

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

**Seventy-ninth Session
April 6, 2017**

The Senate Committee on Revenue and Economic Development was called to order by Chair Julia Ratti at 3:47 p.m. on Thursday, April 6, 2017, in Room 2135 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 and to McMullen Hall, Great Basin College, 1500 College Parkway, Elko, 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 Julia Ratti, Chair
Senator David R. Parks
Senator Ben Kieckhefer
Senator Michael Roberson
Senator Heidi S. Gansert

COMMITTEE MEMBERS ABSENT:

Senator Aaron D. Ford, Vice Chair (Excused)
Senator Patricia Farley (Excused)

GUEST LEGISLATORS PRESENT:

Senator Mark A. Manendo, Senatorial District No. 21

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Tina Nguyen, Committee Manager
Lex Thompson, Committee Secretary
Colleen Lennox, Committee Secretary

OTHERS PRESENT:

Christine Adams, Nevada Strategic Highway Safety Plan
Laura L. Oslund, Director, Partners Allied for Community Excellence; Vice Chair,
Impaired Driving Critical Emphasis Area Team, Nevada Strategic Highway
Safety Plan
Michael J. Willden, Chief of Staff, Office of the Governor
James R. Wells, CPA, Director, Office of Finance, Office of the Governor
Chris Daly, Nevada State Education Association
David Goldwater, Secretary, Nevada Dispensary Association
Will Adler, Sierra Cannabis Coalition
Marla McDade Williams, Nevada Cannabis Coalition
Cheryl Blomstrom, Nevada Taxpayers Association
Dagney Stapleton, Nevada Association of Counties
Mike Cathcart, City of Henderson
Mary McElhone, CPA, Business License Section Manager, City of Las Vegas

CHAIR RATTI:

I will open the meeting with the hearing on Senate Bill (S.B.) 440.

SENATE BILL 440: Extends to all counties the requirement for certain employees of establishments where alcoholic beverages are sold to complete certain training. (BDR 32-1003)

SENATOR MARK A. MANENDO (Senatorial District No. 21):

I am with you today to introduce an important upgrade to Nevada's law that is currently only required in Clark and Washoe Counties. Senate Bill 440 would expand server training to all Nevada counties.

Nevada needs help. There has been a steady rise in the carnage on our roads because drunks choose to get behind the wheel. Alcohol-impaired fatalities have changed from 69 in 2010 to 97 in 2015, which is the last year the data was finalized. The National Highway Traffic Safety Administration (NHTSA) tracks fatalities across the United States. The tracking shows that in 2011, the 0.29 fatalities per million vehicle miles traveled (VMT) in Nevada was below the national average of 0.33 alcohol-related fatalities per 100 million VMTs. Four short years later, the numbers are reversed and Nevada is at 0.33 fatalities due to alcohol per 1 million vehicle miles traveled, and the national number has dropped to 0.29 fatalities per 100 million VMT. This is alarming on so many

levels, especially since voters have chosen to legalize recreational use of marijuana. Numbers are rising in an era when choice will be greater.

We need to educate frontline personnel, such as those serving the drinks, selling the alcohol and controlling the establishments where liquor is served. It is important to better equip alcohol servers so they can help in the fight to end drunk driving and thereby curb drunk driving fatalities and critical injuries.

There is a misconception that the problem of impaired driving lies only in the urban areas of the State. Look at data from NHTSA through the agency's Fatality Analysis Reporting System ([Exhibit C](#)). If you look at alcohol-related fatalities by the numbers on page 2, Clark is the only county shown in red on the map followed by Washoe, which is shown in deep blue. If you look at the same map of counties but at alcohol-related fatalities based on population on page 1, now Clark and Washoe are the only green counties, which means they are in the bottom third by comparison across the U.S. However, three other rural counties show up as red, which is in the top third, and two more counties are in the middle third. Alcohol-related fatalities are clearly a rural problem as well. Rural Nevada counties need this law and, in fact, are the ones asking for this law.

Alcohol server training will help identify when to stop serving a patron. Importantly, the training as outlined in the law also includes a lot of time focused on those too young to legally drink, including how to spot them, conduct identification checks and deal with minors.

A statistical snapshot of 2016 Nevada shows 13 fatalities when drivers under legal drinking age caused fatal crashes while impaired. Eight of those 13 were shown with blood alcohol content (BAC) above the 0.08 percent legal limit for adults. Three showed THC, the active metabolite in marijuana, one was THC and another drug combined and one was a different drug. These kids who should not be drinking at all are the cause of fatalities when they choose to get behind the wheel while impaired.

Today, you will hear a law with the potential to save lives. Passing this law has much potential for our smaller communities to help cope with this problem.

Christine Adams will walk us through the bill. She has some prepared remarks, and we have an amendment.

CHRISTINE ADAMS (Nevada Strategic Highway Safety Plan):

As a part of the Nevada Strategic Highway Safety Plan (NSHSP), I am the chairperson of a subcommittee on alcohol server training laws which is part of our Impaired Driving Critical Emphasis Area Team. I personally spent 17 years employed by the alcohol service industry, and I now work in harm reduction and prevention. There is a bridge between responsible beverage service and traffic safety as it relates to impaired driving.

Responsible beverage server training is a key component to the NHTSA guide to reducing impaired driving, *Countermeasures that Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, Eighth Edition, 2015*. This training brings thoughtful education on the clinical effects of alcohol on the human body for those who serve an impairing substance. It includes how to recognize signs of impairment and how to discontinue service to intoxicated patrons. The training also provides methods of preventing access to alcohol by minors and trains employees of the industry how to recognize altered or false identification. It provides alcohol servers with the tools necessary to handle difficult situations and prevent altercations that endanger public safety.

Research shows that effective, responsible beverage service-training programs are known to reduce BAC levels of bar and restaurant patrons, increase checks for proper identification by alcohol servers and reduce the sale of alcohol to minors. With these goals in mind, S.B. 440 seeks to extend alcohol server training requirements to all counties in the State.

Existing law requires establishments that sell alcoholic beverages by the drink for consumption on the premises to ensure successful completion of alcohol awareness training and imposes a civil fine for a violation of these requirements. This requirement is imposed by State statute only in counties with a population of 100,000 or more, which includes only Clark and Washoe Counties. Section 2 of this bill would extend this requirement to counties with populations less than 100,000.

In section 2, subsection 2, of S.B. 440, NRS 369.630 would be amended as follows: On and after July 1, 2019, a person who operates an establishment in a county with a population less than 100,000 shall not hire or continue to employ a person to sell alcoholic beverages or to perform the duties of a security guard at that establishment unless the person hired to serve or sell alcohol or to act as the security guard at such an establishment has successfully

completed a certified alcohol awareness program and already holds a valid card. The person hired to serve or sell alcohol or act as the security guard at an alcohol establishment will successfully complete a certified alcohol awareness program within 30 days after the date of hire and obtain a valid alcohol education card. Section 2, subsection 7, of S.B. 440 would strike population definitions from existing law.

We have proposed two friendly amendments for your consideration. Due to time constraints, both amendments are conceptual at this point but have been recorded. Both amendments would only apply to counties with populations less than 100,000. The first would be in section 1, subsection 4, paragraph (b). It would amend for counties of less than 100,000 population only that the education may be presented through the use of audiovisual technology, but it is stipulated here that audiovisual technology includes closed-circuit video and videoconferencing or any other means where the instructor can interact visually and verbally with the student.

Carson City Sheriff Kenneth T. Furlong made the point that this specific training is best delivered in a setting that provides interaction between students and instructors. This strategy allows for question-and-answer sessions and more in-depth discussion about local laws while providing opportunities to role-play, which engages students with the information presented.

The second friendly proposed amendment is in section 2, subsection 7, paragraphs (a) and (b), which provides, for fines collected in jurisdictions under 100,000 population only, the issuing jurisdiction will instruct that 50 percent of fines collected be deposited within its county account for victims of crime and 50 percent into the jurisdictional general fund to be used to educate and enforce underage drinking laws.

This law falls upon our peace officers to enforce through compliance checks. In Washoe County, compliance checks are funded primarily through grant funding. With grant funding limited for enforcement of underage drinking laws, many rural law enforcement agencies make compliance checks a priority in their line item budget. This amendment would allow any civil penalties collected to remain in the jurisdiction where the citation was written. The monetary split between funds is in line with the State statute for money collected in both Washoe and Clark Counties. This would reward jurisdictions that value the

benefit of compliance checks and allow the fines to continue to fund their operations.

On behalf of the NSHSP Impaired Driving Critical Emphasis Area Team, I urge you to support the passage of S.B. 440. Requiring education on responsible alcohol service would benefit all of Nevada's communities.

SENATOR GANSERT:

How much does it typically cost to train an employee?

Ms. ADAMS:

The NRS states that it cannot be more than \$40. On average, I see these classes offered for \$20 to \$25. Many of the local coalitions provide training for free.

SENATOR GANSERT:

The \$20 to \$25, is that for an interactive class if they take it online or is that the historical charge?

Ms. ADAMS:

Both.

LAURA L. OSLUND (Director, Partners Allied for Community Excellence; Vice Chair, Impaired Driving Critical Emphasis Area Team, Nevada Strategic Highway Safety Plan:

Partners Allied for Community Excellence coalition covers Elko, Eureka and White Pine Counties. We support S.B. 440. We are very concerned for our citizens' safety in these three counties. As a member of the Nevada Statewide Coalition Partnership, which is made up of 12 coalitions that cover all 17 counties, we appreciate recognition of the importance of protecting our community members. It is important that the safety and welfare of all community members in this State are protected in the same manner. Senate Bill 440 and its amendments will help ensure this happens. When the population level designation is removed, all citizens will benefit.

Server-seller training gives information about and the ability to recognize over-use, under-age use and impairment. From the NSHSP, we know counties that lack a statute requiring training have a per capita impaired driving fatality rate four times that of areas that do have training. In Elko County alone,

25 percent of fatalities come from impaired drivers, and more than 75 percent of those were local drivers. People from out of state who party at casinos or bars do not cause the car wrecks. They are caused by local people, killing themselves and others.

Coalitions throughout the State will continue to support and provide training at a discounted rate, if necessary. It is not part of our plan to make money from this. The fees collected are to support and provide training for safety and wellness. The coalitions also support Senator Manendo's research on and inclusion of the impact of marijuana on the body and driving. The fines collected in our jurisdictions will allow us to provide for our victims of crime. Unfortunately, the car wrecks do not happen only with insured drivers who have support. We will be able to help those drivers.

The 50 percent allocation given by S.B. 440 to the general fund for support of education and enforcement of the laws in local jurisdictions will allow them to pay for the deputy's time. As is all law enforcement throughout the State, we are short-staffed. This will allow us to provide training to our law enforcement personnel and for them to provide compliance checks. The coalitions will also support and participate in any manner we can.

The Elko Downtown Business Association requires any entity that wishes to participate in special events and alcohol walks to attend alcohol server training. The Association does this voluntarily without requirement of statute and pays for it with funds collected from participating businesses. Our chief of police tracks those who have attended the training we provide. Local law enforcement is invested in ensuring the safety of our community members and visitors. Senate Bill 440 will ensure the safety of our community members and visitors to Nevada.

SENATOR KIECKHEFER:

For businesses, restaurants and taverns in the rural community where training is extended, what has the engagement been? Do some of them train voluntarily now? From the payment perspective, do employers usually pay for it? Is it an individual card for a person, right? Does the individual pay for it?

Ms. OSLUND:

I came from the NyE Communities Coalition prior to taking the Director's position here. It is a mix. There are a number of businesses, agencies and

organizations that pay for it. Some is grant-funded and some is paid by the individual because he or she wants the training. Fraternal organizations such as Kiwanis and Rotary Club have also supported the training for businesses and special events. Alcohol server training is supported by businesses, agencies, organizations and coalitions throughout the rural areas.

SENATOR KIECKHEFER:

The Commission on Postsecondary Education has to set the regulations that dictate what the training entails. Who actually provides it?

Ms. ADAMS:

Potential instructors must apply through the Postsecondary Education Commission and submit their curriculum. There are approved private businesses that train.

SENATOR KIECKHEFER:

Are there businesses in rural Nevada right now that train?

Ms. ADAMS:

I believe there are businesses. For example, the Nevada Restaurant Association provides ServSafe Alcohol Training, which is a national training class. The Association is willing to provide that in rural communities. Ms. Oslund is saying on behalf of the coalitions that they are willing to provide this training.

SENATOR KIECKHEFER:

My concern is that if training is mandatory and there are only one or two providers available in the rural communities, then it could get expensive for people as prices go up. If training is offered, then that concern is alleviated.

CHAIR RATTI:

Ms. Adams, do you want to speak to the amendment that allows virtual training?

Ms. ADAMS:

One of the amendments allows for a teleconferencing option as long as it provides an interactive component so the instructor can interact with students and engage them in conversation. It could be done remotely, for example from Washoe County or Clark County, as long as they were able to interact. Does that answer your question?

CHAIR RATTI:

It answers my question.

SENATOR GANSERT:

Data has been positive. Are there any local jurisdictions with the authority that have in fact made this mandatory? For instance, those local jurisdictions that have populations under 100,000 could have made this training a requirement. Did I not read that correctly? It looked like over 100,000, it was mandated; under 100,000, local jurisdictions could mandate it.

Ms. ADAMS:

I think Ms. Oslund was saying from Elko's perspective that its local government mandated training based upon a special use permit, for example, with a large event but not mandated for all.

SENATOR GANSERT:

I see. For special events Elko did, but we do not really know about the other jurisdictions?

Ms. ADAMS:

No. I cannot speak to that. I am here in Washoe County.

Ms. OSLUND:

It does go county by county, and some have mandated that servers be trained prior to special events and fundraisers. One of the reasons for this is that many times the special events and fundraisers are for a fraternal organization. Serving alcohol is not a normal part of their business. They do the training to raise awareness. There are a number of counties that highly suggest alcohol server training, but because it is not a law, they do not require businesses to be trained.

CHAIR RATTI:

We did this as a Committee bill. It is no accident that this bill was scheduled today, on the same day we are considering marijuana revenue bills. Regardless of what we are talking about whether it be tobacco, alcohol, prescription drugs or now marijuana, it is incumbent upon us to consider the public health package

that goes along with those industries that helps communities deal with the impacts.

I will close the hearing on S.B. 440 and open the hearing on S.B. 508.

SENATE BILL 508: Imposes an excise tax on sales of marijuana and related products by a retail marijuana store. (BDR 32-976)

MICHAEL J. WILLDEN (Chief of Staff, Office of the Governor):

On behalf of the Office of Finance for Governor Brian Sandoval, we are here to present S.B. 508 which implements the provisions of recreational marijuana that are in the Governor's *Executive Budget*. I want to spend some time on the taxation of recreational marijuana and give background to provide context for the discussion.

On the medical side, the 2 percent tax is levied at cultivation, at production facilities for edibles and infusion products, and then also the 2 percent tax at retail sale. Seventy-five percent of that money goes to the Distributive School Account (DSA), 25 percent goes to the Division of Public and Behavioral Health (DPBH) at the Department of Health and Human Services. Also in the medical side, there are fees collected to support those programs. Some of those fees are the medical cardholder application fees and establishment fees related to cultivation facilities, labs, dispensaries, etc.

On the recreational side regarding the State Question No. 2 initiative petition that was passed, there is a 15 percent wholesale tax at cultivation. That money goes to three areas. The first area is to support the Department of Taxation's administrative regulatory efforts. The second area is to localities for the cost of carrying out the laws related to Question No. 2. The third area is the remainder, which goes to the DSA.

The Governor's budget includes a proposal for a 10 percent excise tax on recreational retail transactions, all of which would go to the DSA.

I want to remind everybody that there are three budget accounts that have expenditures related to either medical marijuana or recreational marijuana. Two are in the DPBH. Those are the Medical Marijuana Patient Cardholder Registry and the Medical Marijuana Establishment Program. We want to ensure they are adequately funded. The third budget account is for the Department of

Taxation. Executive Director Deonne Contine has an account for the regulation and control of recreational marijuana or all marijuana, depending on where we go with the discussion. The DSA is the recipient of monies that are not used by DPBH and/or the Department of Taxation, which is the recipient of the funds that are then transferred to the DSA.

The Governor's budget includes about \$99 million in marijuana money. Of the balance in the DSA, roughly \$70 million comes from the 10 percent excise tax on recreational retail sales. Director James Wells will walk through calculations of how we arrived at the 10 percent tax and how much money it generates for the DSA.

JAMES R. WELLS, CPA (Director, Office of Finance, Office of the Governor):
Section 9, subsection 4, of S.B. 508 establishes the 10 percent excise tax on recreational marijuana retail sales, and subsection 6 transfers the tax revenue to the DSA via the Office of the State Treasurer.

To project revenue for both wholesale and retail excise taxes for the recreational marijuana program, the economist in my Office worked with those on the Legislative Counsel Bureau staff to find relative information from other states. Most of that information came from Colorado as well as a *Gallup.com* article on marijuana usage titled: "One in Eight U.S. Adults Say They Smoke Marijuana," dated August 8, 2016. The study that was done by RCG Economics for industry proponents in Nevada—*Nevada Adult-Use Marijuana Economic & Fiscal Benefits Analysis*, dated July 2016—included demographic information from the Department of Taxation on population and visitor volume as well as estimates on usage rates and usage quantities in grams. Those quantities are translated into ounces and then to the retail and wholesale price estimates.

To calculate the number of residents, we referenced State population of those over 21 years old. Assuming the existing medical program continues, we subtract out consumers on the medical side, which is about 50,000 people as of July 2019. Then we look to the percentage of population over 21 years old who purchase marijuana on the recreational side, which we estimate at 11 percent of the population. We then calculated the number of grams per month per person. Given the estimated number of resident recreational consumers, the usage is approximately six grams per month per person.

To calculate visitors, we estimated the visitors volume for the Las Vegas and Reno-Sparks areas, took the percentage of those over 21 years old and then the percentage who would purchase marijuana. The estimated usage was approximately 14 percent in Las Vegas and about 9.5 percent in Reno-Sparks. Next, we calculated the number of grams per visitor per month. We estimate visitors would purchase approximately three grams per person per month. After conversion of grams to ounces, we used a projected wholesale price of \$100 per ounce and an average retail price of \$350 per ounce. These prices are estimated based on markup data received from Colorado. Assuming the proposed start date for sales is July 1, we determined gross sales revenue by multiplying anticipated purchases by wholesale and/or retail prices to get gross sales product. We then multiplied gross sales product by the applicable excise tax rate.

To be conservative, we included only 65 percent of that revenue in the first fiscal year and 85 percent in the second fiscal year. We did this to be conservative in the projections and to ensure this revenue would not be short when we had to fill the DSA. If we do not come up with that revenue, we would have to turn to the General Fund to backfill that revenue.

The retail excise tax generates a little over \$69 million for the two years of the biennium. The amount going to the DSA on the wholesale side is about \$15.9 million, and the total amount going to the DSA from the recreational side is over \$90 million.

SENATOR KIECKHEFER:

Where did you get the 11 percent figure for usage?

MR. WELLS:

There was a usage study by *Gallup.com*. We used some of the information from that study as well as the RCG Economics study that was done after the State Question No. 2 initiative petition. Those studies yielded the 11 percent, which is the residents' side.

SENATOR KIECKHEFER:

Can you submit those for review or give me a copy of them?

MR. WELLS:

Yes.

CHAIR RATTI:

Just so the Committee is aware, we have met with Mr. Willden and Ms. Contine about the next bill we will hear.

CHRIS DALY (Nevada State Education Association):

We represent 40,000 educators across the State. Nevada State Education Association supports S.B. 508. We generally support new revenue sources for public education. Most of these afternoons I am across the hall in the Senate Committee for Education where there is no shortage of good ideas about how we can work to improve Nevada schools and system of public education. There are some big ticket items discussed over there, including the weighted funding formula. Many items need focus for our most at-risk and vulnerable students.

We do want to point out that the mechanism for putting these funds into the DSA may have the impact of displacing equal amounts in the General Fund that otherwise would head there. We appreciate the additional revenue and understand that a rising tide lifts all boats.

DAVID GOLDWATER (Secretary, Nevada Dispensary Association):

I am a board member for the Nevada Dispensary Association. In addition, I served as Chair of the Assembly Committee on Taxation for a couple of Sessions. I serve Governor Sandoval and Director Contine on the Governor's Task Force for the Regulation and Taxation of Marijuana Act Working Group as we consider the retail and medical marijuana taxes.

We have three main objectives regarding taxation in this area. One is to provide revenue for the essential services on what is essentially a discretionary purchase. That objective is met here with the Governor's urgency on this matter. The next is to make sure there is enough money to take care of any impacts in the community. Though the industry itself is reluctant to weigh in on the allocation of these taxes, we want to recognize that there are impacts on community, law enforcement and public health. We support your thoughts on where that money should go. I do not believe it is necessarily the industry's, but we do recognize there are impacts. The third objective is to keep the rate at a level where licensed and regulated businesses are competitive with the black market. I think you can understand that we want to keep the licensed and regulated businesses price competitive as the black-and-gray markets are not subject to taxation at any level.

We understand there is an anecdotal sweet spot at about 30 percent total taxation on the value-added markup. This sweet spot is where somebody who wants to buy an ounce of marijuana from a retail store can say: Okay, I would rather make my purchase from a safe, regulated, known and licensed operator. As you add tax to the price in excess of the sweet spot, then people will make a value-based decision because it is worth it from a price standpoint to buy from the black market.

There is a study on taxfoundation.org. From there, you can find Special Report No. 321 titled *Marijuana Legalization and Taxes: Lessons for Other States from Colorado and Washington*. Some of the key findings in this study show the amount of money raised in Colorado and Washington exceeded the expectations of estimates. Money did, however, come in slower than expected. Of note is the fact that Colorado, Washington and Oregon have taken steps to reduce their tax rates in response to either a black-and-gray market issue or excessive disparity with their medical program.

Another key finding is that taxes are most effective at the retail level, which is where S.B. 508 suggests placement of the taxes. I have provided a hypothetical comparison chart that compares Nevada's tax rates for medical versus recreational and current rate versus the proposed tax rate after S.B. 508 ([Exhibit D](#)). We are trying to create a delta between preservation of the constitutionally mandated medical program and the Governor's proposal. It helped me to understand what happens to a pound of marijuana as it moves through the system in the current environment and the proposed environment.

SENATOR KIECKHEFER:

If the tipping point is 30 percent between our wholesale and retail rates, where does S.B. 508 put us?

MR. GOLDWATER:

The proposal for retail marijuana is around 30 percent State and local taxes. We would talk about a 15 percent wholesale tax and, depending on your county, we will use 8 percent sales tax. A small amount of most of the local taxes are business license fees which are a tax on gross anywhere from 3 percent to 9 percent, then an additional 10 percent. All totaled it is around 30 percent.

SENATOR KIECKHEFER:

If we were to increase any taxes beyond those proposed so far between the Governor's excise taxes, the Question No. 2 initiative petition, local taxes and sales taxes, does the Association believe it would drive people to the black market?

MR. GOLDWATER:

Yes. It makes the black market more viable.

WILL ADLER (Sierra Cannabis Coalition):

I agree with Mr. Goldwater's comments, and I am here to support S.B. 508. During the Nevada Marijuana Legalization Initiative or Question No. 2 campaign, we did do studies and tried to project where other states were with taxation of marijuana both initially when they came out with their recreational programs and where they ended up. Washington ended up on the high end of taxes and had low sales, but they found a sweet spot around 30 percent to 33 percent taxes.

I feel this tax is essential for the State to cover our previous tax needs for local governments and the State. During the campaign when we were knocking on doors, we received feedback that marijuana tax would help fund education in Nevada. This tax is promises made, promises kept. The Governor has asked for another 10 percent sales tax, and I support that. Regardless of what the tax rate becomes, I feel like the allocation has to cover the needs of the State, education and local government. The tax rate should be around 30 percent to 35 percent. Washington and other states saw a literal cliff around 45 percent. There is a little bit of wiggle room but not a lot as shown in previous state studies.

CHAIR RATTI:

You said 30 percent to 33 percent.

MR. ADLER:

Yes. Other states have done compiling studies, but it is somewhere around 33 percent. One-third above black market price will bring people back to the black market.

CHAIR RATTI:

Forty-five percent was a cliff?

MR. ADLER:

Yes. A literal cliff or extreme drop-off in sales.

MARLA MCDADE WILLIAMS (Nevada Cannabis Coalition):

The Coalition represents 43 certificates throughout the State and wants to go on record in support of S.B. 508 and the comments given previously.

CHERYL BLOMSTROM (Nevada Taxpayers Association):

I will testify as neutral on this bill. I have a couple of concerns that I have discussed with all of you, so you have seen them at this point. We have concerns about earmarking, particularly with regard to a program that is federally nebulous. We are also concerned that if the federal government comes into our State and decides to enforce federal law, there is a real possibility of a large hole in whatever program this has funded.

With your permission Madame Chair, may I please speak to your bill, S.B. 487 right now?

CHAIR RATTI:

Yes.

SENATE BILL 487: Imposes an excise tax on sales of marijuana and related products by a retail marijuana store. (BDR 32-818)

MS. BLOMSTROM:

We like the idea of earmarks with a clear nexus between the user and the benefit to the earmark tax. In your case where there is local government, we see a real impact coming for local governments as this program rolls out. Earmarking some of it toward local government makes sense to us. We see some mental health issues and community health issues to address. We think that sort of earmarking is more appropriate.

CHAIR RATTI:

Ms. Blomstrom, we are going to get a little bit ahead of ourselves, so I ask the indulgence of the Committee. When we get to the next bill, we will talk about the need to simplify the taxation structure. Question No. 2 already has an earmark for education. In simplifying that structure, we may need to carry that earmark through some of the other pieces of the structure. I previously asked you this off the record, but now I want it on the record. If the Taxpayers

Association is weighing an efficient and effective tax system because there is something that is consistent across recreational and medical but it has to have the earmarks of education versus no earmarks, where does the Taxpayers Association fall?

MS. BLOMSTROM:

We come down on the efficiency and effectiveness. I think what you are talking about is consolidating and for taxpayers to have a known agency and a known rate. You will not be able to get rid of the earmark in Question No. 2 for at least 3 years. We cannot fix that, so the earmark stays. As you add to and direct those components of the tax, we want to see those with a clear nexus.

CHAIR RATTI:

I will close the hearing on S.B. 508 and open the hearing on S.B. 487.

SENATOR JULIA RATTI (Senatorial District No. 13):

I am here today to present S.B. 487, which is about building a tax structure. You have an original bill and a proposed conceptual amendment ([Exhibit E](#)), and we have what I call the placemat ([Exhibit F](#)). What we seek to do today in introducing S.B. 487 is to start the structure for medical and recreational marijuana by building that efficient and consistent tax system just discussed.

At this point, we face at least six bills that have some suggestions and ideas about how we should address marijuana revenue. Given the fact that we have some new revenue to look at, everybody is interested in having an opinion about how that revenue is collected and spent. Early in the Session, it is critically important that we build a structure that ensures what we hand off to the Department of Taxation or the Division of Public and Behavioral Health is well vetted, clean and efficient. That is the purpose of starting the conversation today.

This proposed conceptual amendment, [Exhibit E](#), takes the ideas that are out there from the other related bills and consolidates them into one bill, so we can start to build that framework. I will walk you through the decision points on that framework so you can see it. I want to ensure this Committee in particular fully understands it. My intention is to schedule a second hearing so we can move through those decision points. My goal for today is to reach a common understanding of all of the moving parts; then we will have another hearing where we can talk about the decision points on the moving parts.

[Exhibit F](#) is a layout that includes the current statute; the Governor's recommendation, [S.B. 508](#); [Assembly Bill \(A.B.\) 463](#), which is a bill sponsored by Assemblyman Nelson Araujo; [S.B. 302](#) as heard by the Senate Judiciary Committee and sponsored by Senator Tick Segerblom; [S. B. 487](#) is the bill that I introduced; and the proposed conceptual amendment, [Exhibit E](#). I would like to pause there and talk about my bill.

[ASSEMBLY BILL 463](#): Revises provisions relating to the taxation of marijuana.
(BDR 32-982)

[SENATE BILL 302](#): Provides an early start for recreational marijuana sales.
(BDR 40-545)

When I made the decision to run for the Senate, it was at the same time Question No. 2 went to the voters. Many times at different events and talking with different constituencies, I said that I would be willing to support recreational marijuana, but if it was successful on the ballot, one of the first things incumbent on the Legislature to do would be to pass a public health package that would address the impacts. My very first bill draft request was this bill request, which added the excise tax on to recreational marijuana to fund public health. That is how we got here. That was long before I heard the Governor's plans for the revenue. I want to be very clear that this 10 percent was not intended to be in addition to the Governor's proposed 10 percent. It was my own unique idea, separate from that.

In addition to [A.B. 463](#), [S.B. 302](#), and [S.B. 487](#), there are a number of bills that address the concept of capping business license fees. We will talk about those later. I want to make note that I have not yet spent a significant amount of time talking to the stakeholder groups. I have not been in direct conversations with the industry folks you heard from today and very little with local governments. I have been spending my time talking with the sponsors of the bills to ensure I understand their main focus, so I can pull those concepts into one structure. There is no intent to say that this is the perfect bill, the right amount or the right percentages. The intent today is to simplify our universe and bring it all under one structure, so this Committee will have the benefit of seeing that. Now, I would like to talk about [Exhibit F](#), which is the placemat-sized page.

Going from top to bottom if you look at the line that is primarily green, that is Question No. 2. As a Legislature, we do not have the ability to change that

piece for at least three years. From top to bottom in the leftmost column, you see gray boxes for Cultivation, Production and Retail. Then there are three light gray boxes for Medical and one white box for Recreational.

In the Current Statute column, we have a 2 percent tax on medical at the cultivation stage and a 15 percent tax now on medical at the cultivation stage, which is also known as wholesale. There is an additional 2 percent tax on production and a 2 percent tax on medical retail. The chart lays out the status and the distribution of proceeds. The 2 percent tax in medical is distributed 75 percent to DSA and 25 percent to DPBH.

The Governor's bill column picks up the same structure and adds a 10 percent retail tax.

Move on to the A.B. 463 column. What I understand from both the industry and my conversations with Deonne Contine is that maintaining two separate and distinct tax structures is an inefficient way to approach having both medical and recreational taxation. Assembly Bill 463 seeks to make this one uniform tax structure. What you see there is a 15 percent wholesale on medical and a 15 percent wholesale on recreational, which makes it a uniform tax system.

At the bottom half of the page, the piece with blue letters, A.B. 463 seeks to put a cap on local business license fees. We are looking for some consistency. There is a range somewhere between 2 percent and 9 percent, depending upon the jurisdiction. To honor what the industry is telling us that the sweet spot is somewhere between 30 percent and 33 percent, if you do not deal with the locals' ability to set a business license fee, you cannot get there. That piece needs to be in the mix.

Right below in the red letters are two other bills that have different versions of this idea. The one in blue is 5 percent, the first one in red, S.B. 341, is 3 percent and the final one, S.B. 329, is 0 percent. Different bills have caps on local government business license fees ranging from 0 percent to 5 percent.

SENATE BILL 329: Revises various provisions relating to marijuana concerning health and regulation. (BDR 40-361)

SENATE BILL 341: Revises provisions relating to medical marijuana establishments. (BDR 40-1110)

Move on to the next column to the right; S.B. 302 adds two interesting new components. The first is the early start provisions. The early start allows for an early start to those programs and adds 5 percent retail to medical marijuana. There was some testimony earlier that you want to have that delta between medical marijuana tax and recreational marijuana tax to avoid shutting down the medical industry and to ensure the price separation is correct. Try to imagine yourself a marijuana user, and you have to decide between the delta in taxes versus the fee for your medical marijuana card. That is the economic decision. If I go to recreational, am I going to pay more in taxes or am I going to pay more if I buy my medical card? A mathematical equation happens there. There is a 5 percent there in retail, and that is a lever that can move as well.

Move on to the S.B. 487 column. My intent was for there to be a public health package that deals with the impact and has a nexus to recreational marijuana as a source. This bill keeps the 2 percent, 2 percent, 2 percent, and the State keeps 15 percent because I was not aware of the need to synchronize the taxation systems. The whole distribution side talks about how we get that money into the public health benefit. In this case, 20 percent went to the State level, mental health and substance abuse; 30 percent went to the DSA; 50 percent went to local governments based upon the distribution below. The primary idea was to get money into the hands of local health and human services programs. This means mental health, substance abuse, specialty courts, positive alternatives for youth, law enforcement specifically for driving under the influence, underage enforcement and black market suppression.

This proposed amendment, [Exhibit E](#), gave our legal staff the opportunity to take all of those concepts and put them into one bill. As we move through the decision points on which pieces of these bills make sense and which do not, the amendment is in a format to which we can respond and potentially make changes.

The last pieces I want to talk about are the mechanisms to get money to local governments. You have heard testimony today that there is an interest in making sure that local governments get some money to address the impacts. It has been interesting to have the conversation because people talk about 5 percent or 3 percent. In different conversations, there is different vocabulary about where that money is coming from. I want to make sure this Committee understands that. I need to explain one more thing.

One of the realizations we came to recently as we worked through this is if you do not align the designated expenditures, the earmarks, to the taxation system, it still creates the problem where an individual producer would have to bar code a plant and track that plant whether recreational or medical because you have to be able to track distribution of the money. The Tax Department and the DPBH would also have to track that for distribution. If you truly want to get to a purely aligned taxation system, the expenditure side has to align as well. Even though we are not the Senate Committee on Finance, we are spending some time talking about the expenditure side because to get to the uniform tax system, you need to have that in place. When it gets to the Senate Committee on Finance, it could decide to change that. If so, I would advocate changing it across both medical and recreational, so the tax system stays aligned and efficient.

Now let us talk about the mechanism for how money gets to the local governments. In Question No. 2, language said the money goes to the Department of Taxation to manage it, the locals to pay for their costs, and then the remainder goes to the DSA. That is how Question No. 2 reads, so that is how we have to enact. There are still regulations and rules to make, or we could provide guidance as a Legislature on how to decide that cost. Question No. 2 is not detailed. It is silent about the mechanism or formula. That is one place.

The second place we already talked about, with the blue and red letters about business license fees. In addition, the third place is the potential of adding a percentage of excise tax on retail that could go to local governments. That was on my bill. My bill has an additional 5 percent excise tax that goes to local governments.

Those are the three mechanisms. For us, we can decide the amount, and then we can choose the levers that will get us there. I am not sure if the cost part aligned with Question No. 2 or if that should be in the business license fee or an additional excise tax. It can be anywhere. To make sure everybody understands the math, I have an example: A 5 percent gross receipts tax is the same amount of money as a 5 percent excise tax that operates much like a sales tax. It is the same number of dollars. It is a matter of where we want to put it if we want to push money to local government.

To recap, 15 percent and 15 percent on the cultivation/wholesale piece is in S.B. 487. That matches Question No. 2 on both medical and retail sales. There is a question whether the Department of Taxation or DPBH is the administrator because other bills move the program into one place. Primarily, those bills move it into Taxation. It would be shifting medical sales into the Department of Taxation for efficiency. It would be easier to manage if both taxes were in one unit. It includes the 5 percent that Senator Segerblom suggested on the medical retail and 15 percent on the excise tax for recreational in an intent to keep the Governor's 10 percent for DSA 100 percent whole. It keeps the mechanism for getting 5 percent to local governments, if that is the mechanism we want to choose. Then it includes distribution that gives local governments guidance to ensure the money serves the public health benefit. That is a nexus to introducing another legal substance into the world.

SENATOR KIECKHEFER:

Does Question No. 2 outline how we are to calculate the local government costs to carry out administration of the program?

SENATOR RATTI:

No.

SENATOR KIECKHEFER:

Does your bill talk about how we calculate that?

SENATOR RATTI:

No.

SENATOR KIECKHEFER:

At some point, we are going to have to figure that out.

SENATOR RATTI:

Yes, I agree. I want to be clear that this is to try to get everybody to understand what the structure would be. Therefore, that is a decision point of how we do that. My anticipation, in what will now be some rounds of conversations with stakeholders as we narrow in on that, applies to what portion should go to local government and how should it go there? That answer informs that conversation. Is it just 1 percent across the board? Is it a reimbursement process? I do not think anyone is in favor of that. It can happen many different ways. It could be a calculation.

I do want to point out an interesting question that has to be answered as well: Does the money that goes to local governments only go to local governments where marijuana businesses have been established, or do we want a mechanism where that money is distributed through all counties whether or not they have establishments? That is another part of the question that still needs to be resolved.

SENATOR KIECKHEFER:

Included in the budget is some wholesale tax. How did you decide how much goes to local government versus what goes to the DSA under Question No. 2?

MR. WILLDEN:

The Governor's budget includes Taxation – Marijuana Regulation and Control Account No. 4207, \$5 million per year set aside for local government. We put a placeholder in that budget account because we did not have a way to calculate the costs to localities. When you look at the 15 percent wholesale revenue stream, we set aside dollars for Director Contine to employ her staff. We put \$5 million per year in for local governments, and the process would be that they could apply and receive those funds.

SENATOR KIECKHEFER:

It has \$10 million going into the DSA? If it were \$5 million going to the locals, would it be \$10 million to the DSA?

MR. WILLDEN:

No.

SENATOR KIECKHEFER:

Oh, I see. From the Department of Taxation.

MR. WILLDEN:

There is \$16 million held for taxation and local governments; \$10 million goes to local governments and approximately \$6 million is retained by Director Contine to administer the program. About \$70 million of the 15 percent wholesale tax goes to the DSA.

SENATOR KIECKHEFER:

I was thinking of the wrong line on the chart.

SENATOR RATTI:

The intention here was to be transparent to the Committee but also to the stakeholders, so they could help form this conversation. I anticipate more conversation. It was important to me that we get a clean structure and start that conversation, so there is no confusion down the road about what conversation people thought they had versus the conversation they actually had. This is getting us to a place to do that.

MR. WILLDEN:

I have a correction for the record. I said \$6 million is retained by Director Contine, and it is \$4 million—\$4 million for the Department of Taxation, \$10 million for local government, \$70 million to the DSA.

MR. GOLDWATER:

Senator Ratti, this placeholder is a great vehicle. We appreciate how you are moving this forward. It helps the industry understand the relationship between the retail marijuana program and the constitutionally mandated medical marijuana program, which we do not want to put aside for economic purposes. Tax rates will affect that program in a big way.

There are two things I would like to add to this chart, [Exhibit F](#). First is the amount of sales tax that will be brought in. That will be a large number, as we know 2 percent of that goes to the State. The remainder of that is put through the Consolidated Tax Distribution formula for the most part. A lot of that goes to local governments to help with their programs.

That said, with the sales tax, one of the items we discussed with Assemblyman Araujo was an exemption from the nonstate portion of the sales tax for the medical program to create a larger delta. Through those conversations, Russell Guindon pointed out that one of my efforts as a Legislator early on was to get the State in line with the Streamlined Sales and Use Tax Agreement. Nevada is a compliant State now. We did not want to propose something that would throw the State out of compliance. However, if you are going to do anything else in this Legislature that takes us out of compliance, which a couple of bills out there do—I do not know if [S.B. 415](#) takes us out of compliance or not—if anything does take us out of compliance with the Streamlined Sales and Use Tax Agreement, then we would like to consider proposing the exemption for the medical marijuana program in the nonstate portion of sales tax.

SENATE BILL 415: Proposes to exempt sales of feminine hygiene products from sales and use taxes and analogous taxes. (BDR 32-631)

SENATOR KIECKHEFER:

From the industry's estimates, what would you expect annual gross sales of recreational marijuana to be?

MR. GOLDWATER:

In the first year of the biennium, the projection is somewhere between \$200 million to \$250 million in total gross sales.

SENATOR KIECKHEFER:

Then the projection grows on an annual basis?

MR. GOLDWATER:

Yes. That has been the experience in other states, that there has been a consistent growth, not at the growth rates they have been in the participating states but a growth rate nonetheless.

MR. ADLER:

Senate Bill 487 is interesting. With this amendment, it is more interesting how the components of different bills have been broken out. I, in general, am in favor of taking a new approach to the sales tax formula and especially streamlining the medical taxes with the recreational program to make sure we have a single-stream pipeline going into the dispensary. I think this is a great first step, and I would like to work with you in the future to get it where it needs to be along with the Governor's Office or whoever else needs to be involved to figure out what recreational marijuana looks like when it launches July 1.

DAGNEY STAPLETON (Nevada Association of Counties):

I am testifying on behalf of all Nevada counties in support of S.B. 487. Regarding section 5 of the proposed conceptual amendment, I want to put on the record we did clarify with the sponsor earlier today that her intent is not to require all counties to create mental health advisory committees, only those that authorize marijuana establishments. We look forward to working with the sponsor.

MS. MCDADE WILLIAMS:

I would like to go on record in support of S.B. 487 and echo the comments of Mr. Goldwater and Mr. Adler.

MIKE CATHCART (City of Henderson):

We are testifying neutral today. We will do some analysis on the amended language. We are supportive of the process you have laid out here.

MARY MCELHONE, CPA (Business License Section Manager, City of Las Vegas):

We were originally planning to testify in opposition but based upon what we heard today, we are encouraged by the amendment.

One of the concerns we have is part of the share going to the City would be going to incorporated Clark County instead. I want to let you know that each local jurisdiction has its own uniqueness and needs to be met in response to marijuana. As an example, all core homeless services in southern Nevada are concentrated within the City of Las Vegas, which is also known as the Corridor of Hope. Catholic Charities, The Salvation Army, Las Vegas Rescue Mission and The Shade Tree are the major shelter providers serving thousands of persons each day and night with meals and emergency shelter.

Less than one mile from the Corridor of Hope is WestCare, which operates as a sobering center, a wet shelter for inebriates who will not be admitted to the larger shelters. WestCare also operates the Community Triage Treatment Center nearby, serving the mentally ill who are homeless. To access these services, homeless migrate in southern Nevada into the City of Las Vegas for basic food and shelter needs. The 2016 Southern Nevada Homeless Census and Survey identified 6,208 homeless in southern Nevada with 40 percent in the City of Las Vegas shelters; 56 percent on the streets of Las Vegas; and 1 percent, only 64 individuals counted, on the streets of unincorporated Clark County.

The City of Denver experienced an increase of over 400 percent of homelessness in their downtown area since the start of recreational marijuana. To address this concern, the City of Las Vegas does need its proportionate share of funding. The City is also concerned about the impact recreational marijuana will have on its juveniles. A report by the Rocky Mountain High Intensity Drug Trafficking Area reported an 89 percent increase in marijuana-related incidences for juveniles since the legalization of recreational marijuana in Colorado.

Three of the five zip codes in Clark County School District with the highest rate of juvenile justice referrals are in the City of Las Vegas. The possession of marijuana is presently the No. 1 offense that leads to referrals for youths to a juvenile assessment center. I should also add that the juvenile assessment center known as The Harbor is also located in the City of Las Vegas. Currently, our school system does not have a marijuana education program. Starting an educational program in the City is one of the initiatives the City has planned. Our goal is to work closely with the State agencies assigned to regulate the marijuana marketplace.

As local governments, we know and engage our residents and business communities on a daily basis. We believe we know best where the needs are to serve our government. We would like the ability for local governments to spend the money on a wide variety of services, such as education, homeless and social services besides just compliance and enforcement.

CHAIR RATTI:

I would like to enter into the record the following exhibits for S.B. 440: Alcohol Rates and Fatalities by County, NHTSA ([Exhibit G](#)); Testimony of Laurel Stadler ([Exhibit H](#)); Proposed Amendments from Erin Breen ([Exhibit I](#)); Nevada Strategic Highway Safety Plan, Server Training Laws Information Sheet ([Exhibit J](#)).

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Revenue and Economic Development
April 6, 2017
Page 28

CHAIR RATTI:

We will stay engaged with Nevada Association of Counties and the Nevada League of Cities and Municipalities to figure out something that works across all of the various counties and cities.

I will close the hearing on S.B. 487, and this meeting is adjourned at 5:11 p.m.

RESPECTFULLY SUBMITTED:

Colleen Lennox,
Committee Secretary

APPROVED BY:

Senator Julia Ratti, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 440	C	2	Senator Mark A. Manendo	National Highway Traffic Safety Administration, Maps of Alcohol Fatalities
S.B. 508	D	1	David Goldwater / Nevada Dispensary Association	Tables Comparing Medical and Recreational Marijuana Proposed Tax Rates
S.B. 487	E	8	Senator Julia Ratti	Proposed Conceptual Amendment
S.B. 487	F	1	Senator Julia Ratti	Summary of Marijuana Bills Chart
S.B. 440	G	1	Senator Mark A. Manendo	National Highway Traffic Safety Administration, Nevada Alcohol Rates and Fatalities Table
S.B. 440	H	1	Laurel Stadler / Northern Nevada DUI Taskforce	Written Testimony
S.B. 440	I	1	Erin Breen / University of Nevada, Las Vegas, Vulnerable Road Users Project	Proposed Amendments
S.B. 440	J	1	Christine Adams / Nevada Strategic Highway Safety Plan	Server Training Laws Information Sheet