy Directors Bob Potts and Kris Sanchez, and Jimmy Humm, who is our Director of Compliance and Regulatory Affairs. I am also joined by my counterpart, Tatjana Vukovic, who is the Director of Business Development for the northern region [Referring to Exhibit H].

Assembly Bill 66 is very much a cleanup bill and it adds some very specific and defined language to *Nevada Revised Statutes* (NRS) 360.750, which is the statute that governs abatements. As Director Brown said, this does shorten the timeline that a company will have to sign a contract with us. I will give you some background as to why this bill is necessary.

A company will file an application with GOED and that will go in front of the Board to be approved. Once they are approved, the company enters into an abatement agreement, or a contract with GOED. The company is actually able to choose the effective date of that contract. We recommend to GOED that they align that with their hiring and purchasing schedule, the business plan of the project. The only stipulation currently in statute on that is the effective date cannot predate the date GOED received the application.

To give you an example, a company might be approved and for some reason there is a time lapse, they have not signed their contract, they may decide to come back and pursue that. It is codified in statute that they could go back to the date GOED received the application despite whatever time had lapsed. That can potentially cause a refund situation with the Department of Taxation as they administer the abatements. This is more proactive than reactive, especially in a time of fiscal uncertainty. We want to look for efficiency and this is one we have identified.

The possibility could exist for the company to apply that abated rate towards purchases and hiring that had been done at the full tax rate, and then they could receive a refund. In a time of fiscal uncertainty, the state does not want to be offering refunds. As well, I hear refunds can be a laborious process that would take the audit team away from their core duties of performing the audit. This is to mitigate this. This was developed in close collaboration with the Department of Taxation, which is the audit team that works on this. This will make their job easier. It will free up resources. It will encourage companies to operate within GOED's policy of making a timely commitment to begin operations in Nevada, as well as adhering to their contractual obligations. That is the only change being added to the statute, but it does seem very hefty because it appears in a lot of places. It covers all the abatement packages we have. I am happy to answer any questions you may have.

Michael Brown:
My team is available to answer any questions. As I said, Governor Sisolak asked me to tighten all these programs up when I took this job. With all the fuss and feathers we go through to get one of these abatement packages through, I kind of expect the contract to get signed and put into place.

Melanie Sheldon:
I should add that most companies I work with have a very aggressive timeline. They are very keen to get to Nevada, get started, and get operations set up. This is not a common occurrence, but once again it is certainly something our agency would want to get in front of, and so would the Department of Taxation.

Chair Cohen:
That was one of my questions—how often does this happen? Has it happened where you felt there was forum shopping going on? What has happened to make you feel the need not to just tighten this up but to get a statutory fix to this?

Melanie Sheldon:
It is not common at all, and the Department of Taxation has also confirmed with me that this is not a common occurrence for them. However, we work very closely with our Department of Taxation colleagues and Director Brown has now commenced having quarterly meetings with them. We really started to look at issues on both sides, efficiencies, or ways we can address this. This is an area we identified as a group that there was something we could do about it.

Chair Cohen:
You are welcome to show the presentation you have for the bill [Exhibit I].

Melanie Sheldon:
I think I covered most of the points unless the Committee would like to see that presentation.

Chair Cohen:
Could you go through the refund situation? I know there is a concern about preventing refunds. Can you go into how they occur in the first place, and give us a scenario of what that would look like?

Melanie Sheldon:
A company might be approved by GOED and they will have a draft contract sent to them for their signature within five to seven days of the meeting. Then there is a time lapse, a merger or acquisition, a staff turnover, a change in a business plan, or there is forum shopping—so for whatever reason that contract is not signed. A year may pass and the company realizes they want to be in Nevada, so they will come back, say they have this abatement, it was approved, they have done a bit of hiring and purchasing now, so they would like to apply the abatement to that. They could go back to the date we received their application, the prior year. They have done that hiring and purchasing at the full tax rate so they could apply the abatement should they want to. That is how the refund situation would occur.

Chair Cohen:
So we would be refunding back to the company?

Melanie Sheldon:
We would be refunding the abated amount.

Assemblywoman Benitez-Thompson:
It is so interesting to hear what GOED encounters because what we envision as legislators and what might play out are so different sometimes. I know none of us ever envisioned writing the statute in a way that would allow people to drag their feet and get a refund. I like that it is one year, use it or lose it. In any negotiation there is typically an end date. This makes a lot of sense and is long overdue.

We built all these abatement programs a little bit differently. If I remember correctly within the Tesla statute and Faraday statute, there were benchmarks on investments and those benchmarks then dictated whether or not they got the abatement. We do not necessarily tend to have that in the 360.750 section of NRS. We give them two years or 50 employees within the eight quarters. From what you have seen, would it make more sense to look at benchmarking some of those investments?

Michael Brown:
Tesla was a truly exceptional, one-off, legislatively approved situation. These standard abatements cover a whole variety of companies. At this point I have not seen anything that would necessitate that. My frustration was borne out of when I was in the private sector and I got a permit from the government, we started the next day. We went on with it. I just did not understand what was going on here, and it was quite frustrating to the folks at the Department of Taxation as this is not what they are doing full time, this is a collateral responsibility they pick up. It would also be easing the burden there.

I do not know that I would want to get into the existing abatements without knowing a lot more than I do. I understand why the Legislature wisely did that with the large package for Tesla and the larger package for Faraday that did not come to fruition.

Assemblywoman Benitez-Thompson:
I know we cannot do anything about the deals that are done. I was thinking whether it made sense on some of these other ones to look at it. In looking at the entire bill, you cover through the general economic abatements, you are adding this into the data centers, you are adding it into 372 which is . . . .

Michael Brown:
Yes. When we did this, I thought it was a simple amendment and when I got it back from LCB, I thought I was going to have to buy more ink for the Inkjet because it was so spread out in so many different parts of the code.

Assemblywoman Benitez-Thompson:
I see it references the 200 statutes in section 9. I thought it might be drafted where you have the 200 statutes and then the 300 statutes, but the 200 statutes are at the back, so you do grab those too.

Michael Brown:
We owe flowers to the LCB lawyer who spent the time tracing that all the way through the code. Again, there is not an urgency on this. When you are prepared to move it, we are prepared to help you with it. There is nothing that says we need this straight off.

Chair Cohen:
I do want to confirm something. Assemblywoman Benitez-Thompson mentioned use it or lose it. I wanted to clarify something. It is not just one year and then you are done, it is one year and you have to reapply.

Melanie Sheldon:
That is correct. Your application and approval would be considered stale, and you would go back in front of the Board.

Michael Brown:
When we have done one of these deals, and three constitutional officers, three cabinet members, and three private citizens have sat there and reviewed it, I want to get on with it because we have other things we need to be doing.

Chair Cohen:
That is understandable. Are there any other questions from the members of the Committee? [There were none.] Director, do you have anyone else as part of your presentation you would like to have speak?

Michael Brown:
No. We appreciate your hearing us today. As I said, these are sensitive issues and upon my appointment they were marked as issues where I needed to spend time and give attention to. We want to respond to the public sensitivity on these matters.

Chair Cohen:
We appreciate you and your team looking out for Nevada, making sure we get the best bang for our buck. We will move on to support of A.B. 66.

Dylan Keith, Policy Analyst, Government Affairs, Vegas Chamber:
We are in proud support of this bill and we urge your support as well.

George Ross, representing Las Vegas Global Economic Alliance:
The Las Vegas Global Economic Alliance strongly supports A.B. 66. In particular, as many of you have heard already, it helps encourage the recipients to get on with their project and will definitely inhibit forum shopping.

Chair Cohen:
Are there any others in support of A.B. 66? [There was no one.] We will now take testimony in neutral. [There were no callers.] We will now take testimony in opposition.

William Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Union:
I first want to apologize to Mr. Brown for not following decorum and having this discussion with him prior to the hearing of the bill. With the rules established by Chair Cohen, we would support an amendment to this bill, so at this point we are required to testify in opposition to the bill. What we are looking for is some provisions in this bill that would tie these projects when they include construction work, repair, or modernization, to include provisions of NRS 338.013 to 338.090, much of what we saw in Assembly Bill 190 of the 80th Session, whereby we can be assured that the area standards and the prevailing wage are paid when tax dollars are being abated for construction work.

We have a project here in southern Nevada, Air Liquide, of which I have talked with Director Brown. It was a project that was abated—tax abatements were issued under the previous administration—that is just now getting around to being constructed. We have had numerous problems on that job site regarding local contractors, local hiring provisions, apprenticeship opportunities, and the area standard wages being paid on this project. We believe that when our tax dollars are being spent and are abated in this fashion, the area standards, local opportunity, and local hiring provisions ought to be considered. With that, I will again apologize to Mr. Brown and his team for not having brought this to his attention prior to the bill being heard today. But I hope we can have some conversations in the near future before the bill comes back for a work session. We are all trying to navigate this new world we are living in. Usually we are all in Carson City and I can walk down the street and have these conversations. It is a little awkward now, but I do apologize for my tardiness and not following proper decorum.

Chair Cohen:
I encourage you to follow up with Director Brown as we continue to work on the bill. Is there anyone else in opposition? [There was no one.] Are there any closing remarks from the presenters?

Michael Brown:
These are awkward times in these conditions. I will reach out to Mr. Stanley and we will have a conversation, then we will come back to the Committee.

Melanie Sheldon:
Thank you for your time. It was greatly appreciated.

Chair Cohen:
I will close the hearing on A.B. 66. We will now move to public comment. Is there anyone on the line for public comment? [There was no one.] Are there any comments from the members of the Committee? [There were none.] Our next meeting will be Tuesday, February 23, 2021, at 4 p.m. We are adjourned [at 5:48 p.m.].

RESPECTFULLY SUBMITTED:

____
Gina Hall
Committee Secretary

APPROVED BY:

____
Assemblywoman Lesley E. Cohen, Chair

DATE: ______________________________

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is written testimony dated February 18, 2021, presented by Eric Preiss, Director, Nevada Film Office, Division of Motion Pictures, Office of Economic Development, Office of the Governor, regarding Assembly Bill 20.

Exhibit D is a statement of intent to amend Assembly Bill 20, submitted by Eric Preiss, Director, Nevada Film Office, Division of Motion Pictures, Office of Economic Development, Office of the Governor.

Exhibit E is a document dated October 1, 2020, titled "Annual Report, The Nevada Film Office, Pursuant to NRS 360.7598," submitted by Melanie Sheldon, Director of Business Development, Office of Economic Development, Office of the Governor.

Exhibit F is a copy of a PowerPoint presentation titled "AB 20 - Overview and Background," containing copyrighted photos, submitted by Eric Preiss, Director, Nevada Film Office, Division of Motion Pictures, Office of Economic Development, Office of the Governor.

Exhibit G is a copy of an email dated March 3, 2021 to Assembly Revenue Exhibits, submitted by S Leach, in opposition to Assembly Bill 20.

Exhibit H is a written statement dated February 18, 2021, presented by Melanie Sheldon, Director of Business Development, Office of Economic Development, Office of the Governor, regarding Assembly Bill 66.

Exhibit I is a copy of a PowerPoint presentation titled "AB 66 - Overview and Background," submitted by Melanie Sheldon, Director of Business Development, Office of Economic Development, Office of the Governor.