

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

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

The Committee on Revenue was called to order by Chair Shea Backus at 4:06 p.m. on Thursday, March 30, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, 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/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Shea Backus, Chair  
Assemblywoman Venicia Considine, Vice Chair  
Assemblywoman Natha C. Anderson  
Assemblywoman Lesley E. Cohen  
Assemblywoman Danielle Gallant  
Assemblyman Ken Gray  
Assemblyman Gregory T. Hafen II  
Assemblywoman Erica Mosca  
Assemblyman Duy Nguyen  
Assemblyman P.K. O'Neill  
Assemblyman David Orentlicher  
Assemblywoman Shondra Summers-Armstrong

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Howard Watts, Assembly District No. 15  
Assemblywoman Selena La Rue Hatch, Assembly District No. 25

**STAFF MEMBERS PRESENT:**

Michael Nakamoto, Chief Principal Deputy Fiscal Analyst  
Susanna Powers, Deputy Fiscal Analyst  
Nick Christie, Committee Manager  
Gina Hall, Committee Secretary  
Cheryl Williams, Committee Assistant



**OTHERS PRESENT:**

David Goldwater, representing Kaptyn  
Kyle Davis, representing Kaptyn  
Isaac Hardy, representing Nevada Conservation League  
Jermareon Williams, representing Western Resource Advocates  
Michael Brauchle, Private Citizen, Las Vegas, Nevada  
Andrew Breyer, Private Citizen, Las Vegas, Nevada  
Pregni Thakor, Private Citizen, Las Vegas, Nevada  
Jay Chen, Private Citizen, Las Vegas, Nevada  
Wiz Rouzard, Deputy State Director, Americans for Prosperity  
Chris Daly, Deputy Executive Director, Government Relations, Nevada State  
Education Association  
Sena Loyd, President, Web3 ID Coalition  
Kent M. Ervin, Ph.D., State President, Nevada Faculty Alliance  
Tony Ramirez, representing Make the Road Nevada  
Lilith Baran, Policy Manager, American Civil Liberties Union of Nevada  
Thomas Morley, representing Nevada Press Association  
Kurt Thigpen, Governor, District 14, American Advertising Federation  
Bryan Wachter, Senior Vice President, Government and Public Affairs, Retail  
Association of Nevada  
Misty Grimmer, representing Nevada Resort Association  
Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber  
Michael Alonso, representing AT&T  
Gabriele McGregor, representing Cox Communications  
Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada  
Carl Szabo, Vice President and General Counsel, NetChoice; and Professor, George  
Mason Antonin Scalia Law School  
Deb Peters, representing Americans for Digital Opportunity

**Chair Backus:**

[Roll was taken.] We have three bills today, and I need to leave early. If we are unable to hear the three bills in two hours, I will have Assemblywoman Cohen take over when Assemblywoman Considine [Vice Chair] is presenting her bill. I am hoping we can hear each bill in about 45 minutes, with presentations running about 15 minutes, and support and opposition having 15 minutes. I do not want to cut people off, so we are going to try to stay in that guideline. I will try to control this so we can get done in an efficient manner, as we are going to be setting a pace. On Monday [March 27, 2023], the bills that came to this Committee pretty much doubled, so we have a lot of bills to get done before first committee passage [April 14, 2023].

The first bill on the agenda is Assembly Bill 427, which revises provisions governing taxes on passenger carriers. The second bill is Assembly Bill 421, which establishes provisions governing the collection of the consumer data of Nevada consumers. The last bill is Assembly Bill 345, which revises provisions governing the commerce tax. I will open the hearing on A.B. 427. Welcome, Assemblyman Watts.

**Assembly Bill 427: Revises provisions governing taxes on passenger carriers.  
(BDR 32-713)**

**Assemblyman Howard Watts, Assembly District No. 15:**

It is my pleasure to present Assembly Bill 427 for your consideration today. We will do the best we can to help keep you on schedule today. Assembly Bill 427 relates to the transportation connection tax. This was enacted during the 2015 Legislative Session and placed a 3 percent excise tax on private passenger transportation companies, including transportation network companies (TNCs), common motor carriers of passengers, and taxicabs.

What this bill seeks to do is help incentivize that sector to reduce tailpipe emissions by providing a credit against that tax over the next few years for the purchase of zero-emission vehicles. I think the benefits of zero-emission vehicles are substantial. There can be up-front cost hurdles, both for the sticker price of the vehicle, as well as for charging infrastructure. However, the overall fueling costs of those vehicles are about 50 percent compared to the cost of gasoline, and they also have reduced maintenance costs. If you can get over that up-front economic hurdle, it provides significant operational benefits to the operators. In addition, these vehicles provide substantial benefits to the community. Not only is there significant reduction in carbon and greenhouse gas emissions, but critically there is a reduction in what are called "criteria pollutants," and those are the types of tailpipe pollution that have negative public health impacts, including increased rates of asthma, the development of smog, and a range of other lung diseases and ailments.

The reason we are targeting this sector through this bill is that these vehicles are on the road substantially more than the average passenger motor vehicle. Where on average our vehicles may be on the road 12,000 miles per year, these could be on the road 50,000 miles per year, so we get a significant bang for our buck. Additionally, as those vehicles move out of the fleet, that helps develop a secondary or used market and creates additional opportunities for folks to acquire these vehicles in the state. At the baseline we are trying to create this. We do have some incentives that have been created at the federal level. There are some complexities to those, so we want to make sure we are complementing that and helping over the next few years to accelerate adoption and incentivize adoption in this sector, but then phase that down over time as the costs continue to come down for these vehicles and be more competitive and those benefits continue to accrue across our community. With that, I will turn it over to Mr. Goldwater.

**David Goldwater, representing Kaptyn:**

Kaptyn, as well as Desert Cab and Yellow Checker Star Cab, are part of a coalition that have asked me to put together some information and advocate on their behalf for what I consider a very good public policy bill. In the simplest of terms, what we have is an incentive to accelerate the transition from internal combustion engines to electric vehicles (EVs). According to the U.S. Energy Information Administration, 29 percent of all the carbon in the air is from the transportation sector. This is not only difficult on a global scale, and I think we are all familiar with what that means. Locally a lot of the problems we have with air quality, as Assemblyman Watts mentioned, whether it be asthma or allergies, are caused by the transportation sector.

This bill is pretty simple in its administration, and Nevada is uniquely positioned to have a bill that incentivizes this. Some of you were here for the 2015 Session. There was a small fee put on to common motor carriers and TNCs for no particular reason. The minutes suggest it was put on just in case there was some fiscal impact from enacting the TNC law. When I chaired this Committee years ago, I met a woman named Carole Vilaro who did not favor having a fee collected from an industry for which there was no particular nexus and having it earmarked. She was against earmarking. Here we have a fee where there is a particular nexus for a very good piece of public policy, and the collection of this fee to be used as a credit.

Let me walk you through how this works. Riders in taxicab limousines are charged a fee and when that money is collected by the licensees, that money is then remitted on a return, I think quarterly, to the Department of Taxation. What we are proposing here is a descending scale of tax credits that lasts about four years, starting at \$7,500 as you can see in the bill. Rather than the company sending in that \$7,500 to the Department of Taxation, the company would notify them they bought an electric vehicle and are using the tax credit against what they should remit for a limited period of time.

A couple of issues I think are worth consideration here. I know this is a policy committee, not the fiscal committee, but it is worth noting that over the last six years the average amount of collection for this has been \$23 million annually. Five million of it goes to the State Highway Fund and the remainder goes to the General Fund. Our intent is to hold the State Highway Fund harmless and not to contribute to the downward trend in the State Highway Fund, and then to use the balance for this program.

Further, we want clarification, and I would ask your staff, taxicab and limousine companies, and other delivery companies, they not only purchase vehicles but they also lease them. To the degree that other financing mechanisms equal ownership, whatever clarification that needs to be in the law for that functionality, we would also ask for that. I will turn it over to my colleague, Kyle Davis, for some additional policy considerations.

**Kyle Davis, representing Kaptyn:**

I think Assemblyman Watts certainly hit a lot of the good reasons for why we are bringing this bill forward to you today. The transportation sector in Nevada is the biggest source of

pollution in our state, especially in our urban areas. Unlike many other states, especially in the East and Southeast where they have more legacy pollution, older factories that may be polluting, here in Nevada we are a relatively new state in that sense. A lot of our infrastructure has been built just over the last 30 to 40 years. The transportation sector is uniquely a problem when it comes to the pollution that we see in our neighborhoods.

Our goal with this legislation, as Mr. Goldwater said, because taxicabs and these types of vehicles drive the most in the community, put the most miles on the road, upwards of 20 hours a day, we feel this is a place where given the revenue source we have available to us and given the limited nature of the legislation in front of you, we can really jump-start the transition to clean vehicles, so when they are operating in our neighborhoods they would be putting out no pollution. We can actually try to get a handle on this and really reduce the criteria pollution in our neighborhoods.

In the American Lung Association's 2022 State of the Air Report, Clark County received an F for both ozone and criteria pollutants. We are always interested in things that we can do that can lower those numbers and provide better quality air. That is really our goal with the legislation you have in front of you today.

**Assemblyman Watts:**

I will quickly walk you through the bill. It is essentially one section. Section 1, subsection 1 is essentially establishing the credit. It has two qualifications: (1) that it be purchased by a taxpayer, and Mr. Goldwater mentioned there might be some other arrangements so we may be looking at that, but critically (2) it has to be placed into service by the taxpayer of the Transportation Connection Tax to provide transportation services or transport passengers.

Section 1, subsection 2 notes how to receive the credit. They have to provide proof to the Department of Taxation in a satisfactory manner that a qualifying vehicle has been obtained and placed into service, and upon request provide additional records to verify that is the case. Section 1, subsection 3 establishes the credit beginning in fiscal year (FY) 2024. It would be \$7,500 for each vehicle, then descending to \$6,000 the following year, \$4,500 the following year, \$3,000 the following year, and beginning July 1, 2027, it would be completely sunsetted and phased out. Section 1, subsection 4 clarifies that this credit cannot be applied retroactively, so any vehicles that are in service before the policy goes into effect would not qualify.

Section 1, subsection 5 allows for a carryover of the credit. Section 1, subsection 6 provides the Department the ability to penalize any taxpayer who misrepresents information in order to receive the credit. Section 1, subsection 7, paragraph (c), subparagraphs (1) and (2) has the key definitions related to what a qualifying vehicle is. That concludes our presentation. We are glad to answer any questions the Committee may have.

**Assemblywoman Backus:**

Thank you for your presentation. I do not see where this would hold the State Highway Fund harmless—that first \$5 million. Is that anticipated to be an amendment?

**David Goldwater:**

Yes. The two considerations, for your staff and Committee, is that hold harmless, which did not make it into the bill, and the lease clarification. Further, I would like to bring to your attention information on Nevada Electronic Legislative Information System (NELIS), policy information [[Exhibit C](#) and [Exhibit D](#)]. Peruse it as support material.

**Assemblywoman Cohen:**

When we discussed the bill earlier, I asked some questions and something that came to mind in your presentation, you talked about wanting to capture the vehicles that are on the roads the most, and that would be taxicabs and those types of vehicles. Has there been any thought to including, or someday expanding, to capture rental car fleets? I think those of us who rent cars when we are home on the weekends have now become very familiar with rental cars and know that there is obviously a very active rental car world in Nevada.

**Assemblyman Watts:**

My personal passion is helping to support the transition to clean transportation for everybody. I have another piece of legislation being considered by this body related to larger, heavier-duty vehicles that have significant tailpipe pollution emissions and are on our roads a significant amount. They are on our roads no matter what—no matter how good our transit system is. When it comes to the rental car industry, I know they have their own specific taxes this bill does not contemplate, and I do not think it would fit into this piece of legislation. I am always open to considering policies that would help facilitate a transition to cleaner vehicle fleets, including our rental car sector.

**Assemblywoman Anderson:**

I just wanted to double-check. I talked about this also in the meeting I had with some individuals yesterday. This does not include Lyft or Uber, is that correct? Can you expand upon that a little?

**Assemblyman Watts:**

This does not explicitly preclude TNCs, however they operate on a different business model. They do not manage a fleet of vehicles themselves. They do serve as a taxpayer, and they collect and remit that, but they do not have a fleet. Drivers employed by the TNC own and operate their own modes of transportation. If they wanted to modify that business model, procure vehicles, and deploy them in a fleet, then they would be eligible because they are a taxpayer, to take advantage of this tax, but that really does not fit within their current service model which is billed by TNCs not as actually providing a transportation service but of connecting to different individuals for the purpose of facilitating that transaction.

**Assemblywoman Summers-Armstrong:**

Just to clarify, it says taxpayer. Are there instances where the taxicab driver is the taxpayer whose vehicle is not being purchased by the taxicab company and would be in the same situation as a TNC driver who would then be directly able to get this type of benefit?

**Assemblyman Watts:**

No. The taxpayers who pay the transportation connection tax are explicitly TNCs, so those companies themselves within their platform, and the tax is essentially built into the fare charged to those customers. It is collected but goes straight to the TNC, and that company is the taxpayer. It is not an individual driver. An individual TNC driver is never responsible for remitting the transportation connection tax for their vehicles. The other taxpayers are common motor carriers. Again, that is the company, not the individual driver, and essentially taxicab companies.

**Assemblywoman Summers-Armstrong:**

Do you have any data that shows the contribution to greenhouse gas from large motor carriers—big trucks—as opposed to taxicabs, or Uber and Lyft drivers, especially when we are talking about in communities? I know that pollution travels. Even last session we often heard things like, "heat islands in our communities," but that is not where the pollution is being created. It is drifting. Sometimes we suggest solutions that are not necessarily helping the communities being affected by this, as those communities are often near a freeway. This kind of bill is not necessarily connected to helping those communities. I would like you to explain that and be clear about the difference.

**Assemblyman Watts:**

As far as extremely specific data on the kind of the subcategories within the transportation sector, I do not know that offhand. We can look and see what information out there might be available and whatever we can find we would be glad to follow up with you about that. Not to go too far outside the scope of this bill, but medium- and heavy-duty vehicles are a significant contributor of tailpipe pollution. They are about one-third, I think, of greenhouse gas emissions related to transportation to vehicles overall, and about 50 percent of those criteria pollutants, those unhealthy pollutants that come from vehicles, come from about 5 percent in that medium- and heavy-duty vehicle sector. These still fit within the overall broad category of light-duty or passenger vehicles. We have started to do some mileage gathering through the Department of Motor Vehicles. I do not know what information gets reported out to the Taxicab Authority, but that might be something where we can get a better understanding of the impact.

I think at a high level, first we know that these vehicles are putting significantly more miles on the road. We have this particular mechanism through this tax, so the stars kind of align to get a good bang for our buck. Second, to your point about impacted communities, there are a variety of options now available to drivers—some lease vehicles from the company, some serve as employees, but again those potential fuel and maintenance cost savings have the potential to benefit not just the company, but the drivers. We know that this is a working-class, very diverse occupation. Additionally, you mentioned freeways. We know in general there are going to be a lot of heavy-duty vehicles and folks using those as transportation corridors. My hope is if we can get other legislation I am working on, and this bill, all put into law, we can really decrease those pollution corridors, which a lot of lower income and historically disadvantaged communities are adjacent to.

**Chair Backus:**

We will now move to testimony in support of A.B. 427. Is there anyone in Carson City who wishes to provide testimony in support of A.B. 427?

**Isaac Hardy, representing Nevada Conservation League:**

Transportation continues to be the top source of climate pollution in Nevada. Additionally, gas-powered vehicles produce tailpipe emissions that are damaging to our health and are linked to many respiratory illnesses such as asthma. By incentivizing these businesses to add more EVs to their fleets, we can take major steps to clean up our air. We are in support.

**Chair Backus:**

Is there anyone else in Carson City wishing to give testimony in support of A.B. 427? [There was no one.] Is there anyone on the phone lines who wishes to give testimony in support of A.B. 427?

**Jermareon Williams, representing Western Resource Advocates:**

Western Resource Advocates is a regional nonprofit advocacy organization, fighting climate change and its impact to sustained environment, economy, and people of the West. I wanted to call in today to say that we are in full support of A.B. 427. Transportation network company vehicles will play a significant role in Nevada's decarbonization efforts moving forward. According to the state of Nevada's most recent greenhouse gas emissions inventory, transportation is the largest source of greenhouse gas emissions and responsible for more than 36 percent of the state's emissions. Transportation emissions are also a major factor in Nevada's noncompliance with federal air quality standards and contributes to 58,000 premature deaths per year in the United States. The electrification of TNC vehicles will help cut these emissions and improve Nevada's air quality, creating a safer environment for our state. Due to their high usage of TNC vehicles, recent research from the Rocky Mountain Institute found that electrifying a single full-time TNC vehicle can have the same emissions impact as electrifying three privately-owned vehicles.

**Michael Brauchle, Private Citizen, Las Vegas, Nevada:**

I am a professional driver for Desert Cab company in Las Vegas. I am calling in to voice my support for this bill because I feel it is important to me, and drivers like me, to have more electric vehicles on the roads. I am a resident of Nevada. My family and I live and work here. I make my living by driving the vehicles my company provides. I prefer to drive the EVs for a number of reasons. I try to drive EV cars as often as I can because I save money on fuel. Unfortunately, my company only has a few of these vehicles. It is my understanding that the EVs are significantly more expensive than the gas vehicles. This bill will allow them to purchase more vehicles, which will allow more drivers like me the opportunity to drive these particular vehicles. Driving an EV puts more money in my pocket to bring home to support my family. Furthermore, EVs are zero-emission vehicles. I drive a lot of miles on a day-to-day basis, so driving the EV makes me feel like I am doing my part to help the environment, and my customers love riding in the EVs. I have received numerous compliments from the passengers about how they feel taking the EV. This is why I support A.B. 427.



**Andrew Breyer, Private Citizen, Las Vegas, Nevada:**

I am a professional driver for Virgin Valley Cab company in Las Vegas. I am calling in to support [A.B. 427](#). I am a resident of Las Vegas and have lived here for about 15 years. I have been driving a cab for about 10 of those years and prefer to drive EVs. I like driving EVs because it is good for the environment and it saves me a lot of money on fuel. When I drive an EV I make more money and tips always seem to be higher. Customers love riding in the car—in fact many customers prefer to ride in it over the gas vehicles. I believe that is what contributes to more tips. The customer feedback about the EVs is always about how we are saving the planet. This is why I support [A.B. 427](#).

**Pregni Thakor, Private Citizen, Las Vegas, Nevada:**

I am a resident of Nevada, and I drive a cab in Las Vegas for Desert Cab. My company provides me and my teammate a car to drive. We drive about 250 miles a day, plus or minus, about 5,000 miles in a month. There are a lot of miles on the road to that. Driving an EV saves us money on fuel and reduces the carbon footprint. Since driving the EV, I have been able to make more money to take home for me and my family. That allows us to keep up with inflation. I hope my employer can purchase more EVs to allow other drivers to make a little more money for them and their families as well. I feel strongly if there is a way for these companies to buy more EVs, it should be a top priority. That is why I am in support of [A.B. 427](#).

**Jay Chen, Private Citizen, Las Vegas, Nevada:**

I am a professional chauffeur for an EV luxury car service company. I took time out of my schedule today because I know how important this bill is to me and drivers like me. I am a resident of Nevada, and this is where my family and I call home. Anything you can do to improve the air quality and reduce allergies will be of great help to my family. I also make my living by driving vehicles my company provides. I prefer to drive EVs for many reasons, not just to improve the air quality, but also it provides a better passenger experience, and I do not have to pay for the gas. I feel strongly if there is a way to get these companies to buy more EVs, it should be your priority. More EVs on the road is better for all of us. This is why I support [A.B. 427](#) and hope you do too.

[[Exhibit E](#) and [Exhibit F](#) in support of [A.B. 427](#) were submitted but not discussed and are included as exhibits of the meeting.]

**Chair Backus:**

As there are no further callers who wish to give testimony in support of [A.B. 427](#), we will move to those in opposition. Is there anyone here in Carson City wishing to give testimony in opposition to [A.B. 427](#)?

**Wiz Rouzard, Deputy State Director, Americans for Prosperity:**

Our concerns with this bill and why we are opposed is it appears to be creating some special carveouts for industries. We believe when it comes to taxes, it should be applied across the board. We do not disagree with the intent of the bill. We just think if individuals, whether it is a company or sole proprietor, are going to be operating in this industry, then these types of

benefits should be applied to everyone. We urge the bill sponsor to consider that, and if we want to continue to have Nevada be a model state for economic opportunity, we have to consider every single aspect of those industries and those individuals, whether they are sole proprietors, major corporations, or an entire entity.

**Chair Backus:**

Do we have anyone else here in Carson City wishing to give testimony in opposition to A.B. 427? [There was no one.] We will move to the phone lines. Is there anyone on the phone lines wishing to give testimony in opposition to A.B. 427? [There was no one.] We will now move on to neutral testimony. Is there anyone here in Carson City wishing to give testimony neutral to A.B. 427? [There was no one.] Is there anyone on the phone lines wishing to give testimony neutral to A.B. 427? [There was no one.] Do either of the bill sponsors want to come up and give closing remarks?

**David Goldwater:**

The drivers made a point today that I did not make, and that is the drivers pay for their own fuel in some companies, so not paying for that fuel, especially with today's gas prices, actually puts money in their pockets.

**Chair Backus:**

I will close the hearing on A.B. 427 and open the hearing on Assembly Bill 421. You may begin when you are ready.

**Assembly Bill 421: Establishes provisions governing the collection of the consumer data of Nevada consumers. (BDR 32-561)**

**Assemblywoman Selena La Rue Hatch, Assembly District No. 25:**

Assembly Bill 421 is a data privacy bill. You may wonder how a data privacy bill is ending up in the Assembly Committee on Revenue, but I promise I will explain how the two are connected momentarily. I would like to start by talking about why data privacy is something we need to be concerned about. Today there are many companies that are engaging in extremely invasive data harvesting. They are keeping hundreds of data points on every single one of us. They are not just tracking your contact information, they are tracking where you go, who you are in proximity to, the buildings you enter, your preferences, and what makes you emotional. On some of these apps they literally track the number of seconds your eyes remain on an image so that later they can give you more images that will keep your eyes for longer. Many of these companies' goal is to get you in a heightened emotional state because a heightened emotional state means you are more likely to respond to ads, respond to algorithmic manipulation, and to stay on the app. All of those are large reasons why we are seeing increasing polarization online today. Polarizing images and texts get you in that heightened emotional state and then cause you to do all those things I just described. I am very concerned about data privacy, and I think all of us should be. In addition to the data they are keeping in order to manipulate our behavior, there are concerns over the data storage

because if there is a hack, all your sensitive data is out there for others to see. Obviously, I think there are general privacy concerns that most of us do not want to be spied on overall, and then our consumer protections.

I put some stats on this page [page 2, [Exhibit G](#)] because I do not know that everyone knows how much is being collected about us. These are stats of the percentage of people who realize they are sharing these things, and by the way you are sharing all of these things if you have any social media apps, have smart phones, or are using a lot of modern technology. You are obviously sharing your friend lists, your location with many of them, your web searches, and your communication history—including your chat logs and what you are saying—your IP addresses, and your web surfing history. All of that is going into a profile about you.

I wanted to show the concerns people had [page 3]. These are the percentage of adults who say they feel like they have very little control over the data that companies collect versus the data the governments collect—81 percent believe they have very little control, 81 percent believe the risks of data collection outweigh the benefits when it comes to companies, 79 percent are concerned at how much companies are harvesting, but 59 percent have very little understanding of what is going on. I will not belabor the point too much, but I also wanted to include this chart [page 4, [Exhibit G](#)] and [page 2, [Exhibit H](#)], so you can see some of the most popular apps and the information they are keeping about you. It is pretty significant, and I think pretty shocking to people when they look at these charts. We obviously expect that Facebook keeps a lot about you, but I think some of these other apps, that are not social media apps, may surprise you at the information they are collecting.

The goal of my bill is to discourage this practice. Yes, it includes revenue, but ultimately I am trying to use this revenue in order to discourage the practice. The reason these companies are doing this is because it is extremely profitable. They are making billions of dollars in ad revenue, in the revenue for social media companies, in the state of manipulation, and they are not paying anything for it. They do not have to pay for a physical product because you are the product. They are not paying taxes on a physical good because there is no physical good. If you were a company that did not have to pay any extra money to make all this extra profit, why would you not? There really is no disincentive to do so. My goal is to create a fiscal disincentive for that practice, and that is what this bill does [page 5, [Exhibit G](#)]. It is meant to update our tax code by creating an excise tax on this new area of revenue, to bring tax parity with our Nevada businesses that are paying taxes on physical goods, and to discourage the practice.

As you may have seen in section 14 of the bill [page 6], as it is currently drafted, it includes an excise tax. This is modeled off language from other states, so it is not something I just came up with myself. I just adapted it to our Nevada populations, with the help of our illustrious tax experts who helped me figure out these details. It starts at 5 cents per month per Nevada consumer when you are harvesting on more than 150,000 Nevadans, and then it scales up to 50 cents per month per consumer that you are harvesting on, for 1.5 million Nevadans. That is about half of our population and would be a significant amount of data

harvesting if you were to get to that top level. It is also structured like the income tax brackets. You would not pay 50 cents a month on all 1.5 million. It is just once you cross that line, the very next one is 50 cents, and then it continues upward from there.

I want to be very clear about what this does not do [page 7, [Exhibit G](#)]. My goal is not to stop loyalty cards, couponing, traditional advertising, or brick-and-mortar store transactions because businesses do keep data for very legitimate reasons and are not necessarily using it to manipulate behavior. It is very difficult for us to dial in the language, so I want to give you some context. We are working on amendments, and you have an amendment before you [[Exhibit I](#)]. In working on the language there are some federal laws, including the Internet Tax Freedom Act, that constrain how much we are able to do here. I am happy to pass that to our Legal Division if they need to explain it further. If you are wondering why I did not just say "online," or not just say "tech" companies, it is because we cannot just explicitly say "online or tech" companies.

You will notice, in the amendment I am attempting to narrow down consumer data to include profiling, so it is not just collecting data, but profiling in the manner I have described. I have added amendments that include more of the classifications that I am looking at, and I am continuing to work with stakeholders to dial in that language. We just got this released on Monday [March 27, 2023] and we had a hearing today, so the language is still changing. I wanted to let you know the intent so we do not get hung up on the language. We are trying to narrow it as much as we can and still be within those federal guidelines. That is where I will leave it [page 8, [Exhibit G](#)] because I am sure there will be lots of questions.

**Chair Backus:**

Thank you, and we appreciate your presentation. We will move on to questions and start with Assemblyman Gray.

**Assemblyman Gray:**

We cannot stop spam. How are we going to enforce this?

**Assemblywoman LaRue Hatch:**

I do not know that this is necessarily the same as spam, although I would also like to stop spam. The way we have put in the enforcement mechanism is, it is currently self-reporting because obviously there is no database right now telling us every single company that is harvesting on you and how much they are harvesting. It has to start at self-reporting and then I think we can build up from there. There are penalties within the bill if you are shown you are not accurately reporting what you should owe under this excise tax.

**Assemblyman Gray:**

I was not saying this had anything to do with spam, it was just an example. Just to clarify, how are you going to go after these companies and audit them? Who is going to be responsible for that? It sounds like there is going to have to be another bureaucracy to support it.

**Assemblywoman LaRue Hatch:**

Within the bill it does include language that the Department of Taxation will enforce this. This is not the money committee. This will have a fiscal note to pay for the staff members. They anticipate they would need about four staffers in order to enforce what I have envisioned here. They would be dedicated just to this, and obviously some of the proceeds that come in from this would be used to help pay for it. This would obviously be a net plus on the budget because it is new revenue, so it would not necessarily cost us more for that enforcement.

**Assemblyman Hafen:**

You mentioned tax parity. With the list you provided, I was curious if they were already subject to the commerce tax, and would this end up being in addition to the commerce tax?

**Assemblywoman LaRue Hatch:**

I will phone a friend to your Fiscal staff, if they are already subject to that.

**Michael Nakamoto, Chief Principal Deputy Fiscal Analyst:**

In response to Assemblyman Hafen's question, to the extent the business already is engaged in business in the state and is generating more than \$4 million of Nevada gross revenue as defined for the commerce tax, they would be liable. The provisions in this bill would additionally apply, as well as the commerce tax.

**Assemblyman Hafen:**

Would this constitute double taxation on the same income? If I could clarify, I guess it would only be on the amount over \$4 million that would end up being taxed twice and the amount below would not. Would that be an accurate assessment?

**Michael Nakamoto:**

I believe that is correct. If both conditions apply, they would be subject to both taxes.

**Assemblywoman Cohen:**

To make sure I understand, let us say you are at \$3.5 million in sales, and the money you are getting from the sale of this data gets you over the \$4 million in gross revenue, would that get you subject to the commerce tax, even if your original sales did not get you to the \$4 million gross?

**Michael Nakamoto:**

Any Nevada gross revenue in excess of \$4 million is subject to the commerce tax at the applicable rate, irrespective of the source.

**Assemblywoman Cohen:**

Thank you for bringing this bill. I think it is really important for us to be having these conversations. I appreciate you are still working on this, and the language is not quite, as we

often say, soup yet. I want to clarify something. In section 3, subsection 1, paragraph (a), the language says, "sells or shares consumer data in support of its business activities . . . ." Even if that is not its main activity, is it still covered under this bill?

**Assemblywoman LaRue Hatch:**

As I said, we are trying to dial in the language. Originally, we had thought just saying "sells data," because we are very concerned when they sell data, however some of the social media companies do not necessarily sell the data, but are still using those dark matter algorithms and those profiles to manipulate behavior on the app. To discourage that practice we could not have it just say "sells." My intention is not to stop a business from keeping normal records on their customers. My intention is to target this hyperaggressive profiling that is happening within these companies.

**Assemblywoman Cohen:**

In section 13, subsection 1, where the Department is examining "books, papers and records"; I imagine this would be very technical. Books, papers, and records just sounds like paper to me. Does this cover their electronic systems, and if they are keeping all of their data, no matter how they are maintaining it?

**Assemblywoman LaRue Hatch:**

That is the wording that came out of the Legal Division at the Legislative Counsel Bureau. I am not sure if that is standard wording that they always use. The intention is that most of this is obviously electronic, so they would need to be able to see if they are storing things electronically.

**Assemblywoman Considine:**

Is there a basis or a touchstone as to why it is every 150,000 people? I know it says you do not count the same person in each month, but if you are talking about some of those on the list where people are on it every day, does that mean there would be a basic idea of what the base is, because a lot of these apps, such as Facebook and TikTok, have the same people coming back all the time, so would they be counted once every month?

**Assemblywoman LaRue Hatch:**

That is correct. We did not necessarily want to count them every single day, because we felt that would be pretty exorbitant, but if you are tracking them within that month then you would be included. I am working with stakeholders on a conceptual amendment to perhaps change that scale a bit, to be the amount of data, because if a company is keeping one data point on you versus another company that is keeping 500 data points, that might not necessarily be fair to charge them the same, and it is not actually discouraging what I am trying to discourage, which is harvesting this insane amount of data. That language is still being worked on, but I think we are attempting to dial it in so it really is discouraging this excessive amount of data collection.

**Assemblywoman Mosca:**

When you and I have been discussing this, and you explained it to me, you shared what other states are doing. I know you mentioned it, but could you add more context of how it happened and what has happened with it?

**Assemblywoman LaRue Hatch:**

This is currently being considered in New York, and this language is very similar to theirs. We are the only two states that are looking at discouraging this behavior through a fiscal method, but there are many states considering data privacy this session. As we all know, data privacy is increasingly concerning. We do have several data privacy bills this session, but I wanted to attack this from another angle.

As this Committee well knows, money can drive behavior. I thought this might be another avenue for tackling this. I have talked to the sponsor in New York about this. We have talked about tactics, methodology, and some goals to try to keep it in line, because the Internet obviously crosses state lines, so as much as we could keep it similar, that may be helpful for these companies that really are crossing many borders.

**Assemblywoman Gallant:**

Thank you for this. I do not like having my data stolen, sold, or whatever, but on a practical level has there been any estimation on how much revenue this would actually result in?

**Assemblywoman LaRue Hatch:**

That has been a very difficult thing for us to calculate because it is so new. We are talking about completely modernizing our tax code. This is an area where there are no current data bases. We do not know how much data is being collected. I actually think that is an important part of this legislation. If anything, we will start knowing which companies are collecting your data because there definitely are some out there that are collecting, and you might not realize it. I can ask Mr. Nakamoto. We have had multiple conversations about this, but the problem is we are really struggling to figure out the amount, because we just do not know how many companies are doing this.

**Michael Nakamoto:**

To take cues from other people's brevity, ditto.

**Assemblywoman Anderson:**

This is really interesting to read. In section 14, page 4 of the bill, I love how detail-oriented it is. With the use of the monthly information, are you also expecting monthly payments, or for the Department of Taxation to look at this monthly? I understand where the collection information is coming from, but are you also expecting that payment to be done monthly, quarterly, or yearly? Is it a little too early to figure that out?

**Assemblywoman LaRue Hatch:**

The intention was quarterly. It is a monthly fee, but we do not anticipate collecting it every single month.

**Assemblywoman Anderson:**

I did not know if that was already in here or not. I more than likely looked over it. Maybe that is something the Department of Taxation can look into. My second question has to do with section 16 on page 6 of the bill. The registration statement you have listed out, would it first be the registration statement, then the fee that accompanies that? Could you go a little more into what that fee is being utilized for and/or if that is in addition to other fees that are in place?

**Assemblywoman LaRue Hatch:**

I think you are the only other person who is as detail-oriented about this as I am. That comes from several other states creating these registries and requiring registration of data collectors. That registration fee is partially for maintaining the list and maintaining the website. I think the most recent one may have been California, and they had that fee. We felt it was reasonable to keep it in line, keep the website up-to-date, and the maintenance.

**Assemblywoman Anderson:**

This entire Committee is incredibly detail-oriented, believe me. With the several other states, did they start off first with this fee? Understanding that this is you using a crystal ball to look into the future, and it is not always necessarily there, but are they starting off first with this fee and then planning on moving forward into other areas? Also, I am asking what the purpose is of the fee?

**Assemblywoman LaRue Hatch:**

I know New York, which is considering this legislation, does require the registration and the fee. New York created an entire division within their state government just for this—data, tracking, and privacy. I think that fee was associated with that. I am not married to the fee. If the Committee would like to see changes on that, as I said this is a growing and evolving document, we just wanted to have an official place so we could see who the companies are that are doing this. If we think it is too high, or it should not be there, I am open to that discretion. I do know multiple states have created these divisions as a step of tracking, and other states are looking at other ways we can curb this behavior. It is pretty cutting edge, so we are all working our way through this together to figure out the best way to do it.

**Chair Backus:**

We will now move on to hearing testimony in support of A.B. 421. Is there anyone here wishing to give testimony in support?

**Chris Daly, Deputy Executive Director, Government Relations, Nevada State Education Association:**

The State Education Association has been the voice of Nevada educators for over 120 years [[Exhibit J](#)]. We support A.B. 421 to strengthen data privacy for Nevadans, while also generating revenue for the State. Some of the largest corporations in the world store personal data about Nevadans through invasive data harvesting, which they then use to target and manipulate user behavior. Data harvesting is big business, with corporations making huge sums of money off its use, while also increasing corporate valuations. Similar to digital



goods and services, data harvesting goes largely untaxed and largely unregulated. Modernizing Nevada's tax structure, as technology develops, will not only deliver revenue to the state, but it will also bring tax equity to smaller Nevada businesses and discourage the practice of data mining. Assembly Bill 421 is smart public policy that will increase privacy protections for Nevadans online and improve parity between Nevada small businesses and large tech companies.

**Sena Loyd, President, Web3 ID Coalition:**

The Web3 ID Coalition unites technology, industry, and government leaders in the pursuit of a digital identity ownership for all. We advocate for public policy, shifting control of digital identity away from big tech and large corporations to where it rightfully belongs—to that of the individual. We pave the way for a more secure, portable, and trusted digital identity using decentralized, distributed, and blockchain-based Internet, empowering individuals to own the data they have, and move from a Web2 to a Web3 world.

The coalition has met with the bill sponsor and discussed the benefits of a Web3 identity and ownership of an individual's identity, and that being returned to the individual. We have provided language to tighten up definitions and suggested how the excise tax on an individual's data could in fact be used to facilitate the transition to an individual's ownership of that data and drive State agencies to issue verified credentials. That would allow individuals to give permission to access and revoke permission to an individual's data to a corporation, and maybe profit off of it in the process. We look forward to further conversations with the bill sponsor.

**Kent M. Ervin, Ph.D., State President, Nevada Faculty Alliance:**

Please support A.B. 421. Nevada's tax structure has increasingly concentrated on traditional but smaller diminishing industries and sectors of the economy, leaving out the new digital economy. Our economist colleagues tell us that the best taxes are small, per person or per transaction, but most broadly applied. This bill seems to fit that. Personally, I am the type who likes to read every word of a contract or agreement, but online I have just given up. This list shows there are many companies out there that are taking my data, selling it, and profiting on it [page 2, [Exhibit H](#)]. I suspect many of those transactions never have a Nevada nexus in order to be taxed in any way in Nevada, because it is a long-distance relationship, except for the person in Nevada whose data is being used that way. We are all worried about sustainability of the state, State government, and our education system, so we need to modernize our taxes.

**Tony Ramirez, representing Make the Road Nevada:**

On behalf of our membership, we thank the bill sponsor for bringing this forward. We particularly like the additional revenue this potentially may bring.

**Chair Backus:**

Next, we will go to the phone lines. Is there anyone on the phone lines wishing to give testimony in support of A.B. 421?

**Lilith Baran, Policy Manager, American Civil Liberties Union of Nevada:**

We think this bill is very smart and is a wonderful way to tackle getting more revenue, as well as securing data privacy. We thank the bill sponsor and hope you choose to support it.

**Chair Backus:**

Are there any others on the phone lines wishing to give testimony in support of A.B. 421? [There was no one.] We will move to testimony in opposition. Is there anyone in Carson City wishing to give testimony in opposition to A.B. 421?

**Thomas Morley, representing Nevada Press Association:**

We currently stand in opposition. I did not have a chance to talk to the sponsor before this hearing. A few years ago, the Maryland Legislature passed a digital advertising tax, and they exempted newspapers. The Nevada Press Association would request the same consideration for Nevada, but I will continue to work with the sponsor.

**Wiz Rouzard, Deputy State Director, Americans for Prosperity:**

Thank you for the opportunity to share concerns in regard to this bill. Let me start by saying I watched *The Social Dilemma* on Netflix, so if you have watched that documentary and if that is what inspired the bill, I can understand the intent. However, this is the twenty-first century and there are a couple of things I do want to address. First and foremost, they are paying for something. It is the medium in which they need to aggregate the data to begin with, whether that is your cell phone or an app. When you look at cell phones and apps, most consumers are entering that private contract voluntarily. I think when we talk about data privacy, we need to talk about the front-end side of making sure consumers are educated in regard to what they are agreeing to enter and, if we are going to force the cost to the consumer, I also think we need to make sure we have that conversation with our community members. In terms of the taxation, it is an excise tax. It is double taxing an industry. The third thing is, when we talk about consumers, we are talking about individuals who are making informed decisions most times. I agree these marketing tactics have become very aggressive, but I also think when we are talking about emerging markets, which is the digital age where young people are continuously building a lot of careers on these platforms, the last thing we want to make Nevada is one of those states that hinders and restricts their ability to actually develop new technologies and this emerging market. We urge you to definitely oppose this bill. I think we do have a data privacy bill, and we would be more than happy to work with the bill sponsor to ensure those individuals' information is protected but implementing a financial mechanism like this does not impact the business, it actually hurts the consumer. I think most people love Google Play and downloading free apps, and that is where the "free" comes in, is making sure of that data point. To the gentleman's comment, commerce clause is where the federal government does come into this, and we want to make sure we give them an opportunity to sort that out. I greatly appreciate the time to address this bill and if you have not seen the documentary, *The Social Dilemma*, go watch it.

**Kurt Thigpen, Governor, District 14, American Advertising Federation:**

I also own a small advertising agency in northern Nevada. We are not billionaires. I wish we were, but we are not. Respectfully we are in opposition to A.B. 421 in its current form,

which despite good intentions around data privacy would essentially impose a tax on advertising data. Such taxes are harmful and counterproductive, resulting in lost jobs, inflated costs, and creating significant hurdles for economic growth and recovery in Nevada. It is important to note that the advertising industry in Nevada accounts for \$48 billion of economic activity and over 234,000 jobs. Any tax on that data could inevitably cause job loss and economic harm.

Furthermore, the tax would adversely impact many Nevada employers, especially small- and medium-sized businesses that rely on this data to reach relevant consumers. We believe the taxes would be passed on to consumers, which would increase costs to them and lead to double taxation for most products here in the state. As businesses and service industries in Nevada are already struggling to recover from the pandemic and current high inflation levels, this tax would be a job killer and undermine sales revenue in the state. Moreover, regulatory enforcement of this tax will be extremely difficult, complicated, and expensive.

In conclusion, we urge you to pursue other avenues around data privacy that do not involve harmful taxes and support the businesses and job creators of our great state. We just found out about this bill last night, so I am hopeful we can work with the bill sponsor on this to remove the tax component.

**Bryan Wachter, Senior Vice President, Government and Public Affairs, Retail Association of Nevada:**

We appreciate the fact the sponsor has taken time to meet with us. We understand the intent. We do believe Nevada needs comprehensive data privacy reform. We do not have that. This is not that kind of comprehensive. You have several different bills going through, and we believe there should be a global approach to data privacy. We would be happy to provide some language in that regard.

Two points that were mentioned earlier that I do want to stress are, a lot of times this information is voluntary, and part of the agreement that users have with a data platform or an app. Most importantly it is because the way the tax is structured is a lot of these companies, Facebook having been mentioned, they are advertisers, they sell advertising, and they do so to our small- and medium-retail businesses. We think there is a chance that some of these larger companies are going to choose to just pass along that tax to the folks who are buying their services. We wonder if perhaps this is the incentive we are looking for, that would curtail some of that data collection. You were talking about billions and billions of dollars in profit for some of those companies, so is the tax a disincentive when they are just going to pass it along to our small retailers who are trying to advertise? We are not indifferent. We look forward to continuing to work with the sponsor but are not entirely sure this is going to capture and disincentivize the activity the sponsor is looking for.

**Misty Grimmer, representing Nevada Resort Association:**

We have been engaging in conversation with Assemblywoman LaRue Hatch on this bill, and the key really is going to be in the nuance of the definitions of who the bill does and does not apply to in order to capture the people whom she is targeting, but not be overly burdensome

on Nevada businesses. In the hotel, resort, and gaming industry we do collect data on our customers. Most of the time it is voluntary through our rewards programs. We collect that data for the purpose of then being able to make their experience at our properties better. We offer them incentives, we offer them free play and different things that encourage them to come back and want to stay and have a good time in our properties. We do not sell that data. We do not give that data to any other types of companies. We use it solely for the purpose of the experience of the customer. As Assemblywoman LaRue Hatch mentioned, I think we are not the target of this, because what we are doing is just communicating with our customers with the data we have. We will continue to work with her on getting those definitions narrowed down a little so we can hopefully become neutral on this bill.

**Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:**

First, I would like to thank the bill sponsor for meeting with the Chamber earlier today regarding the bill, and we understand better the intent of what she is trying to achieve here. We do believe the bill language is very broad and it will capture more businesses than intended, based on our conversation with the bill sponsor. In section 3, subsection 1, the definition of "commercial data collector," and section 3, subsection 3, paragraph (a) of the "component member" are pretty broad and it is concerning who would be captured in that.

In the bill as drafted, just maintaining consumer information from each month would subject a company to a possible fee. As many of you know the Chamber has 70 sectors in our membership. We are the largest business association in the state. Based off of what we heard from our membership, they have expressed concern about the burdensome nature that would be inadvertently placed on them as a Nevada-based business in section 14. We do appreciate the bill sponsor's willingness to convene with stakeholders, and we look forward to working with her to develop an amendment that would address our membership concerns.

**Michael Alonso, representing AT&T:**

AT&T is opposed to A.B. 421 as written. We have had conversations with the sponsor and will continue to have conversations with her. For similar reasons as the last two speakers, we do not believe, based on those conversations and the testimony provided to this Committee today, that our activity is falling within what the sponsor is trying to achieve with this bill. As the speakers before me have said, the definitions are very broad. It is a difficult bill and a difficult subject matter. We understand that and will continue to work with the sponsor, but we are opposed to the bill as written.

**Gabriele McGregor, representing Cox Communications:**

Cox Communications is also in opposition to the bill as drafted. We look forward to working with the sponsor on A.B. 421. Cox Communications collects necessary data from our customers, solely for the purpose of improving our services and product offerings to customers. We do not sell the data. Our concern is, as drafted, the bill could subject us to taxation on the data we are not using in the manner the bill contemplates.

**Chair Backus:**

Next, we will go to the phone lines. Is there anyone on the phone lines wishing to give testimony in opposition to [A.B. 421](#)?

**Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:**

Good evening. I oppose the bill.

**Carl Szabo, Vice President and General Counsel, NetChoice; and Professor, George Mason Antonin Scalia Law School:**

I stand in opposition to this legislation. Something my mom always told me was, there is no such thing as a free lunch. That is absolutely true on the Internet. There is no such thing as a free lunch. Today we are able to do searches, we are able to have email accounts, and we are able to upload and download billions of videos all without paying a single penny. It is done through ads, and it is done through data. Every ad is charged as part of revenue, and as you know that revenue is taxed today. This legislation, while well intended, I think misses the mark. Let us be clear. As we have heard previously, this covers brick-and-mortar stores. It covers supermarkets, pharmacies, casinos, movie theaters, and the list keeps going, in addition to online sites and services.

A lot of our brick-and-mortar stores actually have online websites too, and a lot of our brick-and-mortar stores use the online advertising to reach customers in ways that they never could before—all of which will be taxed and all of whose costs will be passed down to either Nevadans directly or to the brick-and-mortar stores themselves.

There is also a registration fee for data collectors, so we will now see new fees even on our small and our midsized businesses. As you have heard, no state has actually done this. Maryland came the closest, but their digital ads tax is currently being litigated and has never once gone into effect. Instead of going down this approach, we respectfully ask that you consider a comprehensive privacy bill, and more importantly when doing so a giant blind spot in the Nevada data breach law, as well as most every state's privacy law, is that it does not cover nonprofits. I think, regardless of tax status, you should be subject to the same privacy protections of the data you collect. We stand in opposition. We think rather than trying to create a new tax out of whole cloth which is riddled with challenges, costs and complexity, you instead follow what many other states have done and create a comprehensive privacy piece of legislation and privacy law that will protect privacy for all Nevadans.

**Deb Peters, representing Americans for Digital Opportunity:**

I am a recovering state senator and certified public accountant with extensive background in state tax policy [[Exhibit K](#)]. The Americans for Digital Opportunity are opposing [A.B. 421](#). Before addressing the technical reasons for opposition, it is important to address the real-world consequences of taxing data and ultimately taxing advertising.

While this bill does not directly tax advertising, it does have a direct correlation to advertising and how targeted advertising occurs. Very simply, this is a tax on all organizations that utilize digital advertising. Like it or not, the American economy has been transformed by data, data management, and digital advertising. There is hardly an organization in existence today that does not use some kind of digital advertising to reach their consumers. In addition to the real-world consequences of taxing data and digital advertising, the bill's implementation will be impossible. Assembly Bill 421 seeks to force organizations to pay a tax by proving the legal residency of their customers, while simultaneously forcing them to actually collect more data from individuals, not less. The outcome will be an administrative nightmare. It will increase the costs and have a negative impact on nearly every organization in Nevada.

While the bill does refer to the official Nevada residency requirements, it is extremely unclear how organizations will comply since proving residency is not part of that equation. There is not enough information gathered to determine residency as required by *Nevada Revised Statutes* 361.015 standards.

Finally, a commercial data collector, as defined in A.B. 421, would apply not only to the collectors of data but also the organizations and the purchasers of that data. Does every organization in Nevada then need to register if they have the intent to purchase advertising? I am just not sure this is going to be workable.

Given the current state of our economy, compounded by inflation rates and increasing expenditures, organizations will pull back spending and ultimately cause job loss because they cannot afford their status quo of operations. This cannot be the desired outcome of this particular bill. Please oppose A.B. 421.

[\[Exhibit L\]](#), [\[Exhibit M\]](#), [\[Exhibit N\]](#), [\[Exhibit O\]](#), [\[Exhibit P\]](#), and [\[Exhibit Q\]](#) were submitted in opposition to A.B. 421 but not discussed and are included as exhibits of the meeting.]

**Chair Backus:**

Do we have anyone in Carson City wishing to give testimony neutral to A.B. 421? [There was no one.] We will go to the phone lines. Is there anyone on the phone lines wishing to give testimony neutral to A.B. 421? [There was no one.] Would the bill sponsor like to make some closing remarks?

**Assemblywoman LaRue Hatch:**

I want to thank everyone for the opportunity to start this discussion. I think it is very clear this is a hard discussion. It is a nuanced discussion. It is a challenging discussion. It is a new discussion, but one we need to have. I think the opposition we just heard shows how widespread this targeted profiling occurs. I am absolutely committed to working with stakeholders. I am working with many of the people who came up in opposition and continue to work with them. The language is in flux. We are working on dialing it in to ensure we are targeting the people we are trying to target.

I would also like to say, a lot of people mention this is voluntary. I do not know how voluntary it is when people do not know how much is being tracked on them. I think it has also been mentioned that these products are free. I would like to remind the Committee that when a product is free, "you" are the product. I think it is our job to ensure we are protecting our constituents, even when they do not know what we are protecting them from. Thank you so much for your consideration.

**Chair Backus:**

I will close the hearing on A.B. 421 and open the hearing on Assembly Bill 345.

**Assembly Bill 345: Revises provisions governing the Commerce Tax. (BDR 32-783)**

**Assemblywoman Venicia Considine, Assembly District No. 18:**

I am here today to present Assembly Bill 345. This bill is about the commerce tax. You should all have a copy of the presentation [[Exhibit R](#)]. In 2015 the commerce tax was created. When they created the commerce tax there was an exemption for real estate investment trusts (REITs) put into the statute, and I have not found a reason as to why. That made me go down a rabbit colony of information about REITs and taxation, and to mirror what somebody said earlier, the point of this bill is that when it comes to taxes it should be across the board, it should be equitable, and it should be fair. That is the basis for this bill.

I want to start with a brief discussion of what a REIT is. Real estate investment trusts can be incredibly difficult to wrap your head around, so I am not going to get into the weeds. Essentially, a REIT is a corporation, trust, or association that meets the requirements of section 856 of the Internal Revenue Code. They provide an investment vehicle that allows individuals to pool their resources, purchase real estate, and avoid paying taxes on the revenue they receive.

Real estate investment trusts can generally be thought of as a business enterprise that is analogous to a mutual fund for real estate investments. They were started in the 1960s but were not really successful for the first 30 years. There was the Real Estate Investment Trust Modernization Act in 1986, which was when REITs really exploded.

I am going to talk about equity REITs. They specialize in property ownership by directly owning, investing in, acquiring, managing, or developing real property. An equity REIT derives its revenue primarily from the income generated by rental and lease payments. An equity REIT can benefit from appreciation of its real properties. It can grow through increases in rent, and it can cash the excess of taxable income that can be produced through the property, and the equity can be used to reinvest in its own.

I hope how I explained that is clear. A REIT is a trust where people put in their money. Under federal guidelines, as long as the rent generated by the REIT is returned about 90 percent or 95 percent to the shareholders, that is not taxable at the REIT level. The REIT is not taxable. That does not mean that the person who gets that dividend is not taxed, but they are taxed on income, which is different from commerce tax.

There are several types of REITs. There is a single net REIT, where the lessee pays the rent and the property taxes. There is the triple net REIT [page 2, [Exhibit R](#)], where the REIT itself in the contract requires their lessee, or the entity who is paying the rent, to pay the rent, the property taxes, the insurance, and building maintenance—essentially the full expenses of the property. I wanted to be clear on how some of those work.

There are different kinds of REITs, but it is my understanding the majority are triple net REITs. There are lodging REITs, which I think are more a Marriott or Hilton, and those are not triple net REITs. It is my understanding those are 3 percent of REITs overall.

I want to focus in on Nevada [page 3, [Exhibit R](#)]. Just giving you the history, REITs were not that numerous until at least 1986 to the 1990s, however they are becoming incredibly numerous across the country. I just want to bring this information out. In Nevada there are 7,937 properties that are owned by REITs. That total property value is about \$78 billion. Why I think this is important, as I mentioned, the REIT has an exemption to the commerce tax so any gross revenue from those properties and that rent, over \$4 million, without that exemption, would be taxable. With that exemption it is not taxable. I hope my data is up-to-date as there is only one REIT I am aware of that is actually based in Nevada. All the rest are based outside of Nevada. Again, these are shareholders, so this is not money that is staying in Nevada. If we have 7,900 properties that in one way or another are paying rent to an entity, and all that money goes out of Nevada, that is what I think is an erosion of our tax base.

To give you an idea of the breadth of REITs [page 4], this shows 70 or more. I know this is hard to see, but they cross all sectors. There are real estate REITs. There are lodging REITs. There are storage place REITs. They cover multiple areas. I actually have a list. The numbers I am talking about now are all in Nevada, and the REITs on [page 4] are all in Nevada. There are about 4,600 single-family rentals owned by REITs. There are over 1,600 outdoor advertising companies owned by REITs. There are over 1,100 towers—like cell towers. There are 153 that are industrial properties owned by REITs. There are 149 retail, 116 storage, 82 in health care, 39 in residential, and additionally about 4 or 5 other categories, but the numbers go down. That makes up that 7,900.

I will try to explain the way it works [page 5]. Let us say you are a business entity that makes your revenue off of rent. If your rental income is over \$4 million, it is likely to be considered gross revenue for the purposes of the commerce tax. Business entities who are engaged in real estate, rental, and leasing are under the NAICS [North American Industry Classification System] category, which is what we use to figure out the taxable amount for the commerce tax. Under that category, which is category 53, the tax rate is 0.25 percent of all Nevada gross revenue earned in excess of \$4 million. Here is an example. A rental company generates \$5 million in Nevada gross revenue from the rental of its properties in a taxable year, the 0.25 percent rate would apply to \$1 million, because commerce tax has to be above \$4 million—to the \$1 million of Nevada gross revenue and the business entity's commerce tax liability. Essentially, the gross tax would be about \$2,500 on that \$1 million. I am not saying this is something that is generating hundreds of millions of dollars.



That actually might be a question you would ask the Department of Taxation, but it does add up when you are looking at 7,900 properties. Not all of them are going to be eligible for the commerce tax, but I just wanted to start this conversation and bring it to the forefront. Now, if you are a REIT and you have the same scenario—you are making \$5 million, the \$1 million that would otherwise be eligible gross revenue and would be eligible for the taxes, under the commerce tax are not because of *Nevada Revised Statutes* 363C.020, subsection 2, paragraph (i), they are exempt. That is the entire PowerPoint [[Exhibit R](#)].

I see this, as I said earlier, as an erosion of the tax base. I see this as something I do not know if we have had conversations about, but these are just getting larger. In my research, there are master planned communities that are being built for nothing but rentals which are owned by REITs. I see this as something we should at a minimum be having conversations about. The bottom line is, right now we have money leaving Nevada and we have a commerce tax that is not being utilized for this type of entity. I would like to take it out of the commerce tax. I am open for questions.

**Assemblywoman Gallant:**

This is probably going to surprise everyone, but I do not love the idea of taxes; however, we have a problem with these REITs pushing Nevadans out of the market and making it difficult for them to get into their first home, or sometimes their second home. These REITs are causing that issue for particularly the middle class. I know Georgia has definitely made some headway in terms of legislation to reduce how much they can purchase. I do not actually have a question. I just wanted to say thank you for bringing this.

**Assemblywoman Considine:**

My issue may not necessarily be what you are talking about. My issue is equity. It is unfair for landlords or business entities that are making their money on rent in group A to have to pay a commerce tax, but in group B do not.

**Assemblywoman Gallant:**

I would agree with that, so if I was big enough to make that I would be paying the commerce tax. Even though it is not really my money, it would still be flowing through my company, like a pass-through, but that Form 1099 would show I make that so I would end up having to pay a tax on money I do not even profit from.

**Assemblywoman Mosca:**

I have learned a lot, so I appreciate this. I could have missed it at the beginning, but could you share why it was originally made like this?

**Assemblywoman Considine:**

If you are referring to why this was put in the commerce tax, I could not find anything that said why. That is what got me interested in this to begin with.

**Assemblywoman Anderson:**

Is there an estimation about how many individuals and/or money has been lost based upon this loophole?

**Assemblywoman Considine:**

No, I do not know. I know I said there are the 7,900. I do not know what all levels those are. I do not know how many of them would even qualify for the commerce tax.

**Chair Backus:**

Thank you for your presentation. We will move to testimony in support. Is there anyone here in Carson City wishing to give testimony in support of A.B. 345? [There was no one.] We will go to the phone lines. Is there anyone on the phone lines wishing to give testimony in support of A.B. 345? [There was no one.] We will move to opposition. Is there anyone here in Carson City wishing to give testimony in opposition to A.B. 345? [There was no one.] Is there anyone on the phone line wishing to give testimony in opposition to A.B. 345? [There was no one.] We will move to neutral testimony. Is there anyone here in Carson City wishing to give testimony neutral to A.B. 345?

**Wiz Rouzard, Deputy State Director, Americans for Prosperity:**

Our response to this, to Assemblywoman Considine's point, is we believe taxes should be applied across the board. I think the bigger question is I think we should be repealing the commerce tax, and if we had the opportunity to do so this bill should address that. Although the exemption is one that is concerning, we do believe the commerce tax altogether is one that is prodigious and robs Nevadans of capital and the ability to stimulate the economy. With that, we are neutral, but we do appreciate the bill sponsor for bringing forward an issue within that context.

**Chair Backus:**

I understand we missed someone who tried to give testimony in opposition. We will take that before we check for more neutral testimony.

**Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:**

I would like to echo the comments made by the person who just spoke. I also have a suggestion. If you can peg the commerce tax to the inflation rate, that would be great, because who knows how much \$4 million is going to be in the next several years. I also hope there could be other exemptions that could be done. Are casinos paying in accordingly, or are they getting exemptions?

**Chair Backus:**

Is there anyone else on the phone lines wishing to give testimony neutral to A.B. 345? [There was no one.] Does Assemblywoman Considine want to come back up and give closing remarks?

**Assemblywoman Considine:**

As I said, I know this can be incredibly complex. If anyone is interested in learning, I am happy to talk about this issue more. Thank you all for your time.

**Chair Backus:**

I will close the hearing on A.B. 345, and we will move on to public comment. Is there anyone here in Carson City wishing to give public comment this evening? [There was no one.] Is there anyone on the phone lines wishing to give public comment?

[Public comment was heard.]

**Chair Backus:**

Do we have any other callers on the phone lines wishing to give public comment? [There was no one.] With that, our next meeting will be Tuesday afternoon in Room 4100 at 4 p.m. We are adjourned [at 5:54 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblywoman Shea Backus, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a document titled "Federal Incentives for Electric Vehicles and Electric Vehicle Infrastructure," dated March 30, 2023, submitted by David Goldwater, representing Kaptyn.

[Exhibit D](#) is a document titled "Possible Financial Cost Comparisons for Fleet EV Replacement Legislation Argumentation," dated March 31, 2023, submitted by David Goldwater, representing Kaptyn.

[Exhibit E](#) is a letter submitted by Andrew Meyers, President and CEO, Kaptyn NV LLC, in support of Assembly Bill 427.

[Exhibit F](#) is a letter submitted by George Balaban, Manager/Member, Desert Cab LLC and Blue Desert LLC, in support of Assembly Bill 427.

[Exhibit G](#) is a copy of a PowerPoint presentation titled "Data Privacy for Nevadans, AB 421," submitted and presented by Assemblywoman Selena La Rue Hatch, Assembly District No. 25.

[Exhibit H](#) is a document titled "Data Privacy for Nevadans, AB421," submitted and presented by Assemblywoman Selena La Rue Hatch, Assembly District No. 25.

[Exhibit I](#) is a proposed amendment titled "Amendment to AB421," presented and submitted by Assemblywoman Selena La Rue Hatch, Assembly District No. 25.

[Exhibit J](#) is written testimony submitted and presented by Chris Daly, Deputy Executive Director, Government Relations, Nevada State Education Association, in support of Assembly Bill 421.

[Exhibit K](#) is written testimony submitted and presented by Deb Peters, representing Americans for Digital Opportunity, in opposition to Assembly Bill 421.

[Exhibit L](#) is a letter dated March 30, 2023, submitted by Alliant, Americans for Digital Opportunity, Association of National Advertisers, American Association of Advertising Agencies, American Advertising Federation, American Advertising Federation District 14, American Advertising Federation – Las Vegas, Computer and Communications Industry Association, Connecticut Broadcasters Association, Council on State Taxation, CTIA, Internet Coalition, Motion Picture Association, The Insights Association, and TechNet in opposition to Assembly Bill 421.

[Exhibit M](#) is a letter dated March 30, 2023, submitted by Aviva Gordon, Chair, Legislative Committee, Henderson Chamber of Commerce; and Emily Osterberg, Director of Government Affairs, Henderson Chamber of Commerce, in opposition to [Assembly Bill 421](#).

[Exhibit N](#) is written testimony dated March 30, 2023, submitted by Howard Fienberg, Senior Vice President, Advocacy, Insights Association, in opposition to [Assembly Bill 421](#).

[Exhibit O](#) is a letter dated March 29, 2023, submitted by Khara Boender, State Policy Director, Computer & Communications Industry Association, in opposition to [Assembly Bill 421](#).

[Exhibit P](#) is written testimony dated March 30, 2023, submitted by Mackenzie Warren Kay, representing Consumer Data Industry Association, in opposition to [Assembly Bill 421](#).

[Exhibit Q](#) is a letter dated March 30, 2023, submitted by Brian J. Allfrey, Executive Director, Nevada Press Association, in opposition to [Assembly Bill 421](#).

[Exhibit R](#) is a copy of a PowerPoint presentation titled "Assembly Bill 345," submitted and presented by Assemblywoman Venicia Considine, Assembly District No. 18.