MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TAXATION

Seventy-Ninth Session
May 2, 2017

The Committee on Taxation was called to order by Chair Dina Neal at 4:08 p.m. on Tuesday, May 2, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Dina Neal, Chair
Assemblywoman Irene Bustamante Adams, Vice Chair
Assemblywoman Lesley E. Cohen
Assemblyman Edgar Flores
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Keith Pickard
Assemblywoman Ellen B. Spiegel

COMMITTEE MEMBERS ABSENT:

Assemblyman Paul Anderson (excused)
Assemblywoman Teresa Benitez-Thompson (excused)
Assemblyman Jason Frierson (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Gina Hall, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County
Jeff Page, County Manager, Lyon County
Joe Mortensen, County Commissioner, Lyon County
Pat Whitten, County Manager, Storey County
Dagny Stapleton, Deputy Director, Nevada Association of Counties
Cheryl Blomstrom, Interim President, Nevada Taxpayers Association
Bryan Wachter, Senior Vice President, Retail Association of Nevada

Chair Neal:
[Roll was taken and Committee rules and protocol were reviewed.] The first order of business today is a presentation from Mr. Guindon. He will give us some highlights from the Economic Forum. He will discuss the Economic Forum General Fund Revenue Forecast Comparison (Exhibit C), and you can dig into the details as you like.

Russell Guindon, Principal Deputy Fiscal Analyst:
I am here today to go through the highlights of the Economic Forum's forecast that was approved by that body yesterday [May 1, 2017] at their statutorily required meeting to produce a revised forecast, if necessary, in terms of any revisions on or before May 1 for use by the Legislature, approving the legislatively-approved State General Fund budget.

What you have available to you are two different sets of tables. The one in landscape mode (Exhibit D) is titled "General Fund Revenues – Economic Forum May 1, 2017, Forecast." That table was approved by the Economic Forum yesterday at their meeting, and it contains every unrestricted General Fund source forecasted by the Economic Forum through their assisting body, the Technical Advisory Committee, as well as all the various tax credit programs in place statutorily. It is important to note the Economic Forum is required to do this forecast under current law. There is nothing in this table about bills the Legislature is currently considering with regard to tax credits or amending any fees.

You have also been provided a single sheet in portrait mode (Exhibit C). It is titled "Economic Forum General Fund Revenue Forecast Comparison: May 1, 2017, Forecast Versus December 6, 2016, Forecast." Under statute, the Economic Forum is required to provide their forecast to the Governor and the members of the Legislature. You should have received a letter today summarizing these tables.

Looking at the single page table (Exhibit C), what this shows is information compiled in what we refer to as the "major unrestricted General Fund revenues." You can see those listed in the top box, which is titled "Economic Forum May 1, 2017 Forecast." It also summarizes the total General Fund revenues before and after consideration of the various tax credits that are in play. The top box is the Economic Forum's May 1, 2017, forecast, that was approved by the Legislature yesterday. The middle box is titled "Economic Forum December 6, 2016, Forecast," and it has been approved. This forecast was used by the Governor to develop the *Executive Budget* presented to the Legislature at his State of the State Address in January 2017. The bottom box is the difference between the May 1, 2017, forecast and the December 6, 2016, forecast. As a reference point, the fiscal year (FY) 2016 column across all three boxes shows the actual amount that was collected. For FY 2017, I will go through the highlights and if there are any questions from Committee members, I will attempt to address those.

Looking at the top box, in FY 2017, you can see the Economic Forum's total General Fund forecast before tax credits, was $3,960,500,000. After accounting for the estimated $147 million in tax credits, the net unrestricted General Fund revenue forecast is $3,813,400,000. As you can see in the bottom box, this FY 2017 amount is an upward revision from the December 2016 forecast by approximately $44.2 million, which is only a 1.2 percent upward revision in the unrestricted General Fund revenues for FY 2017.

There are some who will wonder why we are forecasting FY 2017 and ask, Is that not the second year of the current biennium, and was that not all taken care of back in the 2015 Session? Yes, we are still sort of administering the legislatively approved budget from 2015, as well as any actions approved by the Interim Finance Committee at their meetings in the interim, but these revenues are in play with regard to the additional money that is forecasted. It is revenue available for the Legislature to consider during this session, with regard to its use, and if it is not used, it would end up in the ending fund balance for FY 2017 and become part of the beginning fund balance for FY 2018. I wanted to point out that the forecast for FY 2017 does have bearing on what the money committees are considering with regard to the 2017 Session.

Going back to the top box, for FY 2018 the total General Fund revenue forecast before tax credits, was $4,074,800,000. After accounting for the estimated $154 million in tax credits the net unrestricted General Fund revenue available for budgeting purposes is $3,921,000,000. Again, in the bottom box, you can see this is an upward revision to the December 2016 forecast of approximately $45.9 million, or a 1.2 percent upward revision in the forecast.

For FY 2019, the Economic Forum's total General Fund forecast before tax credits, was $4,230,500,000, and after considering the estimated $168.5 million in tax credits, the total net General Fund revenue available is $4,062,100,000. Once again, in the bottom box you can see this is an upward revision of approximately $49.8 million in General Fund revenues for the May 2017 forecast, compared to the December 2016 forecast, and is a 1.2 percent upward revision.

Chair Neal:
Are there any questions from the members on the top box (Exhibit C)?

Assemblyman Pickard:
You mentioned that anything from 2017 that is not used is rolled over. What is the typical rollover from year to year? How much money are we talking about that typically goes forward, since we cannot run in a deficit?

Russell Guindon:
It depends on what is estimated versus what actually happens. Traditionally, the Governor sends over a budget that has a minimum 5 percent ending fund balance. Since I am more of the in-flow guy versus the out-flow guy, I cannot remember what was sent over in the *Executive Budget*. Historically, the Legislature tries to maintain at least a 5 percent minimum ending fund balance when they are approving the budget for the next biennium. Sometimes it is higher than that. It all depends on the decisions made by the money committees, and then the full Legislature, in terms of the budget that is sent over to the Governor.

Assemblyman Pickard:
Is it normally around 5 percent? We are talking broad strokes here. Every department is going to be a little different.

Russell Guindon:
Historically, I would say it is probably closer to the 6 percent range on average, but it is somewhere in the 5 percent to 6 percent range the Legislature is approving when they are deciding on a legislatively approved budget for the next biennium.

Assemblyman Kramer:
Regarding gaming percent fees, if you compare the top box and the middle box (Exhibit C), which is represented against the bottom box, as you go across the columns you see an $11 million gain for FY 2018. When we forecasted in December 2016 versus now, it seems we are forecasting so much higher for FY 2018, yet the number for FY 2019 is fairly close to what was forecasted last December. Why would this spread be medium, large, medium for the three years you have forecasted? It looks like an anomaly, like a double spread for the one year versus the other two years on each side, and they are all looking out into the future. One is seven months into the future, the other is a year from there, and then a year after that. It seems strange that the one in the middle would be double the other two.

Russell Guindon:
The gaming percentage fee tax is probably one of the more complicated revenues for staff of the Economic Forum to forecast. I am the person who does the gaming forecast with the Nevada Gaming Control Board and our counterpart at the Budget Division, Office of Finance, Office of the Governor. I am not going to go into the nuances of the revenue source, but it has some moving pieces in it that make it relatively difficult to forecast.

Based on the information we had in December 2016, the FY 2017 forecast was revised up. The Economic Forum went higher than what was being presented to them by the forecasters, but then pulled down in FY 2018. One of the Economic Forum members is Matt Maddox, who is with Wynn Resorts, Limited. He brings expertise to the Economic Forum from the gaming industry.

At the meeting yesterday, almost all the forecasters ended up revising FY 2017 up because the last four or five months have been performing better than what we were thinking back in December 2016. Because of the way the forecasts were put together in December 2016, that was not that awkward of an adjustment done to FY 2018. It was more trended out, in terms of the forecast represented. The upward revision is higher in FY 2018 than it is in FY 2017 and FY 2019 because of the adjustment done in the December 2016 forecast compared to the forecast that was approved. Fiscal year 2017 bumped up and FY 2018 pulled down back in December 2016. The decision was reversed because of the optimism going on in gaming, thus it made the gap of the upward revision in FY 2018 larger than the other two years.

Chair Neal:
Can you explain why they did the projection that way?

Russell Guindon:
The actual revenues we were tracking back in December 2016 led forecasters to believe that maybe things were not that strong. There is a mechanism in the gaming percentage fee tax—an adjustment for every month relative to what was paid three months prior. It is call the "estimated fee adjustment." It is a mechanism that puts a significant amount of variance in a tax that has a significant amount of variance. The reason why is because gaming has a lot of credit play. Under the law, the credit play is not taxable until it is actually collected. With regard to gaming, there are months when there is over $1 billion worth of credit extended in the state of Nevada, but not all of that may be collected back within that period. That puts variance in the series. You then have a true-up every month for what was done three months prior. Based on the information set we had back in December 2016 and the Economic Forum listening to the discussion about the forecast, they thought FY 2017 was possibly too weak at that point in time, and FY 2018 was possibly too strong. That was the adjustment that was done back in December 2016. Based on the information that we have now—about four months' worth of actual information, and looking at where things are currently—that probably was not the right decision.

Assemblyman Kramer:
I understand what you are saying, and it follows. If I were a forecaster for something like this, I would say it looks like FY 2018 is going to be significantly better, yet to hedge my bet, I am not going to anticipate that FY 2019 will be as good as the difference between FY 2018 and FY 2017. It looks like there is a little bit of wait and see. That is what I am reading into the fact that the difference for FY 2018 was $11 million and the difference for FY 2019 is $6 million. When you look at that percentage, that extra couple hundred million dollars, you do not know whether it is going to be there or not.

Russell Guindon:
Going from memory here, the Economic Forum's forecasted growth rate for FY 2018, back in December 2016, was 1.4 percent. Now it is up to around 2.2 percent for FY 2018. That 0.8 percent is really what is driving the $11 million upward revision.

Assemblywoman Bustamante Adams:
I have a question on the tax credits. In your opening statement you said it is under current law. Does your team look at the potential of tax credits and abatements for this year? Do you have any discussion at all during the forecast for those?

Russell Guindon:
During the actual forecast being prepared by staff who prepares and presents the forecasts, either to the Technical Advisory Committee on Future State Revenues or the Economic Forum, no. We are only looking at the current statutory tax credit programs. The tax credit bills being considered this session will be taken into account this session. If any of those bills pass, then your Fiscal Analysis Division staff would be making what are called legislative adjustments to the Economic Forum's forecast, to the extent possible to account for those.

The Economic Forum is required under law to make their forecast on May 1. Anything this Legislature approves, the Governor signs, and becomes law, we make either the positive or negative adjustment to the unrestricted General Fund revenue so it is properly taken into account for the General Fund budget being approved. You need to know that to be able to properly work the ending fund balance. You need to let the revenues be artificially high because you are not accounting for things that could negatively affect them, or let them be artificially low if there is something that is approved that could require the forecast to be revised upwards.

Assemblywoman Bustamante Adams:
On the tax expenditure report that is produced by the Department of Taxation, I believe for 2015 to 2016 it said the expenditure credits and abatements totaled $43.7 million, and in the May 1 Economic Forum forecast, if I understand it correctly, it has gone from $55.2 million, and you have it forecasted for FY 2019 at $168.5 million. We have more than 100 percent doubled the amount of money we are giving out in abatements, credits, and exemptions. Is that a correct statement?

Russell Guindon:
Yes, that is a correct statement in terms of reading the numbers. What is important to add are the nuances of what is driving the total tax credits there. If you look at the next line down—the commerce tax credits against the modified business tax (MBT)—you can see the commerce tax was not in effect for FY 2016, but when you look out to FY 2019 they are estimated to be $93 million (Exhibit C). How the commerce tax credit against the MBT works is if you pay the commerce tax and the MBT, you are entitled to a credit against your MBT in the current fiscal year—up to 50 percent of your commerce tax liability for the preceding fiscal year. What is going on now—in FY 2017—taxpayers are taking their credit

against the MBT for the commerce tax that they paid in FY 2016. That was one of the things that was discussed at the Economic Forum meeting yesterday. What your staff is observing currently is that through the first two quarters of the MBT, what could be taken has not. This is perplexing to your staff because there is this credit available and it is not being taken by businesses when we look at it on a by-taxpayer basis.

The other piece is the "all other tax credit programs," which is the economic development transferable tax credits—for the Tesla and Faraday Future projects, the film transferable tax credit program, the education choice scholarship tax program, the Catalyst Account transferable tax program, and the College Savings Plan of Nevada tax program. You can see there was $55.2 million taken for those tax credit programs in FY 2016, and it is estimated to be approximately $75.5 million in FY 2019. Of that big increase that you are seeing, $20 million of it is due to those five credit programs as you go from FY 2016 to the FY 2019 amount, but $93 million is due to the commerce tax program.

There is a distinction between the two tax credit programs. The commerce tax is part of the structural element of the commerce tax and the MBT. Yes, it is a tax-credit program but the Legislature approved it as the structural element, in terms of linking your commerce tax and MBT liabilities together. The other tax credit programs are more for special programs or economic development versus being perceived as part of your statutory tax structure.

Chair Neal:
If you are saying what could be taken has not been taken, what are the factors that are driving FY 2017 to FY 2018, where we see the $76.2 million grow to $88.8 million (Exhibit C)? Is there some kind of carry-over provision? How long can they hold on to the credit before they use it?

Russell Guindon:
They have to take them in the fiscal year in which they are earned. In FY 2017 they could take up to 50 percent of their commerce tax liability for FY 2016 against their FY 2017 MBT. If they do not use it, they lose it. That is under current law.

For the $76.2 million, the staff to the Economic Forum presented forum members information, just like what is being discussed here today. Looking to the first two quarters of the MBT we could see what has actually been taken versus what potentially is out there to be taken. Based on that information, the Economic Forum decided rather than taking the full potentially statutorily available amount of 50 percent of the commerce tax estimate, they only took 45 percent, which was worth about $8 million for FY 2017.

Because of the uncertainty involved in this, and part of the discussion was that this was a new tax and people are still learning about the credit, they stayed with the 50 percent amount for their estimates for FY 2018 and FY 2019. Another reason it is growing is because the commerce tax estimate is growing. You can see that by looking up above on the commerce tax (Exhibit C). It goes from an actual amount of $143.5 million in FY 2016 to $195 million estimated for FY 2019. As the estimated collections for the commerce tax are projected to grow, then the credit is going to also grow. It should move in proportion to what you pay—then your credit should go up.

Chair Neal:
In all other tax credit programs, where we see $70.9 million in FY 2017 drop down to $65 million FY 2018, what are the factors occurring in that space and why is it forecasted that way?

Russell Guindon:
It has to do with the timing of when the tax credits are estimated to be taken by the various projects. The information for the Faraday Future and Tesla projects is based on information provided by Steve Hill, the Executive Director of the Office of Economic Development, Office of the Governor (GOED). He provides that information to the Budget and Fiscal Analysis Division staff. One of the reasons why it is $55 million in FY 2016 is because that is what they actually have taken, and then it is estimated to be more in FY 2017 due to estimated increased activity at the Tesla project. We are actually seeing that occur in the taxable sales. We chart that. If you have interest in seeing that you could go to the Economic Forum's website. You can look up the taxable sales charts for Storey County. You have to keep expanding the y-axis to keep it on the chart, with the growth that is going on out there.

It goes down in FY 2018 partly because of the timing of the estimated investment for the Tesla project. You ramp up and then you start to phase back down. Regarding the Faraday Future project, Steve Hill provided us information that GOED has entered into an agreement with them. They will not take any of their tax credits until they have reached the $1 billion investment threshold. His information to us is that they will not be taking credits in the next biennium—the FY 2018 to FY 2019 period. Part of the reason for that is if they have already gotten to the threshold and then they get the credits, you do not have to worry about any clawback provisions because they have met the criterion to be able to earn the credits, which is the $1 billion threshold.

Assemblywoman Bustamante Adams:
You talked about the Economic Forum making the decision to take 45 percent instead of 50 percent. Where would an individual find that information, to be able to understand it better?

Russell Guindon:
You would not see it displayed anywhere in these tables. It is much like you do not see the different sales tax forecasts for any of the revenues that are presented here. There is information presented to the Economic Forum and then they make a decision. That decision is numbers, and those numbers end up in this table. It is part of the public record. Michael Nakamoto, Joe Reel, and myself are your fiscal staff, who are also staff to the Technical Advisory Committee on Future State Revenues and the Economic Forum. We are pretty careful about making sure this

kind of information is getting reflected as part of the public record for the Economic Forum process—because they are a statutory body that has a statutory job to do. I do not know if that is the answer you were wanting or expecting, but that is the best one I have for you, Assemblywoman Bustamante Adams.

Chair Neal:
I have one more question on the top box (Exhibit C). If you look at "all other revenue sources," we drop in FY 2017, we continue to drop in FY 2018, and then we jump up in FY 2019. What are the factors at play between FY 2017 and FY 2018? What is happening there? What is the drop due to?

Russell Guindon:
The drop in FY 2018 compared to FY 2017 is because of the governmental services tax (GST), as approved by the Legislature in the 2015 Session [Senate Bill 483 of the 78th Session] for the current fiscal year. You may remember when Mike Willden, the Governor's Chief of Staff, presented in this Committee [Assembly Bill 486, Assembly Committee on Taxation, April 11, 2017]. He explained it is a 50-50 split of the GST between the State Highway Fund and State General Fund for FY 2017, but under current law, 100 percent of it goes to the State Highway Fund beginning in FY 2018. The forecast for that, on these sheets, is zero for FY 2018. The drop would actually be bigger, taking off that 50 percent of the GST.

"All other revenue sources" on these sheets is everything but the ones you see at the top— the eight revenue sources. That is everything that you do not see listed separately. What you are seeing there is the net effect of the Economic Forum's downward or upward revisions to all these other General Fund revenue sources. The principal one that would be driving the drop in FY 2018, compared to FY 2017, would be the GST being zeroed out in FY 2018 to FY 2019. Remember, in FY 2019 compared to FY 2018, it is zero and zero for the GST, so you have annualized against the GST in FY 2019, and thus you are seeing the net growth that the Economic Forum has put into the "all other revenues sources."

Chair Neal:
I know the bill [Assembly Bill 486] has not passed out of the Assembly yet. We added a sunset on that bill so in 2019 we are going to see a revision around FY 2019 for the $602 million. Technically we sunsetted it so it would not be zero anymore.

Russell Guindon:
If the Nevada Legislature decides to approve the Governor's recommendation that came over in the *Executive Budget*, to have 25 percent of the GST that is supposed to go to the State Highway Fund go to the State General Fund for FY 2018 and FY 2019, and 75 percent stay in the State Highway Fund for FY 2018 and FY 2019, then your fiscal staff will estimate what that 25 percent is worth and we will add that to the sheets for the Economic Forum's forecast adjusted for legislative actions. Then when we are sitting here two years from now, you are absolutely right, Chair Neal, you would possibly again see this bump down and then come back up. If you pass that bill, as this Committee adopted, which is 25 percent for FY 2018 and FY 2019, and then 100 percent going back to the State Highway Fund beginning in FY 2020, you would have a step function in a sense where you are at a certain level, you go down to zero, and then you go across

to zero in the State General Fund again. You could see this phenomenon occur. It will probably be less of an order of magnitude because the 50 percent is close to about $40 million, thus the 25 percent is probably around $20 million. The full portion of the GST [100 percent] is probably estimated to be close to $80 million per fiscal year.

Chair Neal:
With this Committee having passed Assembly Bill 402, is there going to be an effect in the sales tax we collect if it passes on the ballot and we then no longer collect for those items? I do not know what that is going to amount to in regard to not taxing feminine hygiene products.

Russell Guindon:
If that bill is passed, goes on the ballot, and is approved by the voters, I believe it would become effective January 1, 2019. For the biennium we are looking at here, those products covered under the exemption would no longer be taxed for the last six months of the second year of the next biennium. There would be a loss, and then clearly a loss going forward into the next biennium. We do not have estimates of the impact of that at this point in time. We are still trying to work on it. You can see the Department of Taxation said clearly in their fiscal note they will have a revenue impact, we just do not know how much. It is hard because we get taxable sales reported to us but they do not break those items out. You have the stores reporting their total taxable sales but not by any kind of items. We are out there trying to see what information is available to guide your legislative staff to prepare an estimate for that, but at this point in time we do not have one.

Chair Neal:
Are there any additional questions? [There were none.] Was the top box, the box titled "Economic Forum May 1, 2017, Forecast," the only box you were explaining (Exhibit C)? I ask because the second box is "Economic Forum December 2016, Forecast," and the last box, the box titled "Difference: May 1, 2017, Forecast less December 6, 2016, Forecast," is the differences. We are kind of getting into the differences a bit.

Russell Guindon:
I went through the FY 2017, FY 2018, and FY 2019 columns. A point worth making is in the "2017-19 Biennium" column at the top, you can see that the estimated revenue before tax credits is $8,305,300,000. Then after the approximately $322 million in tax credits, the net amount available for the Legislature to consider is $7,983,100,000. The net over the two years for that biennium is an approximately $95.9 million upward revision, or the 1.2 percent that you have been hearing.

Moving to the far right hand column you might ask why we are adding those three years together because we are not on a triennium. In the third box at the bottom of the page, you can see the net upward revision of the Economic Forum forecast in May 2017, compared to December 2017, for all three years, is $140 million. That is not per year, that is the amount for all three years. You can see it is about 1.2 percent for each of the three years, thus it should not be a surprise that it is 1.2 percent for the three years. I think that is pretty important to understand, that it is $140 million over the three years—the three-year total, not a per-year amount—that is out there and available for the Legislature for consideration for the legislative budget.

I would also like to make a final comment on the $7,983,100,000 in the Governor's *Executive Budget*. There is the statutory provision that 1 percent of the Economic Forum's forecast in FY 2018 and FY 2019 be held back and placed in the Rainy Day Fund, and the Governor's *Executive Budget* includes the recommendation to have that portion of the law take effect. The law actually was approved during the 2009 Session [Assembly Bill 165 of the 75th Session], but has never been in effect because we did not let that 1 percent go into the Rainy Day Fund. It was used to weather the Great Recession. Of that $7,983,100,000, approximately $80 million will be going into the Rainy Day Fund.

The last point worth making here for the members of this Committee, getting to the discussion from earlier, is that not 100 percent of that amount, after subtracting the 1 percent, is totally available for appropriation. Why? Because you need to keep somewhere between 5 percent and 6 percent back to be able to hit your ending fund balance.

For those of you who are on the money committees, as this continues to go forward, you will hear discussions about the fund balance and the fund balance sheets, which are really like an income statement with revenues at the top, appropriations in the middle, and the ending fund balance at the bottom.

Those are the comments I wanted to make. I appreciate you allowing me the opportunity to go through this information with the Committee.

Chair Neal:
In the budget last time, for 2015 to 2017, what was the *Executive Budget* amount? Was it $7.2 billion for the biennium? How does the forecast take into account money that was placed into the budget via transfers from other accounts that were not actually revenue generated?

Russell Guindon:
I think Mr. Nakamoto may be able to look at our appropriations report online and answer the first part of your question of what was the legislatively approved General Fund budget for the 2015 to 2017 biennium. I am not sure I follow your second question. The unrestricted General Fund is really the unrestricted General Fund. There is no State Highway Fund money that is transferred into the General Fund to fund General Fund budget programs.

Chair Neal:
Let me clean that up. What I have seen is they will transfer money from one account to another. It is like they are repurposing the money, then it is used for something else. It is not like we generated money in X account, and we just moved the money over. Let us use the GST bill [A.B. 486] as an example. There is no money for the Rainy Day Fund, but you are going to take away from the State Highway Fund to create the Rainy Day Fund. That does not mean there was a surplus, it means you took from the State Highway Fund to create a savings, which technically is not a savings because you did not make the GST account whole. It is not at 100 percent. You just took from it.

Russell Guindon:
The GST is that revenue source. I think this was discussed that as it was approved in the 2009 Session, the proceeds that came from the 10 percent change in the depreciation schedules for four years, 100 percent was to go to the State General Fund, and then after that, 100 percent to the State Highway Fund. However, this was one of the revenue sources that was not allowed to go to the State Highway Fund. It was kept in the State General Fund to fund the *Executive Budget* during the Great Recession. In the 2015 Session there was a decision made to have 100 percent go to the State General Fund for FY 2016, and a 50-50 split for FY 2017, and then 100 percent [S.B. 483 of the 78th Session].

For the Governor's *Executive Budget* and the bill that was presented to this Committee [A.B. 486] I can see where it might look like we are transferring from one fund to another, but it is really changing the law to require where the proceeds from that tax are being deposited. You are right in the sense that but for the bill that was presented to this Committee [A.B. 486], 100 percent of the proceeds would be going to the State Highway Fund for the GST for FY 2018 and FY 2019, but the Governor's recommendation is to take 25 percent to make the *Executive Budget* work.

Michael Nakamoto, Deputy Fiscal Analyst:
Mr. Guindon was reading my mind because I was pulling up the appropriations report to look it up. The Legislature approved General Fund appropriations of approximately $7,413,000,000 during the 2015 Session for the 2015 to 2017 biennium. To compare to the May 1 forecast on this table, in the top box (Exhibit C), total forecasted revenues for the General Fund for the 2015-2017 biennium are now $7,507,200,000.

Chair Neal:
We barely made it over. Are there any additional questions?

Assemblywoman Bustamante Adams:
Regarding the gaming tax, and I know we are not going to go over this (Exhibit D) in detail, but in gaming revenue was there a negative effect with our partners from Canada and Mexico because of some of the comments that had been made? Has there been a downturn in visitor volume that was different from the forecast of estimated visitors that we were expecting?

Russell Guindon:
In aggregate the answer is no, the visitor growth has stayed up. It is hard for me because I do not see it stratified out by the Las Vegas Convention and Visitors Authority. Once a year they sort of do what is called a "visitor profile study," but on a monthly basis it is just total visitors. I do not have any information from visitors to look at to see if there has been any effect based on either one of those countries. I believe the March 2017 numbers were a new record in terms of the absolute number we observed.

Chair Neal:
Thank you, Mr. Guindon. I will open the hearing on Senate Bill 54 (1st Reprint). I would like the presenters to come to the table.

Senate Bill 54 (1st Reprint): Revises provisions governing the use of the proceeds of a tax for infrastructure by certain smaller counties. (BDR 32-341)

Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County:
Senate Bill 54 (1st Reprint) does not increase any taxes. It only expands the use of the *Nevada Revised Statutes* (NRS) Chapter 377B Tax for Infrastructure, which was enacted 20 years ago by the Legislature.

In section 2, subsection 1 of the bill, Clark County selected in statute what they needed the funding for, which was water and wastewater facilities. In section 2, subsection 2, Washoe County selected in statute flood control and public safety facilities as what they would use the tax for.

In section 2, subsection 3, 15 rural counties share the definition of what they can use the tax for. Each of the 15 counties did not get the opportunity to individually select what they would use the funding for. With varying needs of the 15 rural counties, we are requesting the use of the tax be expanded to address those local needs.

Senate Bill 54 (1st Reprint) expands the use of the tax to construct other facilities such as health and welfare facilities, which could assist rural counties with their hospitals—some of which are having difficulty staying open. Senate Bill 54 (1st Reprint) also expands the use of the tax to ongoing expenses of operation and maintenance, such as Washoe County was able to do in section 2, subsection 2, paragraph (c). However, S.B. 54 (R1) only allows rural counties to use the tax for services and supply costs, not for salaries and benefits.

For example, Lyon County enacted a one-quarter cent infrastructure sales tax about 10 years ago for public safety buildings—notably the jail. The life cycle cost of a jail is only 20 percent for the construction and 80 percent for operations. Many jurisdictions, when they build a jail, have great difficulty paying for its ongoing costs. Rural counties need the funding not only to construct the buildings, but to also operate them.

Senate Bill 54 (1st Reprint) also requires the rural board of county commissioners to review the plan for the expenditure of the tax every 4 years. That is located in section 1, subsection 8 [read from (Exhibit E)].

Chair Neal:
Do the members have any questions? [There were none.] Earlier, before Committee, we were looking up how much the infrastructure tax is for Lyon County. It was around $943,000, which would mean $962. What can you do with that amount? What is the plan? Are you planning on leveraging that?

Jeff Page, County Manager, Lyon County:
We built a new justice complex and opened the doors in 2013. This was a $24.5 million facility. The majority of that funding came from the one-quarter cent sales tax—$900,000 to $1 million per year—plus money we had saved, and about $3 million we borrowed from our enterprise fund. We are paying back the $3 million at a percentage basis so we had some depreciation money in place for the utility. We are completely done with the outside structure of the building. The jail is occupied, the sheriff's office is occupied, and the courts are occupied. We have a small section of shelled-in space where the district attorney's office will go. Once that is done, our plan with the funding is to utilize that to pay for contract services within the jail facility. That is not our long-term goal, to keep paying it that way. However, it is a goal to get those services in place; and as the economy turns around, to start slowly but surely moving away from that to the county general fund.

What do I mean by contract services? We are in close second with Carson City for being the third-largest county in the state. Carson City is very condensed, whereas Lyon County has a large area of ground as well as population to serve. We have a disproportionate amount of behavioral health issues in our facility compared to the surrounding county facilities. Our socioeconomic situation is extremely poor throughout the county with the number of behavioral health issues. We have had several suicides in our facility since it was opened in 2013. The current sheriff took an aggressive approach to dealing with those issues. We had to do a little restructuring of some of the facilities and operations within the jail. Once this building is done and in the next two years—which coincides with the retirement of our jail physician—we plan on contracting with a provider to provide medical, mental health, and dental health for all the health issues that need to be handled in a jail, as well as pay for a contract for our food services. Unlike the urban north and the urban south, we do not have the population to draw the skill set from to provide those services within the county itself.

We have a local hospital in Yerington that has eight acute-care beds. It is more of a long-term care center than a true hospital. The majority of the patients that are critical are either flown out by helicopter or transported by ground ambulance to a Reno hospital. They are not able to provide the health care services that we can provide, nor are they able to provide the meals to the jail the way Churchill County does it. We are looking at two functions for that funding—a four- to eight-year period to get us to the point where we can do that, and as things turn around, remove that one-quarter cent sales tax. Alternatively, the board of county commissioners can implement it for some other project within the county they want to do, whether it be constructing a new senior center, constructing a new court house in Dayton, or whatever that situation may be. That is staff recommendation to the board of county commissioners. There has been no formal action taken by them, mainly because we do not have the legislative authority to do that yet, but that is our recommendation at this time.

Assemblyman Marchant:
We spoke earlier. This is not a tax increase. This was something you did 20 years ago, I believe, and this bill just gives you the authority to spend it on different things that have risen during that time. Is that correct?

Jeff Page:
That is correct.

Assemblywoman Bustamante Adams:
As we have new members on the Assembly Committee on Taxation, can you please explain why it was set up the way it was, and why do you want to change it? I think I know the answer but if you could explain that, it would really be helpful.

Mary Walker:
I was here 20-some years ago when this infrastructure tax took effect. At that point, for the rural counties, the input was that it was needed in certain areas, but it more reflected what Washoe County and Clark County needed. The original impetus was storm drainage and those types of infrastructure projects—flood control for Clark County and Washoe County. As far as rural input, we did have input on the different types of things we needed but the problem is in section 2, subsection 3—all 15 counties have to share that subsection. No one ever went to every single one of the rural counties and asked what they needed the tax for. Instead there was a list. Over time we have come back.

About ten years ago we came back and asked for an expansion to be used to include public safety facilities, and we were able to use it for that over the last ten years or so. As we have needed the funding for different purposes, that is when we have come back. This is probably about the third time we have come back. Because of the recession, the shift of state services to the rural counties, and to Clark and Washoe Counties back in 2011—when the state shifted costs to the counties—we have had a very difficult time for several years. What we need to do is spend our money extremely carefully because it is finite. We do not have a lot of money in the rural counties. We want to make sure these dollars are going to where we need them. In order to enact this, we have to put in a plan. There is a plan that goes before the board of county commissioners. The board of county commissioners develops that plan, approves the plan, and one of the things that was put into this bill was that it would be reviewed every four years. There is going to be public input into the plan every four years via public hearings.

Assemblywoman Bustamante Adams:
Mr. Page mentioned mental health and your jail population. In the Assembly Committee on Ways and Means, they just went through the budget for mental health, through the Department of Corrections, and through public safety. The numbers for some of the mental health cases because of the Affordable Care Act have gone down significantly. In those hearings it did not appear there was an increase. They put in provisions to be able to address mental health and dental care for prisoners, along with meals. I am not sure how you collaborate with the state. According to those presentations, there is a plan to address those issues.

Jeff Page:
The state gets to do things differently than we do. I am not being critical, I am just being open and honest. The challenge we have in rural Nevada versus the urban north or urban south is this: if we are dealing with a state entity, the state may very well budget to provide support services to the Department of Corrections. However, that does not necessarily translate to those services coming down to the local sheriff for jail operations unless we transfer a prisoner to the prison system as a safekeeper. In that case, we pay anywhere from $750 to $2,000 per day to the state, depending on the health issues, for housing a prisoner as a safekeeper.

In Lyon County we have a very robust forensic program in our jail facility, and we are trying very hard to keep the mentally ill and behaviorally health challenged people out of jail unless they absolutely have to be there. We cannot do that without the support of the licensed clinical social workers and the behavioral health component of that. We are in negotiations right now with the Department of Health and Human Services (DHHS) to provide positions through a grant to get that taken care of. My fear is that every grant comes to an end. We never plan for that. No government ever plans for that. We think it will go on forever, and when it comes to an end we are all surprised. We are actually looking ahead to the next four to eight years, when these grant funds change, or get reduced or eliminated, and how we will sustain a viable mental health, medical health, or dental health program within our facility.

In 1985, when I started with the sheriff's office, there were four shifts. I worked graveyard and there were no prisoners in our jail. Today we are running a daily average of 105 prisoners. In 1985 we did not take anyone to the doctor unless they were dying. Litigation and a variety of other things have changed the way we deal with that. We are trying to get ahead of the game so we do not have the same issues. We have learned from our own mistakes and the mistakes of the larger urban areas so we can get ahead of the game and keep ourselves out of court.

When I retire, I do not want to be remembered as the most litigated county manager in Lyon County's history. It has been that way for the last six years—every time we turn around we are getting sued. We are trying to get ahead of the game, to deal with these mental health issues, and as part of our restorative justice program throughout the county to keep people out of jail who do not need to be there, and to get them into the programs they need to be in. Our vision is to come back to the state in the next two to four years and say that we are ready to do this on our own, we have the programs in place, and we are going to take care of these issues ourselves and work with DHHS to make that transition, not because we are unhappy with the state, but because we believe that with less bureaucracy we can do a better job and it is a bit of a challenge. The state has a hard time maintaining employees at DHHS, specifically in mental health. We understand that and we are trying to take care of ourselves.

We are trying to become less of a burden to the state and more of a partner with the state on some of these issues. Hopefully that answers your questions as to why we are doing this on the mental health side. On the medical side, we have no choice. When our physician retires we do not have anybody in the area who is willing to provide that service on a regular basis.

Right now, in our facility, under Chapter 213 of NRS, our deputies and correctional officers are allowed, by law, to dispense medications. How comfortable are you with having a 21-year-old dispensing various medications to your father throughout the day when they have all of these other things going on, where they might make a mistake? We have had those things happen in the past. That is why we are trying to get a full-scale, full-service, medical health operation in our facility, to reduce those risks to the county. The single biggest liability to Lyon County, to any county, is their jail.

Chair Neal:
Are there any additional questions from the members? [There were none.]

Joe Mortensen, County Commissioner, Lyon County:
I think Mary Walker and Jeff Page covered it pretty well. I have one additional comment I would like to make. Throughout our county we are leasing buildings to provide space for human services, building and planning, and other departments. The ability to be a little more flexible with this tax would greatly help us as far as allowing us to help ourselves, you might say.

Pat Whitten, County Manager, Storey County:
Storey County fully supports the added provisions of this bill. I want to talk about some discussions we had as we were formulating the bill. Going through what Mr. Guindon referred to as the last Great Recession, we looked at certain vital services that the county general fund was struggling to maintain, and we needed funding sources. This was programmatic funding for things like your senior centers and your libraries. There was a period of shame for Storey County, about 2011 or 2012, where we were the only county in the state without a library. We had to close it down because we did not have the money to operate the library. We like the provisions where we are not paying salaries and benefits, but we can sustain programs for facilities that we have.

Chair Neal:
Thank you for your testimony. Are there any questions from the members? [There were none.] Is there anyone speaking in support of S.B. 54 (R1)?

Dagny Stapleton, Deputy Director, Nevada Association of Counties:
We are in support of this bill. We have heard from many of our rural county members that they are experiencing hardships funding basic services, as well as infrastructure needs of all sorts, and that includes the operation and maintenance of facilities related to

public safety and public health. The Nevada Association of Counties supports Lyon County and their request to expand how they can use the monies in their infrastructure fund. Regarding the conversation about jails, and the cost of jails, we can say that across the state those costs are increasing for counties and their county jails.

Cheryl Blomstrom, Interim President, Nevada Taxpayers Association:
We also support Lyon County's attempt to expand the use of their infrastructure fund. The four-year review that is in the bill now is an amendment they added on, upon our request, as well as a narrowing of the ongoing expenses of operation and maintenance. That was a lot broader in the initial bill. They worked with us very closely and we are very appreciative of that.

Bryan Wachter, Senior Vice President, Retail Association of Nevada:
We would echo the comments of the Nevada Taxpayers Association and urge your support of S.B. 54 (R1).

Chair Neal:
Thank you for your testimony. Is there anyone else in support of S.B. 54 (R1)? [There was no one.] I will now take testimony from those who are in opposition to S.B. 54 (R1). [There was no one.] I will now take testimony from those who are neutral on S.B. 54 (R1). [There was no one.] Do the presenters have any closing remarks?

Jeff Page:
On behalf of Lyon County and the board of county commissioners, I thank you for the opportunity to present our bill. We hope you can move this bill forward and provide us with the assistance we need. We are available to answer any questions you may have.

Chair Neal:
I will close the hearing on S.B. 54 (R1). I will now open the meeting for public comment. [There was none.] I will close public comment. We are adjourned [at 5:15 p.m.].

RESPECTFULLY SUBMITTED:

____
Gina Hall
Committee Secretary

APPROVED BY:

____
Assemblywoman Dina Neal, Chair

DATE: ____________________________________

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a document titled "Economic Forum General Fund Revenue Forecast Comparison: May 1, 2017, Forecast Versus December 6, 2016, Forecast," dated May 1, 2017, presented by Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

Exhibit D is a document titled "General Fund Revenues – Economic Forum May 1, 2017, Forecast," presented by Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

Exhibit E is written testimony in support of Senate Bill 54 (1st Reprint), dated May 2, 2017, authored and submitted by Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County.