

FINANCIAL IMPACT OF THE REFERENDUM ON PROVISIONS RELATED TO THE COMMERCE TAX FROM SENATE BILL NO. 483 OF THE 2015 LEGISLATIVE SESSION PETITION

FINANCIAL IMPACT – YES

OVERVIEW

The Referendum on the Provisions Related to the Commerce Tax from Senate Bill No. 483 of the 2015 Legislative Session petition (Referendum) proposes to seek voter approval or disapproval of the provisions related to the Commerce Tax in Senate Bill 483 of the 2015 Legislative Session, which was approved by the Legislature on June 1, 2015, and signed by the Governor on June 9, 2015.

Pursuant to Article 19, Section 1 of the *Nevada Constitution*, a referendum proposing to approve or disapprove any statute or resolution, or part thereof, enacted by the Legislature is to be submitted to the voters at the next succeeding election at which the question may be voted on by the registered voters of the entire state. If the majority of the voters approve the statute or resolution, it shall stand as the law of the state and may not be amended, annulled, repealed, set aside, suspended, or in any way made inoperative without a direct vote of the people. If the majority of the voters reject the statute or resolution, it becomes void and has no effect, effective upon the canvass of the votes by the Nevada Supreme Court.

Pursuant to NRS 295.045, the question that would be placed on the ballot regarding approval or disapproval of the provisions related to the Commerce Tax in Senate Bill 483 of the 2015 Legislative Session would require the voter to decide whether he or she approves of the provisions related to the Commerce Tax. The Referendum would appear on the 2016 General Election ballot on November 8, 2016, if it qualifies for submission, and the result of the ballot question would become effective on November 22, 2016, pursuant to NRS 293.395, upon the canvass of the votes by the Nevada Supreme Court.

The following provides a summary of the provisions related to the Commerce Tax approved by the Legislature and the Governor in Senate Bill 483 of the 2015 Session, as well as an explanation of the effect of the approval or disapproval of the Referendum.

The Nevada Commerce Tax is a new tax that will be paid by certain businesses that have at least \$4 million in Nevada gross revenue during a taxable year, based on their industry-specific tax rate. The first payment of the tax is due August 15, 2016, for the taxable year ending on June 30, 2016, and this payment will be recorded as State General Fund revenue for FY 2016 (July 1, 2015 – June 30, 2016).

Beginning in Fiscal Year 2017 (July 1, 2016 – June 30, 2017), a business that pays the Nevada Commerce Tax may take a credit of up to 50 percent of the Commerce Tax paid for the previous fiscal year against the business's Modified Business Tax liability in the current fiscal year.

A vote to approve the provisions related to the Commerce Tax in Senate Bill 483 would require businesses who have at least \$4 million in Nevada gross revenue during a taxable year to continue paying the Nevada Commerce Tax as required pursuant to current law and would allow businesses to continue receiving the credit of up to 50 percent of the Commerce Tax paid for the preceding fiscal year against the business's Modified Business Tax liability in the current fiscal year. A vote

to disapprove the provisions related to the Commerce Tax in Senate Bill 483 of the 2015 Session would repeal the provisions of the Commerce Tax, which eliminates this tax liability beginning with the taxable year ending on June 30, 2017. The credit of up to 50 percent of the Commerce Tax paid for the prior fiscal year against the Modified Business Tax liability in the current fiscal year would also be repealed effective with the Modified Business Tax payment due for the second quarter of Fiscal Year 2017 (October – December 2016), which would be paid on or before January 31, 2017.

FINANCIAL IMPACT OF THE INITIATIVE

If a majority of the voters approve the provisions of the Referendum, the provisions for the Commerce Tax and the credit for the Commerce Tax against the Modified Business Tax as approved in Senate Bill 483 would remain in effect, and the Referendum would result in no financial impact upon state or local government.

If a majority of the voters disapprove of the provisions of the Referendum, the Fiscal Analysis Division estimates that the repeal of the provisions related to the Commerce Tax and the credit for the Commerce Tax against the Modified Business Tax would negatively impact the State General Fund budget, based on the estimates prepared during the 2015 Legislative Session, as follows:

- A net loss in State General Fund revenue of approximately \$74.9 million in Fiscal Year 2017 (July 1, 2016 – June 30, 2017). The Commerce Tax would not be collected for FY 2017, resulting in an estimated loss of approximately \$119.8 million. Businesses would no longer be able to take a credit for their Commerce Tax paid in FY 2016 against the last three quarters of their Modified Business Tax liability in FY 2017, resulting in an estimated gain in State General Fund revenue of approximately \$44.9 million.
- A net loss in State General Fund revenue of approximately \$59.9 million in Fiscal Year 2018 and all future fiscal years, based on an assumption of no growth in the Commerce Tax in Fiscal Year 2018 or future fiscal years. The Commerce Tax would not be collected, resulting in an estimated loss of approximately \$119.8 million per fiscal year. There would be no credit for the Commerce Tax paid in the preceding fiscal year against the Modified Business Tax liability in the current fiscal year, resulting in an estimated gain in State General Fund revenue of approximately \$59.9 million per fiscal year.

Based on information received from the Department of Taxation, the disapproval of the provisions of the Referendum would result in increased expenditures relating to administrative changes caused by the repeal of the provisions related to the Commerce Tax; however, the Department did not estimate the costs that would result from these administrative changes. The Department of Taxation additionally indicated that additional staff that was approved by the Legislature during the 2015 Session for administration of the Commerce Tax could be eliminated if the provisions of the Referendum are disapproved; however, the Department did not estimate the number of positions that could be eliminated, nor did it estimate the cost savings that could result from the elimination of these positions.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – October 23, 2015