

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

**Eighty-second Session
March 30, 2023**

The Senate Committee on Revenue and Economic Development was called to order by Chair Dina Neal at 1:15 p.m. on Thursday, March 30, 2023, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dina Neal, Chair
Senator Fabian Doñate, Vice Chair
Senator Pat Spearman
Senator Heidi Seevers Gansert
Senator Carrie A. Buck

GUEST LEGISLATORS PRESENT:

Senator Nicole Cannizzaro, Senatorial District No. 6

STAFF MEMBERS PRESENT:

Michael Nakamoto, Chief Principal Deputy Fiscal Analyst
Christian Thauer, Deputy Fiscal Analyst
Bryan Fernley, Counsel
Janet Stokes, Committee Secretary

OTHERS PRESENT:

Brian Gordon, Principal, Applied Analysis
Tray Abney, National Federation of Independent Business
Mac Bybee, President/CEO, Associated Builders and Contractors, Nevada Chapter
Terry Graves, Nevada Trucking Association; Nevada Manufacturers Association
Vinson Guthreau, Nevada Association of Counties
Joanna Jacob, Clark County

Andy Heiser, President, Nevada Assessors' Association
Jana Seddon, Storey County Assessor
Briana Johnson, Clark County Assessor
Mary Ann Weidner, Assistant Director, Assessment Services, Clark County
Alexis Motarex, Nevada Chapter Associated General Contractors
Cynthia Magaña, Child Care and Development Program, Division of Welfare
Supportive Services, Nevada Department of Health and Human Services
Brian Cullen, Child Care and Development Program, Division of Welfare
Supportive Services, Nevada Department of Health and Human Services
Lea Case, Children's Advocacy Alliance
Tom Clark, The Children's Cabinet

CHAIR NEAL:

We have two bill presentations today. We will start with Senate Bill (S.B.) 233.

SENATE BILL 233: Revises provisions governing taxes imposed on certain heavy equipment. (BDR 32-87)

SENATOR NICOLE CANNIZZARO (Senatorial District No. 6):

It is my pleasure to bring Senate Bill 233, which seeks to revise the tax structure governing the rental of heavy equipment. Before going over the bill, I will provide a little context and explain why this is a good piece of legislation.

As the law currently stands, Nevada assesses a full year of tangible personal property tax on any piece of heavy equipment in the State on July 1 of a given year, even if that piece of equipment is only in the State for one day. Nevada is one of only six states continuing to use this form of taxation on heavy equipment. The other 44 states have all moved to various forms of taxation or fees less onerous on businesses; in doing so, they have become more attractive places to do business. As this Committee knows, in Nevada, we pride ourselves on being business-friendly and as such, we continually search for the best ways to balance the need for revenue with maintaining a competitive edge over our neighboring states. Senate Bill 233 corrects an imbalance that places an unfair burden on an important business sector for our State; it does so while ensuring we will continue to earn revenue from the sector in the form of a gross receipts tax.

At this point, I turn the discussion over to Brian Gordon from Applied Analysis to take the Committee through the bill.

BRIAN GORDON (Principal, Applied Analysis):

I have a couple of high points to summarize the issue in my presentation ([Exhibit C](#) contains copyrighted material. Original is available upon request of the Research Library.) on page 2. The reality is heavy equipment tends to move not only within the State between counties, but it also moves between other states and Nevada. Heavy equipment is assessed and taxed based on where it sits on July 1 of every year. That is creating some challenges for heavy equipment rental companies. One potential solution is looking at ways to alter the structure which would allow for the taxation of equipment to follow the economic activity of the equipment.

We have included various concepts looking at replacing the personal property tax approach with an excise tax. The idea is to take a historic look at the personal property tax generated from heavy equipment and develop an alternative structure designed to keep revenue on par. As you heard, only six states tax this type of equipment under a personal property tax regime. Others either do not tax it at all or have made other alterations.

There are three different types of companies most likely to have an interest in this legislation [Exhibit C](#), page 3. First, the equipment owners and operators. Imagine a mining company or a contractor owning and operating the equipment internally for its purposes. These businesses would not be impacted by S.B. 233. Equipment sales companies that hold heavy equipment in inventory but primarily sell the equipment to third parties are also not affected by this proposed legislation. Finally, the equipment rental companies that rent equipment to the public at large and businesses that rent the equipment are those affected by S.B. 233.

The American Rental Association does a survey annually of its members that represent about \$900 million in terms of overall activity for these types of businesses [Exhibit C](#), page 4. It supports all sorts of industries, including plumbing, painting, carpentry and construction companies. It is a wide-reaching organization supporting several industries here in Nevada.

I mention this to make sure we are all on the same page. Wherever this equipment sits on July 1, it is considered property and taxed under the current system; if it is not in Nevada on July 1, heavy equipment does not incur any personal property tax. The liability is computed, and those companies are paying the personal property tax for the full year.

A few examples on [Exhibit C](#), pages 6 and 7, might help provide a bit of clarity as to why this can be a challenge or problematic, not only for the operators themselves but potentially the State and the taxing entities. One example: A piece of equipment owned by a rental company sitting here on July 1 gets assessed, and the rental company pays the property tax for the year. A couple of months later, the property is transferred to Utah because of more demand there for that piece of equipment. Then the rental agreement expires in Nevada while it is in Utah. On January 1, Utah has the same assessment process. Consequently, the heavy equipment rental company that owns the property could be paying the annual property tax twice in an overlapping period; it is being double-taxed on that piece of equipment.

Another scenario: A piece of equipment is acquired on August 1, missing the July 1 assessment date, and the rental company does not pay personal property tax for the next 11 months in Nevada because of the missed assessment date. The company transfers the equipment to Utah on January 15 of the following year, also missing the January assessment date in that State. In this instance, the heavy equipment rental company would be paying zero tax in either state during the relevant time frame. As you can see, it works in both directions and it gets complicated for the rental companies.

I do not think they would move equipment to avoid the July 1 date, but there is certainly a disincentive to have it sitting idle in Nevada. This gives you a sense of how it can work against and for rental companies along with state and local governments from a revenue standpoint.

Six states tax heavy equipment rental property [Exhibit C](#), page 8: Nevada, Utah, New Mexico, Nebraska, Oklahoma and Florida. Over the last decade or so, 18 states have passed similar reforms in some form or fashion to what is being proposed in [S.B. 233](#). This gives you a sense of the various states that have implemented similar measures to improve equity and transparency. Since the reforms, the American Rental Association has said these 18 states have had no initiatives to reverse the reforms nor challenges, over the past 20 years.

We conducted a proprietary survey of heavy equipment rental companies in Nevada. They sent us information about their personal property tax bills and rental revenue they have from equipment over the last three years. We compared the property taxes paid to the amount of rental revenue, compared company data to then generate and develop an effective tax rate of 2 percent,

[Exhibit C](#), page 10 which keeps revenues on par with the last three years personal property tax relative to the revenues. That 2 percent effective tax rate was generated with the idea of keeping the potential revenues on par with what it has historically been on a relative basis to the rental revenues and the personal property taxes.

Those are my prepared remarks as to providing the overarching review of what the bill is intended to do and some of the reasoning behind it. A proposed conceptional amendment ([Exhibit D](#)) is designed to clarify recent questions since the introduction of S.B. 233.

The goal here is to focus those measures on companies renting equipment to the public, avoiding layering of taxes among multiple entities but also eliminating that tax across affiliates renting to themselves. This was designed to pass the tax to the end consumer so it is on a bill and more transparent. These are reflected in the proposed amendment, sections 5, 6 and 8.

An adjustment in section 13 deletes subsection 4 related to some of the exemptions. The bill exempts State and local governments renting this type of equipment. We did get some feedback related to the subsection 4 exemptions for Native American tribes and nations. There seems to be a lack of available data to determine if the exemption applies or not. This is a preliminary draft, and an edit may address the issue more directly. The proponents of this bill would be willing to discuss how to make those adjustments.

Section 18, subsection 3 modifies the timing of how the funds are transferred between governmental agencies to streamline the overall accounting process. The original bill complicated how the funds would be transferred between entities. We have had conversations with several groups, including the Nevada Department of Taxation, to better understand the mechanics of a more streamlined process.

The goal is to make these distributions to local governments on a quarterly basis. Heavy equipment rental companies would also be submitting the tax on a quarterly basis, therefore making it timelier in getting those dollars back in the hands of State and local governments. It would also streamline how the State deals with the revenues themselves. The State would take 0.75 percent of the revenues as a fee to cover administrative costs and then distribute funding back to local governments the same way it distributed funding when collecting it as

personal property taxes. Local governments would receive it from the State in the form of an excise tax and be required to distribute it along the same formulas.

A proposed amendment in section 18, subsection 4, paragraph (c) allows disclosure on tax payment-related information to the counties by the Nevada Department of Taxation and State Controller.

The last revision is to establish a revenue allocation methodology to ensure existing tax beneficiaries remain whole on a relative basis as of the date of the legislation. Personal property taxes get distributed to several different taxing entities—State and local governments, as well as special districts such as the school districts. This allows local governments to distribute those taxes in the same formulaic or distribution amounts on a relative basis.

CHAIR NEAL:

Intent No. 4 of the proposed amendment allocates the balance of the revenue by a replacement tax, [Exhibit D](#), page 1. The first thing I thought of is whether this violates the Streamlined Sales and Use Tax Agreement (SSUTA). You are creating an excise tax and then calling it a replacement tax. Is SSUTA being impinged upon with the language?

MR. GORDON:

I do not know the appropriate response, but this is obviously outside of the sales tax. We are talking about a replacement for the personal property tax. We can certainly check to see if there is some impact related to SSUTA.

CHAIR NEAL:

The amendment eliminates the exemption for the Indian tribes which creates the ability for them to be taxed. Is that correct?

MR. GORDON:

I am reading it the same way. There was a challenge determining what entities qualify for the exemption. I am assuming the proponents would be open to alternatives if another way may be determined with certainty.

CHAIR NEAL:

I was trying to read and understand what other states have done. Typically, tribes have been excluded, depending on whether a treaty or another legal

priority is in place. Since it is not a personal property tax, can they be excluded or can their exclusion be eliminated? There have been clear rules around property tax in general on tribal lands. Was the research done to determine whether this strikeout is appropriate?

MR. GORDON:

People have suggested it may be difficult to determine whether the tribes would qualify for this exemption. I do not know it necessarily needs to be stricken from the list of exemptions, but it was some of the feedback we received.

CHAIR NEAL:

Tribes are their own government. There may be a nuance we have missed. We will both research and find the answer.

Revision No. 3 of the proposed amendment modifies the timing and the way the funds are transferred between the governmental agencies, [Exhibit D](#), page 1. What is the timing delay mentioned? Also, personal property tax is distributed down, so what does the time delay mean, and what is the effect on the local government?

MR. GORDON:

The idea behind the amendment was to have the timing of the payments track with the distributions to local governments. The taxes are due quarterly; for instance, taxes due at the end of June will be passed along at the end of July. In the amendment, the State would have up to three months to process those collections, report them and remit the tax back down to the local level, which would be the first month of the following quarter. Then the counties would have the ability to distribute them to all the various taxing entities that participated in the personal property tax structure.

CHAIR NEAL:

The section 18 transfer of funds is a lot of work to get to the result. You have been talking to the Department of Taxation, but is this creating an additional burden with the pathway you are creating here?

MR. GORDON:

I do not know whether it is an additional burden for any of the taxing entities. I suppose from the State standpoint, there is a little extra effort required. Typically, under the personal property tax regime, county treasurers would

collect the tax and then allocate it to the various taxing entities. Under the proposed amendment to S.B. 233, the funds would be remitted to the State much like the sales taxes. The taxes would go to the State and be put into a separate bank account. The Department of Taxation would take its 0.75 percent of the revenue for administrative fees and send the remainder to the counties with reporting that would demonstrate to which taxing districts the revenue originated. Then the counties would distribute the funds along the same formula that they do with the personal property tax.

CHAIR NEAL:

In section 6, "affiliate" has been removed. Who is the affiliate? Who is represented by the removal of that language?

MR. GORDON:

Some companies lease or rent the equipment to themselves. They hold the equipment for federal tax purposes or rent to an affiliated entity for another reason, but they are under common ownership. In fact, they are not actually renting the equipment to the public; they are just renting it internally between affiliated entities. This avoids a rental charge on companies renting to themselves. That is the concept behind it, focusing the rental to the public at large.

CHAIR NEAL:

Section 7, regarding the open-ended end date, indicates a rental contract with no specified end date. That sounds like ownership. But what do you hope to accomplish with this wording "not to exceed 365 days" or with "no specified end date"?

MR. GORDON:

The idea is to focus on specific rental terms and tax those agreements. The tax would be charged and paid with the invoice. The company receives and reports the tax monthly. Taxes would be paid and distributed quarterly.

CHAIR NEAL:

Why do the rental companies just not pay the tax and move on rather than go through this complicated process?

MR. GORDON:

The challenge for the operator, the rental companies, is getting a one-time personal property tax assessment on each rental. They have no idea how long the equipment may be in Nevada or in a particular county. The equipment is mobile. It moves depending on demand for the equipment. Sometimes, it is between counties; sometimes, it is between states. They do not know if the rental is for two months or for a year or longer.

If the objective of the rental company is to recoup that cost of doing business from the customer, it could front-load the entire annual personal property tax in the first two months of an agreement with a customer to ensure it recoups the entire years' worth of personal property tax. In that instance, it overcharges the customer relative to actual cost of providing the equipment. Adding it to a monthly invoice is more transparent to the customer, and it makes it more manageable for the rental companies to know how to allocate cost among their customers.

SENATOR SPEARMAN:

You said companies sometimes rent equipment to themselves. Is it entity A renting to person B who owns entity A? Section 7 says entering into agreement with a heavy equipment company for the use of the equipment. Does that take into consideration it is the same person for the same company?

MR. GORDON:

If it is an affiliated company with common ownership, the tax does not apply because the entity would be taxing itself. It is not being rented to the public an arm's length away. To avoid internal taxation, the bill amendment is designed to exempt the tax on affiliated entities.

TRAY ABNEY (National Federation of Independent Business):

I represent 2,000 small business members of the National Federation of Independent Business in Nevada. We are in support of S.B. 233. The antiquated taxation structure for heavy equipment rentals needs to be updated. As you heard, Nevada is one of the few remaining states that has not modernized our processes. We have heard about this issue for years from equipment rental and leasing companies. On July 1 of each year, each piece of equipment in Nevada is assessed a full year of property tax in addition to the sales tax paid by the end user. This piece of equipment may leave Nevada's borders the following

day and not return for the year. There is no pro rata allowance. So why would any company choose to keep its equipment here?

Statute puts Nevada at a competitive disadvantage wherein it is a disincentive to keep and maintain necessary equipment in the State. Equipment rental creates job opportunities and helps construction projects stay on schedule. We do not usually support new taxes, but this case is an industry-supported tax which allows for more predictability for the end user, the industry and the consumer.

Both the American Legislative Exchange Council and the National Conference of State Legislatures have suggested fixes like these being proposed in this bill. We support these efforts toward fixing this broken system and preserving Nevada's economic vitality.

MAC BYBEE (President/CEO, Associated Builders and Contractors, Nevada Chapter):

This modernizes and creates a more efficient tax structure. Regarding the affiliated exemption, a lot of construction companies using heavy equipment will set up a business to purchase equipment and then lease the equipment to the construction company; that would be the common ownership. I am sure efficiencies are built into place. Though I am not sure of the advantage created so construction companies not already captured under this tax structure would avoid being brought in under the new bill or the new structure should this legislation pass.

TERRY GRAVES (Nevada Trucking Association; Nevada Manufacturers Association):

We support S.B. 233.

VINSON GUTHREAU (Nevada Association of Counties):

The Nevada Association of Counties (NACO) has membership in all of Nevada's 17 counties. I am testifying in opposition to S.B. 233 which affects property taxes assessed on heavy equipment. Similar bills have been introduced in prior sessions. While this bill language is different, it creates a more complicated system and impacts local revenues in similar ways. The policy changes will impact local government service delivery in a variety of ways. For this reason, our opposition to this proposal remains.

We have testified in opposition in past legislative sessions on similar proposals. It does not look like a lot of the fiscal notes are posted yet, but it is worth highlighting some of the services critical to our shared constituency that this tax helps. For instance, in Clark County, it funds the 911 services, public safety and services to our most vulnerable populations. In Washoe County, this current revenue source funds similar services, public safety and some library services, family courts and services for homeless and unsheltered individuals.

Under this proposal, a new gross receipts tax would be introduced on the rental of heavy equipment and then submitted to the Department of Taxation. After an administrative fee, which directly impacts local government revenues, the funds would be dispersed back to local governments. County assessors will testify on the viability of the distribution along with the details on how this does not meet their criteria for fair and equitable taxation. Administration in this distribution is problematic for local governments. About 140 taxing districts receive this revenue. No mechanism shows how the trickle-down tax revenues are assessed and administrated. It is a problematic implementation under this new proposal.

I have not had an opportunity to review the amendment, but our opposition remains as the bill is written. I defer to the assessors. Concerns about tax avoidance situations further complicate the fiscal impacts.

JOANNA JACOB (Clark County):

I concur with the comments from NACO. We had some conversations with the bill proponents as early as September on this proposal. We reiterated our concerns with the structure you see in the bill.

The reason Clark County is concerned about the details of this proposal and whether it is revenue-neutral to counties is because of the entities it funds. The funding helps not only school debt but State education and the Indigent Accident Fund and helps compensate hospitals for unpaid claims. We can also fund city libraries; medical assistance to indigent care, a key source of revenue for hospitals; Cooperative Extension or Family Court. It varies across our taxing districts. We have quite a complicated taxing district structure in Clark County given our 112 taxing districts.

Collecting at the State level, giving it an administrative offset and then sending it to us is not an administrative offset for us. Ms. Johnson, our assessor, will speak to the challenge. I have asked for some evidence from the other states of

numbers on whether it has been, in fact, revenue neutral. We want to make sure as this moves forward that it is, because of the services it funds. We are open to the conversation, but that is our primary concern.

ANDY HEISER (President, Nevada Assessors' Association):

I am here representing all assessors in Nevada and to testify in opposition of S.B. 233. Article 10 of the Nevada Constitution establishes:

The Legislature shall provide by law for a uniform and equal rate of assessment and taxation and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessor

This bill has been presented in previous sessions, and we have been opposed each time. First, this goes against the Nevada Constitution for equal assessment and taxation. Currently, there are no exemptions on property used for income methodology or for profit in *Nevada Revised Statutes* (NRS) 361. Allowing this bill to exempt these types of equipment undermines the tax law foundation of NRS 361 which guides our offices.

The agency which handles the collection and distribution will need to account for tax districts and entities. This revenue would need to be distributed. Implementing this in the Department of Taxation seems to be outside of the Department's normal boundaries. We have accounts set up where this property is located with easy distribution to those tax entities.

Another major concern is the large corporations that own this type of equipment. [Exhibit D](#) addressed this in an amendment, but companies may create subsidiaries with other names and fall into this property tax assessment which would have a fiscal impact on our counties. This creates an equitability issue between rental and construction companies that own this equipment. This will not simplify the personal property tax system.

We do have migratory property. *Nevada Revised Statutes* 361.505 allows for equipment to be partially billed if it does move in and out of counties or the State; we do it with airplanes.

JANA SEDDON (Storey County Assessor):

I am here to oppose S.B. 233. I support the testimony given by Andy Heiser, the President of the Nevada Assessors Association.

I have concerns for the small counties. I am in a small county with a lot of big things happening. We already have difficulties with the rental equipment companies. On their personal property declarations, they will note they have no equipment located in Storey County.

We have a big concern if equipment is not reported. Is heavy equipment reported from the location it is leased from or reported from the physical location? If we miss the county step and it goes to the State before it comes to us, it will be difficult to figure out where equipment is located. It would be a huge financial hit for our smaller counties, and we already have an issue.

This year we had an equipment rental company that said it had no equipment in Storey County. Its name came up in one of our random audit companies as due for an audit. Lo and behold, the audit found hundreds of thousands of dollars' worth of its equipment in Storey County.

BRIANA JOHNSON (Clark County Assessor):

I am testifying in opposition of S.B. 233. I will start by saying the mission of the Assessor's Office in Clark County is to perform accurate and equitable assessment functions to serve the public. This is a core value shared by assessors throughout the State. This is a standard we are held to, and this is what taxpayers expect of us.

Before us today is a property tax exemption proposal like the one introduced in the 2019 and 2021 Legislative Sessions. We have not been provided with any evidence to show it is revenue-neutral. Even if it is, it does not solve the problem that identical items of heavy equipment would receive two different forms of tax treatment because of either ownership by a construction company or an equipment rental company. This runs against the grain of uniformity of taxation. This could, as mentioned before, open opportunities for business to seek a more-preferred method of taxation by finding loopholes in this law.

In addition, the bill states the county treasurer will distribute the money collected to these taxing units. The Clark County Treasurer does not collect or bill taxes on personal property. The County Assessor's Office bills and collects

the taxes on personal property. I do not believe either the treasurer's or assessor's system has any way to take money and distribute funds to other entities. The value and taxes are calculated through an existing taxing system to put those monies into those taxing districts. Taxes are dispersed when the bill is paid. We do not have any way to take revenue from another entity where those calculations have not been computed through our valuation system.

We disperse monthly. There is a 30-day demand on personal property taxes. Some of our businesses are allowed to pay quarterly, but most of our businesses have a 30-day demand once they receive their tax bill.

We have concerns regarding the complexity of the bill and the additional burden it imposes on State and local governments. If the goal is to introduce a new system of taxation which is truly revenue-neutral, then why have a system this complicated? In addition, many parts of this bill are vague and subject to misinterpretation, leaving many unanswered questions.

For these reasons, we are opposed to this legislation. It creates inequity between property owners and would be problematic to administer. Nevada assessors see the current method for assessing heavy equipment, rental or otherwise, as fair and equitable under statutes.

There was some discussion about the lien date. The lien date is the lien date. If you are in business as of July 1, and you go out of business in November of the same year, you are still subject to the tax. To say equipment was moved out will not change anything. The same law applies to all businesses in this State.

MARY ANN WEIDNER (Assistant Director, Assessment Services, Clark County):
I will go through some of the sections of the bill that seem problematic. Some of them have been addressed in the amendment, but I will talk about a few of them.

Section 4 of the amendment defines gross receipts. Subsection 2, paragraph (c) talks about any discounts not reimbursed by a third party, which are allowed by a heavy equipment rental company and taken by the renter on a rental. The concern is these give complete discretion to the heavy equipment rental companies to discount rentals as they see fit, including rentals to themselves or sister companies, which could exempt the equipment from taxation if this were to be adopted.

Section 6, removes “affiliate” in the proposed amendment; however, the wording “the term includes, without limitation, property, machinery and equipment that is customarily used or designed for construction and industrial purposes, including without limitation.” It goes on to identify some of the types of equipment. What is the purpose of this section? It includes “without limitation” twice. This wording opens this up to interpretation and a myriad of possible rental equipment the industry could classify as heavy equipment just based on renting it through a heavy equipment rental company. Is it for construction or industrial purposes when, in fact, the heavy equipment may not be used for those purposes at all? Or other equipment may not be used for those purposes. Using the terms “including without limitation” could legally refer to all kinds of assets which fall within the broad scope of this statement.

I will give some examples: Home Depot rents compressors, typically smaller compressors. One example is a 4.3 cubic feet per minute (cfm) compressor. United Rental also rents compressors. They are 3 to 4 cfm small compressors, and larger ones, 1,600 to 1,800 cfm. The amendment removes cranes and lifts, both of which are heavy equipment. However, material handling equipment which would include hand trucks, dollies, pallets and small carts, was also taken out in the amendment. Many businesses which have this kind of equipment must pay property tax, which reinforces the issue regarding equity. This heavy equipment rental company can either own this equipment, choose to use it for its own purposes and not pay any property tax on it or rent it and charge this separate type of property tax because it is classified this way. Yet other businesses that own the same types of equipment must pay by the personal property structure. It does not seem fair and equitable, which is what the Constitution requires us to do.

The amendment in section 13 removes federally recognized Indian tribes. I would like to make it clear for the Committee that no government entity or other similar entities are exempt from paying property tax. Statute does not exempt any real or personal property from being taxed when it is rented or leased by an exempt entity. Statute does exempt an entity that owns the property from paying taxes. Some examples: In Clark County, a government entity pays a landlord to rent a building. The landlord owns the real property and is responsible for paying taxes on it. It works the same with personal property.

The Clark County Assessor’s Office leases equipment, such as copy machines, within Clark County. The leasing companies must pay personal property tax on

those items even though we are renting them, and we are a government entity. I want to make it clear that this bill exempts taxes on personal property not currently exempt.

Finally, over nine pages of new language revamps a system which is not broken and covers the needs of our communities. You have already heard testimony stating this could cause a problem with covering the needs of the communities.

Ms. Johnson mentioned a business being opened after July 1 is not taxed for the first year but taxed the following year. It is the same thing for a company. A company may be in business as of July 1 and only the equipment it owns as of July 1 is taxed for that year. If the equipment is not in existence on July 1, the company is taxed on the equipment the following year. There is nothing inequitable in the way we do this now for all companies. Heavy equipment is not excluded from that process.

ALEXIS MOTAREX (Nevada Chapter Associated General Contractors):

The Nevada Chapter Associated General Contractors is neutral on this bill as presented with the amendment. We have worked with the proponents of this bill and appreciate their efforts to clarify in section 5 that related or affiliated parties not primarily renting to the public at large are exempt from the bill. We look forward to continuing the conversation to make sure the language and intent are clear.

SENATOR CANNIZZARO:

Mr. Gordon has clarity on some of the concerns mentioned.

MR. GORDON:

Facts may be helpful about this concept of affiliates. The reality is if these businesses are squarely within the existing personal property tax regime, they would not be affected by any exemption as it relates to the excise tax. I also heard a comment about Home Depot rentals and some of these other scenarios in play that relate to this legislation. The legislation does limit equipment rental companies to those with North American Industry Classification System Codes 532412 or 532310. I do not believe companies like Home Depot and others, which are more retailers in nature and provide a wide range of goods for sale, fall within the definition; therefore, they would not be subject to the excise tax being contemplated by S.B. 233.

Rental companies classify their property differently than an owner-operator, a mining company or a contractor. They classify these as inventory on their books as they look to rent property or do other things with these assets. There is a bit of difference in how these assets are treated for heavy equipment rental companies.

CHAIR NEAL:

We have four documents ([Exhibit E](#)) in favor of S.B. 233. We will close the hearing on S.B. 233 and open the hearing on S.B. 278.

SENATE BILL 278: Revises provisions governing child care. (BDR 32-290)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

I will present an amendment that the Nevada Department of Health and Human Services has accepted. The amendment is designed to facilitate child care for those who are really in need and cannot afford it. We still have some work to do, but I want to present it today so you have the information and we will come back later.

People from the Division of Welfare and Supportive Services (DWSS) will explain the federal program we use in Nevada and give the Committee background information.

CYNTHIA MAGAÑA (Child Care and Development Program, Division of Welfare Supportive Services, Nevada Department of Health and Human Services):

I am here with my colleague, Brian Cullen. Together we administer the Child Care and Development Program within the DWSS. We administer a program for families who are eligible based on income and household size. This program is to subsidize the cost of child care in Nevada and assist families by helping to cover the cost. We are bound by the federal regulations in administering the program. While there is some discretion within the program itself, the State has chosen to administer the program and, to the best of our ability, assist families in Nevada. We offer subsidy assistance from zero to 100 percent subsidy copayment and a lot of nuances within determining eligibility for the program. Families can apply through the DWSS app, and we have child care resource and referral agencies that determine eligibility. After approval, DWSS gives certificates to eligible families.

SENATOR SPEARMAN:

Let me give a bit more background. Everyone on the Committee understands the challenges families face with child care. What became irritating to me during COVID-19 was having people say, "It is hard to find employees because they just want to sit home and collect the money; they do not want to go back to work." That is not true. The people who need to go back to work are between a rock and a hard spot. They need to choose between going to work or going to jail because they do not have anyone to care for their children.

That is why I brought this bill forward. I want to make sure people who earn 80 percent of the State's median household income have adequate opportunities for child care. I know people in my district fall into this category. The federal government has already given money for child care to many states. Nevada has used the money to create a Child Care and Development Program. It is important we use this and make sure everybody knows about it, so those people who want to go to work and cannot because they do not have affordable childcare can get a job.

The intent of this amendment ([Exhibit F](#)) from Lea Case is to revise NRS 363A and NRS 363B, to allow employers to apply for the tax credit if they assist any employee in paying for childcare, regardless of the employee's income level. The amendment removes the requirement to verify eligibility with DWSS before applying to the Department of Taxation for the credit and allows the taxpayer to apply directly to the Department of Taxation for the tax credit. Changes are made to the eligible childcare providers section to ensure the maximum number of qualified providers can participate.

Some highlights from the amendment include revising NRS 363A.130. Section 1 allows employers that pay excise tax to apply for a tax credit against the Modified Business Tax (MBT), based on the amount paid by the employer to the Division for the purpose of assisting an employee who meets the qualifications of subsection 3 in paying for the cost of child care. The amendment replaces paragraph (a) and the household income stipulation, augmenting the original paragraph (c)—new paragraph (a)—with an allowance for eligible families to receive assistance for a dependent child with special needs who is less than 19 years of age. Paragraph (b) states the employee must select a provider of child care who participates in or is eligible for the Child Care and Development Program administered by the Division. Paragraph (c) states

that eligible families pay directly to the provider of child care any portion of the cost of the child care not paid by the taxpayer.

Subsection 4 would remove the requirement to verify eligibility by DWSS before applying to the Department of Taxation for the credit. Subsection 4, paragraph (a) states the credits cannot exceed \$5 million in fiscal year (FY) 2023-2024. Paragraph (b) states credits cannot exceed \$5.5 million for FY 2024-2025. Paragraph (c) caps each succeeding fiscal year to an amount equal to 110 percent of the amount authorized for the immediately preceding fiscal year.

Subsection 5 is replaced with the original subsection 7 that addresses the amount paid to the Division and caps the amount paid to the employer at \$5,000 per year per qualifying employee.

Subsection 6 states the credit cannot be applied retroactively.

The last amendment I want to mention is in section 6 for NRS 432A.024, relating to the number of children in a home not licensed as a child care facility. The added verbiage in subsection 2, paragraph (c) sets clear guidelines regarding care for children of a friend or neighbor. The amendment as proposed needs to meet the same criteria recommended or regulated by DWSS wherein participants who apply to child care facilities and the facilities must meet the quality requirements.

MS. MAGAÑA:

Families do have the choice to participate or take their children to quality centers that participate in the State's Quality Rating and Improvement System (QRIS). The family has the option to send children to those centers. Not all centers are participating in QRIS, but if they do participate, a quality measure ranges from one star to five stars.

SENATOR SPEARMAN:

The rating is like that seen in the Better Business Bureau. Families can find out which childcare facilities are meeting certain standards. It is important because we have heard some real horror stories about some places that do not provide quality care.

SENATOR BUCK:

Increasing access to preschool has been an important step in helping educate children, as well as improving Nevada's rating in education; are there any specific guidelines in these home settings?

MS. MAGAÑA:

Our registered and unregistered providers must follow quality health and safety guideline follow-ups.

SENATOR BUCK:

Is there any curriculum or expectation for learning?

MS. MAGAÑA:

Yes. There is an age and developmentally appropriate curriculum established that licensed providers must follow. It is also rated through our QRIS system and verified as well with our licensing department.

SENATOR BUCK:

Are they monitored and have site visits, or how does that work to make sure people are doing the curriculum with the children?

MS. MAGAÑA:

Facilities are assessed through a coach; once a coach is on-site, the coach watches and reviews the criteria used to teach the children to make sure it is age and developmentally appropriate. They are reviewed at specific intervals.

BRIAN CULLEN: (Child Care and Development Program, Division of Welfare Supportive Services, Nevada Department of Health and Human Services):

The DWSS has a subsidy program. Funding was given to us by the federal government under the Child Care and Development Block Grant Act. However, if the tax credit passes, it would be a separate program, not part of the existing subsidy program. We would be talking about two different programs. If that were the case, employees themselves would not need to be eligible for the subsidy program. They would only need to be receiving child care to get the credit. The fiscal note has an additional position. This different program will be transitioned into the existing programs. To clarify, DWSS increased income ceilings to the maximum of the eighty-fifth percentile in July 2022.

SENATOR SPEARMAN:

I asked Mr. Thompson if this fiscal note of \$200,000 could be absorbed by federal funds, and he said yes, it could.

SENATOR SEEVERS GANSERT:

If a business is willing to contribute money for the child care plan, then employees of the business do not have to fall within the income threshold and are eligible for a tax subsidy up to \$5,000 a year. Is that correct?

SENATOR SPEARMAN:

That is correct.

SENATOR SEEVERS GANSERT:

There is an income qualification to apply for the program. Is the 85 percent of the median income a county or State figure?

SENATOR SPEARMAN:

That is the State number.

SENATOR SEEVERS GANSERT:

Would the small in-home facilities, which are still licensed and monitored, be allowed to participate in subsidy programs?

Ms. MAGAÑA:

Yes, some in-home centers are licensed, and we also have unregulated, unlicensed centers. But they would still provide care.

SENATOR SEEVERS GANSERT:

To follow up, are licensed and unlicensed care centers eligible to participate in the program?

SENATOR SPEARMAN:

Yes. Friends, grandparents or somebody else cares for the children because it is a lot easier for parents in terms of transportation. We want to make sure we do not cut anybody out if they cannot get across town.

SENATOR SEEVERS GANSERT:

What is the licensing process? Is it difficult? Are there different standards? Are there standards the unlicensed do not have to meet versus standards licensed facilities would have to meet?

SENATOR SPEARMAN:

My understanding is that unlicensed facilities would still be regulated. They still need to meet certain standards.

Ms. MAGAÑA:

We refer to these providers as friends, family, neighbor providers (FFN), and they have always been allowed. They must also meet a certain standard, but not a licensing standard.

SENATOR SPEARMAN:

When you look at that type of setting, those are people who already know each other. Some people in my neighborhood care for family members' children after school. The family lives four blocks away, but it is convenient for the kids to get off the bus and go there.

SENATOR SEEVERS GANSERT:

Child care is a huge issue and having people you trust help with your children makes sense. I did not realize a potential exchange of funds. Can they be paid for those services if they are licensed or unlicensed, recognized by DWSS and following certain levels or standards of care?

Ms. MAGAÑA:

The DWSS regulates FFNs.

SENATOR SEEVERS GANSERT:

Are they regulated but not necessarily licensed?

Ms. MAGAÑA:

That is correct.

SENATOR DOÑATE:

I am still a bit confused as to what the amendment does, how the bill is structured and what the requirements are. Allow a personal anecdote because I understand what you are saying. I have met with a company in my District that

is doing really good work. It has a chain of restaurants and different facilities throughout town, continuously expanding. One of the main issues the owner has mentioned to me is child care. It is always an issue with employees being able to show up on time, and when children are sick, they cannot show up; it creates a whole problem. The owners decided to rent the space upstairs for a child care facility and rotate employees to take care of everyone's children, based on status of employment.

Would the amendment be simplified by stating if a small- or medium-sized business wanted to apply for a tax credit, it could apply for a tax credit of a set amount? It would be a straight shot and easier. The company would not have to go through different regulations because the company is doing it. What is your perspective?

MS. MAGAÑA:

Yes. If they are taking care of six or more children, it is an NRS requirement in that the facility be licensed. They would have to meet certain health safety standards and licensing requirements.

SENATOR SPEARMAN:

Health and safety licensing standards are not so onerous; they should be able to meet them. But they would have to meet the standards to be licensed.

CHAIR NEAL:

Talk to me how the credits work with the FFN on the MBT. Is an FFN included in this program?

MS. MAGAÑA:

Yes, they are included. We can enroll FFNs under the employee-funded program.

CHAIR NEAL:

I would like to ask a question about the amendment.

SENATOR SPEARMAN:

We are still working through it to make sure every voice is heard, but all tenets in the amendment will not cancel out the opportunity for people who want to participate.

CHAIR NEAL:

Is the section 1, subsection 3 eligibility that is struck out in the amendment “to be determined eligible by the Division for the Program for Child Care and Development as defined in NRS 422A.055” staying in the bill or being struck?

SENATOR SPEARMAN:

It needs to stay in. We started out having a bill in 2015 similar to this, but we could not figure out how to fund it. Working with the DWSS would give us the opportunity because of money coming to us from the federal government. We are trying to reconcile the amendments. Ms. Case has valid points. We do not want to do something in the bill that would cancel the funding.

SENATOR SEEVERS GANSERT:

Imagine the situation where an employer utilizes the tax credit. With that, its employees do not have to follow the income threshold. What if a large company wants to start an on-site child care center. It could put \$2 million into the tax credit or get the tax credit for \$2 million and then start its own child care facility. You want to include small entities too. I did not see a cap on how much any one entity could contribute. Take a large business such as a hospital, gaming facility or many other large companies that pay the tax and then get a tax credit to fund child care. If large companies take advantage of this without any income thresholds for employees and tax credits to provide those funds for child care, it means you may not necessarily have a distributed model.

SENATOR SPEARMAN:

I did not see any caps on the bill nor any caps on the federal program.

MR. CULLEN:

To clarify, the block grant money we receive is a separate program. Without any additional monies, the Child Care and Development Program can validate the providers for employers if they had gone elsewhere. That is how it would come out in relation to mechanics. But as far as the taxes and the program itself, we would assist the different program by providing that information.

CHAIR NEAL:

I invoke Chair privilege right now. You need to get rid of the amendment. The amendment is not functioning. I understand the removal of the income threshold because one of the things I said before you presented this bill was regarding middle-income families who need child care assistance. If you are going to

create a bill allowing middle-income families to benefit versus the under-85 percent threshold, which is still poor, the way to do that is in section 1, subsection 3, paragraph (a) which would raise the income threshold. Then middle-income families would need an employer that wants to take advantage of this MBT reduction.

The amendment strikes out administrative things that are needed and cannot be removed because you are bringing the MBT into the bill.

I suggest you take your original version of the bill; make the changes you want to make and keep it minimal; disregard the amendment because the amendment is confusing. You can accomplish what you want through the original version of the bill with some minor changes. That is the route you should go.

SENATOR SPEARMAN:

For the people who are stakeholders in child advocacy, we want to ensure their concerns and suggestions are not only taken into consideration but comport with the program we already have that gives us the money in support.

CHAIR NEAL:

We do understand the concept. There is a simpler way to get where you are going, to put in the qualified entities to receive it and then make sure it is clear which businesses can receive the credit, how it can be applied and who will administer it. Then you go from there. It does not have to be super-complicated. We will open testimony for support of S.B. 278.

LEA CASE (Children's Advocacy Alliance):

As you heard in the presentation, the child care subsidy program, already addresses families with the State median income of up to 85 percent, whose child care payments are at least partially made by the program. This amendment is intended to allow the tax credit program to help more families by creating a different program which does not go through DWSS because its staff manages just the child care subsidy program. This would strictly be a tax credit program for other employers and would include families who earn more than the current 85 percent of the median income and anyone higher than that.

My income is above 85 percent of the median income, and I still struggle to pay for child care. I have an employer benefit which allows me to pay for child care. Under this new program, my employer could benefit from this MBT write-off.

The goal and the intent of this amendment is to broaden those companies that can take credits against their MBT.

Section 6 of the amendment addresses the number of children allowed in a home before it becomes a care facility; subsection 1, paragraph (a) includes the definition of a child care facility with five or more children. Therefore, we have a conflict with subsection 2, paragraph (c), subparagraph (2) which includes six or fewer children. There are already regulated FNN providers in the State. They have health and safety inspections. They may not necessarily be licensed, but they are a neighbor who takes care of the kids. At this time, we cannot support the inclusion in section 6, subsection 2, paragraph (c), subparagraph (2).

TOM CLARK (The Children's Cabinet):

We have worked closely with Lea Case and her organization on this amendment. I am not an expert on these issues at all, but I have the pleasure of working with a lot of experts in the child care world with The Children's Cabinet. We would like to continue working with Ms. Case on this project. Hopefully, we can meet somewhere in the middle and find some resolution so we can fill the gap for these families.

SENATOR SPEARMAN:

The maze we have encountered to make sure this bill works has been confusing for everyone. Unless I am mistaken, the MBT is a tax which goes to the General Fund, and any type of abatement would reduce it. I wanted to stay with what the State already does because that way we can get it paid for. I wanted to eliminate the 85 percent threshold and just go with the MBT. I do not think we could get it across the threshold. I am acutely aware that any time you mess with the MBT and it gets to the Finance Committee, it is not going anywhere.

CHAIR NEAL:

There is a threshold, and you need to figure out what it is. It cannot include everyone. Figure out the cap on income and present it.

SENATOR SPEARMAN:

That is why we went with the program the State currently offers and its 85 percent of median income. The difficulty is in being open to everybody. But anytime the MBT is involved, it raises the possibility the bill goes nowhere.

CHAIR NEAL:

I understand. You can work it out, but it clearly needs a different income threshold amount. Maybe it is 150 percent, but it needs a threshold. It is unworkable without a threshold. Figure out the grouping and who needs it. Some middle-income families could benefit from the program. Figure out the income threshold and you will be successful. There is a letter of support for S.B. 278 from the Henderson Chamber of Commerce ([Exhibit G](#)).

We close the hearing on S.B. 278, and having no further business, we adjourn this meeting at 3:00 p.m.

RESPECTFULLY SUBMITTED:

Donna Crawford Kennedy,
Committee Secretary

APPROVED BY:

Senator Dina Neal, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B.233	C	3	Brian Gordon Applied Analysis	Presentation
S.B.233	D	5	Chris Ferrari	Proposed Amendment
S.B.233	E	17	Senator Dina Neal	Four Documents of Support
S.B.278	F	18	Lea Case	Proposed Amendment
S.B.278	G	27	Henderson Chamber of Commerce	Letter of Support