

TAX TOPICS

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Here We Go Again . . .

ANOTHER TAX STUDY

As reported in the December 2007 issue of TAX TOPICS, there have been seven general tax studies since 1959. Assembly Concurrent Resolution 37 becomes number eight, and you have to wonder what will be different about this study. The prior studies have had a number of common themes. Another thing they all have in common are that the recommendations from these studies were not enacted in the session following the release of the study. In fact, when some variations of these study recommendations were finally enacted *it took on average more than 20 years!*

During the 2009 session, there were two bills for competing tax studies. To avoid a promised Governor's veto, the Senate instead used a Concurrent Resolution, a vehicle filed with the Secretary of State, therefore not subject to a Governor's veto. However, a resolution cannot contain an appropriation. The \$500,000 appropriation to fund the study was put in a separate bill vetoed by the Governor. Immediately the word spread that the Interim Finance Committee (IFC) would use its contingency fund to pay for the study.

SCR 37, has an imposing summary: *Providing for the Interim Finance Committee to conduct a review of Nevada's revenue structure and to provide long-term stabilization of revenue.* In addition to outlining what the outside independent consultant is to report, three committees are required to be formed. The first committee is a subcommittee of (IFC) and the second is the Vision Stakeholder Group - which recalls the methodology of the 1988 Price Waterhouse-Urban Institute study. The members of a third committee, the technical committee, are identified in the resolution.

Splitting the study to include both an objective analysis of the state's tax structure and a "Vision Stakeholder" group suggests a subjective aspect to the project. Indeed, SCR 37 specifically directs the Vision Stakeholder Group (members yet to be named) to develop a "quality of life vision" for the state. Quality of Life indicators have been widely adopted by civic, nonprofit, and government study groups as a publicly appealing frame on which to drape potentially unpalatable recommendations.

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CHANGE TO STATE BUSINESS LICENSE

Effective October 1, 2009, Nevada Secretary of State Ross Miller's office will be responsible for issuing the State Business License. The business license is required of all entities who are conducting business in this state.

The 2009 Legislature approved AB 146, which transfers from the Department of Taxation to the Secretary of State authority to issue annual business licenses and collect the business license fee. The legislation also provides for the development of a new electronic business portal in the Secretary of State's office, which will eventually provide a more comprehensive one-stop shop for businesses incorporated in Nevada.

The change in the administration of the state business license will enable businesses to apply, pay the license fee, and be issued a state business license online at www.nvsos.gov.

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See pages 2-7 for a summary of the fees enacted during the 2009 Legislative Session.

Also, do you have a nomination for the Cashman Good Government Award? See insert for details.

2009 LEGISLATIVE ENACTMENTS: FEES

LICENSING & REGISTRATION FEES	
BILL NUMBER AND TITLE	DESCRIPTION
AB 123 Accreditation for Specified Medical Providers	Requires the State Board of Health to adopt regulations which prescribe a fee for application and annual renewal of licenses, permits and certificates of registration for physicians offices which use anesthesia and sedation and surgical centers for ambulatory patients. Prescribes procedures and standards for the issuance and renewal of a permit, licence, certificate and to identify nationally recognized organizations for the purposes of accreditation. The “appropriate fee” is not specified. Effective May 22, 2009 for the purpose of adopting regulations and January 1, 2010 for all other purposes.
AB 152 Loan Modification Consultants Licensing	Defines “loan modification consultant” and requires consultants who assist homeowners in obtaining adjustments to loan terms to be licensed by the Division of Mortgage Lending, Department of Business and Industry, and pay the fees established pursuant to the statutory provisions that govern mortgage brokers and agents. Provides for “reasonable fees” for application and licensure. Commissioner to establish “rates to be paid” for supervision and examinations. Effective May 29, 2009 for the purpose of adopting regulations, July 1, 2009 for all other purposes.
AB 162 Licensing of Autism Professionals	Establishes a fee schedule between \$175 and \$400 for ‘behavior analyst,’ “assistant behavior analyst” and “autism behavior interventionist.” Effective May 29, 2009 to adopt regulations for licensing and July 1, 2011 for mandating all policies of health coverage to provide for the treatment of autism. <i>Note:</i> This is an unfunded mandate on local governments.
AB 227 Licensing of Foster Care Agencies and Specialized Housing.	Authorizes the “licensing authority” within a jurisdiction to impose a fee of not more than \$150 for provisional license, not more than \$300 for license, and not more than \$150 for renewal. The fee must not exceed the cost to provide the license. Also, requires the licensing of a “specialized foster home” by the “licensing authority.” Effective May 29, 2009 for adoption of regulations and January 1, 2011 for all other purposes.
AB 287 Registration of Appraisal Management Companies	Requires registration fees for appraisal management companies of \$2,500 for principal office and a maximum \$100 for each branch office. Establishes renewal fees of \$500 for principal office and a maximum of \$100 for branch offices. Fees are established by the Real Estate Division. Effective May 29, 2009 for the adoption of regulations and January 1, 2010 for all other purposes
AB 523 Secure and Fair Enforcement for Mortgage Licensing Act of 2008	Implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. Requires a mortgage broker or qualified employee or a mortgage banker who wishes to engage in activities as a residential mortgage agency, and engages in activities as a residential mortgage loan originator, to obtain and maintain a license pursuant to NRS 645B.400 to 645B.460 and pay the fees established in addition to any other fees required. Requires that a person who engages in activities as a residential loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 to obtain and maintain a license as a mortgage agent and pay fees in addition to any other fees required. Effective June 8, 2009 for the adoption of regulations and October 1, 2009 for all other purposes.
SB 89 Distributors of Manufactured Housing	Revises provisions governing manufactured housing. Adds distributors of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory built housing for resale to list of entities which must be licensed. The fee for licensing is established by regulation by the Division of Manufactured Housing. Also, requires the distributor to pay an additional fee upon the issuance or renewal of his license to be deposited in the Account for Education and Recovery Related to Manufactured Housing. Effective July 1, 2009.

LICENSING & REGISTRATION FEES CONTINUED	
BILL NUMBER AND TITLE	DESCRIPTION
SB 92 Electronic Notaries	Expands the authority of the Secretary of State over public notaries to include electronic notaries. Sets forth application procedure and fees. Specifies that the fees charged may be no more than \$10 for the initial appointment and for each duplicate or amended appointment. Authorizes "reasonable fees" for training taken by electronic notaries and outlines the services for which electronic notaries may charge fees. Effective July 1, 2009.
SB 265 Private Investigators	Revises provisions related to licensing and registration of private investigators, and requires application and renewal fees of not more than \$135 for previously unlicensed employees to obtain work cards. Effective January 1, 2010.
SB 266 Physicians Special Event Licenses	Authorizes the State Board of Medical Examiners to issue "special event" licenses to physicians and persons who practice osteopathic medicine and are licensed in another state, but will conduct demonstrations of medical techniques and procedures in Nevada. The fee for an osteopathic physician special event fee is \$200. The application and issuance of a temporary limited or restricted special events licence is \$400. Effective July 1, 2009.
SB 269 Licensing of "Perfusionist" and Certain Medical Facilities	Adds "Perfusionist" to the definition of "Provider of Health Care." Requires the licensing of a Perfusionist defined as providing functions which support treatment of cardiovascular, circulatory or respiratory system or other organs. Provides for the payment of an initial licensing fee of \$400 and a two-year renewal fee of \$600. Fees for examination and reinstatement of an expired licence of a Perfusionist are set by the Board of Medical Examiners. Also, imposes a \$400 application and renewal fee for an authorized mental health facility and a \$200 fee for the application and renewal of an authorized osteopathic facility. Effective dates vary by section from June 9, 2009 to July 1, 2011.
SB 310 Retail Trust Companies	Requires a retail trust company to pay the non refundable cost of the investigation during an application for approval of merger, consolidation or transfer of assets, and an annual license fee of not more than \$3,000 to the Division of Financial Institutions. Effective October 1, 2009.
SB 355 Uniform Debt Management Services Act	Regulates providers of debt management services, under the Commissioner of Consumer Affairs. Includes requirements and cost for registration as a debt management service and provides for a \$250,000 insurance policy, \$50,000 surety bond, and a fee to be established by the Commissioner. Effective May 29, 2009 for regulations and July 1, 2010 for all other purposes. <i>Note:</i> As the Consumer Affairs Division was eliminated for this biennium, AB 561 was enacted to temporarily provide for the administration of the Act by the commissioner of mortgage lending. Effective July 1, 2009. Expires by limitation June 30, 2011.
SB 361 Industrial Insurance: Employee Leasing Companies	Authorizes the Administrator of the Division of Industrial Relations and the Commissioner of Business and Industry to adopt regulations and set forth qualifications for an assurance organization (third-party administrator) selected by the employee leasing company to act on behalf of the company. Requires a \$500 fee and financial statements to be submitted along with an application by an employee leasing company for the issuance or renewal of a certificate of registration. Effective October 1, 2009.
SB 365 Family Trust Companies	Allows for the voluntary licensing of a family trust. Describes a family trust company as one not seeking to engage in business with the public, but to serve solely the interests of members and related parties of a single family and the grantors and beneficiaries of trust instruments created for the purposes of estate planning for the family members. Provides for an application fee of not more than \$3,000 and an additional fee of between \$300 and \$1,000 paid with the application and to be prorated based on the licensing year. An annual fee of \$1,500 is to be paid on or before April 1. Fees are paid to the Division of Financial Institutions. Effective October 1, 2009.

ADMINISTRATION AND CERTIFICATION FEES	
BILL NUMBER AND TITLE	DESCRIPTION
SB 426 Insurance Revisions	Creates the Fund for Insurance Administration and Enforcement as an enterprise fund , and introduces numerous new fees ranging from \$60 to \$1,300 to provide revenue for the fund. Provides clarification that the new fees are in addition to any other fees required to be paid. Effective dates vary and range from May 29, 2009 through October 9, 2009.
AB 37 State Business License	Allows Department of Taxation to provide discretionary relief from penalties for failure to pay the state business license fee. Effective May 6, 2009. <i>Note:</i> This provision is void with the transfer of administration and collection to the Secretary of State's office on October 1,2009.
AB 84 Unemployment: Fraudulent Claims	Authorizes an administrative fee to the extent authorized by federal law to cover the recovery of fraudulent unemployment benefit payments. Effective July 1, 2009.
AB 229 Fire Safe Cigarettes (FSC)	Prohibits any person from selling cigarettes in Nevada unless the cigarettes comply with ASTM performance standards – “Standard Test Method for Measuring the Ignition Strength of Cigarettes.” Prescribes a \$1,000 certification fee per “brand family” with recertification every three years payable to the State Fire Marshal. Effective dates vary by section, beginning with June 3, 2009. Expires by limitation on the date federal law establishing an FSC standard becomes effective.
SB 55 Secretary of State: Business Filings	Establishes a \$50 fee for filing a statement of cancellation of business filings if the filing has not yet been processed by the Secretary of State's office. Effective July 1, 2009.
SB 83 Gaming Control Board	Authorizes a fee to be charged by the Board to process a change of employment notice. The fee may only cover the actual administrative and investigative costs related to processing the change. Also changes the fee paid for a live broadcast from a user to a disseminator. Effective July 1, 2009.

VEHICLE & VEHICLE RELATED FEES	
BILL NUMBER AND TITLE	DESCRIPTION
AB 25 Driver's License Exam	Requires the Department of Motor Vehicles to charge a \$25 fee for administration of the exam for a noncommercial driver's license, and a \$10 fee each time the exam is again administered to the same person. Effective July 1, 2009.
AB 109 Special License Plates: Motorcycles	Authorizes the Department of Motor Vehicles to issue special plates for motorcycles for the support of charitable organizations upon payment of an additional fee. “Additional fees” related to the charity benefit are defined in NRS 482.38273. The fees are specified in NRS 482.367006. Effective date vary and range from May 26, 2009 to July 1, 2010.
AB 407 Drivers License Reinstatement	Raises the fees for reinstatement of a driver's license after suspension or revocation due to violations related to alcohol or controlled substances. Fee increases range from \$35 -\$59, with some fees doubling. Effective July 1, 2009.
AB 414 Vehicle Emissions	Authorizes Clark and Washoe counties to establish a voluntary program of electronic monitoring of emissions by owners of vehicles with onboard diagnostic equipment in lieu of bringing the vehicle to an inspection station. A fee of \$6 is to be charged for each vehicle electronically monitored. Expands vehicle emission testing by raising the weight minimum and applicable regulations and fees for “heavy-duty” vehicles from 10,000 pounds to 14,000 pounds. Effective July 1, 2009.

VEHICLE & VEHICLE RELATED FEES CONTINUED	
BILL NUMBER AND TITLE	DESCRIPTION
SB 360 Purchase of Vehicles from Salvage Operators	Authorizes a person who is not a licensed auto dealer, wrecker, or rebuilder to purchase a vehicle from a salvage operator, if that person buys an identification card from the Department of Motor Vehicles. Authorizes the DMV to charge a \$50 fee for the card, and a renewal fee of \$25. Failure to buy identification card is a misdemeanor. Effective May 29 for adopting regulations and January 1, 2010 for all other purposes.
SB 218 Constable Duties and Fees	Authorizes a constable to collect a \$100 fee from the owner of an unregistered vehicle as compensation for issuing a citation. Adds a provision raising the fine for an unregistered vehicle to \$1,000 from a range of \$250 - 500. Fine may be reduced to not less than \$200 if proof of registration is presented at time of hearing. Raises the fee for removal of a vehicle abandoned on public property from \$50 to \$100. Effective October 1, 2009.
SB 251 Tow Cars	Authorizes tow vehicles and vehicles of private patrolmen to display flashing amber lights when stopped at the scene of a traffic hazard. Authorizes the Nevada Highway Patrol to issue flashing amber light permits, and charge a fee between \$2 and \$24, based on number of vehicles. Fees collected are deposited to the State Highway Fund. Effective July 1, 2009.
SB 394 Off-Highway Vehicles	Requires the owner of an off-highway vehicle to register the vehicle with the Department of Motor Vehicles, and sets an annual fee at not less than \$20, but not more than \$30. The fee is also for renewal and replacement of registration. Authorizes the Department to set a fee for issuing a certificate of title not to exceed the cost of issuing the title. Provides for the licensing of manufacturers, dealers and lessors and requires an application fee of \$125 plus fee for processing fingerprints, and renewal fees of \$50. Requires a license for each dealer's branch location in addition to the principal place of business. Effective July 1, 2011, or one year after the date the Interim Finance Committee issues a notice to the Department that the Fund for off-highways vehicles has \$500,000. The act expires by limitation on July 1, 2011 if the Interim Finance Committee does not issue a notice to the Department.

CONSUMER / USER FEES	
BILL NUMBER AND TITLE	DESCRIPTION
AB 149 Foreclosures on Property	Establishes restrictions on a trustee's power of sale with regard to owner-occupied housing. Gives a delinquent property owner in a foreclosure proceeding the right to request mediation. Establishes a flat fee of not more than \$400 for mediation to be split by the parties. Effective July 1, 2009.
AB 188 Tuition Waivers for National Guard Members	Authorizes the board of regents to grant a waiver of registration and lab fees for the child, widow, or widower of a Nevada National Guard member killed in the line of duty. Also extends the waiver to Prisoners of War and members of the armed forces missing in action, their spouses and children. Effective July 1, 2009.
AB 225 Fire Department: Fee for Ambulance Services	Requires county commissions with district fire departments that transport sick or injured persons to establish a fee by ordinance for the transport. Requires the Clark County Commissioners to report monthly to the Board of County Commissioners numbers transported, their insurance status, and fees charged. Requires the County Commission to report to the Legislative Committee on Health Care on a quarterly basis. Effective July 1, 2009. <i>Note:</i> This legislation removed language that allowed a county to adopt an ordinance prohibiting the imposition and collection of any fees for such transportation.

CONSUMER / USER FEES CONTINUED	
BILL NUMBER AND TITLE	DESCRIPTION
AB 231 Lobbyists Fee: Exemption for Veterans	Authorizes the legislative commission to exempt by regulation veterans who engage in unpaid lobbying, and who provide proof of release or honorable discharge from the armed forces of the United States, or from the Nevada National Guard including armed forces' reservists. Effective May 18, 2009.
AB 246 Apprentice Hunting License; "Dream Tags"	Establishes an apprentice hunting license for persons 12 or older who have not previously been issued a license. The fees, to be paid by the applicant or mentor, include a service fee required by a license agent, the habitat conservation fee, and any fees for electronic transactions. Establishes a program of "Dream Tags." Requires tags to be awarded by raffle, with a five-dollar "chance" to be sold by a private entity, on contract with the nonprofit organization. Eligibility requires purchase of a \$10 "resource enhancement stamp." A fee of not less than \$15 or more than \$50 is to be charged for a Silver State tag. Effective dates vary by section, beginning May 31, 2009.
AB 263 Elderly Care	Authorizes the Aging Services Division to establish a program of all-inclusive care for the elderly with local governments. Requires the Division to adopt a schedule of fees to be charged for services provided under this act. Effective October 1, 2009.
AB 416 Water Transfer Fees	Requires the State Engineer to conduct an inventory of a basin before approving an application for an interbasin transfer of groundwater of more than 250 acre feet from a basin not previously inventoried. A transfer applicant must pay a fee, not to exceed the cost of conducting the inventory. Effective July 1, 2009.
AB 480 State Engineer Fees	Substantially increases the fees charged by the State Engineer between \$50 and \$500 and adds new fees ranging from \$10 for colored Mylar plots to \$300 for filing a proof of resumption of water rights. Effective July 1, 2009.
AB 548 Convenience Fee for Credit Card Transactions	Revises the manner in which transaction fees for electronic payments to various agencies are calculated. Authorizes state agencies, the courts and local governments to charge a "convenience fee" for use of debit or credit cards or electronic transfers of money "when appropriate and authorized." Prohibits the total convenience fees from exceeding the total amount of fees charged to the state agency in that fiscal year. Effective July 1, 2009.
SB 14 Marriage License Fee	Increases from \$20 to \$25 that portion of the fee for a marriage license that funds domestic violence programs. Allows county clerks to add an additional \$5 to certify an abstract of a certificate of marriage if authorized by the county commissioners. Effective May 13, 2009.
SB 53 Electronic Registry of Wills	Authorizes the Secretary of State to create and maintain an electronic registry known as the Nevada Lockbox, for the storage of wills and other documents. Provides that the Secretary of State may charge and collect fees for the registration of a will or other documents. Effective May 28, 2009 for the adoption of regulations and July 1, 2009 for all other purposes.
SB 280 Carson Lake Wildlife Management	Establishes a fee of \$60 for a seasonal permit, or a fee of \$15 for a daily permit to hunt in the Carson Lake Wildlife Management Area (CLWMA). The fee is in addition to any other fee required for a license or permit to hunt. Effective Date July 1, 2010 or upon conveyance of the Carson Lake Pasture to the State whichever is later.
SB 283 Domestic Partnership	Provides for registration with the Secretary of State's office and payment of a "reasonable filing fee" for a domestic partnership between two persons. Effective October 1, 2009.

LOCAL GOVERNMENT FEES	
BILL NUMBER AND TITLE	DESCRIPTION
AB 65 Clark and Washoe Counties: Increases Number of Judges	Authorizes a schedule of court filing fees, from \$99 to \$1,359. Authorizes a \$20 fee upon commencement of action, to be imposed by the county commission to be credited to an account for programs for court security. Authorizes a default filing fee of \$50 imposed by the county to be collected by the county recorder for deposit in the state general fund in the account for Foreclosure Mediation. The recorder retains 1.5% of the fees collected. Effective July 1, 2009. <i>Note:</i> This bill provides the funding for AB 64, which increases the number of judges in the 2 nd and 8 th judicial districts (Washoe and Clark counties respectively).
AB 540 Local Government Employee-Management Board (EMRB)	Requires the EMRB to collect an annual fee from each employer of not more than \$10 for each employee. Prohibits employers from charging the employees for the fee. Effective June 3, 2009. <i>Note:</i> The fee for FY 2010 has been established at \$5.75
AB 552 Fee for Local Sales and Use Tax Collection	Increases the fee paid to the State Controller for collection of sales and use tax, on behalf of cities and counties, from .75 percent to 1.75 percent of all fees, taxes, interest, and penalties collected in each county. Effective July 1, 2009. <i>Note:</i> Also reported in the July issue of TAX TOPICS.
SB 84 Local Alternative Sentencing	Extends to cities the same authority of counties to establish departments of alternate sentencing. Authorizes adoption of a schedule of fees (unspecified) to be imposed on probationers as a condition of the suspended sentence or residential confinement. The schedule adopted must include a fee of not less than \$20 per month for the supervision of the probationer. Effective October 1, 2009.
SB 169 Uniform Non-Profit Association Act	Adopts the Revised Uniform Unincorporated Nonprofit Association Act of 2008, promulgated by National Conference of Commissioners on Uniform State Laws. Applies to nonprofit organizations without a structure accounted for under statutory law, and which are authorized to engage in nonprofit activities. Requires the unincorporated nonprofit association to provide a statement of authority to the county clerk when recording a transfer of real property and provides the clerk may collect a fee for recording the statement of authority in the amount authorized for recording the transfer of the property. Does not affect an action or proceeding commenced or a right accrued before October 1, 2009. Effective October 1, 2009

To read the full text of the bills reported in this issue, go to www.leg.state.nv.us.
Click on "Session Information," "2009."

SCR 37 continued from page 1

The stakeholders are expected to represent special interest groups with very specific ideas about what constitutes “quality of life,” and without much recognition that there are as many definitions for “quality of life” as there are taxpayers.

This may or may not be a reason Senate Minority Leader Raggio has issued warnings, more than once, about keeping the study credible. Or he may simply be remembering the many millions spent on tax studies that now collect dust on shelves in Carson City. In the closing days of the legislative session, Raggio insisted on a change in the language of the resolution, which had been fairly explicit in its intention that the study provide the justification for new taxes. Raggio again asked for language changes during a recent IFC meeting devoted to developing the request for proposal, repeating that the study won’t be credible if any of its guiding documents appear to direct a specific outcome.

Legislators appointed at the August 6 meeting of the IFC to serve as the revenue subcommittee are: Senators Steven Horsford, chair; Bernice Matthews, David Parks, William Raggio, Dean Rhoads, Michael Schneider, Randolph Townsend and Valerie Weiner. Assembly members named are Bernie Anderson, Marcus Conklin, Pete Goicoechea, Marilyn Kirkpatrick, Kathy McClain, John Ocegüera, James Settlemeier and Lynn Stewart.

For instructions on how to obtain a copy of SCR 37 see page 7.

Business License Changes - continued from page 1

Business entities formed under Title 7 of the Nevada Revised Statutes that are required to file an initial or annual list of officers will file for their annual business license at the time the annual list is filed. The annual \$200 business license fee may be prorated based on when a businesses’ current state business license expires. Other businesses, such as sole proprietorships and partnerships, will file with the Secretary of State for a renewal of their existing license not later than the date of expiration or apply for a license when they begin conducting business in Nevada.

All businesses are encouraged to visit www.nvsos.gov and click on the State Business License Information button under the Licensing Center to learn more about the new process and find answers to questions about the State Business License requirements. While at the site, businesses should also click on whynevada.com to learn more about why Nevada is such a great state to start and conduct a business.

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