

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

**Eighty-First Session  
April 8, 2021**

The Committee on Revenue was called to order by Chair Lesley E. Cohen at 4:04 p.m. on Thursday, April 8, 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](http://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:**

Assemblyman John Ellison, Assembly District No. 33

**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:**

A'Esha Goins, Founder, Cannabis Equity and Inclusion Community Nevada  
Randi Thompson, representing Nevada Vaping Association  
Bryan Bedera, representing Nevada Vaping Association  
Melanie Young, Executive Director, Department of Taxation  
Terri Upton, Deputy Director, Compliance, Department of Taxation  
Howard Lenox, representing Fumare Fine Cigar Boutique, Reno, Nevada  
Bryan Wachter, Senior Vice President, Retail Association of Nevada  
Barry Duncan, Director of Government Affairs, Nevada Taxpayers Association  
Elliot Malin, representing Nevada Petroleum Marketers & Convenience Store Association  
Peter Krueger, representing Cigar Association of America  
Alexis Motarex, representing Nevada Chapter Associated General Contractors  
Tiffany Tyler-Garner, representing Children's Advocacy Alliance  
Sequila Angkratok, representing Human Services Network  
Christine Saunders, representing Progressive Leadership Alliance of Nevada  
Chris Daly, representing Nevada State Education Association  
Alex Camberos, representing Battle Born Progress  
Tessyn Opferman, representing Nevada Women's Lobby  
Derek Armstrong, Director of Economic Development and Tourism, City of Henderson  
Jonas R. Peterson, President and Chief Executive Officer, Las Vegas Global Economic Alliance  
Glenn Christenson, representing Las Vegas Global Economic Alliance  
Mary Beth Sewald, President and Chief Executive Officer, Vegas Chamber  
Sheldon Mudd, Executive Director, Northeastern Nevada Regional Development Authority  
Lynn O'Mara, Director of Communications, Northern Nevada Development Authority  
Aaron West, Chief Executive Officer, Nevada Builders Alliance

**Chair Cohen:**

[Roll was taken and Committee rules and protocol were reviewed.] We are going to start with our work session and then have two bill presentations. I will open the work session on Assembly Bill 66.

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

**Michael Nakamoto, Deputy Fiscal Analyst:**

The first bill on today's work session is Assembly Bill 66, which was heard in this Committee on February 18, 2021, and was sponsored by this Committee on behalf of the Office of Economic Development, Office of the Governor (GOED). Assembly Bill 66 does two main things. First, it prohibits the effective date of an abatement or partial abatement

under an agreement entered into by GOED [Office] from being later than one year after the date on which the application for the abatement is approved. Second, the bill requires the applicant to enter into the agreement within one year after the application is received by the Office. If the applicant fails to enter into an agreement within one year after the application is received, the applicant is required to submit a new application to be eligible to receive approval for the abatement or partial abatement.

There is one amendment that was submitted by GOED on behalf of the Office and the Department of Taxation. The provisions of the amendment and the language are attached to the work session document [page 3, [Exhibit C](#)]. There are two main points to this particular amendment.

1. If an applicant for abatements makes any eligible purchases that are subject to an abatement after the application is made with the Office but before the application is approved, and sales and use tax is paid on that eligible purchase, the applicant may claim a refund of the taxes paid once an agreement is executed with the Office. However, no interest shall be allowed on the approved refunded amount if a refund of the taxes is approved.
2. The Department of Taxation will issue an exemption letter to the applicant, once an abatement agreement is executed with the Office, which must be utilized when the business makes eligible purchases that are subject to abatement. If the exemption letter is not utilized when making purchases, the business may apply for a refund of the taxes paid that should have been abated. However, if the business fails to use the certificate and ends up paying the full amount of taxes on 50 percent or more of the eligible purchases, the business shall be deemed noncompliant and will be assessed a penalty of 10 percent of the tax abatement to offset the burden placed upon the county affected by a refund of the funds that were previously distributed.

That is the end of the work session document for this bill. I would be glad to answer any questions.

**Chair Cohen:**

Just to be clear, as you cut out when you were talking about the second portion and the abatement letter, is this coming from the Director?

**Michael Nakamoto:**

My understanding is that the exemption letter is issued by the Department of Taxation once the abatement has been approved by GOED. They forward that information to the Department of Taxation, and they are the ones who issue the exemption letter to the business that receives the abatement.

**Chair Cohen:**

If the members of the Committee have any questions, we have Mr. Humm from GOED and Director Young with the Department of Taxation available. I do not believe [GOED] Director Brown is with us today. Members, do you have any questions? [There were none.] I will accept a motion to amend and do pass Assembly Bill 66.

ASSEMBLYMAN O'NEILL MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 66.

ASSEMBLYWOMAN KASAMA SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN ANDERSON AND MILLER  
VOTED NO.)

I will close the work session on A.B. 66 and open the work session on Assembly Bill 322.

**Assembly Bill 322: Provides for the licensure and regulation of certain events at which the sale and consumption of cannabis or cannabis products is allowed. (BDR 56-789)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

The final bill on today's work session is Assembly Bill 322, which was heard in this Committee on March 25, 2021, and was sponsored by Assemblyman Miller. As introduced, the bill provides for the licensure and regulation of "portable cannabis vendor events" and "temporary cannabis events" by the Cannabis Compliance Board (CCB). Under the bill, a temporary cannabis event is an event at which participating adult-use cannabis retail stores sell cannabis or cannabis products to persons 21 years of age or older; and the consumption of cannabis or cannabis products by such persons is allowed. A portable cannabis vendor event is defined as an event held by a portable cannabis vendor at which the portable cannabis vendor sells cannabis or cannabis products to persons 21 years of age or older; and the consumption of cannabis or cannabis products by such persons is allowed.

This also allows for the issuance of licenses for portable cannabis vendors and cannabis event organizers, and it revises provisions that currently prohibit the consumption of cannabis in a public place to permit the consumption of cannabis or cannabis products in an area that has been designated for that activity at a temporary cannabis event or portable cannabis vendor event.

When the bill was heard in this Committee, there was a mock-up [Proposed Amendment 3139 to Assembly Bill No. 322] which was submitted by Assemblyman Miller and was discussed at the hearing. This is attached to the work session document [beginning on page 4, [Exhibit D](#)]. This proposed amendment makes the following changes to the bill:

1. Removes references to "portable cannabis vendor events."
2. References to a "temporary cannabis event license" are changed to refer instead to a "temporary cannabis event permit."
3. The definition of "portable cannabis vendor" in section 4 is amended to specify that the vendor is defined as a business that purchases cannabis or cannabis products from an adult-use retail store and sells such cannabis or cannabis products at a temporary cannabis event.
4. A new section is added requiring the CCB [Board] to give priority to a social equity applicant in processing applications for a cannabis event organizer license or portable cannabis vendor license; and the issuance of such a license.
5. A definition of "social equity applicant" is added to mean an applicant who has been adversely affected by previous laws that criminalized activity relating to cannabis.
6. The Board is given discretion to establish reduced fees for cannabis event organizer licenses and portable cannabis vendor licenses for those social equity applicants.

Also attached to this work session document [beginning on page 39, [Exhibit D](#)] are proposed amendments that would further amend that mock-up, submitted by the Cannabis Equity and Inclusion Committee and Assemblyman Miller. Those are listed on the work session document with the following changes noted:

1. In section 4, which contains the definition of the term "portable cannabis vendor," the ability of the portable cannabis vendor to purchase cannabis or cannabis products from an adult-use retail store is removed.
2. In section 14.5, which contains the definition of the term "social equity applicant," the words "or on the geographic location in which the applicant will operate" are deleted.
3. In sections 15 and 21, the prohibitions against an owner, officer, or board member of the proposed cannabis event organizer or the proposed cannabis vendor having been convicted of an excluded felony event are deleted.
4. Section 23, which requires an adult-use cannabis retail store to accept returns of unsold products from a temporary cannabis vendor, is deleted.
5. In section 25, which allows a local government having jurisdiction over the location where a temporary cannabis event is held to impose a fee for holding the event, it removes the requirement that the fee be based on the number of persons who are expected to attend the event.

6. In section 42, the proposed subsection 8, which would have exempted the sale of cannabis or cannabis products by an adult-use cannabis retail store to a portable cannabis vendor for the purpose of resale from the 10 percent retail excise tax on these products, is deleted.
7. There are additional provisions relating to the prioritization and issuance of cannabis licenses to social equity applicants that are included at the end of this document.

The only other thing I would note with respect to this bill is it was declared eligible for exemption by the Fiscal Analysis Division, Legislative Counsel Bureau, on April 2, 2021, which means if the bill is moved from this Committee and to the floor, in all likelihood the next stop for it will be the Assembly Committee on Ways and Means. With that, I would be glad to answer any questions.

**Chair Cohen:**

Obviously we have the bill sponsor with us today in our Committee if you have questions. We also have Mr. Klimas from the CCB and Mr. Nakamoto. Members, do you have any questions?

**Assemblyman Miller:**

I need to clarify something on the amendment. I do not think what you read is correct. I may not have sent the updated version, and I would like to address that. It is just in section 4. We are not removing the sale from the retailers. The sale to the portable vendor would still have to go through a retailer. That was something that should have been corrected in the language that was sent to you, and I think I sent the wrong one. That is the only change.

**Chair Cohen:**

Members, are there any questions on the bill or Assemblyman Miller's change?

**Assemblywoman Anderson:**

Under the new language for number three, I want to ensure I am understanding this correctly [page 41, [Exhibit D](#)]. Can you explain the second sentence of the new language where it says, "In the circumstance that there are not enough qualified social equity applicants, those adult-use cannabis establishment licenses for portable cannabis vendor license and Cannabis event organizer for social equity applicants shall be held in reserve for future applicants." Could you explain that a little bit more?

**Assemblyman Miller:**

We have A'Esha Goins on the call to answer that question.

**A'Esha Goins, Founder, Cannabis Equity and Inclusion Community Nevada:**

Let us say there are 25 licenses and 15 are going to the social equity applicants; those 15 licenses will stay. Even if someone drops down, it would remain a social equity license, so another social equity applicant could obtain that license, and if 15 do not apply, those licenses will be set aside for social equity applicants.

**Chair Cohen:**

Are there any other questions from the members of the Committee?

**Assemblywoman Kasama:**

One of the questions that came up with this bill regarded the Nevada Clean Indoor Air Act, and there were a couple of other issues. Unless I missed it in the amendment, was there anything regarding how the air might be cleaned or how that is going to be handled?

**A'Esha Goins:**

I specifically did not put that in the bill. I allowed this to be redirected to the CCB to apply; however, I do want to address that there are filters that can be used with generators. And I believe that would be something the CCB would require, that could filter the air. I did the research because I wanted to ensure that could happen, but yes, there are filters some of the licensees are currently using to filter the air.

**Assemblywoman Kasama:**

I am leaning in favor of this bill, but I still have some issues. I know there is another bill out there [Assembly Bill 341] that goes along the same routes, and I think it had more detail in that, so I could work with that. Maybe we could bring these together. I am not quite sure how that would work. I just wanted to let you know I will probably be voting no on this but am in favor of the concept, and hopefully that will be worked out a little bit more as we go along.

**Chair Cohen:**

I do not want to speak for the bill sponsor, but this is somewhat of a work in progress. I am sure he is willing to look at any proposals should the bill pass and move forward. Are there any other questions from the members of the Committee? [There were none.] I will entertain a motion to amend and do pass A.B. 322 based on the information we have been given by Mr. Nakamoto and what Assemblyman Miller has told us about another amendment.

**Assemblyman Yeager:**

I would make a motion to amend and do pass with the amendment that was included at the time of the hearing, the amendment that was presented today, with the one clarification in section 4 that the portable cannabis vendor will purchase product from the retailer.

ASSEMBLYMAN YEAGER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 322.

ASSEMBLYWOMAN CONSIDINE SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Roberts:**

I had a discussion with Ms. Goins yesterday, and I appreciate her and Assemblyman Miller's work on this bill. I will vote yes today to get it out of Committee but reserve my right to change my vote on the floor. I have not had a good chance to digest the amendment, but it was a good explanation by Mr. Nakamoto. I do not know how this impacts the other consumption lounge bill that is out there [A.B. 341].

**Chair Cohen:**

As a reminder, Committee, you always have the option to change your vote on the floor. I just ask that you let me know if you are going to do that.

**Assemblyman O'Neill:**

Ditto.

**Assemblyman Hafen:**

Ditto. It appears that most of my concerns have been addressed, but I would like to see the final language.

**Assemblyman Yeager:**

I want to thank Assemblyman Miller and Ms. Goins for working on this. For those of you who are on the Assembly Committee on Judiciary, you will see some similarities with another bill that was referenced, the consumption lounge bill, A.B. 341, which we have not processed yet out of Committee. I just wanted to say thank you because these are two different concepts but they sort of touch on the same issue. I think it is important to get them aligned in some fashion. The truth is probably both of them will end up in the Assembly Committee on Ways and Means if they pass out of the policy committees. I just want to express that I think it has come a long way from the hearing. I know this is a difficult issue with a lot of interest from a lot of people. I look forward to voting for it.

**Chair Cohen:**

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN KASAMA VOTED NO.)

I will assign the floor statement to Assemblyman Miller. As for Assembly Bill 66, I will assign the floor statement to Assemblywoman Anderson. [Chair Cohen later assigned the floor statement for A.B. 66 to herself.] I will close the work session on A.B. 322 and open the hearing on Assembly Bill 389, which revises provisions governing the taxation of certain tobacco products. We welcome Assemblyman Ellison, who will introduce the bill, and any speakers he has with him today.



**Assembly Bill 389: Revises provisions governing the taxation of certain tobacco products. (BDR 32-194)**

**Assemblyman John Ellison, Assembly District No. 33:**

I am happy to present Assembly Bill 389 today. I agreed to sponsor this bill when I learned that it could bring back jobs to Nevada and not impact revenue to the state or impact taxes consumers pay on other tobacco products. A bill was passed in the 2019 Session [Senate Bill 81] that had unintended consequences and caused several businesses to close or relocate out of the state, killing over 100 good-paying jobs primarily in Las Vegas. I have already had one colleague ask if this bill passes, could he go ahead and start the process, so there are people right now looking to reopen their businesses.

Assembly Bill 389 fixes an issue that could help bring these manufacturing and distribution jobs back—the kind of jobs we need to continue to grow and help diversify our economy. I am joined today by Randi Thompson and Bryan Bedera from the Nevada Vaping Association who will walk us through the bill.

**Chair Cohen:**

Before we move on, I want you to address the fiscal note on the bill. Are you saying the amendment [Exhibit E] takes care of that?

**Assemblyman Ellison:**

Yes. I am sure they can go through this thing pretty clearly. By the time they are done, there is a no revenue; it is a match because of the way the taxes go out. They will be able to explain this a lot better than I can. It is not collected.

**Chair Cohen:**

I want the members of the Committee to be aware we have the Department of Taxation available for questions and we will have them clarify this later in the hearing.

**Randi Thompson, representing Nevada Vaping Association:**

We are bringing this bill and proposed amendment [Exhibit E] today to fix an issue that occurred following the passage of Senate Bill 81 of the 80th Session and Senate Bill 263 of the 80th Session, which changed how other tobacco products (OTP)—like e-cigarettes and cigars—are taxed at the wholesale level. These bills set up a very confusing tax structure that was not able to be fully vetted last session.

Assembly Bill 389 will not change the tax rate. It will simply change where the taxable event occurs and ensure that all products sold in Nevada will be captured by the tax. We have been told if this bill passes, manufacturers and distributors will return to Las Vegas and restore many of the 100-plus jobs that were lost since the passage of S.B. 81 of the 80th Session. Some companies will likely expand their operations. These are

good-paying manufacturing and distribution jobs that will help diversify the Las Vegas economy. I would now like to turn the presentation over to Mr. Bryan Bedera, the Executive Director of the Nevada Vaping Association, to explain the bill and the proposed amendment [[Exhibit E](#)], which does address the fiscal issue.

**Bryan Bedera, representing Nevada Vaping Association:**

When you think about the Nevada vaping industry, you typically think about the corner vape shop. That is not what this bill affects. This bill strictly touches the wholesale and distribution side of the vaping industry, which is primarily related to products that will never be touched by the hands of Nevada consumers. There is one specific company in Nevada that manufactures the vast majority of its products for sale in China, so you see made-in-Nevada products in Chinese convenience stores instead of the opposite what we are used to seeing.

As a result, we see a direct economic output into the state of Nevada of \$85,919,000, 973 direct jobs, \$28,486,000 in wages, and \$40,996,700 in nontobacco taxes [page 2, [Exhibit F](#)]. When we talk about this, we are not including OTP taxes paid. We are talking about commerce tax, property tax, and sales tax paid by these companies. An average wage in the manufacturing or distribution side of these industries is over \$15 per hour and is continuing to increase as the industry grows within the state. The majority of jobs, the majority of this revenue in the state, does not come from retail vape shops.

I am going to skip over the background slide [page 3, [Exhibit F](#)] as I think Assemblyman Ellison and Randi Thompson covered this very well, but Senate Bill 81 of the 80th Session assessed this tax structure and when that tax structure was created, vapor products were not included as OTP. A few hours later in the same legislative session, vapor products were included into these definitions, so our industry was not involved in the discussion on S.B. 81 of the 80th Session or how to set up the structure.

It is important to really look at what A.B. 389 does and does not do [page 4], and we will get into the technical pieces of the amendment [[Exhibit E](#)] and the bill shortly, but I wanted to explain this in plain English before we do that. It only changes when the tax is paid. It does not change how much is paid or change the taxes on any of the products. It eases the administration of the tax by the industry, and we believe we also ease the administration of the tax by the state. The things it does not do, and the original draft of the bill did but we fixed in our amendment, it does not change the price of the product or the taxes paid. It does not change the rate or the total taxes paid to Nevada, and while this is not exactly relevant, we feel like it is very important to say it does not change any minor's ability to access the product or make it easier for minors to get tobacco products. This only eases the ability to buy, sell, trade, and manufacture wholesale tobacco products for sale out of the state.

Digging into our proposed amendment to the draft bill, section 1 should be what takes care of most of the fiscal note, which is it reverts subsection 6 to current law, keeping the definition of a wholesale tobacco dealer the same [page 3, [Exhibit E](#)]. It is our understanding that should eliminate the need for all the additional FTEs [full-time equivalents] that are in the

fiscal note. Subsection 7 further defines the taxable event to be when the product is sold to a retailer, or in some cases, a consumer. That should eliminate the reduction of revenue into the state. Section 2, subsection 2 of the amendment [page 4] clarifies that when the product is sold out of Nevada, it is not subject to taxation. That is just further clarification of current state law so it should have no substantial effect. It is just saying in plain English what has been substantially confusing through the regulatory process. Section 2, subsection 3 [page 5] further clarifies that the taxable event is when the product is sold to a retailer.

To explain what A.B. 389 does, we created a graphic [page 6, [Exhibit F](#)] to help folks understand. Under the current scheme, the taxable event takes place when the product is first made or imported into Nevada. The product moves through the Nevada supply chain with the taxes assessed. What we are proposing we do is move the time when the tax is paid to when the product is purchased by a Nevada retailer, allowing the products to move through the wholesale side of the transaction with no tax assessment on them.

Why do we need to do that? The number one issue is a double taxation problem [page 7, [Exhibit F](#)]. Under the current structure, when a product is made in Nevada and then distributed by a Nevada distributor, the taxable event takes place and availability for a tax credit is eliminated. When that product is sold outside of the state, the result is that it is taxed both in Nevada and by the other state. There is no other state that we are aware of in the country that taxes products this way, causing this double taxation problem. Because of this extra tax, made-in-Nevada products cannot compete in California against made-in-California products, whereas made-in-California products can easily compete against made-in-Nevada products in Nevada because California's structure is more friendly to manufacturing than Nevada's.

As a result of this, it creates an environment where Nevada companies cannot work together, and that is why this bill has no fiscal impact [page 8, [Exhibit F](#)]. If a made-in-Nevada product is destined to be sold out of state to an end consumer, to avoid the double taxation what they end up doing is selling the product to a distributor based in another state—so the made-in-Nevada product is sold to a California-based distributor. That eliminates the taxable event within the state of Nevada and allows the product to be sold out of state. With the current tax structure, what we have effectively done is tell made-in-Nevada manufacturers that if you sell to Nevada distributors and keep all the distribution jobs related to your product in the state, you are going to have to pay some extra taxes. As a result, nobody does it.

The third and final reason why this is important is that Nevada retail stores and Nevada consumers often struggle to source the products they need to stay in business [page 9]. Because distribution taxes are so high on this product, what ends up happening is the distributors keep the absolute minimum amount of products in their warehouse, meaning that hard-to-sell items, specialty items that do not sell very often, or even high-ticket items, are rarely stored in Nevada distribution facilities. That means when a retail store, or even an end consumer, wants to purchase a specialty item or a high-priced item, they often end up having to go to an out-of-state distributor where those products are being stored tax-free until they

are sold into the state of Nevada. So it creates an advantage for an out-of-state distributor selling products to Nevada retail stores versus an in-state distributor selling products to Nevada retail stores, again, making it difficult for these distributors to create and maintain these good-paying jobs in Nevada.

To wrap this up is why we need this bill [page 10, [Exhibit F](#)]. The current tax policy incentivizes companies to make products outside of the state, to keep them or store them outside of the state, and do everything possible to keep the product out of Nevada until that last mile—before retail. You will hear from Nevada Vaping Association members, but we can directly track that behavior to the loss of over 100 jobs in the state of Nevada, companies that have moved out of state or even just moved a substantial amount of their operations out of state, even though they still have distribution and factories in Nevada and could turn them back on tomorrow if we fix this problem.

It is important to understand that because of this structure, businesses are not paying these taxes. What they are doing is routing their products around the state of Nevada before they get to their end consumer and then paying the tax at the last minute. What ends up happening is we are getting some of the tax revenue we would if we would just allow the wholesale side of the business to work tax-free. That concludes our presentation.

**Assemblywoman Considine:**

On page 2 [[Exhibit F](#)], where it says the average wage in wholesale manufacturing and distribution side of the industry is over \$15 per hour, how was this calculated? If \$15 per hour is the average wage, what is the hourly rate of the lowest wage earner in the industry?

**Bryan Bedera:**

The wage was calculated by going through the total amount of wages for the industry and dividing it by the number of employees we were aware of. We also did a brief survey of a number of our members to confirm this. Speaking for the members I have talked to about their wages, on the distribution side I believe we are in the \$13- to \$14-per-hour wage on the bottom end in the wholesale distribution side. I cannot speak to the retail side, but it would be the lowest wage you would find at a big box retail store on the side of retail.

**Assemblywoman Considine:**

If you get that information, sending it to the Committee would be great. If you are comparing to the other retail-type stores, trying to get some clarity on how you are explaining the issue with this, are your suggestions with this bill to fix it? Is that how the tax issue is handled with other products, where they do not pay a tax on the wholesale side, distribution side, or warehouse side; they only pay it when it has gone to a retailer?

**Bryan Bedera:**

This is similar to the structure we would see with a sales tax, where that tax is paid by the consumer and not by the retail store. Among excise tax products in the state of Nevada, this is different for sure; however, compared to sales tax it is not that dissimilar, with the product being paid closer to the end consumer and not being paid upon first possession.

**Assemblywoman Considine:**

So right now, most entities that warehouse products are not paying the same tax that they are under the OTP system?

**Bryan Bedera:**

Yes, with, I believe, the exception of alcohol and marijuana. Those would be the only two products I know of that have similar floor-tax type structures.

**Assemblywoman Considine:**

I was confused as to why you have the line in here that Nevada is the only state to double-tax its local businesses [page 7, [Exhibit F](#)]. When you say double-tax the local businesses, you are saying a product made and first arrived in Nevada is taxed, then that product is taxed again in another state. It is not that there is a double tax Nevada gets, it is a double tax on the business on the Nevada side and then on the other state.

**Bryan Bedera:**

That is correct. To use California as an example, the state of California exempts their local manufacturers and distributors completely from taxation if they only sell their products to customers outside of California. That is a typical model around the country. So we end up paying the Nevada tax when you make it and paying the California tax when you sell it into California, whereas in California they do not [unintelligible] any tax when they make it, and then if they were to sell it into Nevada, they would pay the Nevada tax.

**Assemblywoman Considine:**

If this bill were to pass, products warehoused in Nevada that have not been manufactured here but are warehoused here, they do not pay the taxes on it. Then if those same products are distributed out of state where the taxes are paid by the other state, where are the Nevada taxes paid in that situation?

**Bryan Bedera:**

No, Nevada taxes will be paid in that structure, but that is not dissimilar to the current structure. If a product is made out of state, brought into Nevada for distribution, and then sold outside of the state, under the current tax structure, no net taxes are paid. What ends up happening is that distributor pays the tax to the State of Nevada and when they ship it out of state, they receive a credit or a refund for those taxes. So the net taxes on that product currently are zero, and they would be zero under the proposed structure as well.

**Assemblywoman Considine:**

I am confused. How does that become fiscally neutral?

**Bryan Bedera:**

Currently all the taxes that are paid by the distributor in the middle—whose out-of-state product, into the state—a tax is paid. Then when they ship it out of the state, that tax is refunded by the State of Nevada. The tax paid is fully refundable if it is shipped out of the state by that middle distributor. The problem only arises, where we are trying to exempt

taxation, when a product is made by a Nevada company and then sold to a Nevada distributor. That is the only time the tax is not refundable when it is sold out of state under the current structure.

**Chair Cohen:**

Do we have any questions for the presenters before I ask Director Young some questions? [There were none.] Director Young, can you please explain to us the way the OTP tax works?

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

I will provide some clarifying information on what is being shared today. Terri Upton is also here, my Deputy Director of Compliance. So when S.B. 81 of the 80th Session was passed, it imposed the tax upon when the product is first transferred into Nevada. I will have Terri Upton provide the goals of what S.B. 81 of the 80th Session was to do for the Department of Taxation in Nevada.

**Terri Upton, Deputy Director, Compliance, Department of Taxation:**

When we worked on S.B. 81 of the 80th Session, we had three goals. The first goal was to make it easier for the wholesalers in Nevada—who were selling OTPs—to simplify the tax. This was at their request. The second goal was to capture the product that was escaping taxation, not only in Nevada but also to assist other states. The third goal was to simplify the audit process not only for the Department of Taxation (Department) but also the wholesalers. The wholesale dealers have thousands of products, and it was difficult for them to figure out what the cost of the product was when they sold it to the retailer months later.

How the tax structure in Nevada works now is very similar to the liquor tax, Chapter 369 of *Nevada Revised Statutes* (NRS), where the out-of-state supplier will ship the product into Nevada and the taxable event then occurs. That wholesaler may either transfer the product to another wholesaler or sell it to a retailer, and there is no tax on those transactions. If the wholesaler who brought the product into Nevada and paid the tax sends the product out of state, they can claim a deduction on their tax return. The Department worked with the vaping association after S.B. 263 of the 80th Session was passed to allow that deduction. We changed our form last November.

**Melanie Young:**

I would like to add a little more clarifying information on what Ms. Upton was saying. In regard to S.B. 81 of the 80th Session that was passed last legislative session, the tax was changed from when the product was sold, so upon the wholesaler who would transfer the product to retailer, tax was paid at that time. In S.B. 81 of the 80th Session, it was moved back to the time when it was first possessed or received by a wholesaler in the state of Nevada, and with that it moved the taxing event from the first event that is being talked about today. In November 2020 the Department, working with the vaping association, revised its form which allowed for the deduction for products that were sold out of Nevada, being referred to today, that it would not capture the tax at the time and would prevent the refund Mr. Bedera was talking about.

**Chair Cohen:**

Going back to S.B. 263 of the 80th Session, would you say the changes that have been made have helped your Department be more efficient?

**Melanie Young:**

Yes. The issue on the taxation of when the product was sold, it would allow the industry to have an inventory. As they were selling out that inventory, that tax would be due when they transferred from the wholesaler to the retailer in this example. The inventory was constantly changing and created issues when we would go into an audit, and also created issues at the industry tracking what I would consider a first-in, first-out inventory process, in determining when the tax was due with products not selling quickly.

At the request of the industry, in 2019 the Department brought forward S.B. 81 of the 80th Session. Working with industry partners, we heard that was a complicated process so we proposed that change. It also helped us identify and bring into closer compliance those who were not paying the tax and potentially escaping the taxation. It also simplified the audit process not only for the Department but also the industry. Prior to this, our audit would take quite a bit of time to complete. It is an easier process now because the taxation is upon invoicing, or receipt of it into Nevada.

**Assemblywoman Anderson:**

Could you walk me through this and verify that it would in fact be cost-neutral?

**Melanie Young:**

The way we would view this is the bill would be effective July 1, 2021, so up until June 2021, the way we would look at this is the tax would have been paid on any product that is in Nevada. After that date, the product would not have tax paid until it is sold, which could create what I would consider a revenue impact to the State of Nevada in that the tax would now be delayed on the other side, so we would have months of reduced revenue into Nevada.

**Assemblywoman Anderson:**

So there is an anticipation of it having an impact. What are vaping products currently taxed at in Nevada? I realize that is not new language, but I am trying to do a comparison of what Nevada taxes are for vaping products as opposed to California, for example, which I believe is currently taxing their vaping products at 50 percent or higher. I am trying to figure out what that percentage is at this time, for my own comparison.

**Melanie Young:**

Pursuant to S.B. 263 of the 80th Session, the vape tax, or the OTP tax, is 30 percent on wholesale.

**Assemblyman Roberts:**

If we bring manufacturers back into the state, what kinds of taxes do manufacturers pay other than this retail tax they pay now? They contribute to the modified business tax and some other taxes, so if we brought in more companies, would that increase taxes there?

**Melanie Young:**

The industry could likely pay commerce tax if they made more than \$4 million in the state of Nevada because that would be the threshold commerce tax is imposed. Modified business tax would also be paid if their wages are greater than \$50,000 per quarter. There is a rate that is imposed on that.

**Assemblyman Roberts:**

In essence, if we lured people back into the state, regardless of their being retail or wholesale, if companies that are manufacturing in state are not really selling to folks in state, we could actually see a revenue increase, but I understand there will be a gap in between.

**Assemblywoman Considine:**

After hearing a little bit more about the tax structure and the presentation saying this has become an issue because the vaping industry came in after this was changed, my question for the Department is, will this cause issues with the other OTP that asked for this change?

**Melanie Young:**

Yes, you could have one industry that would prefer the taxes be paid in the way it is currently being paid because it is easier for their recordkeeping, and some would prefer it be paid on the other side. There are two parts to that.

**Chair Cohen:**

I want to ensure I understand the double tax issue. So there is a tax paid in Nevada, then the product goes out of state and it is taxed there, but Nevada reimburses for the tax paid?

**Melanie Young:**

The Department believes we clarified that issue when we revised our form in November 2020. It allowed for that deduction on the tax return that is submitted to the Department. It would prevent having to have that product be taxed as it transferred out of the state of Nevada into another entity, or wherever the destination, and would prevent the refund on that product. We did hear from the industry and worked with partners in relationship to that, creating that information on our tax return.

**Chair Cohen:**

Committee, do we have any further questions for the presenters, Director Young, or Deputy Director Upton? [There were none.] We will move to those in support.

**Howard Lenox, representing Fumare Fine Cigar Boutique, Reno, Nevada:**

I work for a company called Fumare International based out of Reno. We wanted to speak up and let you know about our support for A.B. 389. We agree with the vapor industry that



realigning the taxable event from the point of acquisition to distribution to a retailer and consumer fits more with what other departments throughout the country do. It also makes the ability to do business in Nevada more advantageous.

I want to tell you a quick story about a client of ours in Las Vegas who buys from us as well as other manufacturers. They have had manufacturers offer them free goods, and the buyer has turned the goods down because of the taxable event since S.B. 81 of the 80th Session passed. He has done that because there is no guarantee those cigars are going to sell right away. Losing those free goods means nothing to the retailer as they did not pay for them, but the state lost out on 30 percent of the wholesale price of what would have been, had they purchased them if the OTP was remitted at the time of sale as opposed to the time of acquisition.

Also, as probably one of the biggest nonvapor OTP distributor/manufacturers in the state of Nevada, I can confirm the Department of Taxation has never reached out to anyone who files reports that I am aware of, and most definitely not in the OTP community prior to S.B. 81 of the 80th Session being passed. Senate Bill 81 of the 80th Session has killed jobs, jobs that A.B. 389 will help re-create or bring back to Nevada. Senate Bill 81 of the 80th Session did not simplify anything. It took a clean and simple process and turned it into a convoluted and time-consuming process. I personally do the OTP tax returns for Fumare . . .

**Chair Cohen:**

Your two minutes are up. I will ask that you please wrap it up.

**Howard Lenox:**

I personally do the tax returns for the OTP business, the modified business and whatnot, and I can tell you that S.B. 81 of the 80th Session basically made things move slower and we paid less. Assembly Bill 389 will basically bring some of that revenue as well as jobs back to the state.

**Bryan Wachter, Senior Vice President, Retail Association of Nevada:**

We are in favor of A.B. 389. I believe A.B. 389 fits in with the three goals you heard from the Department of Taxation regarding S.B. 263 of the 80th Session and S.B. 81 of the 80th Session. We also think we need to take a careful look at the balance. No tax should cause a taxpayer to make an economic decision, especially one that costs jobs. In Nevada, especially in Las Vegas, we have an unemployment rate of 9.3 percent. This is a time when we need to be looking to diversify, to bringing these jobs back. You heard there is not going to be any change to the revenue that is brought in. It is a simple cash flow change. We believe this to be revenue neutral in the sense that the same amount of tax revenue will be collected, but we believe there are economic benefits to Nevada in terms of direct and indirect economic support when we bring these 1,000 jobs back to Nevada. We urge your support and appreciate your time.

**Barry Duncan, Director of Government Affairs, Nevada Taxpayers Association:**

We want to voice our support for the legislation and believe it creates a better balance within the current tax structure.

[[Exhibit G](#) and [Exhibit H](#) were submitted but not discussed and are included as exhibits for the meeting.]

**Chair Cohen:**

The next caller is unable to unmute. I ask you to try to call and we will let you testify, even if it is out of order. You can also send us your written testimony. As there are no other callers in support, we will move to those in opposition.

**Elliot Malin, representing Nevada Petroleum Marketers & Convenience Store Association:**

Thank you for allowing me to testify today. We are in strong opposition to A.B. 389. Our members are used to buying a tax-paid product so they know how much they have paid and can turn around and sell it knowing the tax cost and passing that through to the consumer. This bill would change that so they would now be the taxpayer. Currently a convenience store is a licensed retail dealer, and this bill would change that, forcing them to become a wholesale dealer, requiring them to figure out the tax and then remit it to the Department of Taxation. Our members do not want to be remitting the OTP excise tax payments to the Department of Taxation and deal with extra legwork required due to changing tax law that had been changed in the last legislative session, creating an unnecessary burden to our members.

**Peter Krueger, representing Cigar Association of America:**

We are in opposition to A.B. 389. As introduced, we believe this bill turns good tax policy on its head. Good tax policy, which is part of the Department of Taxation goals, includes equity, fairness, and certainty. We believe those goals do not measure up within this bill.

While we are sympathetic to vape manufacturers and premium cigar retailers for not wanting to pay a tax on inventory before the product is sold, we also believe this bill's one size fits all is not good tax policy. The bill will require about 3,100 licensed retail dealers to now become licensed wholesale dealers, and for the first time be required to remit the 30 percent OTP excise tax to the Department of Taxation as opposed to purchasing a tax-paid product. Please note that there is a significant fiscal note on this bill, and we believe that is correct in the sense that enforcement becomes a major problem.

Under the provisions of A.B. 389, we also believe that enforcement by the Department of Taxation and the Office of the Attorney General becomes even more complicated and costly. The two agencies currently have the tools from the 2019 Session to end—or at least slow down—tax avoidance and direct more enforcement efforts towards gray and black market transactions here in Nevada. Those kinds of gray and black market activities remain a major

problem, especially in Nevada, which serves as a staging and distribution center for illegal tobacco products being moved to California. Simply put, we think this bill is the wrong bill at the wrong time. We urge the Committee not to pass this bill.

**Chair Cohen:**

As the next caller in opposition is experiencing technical difficulties, I ask that you please submit your testimony in writing. Are there any further callers in opposition? [There were none.] We will now hear from those neutral on the bill. [There was no one.] Director Young and Deputy Director Upton, if you have testimony in neutral you would like to make, please proceed.

**Melanie Young:**

We are available for questions.

**Chair Cohen:**

I want to confirm something, and maybe you testified to this already, but there was contrary testimony on the phones in support. I want to clarify your position. If we were to pass this bill, what would the effect be on revenue?

**Melanie Young:**

The Department of Taxation believes this would change the timing on when taxes would be due. For example, because this bill would be effective July 1, 2021, taxes on all the products in inventory would be due in June 2021. Then in July it would be only on when that product is sold, so you could see reduced revenues for several months while the inventory is being sold out that had already had taxes paid on it. We are looking at this to create a revenue impact to the state in the first fiscal year of 2022.

**Chair Cohen:**

Assemblyman Ellison, Ms. Thompson, and Mr. Bedera, do you have any closing remarks?

**Assemblyman Ellison:**

I know Mr. Krueger should have referred to the amendment [[Exhibit E](#)] that was proposed and apparently he was looking at the bill. One question I have, and maybe Director Young could answer this, is if I am a manufacturer and have products coming in, and I am going to send them to a distributor, is it not correct that the distributor would pay the tax? That is what we are getting at, you say there would be a shortfall based on what they have already paid. It seems to me there could be a way to cut it off at a certain time, then there would not be a shortfall in the taxes. I do not know how car dealers do it. They do not pay taxes in the state of Nevada on every car until they are sold. We want the distributors here. We want them to build the product and as they go to the retailer, then the taxes are paid from the retailers, collected, and sent to the state.

**Randi Thompson:**

I will defer to Mr. Bedera to wrap this up, as he is the industry expert.

**Bryan Bedera:**

I only have two things I want to point out. Director Young is right. The products can be credited back; however, if a Nevada manufacturer then sells the product to a Nevada distributor, the current policy does not allow for those products to be credited. So a product that goes from Nevada manufacturing, to Nevada distribution, to out-of-state retail ends up being hit with that double tax problem, whereas if a product that is manufactured in Nevada is sold to an out-of-state distributor, they receive the credit. That causes Nevada distributors not to be able to distribute Nevada products without having this tax assessed that cannot be returned, and that is the core problem we are trying to fix.

I would like to say to the Committee and Director Young, we are open to other solutions to fix this problem, to allow Nevada manufacturers to sell to a Nevada distributor who is selling those products out of state the same way they could sell to a California distributor. Whether it is this session, or in the future, or is administrative, we as an association are committed to finding a solution that helps these Nevada distribution and manufacturing jobs come back to Nevada and rebuild the thriving industry.

**Chair Cohen:**

This is a confusing issue. If members have further questions, I would suggest they follow up with the bill sponsor, and, of course, our Fiscal staff is always available to answer questions, as I am sure Director Young and her staff are. I will close the hearing on A.B. 389 and open the hearing on Assembly Bill 449, which revises provisions governing economic development. Assemblywoman Benitez-Thompson, please begin when you are ready.

**Assembly Bill 449: Revises provisions governing economic development. (BDR 32-359)**

**Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27:**

Thank you for allowing me to present Assembly Bill 449 today. We are going to be talking a little bit about the Office of Economic Development, Office of the Governor (GOED) abatement structures, what we have set up over the past decade, how they have been performing, where our strengths are—and there are a lot of strengths to talk about—[unintelligible] some improvements in how we think about moving forward—and moving forward is going to be very important.

We are in a place right now where we are talking in a significant way about what it means to grow, nurture, and develop Nevada's economy. From some of the experiences we have seen, I think it is fair to have a conversation about changes we can make to ensure that we are moving forward in the most robust, meaningful, significant, and almost surgically appropriate way that we can, by making some changes to the statute. I prepared a binder with some information [[Exhibit I](#), [Exhibit J](#), and [Exhibit K](#)] for the Committee members. I do not know about the other members, but for me it can be hard to tab through multiple screens with multiple pages, so I thought good old-fashioned paper might be easier for us as we have this conversation.

In general, I want to talk about the strengths we have with the GOED system around abatements and incentives and the way we have to have this conversation. First and foremost, all of our tax abatement packages are prescriptive by law; they live in statute, and this is a wonderful strength for Nevada. When you go to other places, they do not live in so much sunlight, so it can be very hard to understand what exact power is being negotiated and what is being talked about. You can see a lot of wheeling and dealing, but Nevada's strength is we have a prescriptive abatement regime in statute. You cannot go outside of it. It is clear and right there for all of us to read in *Nevada Revised Statutes* (NRS).

The second-best strength is we have audits to ensure compliance. We have audits at the two-year mark and we have audits again at the five-year mark. These are done by the Department of Taxation. These businesses made an agreement with GOED—an agreement about what they would provide in terms of jobs and capital expenditures in order to receive the tax abatements. At the two- and five-year mark, there is a look back in audit by the Department of Taxation to see if this worked out the way it was intended.

The third-biggest strength of our abatement system is our ability to have the recipient of the abatement pay the abatement back if those audits do not come true, and this is a great strength. It means if the deal Nevada negotiated does not turn out to be what we thought it would be, we are going to ask the taxpayer to pay back those abatements, and the state has a phenomenal collection record.

Our next strength would be the reports and transparency. You see in the binder I provided you that GOED has to report on their abatements biennially [[Exhibit I](#)], so everything lives in sunshine and transparency for people who want to follow these kinds of reports. Lastly, and most important, we have a proven track record. When you look at these abatements through a number of different lenses, they have changed growth, and for certain regions they really have been a game changer in terms of shifting the economic foundation of the community to a much healthier and prosperous one. That also presents some new challenges for us, but they are the types of challenges that ultimately, in the long run, we can tackle and handle together.

The first report we will look at is GOED's Biennial Report to the Legislature [[Exhibit I](#)]. This is one of the strengths I talked about. Since we stood GOED (Office) up in the 2011 Session, you have a report every year from the Office showing the activities they are doing. Looking through the report, go to page 16 [page 22, [Exhibit I](#)]. What you will see are all the approved tax abatements for fiscal year (FY) 2015. You can clearly see the date the abatement was approved, the company for which the abatement was approved, and the type of industry that it is. In the next column, you see [New / Exp] shows if this is a new abatement or an expansion abatement, and we will talk more about those shortly. Then you see the county where the abatement was approved, the total capital investment, contract jobs in the first two years of operation, and average wages. Next you will see the approval for the types of abatements they can get, and these are what we call our general abatement packages for general business. They can get two years of their sales and use tax abated, four years of a portion of the modified business tax abated, and can be approved for an

abatement for a portion of their personal property tax for ten years. The next column shows if they were approved for a real property abatement. The ones highlighted in yellow are companies that submitted an application, began the process, but ultimately withdrew. Because they withdrew means the abatements did not necessarily come to fruition, or you can look to the audit to see how it ended up. In this report you can look year by year at what our general abatements are and see exactly what is being considered—what is being given in terms of abatements.

The next thing I want to point you to is the audit section because this is another great strength of our system. It starts on page 41 [page 47] but we will look at page 46 [page 52] and I will walk you through this. On this page you see the report on approved tax abatements for FY 2015—the two-year and five-year audit results. You can clearly see in yellow the companies that withdrew—the package was approved but there was no follow-through, so you are not going to see an abatement. You also see highlighted in orange that a company was deemed not compliant and billed, so what was offered and negotiated did not come to be at the audit, and so the taxpayer had to pay back the taxes that were abated. In this audit report you clearly see the effective date of the abatement package and the two-year audit date. You can see if the audit is pending, and once it is completed, you can see whether the company was deemed compliant or not compliant. At the very end of the report you see the number of jobs that were projected by the company versus the actual jobs found at the audit. You can also see what the projected average wage was versus what the audit found, and what the projected capital expenditures were versus what the audit found, so you have lots of information here about the process. As you go forward to the 2019 and 2020 approved abatements [pages 56 and 57], we are still waiting on those audits because we have not yet hit those time frames. You see a lot of really good information here about what we are doing and what we are approving in terms of abatements.

We have had this system in place for a decade. We have had a great deal of success, but with success come some struggles. From my perspective there are two specific areas where we could rethink our policy and ask if we could shape this better going forward—still knowing we want healthy and robust economic development but we want to tailor it in a way to better suit the community.

The first one is housing. If you look behind the housing tab in your binder, you will see a newspaper article from the *Reno Gazette Journal* dated February 18, 2021 [[Exhibit J](#)]. I am going to read a quote from it. It says:

Call it the biggest little drop. Just one year after soaring to the No. 4 spot in the Milken Institute's annual 'Best-Performing Cities' list last year, the greater Reno metro area fell 14 places down to 18th in 2021. It's a steep drop for a region that has been the darling of economic development watchers ever since it punched above its weight to land Tesla's first Gigafactory. This raises the question - why? For many struggling households in the city, the answer will come as no surprise. Even as Reno made its stellar climb up the list in 2020, there was one weak link in its economic chain that garnered concern

from the Milken Institute's mostly glowing analysis of the city. At the time, it stated that 'declining housing affordability challenges further economic development.' Those concerns came back to bite the Biggest Little City in this year's rankings, which added a couple of new metrics. One was access to broadband. The other is a familiar issue that has stalked Reno since it kicked off its robust recovery from the Great Recession - housing affordability.

So the reason I have this article here is because it has been established now, with a prestigious report that is an indicator to all businesses out there about economic growth, that housing and economic development are going to be talked about in the same sentence. This is the new world in which we live. It is something a lot of us have known intuitively. It is something we have talked about around the edges, but with the Milken Institute's findings, it is telling us that when we talk about economic development and when we rank an area on economic development, we are going to be looking at affordable housing, and if you do not have an answer to affordable housing, you will not look as good as another area in terms of growth. I am just establishing this is the reality in which we live, so if we can find a way to address it, it makes sense. We have to be talking about housing at the same time we talk about economic development.

The reason this article was most meaningful to me coming from Reno, is because where we are now with our crunch for housing is most likely where we imagine other parts of the state might be as they more firmly and meaningfully commit to economic development—if economic development is working in the way GOED envisions. Companies are coming from out of state and relocating here, and more people are following. At some point, if you do not have an answer for housing you are going to find yourself in the same situation Reno is in. It is going to impact your ability to bring more business here. We are in a cycle that is going to beget itself and potentially be a downward spiral.

Attached you will find the entire Milken Institute report on Best-Performing Cities 2021 [page 4, [Exhibit J](#)] if you want to look through another great source of data. On page 2 of the report [page 7], you can see what they are looking at—they clearly state they are incorporating housing affordability as one of their clear metrics.

The next area of challenge is on Medicaid. I have given you a copy of the 2021 report [Nevada Medicaid Recipients Employed by Employers with 50 or More Employees, [Exhibit K](#)]. There is also a 2019 report. As you read through this report, what it tells us is exactly how many employees and dependents are on the Medicaid system and who their employers are. I believe where this document becomes most relevant is when we are looking at companies that have received abatements, because if a company is being brought here through the process, the conversation, hopes, and goals that the community has for you on economic development, and a promise of good jobs, then we want to ensure that is what we are getting. That is part of what our audit process is for. In the bill there is a piece regarding Medicaid that we are not capturing and would make sense to course correct on it.



Page 10 [[Exhibit K](#)] is where the information starts. This list is in order of the businesses that have the most employees on Medicaid. In looking at the first company on the list, you see the company name and then the Form 5500 column. At the beginning of the report, they explain that the Department of Health and Human Services sends their data and information to DETR [Department of Employment, Training, and Rehabilitation] to cross-check employment. At the end of the report, you see the number of employees on Medicaid, what the cost is, and their dependents on Medicaid and what the cost is. The last column is the total. In this report you see for the number one company they have 7,892 employees and dependents on Medicaid, which is costing the state just over \$21 million.

I want to state that I have homed through the reports of 2021 and 2019 and the good news is there are not very many companies that receive abatements that show up on this report, but there are a handful. We have a number of companies that are doing right by their employees and offering insurance plans and making sure their employees are getting that insurance plan. We have the ability to make a policy decision and ask that when GOED is contemplating abatements they ought to look to the company's history of having employees on Medicaid to ensure we are offering tax incentives to the best companies we can with wages that will prevent it from costing the state money on the back end, which is then our Medicaid budget. Every dollar we spend on Medicaid is a dollar we cannot spend on education, is a dollar we cannot spend for foster care, and is a dollar we cannot spend in our criminal justice system. It is money we cannot spend at all. If we can bring down the cost of our Medicaid and still have healthy abatement packages, then I believe we have a win-win for everyone.

That being said, let us get into the bill. I will do a walk-through just by concept so you know the chapters of *Nevada Revised Statutes* (NRS) the concepts are hitting. First and foremost, to address the issues of our growing pains, is housing. Through the general abatement sections—general abatements [NRS 360.750], aircraft abatements [NRS 360.753], and data center abatements [NRS 360.754]—I am suggesting we have a policy that allows a company to rebate back to the state 10 percent of their awards package annually. You can get an abatement for up to ten years, and of that ten years, two years are going to be property tax and four years are going to be modified business tax, then you have the property tax for up to ten years. So for as long as your abatement is alive, you are paying a percentage of that abatement to the state's Affordable Housing Trust Fund. This trust fund has an established structure within the Department of Business and Industry whereby conversations about the need for affordable housing are discussed, so it makes the most sense to land those dollars there, to show everyone who watches the economic indicator forecasting that Nevada has a commitment not only to grow, but to grow well. This concept is sprinkled throughout the different sections of the bill.

The second big piece is regarding Medicaid, asking that before GOED approves an expansion abatement, they look at the company's history to see their interaction with Medicaid and the number of employees and dependents who are on Medicaid, what that cost



looks like, and if it makes economic sense for the State to move forward with the abatement package. It seems like reasonable policy to contemplate that factor to ensure we are getting great packages we can all stand behind.

Another concept I have in this bill is better rightsizing our abatement packages. Right now the time limits on abatements are static—sales tax is two years, modified business tax is four years, and property tax is ten years. It is the same for data centers and aircraft, although those have different time limits, but they are static. There is just one package that is allowed. But when you look at the types of abatements we have been approving in the report from GOED [[Exhibit I](#)], you can see there is so much variation among the businesses and maybe we can consider better rightsized packages to meet their needs. A ten-year property tax abatement might not mean much to someone who is not doing a large capital expenditure build-out. They might have a lot more employees, so getting more of a break on the modified business tax might make more sense to them and might be that extra help to get them here versus just getting four years and they are done. I am not proposing to change the sales tax amount and am keeping that at two years, but for modified business tax and property tax, it makes sense to say, can we rightsize those a little better so we do not necessarily give ten years of property tax to someone in which it is not as meaningful as maybe a little more in modified business tax. This initial language is suggesting that we add the words "up to." So right now, as opposed to just four years of modified business tax, it would be one to four years of modified business tax, depending on what that business needs. With property tax it would be one to ten years depending on what that business needs. We still have parameters on the abatements, but it will give the Board of Economic Development an opportunity to rightsize the projects that come to us.

The last big concept is one I have hoped is a direction GOED would go in for a long time. For the past ten years the focus of GOED, in all the ways statutes are written—NRS 360.750 general abatement, aircraft [NRS 360.753], and data centers [NRS 360.754]—they have a pretty hefty capital investment component for the new businesses we are looking to relocate here. We are looking for the big business outside to come in. Over the last decade we have had a spattering of bills to say, let us champion our smaller businesses that are here, let us find a way to organically grow those mom-and-pop businesses we talk about. We help them grow in different ways. There are federal programs out there, through the U.S. Small Business Administration, that the Department of Business and Industry is wonderful at helping connect people to. They do an amazing job with roundtables and advocacy.

I am the proud cosponsor of another bill this session [[Assembly Bill 184](#)] that would create the Office of Small Business Advocacy within the Office of the Lieutenant Governor, to specifically help navigate regulations and help those small businesses swim through the process.

What we are missing is statute and a program that would say how do we think about these abatement investments in a way that might be meaningful for some small business. In this bill [[A.B. 449](#)], I propose that small business means those that are not paying the commerce tax—define small business as their gross revenue versus the number of employees. The bill

states there would be a division [Division of Small Business Development] within GOED. I am not married to the term "division," although we have great divisions of just one person, but I would want one person who would be willing to operate a pilot program to survey what those needs are. Imagine that it might be something like sales tax, to figure out if there is a number that could be helpful, meaningful, and relevant for small business in terms of incentives and abatements that we could build out as we rebuild the economy. Those are the concepts and I will walk you through A.B. 449 now.

Section 1, NRS 360.750, is what we call the general abatement section. In the report from GOED I showed you [[Exhibit I](#)], that is where you see the year-by-year reports, all those different businesses, and what they get awarded. Those are our general business abatements. Within this section of the bill, one of the first things you will see is in section 1, subsection 2, we are contemplating the change from "shall" to "may." Right now GOED and the Board of Economic Development have to absolutely approve every project that comes through. It is not so much the notion that the Board has to approve that I want to contemplate, but the idea of a rubber stamp board or a rubber stamp director that I have always taken issue with. I have always thought we have this Board, and at the head of that Board is the Governor, our Lieutenant Governor is on the Board, and we have this really great Governor's Office of Economic Development Board that looks at these packages. I have always thought it would make sense and be meaningful to give them a little more discretion as they contemplate these packages so they are not simply a rubber stamp board. That is why I changed the "shall" to "may."

The next change is on page 4, the concept around the 10 percent rebate that the entity receiving the abatement would pay annually to the State Controller for deposit into the Account for Affordable Housing. This is the first place that piece is introduced in the bill [section 1, subsection 2, paragraph (b), subparagraph (5)], and you will see it in the other abatement chapters as well.

The next change is on page 6 [section 1, subsection 3, paragraph (c)]. This is the policy proposal for the deliberation of Medicaid—when an applicant is looking for an expansion of their abatement. If an applicant has finished the two years of a sales tax abatement and is coming back and asking for another two years of sales tax abatement, as that is the first one to expire, the state can take a look at their history with Medicaid to ensure this is still the best deal for us in terms of what it costs the state on the other end for Medicaid.

The next change is keeping in line with the housing concept, on the bottom of page 8 [section 1, subsection 8, paragraphs (a), (b), and (c)], which is that the entity receiving the abatement would make that percentage payment to the affording housing account for as long as their abatement lasts or until they cease operations. So if they thought they were going to make it ten years and only make it five years, they do not have to pay in year six if they cease as an entity, and if they fail to pay it, they realize they are not upholding their abatement agreement with GOED.

Section 2 will not stay; it is out. I was hoping there could be more movement on this section. This is specific to abatements to the Nevada System of Higher Education (NSHE). I believe it has been in place since 2013 but has never been used. In a couple of conversations with NSHE, this was a funky statute that never served them well. I thought we might have the brain power during this session to finally make this work, especially with how research-oriented and research growth NSHE is focused on right now we could make this a more meaningful statute, but we just have not gotten there yet. If someone else down the road has the brain power to work on this, I think the intent is good and it could be beneficial for the state and NSHE. But it is just a statute that does not seem to work well right now, so we are going to leave it as it is.

On page 15, section 3, NRS 360.753, are the abatements specific to aircraft. Once again you see the language about the 10 percent for housing that would be rebated to the State Controller for deposit in the Account for Affordable Housing [section 3, subsection 2, paragraph (a), subparagraph (4)]. You also see here that concept around the Medicaid look-back before an expansion abatement is approved [section 3, subsection 3, paragraph (c)].

Section 4 is our language on data centers. Data center abatements work differently than our general business abatements. On page 19 you once again see the concept about the 10 percent rebate for the Account for Affordable Housing [section 4, subsection 2, paragraph (b), subparagraph (4)] and then on page 21 you once again see the consideration for the impact on Medicaid before you make an expansion abatement [section 4, subsection 3, paragraph (c)].

Next is section 5 and this is just carrying through the "shall" to "may." It could be very exciting if we used sections 5 and 6, although I do not know if we are going to use them again any time soon. Section 5 is for the \$1 billion investment [NRS 360.889] and section 6 is for the \$3.5 billion capital expenditure investment [NRS 360.945], with tax credits also in there. These were statutes set up by special sessions [28th (2014) Special Session and 29th (2015) Special Session]. The Legislature contemplated these for a week at a time. It makes sense as opposed to having them live there, once again just giving the ability to the Board to have more deliberative thought on those types of investments.

Section 7 is specific to your data centers [page 29 of A.B. 449]. You see the red stricken language is just conforming language [section 7, subsection 2, paragraph (a) subparagraph (2)]. One thing that happened in this bill that was not intended, and I want to ensure is put on the record, is that I believe this is shortening the length of time on the property taxes for data centers to 1 to 10 years versus 10 to 20 years. This was unintentional. After so many conversations regarding the data centers and how they work, and we do have a lot of stiff competition with Arizona, once I saw this and read it, it did not make as much sense. The intent here was not to shorten years on this particular piece.

Section 8 refers to the modified business tax specifically [page 30]. This is where modified business tax can be up to four years versus just a static four years. Getting back to the concept of whether we need to work on how the rightsizing language works a little more, this would be the state of the conversation on rightsizing.

Section 9 [page 30] is where you see the language around the intent to be purposeful in thinking about small business, defining small business as being under \$4 million in gross revenue, and having them think about how some of these statutes might work well for small business. Next is section 11, which is conforming changes. Sections 12, 13, 14, and 15 all deal with historically underutilized business zone redevelopment areas and our community development block grants. This is another area these statutes got caught up in my conceptual drafting, but I did not intend for them to play out here with the "shall" to "may" just because these are different kinds of creatures, so it does not make sense to have the "shall" to the "may" there.

I think that is everything. Before I open up to take questions on the bill, you can always say your Majority Leader does not pull rank and pull favors for herself because I got the very last personal bill draft request introduction, and this came out just a couple of days ago. It has been such a quick turnaround time to connect and talk with people, so I appreciate everyone who has been willing to hear all the concepts and spend a little time with me on these policy conversations. With that being said, I am open for questions.

**Chair Cohen:**

Going back to the conversation about property tax and that it may not be as long, we will cut that down because the companies are not building. Do we know if there was an idea when this was set up because we wanted the companies to come in and build, or was it just fortuitous that it was the ten years?

**Assemblywoman Benitez-Thompson:**

Are you asking why in statute, for the general business abatements, is the abatement a static ten years?

**Chair Cohen:**

Right, for the property tax.

**Assemblywoman Benitez-Thompson:**

I was a freshman the year we set up this committee. I sat through all those meetings and there were so many conversations on this. The idea was, in these general economic incentives, depending on the size of the county you live in, they require either a \$1 million investment not later than two years after the abatement becomes effective in capital assets, or if you are in a smaller county with a smaller population, [unintelligible] dollar investment not later than two years after the effective abatement date in capital assets. The idea was we were really focusing on that capital asset investment, so moving companies here, so they are building. We wanted construction jobs and then wanted long-term employment jobs. There was a heavy focus on build, build, build.

As you look at the abatements and what companies are coming in with, as an example in looking at the 2018 fiscal year abatements [page 28, [Exhibit I](#)], you have big swings in capital investment. You have some companies that are doing \$20 million in capital investment, then you have companies that are doing just \$1 million—you have quite a range there. It looks like the biggest one that year was \$36 million. At the time I think the idea was to plan it on the high end, assuming that almost all of them would be those big, heavy capital investments, or at least hopeful of that.

**Chair Cohen:**

On page 6 of the Medicaid report [[Exhibit K](#)] are the top 10 employers with employees and dependents on Medicaid. Besides the fact that you can see the Clark County School District and the State of Nevada there, interestingly, Tesla, Sutherland Global Services, Peppermill Casinos, Aria Resort & Casino were in the top 10 in previous years but have moved out. Do we know why those companies were able to move out of the top 10, and is that anything having to do with any of our programs at the state level?

**Assemblywoman Benitez-Thompson:**

I do not know. This report changes from year to year. You will probably hear people comment on the report. There are a couple of qualifiers on this report, although they talk to you about the process of how they work the report, and under Technical Notes on page 4 you can see how they technically go through it. They do a DETR check and also recheck their number of dependents. I see corresponding case identifications. So they do a couple of different checks. The numbers are pretty good numbers, but they do tell us some of these people might have more than one job, so that is one thing we want to hold in our head. We do not want to assume that every single employee who is employed here has more than one job, but we do know that there is a little margin of error because some of the employees might be working two jobs. We do know that is one consideration for the report, but as far as the training, we asked Medicaid to look at the numbers and give us the numbers, and then we get what we get.

I do want to address the State of Nevada being in this report because obviously being legislators we have a responsibility to acknowledge that, and we have. The report that was first generated in 2019 told us a lot. It told us specifically what employee groups were on Medicaid, so we have the ability to course-correct. Not everyone is in agreement. This Committee might be in agreement on allowing the state to collectively bargain, but I know I supported it and supported it wholeheartedly. I know the ability for them to negotiate is going to help bring up the bottom now that we have specifically identified the employment types that tend to show up here. So we have a way to course-correct and we ought to. We need to be the first ones to say we play a role in this economy as an employer too. I think the difference between that statement and looking at the GOED stuff is we are not a private entity looking for the ability to have our taxes abated for a set number of years.

**Assemblyman Roberts:**

You put a lot of thought into this, and I bet you know the answers off the top of your head to my questions. How do you think the current economic development package we have, under the current system, compares to other states? Do you think this would have any negative impact on our ability to compete with other states?

**Assemblywoman Benitez-Thompson:**

I do not think there is anything about this that states we do not have a strong commitment to economic development. I think we have robust laws. I think we inherently have a tax-friendly environment here in Nevada. We have quite a few taxes that other states do not pay, but we do not have a state income tax, which we cannot say about our neighbors.

If you look at our neighbor to the south, we have talked so much about being competitive with Arizona, but their tax system has different tax rates by ZIP Code because their local entities can tax and have different tax rates. We have looked at that in previous sessions. It is easy to figure out what your tax rate is in Nevada and what you are going to be assessed because we do not allow our local governments to tax at different rates. I have always said when you go to Arizona, it is hard because they are competing against ZIP Codes. They have cities competing against each other, so that has been hard.

One of the things Mr. Brown has done as the Director of GOED, and I think is wonderful, is he has reached out and has done a look at Nevada and Nevada's abatements, and we have a good system. This has helped us understand where we fall and to try to minimize the amount of competition we have with states around us by having more conversations to ensure we are not playing race to the bottom. I do not think anything about this inherently ties anyone's hands. I think the concept of trying to rightsize abatements and knowing that this would be the starting point on how we could think about rightsizing them helps business in a way. If an entity thought a little more help on the modified business tax was going to be meaningful because of the type of business they are versus a little less property tax, that Board of Economic Development and GOED Director would have the ability to talk about that. I do not think there is anything else about this that would inherently dissuade anyone from thinking we are anything less than thinking 100 percent all the time about our economic recovery.

**Assemblyman Yeager:**

In a few sections of the bill, you have the language that the Director of GOED is going to consider the Medicaid portion, how many of the employees of the business are on Medicaid, and what the cost is to the state. Do you have a vision of what that analysis would look like for GOED? We have the chart you gave us [page 6, [Exhibit K](#)] that shows the number of employees and the cost, but do you envision they would have a more in-depth discussion about those numbers with the employer? How do you see that playing out, if we actually enacted this and they have to look at that as a factor?

**Assemblywoman Benitez-Thompson:**

The good news is the majority of the employers who get abatements are actually paying good wages because that is one of the tenets we stood up GOED on: you have to pay 100 percent of the state average wage and you have to tell us what that average wage is going to be. Where the trend seems to be is that companies that have more than 500 employees on Medicaid are the ones we see heavy Medicaid costs incurred to the state. There are a couple with thousands on Medicaid. Those, to me, seem the most problematic because they look to cost us so much in Medicaid. If you look at the number one company that was listed this year, they were also in the top ten for last year [2019], and the 2021 cost to Medicaid was just over \$21 million [page 6, [Exhibit K](#)]. Their 2019 cost to Medicaid was just over \$6.5 million. So from 2019 to 2021, it is just over \$27.8 million as a cost to the state from one company, and I think that should give us pause. I think that should make us really deliberate whether we would want to ask if it is in our best interest to consider an expansion abatement. Is that \$27 million cost to the state in Medicaid beneficial to us, considering the capital expenditures and the numbers of employees who are going to come in? I think at that point, it is a pretty hard case to make.

I did not want to set a fixed number because as I said, we have a smart Board. I think our Governor pays attention to a lot of these applications. I know more than ever we have had so much careful consideration and thought about how we want to grow this state as we look at these applications. That goal would be reflected in the conversation in the minutes of the Board. I also think it would serve a little bit as a deterrent if you have a company that wants to come to the state and they look at whether we are offering health insurance to our employees, are we making sure we are being the best employer we can in terms of health care coverage for our employees. They can look at themselves, do some soul-searching, and say Nevada has that Medicaid policy and we know with the wages we pay that we have a lot of employees on Medicaid; maybe this does not make sense for us.

**Assemblywoman Kasama:**

When GOED is looking at the abatements, are they looking at the total economic output the company brings into the state of Nevada through all kinds of different areas, not only employment but sales of their products? When we are looking at adding Medicaid to the picture as a consideration for their abatements, are they also looking at the total revenue package of what they will bring to the state? Would we then have all these different factors to see which one we like more than the other?

**Assemblywoman Benitez-Thompson:**

Because we have the two-year audit process and the sales tax abatement at two years, it does not have to be a guessing game by GOED. Regarding the general abatements, if a company's first term of their abatement is ending and they are asking for an extension of their abatements, what the Board can do is look at the audit, which they already do. Did the company meet the investments at that two-year audit, and if not, they are going to ask them to pay the taxes that were abated. We see a number of these companies that look good on the

audit. There are a handful of five to ten where the audit is not catching the consideration for Medicaid. That is what I am trying to capture here. Here is the audit they are looking at, as well as having this consideration for Medicaid on the expansion abatements.

The audits seem to be working very well. The initial abatements that come in are coming through the regional development authorities (RDAs). Every abatement in statute has certain metrics they must meet. They have requirements on their period of operation, on their wages, on capital investment, and on jobs. They do have a requirement for health care. Hypothetically, at the beginning of the conversation with the RDAs and when their application is submitted to GOED, there are supposed to be the health care benefits they offer to the employees in the state. At the front end, that is what we want and what we are encouraging. I am just saying we should have a way to true that up on the back end before we do an expansion abatement.

**Assemblywoman Kasama:**

So the Medicaid consideration would come with the second extension?

**Assemblywoman Benitez-Thompson:**

Yes, with the expansion abatement.

**Assemblywoman Kasama:**

Would any of this be retroactive, or does it just start for those who are asking for the second extension?

**Assemblywoman Benitez-Thompson:**

It would be going forward—for the abatements that are signed after the effective date and going forward, and also for the expansions. After the effective date, if they are applying for their first expansion abatement, it would apply there. It would be after the effective date, whenever they would apply for their expansion abatement.

**Assemblywoman Kasama:**

I know we have a lot of great things going on in the state and I think we all feel that way, but could we possibly lose some good businesses that we would want here if a company were to have to pay the 10 percent for affordable housing now? Was there any discussion about that? Did you speak with GOED to get their feel of whether this could be a stumbling block, or is it small enough that it is not?

**Assemblywoman Benitez-Thompson:**

I think it depends on where you are regionally because economic development is so based by region. You can see it is based by the type of package you can get and the level of investment you have to have. It depends on the size of the county you are in, and different regions are situated in different places. If you are asking how this would be received, I would say it is probably going to be received differently in different parts of the state.



I know as a resident here in northern Nevada, anything that tells me we are doing something to address affordable housing is going to be a good thing, and these reports are now saying Nevada is less competitive in economic development growth because of affordable housing. It is a hindrance to us now. It is a problem. Anyone who cares about this issue, who read this report, was not happy about what was read when the Milken Report came out. This is a stand-on-our-toes, pay attention, we have to consider a policy change kind of a moment for us. When you talk about economic development, you talk about these reports. They are a signal to the rest of the world—the conversation starters. Are we going to look at Reno, and we get on or off people's list depending on housing affordability now. We could get on or off the list depending on education. That is one of the reasons we stood this up. It is reasonable to say in other areas will it ring as true? I believe we have issues with affordable housing throughout the state. I think we have heard that argument made in a lot of different venues and different committees, but some regions feel more of the pinch and more urgency to consider this than others.

**Assemblywoman Anderson:**

On page 4 of the bill [section 1, subsection 2, paragraph (b), subparagraph (5)], having the money be transferred to the Account for Affordable Housing, it would be great if we could start that for those companies that already have the abatements. I do not believe that is a possibility, but it would be great if it were.

On page 11 of the bill, having to do with the information being removed in section 2, subsection 2, paragraph (h), subparagraph (1), (2), and (3). Businesses will not need to employ the 15 or more full-time employees for the duration of the abatement. Is that correct or did I misunderstand that portion?

**Assemblywoman Benitez-Thompson:**

Section 2 is one that was in there with the hope we could make this work better, specific to businesses that choose to make investment in the NSHE system. That is what this was looking at and contemplating, but it is not soup yet, so it is nothing we need to deliberate much further.

**Assemblywoman Anderson:**

Thank you for that clarification. On page 30 of the bill, the language that is being brought forward regarding beginning the Office of Economic Development Division of Small Business Development [section 9, subsections 1 and 2], is this similar to another bill you are also bringing forward, A.B. 184, which is with the Office of the Lieutenant Governor having an Office of Small Business Advocacy, or is this different?

**Assemblywoman Benitez-Thompson:**

The intent is it would be distinctly different. In sponsoring that bill, we need an advocate. It is hard to keep track of all the programs within the Department of Business and Industry. Director Reynolds and this group do an amazing job. They do some small business advocacy and small business roundtables. They have financing and planning groups that have connection to the Small Business Administration and loans. There are folks whom we

have had handling the New Markets Tax Credits, an awesome program Senator Neal got state money for to extend, so they are wonderful in doing all that. And with the Lieutenant Governor, if you read the language, it is very much about helping small businesses swim through dealing with regulations, dealing with road blocks, dealing with present barriers.

The idea and the concept behind this in A.B. 449 was we would have someone who is thinking about state skin in the game in a specific way that is focused around setting up a pilot program for abatements for small business. We learned a lot when we did the PETS [pandemic emergency technical support] grant program over the summer in one of the first bills passed at the beginning of session [Assembly Bill 106]. We learned a lot, and the state was interacting with small business in a way we never had before.

When we give a two-year sales tax abatement to a highly profitable company that moves to the state, it is meaningful. They will tell us it is meaningful, they will tell us it helps. But if you take a concept of \$500,000 in allottable abatements and you allow a program to go forward, to help out with sales tax and try a pilot program, the specific amounts and specific details all for one person who is thinking hyper-cognitively about their needs and these statutes, our statutes do not contemplate them at all. These are all about people who can make the \$1 million cap X investment, or when you get to aircraft and data centers, they go up even more. The idea would be, could we look for a way to have something that is meaningful and that does not exist out there right now. We have lots of help for pass-through for federal programs, but the state skin in the game is missing.

**Assemblyman Hafen:**

In regard to the 10 percent going to the Account for Affordable Housing, and I am going to give an example because everyone has been hearing about it in the news. There are some projects in northern Nevada that are looking to develop. Are there any safeguards? I think your intent is for the affordable housing to be where these new developments go, but are there any safeguards in place to ensure that this 10 percent goes towards housing affordability, in this example in northern Nevada rather than in southern Nevada?

**Assemblywoman Benitez-Thompson:**

I do think in that one piece it is probably an incomplete sentence in the bill. I appreciate your acknowledging that. It would be that you would want that 10 percent to go back to the county where the abatement is approved. Within the Housing Division of the Department of Business and Industry, and the Affordable Housing Trust Fund, you already have a system set up that works down to the local level. The idea would be that percentage would stay in the county where the project is being approved, or if there were no master plan for a buildout in that county, we would probably also say it could go to a contiguous county.

**Assemblyman Hafen:**

I thought that was the legislative intent. I just thought we should get it on the record.

**Assemblyman O'Neill:**

The information on how some of these agencies still have employees on Medicaid is upsetting to me, and so much of this presentation actually stimulates more conversation. Most of my questions you have already addressed. Besides affordable housing, we also have the issues with our education, both in the lower grades and all the way up through NSHE, which agencies and companies often talk about as why they will not come here—because we do not have the educated workforce. You also mentioned roughly 85 percent of our land is owned by the federal government, so we have limited land to attract them. It is so competitive between the states to attract businesses. Businesses like stability. They want to know exactly what it is going to be every day, and do not like to hear it may change. It scares them off. Do you think these proposals could hinder any of our state's attractiveness to future businesses, considering all the other issues we have to compete and address with?

**Assemblywoman Benitez-Thompson:**

I do not think anyone sat here drafting legislation thinking they wanted to scare off anyone who is interested in Nevada. That would be an unfair thing to say about anyone in this building. I think we are all trying to row in the same direction. I think we are all open and honest about what the needs are. We know there are regions of the state that are hurting more than others, so that is absolutely not the intent. The intent was to start the conversation about rightsizing abatements, to see if there was a better way, still within parameters, to allow the GOED Director and the Board of Economic Development to better allocate some of these abatements.

The piece with housing, as I said, I hope would not deter anyone because I think one of the biggest concerns is, can we house the workforce. Ultimately, if you want to bring a company to certain parts of the state with 1,000 employees, there are parts of the state that are at occupancy. We just do not have the room to house them, but there are other places that it makes a lot of sense. The goal is not to hinder economic development and growth in any way. I will say that in the past, business has been resilient. Nevada has been resilient. The businesses that locate here, they are Nevadans, and if they are not Nevadans when they come here, we make them Nevadans. They get tough, and they can weather things. We have made changes to these statutes over the years. Almost every session we make a little bit of change to the statutes, and it has not stopped us from having applications come in, and it has not stopped us from approving applications. The concern that the sky will fall and everything will dry up and go away, I do not think is true. I think it might be fairer to ask, could we think about certain pieces of this bill and see if they ring true in a way that the bill sponsor would hope? I think that is a fair statement.

**Assemblyman O'Neill:**

What would happen if affordable housing balances out? In the current plan, this money is going into affordable housing. Is it flexible enough that we could put it into something else, like infrastructure or roads?

**Assemblywoman Benitez-Thompson:**

I would leave that to future legislators and legislatures to deliberate. Right now, we know what the need is, but if times change and things change, then anyone, at any time, can come in and change the language and ask if there is another need. If mission accomplished and we no longer have a need for affordable housing, then I will happily show up and say you can take that out because we finally hit it, we finally did affordable housing in our neighborhood. I think we are far off from getting there at this point. If we cross that line, then take it off. I have always been one who thinks the government does not need to collect something we do not have to, so if the need goes away, it can go away.

**Chair Cohen:**

As there are no further questions from members of the Committee, we will move to those in support.

**Alexis Motarex, representing Nevada Chapter Associated General Contractors:**

We are here in support of A.B. 449, particularly as it relates to the Account for Affordable Housing. We would like to thank Assemblywoman Benitez-Thompson for thinking outside the box to help solve the affordable housing crisis. This is an elegant solution that will not increase the cost of construction, jeopardize jobs, or increase the cost of housing as other proposals over the years have threatened to do. It is not builders and developers who are creating the demand, they are simply responding to it. It is new and expanding business that is creating the demand, and it is time for them to contribute to the housing crisis they have helped create.

In December, GOED awarded over \$29 million in abatements to 11 companies. Last week they approved another 9 companies to receive \$4.7 million in abatements. Of those 20 companies, 10 are paying an average wage at or below the housing wage of approximately \$29 per hour as determined by the Nevada Housing Coalition, and 5 are paying just a few cents above. If this bill had been in place, just for the last two rounds of abatements we would already have over \$3 million in the Account for Affordable Housing. Again, we would like to thank Assemblywoman Benitez-Thompson for this innovative approach to solving one of the largest problems facing Nevadans.

**Tiffany Tyler-Garner, representing Children's Advocacy Alliance:**

I am calling in support of this important legislation. I come to that support from two vantage points. One is in my role with the Children's Advocacy Alliance, where our focus is improving conditions for children in the areas of health and economic well-being, while also as a former ad hoc member of the GOED Board. From that perspective I am encouraged by this legislation and ask us to consider how long we can continue to subsidize the shortcomings of job quality in our state, particularly as we look at the need to make further investments in mental health, education, and housing affordability.

As you review the report commissioned and issued by the Department of Health and Human Services in January 2021 [[Exhibit K](#)], consider what the opportunities would be if we were not subsidizing to the tune of over \$700 million. Employers who may be [unintelligible]

only have demonstrated some possibility over the course of this past biennium, if we consider who the top employer is on the list, but also what would the opportunities be if as a part of the abatement process, we were intentionally requiring some investment in the employees who work and serve in those communities. I come, too, in support saying thank you and asking you to consider how long we can sustain subsidizing things like health care costs as we grapple with our inability to get to adequate education funding or housing affordability, and as a part of that, do we ever want to be known as a part of the equation for fostering the working poor as housing costs go up, wages go down, while we waive taxes and pay for health care costs that maybe employers could be empowered to cover.

**Sequila Angkratok, representing Human Services Network:**

I am a representative from Human Services Network calling to voice our strong support of A.B. 449 on behalf of our many human service providers. Our state desperately needs increased sources of revenue to support the diverse everyday needs of all Nevadans, but particularly those who are deeply in need for fundamental mental health, housing, food assistance, and other social safety net services. As we continue to encounter challenging times of economic downturn and widespread pandemic, we all—as a community, citizens, institutions, and companies alike—must equitably participate in creating and maintaining this revenue to encourage mutual economic development. This means all parties, including companies and corporations, must be held accountable to contribute their fair share. Assembly Bill 449 establishes measures essential to increasing state revenue and consequently quality of life for all Nevadans by requiring much-needed company tax abatement, transparency, and restrictions.

Provisions in A.B. 449 will increase the number of employed persons provided direct health care benefits from companies, a right all employees should be provided, while opening up more Medicaid opportunities for those who are most in need. We are also excited that this bill will, through stated provisions, contribute 10 percent funding from abatements to directly and positively affect those in need of critical affordable housing. If we want to continue creating a prosperous, fair, and compassionate Nevada, we must all be willing to pay for it.

**Christine Saunders, representing Progressive Leadership Alliance of Nevada:**

I am the policy director with the Progressive Leadership Alliance of Nevada, here in support of A.B. 449. We believe we can build and sustain a Nevada that meets the needs of all Nevadans and ensures all residents, regardless of ZIP Code, can thrive in dignity. Nevadans have long suffered from underfunded education and health care. The pandemic has not only exposed the inadequacy of our public funding to meet the basic needs of hard-working Nevadans, it also necessitated cuts to services vulnerable Nevadans need most. We can no longer afford to prioritize corporations and their profits over Nevadans and the services the state provides. Assembly Bill 449 will help ensure that the businesses that move to the state are actually making real investments, providing good jobs, and supporting the development of needed affordable housing with our growing population rather than be giveaways to corporations that take advantage of the state's social services. We urge your support of this legislation.

**Chris Daly, representing Nevada State Education Association:**

The Nevada State Education Association is also in support of A.B. 449, and I want to briefly address the provisions related to Medicaid. If you perused your binder, perhaps you noticed that unfortunately the Clark County School District is one of the top employers in terms of employees who are on Medicaid. A lot of these are members we represent. We work for better wages and for benefits like health care. Unfortunately, an employer like the Clark County School District does not have the resources to provide that. That is part of the reason why we fight for more funding for public education. We want money in classrooms, and we want to ensure the educators who serve students also have a living wage and are able to live with dignity. So when we hear that employers are receiving abatements, tax loopholes or giveaways, and have their employees with jobs that they have created in part with these abatements, who are on Medicaid and taking state dollars and precious resources away from other services needed in the state, whether that be others who require health care or the public education system, that really hurts. So we appreciate Assemblywoman Benitez-Thompson for bringing this bill [unintelligible] support.

**Alex Camberos, representing Battle Born Progress:**

I am speaking on behalf of Battle Born Progress in support of A.B. 449 [reading from prepared testimony, [Exhibit L](#)]. Safe and secure housing is central to wellness and opportunity for so many Nevadans. It makes the difference to be able to provide themselves and their families with food, health care, a strong education, and reliable transportation. Nevada has fewer affordable units for extremely low-income people than any other state in the country—a deficit of over 80,000 affordable units for Nevadans below 30 percent of the area median income and a total deficit of over 100,000 affordable units needed for Nevadans at or below 50 percent of the area median income. That is why we believe 10 percent of the tax abatement provided by A.B. 449 would be a productive and efficient solution to raising funding for affordable housing. It would preserve current housing and create new housing. At 10 percent over the next three years, 600 more units could be built. Combined with other sources of funding, Nevada could make real progress in housing its low-income residents and workforce affordably. Over the next 10 years, it could provide a predictable and consistent revenue stream from each tax abatement recipient. We thank Assemblywoman Benitez-Thompson for presenting this bill and providing an innovative solution to improve the availability of affordable housing throughout Nevada.

**Tessyn Opferman, representing Nevada Women's Lobby:**

Companies continue to move to Nevada and for good reasons, one of which is significant tax abatements to draw companies here. But what if these companies pay very low wages and do not cover benefits? Residents move to Nevada and then cannot afford housing. Assembly Bill 449 is a logical solution that ensures companies that have been given generous tax abatements are still giving appropriate funds back to our state. Large companies need to be held accountable to ensure our Nevada residents, those who have been here for generations and those who are new to our state, have affordable and stable housing and are given medical coverage. We want businesses to come here and we want our state to grow and prosper, but at what cost? Let us pass policy that brings businesses here but also ensures

Nevadans get health care, make a living wage, and can afford to buy houses and continue to live in our state. The Nevada Women's Lobby asks you to push partisan lines aside in an effort to make smart, logical policy decisions that help all Nevadans.

[[Exhibit M](#) was submitted but not discussed, and is included as an exhibit for the meeting.]

**Chair Cohen:**

As there are no further callers on the line in support, we will move to those in opposition.

**Derek Armstrong, Director of Economic Development and Tourism, City of Henderson:**

I had originally signed up to testify in neutral, but in listening to the Chair's opening remarks, I am choosing to testify in opposition. The City of Henderson is not in opposition to contributing to affordable housing and has supported several bills already this session. I do think there are several issues with this bill that could complicate economic development in the state.

The first section, changing our incentives from "shall" to "may" is going to cause many issues with certainty from businesses when we are attracting and recruiting them, but additionally the process for approval by going through a system of picking winners and losers. I think we currently have a system that is very mechanical and objective, and inserting a lot of subjectiveness is going to cause a lot of issues while we are recruiting companies.

When we are talking about Medicaid, my biggest complaint is that we are not treating businesses fairly. We are only talking about businesses expanding within the state, without having that same conversation with new businesses that are coming here and the number of Medicaid employees they have elsewhere.

Assemblyman Hafen brought up one point about affordable housing that I did not see in the bill, talking about the regionality and making sure the affordable housing dollars go to that community where the business locates. I appreciated that question.

Also, the process of collecting that has not really been addressed either. Is that a bill that comes from the state at the end of the year, or is it the responsibility of the business to track that and then send a bill, then Taxation audits it? I think that still needs to be vetted as to that process and how that will work out.

Additionally, the section that creates the Office of Small Business, there are so many offices of small business now that I feel this is muddying the waters and creating a lot of confusion. Understanding that there are several different . . . .

**Chair Cohen:**

Your two minutes are up. Could you please wrap it up?

**Derek Armstrong:**

I just want to make it easier for businesses to understand where to go, especially small businesses. Those are my points.

**Jonas R. Peterson, President and Chief Executive Officer, Las Vegas Global Economic Alliance:**

Thank you for the opportunity to testify this evening on A.B. 449. As the regional development authority for southern Nevada, our mission at the Las Vegas Global Economic Alliance (LVGEA) is to grow southern Nevada's economy. We are your boots on the ground to help southern Nevada's economy recover from the pandemic. With that mission in mind, we respectfully oppose A.B. 449.

We believe the bill would make Nevada less competitive for new, high-value jobs by decreasing the value and decreasing the predictability of tax abatements. Nevada's existing tax abatements have a proven track record of success and are necessary tools for our region to help companies add much-needed jobs. The level of competition among states for new jobs right now is very high, and compared to other states, our current incentives are minimal and we do lose deals—deals we should win—because our incentives are simply not competitive enough. With southern Nevada's high unemployment, now is simply not the time to reduce any of our job creation tools. Instead we should be sending out a clear message to prospective companies that we intend, at a minimum, to maintain our performance-based tax abatements. I urge you to oppose A.B. 449.

**Glenn Christenson, representing Las Vegas Global Economic Alliance:**

Thank you for the opportunity to be here today and thank you, Assemblywoman Benitez-Thompson, for reaching out to us earlier this afternoon. I have been a member of the Board of Directors of the LVGEA and its predecessor, the Nevada Development Authority, for over 20 years. I am still the longest-serving Chairman of the LVGEA. I am here today in opposition to A.B. 449.

To me, the only way to address poverty and other issues in our community is for people to obtain a good education, develop a marketable skill, and have some passion to improve one's life condition. To that end, since leaving my role as Chief Financial Officer for Station Casinos in 2007, I have focused my efforts on economic development and improving our education system here in southern Nevada. People often ask me why our economy is not more diversified:

1. Thirty-five percent of the businesses are not coming to southern Nevada because our education system and workforce do not meet their needs. To me this is the biggest issue.
2. We do not have the land available. Hats off to our congressional delegation for focusing on this matter.



3. We do not have a competitive incentive program to attract new businesses. Assembly Bill 449 only adds to the erosion of the state's economic incentive program that has taken place over the last several years from the perspective of our potential clients.
4. The state does not devote enough resources to this effort, and thus, we are not competitive with many other states.

The problem is we could have had this exact same conversation 20 years ago. Southern Nevada's economic growth has been outstanding over that time period, but because our economy is not more diversified, we continue to leave ourselves open to economic disasters like those caused by the Great Recession and COVID-19. Two economic disasters in 20 years should be incentive enough to meaningfully address our economic diversification challenges. I recognize some of you have reservations around incentives. With that said, a commonsense incentive program with strong safeguards for performance is an important tool to attract new businesses to our state. Assembly Bill 449, as currently drafted, does not contribute to that goal in my opinion.

**Mary Beth Sewald, President and Chief Executive Officer, Vegas Chamber:**

First and foremost I would like to thank Assemblywoman Benitez-Thompson for taking the time to talk with our team this week about this proposed legislation. Those conversations were extremely productive and we look forward to further dialogue. Having said that, the Vegas Chamber's concerns with A.B. 449 are that it will unintentionally hamper our recovery efforts as GOED and local regional development agencies work to bring new employers to our community. Our message to prospective employers who want to move to southern Nevada is Nevada is open for business and we want them to relocate here. We want them to provide good-paying jobs and careers to our residents. We need both small and large employers to succeed, especially with the competition we face from other states. I would echo my colleague, Jonas Peterson at the LVGEA, who said we do lose deals. We absolutely lose deals. Other states are actively working to attract new employers and industry to their states, even during the pandemic. Our state needs to do the exact same thing, and we have the tools to succeed. The reality is that two things are against us: time and competition from other states. That is why we really have to incentivize new businesses to come to Nevada, like most other states do to compete, so we can rebuild and put Nevadans back to work and diversify our economy.

**Sheldon Mudd, Executive Director, Northeastern Nevada Regional Development Authority:**

On behalf of our Board of Directors, I am here today regarding various concerns associated with A.B. 449. Our first concern resides with sections 1 through 4 and the 10 percent stipend that will be allocated to an affordable housing account. We agree that housing is an enormous issue within the state; however, we do not feel this is the most efficient way to address it. The State of Nevada's incentive packages are, at best, on par with surrounding states. We fear this proposed string that will be attached to these abatements could put us at a disadvantage to our neighboring states—our competitors. In sections 9 through 11, we

believe these efforts are redundant and unwarranted. Between the Small Business Administration, Nevada Small Business Development Center, multiple nonprofits, and the various RDAs, there are plenty of resources in Nevada that can provide useful and effective information at no cost to small businesses and prospective startups. And last, in section 12 of the bill, eliminating the GOED director's ability to approve projects with abatements valued at less than \$250,000. In rural Nevada, we tend to see investments that pale in comparison to our urban counterparts, but in light of that, we can often offer speedy turnarounds on permitting and incentive approval. We fear this change will eliminate a portion of that advantage. For these reasons the Northeastern Nevada Regional Development Authority (NNRDA) finds itself opposing this bill and would ask the Committee to do the same.

**Lynn O'Mara, Director of Communications, Northern Nevada Development Authority:**

The Northern Nevada Development Authority is opposed to A.B. 449 for the same reasons expressed by our colleagues at LVGEA, NNRDA, and the Vegas Chamber [reading from prepared testimony, [Exhibit N](#)]. The diversification of Nevada's economy has been the direct result of Nevada's business incentives. They facilitated the diversification of northern Nevada, which helped to mitigate the adverse economic impacts of the pandemic. Sadly, rural and southern Nevada did not fare as well, and now those areas need the incentives more than ever to facilitate much-needed economic revitalization in order to spur recovery and build resilience. Without Nevada's existing business incentive formula, it will be difficult to attract the industries and businesses to meet Nevada's robust economic goals as laid out in *Nevada's Plan for Recovery & Resilience*. We are especially opposed because we do not believe A.B. 449 will be productive and helpful for rural and southern Nevada.

**Chair Cohen:**

As there are no further callers in opposition, we will hear from those who are in neutral.

**Aaron West, Chief Executive Officer, Nevada Builders Alliance:**

I am the CEO of the Nevada Builders Alliance, representing over 1,000 construction-related companies in Nevada. We are here in a neutral position today. We are obviously very supportive of economic development efforts and would hate to see those impacted, but at the same time there are a lot of bad ideas for how to address some of our affordable housing needs that are being bantered around in the Legislature. We feel that connecting the affordable housing needs to the companies that are driving that demand is not necessarily a bad thing. We encourage continued dialogue on this matter so we can maybe get to a point that our friends in the north and the south can agree on a future direction for the state.

**Chair Cohen:**

As there are no further callers in neutral, Assemblywoman Benitez-Thompson, do you have any closing remarks?

**Assemblywoman Benitez-Thompson:**

No. It is late and you have all heard me out. I appreciate your time and consideration.

**Chair Cohen:**

I will close the hearing on A.B. 449 and open the hearing for public comment. [There was none.] Do the members of the Committee have any comments? [There were none.] As far as tomorrow, we will be having a work session. We are adjourned [at 7:14 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblywoman Lesley E. Cohen, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Assembly Bill 66](#), dated April 8, 2021, presented and submitted by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 322](#), dated April 8, 2021, presented and submitted by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

[Exhibit E](#) is a document titled "Proposed Amendment to AB389," dated April 7, 2021, presented and submitted by Assemblyman John Ellison, Assembly District No. 33.

[Exhibit F](#) is a copy of a PowerPoint presentation titled "AB389," presented and submitted by Bryan Bedera, representing Nevada Vaping Association, regarding [Assembly Bill 389](#).

[Exhibit G](#) is a letter submitted by J. Glynn Loope, Director of State Advocacy, Premium Cigar Association, in support of [Assembly Bill 389](#).

[Exhibit H](#) is a letter submitted by Robert Solomon, representing eCig Distributors, Inc., Las Vegas, Nevada, regarding [Assembly Bill 389](#).

[Exhibit I](#) is a document titled "GOED Biennial Report to Legislature of Abatements from Taxation Pursuant to NRS 231.0685," presented and submitted by Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27, regarding [Assembly Bill 449](#).

[Exhibit J](#) is a copyrighted article published by the *Reno Gazette Journal* titled "Why did Reno fall in Milken Institute's list of top-tier cities? One word — housing," dated February 18, 2021, presented and submitted by Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27, regarding [Assembly Bill 449](#).

[Exhibit K](#) is a document titled "Nevada Medicaid Recipients Employed by Employers with 50 or More Employees," dated January 2021, presented and submitted by Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27, regarding [Assembly Bill 449](#).

[Exhibit L](#) is written testimony dated April 8, 2021, presented and submitted by Alex Camberos, representing Battle Born Progress, in support of [Assembly Bill 449](#).

[Exhibit M](#) is a letter dated April 8, 2021, submitted by J.D. Klippenstein, State Director, Faith in Action Nevada, in support of [Assembly Bill 449](#).

[Exhibit N](#) is written testimony dated April 8, 2021, presented and submitted by Lynn O'Mara, Director of Communications, Northern Nevada Development Authority, in opposition to Assembly Bill 449.