

**Statement by Michael Brown on Senate Bill 394
before the Assembly Revenue Committee**

**Nevada State Assembly
Carson City, Nevada
May 4, 2023**

Honorable members, I am Michael Brown, and I served as Executive Director of the Governor's Office of Economic Development (GOED) in the Sisolak Administration from November 2019 until January 2 of this year. I am here today to offer personal testimony on this legislation. I am enjoying an experiment with retirement and do not represent any special interest, and I am not receiving compensation for this statement. I appreciate the intent of the sponsor, but if approved, I fear it will end the bold, bipartisan economic development initiative Governor Sandoval and Speaker Kirkpatrick launched in 2011. Economic development is not a sprint measured in minutes, but a race measured in decades. Nevada is just showing material success in diversifying its economy, and this legislation will compromise the progress. I appreciate and share some of the sponsor's concerns, but this is not the remedy. I would be glad to lend my expertise to any discussion to consider alternative approaches that would address legislative concerns about abatements and incentives.

OVERVIEW

GOED System - Nevada's general system of abatements and incentives differs from many states as it is statutory, transparent, audited, and contains claw-back provisions. It is a system of discounted taxes, not cash incentives. After the Pandemic subsided, when I finally had time to meet my counterparts in other states, I learned their systems were often discretionary, non-transparent and included cash incentives to close deals. Our system is one of the most conservative and rigid in the nation and barely competitive with our peers in today's marketplace.

Recent Actions - The two recent GOED approvals that triggered this legislation were in development in my term of office. They were designed to close the Lithium Loop in Nevada.

Both companies were heavily recruited by other states offering more generous incentives than ours. Had this legislation been in place last year, I doubt those companies would have made an application and those jobs and economic benefits would have landed in another state.

Transferable Tax Credits - I found the policy case for transferable tax credits for industrial projects to be unconvincing and inefficient. I opted not to use my authority for the discretionary transferable tax credits. As Executive Director, I could not control the statutory transferable tax credits created by the legislature for large projects. However, authority for one of these programs expired last July and I believe the other will soon expire.

Competition - Economic development and site selection is highly competitive and time-sensitive. This legislation sends the wrong signal to the professional real estate site selectors – the gatekeepers of many economic development projects. Site Selectors will silently steer clients interested in locating to the western United States to Arizona and Utah. Just as "Wall Street sentiment" influences federal actions, we must recognize that the perception of Nevada's business climate will affect inbound investment. Site selectors will not put their clients into a lengthy and potentially politicized legislative approval process. I never liked the fact that Site Selectors are the middlemen, but that is how the market functions.

Safeguards – All applications must meet statutory obligations and comply with the official state economic development plan. Applicants in Nevada go through a comprehensive review before the Executive Director takes a company to the board. At any point, the Executive Director can declare an application incomplete and compel more review. The process is protected from undue influence and driven by the analysis. The GOED board is one of Nevada's premier boards with three constitutional officers, a panel of distinguished Nevadans, representatives of key agencies, and the Chancellor. These are strong safeguards of the process.

Competitiveness - The race to attract inbound capital investment is constantly transforming, and at this moment, the opportunity for inbound investment is unparalleled in the state's

history. President Biden has shifted the USA to a form of National Industrial Policy and away from the post-Cold War policies of Free Trade. Through the American Rescue Plan Act and the Inflation Reduction Act, billions of dollars have now been made available to emerging companies in the technology, green energy, and EV sectors. With China standing as an economic rival and Russia disrupting the post-World War 2 governing consensus, the USA is seeking to re-shore critical components of manufacturing. Nevada, with its location in the Pacific Time Zone, with access to the Pacific ports and the nations of the Pacific Rim, is optimally positioned for success.

Federal Funds - Our congressional delegation has successfully created federal funding initiatives to build on Senator Reid's legacy of making Nevada the center of the new green economy. Nevada has a once-in-a-century opportunity to bring these companies to Nevada. The state should keep its program agile and able to maximize the opportunities being created by the Biden Administration and our federal delegation.

PERSONAL EXPERIENCE AND REFORMS

When Governor Sisolak appointed me to GOED, I came into office with some skepticism about abatements and incentives. To learn more, I met with the leading think tanks focused on economic development. At the level of sub-national governments, economic development always presents a "Prisoner's Dilemma." The first state to eliminate its incentives will see the deal flow move to other states. I realized Nevada could not self-sacrifice for the benefit of Utah and Arizona, and that led me to launch four initiatives inside of GOED to address public perceptions about economic development. I saw GOED as a policy operation, not a deal shop, and implemented these reforms using my existing authority. These remain in place today.

Validating the Benefits - The first goal was to show Nevadans that economic diversification was working and that the return on investment justified the temporary discounting of taxes. The professional staff at the agency produced a solid report that we presented to the Legislature in detailed briefings in 2021. It was my belief we could diversify northern Nevada and fortify

southern Nevada. Reno today rivals Austin as an investment destination and no longer runs the risk of becoming the “Detroit of the West.” Yes, there are community development stresses, but compared to the challenge of job creation in a place like Youngstown, Ohio these are problems we can remedy. Las Vegas lags in diversification because of the failure of local governments to invest in industrial infrastructure, particularly at APEX. If we could improve the utilities, road, and rail at APEX, we could create 10,000 manufacturing jobs and fortify that economy from the wide economic swings. This is why I lend my support for the creation of the Nevada Way Fund. Without state investment, most of APEX will remain fallow. Now is the time to build-out APEX and a companion industrial park in Jean.

Compliance - The second reform was compliance-based; to strengthen the due diligence on applicants and the oversight of recipients. I developed an inter-agency arrangement with all state regulatory agencies to review applications. We turned to the National Violators Database from the NGO group – Good Jobs First – to look for any signs of systematic non-compliance issues. I elevated the audit process to a quarterly joint Director-level review of audits with the Department of Taxation, and I initiated at least one claw back. In the 2021 session, we secured legislation strengthening GOED's authority in these areas.

Social Responsibility - The third was the "Sisolak Doctrine" – if we were going to grant a temporary discount on taxes, we expected companies to demonstrate a significant commitment to Nevada. I could not, under existing law, make ESG determinative, so I built questions about adherence to corporate social responsibility, diversity, supply chain, and climate change into the application process. We pressed companies to show partnership with Higher Education and, in some cases, to have Project Labor Agreements or formal community engagement commitments. These soft-power initiatives improved the quality of applications approved by the GOED board. As I left office, we were compelling applicants to detail their consumptive water use and were discouraging applications that didn't fit our desert climate.

Transparency - The fourth was to make GOED the nation's most transparent economic development agency, a distinction we achieved in 2022. We worked diligently to put all documents on the GOED website and companies had to make their case at the public GOED board meetings. Please understand that my counterparts in other states conducted their meetings in closed executive sessions, and non-disclosure agreements often cloaked the terms. GOED had no executive session in my term of office, and our terms were fully transparent. One aside, when we detailed these reforms at a conference of economic development professionals, there was immediate push-back, and we were asked not to publicize these reforms to their states.

EXISTING PROTECTIONS

GOED provides the Legislature with a dozen or more regular reports on every function and program of GOED. Our oversight hearing in the 2021 session, I believe, was the most extended hearing of the session. None of my counterparts whom I came to know in other states experienced this level of legislative scrutiny. Last December, when we were made aware by the professional staff of the Legislative Counsel Bureau of an error on an abatement package, we moved swiftly to respond and fix the issue. We did not engage in any creative workarounds or hide the mistake.

RELATED ISSUES

NDAs - Data drives economic relocation decisions. Applicants must share with GOED their business confidential information. To protect that information, we used standard business-to-business style non-disclosure agreements, but these did not hide the terms of the deal. That differs from the practice in many states where an NDA might cloak the terms of the abatement or incentive.

Sales Taxes - Except for a half-dozen states, the purchase of equipment for manufacturing is exempt from sales taxes. States like Nevada, that are constitutionally obligated to tax manufacturing equipment, but still seek manufacturing investment, have developed

workarounds through abatements and incentives. At its core, Nevada's abatement program is largely a work-around offering a temporary discounting of taxes for public or private corporations bringing new investment to the state. Because Nevada cannot discount the taxes to zero like many states, we quickly receive sales taxes from these new projects.

In closing, in terms of business history, we are living in the most significant realignment of the manufacturing sector since the 1920s. An entire new green energy sector is being created. It is time of amazing opportunity for Nevada. I urge you to consider the broad ramifications of this legislation and the potential negative unintended consequences. No one would deny the prerogatives of the legislative branch, but nor can policymakers ignore the reality of how markets function. I would be honored to participate in any discussion of alternatives if my opinion and experience could add value.

Thank you.

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Michael Brown

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