MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON REVENUE

Eighty-First Session
May 13, 2021

The Committee on Revenue was called to order by Chair Lesley E. Cohen at 4:30 p.m. on Thursday, May 13, 2021, Online and in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Lesley E. Cohen, Chair
Assemblywoman Teresa Benitez-Thompson, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Venicia Considine
Assemblyman Gregory T. Hafen II
Assemblywoman Heidi Kasama
Assemblyman C.H. Miller
Assemblyman P.K. O'Neill
Assemblyman David Orentlicher
Assemblyman Tom Roberts
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Pete Goicoechea, Senate District No. 19

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Terri McBride, Committee Manager
Gina Hall, Committee Secretary
Cheryl Williams, Committee Assistant

Minutes ID: 1234

OTHERS PRESENT:

Alexander Marks, representing Nevada State Education Association
Selena La Rue Hatch, Private Citizen, Reno, Nevada

Chair Cohen:
[Roll was taken.] I am going to dispense with the normal housekeeping remarks and open the work session on Senate Bill 284 (1st Reprint).

Senate Bill 284 (1st Reprint): Revises provisions relating to transferable tax credits for affordable housing. (BDR 32-651)

Michael Nakamoto, Deputy Fiscal Analyst:
The first bill on today's work session is Senate Bill 284 (1st Reprint), which was sponsored by Senator Ratti and heard in this Committee last Thursday, May 6, 2021. Senate Bill 284 (1st Reprint) revises various provisions governing the affordable housing tax credit program that was established pursuant to Senate Bill 448 of the 80th Session as a four-year pilot program that is administered by the Housing Division of the Department of Business and Industry [Exhibit C]. Specifically, the bill does four things:

1. It revises the procedure for the issuance of transferable tax credits so that transferable tax credits are issued before, rather than after, the project is completed.

2. It authorizes an entity to which a project sponsor transfers transferable tax credits to transfer those tax credits to one or more affiliates or subsidiaries, and requires the entity to notify the Housing Division of such a transfer.

3. It removes the four-year sunset provision originally established by S.B. 448 of the 80th Session, thereby making the program permanent.

4. It clarifies that the maximum amount of tax credits that may be issued under the program remains at $40 million, as established in S.B. 448 of the 80th Session.

There were no amendments to the bill. If there are any questions, I would be glad to answer them.

Chair Cohen:
We also have Mr. Aichroth from the Housing Division on the Zoom call if anyone has questions. Senator Ratti is chairing right now, so she was unable to be here. Members, do you have any questions? [There were none.] I will accept a motion to do pass S.B. 284 (R1).

ASSEMBLYWOMAN CONSIDINE MADE A MOTION TO DO PASS SENATE BILL 284 (1ST REPRINT).

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Considine. I will close the work session on S.B. 284 (R1) and open the work session on Senate Bill 395.

Senate Bill 395: Revises provisions governing the funding of capital projects by school districts in certain counties. (BDR 34-815)

Michael Nakamoto, Deputy Fiscal Analyst:
The second and final bill on today's work session is Senate Bill 395, which was sponsored by Senator Goicoechea and also heard in this Committee last Thursday, May 6, 2021. Senate Bill 395 provides that if approved by the voters, the board of county commissioners of a county whose population is less than 45,000—which are Churchill, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Nye, Pershing, Storey, and White Pine Counties—shall levy a tax of not more than 25 cents on each $100 of assessed valuation of taxable property within the county for the capital projects of the school district [Exhibit D].

The bill provides that the rate established pursuant to the bill must not be included in the total ad valorem tax levy for the purposes of the application of the limitation in *Nevada Revised Statutes* (NRS) 361.453, which provides that the total ad valorem tax levy for all public purposes must not exceed $3.64 on each $100 of assessed valuation. Additionally, the bill specifies that the amount of any tax imposed pursuant to the bill is exempt from the provisions of current law which generally limit annual increases in property taxes to between 3 percent and 8 percent. There were no amendments to this bill. If there are any questions, I would be glad to answer them.

Chair Cohen:
We have Senator Goicoechea in attendance today. Members, do you have any questions?

Assemblywoman Kasama:
I will be voting yes on this to get the bill out of Committee but reserve the right to change my vote on the floor.

Chair Cohen:
As a reminder, you always have the right to change your mind before something gets to the floor. I just ask you to let me know if you are changing your mind.

Assemblywoman Benitez-Thompson:
I feel sympathetic toward this bill because I was in this situation. I was a cosponsor on a bill that failed once, came back, and cosponsored a bill a second time to do something similar in my county. I have been sitting in that seat where you, at the local level, are trying to flesh out how you address your capital needs in education. Education funding is really tricky. Everything goes into these really defined buckets, and at the end of the day the ability to

meet your capital need can be very hard despite all the money that floats around in education, to say I have money for brick and mortar. I do have an appreciation for this. I imagine all the conversations that happened and I know the bill sponsor is coming in a hat-in-hand way to say this is the only thing I know how to do to help. I will be voting yes for this because I have been there. I do not necessarily know what my colleagues are going to do, but I have had this feeling of trying to beg a group of people to hear me out about capital needs in my district.

Assemblywoman Bilbray-Axelrod:
While I have not been in the exact same position, ditto to what Assemblywoman Benitez-Thompson said. I feel your pain. I am happy to support this.

Chair Cohen:
Do we have any further questions from the members of the Committee? [There were none.] I will accept a motion to do pass S.B. 395.

ASSEMBLYWOMAN BENITEZ-THOMPSON MADE A MOTION TO DO PASS SENATE BILL 395.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Anderson:
I agree with both Assemblywoman Benitez-Thompson and Assemblywoman Bilbray-Axelrod, who talked about the importance of coming in, hat in hand, asking for this. I will be supporting this, but I also think it is up to the voters to make that decision. I get frustrated, though, because I am looking at these counties, I am being told they are receiving from an outside group who does not want to put more money into our different school districts, for whatever reason, and it gives me pause. I have emailed Senator Goicoechea of my concern, but at the same time I do believe it is an argument for the voters to have to listen to, and it is up to the voters to make that decision. I am concerned how there is an outside entity, away from the school district, who is saying how much they are giving to education and to other local industries in public works, and it is not always coming out in the school buildings themselves. I just wanted to make sure that was on the record.

Chair Cohen:
Do we have any other discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN CONSIDINE, O'NEILL, AND ROBERTS VOTED NO.)

I will assign the floor statement to Assemblywoman Bilbray-Axelrod. I will close the work session on S.B. 395. We will now have a presentation by Mr. Guindon on the Economic Forum (Forum).

Russell Guindon, Principal Deputy Fiscal Analyst:
We have provided you with two sets of tables [Exhibit E and Exhibit F]. The one that is in landscape mode [Exhibit F] and has the yellow box in the upper right-hand corner that says, "Economic Forum May 4, 2021, Forecast," that is what we generally refer to as the Forum's General Fund revenue forecast table. That documents every unrestricted General Fund revenue source the Economic Forum prepares a forecast for, for fiscal year (FY) 2021—the current FY we are in—and FY 2022 and FY 2023, two years for the next biennium for which the Legislature is developing a budget. You all got an email after the Economic Forum was done with the letter the Forum sends out, along with that table [Exhibit F], as well as the table I have up on the screen [Exhibit E], which is the one I will go through information-wise for the presentation. I do not plan on going into great detail on this. This is more to show the members of the Committee how to read the table and then hit the highlights.

What you see in the top block of this table is the Economic Forum's May 4, 2021, Forecast [Exhibit E]. It is worth pointing out that the Economic Forum is statutorily required to prepare this forecast on or before May 1, unless May 1 falls on a weekend or a holiday and then they have two business days after that weekend, so this forecast was prepared on Tuesday, May 4, 2021, complying with the statutory provisions.

This summary table shows you the seven major General Fund revenue sources (majors) the Forum uses when preparing the forecast. Some are prepared by the agency that collects the revenue and by economists from the budget office [Governor's Office of Finance]. Joe Reel, Michael Nakamoto, and I prepare forecasts for some of these other majors. The majors are the sales and use tax, the gaming percentage fee tax, the live entertainment tax—which has two components—the commerce tax, the modified business tax—which has three components—the insurance premium tax, and the real property transfer tax.

The FY 2020 column is the actual collections for that fiscal year since it is known. These numbers are listed in millions of dollars. To give you an idea, $3.394 billion is approximately 83 percent of the total General Fund revenue in FY 2020. These seven majors, outside of fiscal years affected by pandemics, account for 83 to 84 percent of total General Fund revenue.

Moving on to FY 2021, this is the state 2 percent sales tax. Remember, the minimum statewide rate is 6.85 percent but the State General Fund rate is the 2 percent rate of that rate. On May 4, 2021, based on the forecasts presented, the Economic Forum approved the forecast of approximately $1.242 billion. The middle block of the table is the December 3, 2020, forecast. At that point in time, based on the information that was available and the assumption forecasters were utilizing to prepare their forecast, they approved the forecast of approximately $1.179 billion. The bottom block shows you the difference from the May forecast to the December forecast. The May 4 forecast for sales tax is approximately $63.8 million higher than it was in the December forecast for FY 2021. That is basically how you read the table.

The Forum is required to prepare the forecast for the current FY and each FY of the next biennium. We rolled the table together by the current 2019-2021 biennium, the 2021-2023 biennium, and then all three fiscal years together. As you look at the May forecast compared to December, you get an idea of how much revenue there is for each biennium, and then over the three fiscal years in terms of the net change in revenue between the May and December forecasts.

What is probably the more important element, and you all have probably seen the newspaper articles or had a chance to look at this table when it was emailed to you, is that for FY 2021, you can see that the May forecast for total General Fund revenue sources was approximately $323.5 million higher than the December forecast. You can see the sales tax and gaming percentage fee tax had the highest upward revisions. The commerce tax and the modified business tax also contributed to those upward revisions for FY 2021. Moving over to FY 2022, you can see the upward revision to the sales tax is approximately $95.4 million and almost $102 million in FY 2023. Forecasters revised the gaming percentage fees up by approximately $42 million and $44 million respectively for FY 2022 and FY 2023 and revised the modified business tax by adding approximately $56 million to $63 million over each of those two years. When you get down to the bottom of the table, the May forecast is approximately $281.7 million higher than the December forecast for total state unrestricted General Fund revenues, and looking at FY 2023, the May forecast is approximately $304.5 million higher than the December forecast.

For the 2019-2021 biennium, you see again the $323.5 million as the difference, and these are the same because FY 2020 was actual. When you are forecasting the 2019-2020 biennium, or the current biennium for which the Legislature is in session, it is the current year's forecast that is driving the results because the actual is known as a number. That is the $323.5 million you are picking up in FY 2021. You may ask, Does that matter, given we are almost at the end of FY 2021? The answer is yes. That $323.5 million is additional General Fund revenue available for consideration by the 2021 Legislature, so it can be appropriated, it can be saved and put in the Rainy Day Fund, and it can be left in such that it would carry down into the ending fund balance and be carried forward into the FY 2022 beginning fund balance. The mechanics of this are, it does matter. When the Forum is adding this revenue in early May and you are thinking we only have less than 30 days left in the session, it does matter. It matters in terms of the budget dynamics that are going on in the Legislature.

Moving over to the 2021-2023 biennium column [Exhibit E], you can see it added the $281.7 million and $304.5 million to get $586.2 million in additional unrestricted General Fund revenue comparing the May forecast to the December forecast. Total for the three years, then, is what you have seen in the paper and heard about: Approximately $910 million [$909.7 million] in additional unrestricted General Fund revenue that is available for the Legislature's consideration here with less than 18 days left in the session.

This was the information I wanted to get out there—the information in the table, how you read it, and what the bottom line results are. With that, and knowing that everyone is busy, I will end my presentation and I can answer any questions the members of the Committee may have.

Chair Cohen:
Knowing how busy you and the rest of our fiscal staff have been, we really appreciate this.

Assemblyman O'Neill:
I know this is probably done in the Forum, but I want to confirm what I am thinking. With what the Nevada Supreme Court ruled today [137 Nev., Advance Opinion 21] on the commerce tax credits against the MBT [modified business tax], will those numbers change at all in that line for the May forecast?

Russell Guindon:
That is a difficult question to answer. Staff is working through this. They will first have to make adjustments to the FY 2022 and FY 2023 forecast for the modified business tax for the lower rates that will come into play based on the Nevada Supreme Court's ruling, and then there will be the refund issued for the taxes that were paid at those higher rates for FY 2020 and FY 2021.

Specific to your question, the commerce tax credits come as you are allowed to take up to 50 percent of the preceding fiscal year's commerce tax as a credit against your MBT. Depending on how much commerce tax a business actually ends up paying for each one of these fiscal years that is forecasted, and then in relation to the modified business tax, the answer to your question could be yes, the commerce tax credits could be affected, but it is going to be very hard to determine that.

If somebody paid the modified business tax at the higher rate and was supposed to pay it at the lower rate, but can only take up to 50 percent of their commerce tax and cannot exceed their MBT liability, that is going to potentially affect the dynamics of their commerce tax credits that they could take at the lower MBT rate, both in the real world for people on what taxes they actually would have paid in FY 2020 and FY 2021 to date and for us as forecasters. It is hard to figure out that dynamic, but your logic is correct. The commerce tax credits, both actual and forecast, could be impacted by the Nevada Supreme Court's decision that the lower MBT rates now come back into it and become affected.

Assemblyman O'Neill:
To put it simply, do you think it will have a dramatic effect on that final number or just an effect? That is what I am trying to figure out, how big of an impact it may have. Can you take a guess at that for us?

Russell Guindon:
I believe it will be a relatively small effect in terms of the impact on the commerce tax credits against the MBT. The larger effect is going to come from the MBT expected collections for FY 2022 and FY 2023, because of the lower rates coming back into effect for FY 2022 and FY 2023 versus the impact on the commerce tax credits against the MBT.

Assemblywoman Kasama:
On the chart [Exhibit E], the second line down—"Percent Fees – Gross Revenue: Before Tax Credits"—is that mainly the mining tax in there? What is in that?

Russell Guindon:
That is the gaming percentage fee tax. I apologize. I was trying to keep everything on one page. If you look at the landscape table, it would be under the gaming-state section [page 1, Exhibit F]. You see "Percent Fees-Gross Revenue," so we were using the same labeling. In getting everything on one page, you lose that "gaming-state" reference. It is the monthly tax that nonrestricted gaming locations pay on their monthly gaming revenue from the gambling activities that occur at their establishments. It has nothing to do with mining.

Assemblywoman Kasama:
I see the labels now on the other table [Exhibit F]. Thank you.

Assemblyman Yeager:
I have a question on the percentage tax for gaming. Obviously, the May projections are substantially higher than the December projections. I was pretty surprised to see the latest gaming numbers, I think it was from March or April. They were very high compared to what it has been. In looking at those numbers, if we use 2018 as a baseline of normal, so to speak, we are not really projecting getting back to normal on the gaming percentage projected until maybe 2022 into 2023.

Can you give us some context for those forecasts? Based on the last couple of months and what I have seen in McCarran International Airport, it seems to me that Las Vegas is ready to explode in a huge way. I wonder if there was some caution there based on international travel, or what it was that caused us to think it is still going to take a couple of years to get back to where we were on the gaming percentage.

Russell Guindon:
Those are good observations. After the Great Recession and prior to the pandemic, you can see FY 2018 was $757.8 million, and it actually fell in FY 2019 [page 1, Exhibit F]. We never got back to the pre-Great Recession peak. If you look at the gaming tax, on average it moves more sideways than up. When you see the growth we have, you are correct. The collections from March 2021 show business activity was record-setting. I mean that literally in terms of you have to go back decades to see some of that type of activity on the slot side and the total actual tax collections. You have to be careful not to allow one month to be the signal for the remainder of the future.

Based on the information set back in December, where we are with the vaccinations occurring, and March having the additional stimulus checks come out—it appears they may have been very beneficial to the economic activity that occurred in the state in general, let alone in Clark County and in the gaming community—you see that we are coming back. One of the things we have to keep in mind for gaming is it is still very dependent upon visitors. So when the forecasters are thinking about this, you still have vaccinations to occur in the United States, but also in the international community for those visitors to be restored to the market, and also the ability to bring back mid-week type activity—your conventions and tradeshows—so the expectation is that will take a little bit longer to fully get in place. That is why you see by FY 2023, you are getting numbers back up above the FY 2018-2019 peak; however, it is going to take possibly a year or more to get all that fully functionally back in place, where we can have the mid-week conventions and tradeshows like we did pre-pandemic, the international visitors coming back, and, in a sense, restore all of the visitor dynamic to the Las Vegas gaming market, and also to the northern gaming market, although the northern gaming market was much less impacted in the last six to seven months. They have been up compared to a year ago versus being down, because the visitor dynamic is much different, I believe, in the Lake Tahoe and northern Nevada market versus the Clark County market.

Chair Cohen:
Does housing have an effect on this? Where does our housing market impact this, if it does?

Russell Guindon:
Remember, you are asking an economist this question. I will try to answer it the best I can. Directly, housing would come into the real property transfer tax. When houses are sold, that would trigger the real property transfer tax to attach to the sales of those residential properties. That would be the direct tax that would be on housing.

Indirectly, housing is a part of the economy in terms of people allocating a portion of their wages or income to housing. The more they have to allocate to housing, perhaps the less disposable income there is for participating in economic activity that could be related to the gaming taxes, sales taxes, live entertainment taxes, and things like that. That is the economist's answer, which is yes, it has some direct effects in terms of housing, the sale of housing, and the sales prices of those homes. But then the indirect effect can be what that means for the portion of a person's budget that has to be allocated to housing, to then have the other portion of their budget that is not being allocated to savings or could be allocated to economic activity to which our other taxes would attach.

Chair Cohen:
So it is almost like the chicken and the egg thing. You provide the information and you forecast with the real property transfer tax, but you do not look at that and have that affect any of the other numbers. You are not predicting based on that, except for the real property transfer tax. Correct?

Russell Guindon:
As an economist who makes up numbers for a living, all of that is, in a sense, attempting to be taken into account. When we are preparing our employment forecasts, wages forecasts, and our personal income forecasts, out of that come the wages and income that could be used to buy tangible personal property to which the sales tax attaches. You could go to a casino and spend some of it there. You could go out to eat. You are simultaneously thinking about people moving here, trying to regain jobs or get jobs, and as they are buying homes, that will affect the real property transfer tax. As they are doing other things outside of that housing decision—whether renting or buying—that is affecting the wages or income available to be allocated to the others. I cannot point directly at the forecast and tell you what portion of the forecast is related to the housing portion of the market. But it is in the forecaster's mind when you are thinking about the economic dynamics going on with people earning wages and income, and then going to allocate that to housing and non-housing decisions in their budget. I know that is probably no clearer of an answer than my first answer to you, but that is the best I am going to be able to give you as an economist.

Chair Cohen:
It does answer it because you are not just looking at everything that is on the chart. You are considering other issues and financial issues that are going on in communities.

Russell Guindon:
Yes. The crystal ball has many snowflakes in it.

Assemblywoman Benitez-Thompson:
Is there anything of note you wanted us to keep in mind, or anything you saw that might be an interesting or emerging trend? I know during the pandemic we saw things happening in certain columns on numbers that we did not expect. For example, I think we saw a large number of sales tax coming in on cars with people buying cars, and that was not expected. People were acting in ways they did not always expect. Is there anything that we can take away from these numbers that is of note in terms of trends or things that might be counterintuitive?

Russell Guindon:
Talking about trends, trying to come out of a pandemic is a very difficult thing. When March 2020 happened, it was a very phenomenal event in all facets—to have something like that occur, where supply curves have to be taken out of the economy and thus demand, in a sense, along with it. We have slowly been seeing that come back, and we see where the federal stimulus programs are helping businesses and citizens, and attempting to help state and local governments—how and when does that money get in there? We have been seeing the monthly or quarterly tax numbers as they come in, and I believe that is what you saw in the March gaming numbers—the stimulus money was helping. I believe when the Department of Taxation releases the March monthly taxable sales statistics next week, you are probably going to see some very phenomenal numbers there.

The way I would answer your question, Assemblywoman: We have to be careful, as we see these numbers come out each month, not to think that is our new trend, but to step back and evaluate what might have been in there driving the numbers. Was that the month the stimulus checks came out? Try to temporize looking at each monthly or quarterly number as it comes out. Step back and evaluate the number and the context of what was also out there. We are still waiting to get full guidance from the United States Treasury on money the state and local governments will get and for elected officials to decide how to use it. That is what we have to watch. As that money starts to get into the economy, what will that mean for economic activity in the taxes we have attached to that?

As I have talked about, one of the things we are waiting to see is the mid-week activity coming back. If you look at the live entertainment tax here, it is not that major of a General Fund revenue source, even pre-pandemic—around $130 million. But if you look at the forecast for that, it is clearly just one of the taxes in the industrial sector tied to the tax that has been devastated in this pandemic. We are starting to see that come back. We are starting to see concerts being listed and sold out almost immediately in the Las Vegas area. Those are things we are looking at, to see entertainment and other types of economic activity come back, and see what that means for the numbers that get reported for those taxes. I know that is probably not the best answer to your question, but that is what we are looking for as we see each month's numbers getting released. As economists, we try to look at the signal in the numbers, what the noise is, and be careful not to read the noise as signal when you are looking at those numbers.

Assemblywoman Benitez-Thompson:
That is very helpful. I think the first thing half of us did at the end of March was call you, asking what we were seeing and what was happening. It was a lot of, We do not know yet and there is a lag between when people spend and when taxes are remitted. Depending on what kind of tax, it is a different remittance schedule, so sometimes we are looking monthly and sometimes we are looking quarterly. It is a little bit of looking forward and a little bit of looking back. Thank you for reminding me not to see the noise, so when I see numbers coming in really good for one month and start to try to spend it all, I should temper myself.

Assemblywoman Anderson:
I appreciate all this information. I am not going to lie to you. I will probably be giving you guys a call when things are a little bit calmer. My first question is based upon the question earlier from Chair Cohen when it came to 3055, the real property transfer tax [page 3, Exhibit F]. It is not necessarily related to her question, but I was wondering if that is something to be aware of, if that is connected to the answer you gave earlier when it came to real estate, or if that is a completely different thing and I am misunderstanding that distinction?

Russell Guindon:
I am not sure I follow the question with regard to the real property transfer tax.

Assemblywoman Anderson:
Could you expand upon what that entails—if that is a positive trend or something we should just continue to keep our eye on? Just a little more information about it.

Russell Guindon:
When you see the forecast, we have it staying at around the $122 million to $125 million range over the three years, but falling slightly in FY 2023 thinking that what is going on with housing prices and, hopefully, supply will start to come back in terms of the building. It is not only the sale of residential property that triggers the real property transfer tax. It can also be nonresidential and commercial property that sells. When we were doing the forecast for FY 2021, we knew the information through the first three quarters, so that $124 million you see forecasted is a pretty solid number, although actuals could still come in below or above that forecast because we have to collect the last quarter.

It is not unreasonable to think, with what is going on, that the sales of residential property and the prices of those are going to continue to be somewhat good. The prices will probably fall back some in FY 2023 would be the assumption behind those revenue sources. I do not know if that answered your question. If not, please let me know and I can attempt again.

Assemblywoman Anderson:
No. You were able to understand my very befuddled and confused question. Thank you very much for clarifying that information. I did not see anything in the Economic Forum that utilizes the marijuana tax. Maybe it is there and I just did not see it.

Russell Guindon:
You are not seeing it because both the 15 percent wholesale marijuana excise tax and the 10 percent retail marijuana tax are not unrestricted General Fund revenue sources, thus under the statutory provisions for the Economic Forum, they are not required to prepare forecasts for either of those marijuana excise taxes. There were forecasts prepared for both those revenue sources through your Fiscal Analysis Division staff and the economists from the budget office. We interact to come up with a consensus forecast. We had a meeting between staff from the Department of Taxation and staff from the Cannabis Compliance Board.

There are forecasts being prepared for the excise taxes on marijuana, but they are not required to be done by the Economic Forum. Staff from the budget office and Fiscal Analysis Division have developed a process where we do our independent forecasts, then get together and come up with a consensus. That forecast was then used by Governor Sisolak in the *Executive Budget*. We then did a revised consensus forecast that will be used as the forecast for FY 2021, FY 2022, and FY 2023, and that will be used for the legislatively approved budget.

Assemblywoman Benitez-Thompson:
I am going to beg the question, tell us more, then. What do those forecasts look like? I know when we were first trying to stand up the marijuana program, the best you all could do was look at Weedmaps, so now that we have come a little bit further into this, tell us more about those projections.

Russell Guindon:
I do not have the actual numbers but will try pulling them up while I'm talking. Let us just say that apparently people were dealing with the pandemic through cannabis with THC in it. I think it began somewhere early last summer that we started seeing the 10 percent excise tax generating around $7 million per month on average. That was a significant jump when you chart it and look at it. Our expectation was that people were trying to get through the pandemic by utilizing marijuana. Our concern was, was this a transitory or permanent shift. The marijuana program is still developing and is starting to mature, and the level of supply and demand is larger than what it was.

In looking at this, it was one where I can use the trend. The level of tax being generated by the 10 percent retail tax has held up, thus corresponding with the 15 percent wholesale tax doing better than what we probably would have originally thought when the pandemic first had its effects back in March, April, and May. The forecast for the 15 percent was revised up more than the 10 percent in the May forecast compared to the December forecast. When we did our December forecast, we had those months where it had shifted up to a new level, so the forecasters were incorporating that as it is not just transitory. It seems to be some kind of semi-permanent or permanent shift in the demand and consumption of marijuana products, but we were missing on the 15 percent wholesale side. We have seen those two revenue sources shift up in the pandemic and sustain those levels for consumption.

I was able to pull the information up. To give you an idea, for FY 2021 we are thinking the 10 percent retail excise tax will be around $86 million, going up to approximately $90 million in FY 2022, and approximately $95 million in FY 2023, whereas the 15 percent wholesale excise tax is forecasted to be somewhere around $64 million for FY 2021, $65.6 million in FY 2022, and $69 million in FY 2023. The expectation, based on the analysis done by each of the independent forecasts and the consensus, is that it is getting close to that mid-$95 million range by the end of the forecast. Hopefully that answers your question on the marijuana taxes.

Chair Cohen:
She is nodding her head yes. Are there any other questions?

Assemblywoman Bilbray-Axelrod:
It occurred to me when you were mentioning how people dealt with the pandemic: Where would I find liquor sales—alcohol sales—on this report?

Russell Guindon:
It is on page 3 [Exhibit F] under "Other Taxes"—the second one down—3050. Remember, that is the tax, not the sales. The tax is composed of four different components with different rates—alcohol by volume over 22 percent, alcohol by volume 14 percent to 22 percent, alcohol by volume up to 14 percent, and malt beverages, including beer. You can see the tax collections did go down, and that was expected in the pandemic when you take away the 35 million visitors from down south. They were no longer coming in at those numbers. Our expectation is that things such as cigarettes, other tobacco products, marijuana, and liquor would potentially go down. Some of them did, but some of them held up better than when we were looking at this back in March, April, May, June, and July of calendar year 2020. Another thing that was hard for us to figure out is that cigarettes seemed to hold up better than we would have thought, taking a large portion of visitors out of the state. Liquor did get affected, and as an economist, liquor is a tough one. We have a beer category, but it is actually malt beverages and beer. You see all these seltzers coming out and these malt-type beverages. The tax collections could stay flat on that or go down as people are shifting their consumption patterns. If you quit drinking beer and start drinking seltzers, you have not changed the tax base at all. But if you move from beer to wine, then you are moving into a category with a higher tax rate, and hard liquor has the highest tax rate. That is why this one can be hard when you are looking at the tax collections. As an analyst, we have to go in and look at all those four components, and we actually do get the gallons for each of those four components, so we can try to monitor what is going on with the gallons to see what is going on in general, let alone in a pandemic.

Assemblywoman Bilbray-Axelrod:
That is very interesting. Since alcohol has the four different categories, does marijuana also? Are edibles taxed differently than flower, vaping, or whatever, or are they all the same category?

Russell Guindon:
There are different categories of marijuana in terms of the types and marijuana products, but the retail tax is 10 percent of the value of the retail sale of that marijuana product. Even though there are different THC [Tetrahydrocannabinol] levels, edibles versus the bud you can smoke, we only tax 10 percent of the retail value. For the 15 percent wholesale, you have the plant, you have the pre-rolls, and you can have what is called trim. There are different product lines at the wholesale level and also at the cultivation level, but the tax is 15 percent of the market value of those. There is one tax rate for all the different types of products at both the wholesale and the retail level.

Assemblywoman Benitez-Thompson:
During the 31st (2020) Special Session, we authorized the tax amnesty program [Senate Bill 3 of the 31st Special Session]. From the 2021 forecast—actuals— it looks like we brought in about $1.5 million [page 3, Exhibit F]. I want to say we thought that would perform a lot better. Am I missing something? Did we really only get $1.5 million from that?

Russell Guindon:
Thank you for bringing that up because I should have pointed that out on my own and I did not. In the July 2020 special session, the Legislature authorized the Department of Taxation to do the tax amnesty program for 90 days. They ran that program from February 1 to April 30. This reminds me that I need to ask the Department of Taxation what they think the actual amounts are.

When we were preparing the forecast to take forward to the technical advisory committee, to the Economic Forum the last week of April, based on the information the Department of Taxation had at that point in time, year to date on the program, the actual collections for the General Fund taxes were approximately $3.5 million. Back in the July 2020 special session, based on the information we had available and the analysis done by staff from the budget office, Fiscal Analysis Division, and Department of Taxation, our estimated value for the tax amnesty program for the 90 days was $14 million for the General Fund portion.

So the last week of April, the actual collections were $3.5 million, and based on the additional information the Department of Taxation was able to talk through with staff, our expectation was probably the total amount of $5 million, not the $14 million we were expecting during the special session. For us to be able to account for it on the Economic Forum sheets, since the forecast was revised from $14 million to $5 million but we know the $3.5 million is actual, the forecast is the $1.5 million because $3.5 million in actual is getting deposited with the tax—whether it is sales tax, live entertainment tax, liquor tax. Any of the taxes that a taxpayer would have made payments under the tax amnesty program, they then get distributed as actual collections, and those actual collections are built into the actual year-to-date collections and thus are built into the forecast.

The $1.5 million is the revised estimate for the remainder of the tax amnesty program for FY 2021, so it is the $3.5 million actual and the $1.5 million forecast to get you to the $5 million forecast. You are going from a $14 million forecast to a $5 million forecast. It was less than what we thought, but it is not going from $14 million to $1.5 million, it is going from $14 million to $5 million for the General Fund portion of the tax amnesty program,

Chair Cohen:
Thank you, Mr. Guindon. We appreciate this information. As there are no further questions from the members of the Committee, we will move on to public comment. Seeing no one in the room or on the Zoom call for public comment, we will go to the phones.

Alexander Marks, representing Nevada State Education Association:
Today is day 102 of the legislative session and we are still waiting on a public discussion of mining taxes and serious contemplation of generating revenue needed by public education and other important services in Nevada. With just two weeks left, it is past time to open

a public hearing on Assembly Joint Resolution 1 of the 32nd Special Session. Kindergarten through twelfth grade education has been woefully underfunded for decades, ranking Nevada forty-eighth among the states in per-pupil funding. Nevada also has the largest student-to-teacher ratio in the country.

Currently being considered is $156 million in cuts to class-size reduction over the next biennium. This would be a loss of about 1,000 teachers, if not more, across the state, meaning even more students packed into Nevada's overcrowded classrooms. Also being considered is a $33 million cut to early literacy support in the Read by Grade 3 Program. Last session, Senate Bill 543 of the 80th Session, the new school-funding plan, created the Commission on School Funding (Commission) and charged it with recommending funding targets and identifying revenues to fully fund the associated cost. Last month the Commission published their preliminary recommendations, and while the Nevada State Education Association (NSEA) opposed S.B. 543 of the 80th Session, we largely agree with the Commission's funding targets. The Commission proposed to reach adequate funding by increasing education investment by $2 billion over the next ten years. That is $400 million each biennium starting this session. That is why the NSEA believes A.J.R. 1 of the 32nd Special Session will be a strong start to meeting that goal. Assembly Joint Resolution 1 of the 32nd Special Session would generate $485 million in new revenue for Nevada annually. It is the right-sized response to this session to the revenue challenges we face. We have all heard there have been conversations about a possible deal, but no one seems to know any of the parameters. It is time to open up that conversation. Please schedule a hearing on A.J.R. 1 of the 32nd Special Session for this discussion.

Selena La Rue Hatch, Private Citizen, Reno, Nevada:
I am a teacher and member of the NSEA and WEA [Washoe Education Association]. I am also calling upon this Committee to pass A.J.R. 1 of the 32nd Special Session so we can have a full, open discussion on this measure. It is so long overdue and clearly popular with Nevadans, as evidenced by the thousands of emails, hundreds of protesters, hours of public comment, and overwhelming polling results you have all received since its introduction last session. Of course it is popular. The mines in Nevada make a fortune from our resources while paying a pittance in taxes to support the state that makes those profits possible. It is time they start paying their fair share in this state just like the rest of us.

We have been through a time of crisis which has demanded sacrifice from our health care workers, educators, and essential workers. All we are asking is the mines share in this sacrifice—that they share a minuscule portion of their record profits in order to fund the vital community services of education and health care. It is bewildering why a group which voted for this last special session is unwilling to do so again. I would like to echo the previous caller that we are continually told that a deal is being made on mining, but why is it that no educators, doctors, or ordinary citizens are invited to speak on this deal—only the mining lobby, which is allowed to come in and get a special deal. It is incredibly frustrating that citizens like me have to somehow donate hundreds of thousands of dollars to a political campaign in order to be part of this process. For a body that has stressed democracy so hard with your increasing voting rights bills, it makes no sense why you would not trust democracy again and put this on the ballot. Let Nevadans have a say. Let Nevadans vote.

Chair Cohen:
We will hear from the next caller for public comment. [There was no one.] Committee, I do not think we are going to have anything tomorrow, but I have put out an agenda just in case. Do the members of the Committee have any further comments? [There were none.] We are adjourned [at 5:36 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall
Committee Secretary

APPROVED BY:

____
Assemblywoman Lesley E. Cohen, Chair

DATE: _______________________________

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is the Work Session Document for Senate Bill 284 (1st Reprint), dated May 13, 2021, presented and submitted by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

Exhibit D is the Work Session Document for Senate Bill 395, dated May 13, 2021, presented and submitted by Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

Exhibit E is a table titled "Economic Forum General Fund Revenue Forecast Comparison: May 4, 2021, Forecast versus December 3, 2020, Forecast," dated May 4, 2021, submitted and presented by Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.

Exhibit F is a table titled "General Fund Revenues - Economic Forum May 4, 2021, Forecast," dated May 4, 2021, submitted and presented by Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau.