

FINANCIAL IMPACT OF QUESTION 3

FINANCIAL IMPACT – CANNOT BE DETERMINED

OVERVIEW

Question 3 proposes to amend Title 32 of the *Nevada Revised Statutes* to impose a new margin tax on the taxable margin of specified business entities in the state. The proceeds of the tax, less administrative costs incurred by the Department of Taxation, would be deposited in the State Distributive School Account. Question 3 requires that appropriations be made from the State General Fund to the Department of Taxation for the initial costs of administering the margin tax. Question 3 also proposes a temporary increase in the rate of the Modified Business Tax on Financial Institutions to generate revenue to support the appropriations made to the Department.

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The provisions of Question 3 would require specified business entities in the state whose total revenue exceeds \$1 million to pay an annual tax at a rate of 2 percent of the taxable margin of the business entity (margin tax). The provisions of Question 3 require that the proceeds from the margin tax be deposited in the State Distributive School Account (DSA). An amount that is necessary to defray the cost of the administration of the margin tax may be withheld from these proceeds by the Department of Taxation, for deposit in the State General Fund.

The provisions of Question 3 also require a temporary increase in the rate of the current Modified Business Tax on Financial Institutions (MBT-FI), from the current rate of 2 percent to a rate of 2.29 percent in the last six months of Fiscal Year 2015 and 2.42 percent in Fiscal Year 2016. The revenue generated from this temporary increase in the MBT-FI is intended to raise the revenue necessary to support the appropriations made from the State General Fund to the Department of Taxation for the initial costs of administering the margin tax. If the revenue raised from the increase in the MBT-FI is not sufficient to support the full amount of the appropriation in either fiscal year, the appropriation for that fiscal year is reduced to the extent of the deficiency.

If approved by the voters, the provisions of Question 3 would become effective on January 1, 2015, but would not result in additional revenue for the DSA until the last three months of Fiscal Year 2016. However, the Fiscal Analysis Division cannot predict what regulations or other actions may be taken by the Department of Taxation to implement and administer the margin tax that may affect a taxpayer's taxable margin or tax liability, nor can it predict the timing by which revenue would be received due to the ability of taxpayers to file extensions. Thus, while additional revenue will be generated for the DSA in Fiscal Years 2016 and 2017 and in future fiscal years, the Fiscal Analysis Division has not prepared an estimate of the amount of revenue that would be generated for the DSA during these years due to the multitude of assumptions that would need to be made and the uncertainty regarding how the assumptions made would impact the revenue estimates.

Question 3 requires appropriations to be made from the State General Fund to the Department of Taxation in the amount of \$1.4 million for the last six months of Fiscal Year 2015 and \$4.2 million for Fiscal Year 2016, if Question 3 is approved by the voters.

Question 3 specifies that the proceeds from the temporary increase in the MBT-FI rate are intended to raise the revenue necessary to support the appropriations made from the State General Fund to the Department of Taxation for the initial costs of administering the margin tax. The Fiscal Analysis Division cannot state with certainty whether the rate increase for the MBT-FI would generate sufficient revenue to support the required appropriations. However, it is reasonable to conclude that the appropriation amounts required would be supported by the 0.29 percent and 0.42 percent increase in the MBT-FI rate, based on an analysis of the historical actual tax collections from FY 2005 to FY 2013.

The Fiscal Analysis Division has determined that imposition of the margin tax would increase state government expenditures, due to increased costs of administration and enforcement that would be borne by the Department of Taxation. The Department of Taxation, based on a request made by the Fiscal Analysis Division, has estimated that its initial costs of administration would be approximately \$1.4 million in Fiscal Year 2015 and \$3.9 million in Fiscal Year 2016, for a two-year total of approximately \$5.3 million. The Department estimated that future ongoing costs of enforcement and administration of the margin tax would be approximately \$12.1 million per biennium.

Based on the estimate of \$5.3 million for the initial costs of administration provided by the Department of Taxation, the \$5.6 million in appropriations from the State General Fund included in Question 3 would be sufficient to support the initial costs of administering the margin tax.

Question 3 may result in a negative impact on the State General Fund from the initial costs of administration of the margin tax if: 1) The actual proceeds generated from the temporary increase in the MBT-FI are not sufficient to fund the General Fund appropriations included in Question 3; 2) The actual costs for the initial administration of the margin tax are greater than the amount of the appropriations specified in Question 3; or 3) The actual costs for the initial administration of the margin tax are greater than the amount of revenue generated from the temporary increase in the MBT-FI.

Question 3 may result in a positive impact on the State General Fund if the amount of revenue generated from the temporary increase in the MBT-FI is greater than the actual costs for the initial administration of the margin tax incurred by the Department of Taxation.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – August 1, 2014