

SECTION BY SECTION SUMMARY OF GOVERNOR'S TAX PROPOSAL SB 238 & AB 243

(Please note: Both SB 238 and AB 248 are duplicate bills and were introduced yesterday March 5, 2003. The following summary is done by subject matter not numerical sequence and does not contain positions taken by the Association at this time. NTA positions will be provided early next week. You can access the full text of the bills by logging onto: www.leg.state.nv.us and clicking onto 2003, and going to "Bill Information".)

IMPOSITION OF GROSS RECEIPTS TAX *(The date for imposition of the tax is July 1, 2005.)*

- Sections 2 Definitions for: "Business Entity", "Business", "Commission", "Engaging in Business", "Fiscal Year", "Gross Amount Received or Receivable", "Gross Receipts" (including exemptions), "Pass Through Revenue".
- Section 11 Says the tax ". . . may not be construed as a tax upon the customer. . . ."
- Section 12 Gives authority to the Department of Taxation for the Administration of the tax and requires revenue to be credited to the State's general fund.
- Sections 13-15 Procedures for record keeping, confidentiality of information and allowed exceptions to confidentiality.
- Section 16 Defines a "natural person" for purposes of being subjected to the tax.
- Section 17 Imposition of "excise tax" rate of 0.25% on gross receipts in excess of \$450,000. Also schedule of reports and payments (quarterly), and conditions for deferral of payment.
- Section 18 Regulatory authority ". . . given to adopt criteria or determining the amount of gross receipts attributable to business conducted in this state . . ."; also provides criteria for apportionment; adoption of method of determination; and appeal provisions. *(As written this would capture out of state businesses with an economic nexus, not necessarily a physical nexus.)*
- Section 19 Enumerates the deductions for calculating the tax liability.
- Section 20 Provides for consolidation of business entities with same "control group" for purpose of computing tax liability; and provides for department to make determination of "control group".
- Section 21 Provides a "good cause" extension of 30 days".
- Section 22 Provides that the remedies of the State are cumulative.
- Sections 23-25 Refund procedures when overpayment is made.
- Section 26 Legal conditions to prevent actions to prevent or enjoin collection of tax; and requirement for claim to be filed prior to court filing.
- Sections 27-28 Departmental and legal procedures (including time frames) for claimant to file actions for recovery.
- Sections 29-30 Conditions for judgements, including interest.
- Section 31 Recovery by Department through legal actions.
- Section 32 Establishes \$25 as the de minimus amount for cancellation of amount illegally determined to have been collected.
- Section 33 Penalty for falsifying records or attempting to evade or defraud State.

ADMISSIONS TAX *(This applies only to spectator events not participatory amusements. The effective date is October 1, 2003)*

- Sections 36-39 Definitions for "Admission charge", "Commission", "Group entertainment", "Taxpayer".
- Section 40 Gives authority to the Department of Taxation for the Administration of the tax and requires revenue to be credited to the State's general fund
- Sections 41-43 Provisions for record keeping, audits and confidentiality.
- Section 44 Imposition of an "excise" tax of 7.25% of the admission charge to any place or location in this State where group entertainment is provided.

ADMISSIONS TAX CONTINUED

Sections 45-46 Procedures for collection and remission of the tax.

Section 47 Provides a collection allowance of 1.25%. (Note: Section 186 amends this Section and changes collection allowance (see "Miscellaneous", page 3.)

Section 48-30 30 day extension to remit tax for "good cause".

Sections 49-59 Due process provisions including appeal rights, remedies, interest payments, rights, remedies and actions.

Section 60 Penalty for falsifying records and attempting to evade or defraud State.

Sections 62-70 Conforming language to include appropriate sections of this bill in NRS 360 which are the administrative provisions of the Department of Taxation.

BUSINESS LICENSE TAX (According to the original presentations by the Governor's staff when the gross receipts tax went into effect, there would be a \$100 per employee credit for the Business Tax. This bill does not include the credit provision and in fact de-couples the Business Tax from the Gross Receipts Tax. Additionally, the tax is reduced to \$80 per FTE, per quarter. Besides being a change from how this was represented, this is a completely different proposal from the Task Force recommendation.)

Sections 74-75 & 79 Conforming language.

Section 76 Increases the fee from \$25. to \$100. for the initial application for the Business License and creates a renewal with an annual fee of \$100. (Effective July 1, 2003)

Section 77 Increases the Business Tax from \$25. per full-time employee (FTE), per quarter to \$75 per FTE, per quarter. (Effective July 1, 2003) Note: This provision is also contained in the short-term revenue bills.

Section 78 Reduces the rate of the tax to \$20 each quarter when the gross receipts tax is imposed, and removes the exemption for sole proprietors and one natural person of an unincorporated business. (July 1, 2005)

Section 187 Repeals business tax exemption for sole proprietors and first person of an unincorporated business. (Effective July 1, 2005)

Section 191 Provides that Business License renewals occur not later than the last day of the month of the anniversary date of issue after June 30, 2003.

EXCISE TAXES

Sections 80-82 Increases the tax rates of Alcoholic Beverages by 89%.

Sections 83-84 Increases the Cigarette tax from 35 cents per pack to \$1.05 per pack.

SECRETARY OF STATE FEES (This increase also applies to those fees that were increased in the 2001 Session.)

Sections 92-156, 158-164, 173-180, 184 & 185. Increases all Secretary of State fees 50%.

GAMING TAXES

Section 170 Increases gross gaming tax by 1/4 % on the two lower tiers and increases the top tier by 1/2% (to 6.75%). Effective July 1, 2005

Section 171 Increases the Restricted Slot tax .

Section 172 Increases gross rate of interactive gaming to 6.5%

INSURANCE PREMIUM PROVISIONS (These sections are effective July 1, 2005)

Section 181 Clarifies that insurance companies are subject to gross receipts tax excluding revenue from the premium tax.

Section 182 Clarifies that captive insurers are subject to gross receipts tax excluding net direct premiums.

Section 183 Clarifies that Fraternal Benefit Societies are subject to gross receipts tax.

PROPERTY TAX

- Sections 73 Creates a new property tax cap of \$3.14 per \$100 of assessed valuation, by removing the 50 cent school operating rate from the current combined state and local government cap of \$3.64 per \$100 of assessed valuation. Under this provision the cap of \$3.14 would be a combined local government property tax rate, allowing the State to impose additional property tax rates above the \$3.14 cap. (Effective July 1, 2004)
- Sections 167-169 Creates a secondary cap over the local government cap of \$3.14 to provide for the 50 cent school district levy and amounts imposed by the Legislature for state bonded indebtedness and operating; and adds conforming language to other statutory cites.
- Section 189 Imposes a property tax of 15 cents per \$100 of assessed valuation for State operating. (Effective July 1, 2004.)

MISCELLANEOUS PROVISIONS

- Section 71 Requires the Department of Motor Vehicles to adopt regulations for electronic submission of returns and payments by credit or debit cards and electronic funds transfers.
- Section 61 Requires the Department of Taxation to adopt regulations for electronic submission of returns and payments by credit or debit cards and electronic funds transfers.
- Sections 85, 86 & 88 Increases the fee for the sales and use tax permit from \$1.00 to \$5.00.
- Sections 87 & 91 Changes the collection allowance of 1.25% to 1% if the tax is remitted in 7 days and 3/4% if the tax is remitted by the last day of the reporting period.
- Section 90 Conforming language for the fine arts exemption.
- Section 157 Requires the standing committee to Study Local Government Taxes and Finance review all tax exemptions and make recommendations for repeal.
- Section 165 Requires public body to include provision in bid that contractor will be registered for all applicable licenses and pay the sales and use taxes on equipment, materials and supplies used in the contract.
- Section 166 Requires the Department of Administration to adopt regulations for electronic submission of returns and payments by credit or debit cards and electronic funds transfers.
- Section 186 Amends Section 47 of this bill to change the collection allowance from 1.25% to 1% if the tax is remitted in 7 days and 3/4% if the tax is remitted by the last day of the reporting period.
- Section 188 Appropriation to the Department of Taxation of \$32 million over the biennium.
- Section 190 Provides for the continuation of property tax levies by local governments.
- Section 192-93 Effective dates for the various provisions.