

**MINUTES OF THE  
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Eighty-first Session  
April 29, 2021**

The Senate Committee on Revenue and Economic Development was called to order by Chair Dina Neal at 1:01 p.m. on Thursday, April 29, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dina Neal, Chair  
Senator Julia Ratti, Vice Chair  
Senator Moises Denis  
Senator Ben Kieckhefer  
Senator Heidi Seevers Gansert

**STAFF MEMBERS PRESENT:**

Russell Guindon, Principal Deputy Fiscal Analyst  
Joe Reel, Deputy Fiscal Analyst  
Michael Nakamoto, Deputy Fiscal Analyst  
Alex Polley, Committee Secretary

**OTHERS PRESENT:**

Michael Brown, Executive Director, Office of Economic Development, Office of the Governor  
Eric Preiss, Director, Nevada Film Office, Office of Economic Development, Office of the Governor  
Kim Spurgeon, Analyst, Nevada Film Office, Office of Economic Development, Office of the Governor  
Dylan Keith, Vegas Chamber  
Marcos Lopez, Americans for Prosperity Nevada  
Terri Upton, Deputy Director, Compliance, Department of Taxation  
Amber Stidham, Henderson Chamber of Commerce  
Greg Esposito, Nevada State Pipe Trades  
Melanie Sheldon, Director of Business Development, Office of Economic Development, Office of the Governor

CHAIR NEAL:

We will begin the hearing on Assembly Bill (A.B.) 20.

**ASSEMBLY BILL 20 (1st Reprint)**: Revises provisions relating to transferable tax credits for film and other productions. (BDR 32-267)

MICHAEL BROWN (Executive Director, Office of Economic Development, Office of the Governor):

The Governor's Office of Economic Development (GOED) researched how to modernize the statutes that govern the agency in 2019. We committed to strengthening the agency's compliance by starting a quarterly director-to-director meeting about abatement and incentive audits with the Department of Taxation. We have made several internal improvements in this area. Assembly Bill 20 updates *Nevada Revised Statutes* (NRS) to improve compliance. This bill is not designed to make policy changes. Governor Steve Sisolak wants to use GOED's tools to address economic issues caused by the pandemic.

The manufacturing industry is sorting out supply chains, logistics chains and e-commerce demands. Nevada is attractive to companies because it is a Pacific time-zone state. We are coordinating with new companies, and we are not interested in making any major changes.

ERIC PREISS (Director, Nevada Film Office, Office of Economic Development, Office of the Governor):

I have prepared written testimony ([Exhibit B](#)) supporting A.B. 20.

SENATOR KIECKHEFER:

In regard to the change from "shall" to "may" in section 2, subsection 2 of A.B. 20, what is the process in determining which qualifying applications will be approved or denied?

MR. PREISS:

Due to the amount of funding the program has available, the change from "shall" to "may" gives the Nevada Film Office additional flexibility. The program is allocated \$10 million per year. There could be a situation where we have multiple applicants but not enough money to award. This change gives the Office the ability to decide which applicants to approve or deny. Productions that qualify for transferable tax credits are typically approved. This change

allows the Office to pick a production over another if we run out of money due to the program's small cap.

SENATOR KIECKHEFER:

Do you anticipate adopting regulations outlining the qualifications for productions? Or will it be at the discretion of the GOED Director?

MR. BROWN:

We will not adopt regulations, and approval will be at the discretion of the Director.

SENATOR SEEVERS GANSERT:

You may want to create a straightforward and defensible system for deciding between production projects. It could be based on wages, number of Nevada employees or benefits.

What was the demand prior to the pandemic? Are the transferable tax credits used?

MR. BROWN:

We could adopt regulations for deciding between projects.

MR. PREISS:

We have not used the Office's full capacity due to the pandemic. We are unable to accommodate large productions due to the program's size. We have gotten closer to full capacity with smaller productions, but we have not exceeded it.

SENATOR DENIS:

Was the addition of "or an episode of such a series" in section 1, subsection 1, paragraph (e) of A.B. 20 suggested by the industry? Did the language in NRS 360.7586 make it difficult for certain productions to come to Nevada?

MR. PREISS:

We have removed some types of productions, such as interstitial television programming, and we have made adjustments to the requirements for reality shows. Assembly Bill 20 clarifies which types of productions qualify. We have been questioned by potential applicants who did not know if their type of production qualified.

SENATOR DENIS:

Programming has changed since the transferable tax credits were created. The pandemic has put pressure on content. It makes sense to clean up the language in NRS.

CHAIR NEAL:

Why did you expand beyond 90 days to 270 days after the completion of principal photography of the qualified production in section 2, subsection 3, paragraph (e)? What are the reasons for the extension?

MR. PREISS:

The extension to 270 days is from our experiences with productions. Some productions are simple, and some are complicated. After a production is completed, it may have to come back to Nevada to film new footage. The 90-day timeframe disallows productions to do this and have costs qualify for the transferable tax credits. Extending the timeframe allows productions to come back as necessary for reshoots without being penalized. Depending on the size of a production, audits can be complicated and require a lot of documentation and support. An audit is our check to ensure the productions that receive transferrable tax credits should be receiving them and that reported expenses are correct. Extending the timeframe gives the Office more time to ensure information is accurate and perform audits properly and effectively.

CHAIR NEAL:

Is there supposed to be a penalty after section 2, subsection 3, paragraph (g), subparagraph (1) for a production that does not use the State logo? The State logo is used as a form of advertisement.

MR. PREISS:

We do not intend to penalize anyone who does not use the State logo. Asking productions to show the logo is consistent with other State programs that offer incentives. There are opportunities for productions to thank the Film Office in other ways. We want to be flexible in this regard, and we want to ensure that an acknowledgment to Nevada is included in the production.

KIM SPURGEON (Analyst, Nevada Film Office, Office of Economic Development, Office of the Governor):

Some productions that qualify for incentives do not have end screen credits, such as a commercial. The flexibility allows a production that does not have end screen credits to do a promotion in another way.

CHAIR NEAL:

Section 2, subsection 4, paragraph (g) initially required the business address of a production company to be in Nevada. Do you no longer want the principal place of business to be in Nevada when issuing transferable tax credits? What is the reason to remove "which must be an address in this State"?

MR. PREISS:

This strikeout is so the address does not have to be in Nevada during the application process. Production companies plan projects in Nevada and then establish a production office in the State to conduct business. There are instances when an address has not been established as of the application date. This ensures we do not prevent applications from being processed because a production office address has not yet been established in the State. Production companies will establish a local office prior to the start of production. It just does not have to happen as of the application date.

CHAIR NEAL:

Is there a timeline for when a business needs to establish an address in the State before having an application approved to receive transferable tax credits? There still is an audit for a company to operate and receive tax credits.

MR. PREISS:

The incentive does not require a company to have a Nevada business license or be a business established in the State. However, it is required to have a local office address for production. Some projects that apply will not be Nevada-based companies.

CHAIR NEAL:

Section 3, subsection 3, paragraph (c) of A.B. 20 stipulates the cost of any property that remains an asset to a Nevada business after the production of the qualified production cannot be included in the calculations.

Although a production company is not required to have a Nevada business license or be permanently established in the State, there appears to be some permanency with property. This added language covers calculating the value of property. I need some clarification with this paragraph. Additionally, I need clarification on the property excluded from the calculation. How does A.B. 20 handle property purchased by production companies?

MR. PREISS:

Section 3, subsection 3, paragraph (c) of A.B. 20 is clarification for local Nevada businesses that lend equipment to production companies. A production company will rent equipment from local businesses, which would be considered qualified expenditures. If a local business purchases equipment for the purpose of lending it to a production company, it is considered a qualified expenditure for the renting production company.

We were concerned companies would establish in Nevada and buy equipment but not really be Nevada companies. We put in these pass-through rules to address this. We found when large productions came to Nevada and rented equipment, local small businesses would have to acquire additional inventory to service the large production. The new equipment could not be qualified expenditures through the production because NRS was too restrictive. This change to section 3, subsection 3, paragraph (c) in A.B. 20 will allow Nevada small businesses more opportunity to increase equipment inventory without being penalized.

CHAIR NEAL:

Section 3, subsection 3, paragraph (c) in A.B. 20 says after the qualified production has ended, the cost of remaining assets with the Nevada business must not be included in the calculation as property purchased, rented or leased in the manner described in this subsection. I understand section 3, subsection 3, paragraph (c) says not more than 50 percent of the property purchased, rented or leased by the production company can be part of the qualified expenditures. If a small company buys more equipment to support larger productions, is the equipment not included as a qualified expenditure after it becomes an asset of the small business?

I need clarification on "must not be included in the calculation as property" in section 3, subsection 3, paragraph (c) of A.B. 20. When does this occur?

MS. SPURGEON:

This language concerns two different types of purchases. There are purchases where equipment remains with a Nevada business as an asset—the business is growing its inventory. There is another purchase, or subrental, where a Nevada business will contract with an out-of-state business to provide inventory for the in-state production. This is called a pass-through. We allow a pass-through because our infrastructure may not have all the types of equipment a production will need. As long as a Nevada business is the primary source of equipment, specialty items can be subrented and be qualified expenditures since the items are unavailable in the State. Allowing a pass-through could lead to shell companies where a business claims to be a Nevada company and gets inventory from out of state, which does not benefit the State.

We want to allow businesses to purchase, maintain and retain inventory that is lent to production companies. These purchases would not be included in the 50 percent limitation in section 3, subsection 3, paragraph (c) of A.B. 20. The transactions limited to 50 percent are subrentals from out of state when unavailable in Nevada. We want to encourage productions in Nevada when the equipment needed is unavailable in the State. This allows Nevada businesses to use their equipment and subrent the small amount they do not have.

CHAIR NEAL:

There is a term for withholding transferable tax credits in section 4, subsection 4, paragraph (b), subparagraphs (1) and (2) of A.B. 20. Section 4, subsection 4, paragraph (b), subparagraph (2) says "if a production company violates any state or local law." Any State or local law is a catchall. Will you explain why this was inserted?

MR. PREISS:

We do not want to prevent anyone from receiving transferable tax credits. The goal of this language is to provide security for the State so a company that is issued transferable tax credits has not violated laws. It also ensures companies have completed their obligations, such as compensating vendors fairly, running production in compliance and doing it to completion. Because a company had a minimal violation, we neither want to penalize productions nor provide transferable tax credits.

DYLAN KEITH (Vegas Chamber):

The Vegas Chamber supports transferable tax credits as a tool for economic diversity. We support A.B. 20.

MARCOS LOPEZ (Americans for Prosperity Nevada):

We oppose film tax credit programs. Studies show that these programs do not deliver the economic impact suggested. Studies show the jobs created with these programs are only temporary with an average of 23 days. A study shows a return investment of \$0.14 for every \$1.00. Tax credits generate less than 30 percent for every \$1 spent. We oppose tax credits because these are a method for picking winners and losers. Tax credits take away from the tax base, which leads to calls for higher taxes. We oppose A.B. 20.

CHAIR NEAL:

I will open the hearing on A.B. 66.

**ASSEMBLY BILL 66 (1st Reprint)**: Revises provisions relating to the abatement of certain taxes. (BDR 32-266)

MR. BROWN:

There have been companies that have not entered into a contractual agreement with GOED after receiving a tax abatement. Assembly Bill 66 has a company enter into a contract with GOED within one year of receiving an abatement or incentive. If the company fails to do so, the application will be deemed stale and need reapproval by the GOED Board.

Currently, a company can use the date GOED received the application regardless of the time that has elapsed. This creates the possibility for a company to apply the abated rate toward purchases paid at the full rate. This could result in the State refunding fully paid taxes. Having unexpected refunds can have budgetary impacts on State and local governments. Assembly Bill 66 will close this loophole and limit "form shopping" where companies examine other abatements in states after being approved in Nevada. This situation is not common.

Assembly Bill 66 reflects operations improvements for the Department of Taxation. There are abatements with full audit requirements and clawback provisions.



TERRI UPTON (Deputy Director, Compliance, Department of Taxation):

It is important that businesses pay the appropriate amount in taxes when due. Assembly Bill 66 has businesses seek a tax exemption certificate from the Department of Taxation in a timely manner. The Department would allow refunds for purchases approved for abatement between when a company executes a contract and when it receives the tax exemption certificate. If a business fails to provide its exemption certificate to a vendor after the contract is executed, having received the exemption certificate and the total amount of purchases was 50 percent or more of the approved abatement purchases, then the business would be deemed out of compliance with the contract. The business would be required to pay a penalty of 10 percent of the abated amount.

When taxpayers have not utilized the exemption certificate and have waited until after the purchasing period to request a credit on taxes, it is difficult on counties because revenue gets distributed and the Department has to clawback funds to perform a refund. Assembly Bill 66 disallows interest being paid on any refunds issued.

MR. BROWN:

The Department of Taxation briefed the eight regional development authorities about how companies seeking abatements will be audited at the end of the process.

SENATOR SEEVERS GANSERT:

Referencing section 1, subsection 2, paragraphs (a) and (b); if companies are deemed out of compliance, does the Department of Taxation claw back the whole of the abated amount or just the 10 percent penalty?

MS. UPTON:

We would claw back just 10 percent on the abated amount. We would not void the contract in any way.

SENATOR SEEVERS GANSERT:

How else do companies become out of compliance?

MS. UPTON:

A company becomes out of compliance at the two-year mark when audited. We would know companies are out of compliance when they pay the tax on

50 percent more than their purchases. We would then charge companies 10 percent of the abated amount.

SENATOR SEEVERS GANSERT:

Is the failure to present the certifying document outlined in section 1, subsection 1 of A.B. 66 the only way a business becomes out of compliance? Are there other ways companies can become out of compliance?

Ms. UPTON:

That is correct.

CHAIR NEAL:

How long have local governments not received proceeds from refunds?

Ms. UPTON:

The revenue the Department of Taxation collects is distributed to local governments every month. Local governments will still receive revenue. When the Department audits a company after two years, and it has overpaid a tax because it did not take advantage of the abatement, we have had to claw back money from local governments to issue a refund.

CHAIR NEAL:

How long has the distribution issue been occurring? Does section 1, subsection 1, paragraph (b) of A.B. 66 address this issue?

Ms. UPTON:

Perhaps "out of compliance" is not an appropriate phrase. This issue at hand is when a business overpays.

MR. KEITH:

The Vegas Chamber supports the clarifying language in A.B. 66.

AMBER STIDHAM (Henderson Chamber of Commerce):

We support A.B. 66. Proposals like A.B. 66 aid diversification efforts in new industry and jobs Nevadans seek. This has been a focus of the Henderson Development Association over the past 15 years. Assembly Bill 66 provides additional structure for businesses to recover approved taxes. This is a tool to encourage relocation and expansion to support Nevada's economic development efforts.

GREG ESPOSITO (Nevada State Pipe Trades):

We are in opposition to A.B. 66. The protections in NRS 338 were expanded by A.B. No. 190 of the 80th Session. Boards and other entities that oversee construction are now subject to the standards in NRS 338. However, GOED is not subject to the standards in NRS 338. Economic development is fostered by abatements and incentives.

A liquid hydrogen processing plant being built in North Las Vegas is using workers mostly from Texas. The project received abatements from GOED. This is inappropriate. Local economic benefits need to be captured at all stages of a project, including the construction of a project. We want A.B. 66 to reflect the language in A.B. No. 190 of the 80th Session to capture construction projects' economic contribution, when they receive incentives or abatements from GOED.

CHAIR NEAL:

Do you want A.B. 66 amended to require projects to have Nevada-based workers?

MR. ESPOSITO:

No. *Nevada Revised Statutes* 338.020 has prevailing wage protections. Any construction, remodel and renovation undertaken needs to adhere to standards in NRS 338. We want A.B. 66 to be amended to require companies that receive abatements to adhere to standards in NRS 338 when engaging in construction or remodels.

CHAIR NEAL:

What do GOED regulations require in terms of wage?

MR. ESPOSITO:

I understand GOED standards only cover construction. There might be a flat \$25 rate for construction and operation. I do not think there are any standards for construction projects that have received abatements.

MELANIE SHELTON (Director of Business Development, Office of Economic Development, Office of the Governor):

There are no construction wage requirements. The Office of Economic Development abates a company and its operations. These companies are held to the average wage set every year by the Department of Employment, Training and Rehabilitation (DETR).

The \$3.5 million and \$1 million packages for data center abatements have a requirement that at least 50 percent of construction employees must be Nevada residents and offered health care. We do not have other parameters for wages for construction employees.

CHAIR NEAL:

Do the reports that GOED provide delineate construction workers so we know the wages paid? Are wages a line item?

MS. SHELDON:

The "Tesla Economic Impact Report and Tesla Tax and Incentive Analysis" report has the living wages of construction workers. We do not have that information for data center abatements. We only measure the residency requirement.

CHAIR NEAL:

Is the liquid hydrogen processing plant in Apex Industrial Park?

MS. SHELDON:

Yes, it is.

CHAIR NEAL:

Has the project triggered the \$38 million?

MS. SHELDON:

No. It has the standard abatement package, which has no parameters regarding construction hiring or construction usage. The abatement package only incentivizes the operation.

CHAIR NEAL:

Is there data or a report on this project? This project has been in operation for two years.

MR. BROWN:

This project was approved on September 20, 2018. We can provide an update for the Committee.

CHAIR NEAL:

I will open the hearing on A.B. 69.

**ASSEMBLY BILL 69 (1st Reprint)**: Revises provisions governing economic development. (BDR 18-290)

MR. BROWN:

Assembly Bill 69 updates statutes for GOED and the Film Office. The bill adds the Director of Business and Industry to the GOED Board. When I was the Director of the Department of Business and Industry, I did not have a line of sight into Nevada's economic development activities. However, GOED had a line of sight into the Department of Business and Industry through private activity bond programs.

We do a lot of work with the Department of Business and Industry, and we have two nonvoting members on the GOED Board—the Director of DETR and the Chancellor of the Nevada System of Higher Education. The Director of the Department of Business and Industry should be a nonvoting member of the GOED Board to formally receive information. We will be able to do more joint planning. Section 2, subsection 7 of A.B. 69 outlines a quorum.

Some of the Governor's cabinet are appointed directly and some on recommendations through commissions or boards. The GOED Board is part of a search committee that recommends three people to the Governor. My appointment was delayed by two months because of difficulties finding a third person. Section 4, subsection 1 adds "not more than three persons" shall be submitted to the Governor for consideration to avoid the aforementioned situation.

Section 3, subsection 1, paragraph (b) of A.B. 69 changes the Division of Motion Pictures to The Nevada Film Office. Section 5, subsection 1, paragraph (b) creates a library of visual recordings. There are other technical changes in A.B. 69.

SENATOR SEEVERS GANSERT:

The language in section 5, subsection 1, paragraph (b) makes changes. Are visual depictions already in NRS or is this being added?

MR. PREISS:

Visual depictions are in NRS, but the change allows us to put these online and not in print. This is congruent with the times; it is more environmentally friendly, broadens the audience range and provides additional flexibility.

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MR. KEITH:

The Vegas Chamber is in support of A.B. 69 because it provides clarity and structural improvements to GOED.

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CHAIR NEAL:

Seeing no public comment, the meeting is adjourned at 2:09 p.m.

RESPECTFULLY SUBMITTED:

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Alex Polley,  
Committee Secretary

APPROVED BY:

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Senator Dina Neal, Chair

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

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
A.B. 20	B	1	Eric Preiss	Written Testimony