

TAXTOPICS

A publication of the Nevada Taxpayers Association, serving the citizens of Nevada since 1922.

ISSUE 4-11

ELECTRONIC VERSION

OCTOBER- SEPTEMBER 2011

TAX ISSUES STILL ON FRONT BURNER

The legislature may have adjourned on the 6th of June, but that hasn't stopped discussions on tax issues - - - what should or could have been done - - - what shouldn't or couldn't have been done. During the session bills were introduced to increase the rates on the sin taxes, cigarettes and alcohol, and create new taxes on corporate income, business margins, and transactions (services). None passed, but a Supreme Court decision was the trigger for extending the sunsets on taxes. Normally, with the adjournment of a legislative session, there is usually an expectation that for four to six months there will be a respite from discussions on tax issues. However, that has not been the case this time around as the following illustrate.

Are comp meals taxable?

At a 1979 special election voters approved an initiative ballot question to remove the sales tax from food, except for food prepared for immediate consumption¹. How to distinguish food prepared for immediate consumption dominated questions posed to the Department of Taxation until the middle 1990s, however, businesses that provided comp meals remitted the use tax on those comp meals. It wasn't until a refund request by the Sparks Nugget for the use tax they paid on comp meals was denied by the department that the issue of sales and use tax on comp food moved through the Department's appeal process and court proceedings. Ultimately the decision handed down in 2008 by the Nevada Supreme Court² agreed with the arguments made by the Nugget. In that decision, the court noted if consideration were demonstrated as the reason for providing the complimentary meal that the meals might be subject to sales tax. A refund was issued. As a result of this decision AB 2 was introduced during the 24th Special Session held on June 24, 2008. The bill, which would have clarified "...the applicability of sales taxes to certain meals provided by business entities to their employees, independent contractors, patrons or guests..." unanimously passed the Assembly and was effectively killed in the Senate by the politics of the issue, not a vote, as there was never even a hearing on the bill.

Subsequent to the decision the Department began conducting audits based on the sales tax being remitted on the cost of the meals provided to a guest. It was deficiency determinations issued to Harrah's and Boyd Gaming that resulted in new appeals, this time on sales tax, being filed with the Department. An Administrative Law Judge ruled that the tax due on the meals in question were for consideration. Based on that decision a refund was issued on the tax remitted for employee meals, but for meals provided for guests, which were for consideration, the refund was denied. That ruling led to appeals being filed with the Tax Commission, which were originally scheduled to be heard at the Commission's August 2011 meeting. However, Commissioners remanded the cases back to the hearing officer. The appeals will be heard at a future Commission meeting. It is fairly safe to say that any ruling by the Commission will not be the end of the issue. Ultimately, who wins and loses will be determined by the Nevada Supreme Court. If the businesses win, the state will owe some \$200 million plus; revenue that is not readily available. If the State wins, either on the employee or customer comps those

continued on page 11

IN THIS ISSUE

	Page
Education K-12.....	2
Nevada System of Higher Education..	5
Studies.....	5
Campaign Practices, Elections, etc..	8
Legislature.	10
Miscellaneous Issues.	10
Cashman Good Government Award. .	12

EDUCATION: K-12

Note: *The legislation reported under this heading reflects only those bills that NTA Staff believes will be of general interest to our members. There were over 35 bills introduced directly concerning K-12. If you would like information on any of the other bills, please call the NTA office nearest you.*

Accountability . . .**AB 113 - Accountability for Public Schools**

Revises the content of the plan to improve academic achievement to require a 5-year strategic plan that addresses the recurring issues in improving the academic achievement of pupils, as identified by the Department of Education. The plan to be developed by the State Board of Education must also track the progress being made to achieve the goals. Additionally, a number of dates from submission of reports to testing schedules are revised. The Department of Education is required to report to the Legislative Committee on Education regarding changes to the testing schedules by October 1, 2011.

Effective: July 1, 2011.

AB 229 - Education Accountability & Performance

The annual report of accountability is expanded to include a reporting by the school district of the number and percentages of administrators, teachers and other staff for each school category (elementary, middle school, etc.). The board of trustees of each school district is required to establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators. The policies for evaluations are revised to require the designation of an individual teacher or administrator as “highly effective,” “effective,” “minimally effective” or “ineffective” (currently satisfactory and unsatisfactory) and the policies must require that certain information on pupil achievement, maintained by the current automated system for Nevada, account for at least 50 percent of the evaluations. If a written evaluation of a probationary teacher or a probationary administrator is negative, it must include a written statement that the contract may not be renewed for the next school year. The employee must acknowledge they have received and understand the evaluation and may request reasonable assistance in correcting the deficiencies identified in the evaluation. The grounds for which a teacher or administrator may be suspended, dismissed or not reemployed are to include gross misconduct and for a post probationary teacher or a licensed employee does not require first receiving a written admonition to include gross misconduct. The probationary period is changed from two 1-year periods to three 1-year periods, without a waiver. A district’s board of trustees must not base the decision to lay off a teacher or an administrator solely on the seniority.

Effective: Varies, starting July 1, 2011. For evaluating teachers under the new designations July 1, 2013. Performance pay commences with the 2014-2015 school year.

NTA: It’s hard to understand why the program for performance pay and enhanced compensation is to be negotiated by each district as part of the contract. There should be state-wide standards, not 17 individually negotiated school district standards. Note: AB 225, which also addresses the probationary period for teachers, provides that a probationary period is not superseded by the terms of a collective bargaining agreement.

Governor Guinn Millennium Scholarship Program . . .**SB 96 - Millennium Scholarship: Volunteer Service**

A student who receives a Millennium Scholarship is encouraged to volunteer at least 20 hours of community service during each year that the student receives a Millennium Scholarship.

Effective: July 1, 2011.

SB 220 - Memorial Account

The use of the money in the special Kenny C. Guinn Memorial Millennium Scholarship account is authorized to provide a Memorial Scholarship to one college senior each year who is receiving a Millennium Scholarship and is majoring in elementary education or secondary education and meets certain other criteria. The recipient each year will be selected by the Board of Trustees of the College Savings Plans of Nevada. To the extent of available money in the account, the amount of the annual Memorial Scholarship must not exceed \$4,500 to pay the authorized educational expenses of the recipient for the school year which are not otherwise paid for by the Millennium Scholarship awarded to the recipient. The Scholarship must be used only for the payment of registration fees and laboratory fees and expenses, to purchase required textbooks and course materials and for other costs related to the attendance of the recipient at an eligible institution.

Effective: July 1, 2011.

EDUCATION: K-12 CONTINUEDMillennium Scholarship *continued***SB 486 - Appropriation**

An appropriation of \$10 million is made to the Office of the State Treasurer for the Millennium Scholarship Program.

Effective: June 16, 2011.

School Construction . . .

Note: AB 376 and SB 506 covered multiple provisions pertaining to local governments (see Tax Topics, June issue, page 9 and August issue, page 11 for additional detail). Both bills contained the same language regarding changes to the Bond Reserves of School Districts.

AB 376 & SB 506 - Changes Bond Reserves

Changes the amount of the reserves required to whichever is less, 10 percent of the outstanding principal, or 25 percent for larger counties and 50 percent for smaller counties of the amount of principal and interest payments due on all outstanding bonds of the school district in the next fiscal year.

Effective Dates: For this provision - June 17, 2011 and June 16, 2011 respectively.

Charter schools . . .**AB 171 - Charter School Governance**

The membership of a committee to form a charter is revised as is the process for review of an application to form a charter school by the Department of Education. The review of an application for a charter school is revised if the proposed sponsor is the State Board of Education. A number of provisions are revised regarding information that is required to be provided by charter schools. The membership of the governing board of a charter school is revised. Provisions governing the performance audit are changed. The information to be provided to charter schools by the state board is expanded. Revisions are made to the employment of public school licensed employees by a charter school. Notification requirements for charter schools regarding home schooled students are added to the extent practicable. Finally, the Subcommittee on Charter Schools is repealed.

Effective: July 1, 2011.

NTA: Pursuant to SB 212 (below) the State Board will be replaced by the State Public Charter School Authority

SB 212 - Authority for Charter Schools

The State Public Charter School Authority is created and the membership of the State Public Charter School and duties of the authority are specified. The authority of the State Board of Education to sponsor charter schools is eliminated and responsibilities are transferred to the newly formed Authority including the sponsorship of charter schools. Administrative regulations of the Department of Education which set forth certain restrictions on contracts and proposed contracts between a charter school or a proposed charter school and a contractor or an educational management organization is codified. The yearly sponsorship fee for the sponsor of a charter school is not to exceed 2 percent of the total amount of State funds apportioned to the school. The Subcommittee on Charter Schools of the State Board of Education is repealed.

Effective: June 15, 2011 for preparatory tasks and July 1, 2011 for all other purposes.

Other select issues . . .**AB 117 - Minimum Number of School Days: Temporary Waiver**

The condition under which school district trustees can request a waiver from the required number of school days in a school year is established. The waiver may be granted only for economic hardship. A request for waiver is submitted to the State Superintendent. The determination made by the Superintendent is forwarded to the Legislative Interim Finance Committee for final approval. If a furlough program is requested as part of the waiver, it must be negotiated pursuant to NRS 288.

Effective: July 1, 2011 and sunsets on June 30, 2013.

EDUCATION: K-12 CONTINUED

Other select issues *continued*

AB 138 - Coordination of Education & Report of Accountability

The Department of Education and NSHE are authorized to work together to develop a plan to ensure that students are adequately prepared to enter college and succeed in the workplace. If a plan is established, a progress report is to be submitted to the Legislature in odd numbered years and to the Committee on Education in even numbered years. This provision expires by limitation on June 30, 2014. The items to be reported in the annual report of accountability are expanded. School District trustees are allowed to establish a "Secret Witness" type program for students to report unlawful activities.

Effective: July 1, 2011.

AB 222 - Teachers and Leaders Council

The Teachers and Leaders Council of Nevada is created and the membership and duties of the Council are prescribed. The Council is tasked with making recommendations to the State Board of Education for the establishment of a statewide performance evaluation system for teachers and administrators employed by school districts. An appropriation is made for the biennium of \$32,000 to the Department of Education for costs to support the Council. Also, contains language to provide conformity with AB 229 (see page 2 this issue).

Effective: Varies from July 1, 2011 to July 1, 2013.

AB 493 - Waiver of Minimum Expenditure Requirements

The temporary waiver authorized by AB 5 of the 26th Special Session is extended to June 30, 2013. The waiver is for the minimum expenditure requirements for library books, software for computers, and the purchase of equipment relating to instruction and the maintenance and repairs of equipment, vehicles and buildings and facilities.

Effective: June 15, 2011.

SB 196 - Empowerment Schools

The cap on the number of empowerment schools that may be established statewide (currently 100) and the expiration date of June 30, 2011 is removed.

Effective: June 1, 2011.

SB 197 - Governance and Oversight

The State Board of Education is replaced and the Nevada Commission on K-12 Public Education is created consisting of seven voting members and four non-voting members whose terms will begin on January 8, 2013. Four of the seven members are elected from congressional districts and the remaining three members and four non-voting members are appointed. Specific provisions address the appointing authorities, requirements and qualifications for appointments, and duties of members. The qualifications for the Superintendent of Public Instruction are prescribed and he or she is made responsible for ensuring that the duties and responsibilities of various educational commissions, councils and programs are carried out successfully. The appointment of the Superintendent for Public Instruction is changed to the Governor from the State Board who will submit a list of candidates to the Governor. The Superintendent serves at the pleasure of the Governor and is in the Executive Branch of Government. The State Board is to develop a plan to establish clearly defined goals and benchmarks, which are prescribed, for improving the achievement of pupils. Other provisions include, but are not limited to reporting requirements of the Commission on Professional Standards in Education and the realignment of school districts in the jurisdiction of the Northeastern Nevada Regional Training Program. Each Regional Training Program is required to establish an evaluation system for participants in the program.

Effective: Dates vary from June 15, 2011 to January 8, 2013.

SB 315-Teachers and Other Educational Personnel: Alternate Certification

The Commission on Professional Standards in Education is required to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure and sets forth certain requirements that must be specified in those regulations. The required education and training may be provided by any qualified provider which has been approved by the Commission. The State Board of Education is required to conduct an annual evaluation of each provider they have approved. Upon completion by a person of the required education and training and the satisfaction of all other requirements for licensure, the person must be issued a regular license.

Effective: July 1, 2011.

NEVADA SYSTEM OF HIGHER EDUCATION**AB 138 - Coordination of Education**

See page 4 of this issue for a description of this legislation.

AB 220 - Evaluation of Nevada System of Higher Education

The Board of Regents of the University of Nevada is encouraged to examine, audit and revise, where applicable, the function, strengths and most efficient use of the facilities, resources and staff of each institution within the System and the educational opportunities, programs and services offered by those institutions. The Board is encouraged to implement measures to ensure the educational needs of students and prospective students will be met.

Effective: July 1, 2011.

AB 478 - Revenue Bonds: Amount of Issuance

The Board of Regents of the University of Nevada is authorized to increase the total principal amount of revenue bonds issued to finance certain projects at the University of Nevada, Reno, in an amount not to exceed \$348,360,000 (formerly \$312,695,000).

Effective: July 1, 2011.

SB 449 - Tuition and Fees

Authorizes the Regents to adjust the amount of the tuition charges and registration and other fees based on the demand for or the costs of carrying out the academic program or major. If these differential program charges are established, the Board is required to establish a program to authorize scholarships and reduced fees for students who are economically disadvantaged and who are enrolled in academic programs or majors which are more costly as a result of the adjustments. Two different reports are required to be submitted to the Legislature. One is an annual report which provides information on differential program tuition and fees and the second is a biennial report that includes information regarding the completion of academic programs and the employment of students in the state.

Effective: July 1, 2011.

AB 570 - Regents Reapportionment

Revises the boundaries of the 13 districts for members of the University of Nevada Board of Regents according to the 2010 Census. The new districts become effective January 1, 2012 for the purposes of filing for office and nominating and electing members. Regents who were elected in 2008 and 2010 will serve out their respective terms representing the district to which they were elected through January 8, 2013. Thereafter they will represent the corresponding new district until the expiration of their current term of office.

Effective: Varies for various provisions from June 9, 2011 to January 1, 2012 and January 8, 2013.

STUDIES***Legislative Subcommittee Studies . . .***

Note: *Unless otherwise approved, Legislative interim studies will be conducted beginning January 2012 and be completed by June 30, 2012.*

AB 71 - Local Government Tax Distribution

A subcommittee is to be appointed by the Legislative Commission to conduct an interim study on the distribution of money from the consolidated tax revenue (C-TAX) in the Local Government Tax Distribution Account. The purpose is to determine if the formula for distribution is equitable and, if not, to consider possible alternate methods of revenue distribution.

Effective: July 1, 2011.

NTA: The C-tax was created in 1997 and is made up of the proceeds collected in a county from liquor taxes, cigarette taxes, real property transfer taxes, city-county relief taxes and governmental services taxes. The proceeds are placed in the Local Government Tax Distribution Account and distributed by statutory formula to the local governments within a county.

STUDIES CONTINUED**AB 405 - Study of Employee Retirement and Disability Benefits**

The Legislative Interim Retirement and Benefits Committee is to conduct a study of state employee retirement and disability benefits and to make recommendations for adjustments to those programs. An appropriation of \$250,000 is made that is contingent on a \$250,000 match first being secured through gifts, grants and other means and received in the Legislative Fund. The report is to be submitted to the Legislative Commission by October 1, 2012.

Effective: June 17, 2011.

NTA: \$500,000 seems to be an excessive amount of funding to conduct this study.

ACR 12 - Study of the Nevada Legislature

The Legislative Commission is directed to conduct an interim study concerning the structure and operations of the Nevada Legislature. The study is to include, without limitation, the timing, frequency and length of regular legislative sessions and the compensation of Legislators.

Filed with the Secretary of State on June 16, 2011. File No. 45.

SB 11 - Study of Funding Methods for K-12

The Legislative Commission is required to appoint an interim committee of Legislators to study the possibility of a new method of funding public schools in Nevada. The Committee is required to consult with and receive input from individuals and organizations with expertise in the issue. Any recommendation must be consistent with the Constitutional responsibility to maintain a uniform system of common schools, taking into account the differences in the needs and characteristics of individual students. Any findings and recommendations are to be submitted to the 2013 Legislature. The committee will carry out the duties of this section only to the extent that money is available to do so from sources including, without limitation, gifts, grants and donations.

Effective: July 1, 2011.

NTA: The current method for funding schools was approved by the 1967 Legislature and is known as the Nevada Plan. The funding to school districts equals the difference between school district basic support guarantee and local available funds produced by mandatory taxes minus all the local funds attributable to pupils who reside in the county but attend a charter school or a university school for profoundly gifted pupils.

SB 211 - Study of Common Core Standards in Grades K-12

The Legislative Committee on Education is required to conduct a study to determine the extent to which the curriculum and instruction are transitioned to the Common Core State Standards. Teachers and other licensed educational personnel are afforded professional development opportunities and resources to aid in the transition process. The study is required to be conducted in consultation with the Nevada STEM Education Coalition, which is a statewide group of persons dedicated to improving education in science, technology, engineering and mathematics in Nevada. The Committee is required to submit a report of the results of the study and any recommendations for legislation on or before February 1, 2013, to the 77th Session of the Nevada Legislature.

Effective: July 1, 2011

NTA: According to the Legislative Counsel's Bill Digest, the National Governors Association Center for Best Practices and the Council of Chief State School Officers released a set of national education standards for English language arts and mathematics, commonly referred to as the "Common Core State Standards." Forty-eight states, including Nevada, have signed on to participate in the Common Core State Standards. The State Board of Education adopted the draft of the Common Core State Standards on June 18, 2010, and on December 10, 2010 they adopted a temporary regulation.

SB 251 - Legislative Commission Sunset Committee

The Sunset Subcommittee of the Legislative Commission is created to consist of nine members. Three members each are appointed by the Senate Majority Leader and the Assembly Speaker, respectively. Three public members are appointed by the chairman of the Legislative Commission from names submitted by the Governor. The subcommittee is to conduct reviews of all State boards and commissions and to determine and make recommendations as to whether each board or commission should be terminated, continued, modified or consolidated with another agency. Additionally, they are to determine and recommend whether any tax exemptions, abatements or money set aside for a board or commission should be terminated,

continued next page

STUDIES CONTINUED**SB 251, continued**

modified or continued. Each board or commission reviewed will be assessed for the cost of conducting the review. Each board and commission is required to submit specified information about itself and how it operates. The Subcommittee can direct the Legislative Counsel Bureau to assist in investigating, reviewing and analyzing the information submitted. Public comment is to be solicited. The Governor is prohibited from appointing a person to more than one board.

Effective: June 16, 2011 for the provision relating to gubernatorial appointments and July 1, 2011 for all other provisions.

NTA: This follows SAGE recommendation #17.

SCR 5 - Laws Governing the Protection of Children

The Legislative Commission is directed to appoint a committee to conduct an interim study of the system and laws governing the protection of children in this State. The committee shall recommend such action as may be necessary to provide clear standards for the protection of children in this State and recommend effective and efficient implementation of strategies to preserve and build safe families. A report of the results of the study and any recommendations for legislation is to be submitted to the 77th Session (2013) of the Legislature.

Filed with the Secretary of State on June 6, 2012. File No.43.

Other studies . . .**AB 61 - Substance Abuse Study**

A Substance Abuse Working Group is established within the Office of the Attorney General to study issues related to substance abuse. The Attorney General is the ex officio Chair and appoints nine members to the Working Group. A report on the findings and recommendations is to be submitted to each regular session of the Legislature.

Effective: July 1, 2011 and sunsets June 30, 2015.

NTA: This is similar to the Working Group on Methamphetamine Use in Nevada, which was created by executive order in 2007 and continued until December 31, 2010.

AB 228 - Study on Public Works Contracts

The Commission to Study Governmental Purchasing is to conduct a study of the feasibility of the use of a standard construction contract form for each state or local public work.

Effective: July 1, 2011.

AB 362 - Study of Out-of-School-Time Programs

Note: This summary covers only the creation of the Task Force. The other provisions within this legislation amend existing statutory language concerning Out-of-School-Time Programs and create a requirement that local governments that provide out-of-school-recreation programs are to be licensed by the State and pay a fee.

The Interim Task Force on Out-of-School-Time Programs, composed of 12 members, is created. The appointing authorities of members and the duties of the Task Force are specified. Administrative support to the Task Force is provided by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services. The Task Force is charged with meeting on or before October 1, 2011. They are to submit a report to the Legislature with legislative recommendations relating to out-of-school-time programs on or before June 30, 2012.

Effective: July 1, 2011. The Task Force sunsets on June 30, 2013.

AB 551 - Study of the Consolidation of School Functions

The board of trustees of each school district is required to determine whether consolidating or sharing services, functions or personnel with other school districts is feasible. The trustees of each school district are authorized to develop a cost-effective and efficient method for the sharing of services, functions or personnel. A school district is authorized to join in the contract of another school district with which it has entered into an agreement for the sharing of services, functions or personnel. The Committee on Local Government Finance is required to adopt regulations to assist the boards of trustees in consolidating or sharing services, functions or personnel. A report by each school district is to be submitted to the Legislature and Interim Finance Committee by July 1, 2012 and July 1, 2013, and specifies the information to be contained in the report.

Effective: May 31, 2011 for the purpose of adopting regulations and July 1, 2011 for all other purposes.

STUDIES CONTINUED**SB 374 - Funding Higher Education**

A 16-member Committee to Study the Funding of Higher Education (12 voting members of which 6 are Legislators, and 4 nonvoting members) is created. The committee shall evaluate other states' funding methods and determine if they would be appropriate in Nevada. The committee is also to review: remediation in the context of instructional delivery methods; the retention of registration fees outside of the state supported operating budget; consider funding in the context of completed courses instead of the current method of funding enrollments; and consider rewarding institutions within higher education for achieving defined goals for graduating students. Two appropriations are made: \$150,000 for the purpose of conducting a study and \$18,064 to pay the salary of Legislative members.

Effective: July 1, 2011.

CAMPAIGN PRACTICES, ELECTIONS & INITIATIVES***Campaign Practices . . .*****AB 81 - Campaign Reporting & Other Election Clarifications**

Persons or political committees expending more than \$100 on public communications are required to disclose their identity on those communications. Civil penalties on committees for political action which engage in activity in Nevada before registering with the Secretary of State is authorized. Campaign "expenses" and "expenditures" are differentiated for purposes of campaign reporting requirements. A person is prohibited from contributing to a political action committee with the knowledge and intent that the committee will contribute that money to a specific candidate which, in combination with contributions already made by that person, would violate existing contribution limits. Candidates or elected officials can use campaign funds to pay for legal expenses related to the campaign or service without establishing a legal defense fund and are required to report those expenditures on their expenditure reports. The provision under which a minor political party qualifies to place candidate names on the ballot is clarified. The date for final changes to a general election ballot is changed to the fourth Friday in June of the election year. Voting for a major political party on a primary ballot is clarified to refer to those voters registered with an affiliation with that party. The procedure for verifying signatures on absentee ballots from military personnel and overseas citizens is revised and residency protections are extended to spouses of these citizens. The procedure for recounts in a city or one or more counties that use a mechanical voting system is revised.

Effective: October 1, 2011.

AB 82 - Political Action Committees and Election Law Changes

A political action committee (PAC) is required to file an updated registration form with the Secretary of State by January 15 each year. Persons or groups who advocate passage or defeat of a ballot question are subject to the same registration requirements as PACs. They are also required to abide by the same reporting as PACs of contributions and expenditures in excess of \$1,000 in any reporting period. The allowable uses of unspent campaign contributions and legal defense funds are expanded. Other changes to election laws include provisions relating to: establishment of mailing precincts; use of computer systems by county clerks for voter registration; listing of "same name" candidates on ballots; allowing the Secretary of State to charge (cost of printing) for providing 50 or more voter registration forms to an entity; expanding the time for the Secretary of State to submit a report on primary and general elections to the Legislature to between 30 days before and 30 days after the first day of a regular legislative session; and changes the deadline for county clerks to notify the Secretary of State of the number of voters in the county to the Friday before the primary and the general election instead of the second Friday before those days. State law is brought into line with federal law prohibiting candidates from taking contributions from foreign nationals.

Effective: Provisions vary and are effective either July 1, 2011 or January 16, 2013.

NTA: This is a substantial change for groups that support or oppose ballot questions. Formerly these groups filed as "Ballot Advisory Group" and were required to file and report to the Secretary of State's office only if they received or had expenditures of \$10,000 or more.

AB 337 - Campaign Practice Violations

The manner and content required to be included in a notice to the Secretary of State regarding alleged campaign practice violations is specified as are the details of the Secretary of State's authority in investigating the allegation, including subpoenas and court orders compelling compliance.

Effective: October 1, 2011.

CAMPAIGN PRACTICES, ELECTIONS & INITIATIVES CONTINUED**AB 452 - Campaigns: Electronic Filing of Reports**

The electronic filing of campaign contribution and expenditure reports by candidates for state, county, city and district offices, with certain exceptions is required, as is the use of forms designed by the Secretary of State. The report filing deadlines are revised to: 21 days before an election for year-to-date contributions, expenditures and expenses through 25 days before the election date, with a subsequent report due four days before the election covering the 24 days since the first report. An annual report is due by January 15 each year covering the previous calendar year.

Effective: January 1, 2012.

SB 125 – Campaign Reports: Deadlines

Extends the reporting requirements and deadlines applicable to candidates for office to the contributions and expenditures of persons or groups or political action committees who make expenditures in support of a candidate, group of candidates or in support of or opposition to a ballot question. Revises the report filing deadlines to 21 days before an election for year-to-date contributions, expenditures and expenses through 25 days before the election date, with a subsequent report due four days before the election covering the 24 days since the first report. Candidates for a district office in a special election, as well as unaffiliated persons, groups or committees expending funds related to the special election, must file reports seven days before the beginning of early voting for the period between their nomination and 12 days before the beginning of early voting in the special election. The remaining period before the special election is covered in a report due 30 days after the election.

Effective: October 1, 2011.

SB 157 - Use of Campaign Contributions Expanded

Expands the allowable use of unspent campaign donations to include donations to State and local government entities or funds and allows the candidate to request a specific use for such donations.

Effective: June 1, 2011.

Elections . . .**AB 132 - City Elections**

Amends the charters of Boulder City, Caliente, Henderson, Las Vegas, North Las Vegas and Yerington (cities created by charters) to allow the city councils of those cities to choose by ordinance to hold city elections on the state election cycle rather than odd-numbered years. If a city adopts this election schedule, provisions are included to ensure the respective terms of current office holders are not affected. Also, allows for subsequent repeal of the ordinance.

Effective: June 2, 2011.

Initiatives . . .**SB 133 - Initiative Petitions**

Establishes that petition districts, from which signatures for an initiative or referendum petition are gathered, are now conterminous with (the same as) congressional districts, rather than being separately created by the Legislature. The number of required signatures in a district is determined by the Secretary of State by taking the number of voters in the State who voted in the preceding general election and dividing it by the number of petition districts. Voters who sign petitions are to indicate their district number, if known, and petition circulators are to include their residence address on the affidavit of the petition. County Clerks are to verify petition signatures and apply sampling tests according to procedures established by the Secretary of State.

Effective: June 13, 2011.

To read the full text of the bills go to: www.leg.state.nv.us. Once there, click on "Session Info-2011" and then on "Bill Information."

LEGISLATURE**AB 127 - Legislative Books**

Eliminates the requirement that Senate and Assembly employees prepare books of bills, resolutions, journals and histories for legislators and others during legislative sessions.

Effective: March 17, 2011.

NTA: All of the above information is available on the computers issued to Legislators. Legislators can still request printed copies of the bills and resolutions, etc.

AB 260 - Legislative Training

Newly elected Legislators, who have not previously served in either house, are required to attend mandatory training sessions, as specified by the Speaker of the Assembly and Majority Leader of the Senate, respectively, before the beginning of the Legislative Session. Training is to include legislative procedure and protocol; overviews of the state budget and budget process; state policy issue briefings; and other matters designated by Leadership.

Effective: October 1, 2011.

MISCELLANEOUS ISSUES**AB 292 - Appraisal for Eminent Domain**

An appraiser is prohibited from using a Restricted Use Appraisal Report to determine, establish or assess the nature, value, quality or use of real property in a judicial proceeding for eminent domain.

Effective: October 1, 2011.

AB 432 - Energy Auditors: Licensing

Provides for licensure of energy auditors by the Real Estate Division of the Department of Business and Industry and establishes training and qualifications required for licensing. Fees for licensure include a \$100 application fee and \$250 for issuance or renewal. Establishes requirements for conducting an energy audit and for the report to be provided to the homeowner and the U.S. Department of Energy. Repeals provisions of NRS 113.115 requiring a seller to have an evaluation of energy consumption conducted and provide the results to a purchaser.

Effective: July 1, 2011.

AB 451 - Metric Council Eliminated

Eliminates the statutory provisions creating the Advisory Council on the Metric System, created when the Federal government was advocating adoption of the metric system in the U.S. The Council has been inactive for some time.

Effective: May 29, 2011.

NTA: About time! The Metric Council was created in the 1970s when the United States was considering following almost every country in the world by adopting metrics. It is almost 30 years since it last met.

AB 571 - Clean Indoor Air Act Changes

The Nevada Clean Indoor Air Act is amended to allow smoking in stand-alone bars, taverns and saloons, and completely enclosed areas within one of those establishments, where patrons under 21 years old are actively prohibited. Also, allows smoking in a completely enclosed area of such structures as airports and strip malls.

Effective: June 17, 2011.

NTA: The Act was an initiative petition, that qualified and was approved by the voters. Nevada's constitution provides that an initiative approved by the voters can be changed after three years.

SB 140 - Cell Phones and Texting

Prohibits texting or using a cellular phone while driving unless the voice communication feature is being accessed with a hands-free accessory. Citations of \$50, \$100 or \$250 for the first, second and third offense respectively, will be issued by officers beginning January 1, 2012. Until that date, written or verbal warnings will be issued. In the case of a third or subsequent offense, the driver's license will also be suspended for six months.

Effective: October 1, 2011.

MISCELLANEOUS ISSUES CONTINUED**SB 248 - Motor Vehicle Passing Rules**

To overtake and pass a bicycle or an electric bicycle proceeding in the same direction, a driver of a motor vehicle needs to (1) move the vehicle into the immediate left lane, if there is more than one lane traveling in the same direction and it is safe, or (2) passing to the left not less than 3 feet from the bicycle or electric bicycle.

Effective: October 1, 2011.

SB 257 - Graffiti

Increases the penalties for a person who unlawfully defaces public or private property with graffiti. Penalties are tiered depending on the value of the loss and range from misdemeanor to gross misdemeanor or felony. A person may also be ordered to pay restitution. Also a person that is convicted of a third offense must perform up to 300 hours of community service for up to one year cleaning up, repairing, keeping clean, etc., property damaged or destroyed. Provides that the owner of public or private property may file a civil action and establishes the amount of the award.

Effective: October 1, 2011.

SB 282 - Social Security Number Protection

Posting in any public manner the social security number of another person is prohibited, unless required or authorized by federal or state law. The misdemeanor offense is punishable by up to six months in jail or \$1,000 or both. Authorizes the owner of the social security number that was posted to pursue civil action against the person who made the number public.

Effective: October 1, 2011.

SB 473 - Consumer Affairs Division

Extends to June 30, 2013, the temporary elimination of the Consumer Affairs Division of the Department of Business and Industry and transfer of the powers and duties of the Division to the Office of the Attorney General.

Effective: June 16, 2011 and July 1, 2011.

NTA: The 2009 Legislature made this transfer on a temporary basis for the 2009-2011 biennium.

continued from page 1

businesses affected by the decision could potentially have to remit the tax based on the retail value of the meal as opposed to the actual cost as previously remitted. So not only is there no right to a refund, but the tax exposure actually increases.

Are business tax initiatives on the horizon? Probably.

Threats of an initiative petition to impose a business tax have been an on-again, off-again proposition for over 20 years and surfaced again during this past legislative session. The proponents of the petition process are the AFL-CIO and teachers' union and reportedly representatives of some gaming interests who have talked about "a broad-based business coalition" going forward with an initiative to impose a business tax. There is skepticism that a broad based business coalition can be formed. A more likely scenario would be a coalition of public and private sector unions, organizations devoted to increasing government spending, and some gaming interests. The current unknowns are whether the business tax would be on income, gross receipts or a Texas style margins tax, or if it would be a constitutional or statutory change. The only "known" is that taxation by initiative, also known as ballot box budgeting, is guaranteed to have unintended consequences. In fact, even taxes imposed by legislative

action have been the story of unintended consequences, but at least corrective action can be taken in the next legislative session.

The reasons generating additional revenue have not substantially changed during the periods these tax initiatives have been proposed. It is more money wanted to maintain, increase or expand various state programs and services.

The best revenue/tax generator is to have people employed. Increasing the number of employees relies on business being able to have some certainty as to their expenses; that is basic economics. And, if anything is sure to negatively impact hiring as well as economic development and diversification efforts in Nevada, it is the threat of taxation by initiative petition which in this economy is not only counter-intuitive, but counter-productive.

Footnotes:

1. Another initiative for a constitutional amendment to exempt food, except for food prepared for immediate consumption, was circulated and qualified in 1980. It appeared as Question 9 on the 1980 and 1982 general election ballots and was passed by the voters.

2. *Sparks Nugget, Inc. v. State, ex rel. Department of Taxation*, 124 17 Nev., 179 P.3d 570, 572 (2008)

3. For specific examples, please contact NTA president Carole Vilardo.

NOMINATIONS OPEN FOR CASHMAN GOOD GOVERNMENT AWARD

Nominations are now being accepted for the 15th annual Cashman Good Government Award. Next year's award will be presented during NTA's 90th anniversary luncheon in Las Vegas in February 2012.

In honor of NTA's 90th anniversary, for the first time monetary awards will be presented to the finalists and winner of the Award. Information and nomination forms can be found by going to www.nevadapaxpayers.org and scrolling down to Cashman Good Government Award.

For additional information about the award, please contact Suzanne Kilgore in NTA's Carson City office at 775/882-2697 or info@nevadapaxpayers.org.

NEVADA TAXPAYERS ASSOCIATION

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