

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

**Seventy-Eighth Session
May 5, 2015**

The Senate Committee on Revenue and Economic Development was called to order by Chair Michael Roberson at 3:41 p.m. on Tuesday, May 5, 2015, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael Roberson, Chair
Senator Greg Brower, Vice Chair
Senator Joe P. Hardy
Senator Ben Kieckhefer
Senator Aaron D. Ford
Senator Pat Spearman

COMMITTEE MEMBERS ABSENT:

Senator Ruben J. Kihuen (Excused)

GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Senatorial District No. 7

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Bryan Fernley, Counsel
Tony Rivano, Committee Secretary

OTHERS PRESENT:

Chris Nielsen, Deputy Chief of Staff, Office of the Governor
Deonne Contine, Executive Director, Department of Taxation

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Paulina Oliver, Deputy Director, Compliance, Department of Taxation
Carole Vilardo, President, Nevada Taxpayers Association
Bryan Wachter, Retail Association of Nevada
Joseph Guild, Altria Client Services Inc.

Chair Roberson:

We will start the work session on Senate Bill (S.B.) 483. We will not take a vote on the bill today; the vote will be scheduled for Thursday's meeting, when all Committee members are present.

SENATE BILL 483: Revises provisions relating to governmental financial administration. (BDR 32-1182)

Joe Reel (Deputy Fiscal Analyst):

Please refer to the work session document covering S.B. 483 ([Exhibit C](#)). Senate Bill 483 revises provisions relating to governmental financial administration sponsored by the Senate Committee on Revenue and Economic Development on behalf of the Department of Administration and heard by this Committee on March 26.

This bill continues certain revenue enhancements enacted during the 77th Session that are set to expire on June 30 and provides for the implementation of new revenue enhancements recommended by Governor Brian Sandoval in the Executive Budget.

With respect to the revenue enhancements enacted during the 77th Session, S.B. 483 removes the June 30 sunset date on the 0.35 percent increase to the Local School Support Tax (LSST) and makes the increase permanent.

Senate Bill 483 maintains the current structure of the Modified Business Tax (MBT) on nonfinancial institutions (NFI), which includes the exemption for the first \$85,000 in taxable wages each quarter and the rate of 1.17 percent on all taxable wages over \$85,000 each quarter. The bill makes the MBT-NFI tax structure permanent, rather than the MBT-NFI of 0.63 percent rate on all taxable wages scheduled for implementation on July 1.

The bill continues the prepayment of the Net Proceeds of Minerals Tax (NPOMT) and maintains the exclusion of certain industrial and health insurance deductions for fiscal year (FY) 2016 only. Senate Bill 483 extends the sunset date on the

requirement for a portion of the Governmental Services Tax (GST) proceeds to be deposited into the State General Fund from June 30 to June 30, 2017. The proceeds from the 10 percent increase in the depreciation schedule that was enacted during the 75th Session would be deposited into the State Highway Fund beginning July 1, 2017.

With respect to the revenue enhancements recommended by the Governor in the Executive Budget, the bill establishes the MBT on mining at 2 percent of total quarterly taxable wages and specifies that a mining business be defined as any business that is subject to the NPOMT pursuant to the *Nevada Revised Statutes* (NRS) 362.

Senate Bill 483 increases the Cigarette Tax rate by 20 mills a cigarette, or 40 cents for a pack of 20 cigarettes, in NRS 370. This will increase the total Cigarette Tax rate from 40 mills a cigarette or \$.80 for a pack to 60 mills a cigarette, or \$1.20 for a pack, with proceeds generated from the increase deposited into the State General Fund.

The primary testimony in support of S.B. 483 was provided by Chris Nielsen, Deputy Chief of Staff, Office of the Governor; Jim Wells, Executive Director, Department of Administration; and Mike Willden, Chief of Staff, Office of the Governor. Additional testimony in support of the bill was provided by Bryan Wachter, Retail Association of Nevada.

Neutral testimony was provided by Carole Vilardo, Nevada Taxpayers Association, and Dagny Stapleton, Nevada Association of Counties. Testimony in opposition to the bill was provided by Joanna Jacob, representing the Associated General Contractors, Las Vegas Chapter, and Nevada Contractors Association; and Brian Reeder, Nevada Chapter, Associated General Contractors of America, Inc. Ms. Jacobs and Mr. Reeder both expressed opposition to section 7 of the bill regarding the continued transfer of the GST revenue to the State General Fund for FY 2016 and FY 2017.

Subsequent to the S.B. 483 hearing, two proposed amendments have been brought forward, and the Legal Division of the Legislative Counsel Bureau has prepared Proposed Amendment 6871 to S.B. 483 for consideration by the Committee.

The first amendment, proposed by Senator Michael J. Roberson would increase the Cigarette Tax by \$1 for a pack rather than the \$.40 a pack as introduced. Proposed Amendment 6871 to S.B. 483 would increase the Cigarette Tax rate in NRS 370 by 50 mills a cigarette or \$1 for a pack of 20 cigarettes. This increases the total Cigarette Tax rate from 40 mills a cigarette to 90 mills a cigarette or the equivalent of increasing the Cigarette Tax from \$.80 to \$1.80 a pack, with the proceeds from the increase deposited into the State General Fund.

The second amendment, proposed by the Department of Administration, would require each application for a state business license that is submitted between October 1, 2015, and October 1, 2016, to include the following information and specifies how the information is to be collected and used:

- The total dollar amount of revenue earned by each business conducted by the applicant during the immediately preceding federal tax year of the business from the sale of services used in this State, or if the applicant conducted no business in this State during the immediately preceding federal tax year, an estimate of the total dollar amount of revenue that the applicant will earn from the sale of services used in this State during the 12-month period commencing with the date the application is submitted.
- The industry in which each business conducted by the applicant is primarily engaged.

Chair Roberson:

Should this Committee review changes in the sunset provisions recommended by the Economic Forum? Should we review these issues now?

Mr. Reel:

Russell Guindon, Principal Deputy Fiscal Analyst, has tables ([Exhibit D](#) and [Exhibit E](#)) showing the revenue impact of the revised changes proposed by the Economic Forum.

Russell Guindon (Principal Deputy Fiscal Analyst):

I will provide a high-level commentary regarding the Economic Forum meeting of May 1. The Economic Forum approved the revised forecast for FY 2015, FY 2016 and FY 2017. This is an important matter since statute requires that the Economic Forum produce a forecast. Thus, the sunsets approved in

FY 2013 actually occur in FY 2016 and FY 2017. Based on this data, the Economic Forum's forecasts for FY 2016 and FY 2017 appearing in Table 1 of [Exhibit D](#) show significant revenue declines.

The Economic Forum's forecasts for FY 2015, FY 2016 and FY 2017 combined were revised upwards by \$11.8 million. The \$11.8 million revision represents the change in the Economic Forum's forecasts from December 2014 and May 2015. Additionally, the rationale for using the 3 fiscal years cited compared to a budget that considers FY 2016 and FY 2017 only is because there are 2 months remaining in FY 2015. Adjustments made now will affect the ending General Fund balance for FY 2015, which affects the beginning General Fund balance for FY 2016. The net \$11.8 million upward revision to the 3-year forecast is an important element, since FY 2016 and FY 2017 represent downward revisions of \$17.5 million. The upward revision for FY 2015 offsets the downward revisions for FY 2016 and FY 2017.

The figures cited were compiled before the application of the tax credits. The current budget fiscal consensus estimates, including the tax credits over FY 2015, FY 2016 and FY 2017, were revised downwards by \$166.9 million over the 3-year period and \$175.4 million for FY 2016 and FY 2017. The analysis provides the Economic Forum's revised May 1 total General Fund forecast compared to the Economic Forum's December 3, 2014, total General Fund forecast. The original figures cited provide a like comparison, inclusive of the sunsets, while final figures include application of tax credits.

Table 1, [Exhibit D](#), was reviewed by this Committee at the March 26 meeting as part of the hearing for S.B. 483. The data in Table 1 is based on the December 3, 2014, forecast, while the data in Table 2 is based on the May 1 forecast. The estimated figures in Table 2, [Exhibit D](#), are also recalibrated for the provisions in S.B. 483 based on the Budget Division and Fiscal Analysis Division consensus forecasts for the revenue items in total but specifically for those line items subject to S.B. 483. The Budget Division and Fiscal Analysis Division consensus estimates are consistent with the Economic Forum's May 1 forecast since it is required to be calibrated against the specific revenue source.

Line numbers 1 through 6 appearing in the top portion of Tables 1 and 2 are the General Fund revenue source items that have provisions relating to that revenue source in S.B. 483. Columns C and D of the Tables represent the Economic Forum's May 1 forecast for those revenue sources approved by the Economic

Forum on May 1. Columns E and F of the Tables represent the revised forecasts for the revenue items in S.B. 483 and as agreed to by Budget Division staff and the Fiscal Analysis Division as the consensus forecast for those revenue sources.

Column G in the Tables represents the sum of Columns C and D, or the biennial total of the Economic Forum's May 1 forecast for the particular revenue source identified by the line number.

Column H in the Tables represents the sum of Columns E and F, or the biennial total of the Economic Forum's new consensus estimate for the statutory revisions covered in S.B. 483. Column I represents the biennium difference by subtracting Column H from Column G.

The Cigarette Tax forecasts appear on line 5 in both Tables 1 and 2. Statute requires the Economic Forum to propose the Cigarette Tax at the 70 cent General Fund rate. Columns C and D of Table 1 include \$78.5 million for FY 2016 and \$77.3 million for FY 2017. Combining these two figures results in the \$155.8 million figure appearing in Column G, line 5. Columns E and F represent the consensus estimate for the \$.40 increase proposed in S.B. 483, of \$119.4 million and \$117.6 million, respectively. The \$236.9 million appearing in Column H, line 5, represents the sums of Columns E and F. The \$.40 increase results in estimated \$81.2 million additional revenue appearing in Column I, line 5.

The bottom portions of Tables 1 and 2 show the net proceeds for the kindergarten through Grade 12 (K-12) funding formula. Line 2 in the bottom portion of the Tables shows the LSST. Senate Bill 483 proposes to make permanent the 0.35 percent increase in the LSST in S.B. No. 475 of the 77th Session.

Referring to the three lines at the very bottom of Table 1, the first line shows the total revenue impact of \$897.371 million for the 2015-2017 biennium from revenue enhancements recommended in the Executive Budget included in S.B. 483 and based on the May 1 estimate. The \$897.371 million represents the difference between the revised consensus forecast for the provisions in S.B. 483 compared to the Economic Forum's May 1 forecast. The provisions in S.B. 483 are estimated to generate \$897.371 million based on the Economic Forum's forecast. Immediately below the \$897.371 million figure appears the

\$897.275 million figure, representing the estimated incremental revenue S.B. 483 was projected to generate based on the December 3, 2014, forecast. Consequently, the incremental revenue remains essentially unchanged.

Table 2 compares the Governor's recommended estimates that were the consensus budget fiscal estimates from December 3, 2014, as shown in Columns C and D. Columns E and F represent the revised estimates, which are identical to Columns E and F in Table 1. Table 2 shows the difference between the consensus estimates as of now, compared to the estimates presented in the March 26 meeting. As shown in Column I in Table 2, there are minor biennium differences, specifically for the first four lines. The \$8.29 million in additional revenue shown on line 5 of Column I represents the upward revision in the \$.40 Cigarette Tax increase.

Under the revised estimate, the State General Fund is \$8.84 million greater now than it was in March. Lines 1 and 2 in the bottom portion of Table 2 show an aggregate \$11.22 million in the K-12 and Distributive School Account (DSA). The resulting net revenue impact for the 2015-2017 biennium from the revenue enhancements included in S.B. 483 is \$20.1 million greater now than in March.

Chair Roberson:

A point of clarification, the figures cited do not reflect the amendments to S.B. 483 being proposed today.

Mr. Guindon:

That is correct.

Senator Ford:

How close do the provisions in S.B. 483 get us to the Governor's request relative to the Executive Budget?

Mr. Guindon:

This Committee along with the Senate Committee on Finance and the Assembly Committees on Taxation and Ways and Means will be responsible for meeting the Executive Budget.

Chair Roberson:

Can you review the Governor's original proposed budget compared to the most recent Economic Forum estimates, factoring in the tax credit liability? If so, what is the current shortfall?

Mr. Guindon:

It remains a work in process. Taking all the revenue items in the Governor's proposed Executive Budget, including revenue enhancements and the revised consensus estimates that the Budget Division and Fiscal Analysis Division have agreed to and including the impact of the tax credits, leaves a \$161.1 million deficit relative to the \$7.44 billion in State General Fund revenue. Taking into account the DSA and K-12 revenues of approximately \$11.7 reduces the Executive Budget deficit to \$144.1 million.

Senator Ford:

Accounting for all the revenue enhancements proposed by the Governor along with the Economic Forum's analysis, is the Executive Budget shortfall \$144.1 million?

Mr. Guindon:

Yes, based on the Governor's recommendation in accordance with the Executive Budget.

Chair Roberson:

We will now discuss Proposed Amendment 6871 to S.B. 483.

Senator Ford:

Is it correct to assume that the Cigarette Tax figures contained in Table 1, line 5 through all columns, Exhibit D, do not reflect the changes in Proposed Amendment 6871 to S.B. 483?

Mr. Guindon:

Yes, that is correct. The figures contained in Table 1 reflect only the proposals made in S.B. 483; Table 1 does not include any of the enhancements contained in Proposed Amendment 6871 to S.B. 483.

Chair Roberson:

We will have Mr. Reel read Proposed Amendment 6871 to S.B. 483, followed by a discussion of the Cigarette Tax by Mr. Guindon.

Mr. Reel:

Referring to page 2 of the work session document, [Exhibit C](#), the amendment listed as No. 1 is the amendment proposed by Senator Roberson regarding the Cigarette Tax. Senator Roberson's amendment would increase the Cigarette Tax from \$.40 a pack proposed in S.B. 483 to \$1 a pack. Mr. Guindon will provide an analysis with respect to the impact the Cigarette Tax increase will have on the \$81.2 million biennium difference reflected in Table 1, line 5, column I, [Exhibit D](#).

Mr. Guindon:

The \$81.2 million figure cited by Mr. Reel is the estimated additional revenue that the 40 cent increase proposed in S.B. 483 is estimated to generate above the Economic Forum's May 1 forecast for the biennium. Increasing the Cigarette Tax by an additional \$.60, or a \$1 a pack increase, is estimated to generate an additional \$55 million to \$56 million for each fiscal year or \$111 million for the biennium. The Cigarette Tax net increase is estimated to generate \$192.3 million above the Economic Forum's May 1 forecast, [Exhibit E](#).

Instead of the \$81.2 million appearing in Table 1, line 5, column I, [Exhibit D](#), the Cigarette Tax generated would be \$192.3 million. I would like to point out that for every 10 percent increase in price, there is a 4 percent reduction in demand. The calculations used in determining the forecast figures account for the reduction in demand. Calculating the effect of the Cigarette Tax increase on State General Fund revenue is not readily determinable.

Chair Roberson:

Would the \$111.1 million in new Cigarette Tax revenue generated by Proposed Amendment 6871 to S.B. 483 reduce the budget shortfall to \$33 million, given that the previous shortfall forecast was \$144.1 million?

Mr. Guindon:

I would concur with that assessment.

Senator Kieckhefer:

How did the Economic Forum determine the estimates? The Senate Finance Committee had regular discussions regarding the Tobacco Master Settlement Agreement (MSA) money, generally based on the number of cigarettes sold in the State, which are projected to decrease based on a declining number of

purchases in future years. What data did the Economic Forum use to calculate the projected increase in Cigarette Tax revenue?

Mr. Guindon:

The MSA is a complex element. Separate forecasts prepared by the Department of Taxation, the Budget Division and the Fiscal Analysis Division concerning the General Fund Cigarette Tax are consolidated into a consensus forecast presented to the Budget Division's Technical Advisory Committee for review and consideration.

The Department of Taxation provides information in connection with MSA that includes the number of monthly cigarette packs sold as well as tax collections from the stamps purchased and placed on the packs. This information is disseminated by the Department to the Budget and Fiscal Analysis Divisions and represents one of the sources generating tax revenue. Rather than solely looking at tax collections, the stamps provide additional Cigarette Tax data.

I am one of the Fiscal Analysis Division forecasters who prepares the Cigarette Tax collection forecast included in the Technical Advisory Committee and Economic Forum forecast. Fiscal year-to-date Cigarette Tax collections through February increased 2.1 percent over the same period in FY 2014. Forecasters were surprised by the increase due to declining cigarette consumption, but it was stronger in the fiscal year-to-date information available to all forecasters. The consensus forecast is the average forecast of all entities. Due to the upward revision in Cigarette Tax revenue resulting from stronger Cigarette Tax collection, FY 2015 base-year revenues were revised upwards and carried forward into FY 2016 and FY 2017, resulting in a stronger May 2015 forecast than the December 2014 forecast.

Senator Kieckhefer:

Is the number of cigarette packs purchased in the State rising?

Mr. Guindon:

Sales of cigarette packs, based on fiscal year-to-date basis, are up. Several months in FY 2015 experienced strong sales resulting in strong overall fiscal year results. While a per capita decline in cigarette consumption is forecast over the biennium, raising the FY 2015 forecast results in higher FY 2015, FY 2016 and FY 2017 revenues.

Senator Ford:

Does the \$81.177 million for the 2015-2017 biennium cover the \$.40 pack increase appearing in the Cigarette Tax Increase Estimates table, [Exhibit E](#)? Is this the same figure as the \$81.2 million figure appearing in Table 1, line 5, column I, [Exhibit D](#)?

Mr. Guindon:

Yes, these figures both represent the tax revenues generated for the 2015-2017 biennium based on the 40-cent pack increase.

Senator Ford:

Does the \$111.1 million figure appearing in the column furthest to the right along the line labeled "Difference from SB 483 - 40 cent increase" in the Cigarette Tax Increase Estimates table, [Exhibit E](#), reflect the proposed \$1 Cigarette Tax increase that raises a total of \$192 million, or will it raise an additional \$30 million in Cigarette Tax revenue?

Mr. Guindon:

You are reading the tables correctly: Table 1, [Exhibit D](#), shows that the \$.40 increase represents an \$81.2 million increase in Cigarette Tax revenue. The additional \$.60 above the \$.40 represents the \$111.1 million increase in Cigarette Tax revenue. Combining the two items results in Cigarette Tax revenue of \$192.3 million in relation to the Economic Forum's forecast. The \$348 million figure appearing above the \$192.3 million figure in the Cigarette Tax Increase Estimates table represents the total Cigarette Tax collections for the 2015–2017 biennium.

Senator Ford:

How do the revised Cigarette Tax figures affect the 5 percent General Fund ending balance requirement vis-à-vis the Governor's Executive Budget and the revised revenue forecast in connection with the increased Cigarette Tax proposals?

Mr. Guindon:

The General Fund ending balance represents the net of the revenue and expense sides of the General Fund balance sheet. All elements from the Senate Committee on Finance and the Assembly Ways and Means Committee in relation to approving the Governor's Executive Budget must be considered. The additional revenue forecasted for FY 2015 affects the ending General Fund

balance for FY 2015, which affects the beginning General Fund Balance for FY 2016. All of the stated elements must be accounted for in determining the ending Fund balance. The money Committees are positioned in the middle of the General Fund balance sheet, with the Fiscal Analysis Division positioned at the top of the revenue side. The net amount ends up getting to the General Fund ending balance; we can work both the revenue and expenditure side to reach the 5 percent ending Fund balance.

Senator Ford:

The FY 2015 budget figure is below the 5 percent General Fund ending balance requirement—will the General Fund ending balance shortfall be carried over to FY 2016? How will the ending Fund balance shortfall for FY 2015 affect the ending Fund balances for FY 2016 and FY 2017?

Senator Kieckhefer:

The ending Fund balance as currently projected for FY 2015 is slightly below the 5 percent minimum requirement. It is important to note that the 5 percent minimum requirement is only a statutory requirement on the Executive Budget; it is not a statutory requirement that must be maintained, but it is generally recommended. The Senate Committee on Finance attempts to meet the 5 percent requirement. Any revenue approved by the Senate Committee on Finance for the next biennium will not help the ending Fund balance for FY 2015. Nonetheless, it is the intent of the Senate Committee on Finance to approve a budget that maintains the 5 percent General Fund ending balance for both years of the upcoming biennium.

Senator Ford:

Will failing to maintain the 5 percent requirement negatively affect the State's bond rating?

Senator Kieckhefer:

I believe that the bond rating agencies would look favorably on the State's efforts in striving to maintain the 5 percent requirement. I also believe that we will have healthy General Fund balances in the budget to be approved for the 2015-2017 biennium.

Senator Hardy:

Does the Governor's Executive Budget show revenues of \$7.44 billion? What will be the revenue shortfall after taking into account all of the revenue enhancements contained in Proposed Amendment 6871 to S.B. 483?

Chair Roberson:

Based on the \$144.1 million projected tax revenue shortfall, adding the \$111.1 million in revenues generated by Proposed Amendment 6871 to S.B. 483 would leave a shortfall of \$33 million.

Senator Hardy:

Is the 5 percent ending Fund balance requirement factored into the scenario described by the Chair?

Mr. Guindon:

The scenario described by the Chair refers specifically to the revenue side of the Executive Budget. The updated revenue enhancements compared to revised estimates represent a \$144 million shortfall. The \$111 million generated from the \$1 Cigarette Tax increase leaves a \$33 million shortfall on the revenue side of the Executive Budget.

It is not possible to project the ending General Fund balance since the appropriation side of the Executive Budget has not been determined. Additionally, as explained by the Chair of the Senate Committee on Finance, the revised ending General Fund balance for FY 2015 will affect the beginning General Fund balance for FY 2016. The additional \$111 million revenues generated by the \$1 Cigarette Tax increase offset against the \$144 million shortfall in General Fund revenues leaves a \$33 million General Fund deficit on the revenue side only.

Senator Hardy:

Since 5 percent of the projected \$6.8 million 2015-2017 biennium revenue figure is less than 5 percent of the \$7.44 million revenue figure prescribed in the Executive Budget—would the 5 percent ending Fund balance be worse using the higher biennium revenue figure?

Mr. Guindon:

The \$33 million revenue shortfall compared to funding the appropriations recommended in the Governor's Executive Budget will realize a shortfall at the

end of the ensuing biennium. Starting the biennium with a revenue shortfall will require appropriation cuts to achieve the 5 percent General Fund ending balance.

Senator Ford:

Does the \$33 million shortfall include or exclude the effect of the tax credits for FY 2016 and FY 2017?

Mr. Guindon:

The \$33 million includes the tax credits. Excluding the tax credits would have resulted in a positive ending General Fund balance.

Senator Kieckhefer:

While this discussion has focused on the \$33 million shortfall figure, it is important to note that the shortfall is contingent upon approval of all other components of the revenue package.

Senator Ford:

Do the other components of the revenue package include the components referred to in S.B. 252?

SENATE BILL 252 (1st Reprint): Revises provisions governing the state business license fee. (BDR 32-1185)

Senator Kieckhefer:

The \$33 million shortfall factors in passage of the Business License Fee (BLF) and the slot machine route operator license fee along with the revenue projections included in the Governor's Executive Budget.

Chair Roberson:

Funding the Governor's Executive Budget would require approval of S.B. 483 as amended and S.B. 252 to meet the revenue target.

Mr. Guindon:

That is correct. The negative \$144 million figure I previously cited does not have the restricted slot route operator proposal included in the Executive Budget. However, the analysis does include all of the other recommendations included in the Governor's Executive Budget, such as the BLF, the

GST commissions and penalties and the State 3 percent transient lodging tax that is not included in either S.B. 252 or S.B. 483.

The figures in the Tables provided to this Committee, [Exhibit D](#) and [Exhibit E](#), update the Governor's recommendations regarding the slot machine route operator license fee proposals as well as revising all the figures based on the most up-to-date information.

Senator Ford:

I assumed that the \$33 million and \$144 million shortfall figures were based on Tables 1 and 2, [Exhibit D](#) and [Exhibit E](#); I did not realize S.B. 252 provisions were factored into the figures cited. Will provisions recommended in Proposed Amendment 6871 to S.B. 483 along with S.B. 483 as introduced rectify the \$33 million shortfall?

Mr. Guindon:

Removing the slot route operator proposal leaves all other tax revenue proposals except for the BLF, GST commissions and penalties and the transient lodging tax. The issue should not be viewed in terms of S.B. 252, but how much revenue is required to reach the \$7.44 billion figure requested by the Governor. The sunset provisions in S.B. 483 will partially meet the revenue target—the \$144 million shortfall figure cited represents the additional revenue necessary to reach the \$7.44 billion figure requested by the Governor.

Chair Roberson:

It is not reasonable to assume that a \$7.44 billion budget can be achieved by extending the sunsets alone, thus making the revisions prescribed in Proposed Amendment 6871 to S.B. 483 necessary.

Senator Kieckhefer:

The sunset provisions contained in S.B. 483 are consistent with the Governor's recommendations and endorsed by the Economic Forum. Senator Roberson's proposal would add \$111 million in additional General Fund revenue that could be invested or used to offset shortfalls through different tax proposals, providing flexibility. However, this does not change the need to process a broader business tax.

Chair Roberson:

The revenue generated by S.B. 252, in addition to the revenue generated by S.B. 483 as amended, would leave the \$33 million shortfall.

Senator Spearman:

Considering the differences between the Assembly and Senate budget proposals, what would be the Executive Budget shortfall if the proposals recommended in S.B. 252 were not approved?

Chair Roberson:

I believe that S.B. 252 is projected to generate \$474 million over the biennium.

Mr. Guindon:

Based on the estimates by the Budget and Fiscal Analysis Division, the provisions in S.B. 252 will generate revenues of \$245 million a year.

Chair Roberson:

This would be \$490 million for the biennium. Meeting the \$7.44 billion revenue target proposed by the Governor will require \$490 million plus an additional \$33 million or \$523 million. Whether the revenue is generated by S.B. 252 or an Assembly version or some combination thereof, passing S.B. 483 as amended—without passing S.B. 252 or an equivalent bill—would leave a \$523 million shortfall relative to the \$7.44 billion revenue target.

Mr. Reel:

On page 4, section 14.5 of Proposed Amendment 6871 to S.B. 483, [Exhibit C](#), contains new language relating to the information collected and submitted for a business license. Representatives from the Departments of Administration and Taxation are here to discuss details of Proposed Amendment 6871 to S.B. 483.

Chris Nielsen (Deputy Chief of Staff, Office of the Governor):

Section 14.5 of Proposed Amendment 6871 to S.B. 483 creates a method to collect data on services. The Governor sees a need to obtain accurate data on services to make informed decisions in the future concerning a potential services component to the sales tax. This does not infer that a tax increase will be necessary in the next Session, but it may buy down the sales tax rate.

The editorial board of the *Las Vegas Review Journal* recently endorsed this concept. Informal talks with The Chamber of Commerce in Reno-Sparks support this concept as well.

Holders of business licenses or new businesses that obtain business licenses are required to provide the value of services rendered on an annual basis, and each business will have to provide its primary business category. The agency responsible for collecting this information must collect it in “the least burdensome way for all businesses required to submit this information.” It is not the intent of this legislation to create a burden on businesses because this is for informational purposes only. The information collected would remain confidential; once collected, the information would be available to the Fiscal Analysis Division and the Executive Branch for the beginning of the next biennium—rendering data available to make informed decisions.

Senator Kieckhefer:

Does the business report the data when it submits its business license application? Is this automated with the Office of the Secretary of State?

Mr. Nielsen:

Section 14.5, subsection 2 of Proposed Amendment 6871 to S.B. 483, states “the agency responsible for administering the state business license.” At this point, it is not known which agency will be responsible for collecting the data. Should S.B. 252 pass and be signed into law, the Department of Taxation will be the responsible agency. Should S.B. 252 fail to pass, the Office of the Secretary of State will collect data relative to the BLF.

Senator Kieckhefer:

Does the Office of the Secretary of State have the capacity to collect the data as part of its process? Alternatively, will all businesses in the State be required to execute a paper filing with the Office of the Secretary of State?

Mr. Nielsen:

SilverFlume, Nevada’s business portal, would have capacity to perform this function since the process entails annual reporting. Based on my familiarity with SilverFlume, a business entity would be required to enter the total dollar amount of annual revenue. The data would then be collected and uploaded to Senate staff and the Executive Branch.

Senator Kieckhefer:

I understand the need for confidentiality with respect to business-specific data, but would aggregate data be available publicly? Would this enable Legislators and the public to view the amount of services provided by various industry types?

Mr. Nielsen:

In section 14.5, subsections 4 and 5 of Proposed Amendment 6871 to S.B. 483 discuss confidentiality and reference the taxation confidentiality statute contained in NRS 360.255. I am the former Executive Director of the Department of Taxation. In that capacity, I and my staff interpreted NRS 360.255 as permitting the dissemination taken together, but making the data public for a specific business was not permitted. Consequently, the data would be available to the public on an aggregate basis, not an individual basis.

Senator Hardy:

Are we identifying the business entity as either a service or manufacturing industry based on its North American Industry Classification System (NAICS)?

Mr. Nielsen:

Yes, the language in section 14.5 of Proposed Amendment 6871 to S.B. 483 can be interpreted to include the NAICS codes. Once the system is established—whether through the Office of the Secretary of State or if S.B. 252 passes and the responsibility for data collection transfers to the Department of Taxation—data will be automatically categorized. The data will not be one global service figure—there will be industry breakout.

Senator Hardy:

Knowing that there will be breakout and businesses will be categorized based on revenue, will the State have a simple way to identify the amount of service a business renders on a monetary basis and whether that business is a servicer or manufacturer?

Mr. Nielsen:

The intent of section 14.5 of Proposed Amendment 6871 to S.B. 483 is to make the data reporting and collection process the least burdensome to the taxpayer. The business licensee would be required to report the pertinent NAICS code along with the estimated dollar value of services rendered.

Senator Hardy:

Under the scenario prescribed in Proposed Amendment 6871 to S.B. 483, it does not appear to be burdensome for a business owner to submit its annual revenue figure along with the license fee owed.

Mr. Nielsen:

There may be exceptions since some businesses sell goods at retail, while other businesses provide services. But based on the 30 categories identified in S.B. 252, many of the NAICS codes would mitigate the burdensome issue.

Senator Spearman:

What would the fiscal note be with respect to additional audit personnel to verify the data submitted by the business licensees?

Mr. Nielsen:

As Proposed Amendment 6871 to S.B. 483 represents an exercise for an informational program, neither the Office of the Secretary of State nor the Department of Taxation would spend an enormous amount of time auditing the data submitted by the business licensees. The man or woman hours expended will be used to determine the actual tax figures and whether the figures are correct. When an audit is conducted for an existing taxpayer, the amount of hours utilized will be scrutinized. A separate audit program will not be necessary to determine whether the informational services data will be independently audited. From the Department of Taxation's purview, there is no need for additional audit personnel.

Chair Roberson:

The work session on S.B. 483 is closed. We will hear Assembly Bill (A.B.) 57.

ASSEMBLY BILL 57: Revises provisions governing the taxation of purchases of direct mail. (BDR 32-306)

Deonne Contine (Executive Director, Department of Taxation):

Assembly Bill 57 represents the Department of Taxation's annual review in connection with the State's compliance with the Streamlined Sales and Use Tax Agreement (SSUTA). Paulina Oliver, Deputy Director, Department of Taxation, is the Department's southern representative as well as the Department's SSUTA liaison and will provide testimony as to the bill's significance and its provisions.

Paulina Oliver (Deputy Director, Compliance, Department of Taxation):

Assembly Bill 57 represents a cleanup in connection with SSUTA compliance. The bill does not change any taxable or nontaxable matters and does not make any changes with respect to tax revenue. The bill clarifies legislation and how an exemption for direct mail sales should be handled.

Direct mail sales, whether within or out of State, should be handled in the same manner. Direct mail sales should be handled as if they were a resale sales certificate. If the seller accepts a resale certificate or an exemption certificate, the seller is not required to collect sales tax. However, the buyer must report the use tax. Passage of A.B. 57 will make the State compliant with SSUTA.

Chair Roberson:

What was the vote tally on A.B. 57 in the Assembly? Was it unanimous?

Senator David R. Parks (Senatorial District No. 7):

No, the Assembly vote tally was 30 yeas, 10 nays, with 2 excused.

Carole Vilardo (President, Nevada Taxpayers Association):

The Nevada Taxpayers Association supports the bill. Each session, the State must approve conforming bills in order to maintain membership in SSUTA. Ms. Contine represents the State, which is a signatory to the SSUTA. The State must comply with SSUTA, and the State's definitions within statute should mirror SSUTA's dictionary of definitions contained online.

In my opinion, the negative vote count conveyed by Senator Parks reflects those Assembly members who view anything to do with Internet sales tax to be a tax increase rather than a collection issue.

Chair Roberson:

As a follow-up to Ms. Vilardo's testimony, the bill did not require a two-thirds majority vote.

Bryan Wachter (Retail Association of Nevada):

I believe that the Assembly members voting against this measure believed it was an attempt to tax Internet sales. As the Deputy Director of the Department of Taxation testified, there is no additional revenue.

Nevada is a leader in Internet sales taxes and helps businesses with commerce in multiple states understand the different rates and helps these businesses operate more clearly, making sure Nevada collects its fair share of taxes. The State seeks increased compliance, which is the best way to collect tax revenue, and this bill accomplishes this effort. The Retail Association of Nevada encourages the Committee to process this bill as soon as possible and send it to the Governor.

Chair Roberson:

We close the hearing on A.B. 57 and open up the meeting for public comment.

Joseph Guild (Altria Client Services Inc.):

Altria Client Services is the parent company of Phillip Morris USA, and I am here to discuss S.B. 483 and Proposed Amendment 6871 to S.B. 483. I would like to convey two points. First, the revenue estimates provided in testimony may be off. My reasoning is because over the past 10 years, 33 states have increased their cigarette taxes, and over those last 10 years, all but four of those states failed to meet projected revenues. I caution this Committee in its approach with respect to increasing cigarette taxes.

Second, increasing the Cigarette Tax to \$1.80 a pack would make Nevada the second-highest cigarette tax state in the region. Arizona's cigarette tax of \$2 a pack is the region's highest. This compares to California's \$.87, Utah's \$1.70, Idaho's \$.57 and Oregon's \$1.18. This is important because cigarette sales may be driven to the surrounding states that have lower cigarette tax rates. Additionally, Nevada has a number of Indian smoke shops and a high number of Internet sales. I caution the Committee to scrutinize the revenue projections and the factors driving these projections.

Chair Roberson:

It is my understanding that California's legislature is considering a significant cigarette tax increase, is this correct?

Mr. Guild:

That is correct. California is proposing a \$2 pack increase in the cigarette tax. Over the last 10 years, California voters have been asked by initiative petition to raise the cigarette tax significantly and in each instance, voters have rejected this initiative. While California has a proposal to increase the cigarette tax, the fate of this initiative remains uncertain.

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Chair Roberson:

Based on your testimony, Nevada's proposed Cigarette Tax increase would leave the State below Arizona's \$2-a-pack tax rate and within \$.10 of Utah's tax. Is that correct?

Mr. Guild:

That is correct.

Chair Roberson:

The meeting is adjourned at 5:01 p.m.

RESPECTFULLY SUBMITTED:

Tony Rivano,
Committee Secretary

APPROVED BY:

Senator Michael Roberson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	3		Attendance Roster
S.B. 483	C	6	Joe Reel	Work Session Document
S.B. 483	D	2	Russell Guindon	Revenue Summary and Comparison Tables
S.B. 483	E	1	Russell Guindon	Cigarette Tax Increase Estimates