

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

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

The Senate Committee on Revenue and Economic Development was called to order by Chair Dina Neal at 1:00 p.m. on Thursday, April 8, 2021, Online. [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

GUEST LEGISLATORS PRESENT:

Senator Dallas Harris, Senatorial District No. 11

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:

Tyler Klimas, Executive Director, Nevada Cannabis Compliance Board
Michael Brown, Executive Director, Office of Economic Development, Office of the Governor
Arielle Edwards, City of North Las Vegas
Ashley Jeppson, Administrator, Plant Industry Division, State Department of Agriculture
Lindsey Doolittle, Environmental Health Specialist, Division of Public and Behavioral Health, Department of Health and Human Services

Senate Committee on Revenue and Economic Development
April 8, 2021
Page 2

CHAIR NEAL:

We will begin with a work session on Senate Bill (S.B.) 235.

SENATE BILL 235: Revises provisions relating to cannabis. (BDR 56-136)

JOE REEL (Deputy Fiscal Analyst):

Senate Bill 235 is sponsored by Senator Harris, and it was heard by the Committee on April 1. The bill is summarized on the work session document ([Exhibit B](#)). The first amendment that Senator Harris presented during the hearing is on pages 7 through 9 in [Exhibit B](#). A second amendment starts on page 10 of the work session document. The second amendment adds to the first section "Require Cannabis Compliance Board (CCB) to develop regulations to facilitate this transition." Sections 2, 3 and 4 from the first amendment are removed by the second amendment. The second amendment adds "Allow the CCB to set the proper licensing cap through regulation after February 1, 2023."

SENATOR RATTI:

Is the recommendation to accept the second amendment in the work session document, [Exhibit B](#)?

CHAIR NEAL:

Yes.

SENATOR DALLAS HARRIS (Senatorial District No. 11):

I sent another amendment ([Exhibit C](#)) which is different from the amendments in the work session document, [Exhibit B](#). This amendment, [Exhibit C](#), streamlines a single license for cultivation, production and retail establishments. The CCB would be in charge of facilitating the transition. With these additions, the amendment in [Exhibit C](#) remains the same as the second amendment in the work session document, [Exhibit B](#).

SENATOR RATTI:

Is there a third amendment?

SENATOR HARRIS:

Yes. The amendment is in [Exhibit C](#).

CHAIR NEAL:

I had not realized the conceptual amendment, [Exhibit C](#), did more than clarify the intent of the second amendment in [Exhibit B](#).

SENATOR HARRIS:

The conceptual amendment, [Exhibit C](#), does clarify intent. However, it adds that the CCB will create a single cannabis establishment license instead of having adult-use licenses become medical cannabis licenses. It streamlines the administrative process, but it still moves away from a dual license to a single license.

SENATOR RATTI:

Does the conceptual amendment, [Exhibit C](#), make the existing adult-use only licenses, received in the 2018 round, eligible to add a medical license?

SENATOR HARRIS:

The conceptual amendment, [Exhibit C](#), creates a cannabis establishment license which will transition cannabis licenses to a single license. It does not create additional licenses but transitions a current licensee's licenses to a single cannabis establishment license.

SENATOR RATTI:

Could citizens go to a cannabis establishment that holds a single cannabis establishment license to purchase medical cannabis or recreational cannabis with the 10 percent tax?

SENATOR HARRIS:

Yes. People with medical cannabis cards could purchase medical cannabis without the imposition of the 10 percent tax.

SENATOR KIECKHEFER:

The City of Fallon wants to ensure it is protected to regulate the cannabis establishments in its jurisdiction and maintain the medical-only facility. If we shift to a single cannabis establishment license, will Fallon retain the ability to regulate establishments in its jurisdiction?

SENATOR HARRIS:

I understand that local jurisdictions will maintain the authority to approve zoning and other regulations. Approval from local jurisdictions is a prerequisite for

cannabis establishments. Fallon has some tools to maintain its cannabis establishment as medical only.

TYLER KLIMAS (Executive Director, Nevada Cannabis Compliance Board):
We are neutral to S.B. 235. Under the conceptual amendment, [Exhibit C](#), local jurisdiction will have the ability to restrict establishments to medical only while having a single cannabis establishment license.

SENATOR KIECKHEFER:

Would the CCB condition a single cannabis establishment license based on what is approved by local jurisdictions? Would the type of cannabis products eligible to be sold be a condition of the license that the CCB issues?

MR. KLIMAS:

The mechanics need to be fleshed out. However, the CCB would not try to supersede any local desire to sell only medical marijuana.

SENATOR KIECKHEFER:

Are you talking about regulation?

MR. KLIMAS:

Yes. This would probably be managed with regulations. We will ensure protections are in place whichever direction is taken.

SENATOR HARRIS:

It is my intent to have to CCB implement this through regulation. The CCB would be asked to facilitate the transition to a single cannabis establishment license.

MR. KLIMAS:

Local ordinances will also play a role.

CHAIR NEAL:

I want to ensure there are no workarounds with new CCB activity.

SENATOR SEEVERS GANSERT:

I understand there are 81 dispensaries, and 50 more are opening in the future. Have there been decisions to who will receive the new licenses, or will this pertain to the "social equity applicants" outlined in the conceptual amendment?

SENATOR HARRIS:

There are 50 licenses in a conditional status that are awaiting perfection. If not perfected, these would go through a new open process under S.B. 235 and established by CCB regulations. If the 50 conditional licenses do get perfected, the licenses will be granted. The CCB would then do a market analysis to determine how many new licenses are appropriate, and these would be distributed in a new licensing round pursuant to new regulations in S.B. 235.

SENATOR SEEVERS GANSERT:

I am concerned about using a regulatory process versus putting this in *Nevada Revised Statutes* (NRS) to ensure local communities can regulate which types of cannabis establishments there can be. Having a single license for medical and recreational cannabis is fine. I want to ensure jurisdictions that only want medical cannabis establishments have the ability to do so. Regulations are more easily changed than NRS, and I am unsure if local ordinances can supersede State level regulations.

SENATOR HARRIS:

The industry is changing, and we want the regulatory process to come into play. There is only one medical-only establishment, and it is in Fallon. This bill is designed to keep up with the evolving industry.

SENATOR KIECKHEFER:

Do the licensees that have dual licenses actually have both a medical and adult-use license?

MR. KLIMAS:

That is correct. Dual licensee is defined in NRS 678B.650.

SENATOR KIECKHEFER:

Licensees hold two licenses. Do licensees pay two license fees?

MR. KLIMAS:

Yes.

SENATOR KIECKHEFER:

If we move to a single cannabis license, could license revenue be cut in half?

MR. KLIMAS:

That is correct. Revenue would be diminished but probably not by half. There is a different renewal fee for medical and recreational licenses.

SENATOR KIECKHEFER:

Do you know how much revenue would be lost? I do not know how much revenue is generated by licensing fees. I suspect most revenue comes from the Wholesale Marijuana Tax and other industry fees.

MR. KLIMAS:

The amount is considerable. If S.B. 235 is to move forward, the licensing fee for a single cannabis establishment license should be reconsidered. To ensure revenue is not lost, the license fee would have to increase.

SENATOR KIECKHEFER:

Does the CCB have the authority to set licensing fees?

MR. KLIMAS:

No. The licensing fees are set in NRS 678B.390, and a change to NRS would be required to increase licensing fees.

CHAIR NEAL:

This is an issue. There now needs to be additional statutory language adopted. The fee structure has not been weighed in on. There are nuances to combining medical and recreational licenses into a single license other than just a fee. These issues have not been vetted, and people have not been able to testify on these new issues.

SENATOR HARRIS:

The Committee has not discussed a change in licensing fees, but we did discuss moving to a single license during the hearing on S.B. 235.

CHAIR NEAL:

Yes. However, S.B. 235 was a workaround to get an additional license without having to get one through CCB originally. This bill is now different with the conceptual amendment, and it has a different fiscal impact. I am worried about having a fiscal impact. This amendment, [Exhibit C](#), is not clarifying. Rather, it adds language, and this is an issue that needs to be vetted in a hearing. People need to ask questions and have their say.

SENATOR HARRIS:

The first point in section 1 on page 5 of the second amendment in [Exhibit B](#) is similar to the first point in section 1 on page 1 of the conceptual amendment, [Exhibit C](#). It just changes the way we transition to a single-use license. Sections 2 through 4 in the second amendment, [Exhibit B](#), which creates new licenses, have been removed in the conceptual amendment, [Exhibit C](#). Transitioning away from a dual license structure has been a part of S.B. 235 the whole time.

CHAIR NEAL:

There is uncomfortability with transitioning away from a dual licensing structure.

SENATOR HARRIS:

I recall there being discomfort with determining who would be eligible for the licenses being created. Senate Bill 235 does not create additional licenses with the conceptual amendment.

CHAIR NEAL:

I will accept a motion to adopt the conceptual amendment, [Exhibit C](#), understanding this needs to be fleshed out. People need to discuss a new single-license fee structure in a hearing.

SENATOR RATTI:

The 2018 licensing round that only awarded adult-use cannabis licenses is confusing for the public. I am an advocate for better accessibility to medical cannabis products for medical cannabis patients. I am interested in every adult-use licensee being able to sell medical cannabis. I do not see that as a significant expansion of the industry. It is for convenience, and it is a service for the public. I pictured the 50 licensees from the 2018 licensing round receiving a medical cannabis license and keeping the two separate licenses. We could then allow the CCB to decide through regulation if it make more sense to have one license or two separate licenses. A licensee could potentially have both a medical and recreational cannabis license. However, local jurisdictions would still retain the authority to prohibit recreational cannabis. I believe the conceptual amendment, [Exhibit C](#), accomplishes all of this.

SENATOR RATTI MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 235 WITH THE CONCEPTUAL AMENDMENT.

SENATOR DENIS SECONDED THE MOTION.

SENATOR KIECKHEFER:

I oppose the motion. I have concerns with S.B. 235, and we need to give the CCB more direction with what we want in NRS. If a local government is to retain the authority to determine what types of cannabis facilities it allows, it should not be the CCB doing it through regulation. There are 50 outstanding licenses that have not been perfected, and authorizing a study that could create an unknown number of new licenses is a step too far for me.

SENATOR SEEVERS GANSERT:

I oppose the motion. If we want to ensure local governments have control of the types of establishment in the community, it should be in NRS. The language in S.B. 235 is open-ended. There have been several market evaluations, and these differ greatly. Leaving the number of licenses without a cap is concerning. There are 50 licenses that are outstanding right now in addition to the 81 that are operating.

SENATOR DENIS:

I still have questions because of all the new information. I am willing to move this bill forward with reservation.

SENATOR RATTI:

I share some of the concerns that Senator Seevers Gansert and Senator Kieckhefer have about S.B. 235. We need greater clarity on the local government control issue, whether this bill allows the CCB to create new licenses without going through the Legislature and if there will be an impact on licensing fees. These issues need clarification before I am comfortable voting for S.B. 235 on the Senate Floor.

SENATOR HARRIS:

I am available to have further discussions. I am open to making it clear in NRS that local governments will retain control over which types of cannabis products that are sold in its jurisdiction.

RUSSELL GUINDON (Principal Deputy Fiscal Analyst):

Senate Bill 235 does not have a positive fiscal impact, and it is not denoted as eligible for exemption. Based on the potential negative impact with licensing fees, if the bill is passed and reprinted with the conceptual amendment in [Exhibit C](#), it may have a negative impact on revenues and be rereferred to the Senate Committee on Finance and eligible for exemption. The issues with S.B. 235 could be worked out in the Senate Committee on Finance.

THE MOTION CARRIED. (SENATORS KIECKHEFER AND
SEEVERS GANSERT VOTED NO.)

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CHAIR NEAL:

I will open the work session on S.B. 346.

SENATE BILL 346: Imposes a tax on the retail sale of certain digital products.
(BDR 32-9)

MR. REEL:

Senate Bill 346 is sponsored by Senator Neal, and it was heard by the Committee on April 6. The bill is summarized on the work session document ([Exhibit D](#)). Senator Neal presented two conceptual amendments during the hearing on S.B. 346, which are summarized on page 2 and attached to the work session document, [Exhibit D](#). Following the hearing, Senator Neal submitted proposed amendment No. 5, which is summarized on pages 2 and 3 of [Exhibit D](#). This amendment would go into section 114 and add subsection 3 to say:

Payments credited to an account pursuant paragraph 2 attributable to a tax imposed upon sales at retail of tangible personal property and use due on the purchase of tangible personal property for use in this State pursuant to NRS 377.040 must be distributed to each county based on the county to which the fees, taxes, interest, and penalties were sourced pursuant to section 129 of this act.

The Legal Division would correct section references if necessary.

CHAIR NEAL:

There will be a sixth amendment from Chelsea Capurro about satellite providers that has section 21, subsection 2 state the term "specified digital products" does not include a provider of direct broadcast satellite service as defined in 47 USC, section 335, paragraph (b), subparagraph (5). The amendment will define "video service" as defined in NRS 711.141. This is a change for clarification that Dish Network and AT&T asked for.

SENATOR RATTI:

I am supportive of the bill. I will need to digest some of the details.

SENATOR RATTI MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 346.

SENATOR DENIS SECONDED THE MOTION.

SENATOR SEEVERS GANSERT:

I do not support this motion. This is a significant change to Nevada tax policy. There are several amendments, and there has not been as much input as we typically have. I am concerned this information has not been properly vetted.

SENATOR KIECKHEFER:

I support this motion, but I will reserve my right to change my vote on the Senate Floor.

SENATOR DENIS:

I support the motion. However, I do want to see S.B. 346 in its entirety.

THE MOTION CARRIED. (SENATOR SEEVERS GANSERT VOTED NO.)

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CHAIR NEAL:

I will open the work session on S.B. 389.

SENATE BILL 389: Establishes provisions governing peer-to-peer car sharing programs. (BDR 43-585)

Senate Committee on Revenue and Economic Development
April 8, 2021
Page 11

MR. REEL:

Senate Bill 389 is sponsored by Senator Neal, and it was heard by the Committee on April 6. The bill is summarized on the work session document ([Exhibit E](#)).

SENATOR RATTI MOVED TO AMEND AND DO PASS AS AMENDED S.B. 389.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR NEAL:

I will open the work session on S.B. 395.

SENATE BILL 395: Revises provisions governing the funding of capital projects by school districts in certain counties. (BDR 34-815)

MR. REEL:

Senate Bill 395 is sponsored by Senator Goicoechea, and it was heard by the Committee on April 1. The bill is summarized on the work session document ([Exhibit F](#)).

SENATOR DENIS MOVED TO DO PASS S.B. 395.

SENATOR KIECKHEFER SECONDED THE MOTION.

SENATOR SEEVERS GANSERT:

I support the motion because S.B. 395 requires a vote by citizens.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR NEAL:

I will open the hearing on S.B. 255.

SENATE BILL 255: Creates the Division of Supplier Diversity within the Office of Economic Development. (BDR 18-572)

SENATOR DINA NEAL (Senatorial District No. 4):

The Clark County Regional Business Development Advisory Council (RBDAC) was created in 2003 by A.B. No. 7 of 20th Special Session. There is a letter of transmittal ([Exhibit G](#)) which provides more information. There are 26 agencies under the RBDAC that discuss procurement contracts involving minority-, women- and disadvantaged-owned business enterprises suppliers. We have been trying to connect RBDAC with the Governor's Office of Economic Development (GOED). The Clark County Regional Business Development Advisory Council submits a report to the Governor every two years. Senate Bill 255 attempts to connect RBDAC with GOED.

The language in S.B. 255 was created in collaboration with the chair of RBDAC. The bill attempts to connect the Emerging Small Businesses (ESB) program with GOED and RBDAC. The ESB program was established by A.B. No. 294 of the 77th Session to bring emerging small businesses under GOED to help garner contracts for businesses. Businesses can receive assistance if under a gross receipts threshold. A small business qualifies for the ESB program by becoming self-certified. Once certified, a business can participate in the procurement system.

Senate Bill 255 creates the Division of Supplier Diversity (DSD) within the Office of Economic Development to coordinate with GOED and the RBDAC. The bill merges the DSD with the ESB program, which has not had an administrator to develop the program. The bill provides support for procurement, and it ensures the RBDAC report to the Governor is actionable. The report is supposed to be actionable information for the Governor to understand what is happening with small business procurement and minority business procurement.

Section 1 of Proposed Amendment 3227 ([Exhibit H](#)) lays out the DSD's tasks, which is built on existing practices. Section 1 outlines what the DSD shall do and how it shall perform. Section 2 adds the Division of Supplier Diversity under the Office of Economic Development within the Office of the Governor. Senate Bill 255 does not remove Clark County's role, rather, it builds coordination between the County and the State with procurement and objectives. The bill creates a Statewide process.

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

At a past Committee meeting, I discussed the Pandemic Emergency Technical Support (PETS) program that was created to help small, disadvantaged and minority-owned businesses. The Urban Institute held a conference on the pandemic's effects on minority and small businesses. It was noted minority and small businesses were hit hard by the pandemic, and the U.S. Small Business Administrations' Paycheck Protection Program largely missed these businesses in the first round. It was said the difference was made up by programs authorized by State and local governments, such as the PETS and Commercial Rental Assistance Grant programs. We learned about the vulnerability of these businesses. We house the Procurement Technical Assistance Centers (PTAC) program, which is a federally chartered procurement program with the U.S. Department of Defense and other agencies.

We have staff to help small, minority- and veteran-owned businesses win federal contracts. This work is prescribed and has to meet federal guidelines. It will be important for State and local governments to prioritize the procurement process for small, minority- and veteran-owned businesses with the American Jobs Plan and additional Covid-19 relief money. We are prepared to assist with S.B. 255. The ESB Program was staffed for a few years, but there was a vacancy due to issues with the State budget. Senate Bill 255 will provide resources to justify filling ESB positions. Senate Bill 255 and more federal funding will warrant starting the Program up to help small businesses win contracts. This will complement the PTAC program well.

SENATOR SEEVERS GANSERT:

I am looking at the fiscal load, and I agree there will be funds coming to assist businesses. Do you have people within GOED who will work on this program, or will new people need to be hired?

MR. BROWN:

If S.B. 255 were to pass, we would need a program manager. The ESB Program would need staff. There are a lot of small businesses, and managing these is a data-intensive process. We will need clerical and information technology support. We have roughly 14 chambers of commerce within this space. The PTAC program has given GOED experience with this kind of work, and it is outside our regular economic development work.

Senate Committee on Revenue and Economic Development
April 8, 2021
Page 14

SENATOR SEEVERS GANSERT:

Do you foresee federal funding being available for this Program? All of the grants could be for Covid-19 relief.

MR. BROWN:

I do not know.

ARIELLE EDWARDS (City of North Las Vegas):

The City of North Las Vegas supports S.B. 255. As the largest majority-minority city in Nevada, we believe outreach, training and providing an opportunity to support minority-, women- and people with disabilities-owned businesses will aid economic growth. It will also enrich the community.

SENATOR NEAL:

Senate Bill 255 is a good first step to create procurement opportunities Statewide and build upon past efforts. This bill will develop Nevada as a state that focuses on procurement opportunities for small businesses. These opportunities build small businesses' bases, expand the employee pool and expand wages. There will be an indirect effect on the economy. This will help Nevada as it comes out of the pandemic by offering support to small businesses that seek contracts for stability and independence.

SENATOR DENIS:

We will open the hearing on S.B. 281.

SENATE BILL 281: Enacts provisions relating to certain products containing hemp. (BDR 32-974)

SENATOR DINA NEAL (Senatorial District No. 4):

The State Department of Agriculture wants health and safety regulations for cannabidiol (CBD). It is unknown if products advertised to have CBD actually have CBD in them.

Senate Bill 281 provides an excise tax to help the Department of Agriculture and the Department of Health and Human Services (DHHS) inspect CBD products. Louisiana has a 3 percent excise tax on CBD, and it is the only state that taxes CBD. The proposed amendment ([Exhibit I](#)) has the excise tax fund CBD inspections between the Department of Agriculture and DHHS. *Nevada*

Revised Statutes 439.532 gives DHHS authority to look at hemp labeling and testing.

There will be an amendment that changes the excise tax from 1 percent to 3 percent. It makes sense to use a 3 percent excise tax to fund CBD inspections because we will not need to go to the General Fund in a down year. Health and safety regulations will be extended to CBD products. Cannabidiol products are unregulated in the market. It is unknown if CBD products are safe or properly prepared. Senate Bill 281 addresses this.

The proposed amendment, [Exhibit I](#), has been worked through by DHHS, the Department of Agriculture and the Department of Taxation. The effective date is amended in section 41 to January 1, 2022, for regulations, but it will not be effective for collections until January 1, 2023. It will not be effective for collections until 2023 because the Department of Taxation is moving to a computer system that will allow the Department to handle the retail component of S.B. 281. We contemplated applying the excise tax to only wholesalers, but it makes more sense for the long run to apply it to retailers. The effective date extension in the proposed amendment, [Exhibit I](#), is to give the Department of Taxation time to set up its computer system and to provide time to develop a shared regulatory and inspection process. It also provides time to give retailers notice that they will be subject to inspection and labeling of CBD products. This will help determine if CBD products are actually CBD and safe for citizens.

Section 5 of S.B. 281 defines "excise tax." Section 6 defines "retail sale" because most CBD sales are retail. Section 9, subsection 1 is record-keeping responsibilities. The language in section 9 mimics NRS 372.735. Section 10 requires to verify the accuracy of a return, and it mimics NRS 372.735. Section 11 covers how the excise tax is imposed.

A future amendment will change the excise tax from 1 percent to 3 percent. Section 12 outlines which hemp products the Department of Taxation will impose the excise tax on. Section 13 covers the refund mechanisms except as otherwise provided in NRS 360.235 and 360.395. Section 16 covers judicial review, which is standard conforming language.

Some of the excise tax goes toward administration, and the remaining revenue would go to the State Education Fund. Revenue from cannabis products in the past has gone toward education, and we wanted to do the same with hemp

products. Section 27 defines "department" as meaning the Department of Health and Human Services. Section 28 defines "hemp" as ascribed in NRS 557.160. Section 29 defines "THC" as ascribed in NRS 453.139. Section 34 holds that "The Department or health authority may investigate apparent violations of the provisions" Section 35 allows the DHHS to determine violations. Section 37 covers the adoption of regulations. The amendment, [Exhibit I](#), has the repealed sections at the end. The remainder of the bill is conforming language.

Members of DHHS can speak on existing authority to inspect product labels. CBD would be a new category.

ASHLEY JEPPSON (Administrator, Plant Industry Division, State Department of Agriculture):

There are challenges with unregulated CBD. Cannabidiol is extracted from hemp flowers. It is considered a drug by the Food and Drug Administration (FDA), and this is why CBD is often unregulated. We have worked with DHHS to determine how to address this issue.

SENATOR KIECKHEFER:

Are people harmed by CBD products because it is not regulated? What is the problem that is trying to be solved?

MS. JEPPSON:

The challenge is that CBD is put into food products, and it is easily accessible. The Department of Health and Human Services is hand-tied because the FDA considers CBD a drug and it is technically not supposed to be added as a food ingredient or have medical claims. These CBD products are widely available, and the facilities that produce these cannot secure health inspections because of CBD's classification. Senate Bill 281 will subject these products to inspection. If CBD products are going to be on the market, we would like to make them safer by subjecting products to inspection.

We are producing an amendment that will capture existing authority that addresses CBD products ([Exhibit J](#)).

SENATOR KIECKHEFER:

Does DHHS have the authority to do food inspection at facilities?

MS. JEPPSON:

Yes, DHHS has that authority. The Department of Agriculture's involvement ends once a product is no longer an unmodified agricultural product. The Department regulates uncultivated hemp, and when it moves to the next stage of production, DHHS takes over the regulation at food manufacturing facilities. This issue is being addressed with S.B. 114.

SENATE BILL 114: Authorizes food that contains hemp to be produced or sold at a food establishment under certain circumstances. (BDR 49-65)

SENATOR KIECKHEFER:

What level of staffing is needed to conduct compliance inspections?

LINDSEY DOOLITTLE (Environmental Health Specialist, Division of Public and Behavioral Health, Department of Health and Human Services):

Regulatory authority for food establishments and products is split between agencies. The Department of Health and Human Services has direct authority in rural and frontier counties. We have not yet determined the level of staff necessary.

VICE CHAIR RATTI:

Can S.B. 281 be moved without a fiscal note?

SENATOR NEAL:

We have fiscal notes. The Department of Agriculture withdrew its fiscal note. The Department of Taxation has a fiscal note.

VICE CHAIR RATTI:

Will DHHS put an additional fiscal note on S.B. 281?

MS. DOOLITTLE:

I am unsure. If DHHS has additional responsibilities, another fiscal note is a possibility.

VICE CHAIR RATTI:

Are there fiscal notes from health departments?

MS. DOOLITTLE:

No.

SENATOR NEAL:

Senate Bill 281 regulates CBD products that are unregulated. This is for safety. The 3 percent excise tax is to pay for administration and inspections. It is a coresponsibility between the Department of Agriculture and DHHS. The need for an excise tax on retail CBD products is because of budget constraints.

CHAIR NEAL:

We will begin a work session on S.B. 255.

MR. REEL:

Senate Bill 255 creates the Division of Supplier Diversity within the Office of Economic Development. The bill is sponsored by Senator Neal, and it was heard in Committee today. Senate Bill 255 specifies the Division's duties to conduct outreach to minority-, women- and people with disabilities-owned businesses to inform the private and public sector contracting opportunities. The Division will provide information, education, training and assistance to minority-, women- and people with disabilities-owned businesses to obtain State and local government contracts. The bill requires implementing an online data dashboard.

Senate Bill 255 was presented based on Proposed Amendment 3227, [Exhibit H](#). The amendment removes the "small business" designation, and replaces it with "local emerging small businesses." This change is throughout the bill. The amendment revises other provisions of the Division.

SENATOR RATTI MOVED TO AMEND AND DO PASS AS AMENDED S.B. 255 WITH PROPOSED AMENDMENT 3227.

SENATOR DENIS SECONDED THE MOTION.

SENATOR SEEVERS GANSERT:

What is the definition of "emerging small business"?

CHAIR NEAL:

The gross revenue threshold for a small business is increased to \$10 million by bringing in emerging small businesses. The threshold had been roughly \$3 million. We were adopting language in chapter 231 of NRS. Using "emerging small business" expands the base to allow businesses with larger gross revenue to grow. Small businesses can have high revenue but could still be operated by people who need assistance.

Senate Committee on Revenue and Economic Development
April 8, 2021
Page 19

SENATOR SEEVERS GANSERT:

Senate Bill 255 is important due to the complexity in registering and becoming qualified for these contracts.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR NEAL:

We will begin the work session on S.B. 281.

MR. REEL:

Senate Bill 281 enacts provisions relating to certain products containing hemp. The bill is sponsored by Senator Neal, and it was heard in Committee today. Senate Bill 281 repeals the requirement of DHHS to regulate commodities and products that contain hemp, which are intended for human consumption. It provides for the regulation of consumable hemp products by the Department of Agriculture.

The proposed amendment, [Exhibit I](#), removes the repeal of NRS 439.532, and reenacts those provisions. Section 26 clarifies the definition of "consumable hemp product." There are provisions removed to remain consistent with NRS 439.532. During the hearing, Senator Neal made an amendment to section 11 that will raise the excise tax from 1 percent to 3 percent. The effective date of S.B. 281 for developing regulations is January 1, 2022, and the imposition of the excise tax will begin January 1, 2023.

SENATOR RATTI:

Are there Streamlined Sales and Use Tax Agreement (SSUTA) implications for having an additional excise tax on this class of products?

MR. GUINDON:

I am unsure of any SSUTA implications. This does operate as an excise tax, but it does have elements of a sales tax for administrative purposes.

SENATOR RATTI:

Does it flow into Consolidated Tax Distribution? Will revenue only go to the Department of Agriculture for administrative cost, and the remaining revenue go to the State Education Fund?

CHAIR NEAL:

There is a change. The revenue would be split between the Department of Agriculture and DHHS for administration. The Department of Agriculture brought in NRS 557.270 because DHHS has the ability to investigate and inspect labels. The Department of Agriculture and DHHS would have a shared responsibility to regulate CBD. The 3 percent excise tax revenue would be split between the two entities.

SENATOR RATTI:

Will this apply to any business that sells a food product with CBD?

MS. JEPPSON:

Yes. There is a wide range of food products that would have CBD oil. Section 26 of the amendment, [Exhibit I](#), clarifies that CBD is a hemp-derived compound. The gray area is that the FDA designates CBD as a drug. Any product that has a hemp-derived compound, which includes CBD oil, would apply. This could include food infused with CBD oil and lotions.

SENATOR RATTI:

What are the abilities of retailers to program around this excise tax rate?

CHAIR NEAL:

The delayed implementation is to give the Department of Taxation time to develop its computer system. It is easier to remit the tax electronically to the Department of Taxation. The effective date for regulation is on January 1, 2022. By January 1, 2023, retailers will be aware of regulations, and the Department of Taxation will be prepared for implementation. We looked at taxing wholesalers because it would fit within other tobacco products tax and vape tax. However, this base is narrow, and we decided to keep the tax to retailers. Delaying implementation will make it less burdensome and easier to administer through the Department of Taxation. There will not be as much of a burden on the new taxpayer.

MR. GUINDON:

We do not expect issues with SSUTA. This excise tax is similar to the 10 percent retail excise tax on cannabis products, which did not have issues with SSUTA. Senate Bill 281 has a 3 percent excise tax on the retail value.

CHAIR NEAL:

The excise tax is to fund the administration operations because we may not be able to use the General Fund. We could not receive an appropriation, so we chose the excise tax.

SENATOR DENIS:

Is there another amendment coming?

CHAIR NEAL:

The Department of Agriculture's amendment, [Exhibit J](#), removes the Department from receiving revenue from the excise tax since S.B. 281 is reinstating the authority to DHHS through NRS 439.532. The Department of Agriculture's amendment, [Exhibit J](#), is the same as the proposed amendment in [Exhibit I](#).

The proposed amendment, [Exhibit I](#), spreads revenue between the Department of Agriculture and DHHS because CBD administration will cost the Department of Agriculture. We will be using the proposed amendment, [Exhibit I](#), if this bill is to pass.

SENATOR KIECKHEFER:

How much revenue will S.B. 281 raise?

MR. GUINDON:

We are unsure. An estimation will be difficult because CBD products are pervasive and broad. These products can be bought at physical retailers and online.

CHAIR NEAL:

Extending the effective date will provide time to determine who the Department of Agriculture will be inspecting, develop regulations and discuss matters with stakeholders. The extended implementation date will provide the Department of Taxation time to develop its computer system so this excise tax does not have to be paper filed. The 3 percent CBD excise tax in Louisiana is electronic, which is easier to administer and less of a burden on the taxpayer.

Senate Committee on Revenue and Economic Development
April 8, 2021
Page 22

SENATOR RATTI:

I need clarification to why the Department of Agriculture's amendment, [Exhibit J](#), is not being accepted. Will DHHS be doing all the inspections in the proposed amendment [Exhibit I](#)?

CHAIR NEAL:

Yes, DHHS will be doing inspections. However, it will be in cooperation with the Department of Agriculture. Will DHHS be working together with the Department of Agriculture?

MS. JEPPSON:

There are several reasons for our amendment, [Exhibit J](#). Hemp products with CBD or THC are required to include it on labels. The Department of Health and Human Services has begun the regulation adoption process on imported products to Nevada. Senate Bill 114 would allow a health facility or permitted facility to infuse CBD into food products. This would allow local health authorities to license a facility that uses CBD. We struck repealed language from NRS 439.532, which allows DHHS to continue labeling imported products. We removed the Department of Agriculture from receiving tax revenue in [Exhibit J](#) because we thought DHHS would have more of a burden.

CHAIR NEAL:

The Department of Agriculture's amendment, [Exhibit J](#), removes the Department from receiving revenue from the proposed excise tax, whereas, my proposed amendment, [Exhibit I](#), has revenue shared between the Department and DHHS.

SENATOR RATTI:

I am willing to support S.B. 281 out of Committee. If we raise the excise tax to cover the cost of work, I want to know who will be doing the work. There may be a way to structure the bill where the revenue is split proportionately. If there is more work at DHHS, then it should receive more funding. Conversely, if the Department of Agriculture does more work, then it should receive more funding. Any remaining funds could go to the State Education Fund. This is opposed to a fifty-fifty split in the case the workload is disproportionate.

CHAIR NEAL:

I agree. We had limited time to spell that out. The intent of the excise tax is to cover the cost of CBD inspections and administration, and any other tasks in S.B. 281. There are additional entities given the retail component.

SENATOR RATTI MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 281 WITH THE PROPOSED AMENDMENT FROM THE HEARING.

SENATOR DENIS SECONDED THE MOTION.

SENATOR DENIS:

I have similar thoughts about the revenue split that Senator Ratti discussed. I am willing to vote S.B. 281 out of Committee. This is a situation that needs to be addressed.

SENATOR SEEVERS GANSERT:

I will not be supporting the motion. This is a substantial industry that needs regulations and testing. The tax policy implications are unclear.

SENATOR KIECKHEFER:

I have the same sentiments as Senator Seevers Gansert.

THE MOTION CARRIED. (SENATORS KIECKHEFER AND
SEEVERS GANSERT VOTED NO.)

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Senate Committee on Revenue and Economic Development
April 8, 2021
Page 24

CHAIR NEAL:

Seeing no public comment, this meeting is adjourned at 3:06 p.m.

RESPECTFULLY SUBMITTED:

Alex Polley,
Committee Secretary

APPROVED BY:

Senator Dina Neal, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 235	B	5	Joe Reel	Work Session Document
S.B. 235	B	1	Senator Dallas Harris	Work Session Document
S.B. 235	C	1	Senator Dallas Harris	Conceptual Amendment
S.B. 235	C	1	Tyler Klimas	Conceptual Amendment
S.B. 235	C	1	Russell Guindon	Conceptual Amendment
S.B. 346	D	2	Joe Reel	Work Session Document
S.B. 389	E	1	Joe Reel	Work Session Document
S.B. 395	F	1	Joe Reel	Work Session Document
S.B. 255	G	1	Senator Dina Neal	Letter of Transmittal
S.B. 255	H	1	Senator Dina Neal	Proposed Amendment 3227
S.B. 255	H	1	Joe Reel	Proposed Amendment 3227
S.B. 281	I	1	Senator Dina Neal	Proposed Amendment
S.B. 281	I	1	Joe Reel	Proposed Amendment
S.B. 281	I	1	Ashley Jeppson	Proposed Amendment
S.B. 281	J	1	Ashley Jeppson / State Department of Agriculture	Proposed Amendment
S.B. 281	J	1	Senator Dina Neal / State Department of Agriculture	Proposed Amendment