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MINUTES

Name of Organization: Technical Advisory Committee

Date and Time: April 25, 2017, 2:00 pm

Location: Legislative Building,
401 S. Carson St., Room 2149
Carson City, Nevada

Video Conference Location: Grant Sawyer State Office Building
555 E. Washington Avenue, Room 4404B
Las Vegas, Nevada 89101

MEMBERS:
James R. Wells
Mark Krmpotic
Cindy Jones
Vic Redding
John Sherman

MEMBERS ABSENT:
Bill Anderson
Jeff Hardcastle

OTHERS PRESENT:
Russell Guindon, Legislative Counsel Bureau, Fiscal Division

1. Call To Order/ Roll Call

Vic Redding: Good afternoon. I would like to call the meeting of the Technical Advisory Committee for the Economic Forum to order

Members Absent: Mr. Anderson and Mr. Hardcastle.

2. Public Comment No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically include on an agenda as an action item)

Vic Redding: All right, moving on to item number 2, Public Comment. I see we have a video link to the Grant Sawyer Building in Las Vegas. Is there any public comment in Las Vegas? - Seeing no one come forward. Is there any public comment in Carson City? - Seeing no one come forward. We'll close public comment.

3. Approval of the November 29, 2016 Minutes (For possible action)

Vic Redding: Moving to item number 3, Approval of the November 29, 2016 minutes. Any discussion or motion?

John Sherman: Move to approve.

James Wells: Second.

Vic Redding: Mr. Sherman has moved to approve the minutes of the November 29, 2016 meeting. Mr. Wells has seconded the motion. The motion passes unanimously.

4. Review and Approval of Revenue Forecasts for Selected General Fund Sources for Presentation to the Economic Forum at Their May 1, 2017, Meeting (For possible action)

Vic Redding: Moving on to item number 4, Review and Approval of the Revenue Forecasts for Selected General Fund Sources for Presentation to the Economic Forum at their May 1, 2017 Meeting. Mr. Guindon.

Russell Guindon: Thank you, Mr. Chairman. For the record, Russell Guindon with the Fiscal Analysis Division of the Legislative Council Bureau. I will start with making sure that the Members of the Committee, as well as the public in attendance here, and anybody that may be listening online knows the documents that have been prepared and are available for this meeting.

What you should have is five documents - One that is titled at the top Table 5, one that is called Technical Advisory Committee – General Fund Revenue Forecast May 1, 2017, one that is that same table but is the difference, it starts with the title. Lastly, you have Table 3 and the Table 3 Difference. I will be concentrating most of the discussion on Table 5.

The Technical Advisory Committee Table that I reference second is the table that came out of the process that we use for preparing the forecast to bring forward to this body. The Budget Office asked all the Executive Branch Agencies that have the responsibility for administering the revenues that you see in these sheets - which this body is considering today for revised forecasts if they felt it, was necessary to revise our forecast based on the set of forecasts that they provided to us back in October.

That information is entered into Table 3 for each of the forecasters, and then Budget and Fiscal do their own. Out of that comes the consensus that is brought forward to you in the Technical Advisory Committee forecast for your consideration.

Primarily what is going on is we have more actual history available to us to evaluate the forecast done last fall compared to the information set that is available. I would argue that is probably the principle driver of the revisions to these forecasts. We have updated actual information on the monthly or quarterly revenue sources that leads us to believe that there needs to be no change or a downward or upward revision to the revenue forecast.

Then, Table 5, which pulls out probably what we sort of call the major revenues that are of this subset that the Technical Advisory Committee is directed to consider by the Forum. The revenues that are on Table 5 probably account for around 85% of the total revenues that this body considers in the sheets here today.

I was not going to go through all, Mr. Chairman and Members of the Committee. I thought I would hit the highlights and then see if the Members had any questions. There are certain points that I want to make to ensure that the Members of the Committee, as well as the public, understand.

Starting with that, the Transportation Connection Tax is the first one on Table 5. The reason for this one having the green box in FY 2018 is per the direction of the Committee last fall. There are a couple of revenue sources that have a rule that not all the money goes to the General Fund. It makes forecast comparison hard when it goes way down and comes way back up the next year. At the request, we put this table together under the Transportation Connection Tax, the first $5 million in every even number fiscal year is required to go to the Highway Fund. That is why it is highlighted in green in FY 2018 because the amount that this body is considering is $5 million less.

To keep it apples to apples, so you can see what the growth rates are, the $5 million is actually included in the amounts highlighted in green.

Also, what I thought I would point out here is you have the second page of this table which is the difference. The difference is comparing the consensus forecast that Budget and Fiscal created for your consideration. Based on the analysis of the Agency's forecast, Budget's forecast and Fiscal's forecast, compared to the forecast that this body approved for that revenue source back in November that was presented to the Economic Forum December 6 meeting.

If you look at FY 2017 and the difference column for the Transportation Connection Tax, you can see the Agency, Fiscal and Budget differences there, yet the Technical Advisory Committee's difference is $1.8 million. You may be going, well I don't understand how you can get the $1.8 million when none of those are $1.8 million. The reason is, when staff from Budget and Fiscal are going through this, we are not really concentrating a lot on the old forecast. We're looking at the information set we have now and evaluating those forecasts.

What is going on with this specific revenue source, and it can go on with some of the other revenue sources, and that is the reason why I am sort of belaboring the point here is, this time the forecast is the average of the Agency, Fiscal, Budget's forecast. Last time, the consensus that was brought forward was just the average of Fiscal and Budget. You are changing the base this time compared to last time and so you are seeing the difference, and that is why the Technical Advisory Committee can have a difference that looks larger than the differences from the forecasters. You actually change the mix of the forecast that is making up the consensus this time, being the average of the Agency, Fiscal, Budget this time compared to just the average of Fiscal and Budget.

I wanted to point that out that it's probably not fair to this body to go, well, you're changing the mix but it's really more about taking the information set now, providing a consensus forecast for your consideration, but at least giving you a reference point for how that compared to what the body decided on last time.

With that one then, I think it may be a little easier to look at the difference sheet and go through that on this sheet and you can see that, as already indicated, that the Transportation Connection Tax was revised up for all three years of the forecast. That is again, based on the actual information that we have available to us, it's been tracking a little stronger than what we thought back last fall. What we are seeing going on with that revenue source is there is still some degradation on the taxi side but it's been more than made up by the Transportation Network Companies, i.e. Uber and Lyft.

On the Secretary of State, Commercial Filings, you can see the forecast has been revised up in all three years. Again, this is based on the year-to-date information that we have available to us from the Secretary of State's Office.

The Securities that the Secretary of State handles is actually, a slight downward revision to that revenue source. Again, this is based on the information we have year-to-date. It is tracking below. Again, I should point out, for a lot of these, if you pull the first year down or push the first year up - it either adds money to all three years or it takes money off of all three years.

The Governmental Services Tax is another one that is in green. This is because, under current law, 50% goes to the Highway Fund and 50% goes to the General Fund, but they allow you to see apples to apples comparison for the growth rates. You can see it has been revised upwards slightly because of the information we have year-to-date, it is tracking a little bit above.

Unclaimed Property is one that was revised down slightly in the first year and then upward slightly in the FY ’18 and FY ’19. This was because of it is the average of the Agency, Fiscal, Budget forecast but because of the net change to those. You see the results that come out of averaging all three forecasts this time, compared to averaging all three forecasts last time.

Next, the net proceeds of Minerals Tax, the main point to make sure that Members understand here is that the number that you see in Table 5 has the same for Agency, Fiscal and Budget. It made the choice pretty easy of what to bring forward to this body because this is the number that the Department of Taxation has available to them. At this point in time, that has actually been reported to them by the mining industry as the true up against what they estimated back for FY ’16, for calendar year 2016.

Again, I would argue that it could still be different because it is the build amount plus there also could be amendments because the entities are allowed to file amended returns. This is based on the information set that the Department of Taxation has. Then you can see there has been a slight upward revision in FY ’18 and a little more of an upward revision in FY ’19 based on the revised forecast. I think what is probably driving each of the forecaster’s forecast is thinking gold prices are going to stay higher now than they were last time. I think the last one we looked at Kitco, I think they are around $1,285 an ounce. Some are thinking that gold could go over $1,300 an ounce. It is probably not necessarily surprising given sort of some of the uncertainty that is going on out there with not just sort of our own national uncertainty perhaps, but international uncertainty influences precious metal prices. Then, with those prices, they should be able to maintain the production levels that we have been seeing.

In addition, Liquor Tax, that is a slight downward revision. The Short-Term Car Lease is another one with a slight downward revision, given where we are year-to-date; it indicates that that adjustment is necessary.

The Business License Fee has been revised up. You can see by approximately $3.2 million to $3.9 million as you move across the three years. This is again, based on the year-to-date information that Fiscal and Budget are looking at that believe that this necessitates this upward revision.

The Live Entertainment Tax on Non-Gaming. This is the one with the most substantial revision. As you can see, all three forecasters revised their forecast up per year, by somewhere between $7 million and $9 million range. Again, this is the tax that had fairly significant changes made to it in the 2015 Session which became effective October 1, 2015. The non-gaming side was the one that was impacted the most because the law change picked up events that were previously exempt. Such as outdoor concerts which are now subject to the tax. And we also pick up some of the events that previously were excluded, such as the Electric Daisy Carnival and Burning Man. Also, another one worth pointing out here is the T-Mobile Arena, that is not paying under the gaming but is paid under the non-gaming because even though it is there sitting amongst those casinos, it is not deemed to be a gaming establishment. Thus, it is actually taxes that are paid to and administered by the Department of Taxation, not the Gaming Control Board.

Having had a chance to sort of look at where we are year-to-date and talk to the Department of Taxation with regards to what is going on with the payments and having a chance to sort of observe what some of those events are paying, it clearly showed that this upwards revision that you are seeing here is necessary. I will point out, each of us is still working on our forecast probably for the gaming side, that will be presented at the Forum on May 1, but it's quite possible that what you are picking up here on the non-gaming side, some of it may be given back on the gaming side because of what is going on and the transition of the tax based on the law change that became October 1, 2015.

Then, the other Tobacco Tax necessitated a slight upward revision.

Athletic Commission Fees - you can see there was a bigger downward revision in FY 2017 and then a slight revision in FY '18 and '19. This is again looking at where we are year-to-date and information provided to us by the Athletic Commission with regards to the events that are yet to occur in FY 2017. There was one event that was lost. We believe looking at where we are year-to-date and what is left that could potentially come in, that it requires this downward revision to the forecast for Athletic Commission Fees for FY 2017.

With that, Mr. Chairman, Members of the Committee is I thought to go through the revenues that are in Table 5 with regards to the larger revenue sources that are in the Technical Advisory Committee's forecast. I did not know if there were any questions that needed to be addressed for the Members of the Committee with regards to the revenues that were discussed as presented in Table 5, and/or any of the revenue sources that are actually presented in the Technical Advisory Committee's table.

Vic Redding: We'll open it up for questions. Mr. Krmpotic.

Mark Krmpotic: Thank you. Mr. Guindon, can you just briefly explain for the benefit of the TAC, the period of time, an additional period of time of actual information you've had the benefit of, and the other forecasters have had to gather and analyze in preparing this forecast?

Russell Guindon: Yes. What we did is sat down last Saturday and went through the Controller's System again to capture everything that was reflected through Friday, in terms of what had been posted as revenue.

Then, for some of the other ones like, the ones that are reported by the Department of Taxation, we would have information probably through January, possibly February. Again, we can try and go into the Controller's System and cheat to see what might be being posted as revenue. Then, for the quarterly revenue, such as the Short-Term Car Rental, we've only got through the Second Quarter. We won't get the Third Quarter until the end of next month.

Vic Redding: Any other questions on either the revenues on Table 5 or any of those discussed in Table 3? Hearing no questions, is there a motion for approval?

John Sherman: I'd be willing to make a motion but out of all these documents, I just wanted to be clear which one do you want the TAC to be voting on?

Russell Guindon: Thank you, Mr. Sherman. It would be on the last table before you get to the last page. It would be the amount there, the Total General Fund Revenue: after commerce tax credits, so that would be the gross amount because in the next agenda item is the tax credits. It would be the number that is then been put together and presented here, the $549,997,635 for FY 2017. The $539,816,163 for FY '18 and the $554,385,751 for FY 2019. That would be the gross amount under this agenda item, Mr. Sherman.

John Sherman: Thank you. So moved.

Mark Krmpotic: So we're taking a separate motion on tax credits?

Vic Redding: Correct, that's my understanding.

Russell Guindon: That's the next agenda item.

Vic Redding: That's before tax credits.

Mark Krmpotic: I'll second the motion.

Vic Redding: Mr. Sherman has moved to approve the totals that Mr. Guindon read into the record. Mr. Krmpotic seconded the motion. The motion passes unanimously.

5. Review and Approval of Forecasts for Various Tax Credit Programs That May be Taken Against Certain General Fund Sources for Presentation to the Economic Forum at Their May 1, 2017, Meeting (For possible action)

Vic Redding: We'll move to item number 5 which is the Review and Approval of the Forecasts for the Various Tax Credit Programs that may be taken against certain General Fund sources for Presentation to the Economic Forum at their Meeting May 1, 2017. Mr. Guindon.

Russell Guindon: Thank you, Mr. Chairman. For this, I would have you turn to the last page where I just was for the Technical Advisory Committee's table. Then if you want, you can flip through the corresponding page for the difference. On this one, I'll go through the one that is actually reflected and then Mr. Chairman and Members of the Committee, I have a couple of additional items that I need to bring to the Committee's attention and for your consideration and potential action based on information that Budget and Fiscal received from the Governor's Office of Economic Development, Steve Hill the Executive Director, this morning.

Looking at that, you can see the difference that, on the Economic Development Transferrable Tax Credits line there, there's a plus $325,000 for FY 2018 and a plus $2,375,000 for FY 2019. This action, you can actually see, looking at the Technical Advisory Committee's page, the amount then is now the $31,087,500 for FY '18, for this tax credit program. $44,600,000 for FY 2019. What those two amounts that I just read reflect, the amounts that were provided to us last fall for the Tesla Giga-Factory Project by Steve Hill and his staff working with Tesla to get information. He has provided us information this morning that that's still the best information set they have with regard to the potential tax credits for that project based on their employment and capital investment activity that's projected.

The reason for the adjustment that you see is, he provided us with information that the Governor's Office of Economic Development have entered into an agreement with Faraday that they are not going to take any tax credits based on their number of employees until they get to the $1 billion in capital investment. His information that he has provided to us is that they won't get to that amount until the next biennium. Thus, the amount of estimated tax credits that we had on the sheets last fall, is no longer prudent to have on the sheets. The actual amount for that was—removing the Faraday amount by $475,000 for '18 and $3,325,000 for FY '19.

What the difference that you are seeing is, there was an adjustment by the Forum to the tax numbers last December 6th. It is throwing the differences off on this sheet compared to what we actually took off. The bottom line is, the numbers that are there, the $31,087,500 for FY '18 and the $44,600,000 for FY '19, which is the amount that is with the information set that we have as of this morning, based on interactions with staff with

Steve Hill in the Governor's Office of Economic Development. Again, these amounts are reflecting the Tesla Giga-Factory Project only. The Faraday ones are being taken off the sheets for the next biennium.

Then the other difference that you see — and again, pluses here are adding revenue, because you are lowering the credit, so a smaller negative minus a bigger negative, is a plus. Pluses are good here from a Fiscal guy's point of view.

Under the New Markets Job Act Tax Credits, you can see a plus $2 million. Last time we had done some analysis of looking at it and thought that the estimate for FY '17 should be $26 million. Then looking at what has been taken by taxpayers — based on the information that has been provided to us by the Department of Taxation and what is left, we now believe the $24 million is the better number for FY 2017. There is no change for FY '18 and FY '19 for that tax credit program.

That is the two that we have reflected in the sheets. There are two other ones then, Mr. Chairman. I should ask if there are any questions on those two before I go to the other two that I need to go through with this body.

No questions, okay.

Under the Film Transferrable Tax Credits line, you can see there is currently the minus $5,629,185 that is on the sheets for FY 2017. It is still sort of sitting out there for them to award and people may take it and may take less and then that provides an additional amount that can get awarded. Under current law, the Governor's Office of Economic Development has the residual that is left to keep trying to administer the program and award until they eventually get to the $10 million and then they are done under the amount that is authorized by current law.

As of today, the $5,629,185, $3,908,259 has actually been taken year-to-date and it has been taken against the Gaming Percentage Fee Tax. That leaves the $1,720,926 that I believe is sitting there. Again, based on interactions with Steve Hill this morning - he thinks there is possibly a little that can be taken at the end of this fiscal year, but also may not, because remember in the Film Program, the way it works is you come in and you get approved. Then you go out and shoot your film, then it goes to production. Then you come back and you do the audit. From the audit, you get awarded an amount. The awarded amount could be different than the approved amount. Then you can actually try and take them against one of the three taxes that you are authorized to take them against. Or, you transfer them and sell them in the secondary market for these things.

Generally what we have been seeing with the Film Credits - I think all but one of the film projects is being transferred. Why? Because the three revenue sources that you can take them against are the Gaming Percentage Fee Tax. I'm pretty sure these film companies do not have a gaming license. The other one is the Insurance Premium Tax. I do not know too many insurance companies that are coming here and shooting films. What is left is the Modified Business Tax, which, you've got to have employees here that you are paying wages to have a tax liability under that. I think you can see then, probably why for these Film Tax Projects, all but one of the projects that they've actually declared them against the Gaming Percentage Fee Tax and then a gaming company has bought them and taken them against their Gaming Percentage Fees.

The way that Gaming Percentage Fee Tax works are that May's business activity that is paid at the end of June is actually the end of FY 2017 because the business activity period for the fiscal year runs June to May. Then it gets your July through June's collections. In a sense, given that we're very close to the end of April, this stuff would have to be out, declared and taken against the Gaming Percentage Fee Tax so that these guys could take it on their June return against May.

We could be off, but it makes sense Members of the Technical Advisory Committee to take the residual that is left, the $1.7 million approximately and move it from the sheets '17 and into '18 because it seems it is more likely. I think based on the information set we have, we would take the difference between the $5,629,185 and the $3,908,259 that has actually been taken which is the $1,720,926, if I did the math correct. I would suggest that you could consider then moving the sheets from FY '17 to FY 2018.

Then, the other one, Mr. Chairman is the Catalyst Account Transferrable Tax Credits. You can see on the sheets there, we currently have minus $1 million and again, based on the information that we have from GOED — Steve Hill has provided Fiscal and Budget information that at this point in time in the fiscal year that they only believe the $355,000 has been awarded and will be taken in FY 2017. Under this program, there is no carry-forward. That would mean the $645,000 that is the reminder would go away. Again, based on the information set that we have available to us this afternoon based on email interactions this morning, staff would suggest that this one be reduced down to the $355,000. The $645,000 is just gone. We would not move that from FY '17 to FY '18.

With that, Mr. Chairman and Members of the Technical Advisory Committee, those are the two items for consideration for this body with regards to the tax credit programs under this agenda item.

Vic Redding: All right, thank you. I will open that up for any questions with either of the recommendations that Mr. Guindon has made about changing the Fiscal '17 amounts for the Film Transferrable and the Catalyst Fund. Are there any comments that Budget or GOED would like to put with that recommendation? No. Okay. Any questions?

Mark Krmpotic: Just a quick question. On the New Markets Tax Credits, I know we already covered that but where the forecast is to reduce the amount of the credit in FY '17, would that be making that available, like say in the out years of for example 2020 or something like that, up to that maximum amount of money?

Russell Guindon: Yes, under this program, they can be carried forward from year-to-year.

James Wells: Is there a reason that we did not add them to ’18 or ’19, is there something that we are seeing for those New Market Tax Credits that would lend us to believe that they are not going to come back and have like $24 million in FY ’19, that will be pushed out to the out years?

Russell Guindon: It’s possible but we now have the quarterly stuff by the taxpayer from the Department of Taxation and putting it by tracking sheet, there are some that are taking a fixed amount a quarter to get to whatever their allocation was for the calendar year. Then it ends up with the calendar year allocation being the fiscal year allocation as you move across the quarters. The expectation would be time, opportunity, the cost of money. You take the credit as fast as you could. There are some of the ones that are taking a fixed amount every quarter, which is their calendar year amount.

When we looked at it that is possible, but based on the information that we have for the program for this calendar year and then obviously as it translates into FY ’17, we believe that the $24 million is probably good for each of the years. Then obviously, it blends down to the $22 million because that is what is authorized. Now, I will be honest with you, it could be more, but this is looking at the information we have available to us, we think the right estimates to have on the sheets for this program.

Vic Redding: Any other questions or discussion? I believe we are being asked to approve the six categories under the tax credit program with a staff recommendation to adjust the Fiscal ’17 Film Transferrable Tax Credit to $3,908,259 in Fiscal ’17 and move $1,720,926 to Fiscal ’18. Also, adjust the Catalyst Account Transferrable Credit from $1 million to $355,000 and the remaining $645,000 would not be moved to Fiscal ’18 - it would disappear from the sheet. I am happy to take any further discussion or a motion for some or all of that.

Vic Redding: Moved by James Wells. Seconded by John Sherman. The motion passes unanimously.

6. Public Comment **(No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically include on an agenda as an action item**

Vic Redding: I’d like to move now to Public Comment, do we have any public comment in Las Vegas in the Grant Sawyer Building? - Seeing no one come forward. I’ll move to public comment in Carson City - no public comment in Carson City.

7. Adjournment **(For possible action)**

Vic Redding: We’ll move to item number 7 and adjournment. Thank you.