

TAXTOPICS

A Publication of the Nevada Taxpayers Association serving the citizens of Nevada since 1922

FEBRUARY 2000

ISSUE #1-00

GAMING TAX INITIATIVE OPPOSED

On January 24, Senator Joe Neal (D. Clark County) filed an initiative petition to increase the gross gaming tax by an additional 5% on monthly revenue more than \$1million. A survey of NTA's Board of Directors resulted in overwhelming opposition to the initiative.

Fred Gibson, Chairman of NTA said "This initiative is contrary to accepted principles of equitable taxation. First and foremost this initiative earmarks a revenue source when there is no user- benefit relationship (i.e., fuel tax paid by motorists, used to repair and build roads). This results in a lack of accountability for the use of the funds, since they are guaranteed and not subject to justification. Second, over time, industry specific taxes tend to become punitive, sending a negative message to other types of businesses looking to expand, which at this point in time is contrary to the stated economic diversification goals of the State."

Association President Carole Vilardo, also pointed to a number of potential problems in the distribution provisions of the initiative. These range from the ability of the state to make a distribution of revenues to the various agencies within the 5-day time frame specified in the initiative to allowing the revenue provided to school districts to become part of the operating base for subsequent years. Another major concern involves the procedure for reducing the basic motor vehicle privilege tax and the related revenue offset which is to be provided to the various local governments. (Please see related story page 2.)

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THE INITIATIVE . . .

Those sections of the initiative dealing with revenue distribution contain problems and create concerns about how the provisions will actually work. The following is a summary of those five sections of the initiative that identify how the revenue is earmarked. The language in each section that has created the concern or a potential problem has been extracted from the initiative and appears in quotation marks. The language in italics identifies the Association's concerns and the potential problems associated with that section.

SECTION 3 - IMPOSES THE INCREASE IN THE TAX AND ESTABLISHES THE DATE OF DISTRIBUTION.

Sec. 3.3 (a) - "The interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account."

What constitutes applicable charges? Is it the bank handling charges, interagency charges or could it include the ad required to run under sec. 4? Who decides what applicable charges are?

Sec. 3.3 (b) - "On June 30 of each year must be distributed pursuant to subsection 4-8, inclusive."

The gross gaming tax (NRS 463.370) is due the 25th day of the month. Historically revenue distributions haven't been made within five days of the receipt of the revenue because it isn't possible given the technical capability and procedures in place.

SECTION 3.4 - EARMARKS 45% OF THE REVENUE FOR USE BY CHARTER SCHOOLS AND SCHOOL DISTRICTS.

This section requires the allocation of money to each school district and charter school to be based on the enrollments of the proceeding fiscal year. "Each charter school and school district shall use all money received pursuant to this section for operating costs of the charter school or the schools in the school district, including the purchase of books and computer software and hardware. Money received pursuant to this section must not be used to replace or reduce money a charter school or school district would otherwise have expended on the

total operating costs of the charter school or the schools in the school district, including salaries, and must not be considered in determining the apportionment of money from the state distributive school account."

This language is particularly troubling on two counts. First, the existing distribution of revenue to school districts and charter schools (known as the Nevada Plan) equalizes the wealth behind each student to insure that an equal educational opportunity can be provided to every student regardless of how poor or wealthy a school district may be. Using enrollment as the basis for distributing this "new" revenue negates the formula in the Nevada Plan thereby undermining the requirement of providing an equal educational opportunity. In other states unequalized funding has provided the grounds for lawsuits.

Second, this revenue is to be used for operating costs (which include salaries) and will increase the level of expenditure that will become part of the base of each subsequent budget. By increasing the revenue requirement which will have to come from the distributive school account can any taxpayer be assured they won't be asked for additional taxes (new or increased) to cover these increased operating expenditures in the future?

SECTION 3.5 - EARMARKS 38% OF THE REVENUE RECEIVED TO OFFSET A REDUCTION IN THE BASIC MOTOR VEHICLE PRIVILEGE TAX.

Sec. 5 (a) - "Within 10 days . . . estimate the amount of revenue that will be collected as proceeds of the basic privilege tax . . . for a 1-year period beginning on September of the year the estimate is made.

The year the reduction is made (September 1, - August 31) does not correspond to the fiscal year in which the revenue is collected (July 1 - June 30). Won't this present a problem in reconciling this account?

PROBLEMS AND CONCERNS

Sec. 5 (b) “Using the estimate prepared pursuant to paragraph (a) . . . Determine the percentage by which the basic privilege tax could be fully offset . . . for the 1-year period beginning on that September 1”;

The language or lack thereof in this subsection begs the question: Do we use the prior year’s registration numbers to determine the percentage of reduction? ... or . . . Does the director of the department of motor vehicles estimate the vehicle registrations that will occur between September 1 and August 31 of the year the reduction will be given? (And will those Counties in which the Assessor is responsible for vehicle registrations have to make estimates to give to the Director of DMV?)

Sec. 5 (d) - “Publish an announcement to notify the residents of the State of Nevada of the percentage that the basic privilege tax will be reduced for the upcoming 1-year period beginning on September 1;”

Where is the announcement run? Where does the money come from to pay for the announcement?

Sec. 5 (e) - “Use the money in the account in the motor vehicle fund to offset the reduction in the rate collected so that the amount distributed to local governments pursuant to NRS 482.181 is the same as the full amount of the basic privilege tax that had been collected.”

Who will make up the revenue shortfall that is bound to occur because of the constantly increasing number of vehicle registrations we have experienced and will probably continue to experience? Won’t the State have to come up with the additional revenue, since this language effectively provides a “hold-harmless” provision for local governments? (Refer to Sec. 5 B.)

SECTION 6 - EARMARKS 8% OF THE REVENUE TO AUGMENT SALARIES OF OFFICERS OF THE NEVADA HIGHWAY PATROL.

“Each year, within 10 days after the distribution of money is made to the Nevada highway patrol pursuant to this section, the chief of the budget division of the department of administration shall determine the largest percentage increase of the salaries of the officers of the Nevada highway patrol . . . for a 1-

year period beginning on September 1 of the year in which the determination is being made and report that percentage to the Nevada highway patrol. The Nevada highway patrol shall ensure that the money in the account is used to increase the salary paid to each officer the percentage reported for the year beginning on September 1 of the year in which the percentage was determined except that no officer’s annual salary may be increased pursuant to this section to an amount that exceeds 5 percent or more than the highest annual salary of an officer serving in a similar position in an other state or local government law enforcement agency in this state, as determined by the Nevada highway patrol.” Also, contained in this section is the following provision: “ The legislature may transfer money from the account created by this subsection to a separate account in the state general fund and use the money to augment or increase the salaries of the employees of the state gaming control board if the legislature determines that the money will remain in the account for the augmentation of the salaries of the officers of the Nevada highway patrol after the transfer is at least 125 percent of the amount used for the purpose of this subsection in the year in which the transfer is made.”

Why are law enforcement salaries in other states considered when differentials in salaries can be caused by: the cost of living; whether the state has a personal income tax; the benefit package or lack thereof, etc.?

How would you like to be audited for payment of taxes by a person whose increase in salary might be dependent on the amount of revenue your taxes will produce?

SECTION 7 - EARMARKS 7% OF THE REVENUE TO THE COMMISSION ON ECONOMIC DEVELOPMENT TO PROMOTE DIVERSIFICATION.

SECTION 8 - EARMARKS 2% OF THE REVENUE TO THE DEPARTMENT OF HUMAN RESOURCES FOR PROGRAMS ON GAMING ADDICTION.

What makes these two programs more deserving of additional revenue than other state programs?

IN MEMORY

CLARK GUILD, JR.

MAY 14, 1921 - FEBRUARY 22, 2000

Board Member and Vice-Chairman of NTA

The Board of Directors and staff of NTA express their sincerest condolences to the family and friends of Clark. He will be missed not only by them but by all who knew him.

Clark Guild, Jr. was a native Nevadan, born in Yerington. From 1951 till the time of his death, he resided in Reno. An attorney, he was retired as chairman of the board of Southwest Gas and had served in World War II as a captain in the Army.

Clark's accomplishments were many and varied. His civic involvement ranged from serving as President of the Nevada Chapter of the American Heart Association, member of the advisory board of the University of Nevada Medical School to service on the boards of the YMCA and KNPB, member of the Nevada Cattlemen's Association and founding member of the Cowboy Hall of Fame in Oklahoma City.