

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

**Eighty-first Session
May 20, 2021**

The Senate Committee on Revenue and Economic Development was called to order by Chair Dina Neal at 2:26 p.m. on Thursday, May 20, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dina Neal, Chair
Senator Julia Ratti, Vice Chair
Senator Moises Denis
Senator Ben Kieckhefer
Senator Heidi Seevers Gansert

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Alex Polley, Committee Secretary

OTHERS PRESENT:

Melanie Young, Executive Director, Department of Taxation
Shellie Hughes, Chief Deputy Director, Department of Taxation
Terri Upton, Deputy Director, Compliance, Department of Taxation
Marnee Benson, Burning Man Project
Chris Daly, Nevada State Education Association
Susan Kaiser

CHAIR NEAL:

We will begin with a work session on Senate Bill (S.B.) 440.

SENATE BILL 440: Creates a sales tax holiday for certain members of the Nevada National Guard and certain relatives of such members.
(BDR 32-1111)

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JOE REEL (Deputy Fiscal Analyst):

Senate Bill 440 is sponsored by the Senate Committee on Finance on behalf of the Office of Finance in the Office of the Governor. It was heard by the Committee on May 18 and is summarized on the work session document ([Exhibit B](#)). The two amendments on page 2 of the work session document, [Exhibit B](#), have been withdrawn. A proposed amendment ([Exhibit C](#)) makes S.B. 440 compliant with section 6 of Article 10 of the Nevada Constitution, which requires the Legislature to make certain findings before enacting exemptions. The proposed amendment, [Exhibit C](#), adds the expiration of June 30, 2031.

SENATOR KIECKHEFER:

Does the proposed amendment, [Exhibit C](#), change the sunset of S.B. 440 to ten years?

MR. REEL:

Yes.

SENATOR RATTI:

Which amendment are we accepting?

CHAIR NEAL:

We are accepting the amendment submitted by the Office of the Governor, [Exhibit C](#). It will be added to Proposed Amendment 3403, which begins on page 3 of the work session document, [Exhibit B](#). The proposed amendment, [Exhibit C](#), adds section 5.5 and amends section 6 to sunset S.B. 440 on June 30, 2031.

I proposed an amendment on page 2 of the work session document, [Exhibit B](#), to limit S.B. 440 to five years, but I am withdrawing it. The first amendment is also being withdrawn.

SENATOR RATTI MOVED TO AMEND AND DO PASS AS AMENDED S.B. 440 WITH PROPOSED AMENDMENT 3403 AND THE PROPOSED AMENDMENT SUBMITTED BY THE OFFICE OF THE GOVERNOR.

SENATOR DENIS SECONDED THE MOTION.

CHAIR NEAL:

I will support S.B. 440; however, I wanted a shorter effective date to strengthen the rational relationship between the sales tax holiday and the policy purpose related to the Covid-19 pandemic. There were comments relating S.B. 440 to the pandemic, and I wanted a five year effective date. The adverse impact of S.B. 440 on tax revenue is significant with a ten year effective date with the expanded base of eligible individuals.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR NEAL:

We will begin with a work session on S.B. 441.

SENATE BILL 441: Revises provisions governing the issuance and renewal of a seller's permit. (BDR 32-1077)

MR. REEL:

Senate Bill 441 is sponsored by the Senate Committee on Finance on behalf of the Office of Finance in the Office of the Governor. It was heard by the Committee on May 13 and is summarized in the work session document ([Exhibit D](#)).

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 441.

SENATOR RATTI SECONDED THE MOTION.

SENATOR SEEVERS GANSERT:

I will be voting no on S.B. 441. I am unsure why the fee is being raised. We have a lot of federal money coming in.

SENATOR RATTI:

I want to flag that S.B. 441 may be a budget implementation bill.

CHAIR NEAL:

I understand S.B. 441 is an alternative for the Department of Taxation to receive needed revenue to operate. The fee increase is so other appropriations will not be needed.

SENATOR RATTI:

We have had success with the revised Economic Forum with increased funding to the proposed budget cuts in the first proposed Executive Budget.

THE MOTION CARRIED. (SENATOR SEEVERS GANSERT VOTED NO.)

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SENATOR DENIS:

We will open the hearing on S.B. 367.

SENATE BILL 367: Removes certain exemptions from the excise tax on live entertainment. (BDR 32-571)

SENATOR DINA NEAL (Senatorial District No. 4):

Proposed Amendment 3401 to S.B. 367 (Exhibit E) and a conceptual amendment (Exhibit F) change the definition of "governmental entity" in S.B. 367.

Certain entities charge a reservation fee. Proposed Amendment 3401, Exhibit E, changes an "admission charge" to include "any fee or charge that must be paid to reserve or guarantee the right to pay, at the same time or in the future, an additional fee or charge in exchange for admission to a facility where live entertainment is provided."

Proposed Amendment 3401 to S.B. 367, Exhibit E, changes 5,000 to 7,500 in section 2, subsection 2, paragraph (a) and section 2, subsection 4, paragraph (d). Section 2, subsection 4, paragraph (o) is returned, which covers athletic contests. Section 2, subsection 4, paragraph (p) adds "live entertainment that is provided by or entirely for the benefit of a governmental entity" is not subject to the Live Entertainment Tax (LET). Section 4 changes the effective date to upon passage and approval.

The Nevada Gaming Control Board informed us that "governmental entity" was not defined in S.B. 367. The *Nevada Revised Statutes* (NRS) 372.325 reference is added to the conceptual amendment, [Exhibit F](#), to provide that an event organized by a governmental entity for the benefit of that government entity is not subject to the LET. This is further defined in the conceptual amendment.

SENATOR KIECKHEFER:

What types of live entertainment events organized by governmental entities are being captured by S.B. 367?

SENATOR NEAL:

Events excluded from the LET include those in Clark County that require a ticket to be purchased, and the proceeds go to the County. Events where proceeds go directly to the governmental entity that organizes the event are exempt from the LET. Rodeos that are put on by governmental entities would be exempt from the LET.

SENATOR KIECKHEFER:

Is the Las Vegas Convention and Visitors Authority (LVCVA) a governmental entity?

SENATOR NEAL:

The conceptual amendment, [Exhibit F](#), includes political subdivisions. I do not think the LVCVA is considered a governmental entity.

RUSSELL GUINDON (Principal Deputy Fiscal Analyst):

I understand the LVCVA is a governmental entity that is funded by the room tax. I am unsure of the events the LVCVA would organize. There are events organized by local governments, such as rodeos. We believe the LET exemption for governmental entities was inadvertently removed by S.B. No. 266 of the 78th Session.

SENATOR KIECKHEFER:

Was there a decline in revenue as a result of S.B. No. 266 of the 78th Session? Will we capture more or less revenue by adding governmental entity to S.B. 367?

MR. GUINDON:

That is difficult to answer, and I do not have information on what was picked up in 2015. This would be administered by the Department of Taxation. Any revenue gain after 2015 would be difficult to parse out because we do not get event information and only receive tax information that is reported.

SENATOR KIECKHEFER:

Is the same language from NRS prior to 2015 about governmental entities being reinserted into S.B. 367?

MR. GUINDON:

No. The effect is the same, but it is structurally different. Proposed Amendment 3401, [Exhibit E](#), adds to what is not subject to the LET in section 2, subsection 4, paragraph (p). The definition of a "business entity" is in NRS 368A.050. Subsection 2 of NRS 368A.050 does not include a governmental entity. The same definition in NRS 368A.200 includes the 9 percent LET.

The term "business entity" not included in S.B. No. 266 of the 78th Session was inadvertently taken out of NRS 368A.200. This put the Department of Taxation in a position where the LET exemption was removed for governmental entities.

We constructed section 2, subsection 4, paragraph (p) in Proposed Amendment 3401 to clearly define governmental entity. If we had used a past statutory structure, we may not have been able to capture all governmental entities.

SENATOR SEEVERS GANSERT:

Are athletic contests being reinserted in section 2, subsection 4, paragraph (o) by Proposed Amendment 3401, [Exhibit E](#)?

SENATOR NEAL:

Yes. Prior to Proposed Amendment 3401, S.B. 367 had removed athletic contests from the LET exemption, but athletic contests are being added back to the LET exemption.

SENATOR SEEVERS GANSERT:

When people pay for a reservation, they may not get a ticket. I am unsure if all reservations are refundable. How would it work if \$50 is paid to make a reservation, but a ticket is not awarded? Events with ticket lotteries where a reservation is purchased may not award a ticket.

SENATOR NEAL:

There is a situation where a person establishes a reservation to hold a place in line to buy a ticket. A \$2,500 charge is paid to hold a reservation to then buy a ticket. This is seen as an admission charge. Another situation is when a \$50 ticket is bought with a \$500 reservation fee attached toward the final purchase. In these scenarios, a person still pays to gain access to an event. Even if a person does not get to purchase a ticket, there was still a price for admission.

This is concerning because a company does not use a reservation fee that then may be used for a final ticket. We ran into an issue with Burning Man Project because the reservation charge is nonrefundable. People are charged \$2,500 to be placed in a queue to then buy a ticket. The Department of Taxation views this as a taxable event for the LET. It is questioned if the \$2,500 is considered a price of admission. It should be considered a price of admission.

SENATOR SEEVERS GANSERT:

Are there cases where people pay the \$2,500 reservation fee but do not get a ticket to attend the event?

MR. GUINDON:

Section 1, subsection 2, paragraph (f) of Proposed Amendment 3401, [Exhibit E](#), adds clarification to the definition of "admission charge." The Department of Taxation and Gaming Control Board would administer payments made as admission charges like any other admission charges.

MELANIE YOUNG (Executive Director, Department of Taxation):

If an event's reservation charge is nonrefundable, then the LET would not be refunded pursuant to *Nevada Administrative Code* (NAC) 368A.170, subsection 4. If the taxpayer refunds the reservation charge with the assessed LET to the customer, the Department would refund the LET.

SENATOR SEEVERS GANSERT:

There are events with \$100 nonrefundable fees to be placed in a lottery to then receive a spot in the event. The \$100 fee is usually nonrefundable. What happens with something like this?

Ms. YOUNG:

If the reservation fee is nonrefundable, the Department of Taxation would not refund the LET.

SENATOR KIECKHEFER:

I do not see Proposed Amendment 3401, [Exhibit E](#), as clarification. It is more of a change and addition to what an admission charge is considered in S.B. 367. Are other reservation systems or seat privileges taxed? Is this just clarifying for NRS, and the Department of Taxation is already applying LET in these situations?

Ms. YOUNG:

Nevada Revised Statutes 368A.020, subsection 4 excludes licenses and rental fees. Any other fee not expressly excluded in NRS 368A.020, subsection 4 would fall under NRS 368A.020, subsection 2. The Department of Taxation would find S.B. 367 as clarifying for current taxable reservation fees.

Nevada Revised Statutes 368A.020, subsection 2 provides any fee or charge required to be paid for admission to a facility where a live entertainment event is provided. Section 1, subsection 2, paragraph (f) of Proposed Amendment 3401, [Exhibit E](#), is clarifying language.

SENATOR KIECKHEFER:

Luxury suites are exempt from license and rental fees, but these are specific rentals. Are fees that grant the ability to purchase tickets taxable?

Ms. YOUNG:

If it is not expressly identified as exempted, it would fall under NRS 368A.020, subsection 2 where it would be taxable.

SENATOR KIECKHEFER:

If a section in a stadium requires a person to be a sponsor to purchase tickets in that section, is the sponsor fee taxable under the LET? The tickets in this section are unavailable for people who have not paid the sponsor fee.

SENATOR NEAL:

If a person donates to gain access as a donor, this is different from when a person pays a reservation fee. A donation and a fee are defined differently in NRS. *Nevada Revised Statutes* 368A.020, subsection 4 covers the fee charged for a box seat. If someone donates, that is excluded when it is for nonprofit. Definitions of entertainment fee, cover charge, required cover charge, a required minimum purchase of food, beverages or merchandise, a membership fee and a service charge or any fee paid to guarantee the right to pay at the same time or future are different from a donation. A donation is gratuitous because the benefit is for someone else.

SENATOR SEEVERS GANSERT:

A charitable donation is different from a fee for access. People have season tickets at universities where donations will grant access to certain categories of tickets. Donations have become fees because donations are no longer tax deductible. I do not know if these formerly charitable donations will get captured by S.B. 367.

SENATOR NEAL:

Will the Department of Taxation explain how people get access to box seats by paying extra?

SENATOR SEEVERS GANSERT:

There are differences between for profit and nonprofit.

Ms. YOUNG:

Specific LET exemptions for box seats can be found in the Department of Taxation's tax expenditure reports.

SENATOR NEAL:

Is the exemption for box seats in NRS 368A.020, subsection 4 that states "except as otherwise provided in this subsection, the term does not include license or rental fees for luxury suites, boxes or similar products at facilities with a maximum occupancy of at least 7,500 persons"?

Ms. YOUNG:

The exemption for box seats is in NRS 386A.020, subsection 4.

SENATOR SEEVERS GANSERT:

If somebody wanted better seats that are not box seats at a venue over 7,500 persons, a nontax deductible fee to access the right to buy tickets has to be paid. The change from 5,000 to 7,500 persons in Proposed Amendment 3401, [Exhibit E](#), still captures these events.

SENATOR NEAL:

Proposed Amendment 3401, [Exhibit E](#), to S.B. 367, section 2, subsection 4 lists what is exempt from the LET, and paragraph (c) excludes an athletic contest provided by an institution of the Nevada System of Higher Education. I understand professional and amateur athletic contests are exempt. Senate Bill 367 was intended to include professional athletic contests before Proposed Amendment 3401.

SENATOR DENIS:

If more than 7,500 people are in an arena at a university, is a purchase considered a fee?

SHELLIE HUGHES (Chief Deputy Director, Department of Taxation):

Yes. If a contest has more than 7,500 people, it is considered a fee. The computation of the LET in NAC 368A.143 indicates a purchase of a suite or box is the "lowest priced admission charge." Box seats are often purchased in bulk charges.

SENATOR DENIS:

In an arena with over 7,500 persons, is the fee that grants access to purchase a different category of tickets taxable?

Ms. HUGHES:

Yes.

SENATOR DENIS:

Is this type of fee currently taxed?

Ms. HUGHES:

I am uncertain, but I assume that it is.

SENATOR KIECKHEFER:

If a person pays a surcharge to gain access to purchase seats in a certain area of an event and it is not a donation, is this currently taxed?

MS. HUGHES:

I am unsure.

SENATOR NEAL:

Section 1, subsection 3, paragraph (b) of [Exhibit E](#) does not include as an admission charge a charge for the right or privilege of entering or having access to a particular portion within a facility in addition to a charge described in subsections 1 or 2. This includes, without limitation, a charge for food, beverages, access to tables, seats or particular areas near a swimming pool.

To Senator Kieckhefer's question, I see a surcharge for select tickets as similar to a charge for the right or privilege of entering a facility in section 1, subsection 3, paragraph (b) of Proposed Amendment 3401.

TERRI UPTON (Deputy Director, Compliance, Department of Taxation):

I do not know a specific situation where this has occurred. I understand this situation is exempted from the LET. Amateur sport events are exempt. Purchasing access to a cabana or box seat is a purchase of the thing itself and not admission to an event.

Nevada Revised Statutes 368A.200, subsection 4, paragraphs (a), (b) and (c) speak to amateur events and cover the exemption for box seats.

SENATOR NEAL:

Will you speak to NRS 368A.020, subsection 3, paragraphs (a) and (b), subparagraphs (1) and (2) which address Senator Kieckhefer's question? A person might pay extra for a cabana, but an additional charge paid is not subject to the LET.

MS. UPTON:

Yes. People would be gaining access to be closer to an event. If there is a reservation fee to gain admission to an event, the Department of Taxation would deem this as taxable.

SENATOR KIECKHEFER:

I do not recognize Proposed Amendment 3401, [Exhibit E](#), as just clarification. Adding a new category to S.B. 367, section 1, subsection 2, paragraph (f) in [Exhibit E](#) is something new, and it is a policy choice.

MARNEE BENSON (Burning Man Project):

We oppose S.B. 367. Proposed Amendment 3401 may have significant impacts on our event. There is a perception that our recent effort to raise programmatic funds through a fundraising campaign would apply to the State's ongoing effort to generate revenue from specific events. This campaign simply gave people the opportunity to get access to buy a ticket to a future Burning Man event. This can be viewed as a contribution to the nonprofit's programming just as one contributes to the National Rifle Association, Sierra Club or Nevada Museum of Art. It is an opportunity to buy a ticket, and that opportunity can be waived if a person chooses not to attend.

Burning Man has been hard hit by the pandemic. As a nonprofit organization, we have weathered the storm, in large part by the generosity of our community. To help bring back Nevada's outdoor events, we initiated an advisory group consisting of large-scale outdoor event producers, regulators and health officials. We consulted with Governor Steve Sisolak's Covid-19 Task Force. We received bipartisan support from the Nevada Delegation for this work.

We are proud to be part of Nevada, and would like to remain so into the future. Burning Man Project is different from any other organization. Unlike sports teams and long-running show producers, we have one primary gathering, one time per year. While actual cities throughout the State may be reopening this summer, Black Rock City remains shuttered. However, we are working hard to get our organization prepared for when we can sell tickets for 2022.

Senate Bill 367 impacts Burning Man by purporting to tax the monies paid to support the programs of the nonprofit while also reserving a place in line to purchase a ticket in 2022 or 2023. Reservation holders may choose not to purchase a ticket to the actual event. These registrants may be entitled to tax deductions depending on whether they purchase a ticket or whether they donate in excess of the reservation amount. To levy a tax on a reservation, where actual purchase of an event ticket is not guaranteed, does not make sense.

The LET will be paid in full if and when the individual buys an actual ticket to Black Rock City. But the reservation is an opportunity to purchase a ticket to a future event. How will the State allocate the tax on a reservation when it is impossible to determine which year the ticket would be for or whether a ticket will even be purchased? They could be paying a tax without ever purchasing a ticket to an event in the State. An opportunity to possibly attend an event is not attendance at an event.

This is a unique fix for Burning Man Project to help bridge the gap of two years without an event, a scenario that has never happened before and likely will never happen again. If S.B. 367 had been in place and applied to a Burning Man reservation system, it would have yielded very little money—a drop in the bucket for State budgets but a crippling amount for our nonprofit that brings more than \$75 million in revenue to Nevada each year. As Burning Man Project is no longer making these reservations available, the program has run its course. The passage of this bill would likely bring no additional revenue to the State.

SENATOR DENIS:

Was the reservation fee temporary and will it be used in the future?

MS. BENSON:

That is correct. The reservation fee was a one-time fix to financially bridge us to the next event in 2022.

CHRIS DALY (Nevada State Education Association):

The Nevada State Education Association (NSEA) previously expressed support for S.B. 367 and is neutral to the Proposed Amendment 3401 to S.B. 367. There is a need for new revenue for public education and other services.

SENATOR NEAL:

The change to expand admission charges in section 1, subsection 2, paragraph (f) is to ensure entities that engage in this behavior are subject to the LET in the future. If an entity can charge a reservation amount of \$475 and \$25 for an actual ticket, the LET would only be applied to the \$25 ticket. We want the \$475 reservation fee to be subject to the LET too. The reservation fee that grants access is an admission fee because a person pays for the right to purchase a ticket. The LET should be applied to the reserve charge because it grants access; hence, this is an admission charge. The Burning Man Project reservation fee is not refundable or transferable. Proposed Amendment 3401 is

an expansion to S.B. 367 and not just clarification, and we want to capture future activity because it has a nexus with the LET.

We will go to public comment.

MR. DALY:

I am reading testimony on behalf of Calen Evans.

I am an educator in Washoe County, the president of Empower Nevada Teachers and an NSEA member.

I would love to be giving this public comment in person or even over the phone, but educators are in the classroom right now working hard to support the children in our community. As you know, our own funding commission has recommended increasing education funding by \$2 billion dollars a year for us to reach an adequate funding level and get us near the national average. This increase, while very much needed and appreciated, is only about 12 percent of the recommended amount, so we need to continue to invest more in our education system. Reaching this goal will not happen overnight, but we have a great opportunity to move forward by passing Assembly Joint Resolution (A.J.R.) 1 of the 32nd Special Session and allowing Nevadans to vote on whether they feel an increase to the mining tax is appropriate to help fund education, health care and other government agencies. Lawmakers should be applauded for their current push to protect the voting rights of Nevadans, so it makes no sense that lawmakers would be considering taking the opportunity away from Nevadans to vote on a mining tax. If Democrat, Republican, and Independent voters do not want an increase to the mining tax, then they will vote no. That should be our decision as taxpaying citizens. Lawmakers are elected public servants whose job it is to carry out the will of their constituents, so let your constituents' priorities be heard by letting us vote on A.J.R.1 of the 32nd Special Session.

ASSEMBLY JOINT RESOLUTION 1 OF THE 32ND SPECIAL SESSION: Proposes to amend the Nevada Constitution to revise provisions governing the taxation of mines, mining claims and the proceeds of minerals extracted in this State. (BDR C-25)

Educators, their families and community supporters of education are watching closely so it is important that lawmakers on both sides of the aisle stay true to their promises to support our education system. Educational organizations will continue to be active in bringing awareness to the dire issues plaguing our public education system, and we will take to the streets, organize and use all communication outlets to get our message out there because the community needs to know the realities facing our public education system. As they do, lawmakers who continue with the status quo of underfunding our education system will continue to feel more and more pressure from their constituents. Nevadans are done allowing our public education system to fail. This issue is too important.

SUSAN KAISER:

A Department of Health and Human Services staffing ratio of 300 patients to 1 psychiatrist is alarmingly below what would really help Nevadans who need this critical service. Our State parks are not staffed adequately to meet the needs of the increasing numbers of users. Employees of the Department of Wildlife are stretched thin which compromises its management of these natural resources. The list goes on; of course, this underfunding is reflected in the lessons taught in public schools, which is my area of expertise.

The history of Nevada includes many examples of boom-and-bust economic cycles. They may be related to the ore in a mine running out, a Great Recession or a world pandemic. Our State economy has always been slow to return to normal. I understand the strong feeling of sweeping funds into the Rainy Day Fund because we will find ourselves in the midst of another thundershower. What I do not understand is the mindset of those who cite the federal government's rescue monies as the solution to a decades-long problem—specifically the underfunding of nearly all public services in the State.

I am asking you to create a consistent, long-term revenue stream that will provide funding to fill these gaps in our public services. Include those industries that have grown and flourished, such as real estate and development, mining, other services and events. These could pay a greater share of this burden to improve the economy. I am asking you to invest in Nevada and show it by increasing State revenues. Please support A.J.R. 1 of the 32nd Special Session.

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CHAIR NEAL:

Seeing no more public comment, the meeting is adjourned at 3:40 p.m.

RESPECTFULLY SUBMITTED:

Alex Polley,
Committee Secretary

APPROVED BY:

Senator Dina Neal, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 440	B	1	Joe Reel	Work Session Document
S.B. 440	C	1	Joe Reel	Proposed Amendment from the Office of the Governor
S.B. 441	D	1	Joe Reel	Work Session Document
S.B. 367	E	1	Senator Dina Neal	Proposed Amendment 3401
S.B. 367	E	5	Russell Guindon	Proposed Amendment 3401
S.B. 367	E	2	Melanie Young	Proposed Amendment 3401
S.B. 367	F	1	Senator Dina Neal	Conceptual Amendment