

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

**Seventy-Fourth Session
March 27, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:33 p.m., on Tuesday, March 27, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblyman David R. Parks, Vice Chair
Assemblywoman Francis Allen
Assemblyman Morse Arberry Jr.
Assemblyman Mo Denis
Assemblyman Tom Grady
Assemblyman William Horne
Assemblyman John W. Marvel
Assemblyman James Ohrenschall
Assemblywoman Peggy Pierce
Assemblywoman Valerie E. Weber

COMMITTEE MEMBERS ABSENT:

Assemblyman Harry Mortenson, Excused

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara Buckley, Assembly District 8

Minutes ID: 625



STAFF MEMBERS PRESENT:

Russell J. Guindon, Senior Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Mary Garcia, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Jessica Blakeley, Legislative Intern to Assemblywoman Buckley
Samantha DeKoven, Housing Consultant, Employer-Assisted Housing,
Metropolitan Planning Council, Chicago, Illinois
Taylor Dial, Executive Director, Housing Trust of Santa Clara County,
California
Daniel Hoffman, Private Consultant on Employer-Assisted Housing,
Philadelphia, Pennsylvania
Tom Finch, Director of Development, Citizens for Affordable Homes, Inc.
D. Taylor, Secretary-Treasurer, Culinary Workers Union, Local 226
Douglas Bell, Manager, Community Resources Management, Clark County
Russell Rowe, representing Focus Property Group, Las Vegas
Michael Pennington, Public Policy Director, Reno-Sparks Chamber of
Commerce, and representing the Nevada Housing Coalition
Irene Porter, Executive Director, Southern Nevada Home Builders
Association
Sam McMullen, representing Las Vegas Chamber of Commerce
Dino DiCianno, Executive Director, Department of Taxation
Barry Smith, Executive Director, Nevada Press Association, Inc.
Joseph Turco, representing American Civil Liberties Union of Nevada
Neil Rombardo, District Attorney, Carson City
Thomas Wilson, representing Nevada Tax Commission
Ray Bacon, Executive Director, Nevada Manufacturers Association

Chair McClain:

[Meeting was called to order at 1:33 p.m. Roll was called.] We will start with Assembly Bill 269.

Assembly Bill 269: Authorizes deductions from the state taxes on financial institutions and other businesses for certain qualified employee housing assistance provided by employers. (BDR 32-1142)

Assemblywoman Barbara Buckley, Assembly District No. 8:

[Distributed ([Exhibit C](#)), ([Exhibit D](#)), and ([Exhibit E](#)).] I am proud to be the sponsor of A.B. 269. To present the bill to you today, I have the privilege of introducing my intern, Jessica Blakeley.

Jessica Blakeley, Legislative Intern to Assemblywoman Buckley:

[Went through PowerPoint presentation in ([Exhibit D](#)).] A home is the single largest asset owned by American families and one of the dearest to our hearts. It provides us with economic security, cements our emotional ties to a community, and acts as a source of equity that can be used to cover planned or unplanned expenses such as college tuition or unexpected illness.

Urban Nevada is in an affordable housing crisis, with the spillover effect beginning to impact what was once rural Nevada as well. Before 2001, the relatively low cost of housing in Nevada was an important recruitment and retention tool for area employers. Nevada employers could attract workers to the area with the promise that they could improve the quality of their lives by being able to own a home of their own.

In 2001, the average median home price in the United States was \$175,200, while the median price for a house in Las Vegas was \$149,100. It was only slightly higher in Reno, at \$165,100. As a result of this and the growth of the gaming industry, people flocked to the State, especially southern Nevada. The resulting increased demand for housing led the construction industry to become the second largest private employer in Clark County after gaming.

However, by 2006, this picture had changed dramatically. In the intervening five years, the average median sale price of a house in the U.S. rose 40 percent to \$245,500—an average of 8 percent a year. During the same period, the median price of a home in Las Vegas soared to \$317,400, with Reno prices increasing to \$347,200. According to an October 2006 CNN poll, 54 percent of the American public believe it is impossible for most people in the U.S. to achieve the American dream of home ownership. Nowhere is it more apparent than in Nevada, where we now have the 47th lowest rate of home ownership in the nation.

From 2000 to 2006, Nevada led the nation in population growth, the majority of which occurred in the Clark County urban valley area and the Reno-Sparks area. Local governments, wrestling with the numerous issues arising from a remarkable population growth, formed a variety of task forces to try to come to grips with the problems. As a result of their study, the Truckee Meadows Growth Task Force report noted that home ownership is no longer attainable for households in the income bracket that earns 80 percent to 120 percent of the

area median income. This conclusion was echoed by the Southern Nevada Workforce Housing Study [see [Exhibit E](#)], which noted:

Approximately 169,000 new workforce households are projected to be added to Clark County during the 2006–2015 period. Our research suggests that 80–82 percent of these new workforce households will not be able to afford a median-priced existing for-sale home or new home.

What are the barriers to home ownership that need to be overcome? A 2005 survey conducted by GMAC Mortgage found that 24 percent of consumers cite a lack of financial security as a primary obstacle to home ownership while 23 percent named saving for a down payment. Consumers aged 25–34 were more likely to cite saving for a down payment—36 percent—and achieving financial security—39 percent—as an obstacle to home ownership than their older counterparts earning more than \$75,000 a year, the apparent “financial security” cutoff point.

Additionally, the survey revealed that consumers see a need for greater financial education, particularly regarding the numerous aspects of the home buying process. Of those surveyed, 65 percent indicated the need for more information regarding:

- finding the right loan: 20 percent
- managing their debt: 18 percent
- evaluating their credit: 17 percent.

Credit concerns and the evaluation of credit dominated the survey results. Twelve percent of consumers named past or current credit problems as an obstacle to home ownership. Forty-three percent of the survey respondents in the 18–24 age group wanted to learn more about credit scores and the evaluation of credit during the home financing process.

What can we do to address these problems? One way is to encourage employers to offer a variety of housing assistance to their employees. Employer-assisted housing (EAH) programs have been implemented in various locations throughout the United States. While this is not a silver bullet that will solve the overall problem of affordable housing in the U.S., public-private initiatives are making significant inroads into solving the problem. Working with the State as well as local governments and nonprofit organizations, employers are addressing the home ownership problem by providing a range of housing benefits to their employees.

These benefits range from down payment grants and loans, with a sliding scale for loan forgiveness based upon employee retention, closing cost assistance, and credit counseling home buyer education. One such example is the Housing Trust of Santa Clara County (HTSCC), California. The HTSCC was formed and financed by leading Silicon Valley companies and foundations in cooperation with local government to address the lack of attainable workforce housing in light of Santa Clara County's rapid economic growth. One hundred ninety companies employing more than 250,000 workers established a housing trust to assist first-time buyers. The trust provides closing cost and down payment assistance to families earning at or below 120 percent of the area's median family income. As of February 2007, the housing trust has helped 1,782 families purchase homes.

In the Illinois model on which A.B. 269 is patterned, the state gives a \$0.50 tax credit against state business taxes for every dollar invested by an employer in a nonprofit corporation that provides housing benefits. In Chicago, the Regional Employer-Assisted Collaboration for Housing (REACH) partners with 40 businesses to provide consumer home buying education and down payment assistance to employees of participating employers. In 2005 alone, 269 employees were able to purchase homes using the financial assistance provided by their employers. In addition, the housing assistance nonprofits sponsored by employer contributions provide financial literacy training to all covered employees.

Massachusetts and Vermont currently have proposals for tax deductions that match employer grants to low- and moderate-income employees to promote workforce housing programs. It is time for Nevada to join this trend. A.B. 269 would encourage Nevada employers to address the growing workforce housing crisis by providing EAH benefits to their employees through qualified nonprofit organizations. Allowable benefits include down payment and closing cost assistance, reduced-interest mortgages, mortgage guarantee programs, rental subsidies, or individual development account savings plans restricted to householders earning less than 120 percent of the county median household income. In addition, credit counseling and home buyer education for employees are benefits that may be included.

For every dollar contributed by an employer to a nonprofit organization for EAH benefits, the employer could deduct \$0.50 from the amount of Modified Business Tax (MBT) otherwise due. The amount of such credits claimed in any year would be monitored by the Department of Taxation and capped at \$5 million a year.

Nevada aspires to educate and maintain a twenty-first-century workforce to sustain its economic growth. We cannot hope to attract or retain the best and the brightest if we do not offer them any possibility of attaining the American dream of owning their own home. Assembly Bill 269 provides a financial incentive to create a public-private partnership dedicated to making home ownership a reality for hardworking Nevadans earning an average wage.

Samantha DeKoven, Housing Consultant, Employer-Assisted Housing, Metropolitan Planning Council, Chicago, Illinois:

[Ms. DeKoven testified, via telephone, from Chicago, Illinois.] The Metropolitan Planning Council (MPC) is a 73-year-old policy and advocacy organization promoting sensible growth, economic competitiveness, and equity of opportunity in northeastern Illinois. In the housing area, this focuses on promoting quality housing options throughout the region near jobs and transit. I thank you for the opportunity to speak today on EAH and A.B. 269, a bill that is modeled somewhat after our work in Illinois.

I define employer-assisted housing as any way a business gets involved in housing. That may take the form of down payment or rental assistance, matched savings for home ownership, investing in development, or facilitating access to credit counseling or education.

In Illinois, we have found that the more employers get involved in workforce housing solutions, the more supportive they are of new housing policies and development proposals that address current demands in the marketplace. You all know better than anyone that a state's housing challenges cannot be met through public dollars alone. Both private sector investment and leadership are essential in advancing our common goals. We have certainly experienced this in Illinois, where EAH has been a very effective tool to build public-private partnerships in support of workforce housing, both to address jobs-housing mismatch and to spur redevelopment.

The MPC's involvement in EAH began in 2000 with System Sensor, located in the affluent western suburb of St. Charles, Illinois. This one manufacturer provided down payment assistance and home ownership counseling through a nonprofit housing group. That successful employer truly inspired the creation of Illinois matching funds and tax credits. More than 60 additional employers, including new small business consortia, had signed on by the end of 2006. Nearly 2,000 employees have been counseled, resulting in more than 950 successful buyers. An estimated \$1.7 million in employer dollars went to help employees purchase homes in Illinois in 2006.

A range of employers has discovered the benefits of the REACH model—large, small, nonprofit, for-profit, and government. Participating companies include hospitals, universities, banks, small businesses, and local municipalities—for instance, Bank of America, Allstate Insurance Company, the University of Chicago, and Chicago Public Schools offer housing programs. The employers participate for a variety of reasons:

- to offer an innovative benefit
- to distinguish themselves in the marketplace
- to reduce tardiness, turnover, and absenteeism
- to improve morale and loyalty.

By helping employees afford homes closer to work, employers are making a real difference in their employees' lives, reducing stress and boosting their own bottom line.

We have found the REACH model to be a great starting point, bringing in both modest investments and meaningful leadership. Around the state, more and more examples are cropping up of employers investing in a development, donating land, or providing rent subsidies instead of down payment assistance. What is great about EAH is that it is truly a public-private partnership. The state of Illinois provides two tools to leverage employer investments: matching funds toward an employee's down payment and tax credits authorized by statute in 2001 that provide a \$0.50 credit for each dollar an employer invests in an EAH program.

In addition to the numerous employees who have benefited from their employers' assistance, the MPC has found that EAH has helped accomplish many strategic successes in the housing policy arena. During the last five years, the Chicago-area mayors created a housing task force, Illinois adopted its first housing plan and passed various pieces of meaningful legislation to advance that plan, and municipalities created land trusts and approved new affordable housing developments. In all cases, EAH and participating employers were key to success. We have found that, more than any other housing program, EAH has been a door opener, engaging business leaders and policy makers in discussions about housing needs without fear of community opposition shutting the door to such conversation.

The program has been extremely successful. I am thrilled to see Nevada considering a similar program. I congratulate you on your interest in EAH, and I encourage the Assembly to pass legislation authorizing this tool to encourage private-sector investment in workforce housing.

Chair McClain:

It is good to hear how successful the program is in Illinois. Are there any questions? [There was no response.] I understand there are several other people who want to testify in support of this bill.

Taylor Dial, Executive Director, Housing Trust of Santa Clara County, California:

I would like to applaud you for considering A.B. 269. I would like to tell you how the HTSCC was formed. The dialog for unaffordable housing in Santa Clara County started in the 1997–1998 time frame. At that time, both public and private leaders realized there was a tremendous problem. At that time, the median home price in our area was approximately \$312,000, and prices today are more than twice what they were back then. Those leaders created a commission called the Housing Leadership Council. Out of that council came a task force to study the potential of putting together a housing trust. They decided to see what our real need was. At that time, we had a problem of extremely-low-income people who had no homes at all—approximately 7,000 homeless people in a county of about 2 million people. Roughly 25 percent of our very-low-income and low-income individuals were unable to afford to pay rent. Today, only about 16–18 percent of home buyers are able to afford a medium-priced home in our county. The task force realized this was quite a problem, and we needed to do something about it. The public also recognized the problem and the need to do something about it. The question was what to do and how to pay for it. As is typical for Silicon Valley, they rose to the challenge and decided to find a way to create a public-private partnership to raise the funds.

The county government was especially engaged and supportive of creating a solution, but they realized, as did Illinois, that there was no way the local government could solve this problem. We went to our business leaders and asked them to help. We put together a vigorous fundraising campaign—a media campaign—and set up the lofty goal of raising \$24 million in 24 months to attack our affordable-housing problem. In 18 months, we achieved our goal. In fact, we exceeded that goal. The business community realized that in order for them to survive and thrive in Silicon Valley, they needed employees who could afford to live there and live where they wanted to live, as opposed to living in substandard housing or driving an hour or more each way to work every day. Businesses, without receiving any extra benefit through a special tax, as you are proposing, decided to contribute to the HTSCC. Out of the more than \$33 million we have raised to date, 55 percent has come from the private sector and 45 percent has come from local government. Both jurisdictions and the county have been extremely generous and supportive.

We actually offer three different programs. We have gap financing for the builders of homeless and special needs facilities such as overnight shelters, reception centers, and transitional housing. We also provide gap financing for those who are building multi-family format moderate- and low-income rental housing. We also offer loans directly to first-time home buyers as opposed to working through a builder, realtor, or bank.

The program has been quite successful. So far we have created more than 6,000 housing opportunities for those who are purchasing, renting, or looking for shelter. We have spent \$24.5 million, and we have leveraged more than \$1 billion in investment. The key to our model has been getting other people to play the game too. We work very hard with builders, local jurisdictions, and the State to help create packages to make the financing work.

The HTSCC is essentially a nonprofit bank. We provide gap financing in its most basic sense; we fill that very last gap that nobody else is able to fill to make this a reality, whether for a home buyer or a 50-unit, \$50-million complex. That is the model we use.

Looking forward, we realize the problem has gotten even larger. Today we have a median home price of \$790,000. Our median income for a family of four is \$100,000, so there is a factor of "7x" between their income and their ability to buy that house. We have a problem of down payment, as everybody has. Because the dollar amount is so huge, we also have the problem of making that monthly mortgage payment. Many of us look at that and think there is no way we can successfully fight this battle. What we have found, as a housing trust, is that if we knock it off piece by piece, we can be successful. We have not found the silver bullet, either, but we have found that by working together, particularly leveraging the state dollars against the private dollars, we have been able to succeed.

Assemblyman Denis:

How long has the HTSCC been in existence?

Taylor Dial:

We were incorporated in 2000. We are a 501(c)(3) nonprofit organization.

Assemblyman Denis:

Were you set up specifically for these housing issues? Was this part of the solution you came up with?

Taylor Dial:

Yes, it was. We debated creating a countywide housing trust or a series of citywide housing trusts—there are 15 cities in the county. One of the things we see as important is that this is not a local jurisdiction problem; it is a regional problem. For California, it is practically a statewide problem. The state will be 40,000 units short in housing this year alone. We decided the best place for us to start would be at the county level.

While our county may appear to be homogenous, it is actually quite diverse, going from high-density, high-income to very-high-income, to very-low-density farmland. We have needs all across the spectrum. We also felt that creating a nonprofit organization that was separate and private would be more effective. Many businesses would not give money to a public agency without a large incentive to do so. If they give it to us, they are able deduct it, so there is some benefit to them doing that. It was clear to us, though, that their primary motivation was that they needed to solve the problem in order to keep their employees local.

Assemblywoman Weber:

With your experience in dealing with the variety of people who apply, do you have any information on default rates or foreclosures? Right now, even in our State, with regularly financed homes, we are number one or two in the nation in defaults.

Taylor Dial:

That is an excellent question. When we do our first-time home buyer loans, we work with a preapproved list of mortgage lenders or brokers whose practices we understand. We specifically look to avoid abusive loans. That is a very big deal for us. Putting somebody who clearly does not make enough money into an \$800,000 house is not going to solve their problems; three years later they are going to be in big trouble. We do not want that to happen.

We have had four defaults since the inception of our program, and in every case it has been due to homeowners' association dues and not the mortgage. That is very telling to me that when somebody is buying a condominium, they forget the detail that they owe \$400 a month in homeowners' association dues. We have been fortunate that, with the appreciation of real estate, we have not lost our funds. We have been able to be repaid out of that appreciation. I am waiting to see if we have a problem with the subprime market in terms of loan defaults. So far, we have had none. I hope we did our homework properly early on to ensure we were working with the right lenders.

Assemblywoman Weber:

I used to work with Habitat for Humanity. Even though they have the equity to forgive down payments, there still are defaults. I am trying to understand how this could be successful in the long term.

Taylor Dial:

In our case, we look at the affordability issue, which actually crosses all income segments all the way to the top, as involving those making 120 percent of the median income and below. We believe our job is to satisfy the needs of that whole range from 120 percent down to zero. That is where we have our developer programs where we will loan money for the building of rental units, shelters, and so on.

The home buyer program is targeted mainly at 120 percent of median income. We do not have the expectation of getting someone with 40 percent of the median income into a purchase situation because we do not think it is going to work. There are cases where it has worked. Habitat for Humanity is a wonderful organization that has been very successful, but everybody has some defaults along the way. We take things very conservatively because we want to get people into a house, and we want them to stay in that house. We do not want them to default, which would be the worst situation, or to think they can use our loan to buy the house, sell it right away, and move into something else.

Chair McClain:

I assume you do not use any creative financing.

Taylor Dial:

No. Our loan is a deferred loan with zero interest payable only upon payment of their first loan, whether through sale, refinance, or thirty years later.

Chair McClain:

Their first loan is a thirty-year, fixed-rate mortgage?

Taylor Dial:

We have allowed adjustable rate mortgages (ARMs). We have not allowed optional-payment adjustable rate mortgages (Option ARMs) where they are allowed to pay whatever they think they want to pay and, in the end, a little more.

Daniel Hoffman, Private Consultant on Employer-Assisted Housing, Philadelphia, Pennsylvania:

[Based on his prepared testimony ([Exhibit F](#)).] As research director at the American Affordable Housing Institute 20 years ago, I coined the phrase

“employer-assisted housing.” The work we did at Rutgers University at that time and shortly thereafter really helped define the ways employers directly interface with their employees in the matter of housing. That work also helped develop the rationales to teach businesses why they should want to do so. Much of this was published in a book I wrote, *Employer-Assisted Housing, A Benefit for the 1990s*, and in more than a dozen articles I have written on the topic.

Since leaving Rutgers in the mid-1990s, I have been a consultant and advisor to numerous businesses, business organizations, labor unions, nonprofit organizations, lenders, and the Federal National Mortgage Association (FNMA, or Fannie Mae). The FNMA has its own national employer-assisted product as well as the program it ran for its own employees. When we worked with the FNMA, they thought of themselves as a lender. We told them they would be the first employer to use their product. I told them they were the richest, smartest, and biggest, and if they could not figure it out, who could? They are really happy about their program and talk about it as one of the lead things they do as a first-class employer.

I have also worked with more than a dozen state governments and many local governments in one capacity or another. I recently completed a project, the Philadelphia Home Buy Now program, in which the city grants money to match what employers were putting up toward down payments or closing costs. That program proved to be very instructive. One of the nation’s great old EAH programs is run by the University of Pennsylvania. That program is now nearly 40 years old and is phenomenally successful. The university brags about never having lost a nickel on the program in 40 years.

Looking at the program that had helped redevelop all of west Philadelphia where the university is located, Philadelphia employers thought they had to have a \$3.5 billion endowment to be able to run such a program. We told them if they had a product that was accessible and understandable to other employers, those other employers would participate. We helped the city create a product and, after 18 months of so-so marketing, more than three dozen employers in the city had signed up for the program. Those employers were of all sizes, from 4-5 person businesses that wanted to help a specific employee to large educational institutions, hospitals, and others.

The value of having a product, which is at the core of what you are trying to do here today, cannot be understated as a way of explaining to employers both why they should be interested and how to express their interest in a practical way. A few years ago, there were only a handful of employers involved in the EAH movement. Today, unbiased chroniclers of the movement estimate that

between 6 and 10 percent of American employers now offer housing benefits. Although I understand that organized labor has some interest in the topic, the fact is that, nationally, it is being driven by business and not by labor.

That really represents a sea change in how the business community views the housing question. Businesses come to you every day with opinions on taxes, transportation, product liability, et cetera, but they rarely say they have an opinion on an affordable housing policy. They are now coming to understand they do have a direct interest in the housing of their workers. Businesses depend on it. As they learn that paying for a housing benefit is less expensive than paying wages they cannot afford due to international competition, and that with double-digit increases in housing prices they cannot offer a wage increase high enough, they see that providing a housing benefit is a good, efficient, bottom line strategy.

I urge you to think about this as just another thing you would do in the course of your duties here to strengthen and preserve Nevada's business climate. That is really what this is about. This tax credit will be new to Nevada. It is new to the states, but I think you will see a lot of movement in this direction. In addition to state laws that are being considered, the last session of Congress saw the introduction of a federal tax credit on this topic. It did not pass, but I understand it will be reintroduced with a better chance of passage. It is a bipartisan bill. On one hand you are on the cutting edge of states that are doing this. On the other hand, though, you are doing what you do all the time here: trying to take actions that support affordable housing and improve your business climate.

Tom Finch, Director of Development, Citizens for Affordable Homes, Inc.:

Citizens for Affordable Homes is a private nonprofit organization. We have been in business since 1994 in northern Nevada. We are also building in Pahrump and Nye County in southern Nevada. Most of our money comes from U.S. Department of Agriculture (USDA) Rural Development through technical assistance grants. We get grants and loans from the U.S. Department of Housing and Urban Development (HUD) and the Housing Assistance Council (HAC), and we have administered some down payment assistance monies in northern and southern Nevada.

We are concentrating on home ownership because this is what is important to Nevada and the United States. Home ownership empowers people to do better. Through self-help housing, it also empowers them to improve their lives and the lives of their children, who do better in school. It is a win-win situation for both the homeowners and the employers. When the employees are more stable because they are homeowners, this benefits the employers.

We have been building mostly in rural counties: Douglas County, Lyon County, Churchill County, and Nye County. We are looking for ways to build in urban areas. The funds are simply not as available in urban areas as they have been in rural areas in the past. Affordability is always an issue, and this seems like a great way to make homes affordable to the workforce.

Citizens for Affordable Homes is willing and able to be of assistance to make this bill become a reality. We need a solution to be able to build in urban areas and to help more families become homeowners. I urge this Committee to find in favor of the bill.

D. Taylor, Secretary-Treasurer, Culinary Workers Union, Local 226:

[Distributed ([Exhibit G](#)).] Housekeepers and coffee shop waitresses do not have stock portfolios. The most important asset they have is owning a home, which gives them real economic security. We used to be able to say in Las Vegas that a unionized housekeeper or kitchen worker could own a home; it was the only place left in America where that could happen. However, home prices have doubled in the last five years in Las Vegas and in northern Nevada too. There is no way that wages have doubled in that time.

We recently commissioned the University of California, Los Angeles (UCLA) to do an economic study of our membership, particularly on home ownership. We found facts that would support what a lot of people in southern Nevada anecdotally know, which is that more than 78 percent of our members who have lived in the Las Vegas Valley for ten years or longer own their own homes. For those who have been there five years or less, the percentage of homeowners is in the low thirties, which is a precipitous drop due not just to the length of time but also home affordability.

We are also looking at the future. Deutsche Bank, which analyzes gaming in Las Vegas, recently came out with a study that says that by the year 2012, there will be another 113,000 new jobs in the Las Vegas Strip alone. If you multiply that by four, which is usually the case in looking at population growth, that means well over half a million new people in the next five years.

Assembly Bill 269 is really not looking for government to have a solution. It encourages employers, through tax credits, nonprofits, and Taft-Hartley funds, to help with the whole problem of employee housing. I cannot think of a more important issue in this State than recapturing part of the American dream—that a housekeeper or kitchen worker could own his or her own home. We strongly urge this Committee and the Senate Committee on Taxation to pass this bill. This is vitally important, particularly if you look at the future growth in Las Vegas, in the Reno area, and in the rural counties.

Assemblyman Marvel:

Have you noticed if having these programs in place has stabilized the workforce?

Daniel Hoffman:

Yes. In fact, many employers organized these programs explicitly to do so. They say, "Here is our deal to help you get a house. In return, if you stay with us over a period of time, we will forgive the loan or turn it into a grant. On the other hand, if you leave before we have a chance to amortize our savings in recruitment, retention, and not having to train and retrain a workforce, you will owe us money back."

Assemblyman Marvel:

That is right; retraining is probably one of the most expensive activities you can get involved in.

Assemblywoman Weber:

How many more families do you project this would benefit with this new window of opportunity that would be opened by extending eligibility to those with a gross household income not to exceed 120 percent of the median income?

D. Taylor:

A lot. I have no idea how to project that, but if you look at the numbers from Deutsche Bank of another 113,000 just on the Las Vegas Strip, it would clearly cover at least half under that formula. That is just who we represent. The Las Vegas Valley is gigantic and has many employers. The reason I am so excited about this bill is that it extends to all sectors of the economy and gives employers incentive on the housing issue.

Assemblywoman Weber:

So it would probably, in your opinion, be more beneficial for those in southern Nevada, since we have more service jobs in the south?

D. Taylor:

No, not at all. It is just as valuable up in Reno and in the rural counties. There is explosive growth there too. Wages have not kept up with the escalating cost of housing throughout the State, not just in southern Nevada.

Daniel Hoffman:

As we look at what kinds of employers participate in this kind of program, it is really idiosyncratic. It is not simply for service workers or educational institutions. If there is an efficient way available for employers to do this, and if that message is brought to them, you will get participation from manufacturers and small businesses that know their workers.

Employer-assisted housing has taken place all along in small businesses where the employers knew the employees, and an employee came up two days before closing, saying, "I am about to buy a house and I am a little short. Could you do something for me?" If he was a good, loyal employee, they might work out something. What you are saying is that it is okay to do it, we will help you do it, and this how you do it. Because your bill is tied to working with nonprofit organizations, you are saying, "Here are responsible parties who can teach you something or find you additional resources." What would have happened in those small businesses anyhow can now happen in an organized and responsible way.

Tom Finch:

In the past, we have been able to serve only 80 percent of median-income families. We are struggling to be able to do that now because of increased costs for land, water, et cetera. If we can include the people making up to 120 percent of the median income, we are going to offer this opportunity to many more people. We turn people down every day because they earn above the income limit, but they still need a house.

Chair McClain:

Jessica, I have a question for you. Why are we changing the language from "deduction" to "credit"? There is a big difference in the fiscal impact.

Assemblywoman Buckley:

It should actually have been drafted as a credit in the first place because we do not have an income tax for businesses, unlike Illinois where they are looking at a deduction scheme. All we have is the business tax. That is why the wording was changed. As the bill came out of drafting, we, as always, tried to perfect it to better meet the needs of the legislation.

Chair McClain:

Staff will look at that again, then, because I think they had it the other way around.

Assemblywoman Buckley:

The Legal Division did the drafting for us, and Brenda Erdoes, our legislative counsel, went over it, talking with the experts and making sure it made sense.

Chair McClain:

Then the credit is available up to a cap of \$5 million for financial institutions and for regular businesses?

Assemblywoman Buckley:

The eligibility is across the board for any businesses that pay the MBT, whether they are financial institutions or regular businesses. It is open to all, and there is a \$5 million cap per year for all businesses. The only change that did not get carried over from the original bill to the amendment, which I am going to recommend we add back in, is the 10 percent cap for technical assistance and counseling. We want a majority of this money to actually go for the hard costs—the down payment assistance, rental assistance—and not for counseling, so we want to retain that 10 percent cap.

Assemblyman Denis:

Do we have several nonprofits in Las Vegas that could facilitate this? [Ms. Blakeley verified that.]

Assemblywoman Buckley:

We have a number of very good housing nonprofits. Charles Horsey with the Nevada Housing Division and Doug Bell who runs the Community Resources Management for Clark County are familiar with all of them. They are reputable and long-working. Their restraint has been that they have focused on those with 80 percent or less of the median income. They have no financing for addressing workforce housing issues. This bill would provide an opportunity to get the employers involved, create Nevada's first employer-assisted housing, recognize the need, and provide the resources for them to work. That is really all that is missing; the rest of the infrastructure is there.

Chair McClain:

What dollar range would 80 percent to 120 percent of the median income be?

Assemblywoman Buckley:

I will double-check and get you the exact figures. I think the median income now in Clark County is approximately \$55,000. What the figures show is that, due to our housing dilemma, it does not matter. If you are making median income, you can no longer afford a home.

Chair McClain:

I was curious whether we would capture teachers and starting policemen.

Assemblywoman Buckley:

I will have Jessica figure it out and report back by the end of the hearing.

Douglas Bell, Manager, Community Resources Management, Clark County:

[Read from prepared testimony ([Exhibit H](#)).] Others have spoken previously of the tremendous demand for housing that will continue as a result of our growth on the Strip and the growth of our population. As the issue of affordable housing has grown, everyone is involved in some kind of initiative. The county has been involved most recently in the development of a pilot project using the discount lands under the Southern Nevada Public Lands Management Act, going forward with several developments to use the Bureau of Land Management (BLM) land to build housing. We clearly see this bill as a pilot project to involve the private sector.

Having worked for more than 15 years on this affordable housing issue, I can tell you that government alone is not the solution. The amount of federal funds we receive is limited, the amount of private activity bonds is limited, and if we are going to succeed, we have to get the private sector to join with us in the partnerships that have been talked about previously. We strongly encourage passage of this bill as a pilot effort to see how well we can involve the private sector in partnerships to build affordable housing and to help retain their workers in the future through these kinds of subsidy efforts.

Russell Rowe, representing Focus Property Group, Las Vegas:

Focus Property Group is one of the master developers in southern Nevada. It has always been a progressive company—in water conservation, in energy conservation, and now in affordable housing. A few years ago, Focus Property Group hired a consultant to begin researching attainable housing issues in Nevada, trying to come up with a solution. What they came up with was quite similar to what Santa Clara County has done very successfully, which was to create an attainable housing trust—in a nutshell, to provide down payment assistance and other types of assistance needed to get people into their first homes, provided they qualify in the 80–120 percent range.

The beauty of this bill is that the infrastructure is already there. The nonprofits are already in southern Nevada doing this kind of work. What has been missing is the funding, particularly from the private sector. Having a bill that provides an incentive in the form of a tax credit will really help us get others in the private sector to contribute to a housing trust and get these types of things going.

Michael Pennington, Public Policy Director, Reno-Sparks Chamber of Commerce, and representing the Nevada Housing Coalition:

We want to offer our support for A.B. 269. In the last two years, the Reno-Sparks Chamber of Commerce has been heavily involved in housing issues in northern Nevada. I have been fortunate to work with not only the Truckee Meadows Growth Task Force that published the barrier study you heard about earlier, but also a regional task force on affordable and workforce housing. We have worked very closely with the Nevada Housing Coalition, which is why I have the opportunity to appear on their behalf today in support of this bill. Many companies in the Truckee Meadows are looking for opportunities to provide housing for their employees.

A number of those companies are offering opportunities such as down payment assistance, closing cost assistance, or rental assistance. This bill would work with them and provide the necessary complement to what they are already doing. A number of projects for providing workforce housing for nurses and others in the medical profession are potentially coming on line in the Truckee Meadows. This bill very adequately addresses the concerns those employers have been talking about with our organization and other business organizations in Washoe County.

Assemblyman Denis asked earlier if this bill would be viable in a situation where a business entity wanted to collaborate with a nonprofit organization, and they were working on a project of their own volition. Yes, that is the intent.

Irene Porter, Executive Director, Southern Nevada Home Builders Association:

I am pleased to be here this afternoon to support A.B. 269. We in the home building industry understand today's housing problems better than anyone. We believe those who have stepped forward to assist with housing and who want to have EAH and other types of programs should be applauded loudly. This is one more piece of legislation that can help those who need housing the most.

Sam McMullen, representing Las Vegas Chamber of Commerce:

We think this is an exceedingly worthy piece of legislation. It tries to take a very complex issue and do something meaningful about it. We appreciate that. One of the things inherent in this bill is that there has to be a mechanism through a second entity: a nonprofit or a Taft-Hartley trust. There are employers who would like to do this directly, and I understand the bill was constructed to make sure they go through a sponsor. However, we would like it put on record that, to the extent it might someday be possible, we want to make sure there could be direct credit for employers against the Modified Business Tax.

One of the things worth exploring, and perhaps something that has to be answered in advance, is that a public foundation or other nonprofit entity has to be nondiscriminatory. If, in fact, this is desired for a specific set of employees, such as those of a particular employer, that may not always be possible, depending on the 501(c)(3) or other nonprofit status. If this ended up being something that helped everybody in general, that would be very positive and a great incentive. I just wanted to raise that legal issue for the purpose of making sure you could intensify the goals of this legislation.

Jessica Blakeley:

I have the figures you were inquiring about earlier. For Las Vegas, the range between 80 percent and 120 percent is \$37,856 to \$56,784. In Reno that range is \$45,337 to \$68,005.

Assemblyman Marvel:

How was the fiscal note derived?

Dino DiCianno, Executive Director, Department of Taxation:

Based on the original language of the bill, and because there is that \$5 million threshold, it can never go beyond that amount for anyone who pays at either the financial institution rate or the general business rate. That is why the fiscal note says what it says. If the bill is amended from a deduction to a credit, it will be significantly more. If that language is going to be processed, I would request we be allowed to redo the fiscal note.

Chair McClain:

We would expect you to do that.

Assemblywoman Buckley:

The cap will not change; the maximum allowable credits will always be \$5 million. If it were open-ended, there would be no way to judge what the fiscal impact would be. It was always intended to be a credit.

Assemblyman Marvel:

Overall, would there not be money made if you got more people involved in buying homes?

Assemblywoman Buckley:

Yes. I would really like to see this get off to a successful start so we could come back to the Legislature and show that so many people helped. I would like it to be predictable from the Tax Commission's point of view and not overallocate. If more people want to apply than there are tax credits available, that would be wonderful. We will have built that case for next session.

Assemblyman Marvel:

I do not want to oversimplify it, but if we are building more homes, we are going to be collecting more sales tax just in the materials being used.

Assemblywoman Buckley:

Yes, but now that I am on the Ways and Means Committee, I hear Mr. Arberry tell me every day, "There is no dough."

Assemblyman Marvel:

There will be some dough; that is what we are going to do.

Assemblywoman Buckley:

That sounds good to me.

Chair McClain:

Seeing no more questions, we will close the hearing on A.B. 269 and bring it back on work session with the recommended amendments and the new fiscal note. We will open the hearing on A.B. 433.

Assembly Bill 433: Further limits the authority of public bodies to close meetings. (BDR 19-892)

Assemblywoman Buckley, Assembly District No. 8:

[Distributed ([Exhibit I](#)).] I am pleased to be the sponsor of A.B. 433. The principle underlying this legislation is that the public is entitled to transparency in the workings of their government. Nevada state law requires all government records and meetings to be open unless an exception applies. Any exception allowing government meetings to be closed should be very narrowly drawn.

Assembly Bill 433 is directed specifically at an existing law that allows a hearing of the Nevada Tax Commission to be closed if the taxpayer requests that it be closed. The need for limiting legislation in the area can be demonstrated by a graph that I have ([Exhibit I](#)). This [points to chart] is the percentage of closed hearings. From 2001 until mid-2005, the percentage of Tax Commission hearings conducted in closed sessions climbed steadily.

In 2005, it appeared to drop off suddenly. The reason for the drop-off stems from an action of the Nevada Tax Commission in May 2005. In a hearing that took place behind closed doors, the Commission took testimony, deliberated, and voted, afterward publicly acknowledging only that a taxpayer's refund request had been granted. The taxpayer was Southern California Edison, who received a multimillion dollar rebate of taxes previously paid.

When the Nevada Attorney General (AG) challenged this action, the Commission argued that *Nevada Revised Statutes* (NRS) 360.247 allowed a taxpayer to request closure of a Commission hearing, and that NRS 372.750 prohibits the Commission from violating a taxpayer's confidentiality. Therefore, it could not deliberate or vote in public because it might release proprietary information and violate the law. In ruling for the Tax Commission, the Carson City court stated,

If it was the intent of the Legislature to take information in a closed meeting, yet have deliberation and action in an open session, the Legislature could have just as easily included an instructive sentence in the statute indicating that. Instead, they chose to include "a hearing on such an appeal may be closed" and not "the taking of information on such appeal may be closed."

Assembly Bill 433 provides a clearly articulated instruction from the Legislature. All hearings of the Tax Commission, all deliberations, all votes shall be public. Only if the taxpayer shows good cause why nonpublic, confidential, or proprietary information must be disclosed to the Commission may any part of the hearing be closed. The closed session would be for the limited purposes of receiving confidential or proprietary information, and the Commission must reconvene in open session, deliberate, and vote, providing sufficient nonconfidential information to the public about the basis and the rationale for the decision.

A democracy cannot exist without an informed electorate. You can see from the graph ([Exhibit I](#)) of the closed meeting trend lines that the trend of the Tax Commission hearings over time was that even though the number of appeals was decreasing, the number of hearings conducted in closed session was increasing. Public officials should not be allowed to discharge their duties in private, preventing accountability to the public for their actions.

I have no desire to talk about the lawsuit—who was right, who was wrong. It was an unfortunate situation, but that is not our purpose here today. Our purpose is to look at the existing law, decide what should be the appropriate public policy for the State of Nevada, and to make that clear. There is a purpose in keeping truly proprietary or confidential information of a business confidential. However, we destroy the public's trust in open government if we do not debate the issue in public. That is the way we do business; that is the way I believe the business of the Tax Commission should be done.

Assemblyman Marvel:

I have a very close relative on the Tax Commission, and I am a former member. I have been through this exercise before.

Assemblyman Horne:

I am sure there are problematic documents and transcripts done in closed deliberations. Is there a mechanism in place to keep confidential and proprietary information confidential after the hearing?

Assemblywoman Buckley:

I will leave it to someone more qualified to tell you exactly how those things are stored. Under the statute, those would remain confidential if they were proprietary—business records, customer lists, and the like—but if the information is already public—if it is a publicly traded company, or it is on their website or such—it is not confidential. We want this be a common sense operation. Nevertheless, if your decision is based on confidential information, then you have to explain in public why you are making the decision without disclosing the specifics.

Chair McClain:

So once they have seen all the confidential information, if they are going to debate it in public, they cannot actually refer to anything specific that was part of the confidential information?

Assemblywoman Buckley:

The way we worded it, if business records, financial records, or proprietary information is received, and if that information is relevant to the final decision, sufficient information must be provided at the public hearing for the public to understand the basis and rationale for the decision of the Commission. They do not reveal the specific confidential information, but, as a generality, they give the public the information on what the issue was and how they came to their decision.

Assemblyman Denis:

Would this be similar to the current provisions in the Open Meeting Law where they can go into closed session to talk, but then they have to come out and deliberate in public?

Assemblywoman Buckley:

The concept is very similar. We have specifically defined proprietary and confidential information, but the rationale is the same.

There are some amendments the witnesses are going to propose, but I just saw them three minutes ago.

Barry Smith, Executive Director, Nevada Press Association, Inc.:

[Read from prepared testimony ([Exhibit J](#)) in support of [A.B. 433](#).]

Joseph Turco, representing American Civil Liberties Union of Nevada:

I am delighted to rise in support of this bill. It is very difficult sometimes to review bills that have competing principles. This bill is one of the bills that is so well written that it balances two competing principles that are critical to a democracy—that of open government and that of privacy. Both are important principles to all Americans, and not just the American Civil Liberties Union (ACLU).

I see members of this Committee who have put forth very good law with competing principles that have caused lively and thoughtful debate in our offices. This bill did not create that lively discussion as we prepared to testify on bills. We are delighted to rise in support of it because it does balance the two principles. I do not need to get into specifics as the bill is fairly straightforward. If there are any questions on specifics, I would be happy to answer them.

Neil Rombardo, District Attorney, Carson City:

[Read from prepared testimony ([Exhibit K](#)).] It is time to end government secrecy and open these meetings.

Chair McClain:

I do not think the law is specific enough if it has allowed secret meetings or allowed companies to call information proprietary when it is clearly a matter of public record. This bill clarifies that issue quite nicely.

Assemblyman Marvel:

This has come up before with the Nevada Board of Regents. How was that resolved?

Neil Rombardo:

I was with the AG at that time, and you and I worked together on that issue. This is the exact same issue—the ability to open up government. In that case, the counsel of the Board of Regents told them to stop. They ignored that advice and continued on, resulting in litigation and legislation that you passed two years ago.

Thomas Wilson, representing Nevada Tax Commission:

I was asked to speak for the Tax Commission primarily because I have been representing the Commission in a couple of matters. One matter was the open Meeting Law complaint filed in district court and now on appeal to the Nevada Supreme Court ([Exhibit L](#)). The other is a petition or complaint by the Clark County district attorney for judicial review of a substantive decision rendered by the Tax Commission.

We are here to talk about what the Open Meeting Law should be, which is addressed by [A.B. 433](#). Consistently for the past 10–12 years the Tax Commission has followed the advice of the Attorney General and has recognized that NRS 360.247 is a statutory exception to the Open Meeting Law, which the Commission has followed. Whether this Legislature wishes to amend the law is one thing, but it is unfair to suggest that the Tax Commission has been violating the advice of its AG all these many years and has been closing meetings outside of the law. That is not true.

At the request of Senator Randolph Townsend, the Legislative Counsel Bureau (LCB) issued an opinion ([Exhibit L](#)) as to whether the specific statutory provision giving a taxpayer the right to close a hearing was an exception to the Open Meeting Law. The right to close a hearing is not expressed in terms of deliberation, receiving evidence, or anything else; either it is open or it is closed. District Court Judge Mike Griffin, in the Open Meeting Law violation complaint, ruled that the statutory provision giving a taxpayer the right to close a hearing prevailed over the Open Meeting Law and that the Tax Commission was correct in following the law. That decision ([Exhibit L](#)) is now before the Nevada Supreme Court.

I do not say what the law should be or what you should do in your judgment. I take exception just made to the effect that the Tax Commission has somehow been running fast and loose with the law and not following it. The fact of the matter is that Judge Griffin specifically found in his decision ([Exhibit L](#)) that the attorneys general who had advised the Tax Commission for the last 12 or 13 years had advised consistently to that effect, and the Tax Commission has religiously followed the advice of the Attorney General without exception. I do not want you to get the idea from Mr. Rombardo that this is some kind of run amok vigilante Tax Commission that is not following the law. The Tax Commission has followed it religiously, whether you agree with the law or want to amend it or not.

I take strong exception, as a lawyer, to the comments made before you today by Mr. Rombardo because I feel they were misleading. Lawyers are supposed to be cool and not respond, I suppose. If I respond too strongly, I apologize, but

I think the law requires, when it is being addressed by lawyers, some level of candor and honesty.

Following the decision involving Southern California Edison, the Tax Commission adopted a temporary regulation ([Exhibit L](#)) and filed it with the Secretary of State on February 9, 2007. The regulation was developed in an attempt to clarify matters, and I want that made part of the record. Also before you is NRS 372.750 ([Exhibit L](#)), which is an NRS provision that makes the disclosure of confidential information unlawful. The Tax Commission operates under a legal mandate that provides that disclosure of taxpayer information by an employee of the Department of Taxation or a member of the Tax Commission is a misdemeanor criminal offense. That is how serious the principle is.

I have some sympathy for the motives of A.B. 433. I know what it attempts to address. However, I think it poses a practical problem. The difficulty is that we take evidence in a closed hearing. There is nothing in A.B. 433 that says the hearing where evidence is received should not be closed. That is where the taxpayer provides the information he feels is confidential, but which the Commission needs to know on an appeal of a decision by the Department. That hearing remains closed under A.B. 433.

We are only talking about deliberations, and that brings us to the practical problem I have with this bill. Once the evidence is taken, whether it is before an administrative commission or before a court of law, there comes a time for deliberation. Juries deliberate. A judge deliberates in the case of a bench trial. So, too, does the Tax Commission or any other administrative body that receives information. This bill leaves untouched the principle that the receipt of confidential information, along with all the other evidence, can be closed. It only addresses deliberations. Now, what are deliberations?

Chair McClain:

The bill clearly defines what constitutes confidential information that can be produced during the closed hearing.

Thomas Wilson:

I do not know if it defines what that is. The information is received, and it is received in a closed hearing.

Chair McClain:

The point is that the bill is trying to define what information qualifies to be behind closed doors.

Thomas Wilson:

Yes. All I am saying is the distinction here is that when you receive the information in evidence, it is in a closed hearing if the taxpayer has requested a closed hearing.

Chair McClain:

That is right, but only the confidential information, not anything that is posted anywhere else.

Thomas Wilson:

I do not read it that way. There has to be a process where the Commission decides what is confidential information and what is not, and I do not know if the bill addresses that. The law, as it presently stands—and this is a weakness—is that the taxpayer has the authority to say when the hearing is closed. It does not require a judgment by the Commission or a court of law to determine what is confidential and what is not. The taxpayer controls that process. That is something the Legislature ought to look at.

The Commission's proposed regulation contains a procedure by which that is exactly what would happen. Evidence is not automatically confidential unless it is justifiably so. If it is a publicly traded company and the information is public, there ought not to be any closure. If the information has appeared elsewhere in the public forum, closure ought not to apply to it. Is it really confidential? There has been a hole in the law on that subject, and the Commission itself, through proposed regulations, has suggested that needs to be tightened up.

Chair McClain:

And you do not think this bill does that? Or do you just not want to see it in NRS, but in regulation?

Thomas Wilson:

No. I think the trouble is that we are focusing here only on deliberation.

Chair McClain:

I disagree. The bill is not focusing just on deliberation. It also focuses on what constitutes confidential information.

Thomas Wilson:

What troubles me is that the Commission needs to decide, as a threshold question, what evidence warrants closure and what evidence should be publicly received. The Commission has to make that decision. The trouble is with the distinction between where you receive the evidence and the deliberation. Under

the bill, you receive the evidence in closed hearing, but you deliberate in open hearing.

When you deliberate, you talk about the taxpayer's information. You talk about the evidence. You talk about information that may be confidential, which is received under closed circumstances, but now you are deliberating it. If you are deliberating it, you talk about it, analyze it, and weigh it—what probative value does it have? Should we rely upon it? Do we believe it? How much weight should we give this evidence and why? How do we weigh it against contrary evidence or circumstance? Those deliberations, if public, talk about the evidence. If the evidence consists of the taxpayer's confidential information, the taxpayer has a problem.

The predicate to that, and I think we agree on this, is that there needs to be a judgment at the threshold as to whether the information is confidential at all, either when it is received or when it is deliberated over by the Commission. The trouble with the bill, as I read it, is that the bill would admit the evidence in closed session when the taxpayer has requested a closed hearing, but would then allow the deliberations to be public. That is a troublesome inconsistency because it means you can talk about publicly and describe and quantify confidential information in deliberations, while you must receive that information and evidence in closed hearing. That is not consistent.

I do not quarrel with the principles we are talking about. I just think this subject needs some work.

Chair McClain:

Do you have some suggested language that would clarify your point?

Thomas Wilson:

I will be glad to work on some and provide it to you.

Chair McClain:

We have two weeks.

Assemblyman Horne:

I respectfully have to disagree with your reading of the bill. You admitted earlier in your testimony that it is the purview of this Body to change the law, should we deem it fit. As I read Section 2, paragraph 1, we have changed it from the taxpayer making an open request for a closed hearing to the taxpayer having to show good cause and the information actually having to be proprietary or confidential. Paragraph 2 goes on to define proprietary and confidential information. This bill would say you can close the hearing if this information is

proprietary or confidential, but when you deliberate, it has to be in public. I hear you saying you are incapable of deliberating without disclosing such confidential or proprietary information. I find that hard to believe. You seem very capable of communicating and deliberating without having to disclose information you heard in a closed meeting.

Thomas Wilson:

I am not prepared to give you examples. I have to believe, though, that if you are weighing evidence and trying to evaluate it, you are talking about it. I am sure there are exceptions, but what is the general rule to be? Deliberation is a process where you analyze information. I am only speaking generically, and that is not going to answer your question satisfactorily. I am troubled by the deliberations being open while the receiving of the evidence is closed. A judgment has to be made at the threshold on whether or not the information is confidential. Part of the problem is that has not been required by the law.

Assemblyman Horne:

That is what we are changing.

Thomas Wilson:

Right, and this is something you are going to want to talk about. There is no standard for that. You need to develop a standard to determine what information justifies protection. With a publicly traded or listed company, everything is public anyway, and there is not going to be any confidential information. Yet, you have the company, in this case, closing the hearing, and the statute is absolute. What is the predicate for closure? The information really has to be confidential. I do not know how to define that generically.

Assemblyman Horne:

So, a figure relating to an amount or source of income, profits, loss, or expenditures of the taxpayer, including data relating to cost or price is not sufficient predicate for confidential business information?

Thomas Wilson:

I do not know. Why is it sensitive? Is there some reason that is not public? If it is a publicly traded company, that information is already public. That may be the case with Southern California Edison. I cannot tell you generically what is confidential and what is not. Somebody has to judge that, and I am saying there should be a step in this process where the reasons and justification for asserting confidentiality need to be defined and advanced by the taxpayer. The Commission should have the job of agreeing, disagreeing, or saying part of the information may be confidential and other information may not be. That

threshold predicate is not in the law today, and [A.B. 433](#) does not make the distinction, either. It just says to open up the deliberations.

Chair McClain:

We have to be out of this Committee by 3:30, so if there is something specific you would like to see changed, could you speak to the maker of the bill and try and get any change to us soon?

Thomas Wilson:

I will do that. I am afraid my testimony was not very complete, but we will try to put something together that fills in the blanks. I understand the question with which you are wrestling. I am serious about what I say: this is not an easy question, but I think there is a way to solve it. There may be a simple, straightforward way to do that.

Chair McClain:

This will probably be on work session next Tuesday. Do we have anyone else who feels a need to testify on this bill?

Sam McMullen, representing Las Vegas Chamber of Commerce:

[Submitted a proposed amendment to the bill ([Exhibit M](#)).] I represent a group of people who participated in the lawsuit. I do not want to talk about the lawsuit, but the reason we did that is evidenced greatly by the zeal of the attorney who was here. Frankly, what they did, by Attorney General Opinion, was basically do away with the rights of taxpayers to have confidential, proprietary, and trade secret information remain confidential.

It is wonderful that this bill is here; it gives the kind of clarity we need. It does, in fact, give good cause to close the hearing. It also does a relatively good job of defining confidential and proprietary information. However, one of the issues that may be appropriate to leave to the Commission is exactly what parts of the hearing are closed or not. The information could be so insignificant that it would not keep the whole public hearing from being closed, and they could keep much of it open and just take some testimony in closed session. However, there could be a situation where the hearing was so tied to the confidential or trade secret or competitive information that the whole thing would have to be closed. This is not only about good government. It is about trying to maintain the sanctity of those records that has always been in the law and, in many ways, is in the law of the federal government or whatever, so there is some balance here.

I would like to echo Mr. Wilson's point about deliberation. It would be good for us if what Speaker Buckley said today about the deliberation not disclosing

confidential information was clarified a little bit. The abstract that is addressed in the Tax Commission's regulation would be a comprehensive way of explaining the decision in writing so people could understand and to get the full feel for why that case was decided the way it was. I would be happy to work with Ms. Buckley and others to make sure our concerns are addressed.

Ray Bacon, Executive Director, Nevada Manufacturers Association:

You have our written comments on this bill ([Exhibit N](#)). One of my colleagues asked where technology and process information would apply in a tax case. It could apply in a use tax situation where the process information was essential as far as what the tax status of equipment was, or it would certainly apply in personal property issues when you start talking about the value of technology, the value of process technology, et cetera. That is why we think the expansion needs to include process technology as well as documents and, specifically, the technology issue.

Chair McClain:

We will make sure your comments are put in the record. That is it. We will close the hearing on [A.B. 433](#).

Committee, we ended up with a few more bills than we expected. We have work sessions, and we are waiting on fiscal notes. We have two bills on Thursday. Next Tuesday we have four bills, and we have to get five out of work session. On Thursday, we have four more bills, and we will try to get through another five on work session. On April 10, we have four bills, and that will put us up to eight for work session. On that last Thursday, we have three bills and whatever we can get done in work session. We may have to do

something that Friday or later Thursday night, so be prepared. We are going to be busy for two weeks. If there is no other business, we are adjourned [at 3:29 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: March 27, 2007

Time of Meeting: 1:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>A.B. 269</u>	C	Assemblywoman Buckley	Color copy of bill
<u>A.B. 269</u>	D	Assemblywoman Buckley	Packet containing PowerPoint presentation,
<u>A.B. 269</u>	E	Assemblywoman Buckley	Update of April 2006 Southern Nevada Workforce Housing Study Table V-15
<u>A.B. 269</u>	F	Dan Hoffman / Private Consultant for Employer-Assisted Housing	Prepared testimony
<u>A.B. 269</u>	G	D. Taylor / Culinary Workers Union, Local 226	Packet of relevant newspaper articles
<u>A.B. 269</u>	H	Douglas Bell / Community Resources Management	Prepared testimony
<u>A.B. 433</u>	I	Assemblywoman Buckley	Charts showing numbers of open and closed meetings over time
<u>A.B. 433</u>	J	Barry Smith / Nevada Press Association	Prepared testimony
<u>A.B. 433</u>	K	Neil Rombardo / District Attorney of Carson City	Prepared testimony
<u>A.B. 433</u>	L	Thomas Wilson / Nevada Tax Commission	Packet containing a copy of the district court judgment in the lawsuit brought by Attorney General Chanos against the Nevada Tax Commission; adopted temporary regulation of the Nevada Tax Commission; LCB opinion requested by Senator Randolph

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			Townsend; and NRS 372.750
<u>A.B. 433</u>	M	Sam McMullen / Las Vegas Chamber of Commerce	Proposed amendment
<u>A.B. 433</u>	N	Ray Bacon / Nevada Manufacturers Association	Written comments