

TAX TOPICS

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Sessions End in 120 Days + 1

Ask anyone following this legislative session if there would be a special session and the answer would have been no. Wrong. At midnight on June 3, the final day of the 120-day session, the Clark County “More Cops” bill was left hanging when the conference committee report was not acted on prior to the mandatory midnight adjournment. The Governor, who was reluctant to, finally relented and called a special session for the next morning. While called for 4:30 a.m. on June 4, the houses convened between 6:45 a.m. and 7:35 a.m., as many legislators had to be called back to Carson City. The Governor listed four bills and one action in his proclamation. “More Cops,” AB 496 (2nd reprint) led the list followed by AB 38 (3rd reprint) the partial abatement of taxes for new and expanding businesses; AB 162 (2nd reprint) school district reporting on class-size reduction; SB 471 revisions of the account for charter school and directing the legislature to consider a \$2 million dollar appropriation to the Millennium Scholarship program. The special session ended shortly after 9:00 a.m. with all bills, including the one for the appropriation to the Millennium Scholarship, passing.

In general, the biggest upside to the 2013 session was the civility (with rare exceptions) between legislators, and in a number of cases the collegiality. It was a far cry from the past few sessions when partisanship, sometimes in the extreme, had become the rule.

Probably the biggest downside to the session was the impact of term-limits. With the major turnover of legislators last session and this session, not only was leadership in both houses and parties new, but so were the majority of legislators. There were new committee chairs of which three were freshman. For the most part the freshmen were hard working. They read the bills and amendments and most weren’t shy about asking questions. And generally they handled the steep learning curve they faced well.

Committee meetings started immediately, however, bill introductions lagged as did amendments. Unfortunately both were attributed to the time taken up by legislative staff as well as Legislators assigned to the Select Committee to deal with the potential and then actual expulsion of Assemblyman Steven Brooks, who was declared not capable of serving.

Fortunately or unfortunately, depending on your point of view, the policy discussions on taxes were short-circuited or never got off the ground.

The margin tax initiative, in spite of the unions’ and spenders’ plea for enactment, was never even brought up for a vote. (It will appear on the 2014 general election ballot). Senate Majority Leader Denis withdrew his bill for a business tax prior to the hearing on the basis it would not pass.

Assembly Speaker Marilyn Kirkpatrick introduced a major clean up of the Live Entertainment Tax (LET). A tax that has been dubbed by NTA president Carole Vilaro as the “i” before “e” except after “c” tax because of its bifurcated administration, bifurcated rate structure and its “favored nations” exemptions.

In hindsight the bill was too ambitious, even though it was based on sound tax policy. After being dubbed the “family fun tax” by the media and the initial hearing it

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Legislative Enactments - Taxes

GAMING TAXES

AB 114 - Interactive Gaming

The Nevada Gaming Commission is required to adopt regulations authorizing the Governor to enter into agreements with other states to allow patrons of those states to participate in interactive gaming. The Commission may provide, by regulation, an increase in the license fee to not more than \$1 million and the renewal fee to not more than \$500,000. The Commission may increase or decrease the fees if conditions as specified in the act occur.

Effective: February 21, 2013.

Comment: In 2001 the Legislature enacted the internet gaming tax, with the condition that the Gaming Commission must first determine that interactive gaming can be operated in compliance with all applicable laws. The 2001 law further required that the Justice Department must notify the Commission that interactive gaming is permissible under Federal Law. In September 2011 the Justice Department issued an opinion paving the way for states to enact interactive gaming. The current fee for an initial license for a non restricted gaming operation is \$500,000 and the annual renewal fee is \$250,000. These “fees” should rightfully be called taxes. The revenue generated is used in support of the State’s general fund activities.

SB 17 - Gaming Payment Dates

Revises the date from the 24th to the 15th of the month following each quarter on the filing of reports and payments of fees related to gaming licenses and expired slot machine wagering vouchers that are due from gaming licensees.

Effective: May 22, 2013 for performing any preparatory administrative tasks and July 1, 2013 for all other purposes.

MINING TAXES

SB 400 - Changes Net Proceeds of Minerals Tax to an Excise Tax

The basis of the Net Proceeds of Minerals Tax (NRS 362) is changed from one of valuation of the mineral to an excise tax upon mineral extraction and royalties. The rate of taxation, under the excise tax provision, remains the same as the rate of taxation under the net proceeds of minerals. Conforming changes are made to NRS 360 - Tax Administration and to NRS 361 - Property Tax.

Effective: November 25, 2014 only if SJR 15 (below) is approved by the voters at the November 4, 2014 general election.

Comment: An excise tax is normally based upon a unit of measure. This excise tax is based upon valuation. It is known as a *legal fiction*. According to Black’s Law Dictionary (online Legal Dictionary 2nd Ed.) legal fiction is “Believing or assuming something not true is true. Used in judicial reasoning for avoiding issues where a new situation comes up against the law, changing how the law is applied, but not changing the text of the law.” Another definition from the Encyclopedia Britannica (online edition), which is directly on point as it deals with legislation is: “legal fiction, a rule assuming as true something that is clearly false. A fiction is often used to get around the provisions of constitutions and legal codes that legislators are hesitant to change or to encumber with specific limitations.” It’s hard not to wonder why there was a need to pass legislation that is a *legal fiction*.

SJR 15 of the 76th (2011) Session - Mining Tax Constitutional Amendment

Proposes to amend the Nevada Constitution (Article 10) to remove the provisions relating to the taxation of mines and mining claims.

Effective: Only if approved by the voters at the November 4, 2014 general election.

MISCELLANEOUS TAXES

AB 20 - Livestock Special Tax

Moves the livestock tax from NRS 571.035 to a new section in NRS 575. Other provisions include, but are not limited to, revising the duties of persons who manage different areas, expanding the use of funds from certain accounts. Also, a number of changes are made to pest control services.

Effective: June 1, 2013.

MISCELLANEOUS TAXES CONTINUED**SB 8 - Other Tobacco Products Tax**

Clarifies that the “wholesale price” of tobacco products, other than cigarettes, is the established price for which those products are sold to the wholesale dealer, whether the wholesale dealer purchases the products from the manufacturer or any other person.

Effective: July 1, 2013

SB 374 - Medical Marijuana

Each medical marijuana establishment has to submit an application to the Health Division of the Department of Health and Human Services which contains the information required by the form, fingerprints and a one-time non-refundable application fee of \$5,000. A medical marijuana establishment is an independent testing laboratory; a cultivation facility; a facility for the production of edible marijuana products or marijuana-infused products; a medical marijuana dispensary. Each person who works or volunteers at a medical marijuana establishment as an agent must also file an application and submit the required fees. A medical marijuana establishment agent is described as an owner, officer, board member, employee or volunteer of a medical marijuana establishment. A series of fees is established ranging from \$30,000 for the initial issuance of a medical marijuana establishment registration certificate for a dispensary, with an annual renewal of \$5,000 to \$3,000 for a cultivation facility and a production facility to \$75 for the initial and renewal of an agent registration card. Fees paid to the division in excess of the costs incurred by the Division are deposited to the State Distributive School Account. A 2 percent excise tax on the sales price of the marijuana is imposed on each wholesale sale made in the State to another medical marijuana establishment. The excise tax is separate from and in addition to Nevada’s sales and use tax. The excise tax is considered part of the total retail price to which sales and use taxes apply. The excise tax is distributed to the Division and the DSA, 25 percent and 75 percent respectively. Other provisions in this legislation include, but are not limited to, specifying the information required in the applications, the conditions to be met by the establishments, the procedures to suspend or revoke certificates, etc.

Effective: June 12, 2013 for the purposes of adopting regulations and April 1, 2014 for all other purposes.

Comment: This legislation is patterned after Arizona’s law. In Nevada, voters approved a constitutional change in 2000 to allow the use of marijuana if medically prescribed. However, other than patients growing their own plants, there was no way to obtain the marijuana. The addition of the excise tax to this occurred on the day before the session ended. No funds were appropriated to the Department of Taxation for implementation or administration of the tax.

SB 465 - Livestock Tax

Increases the tax on some livestock as follows: stock cattle - 28 cents to 50 cents; dairy cattle - 53 cents to 60 cents; Hogs and pigs - 7 cents to 30 cents; and goats - 6 cents to 10 cents. Increases the minimum tax due annually from \$5 to \$10. Allows the Agriculture Department to assess a tax not paid in the year it was due to anytime within 5 years after the date the tax became due. Increases the penalty for failure to pay the tax to 20 percent from 10 percent.

Effective: July 1, 2013.

SB 509 - Room Tax Expenditure: Sunset Removed

This act continues the deposit of the increased revenue to the state’s general fund and defers until July 1, 2015 the deposit of funds to the Supplemental School Support Fund.

Effective: May 29, 2013.

Comment: This legislation refers to the 3-cent portion of the room tax collected in Clark and Washoe counties. The tax was presented to the 2009 legislature as IP 1, an initiative petition circulated by the teacher’s union. The initiative was passed during that legislative session. Through June 30, 2011, the increased revenue was deposited to the state’s general fund. Thereafter it was to be deposited to the State Supplemental School Support Fund. In 2011 the sunset was extended to June 30, 2013.

MULTIPLE TAXES**AB 68 - Consolidated Tax (C-Tax) Distribution**

Revises and provides for an alternate distribution of tax from the Local Government Tax Distribution Account. Also changes the dates and adds provisions regarding cooperative agreements between local governments (within a county).

Effective: July 1, 2013 for most provisions and July 1, 2014 for allocations made to enterprise districts.

Comment: The taxes which make up the C-Tax are the basic and supplemental city-county relief tax (local portions of the sales and use tax), the real property transfer tax, the cigarette tax, the alcoholic beverage tax, and the governmental services tax.

MULTIPLE TAXES CONTINUED**AB 46 - Washoe School District Capital Projects**

Authorizes the Washoe County Board of Commissioners to impose, by a two-thirds vote, an increase in the property tax and sales tax for use by the Washoe County School District for capital projects. The property tax increase is 5 cents per \$100 assessed valuation, which is outside both the partial abatement cap and \$3.64 property tax cap; the sales tax increase is 1/4 of a percent. The ordinance to impose one or both of the taxes must be done on or before January 1, 2014. Proceeds from the taxes must be deposited in the county treasury to the credit of the District's fund for capital projects.

Effective: June 11, 2013.

Comment: The bill as introduced provided that the tax increases would be adopted by the Washoe School District's Board of Trustees. This provision would have set a precedent and the bill was subsequently amended to give the authority for raising taxes to the Washoe County Commission. This also sets a precedence.

SB 475 - Removal of Tax Sunsets

Extends until June 30, 2015, the following taxes which were due to sunset and changes the threshold of the Modified Business Tax (MBT):

MBT - 1.17% per quarter on wages paid in excess of \$85,000 (currently \$62,500 per quarter).

Sales and Use tax (the local school portion - LSST) .35 percent for a total of 2.60 percent (LSST).

Net Proceeds of Minerals – Continues the advance payments.

State Business License - \$200.

Effective: June 12, 2013 and expires by limitation June 30, 2015.

Comment: This Legislature followed the action of the 2011 Legislature by extending the sunsets of June 30, 2013 to June 30 2015. The sunsets were originally established in the 2009 session and set to expire June 30, 2011. The prepayment of the Net Proceeds tax was required during the 2008 special session and due to expire on June 30, 2011. *Will the sun ever set?*

IP 1 - Margin Tax Initiative Petition

Imposes a new 2 percent margin tax on business revenue over \$1 million dollars.

Comment: This tax is patterned after the Texas margin tax. As the Legislature took no action on the initiative, it will appear on the November 2014 general election ballot. See NTA's publication *Tax Topics* July 2012 available at:

www.nevadataxpayers.org.

PROPERTY TAX**AB 505 - Capital Improvements**

Continues the property tax levy of 17 cents per \$100 dollars of assessed valuation for capital improvement projects as authorized in this legislation. Two cents of the 17 cents is outside of the \$3.64 property tax cap. The proceeds of the taxes are deposited in the Consolidated Bond Interest and Redemption Fund and do not revert to the general fund at the end of a fiscal year.

Effective: June 10, 2013.

Administration**AB 66 - State Board of Equalization: Notice of Valuation Increases**

Changes the requirement that the State Board of Equalization send notices of increased valuation by first class mail (currently certified mail) to interested persons. Maintains the requirement for notices to be sent by certified mail to a property owner in a proceeding to resolve an appeal or other complaint. The provisions relate only to notices of proposed increases in valuation on or after July 1, 2013.

Effective: July 1, 2013.

SB 216 - Property Tax Bills

Authorizes the electronic transmission of the property tax bill in lieu of mailing a tax bill, when requested by the property owner or mortgage authority. The redemption date of property from a delinquent tax sale is changed to not later than 5:00 p.m. on the third business day before the sale.

Effective: July 1, 2013

PROPERTY TAX CONTINUED**SB 215 - Assessors' Omnibus Bill**

Revises the hours of training required for each person who holds an appraiser's certificate. Requires a county assessor be notified within 30 days of a mobile or manufactured home being brought into the county and allows the assessor to collect a penalty of 10% if not reported within the 30 days. The assessor is allowed to waive the penalty for extenuating circumstances. Changes the requirement that an affidavit for the transfer of a veteran's exemption be made before a county assessor and requires the affidavit to be made before an authorized employee of the Department of Motor Vehicles. Repeals the sunset on the technology account and makes the transfer of funds to the account permanent.

Effective: May 23, 2013 for the technology account and July 1, 2013 for all other provisions.

SB 301- Property Tax Liens

Provides that a county treasurer can assign a tax lien if the property owner enters into a voluntary written agreement/authorization with an assignee. The terms of the agreement are spelled out. The assignee is required to issue the release of the tax lien within 20 business days after the owner pays in full the amounts covered by the agreement. The assignee is provided remedies if the owner fails to redeem the tax lien or otherwise fails to perform in accordance with the agreement. The assignee is required to post a cash or surety bond in the penal amount of \$500,000 and annually submit a statement to the Secretary of State that the bond has been posted as required.

Effective: July 1, 2013

SALES TAX**SB 1 (2013 Special Session) - Clark County: "More Cops"**

Through July 1, 2016, the revenue received from the more cops sales and use tax increment is allowed to be used for operations. Allows the More Cops tax to increase 1/15 of a percent, if approved by a 2/3s vote of the Clark County Commission. A police department in Clark County cannot expend any portion of the increment unless the department employs and equips an equal number of police officers in unfilled budgeted positions. If there are not a sufficient number of unbudgeted positions to match, the department can apply for a waiver from the Committee on Local Government Finance. The Committee must submit a report to the Legislative Commission on the number of waivers it receives.

Effective: June 3, 2013 and expires by limitation on October 1, 2025.

Comment: In 2004 Clark County voters approved up to ½ a percent of sales and use tax to fund more police officers being hired by the various police departments in Clark County. In 2005 the Legislature approved 1/4 of a percent to hire more cops. This additional 1/15 of a percent will raise the sales and use tax rate in Clark County to 8.25 percent.

SB 152 - Third Party Bad Debt

Extends the bad debt credit allowance for retailers on sales and use tax to an entity which is part of an affiliated group that includes the retailer. Defines an affiliated group as defined in the Internal Revenue Code, 26 U.S. C. § 1504 (a) [Affiliated Group defined] and 1563 (a) (2) [Brother-Sister Control Group defined]. The bad debt is eligible to be claimed as a deduction on the federal income tax return.

Effective: May 28, 2013 for adopting regulations and July 1, 2013 for all other purposes.

SB 406 - Tourism Improvement Districts (TID)

Provides that a TID created or revised after July 1, 2013 may not include the local school support portion of the sales and use tax for use as pledged revenue to finance projects within the District. Additionally, the legislation repeals provisions that do not allow a TID to overlap a redevelopment district, but restricts the financing or reimbursement provisions to either the TID or redevelopment district. Requires the use of prevailing wage in contracts and agreements where there is a provision to receive financing or reimbursement through the TID, and specifies bidding requirements.

Effective: July 1, 2013.

To view the history of any bill, or read the enrolled copies of the bills from the regular session go to:
<http://www.leg.state.nv.us/Session/77th2013/Reports/> and for the special session history and enrolled bills:
<http://www.leg.state.nv.us/Session/27th2013Special/Reports/>.

SALES TAX CONTINUED**SB 506 - Complimentary Meal Exemption**

Provides an exemption from sales and use tax for the portion of any food, meals or nonalcoholic drinks provided on a complimentary basis in whole or part, to the employees, patrons or guests of a retailer.

Effective: June 13, 2013 and applies to food, meals and non-alcoholic drinks provided on a complimentary basis on and after June 13, 2013.

Comment: This legislation is in response to a series of court cases which have been filed before both district courts and the Supreme Court. In 2008 the Supreme Court ruled that comps provided by Sparks Nugget were not subject to use tax. Since that time the cases that have been filed have challenged the imposition of sales tax on comp meals. The uncertainty of how the Nevada Supreme Court would ultimately rule on these cases has led to a settlement between the State and Nevada hotels and gaming properties. An adverse ruling to either the State or properties would result in a liability of approximately \$233 million. In the settlement agreement the hotels have waived their right to refunds in return for legislation to exempt comp meals. Prior to the passage and signing of this legislation, the Nevada Tax Commission adopted a new regulation on comp meals that was contingent upon the passage of court action or legislation, whichever came first.

TAX ABATEMENTS**AB 1 (2013 Special Session) - Abatement for a New or Expanded Business**

This legislation modifies many of the provisions to determine eligibility for this business abatement. The deferral of sales taxes is changed from “capital goods” to “eligible property,” and the threshold for the deferral of the tax on the sale of property is established at \$1 million or more for property used by a business in this State. Deletes the provisions that apply to the development and refinement of intellectual property and a patent or copyright into a commercial product. Reduces the number of employees that a business will have from 75 to 50 for a county whose population is 100,000 or more or a city whose population is 60,000 or more. For counties whose population is less than 100,000 and cities with a population less than 60,000 the number of employees is reduced from 15 to 10. If the business is an existing business in a larger county or city, the number of employees must increase by 10 percent more than the prior fiscal year or 25 employees, whichever is greater. Clarifies that requirements for the abatements are to be effective by the fourth calendar quarter following the calendar quarter in which the abatement becomes effective. Also clarifies that the investment or number of employees required to receive the abatement must be in place at least until 5 years after the effective date of the abatement. The capital investment in a larger county or city is reduced from \$50 million to \$5 million for an industrial or manufacturing business and from \$5 million to \$1 million for other businesses. In smaller counties and cities the investment is reduced from \$5 million to \$1 million for industrial or manufacturing and \$500,000 to \$250,000 for other businesses. For businesses which locate in a foreign trade zone the partial abatement must be for at least 1 year, but not more than 5 and cannot exceed 75 percent of the annual taxes on personal property. To receive an abatement from the local portion of the sales and use tax, for not less than 1 year or more than 15 years, a data center is required to make an investment of \$100 million in a historically underutilized business zone.

Effective: June 13, 2013 for the purpose of adopting regulations and July 1, 2013 for all other purposes. Abatements for recycled materials (NRS 701A.210) expire on June 30, 2017 and provisions reducing investment and employee requirements, and property and sales and use tax expire on June 30, 2032.

AB 33 - Property Tax Abatement Revisions for Renewable Energy

Revise the standards to be used by the Director of the Office of Energy when adopting the Green Building Rating System. Establishes the conditions and time frames by which a county commission or city council/supervisors must consider in approving or denying an application for abatement. Repeals the authorization for manufacturers who renovate buildings to use the partial abatements of property taxes.

Effective: June 11, 2013.

AB 138 - Personal Property Tax Abatements for Higher Education Support

Adds a new section to NRS 360 (Tax Administration) to provide that a business that makes an investment of at least \$1 million in UNR, UNLV or DRI or at least a \$500,000 investment in Nevada State College or a community college within the University system can apply for a partial abatement of property taxes. The investment is to be used in support of research, development or training related to the field of endeavor of the business. Establishes the criteria the business must meet – wages, number of

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AB 138 continued

employees, benefits – to apply for a partial abatement of personal property taxes. The amount of the abatement must not exceed 50 percent of the amount of taxes imposed on the personal property of the business during the period of the abatement or 50 percent of the amount of the capital investment by the business, whichever amount is less. The application for the abatement is to be made to and receive the approval of, the Office of Economic Development. The Office must request a letter of acknowledgment from any affected county, school district, city or town, who must approve or deny the application within 30 days. No person is entitled to the abatement for capital investments made prior to July 1, 2013.

Effective: July 1, 2013 and expires by limitation on June 30, 2023.

AB 239 - Renewable Energy Abatement

Allows the Director of the Office of Economic Development to charge and collect a fee from each applicant for a partial abatement for energy. The fee must not exceed the cost of processing the application, evaluating the submission of proof by the applicant and making the determination concerning eligibility. Other provisions include, but are not limited to: creation of a 5-year Economic Development Electric Rate Ride Program to encourage business development by offering discounted electricity; and the elimination of eligibility of the abatement for a person operating a facility for transmission of electricity generated from renewable energy or geothermal resources.

Effective: June 11, 2013 for certain purposes related to the granting of the exemption and July 1, 2013 for all other provisions. The Electric Rider Program expires by limitation on June 30, 2018 and energy related abatements (NRS 701A) expire by limitation on June 30, 2049.

AB 388 - Revisions and Clarifications to Renewable Energy Abatements

Geothermal energy is included in the definition of “renewable energy.” Clarifies provisions relating to approval of an energy abatement by County Commissioners. Revises the calculation of the portfolio energy credits attributable to certain energy systems. Also clarifies that a State court has jurisdiction over a claim or action relating to a renewable energy project on Indian tribal land that meets specified conditions.

Effective: October 1, 2013

TAX ADMINISTRATION**SB 7 - Technical Bulletins & Attorney General Tax Opinions**

Allows the Executive Director of the Department of Taxation to prepare, publish and periodically revise technical bulletins to advise business of issues relating to taxes administered by the Department and published and unpublished opinions of taxes issued by the Attorney General. The technical bulletins are not required to follow the provisions of the Nevada Administrative Procedures Act (NRS 233B). However, the technical bulletins must be approved by the Nevada Tax Commission before publication.

Effective: May 22, 2013.

SB 117 - Modifies Subpoena Power of Department of Taxation

Restricts the Department from issuing a subpoena to compel the production of books and papers that contain information which identifies a natural person, or from which the identity of a natural person may be reasonably identified.

Effective: July 1, 2013.

SB 479 - Insurance Premium Tax

Provides that a credit provided to an insurer against the insurance premium tax paid for its policies of industrial insurance does not expire and may be carried forward in subsequent years until the entire amount of the credit is used.

Effective: July 1, 2013

The 2013 - 2014 edition of Tax Facts will be available by the end of December. If you would like to obtain a copy of the 2011 -2012 edition, please contact the office nearest you by phone or email. The price has been reduced from \$20.00 to \$10.00.

TAX CREDITS

SB 165 - Transferable Film Tax Credits (a.k.a. Nicholas Cage Bill)

Provides transferable tax credits* to a producer of film, television or other media that applies to the Office of Economic Development by December 17, 2017 for a certificate of transferable tax credits. Requirements before the approval of the credits include: a finding the production is in the economic interest of Nevada; at least 60 percent of the expenditures will occur in the state; production costs will exceed \$500,000. Information to be provided in the application is detailed in the legislation. An independent certified audit must be provided to the Office and must be conducted by a CPA in the State and approved by the Office. The Office cannot approve any applications for the credits after January 1, 2018. A hearing must be held to determine the approval of the credits. The base amount of the credit which may be issued to an eligible producer is 15 percent. Additional percentages may be added to the base credit if certain other conditions concerning the percentage of Nevada residents hired and the number of filming days in Nevada. The office may not approve more than \$20 million in transferable tax credits during any fiscal year. Credits not used must be available the following two fiscal years. A qualified production** may not receive more than \$6 million in credits. The credits expire 4 years after the date of issuance. If a producer becomes ineligible after approval, the credits must be repaid. The governing body of a city or county may abate, by ordinance, any or all of the permitting fees and licensing fees imposed by that city or county. The office of Economic Development must provide information annually on the number of productions for which applications and approval of tax credits occurred, the amount of expenditures made in Nevada and the number of employees hired.

*The tax credits which can be transferred are: the modified business tax on both general business and financial institutions; the gross gaming tax; and insurance premium tax.

**A "qualified production" includes preproduction, production and post production and means: a theatrical, direct-to-video or other media motion picture; a made-for-television motion picture; visual effects or digital animation sequences; a television pilot program; interstitial television programming; a television, Internet or other media series, including without limitation, a comedy, dramas, miniseries, soap opera, talk show or telenovela; a national or regional commercial or series of commercials, an infomercial, an interstitial advertisement; a music video, a documentary film or series, other visual media productions, including, without limitation, video games and mobile applications.

Fiscal Impact: The potential of \$20 million in each year of the biennium to the State's general fund. There was no corresponding increase in revenue other than what might be generated by sales, room and the modified business taxes, which is an unknown.

Effective: June 11, 2013 for the purpose of adopting regulations, and January 1, 2014 for all other purposes. Expires by limitation on June 30, 2023.

Comment: Of 44 states that have film incentives as of June 2011, only 15 states had transferable tax credits and one state has suspended the credit. This type of incentive can be sold through an exchange or privately to a person that would then use the credit to pay down the tax liability their business owes to Nevada.

SB 357 - Insurance Premium Tax Credits (a.k.a. New Market Jobs Act)

Adds a new chapter to Title 18 (State Departments) known as the New Market Jobs Act. Provides for a credit on the Insurance Premium Tax (which cannot be sold or transferred) to a qualified community development entity if authorized by the Department of Business and Industry. A qualified community development entity is an active low-income community business who meets the size standards of the Small Business Administration or an entity that has entered into an agreement with the Community Development Financial Institutions Fund of the U. S. Treasury Department. Other conditions which are specified apply to both entities. Conditions establishing and applying for the loan include, but are not limited to, detailed information about the investment and payment of a non-refundable \$5,000 application fee and a refundable fee of 0.5 percent of the amount of equity investment or long-term debt. The Office of Business and Industry must follow specified requirements in determining whether to approve the application. If the insurance premium tax is eliminated or reduced below the level that was in effect on the first credit allowance date, the entity is entitled to a credit against any other taxes paid to the Department of Taxation of the remaining amount allowed to be deducted. Other provisions include the amount of credit allowance, the recapture of allowed tax credits, letter rulings by the Department of Taxation, etc. The Department of Business and Industry will begin accepting applications no later than October 1, 2013.

Effective: June 12, 2013, for the purpose of adopting regulations and October 1, 2013 for all other purposes.

Comment: As with the film credits bill (above) there is a potential cost to the State's general fund. In this instance it is approximately \$200 million. There is no estimate of revenue that might be generated from other taxes.

TAX EXPENDITURES**AB 333 - Analysis of Energy Abatements**

Requires the Office of Economic Development and the Office of Energy to each periodically conduct an analysis of the relative costs and benefits of each incentive for economic development previously approved by their offices and in effect during the preceding 2 fiscal years. Incentives to be analyzed are: zones for economic development, abatement of taxes on business, and energy related tax incentives.

Effective: July 1, 2013.

AB 466 - Tax Expenditure Report

Requires the Department of Taxation to submit a report to the Governor and Legislative Counsel Bureau that details the tax expenditure, the year of enactment, the purpose of enactment, and to the extent available estimates of the annual fiscal impact to State and local governments, the number of taxpayers receiving the benefit, and the revenue that would result from the repeal of the expenditure. The first report is due on or before November 10, 2014. Tax expenditure is defined as “. . . any law of this State that exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes, including, without limitation, tax abatement, tax credits, tax deductions, tax deferrals, tax exemptions, tax exclusions, tax subtractions and preferential tax rates.”

Effective: June 12, 2013.

UNEMPLOYMENT INSURANCE**AB 482 - Special Assessment for Interest**

Creates an Interest Repayment Fund for the payment of interest accruing and payable for the payments received from the Federal Government for the payment of extended unemployment benefits. Requires the Administrator of Employment Security to establish an assessment on all employers of record for calendar year 2012. If the Administrator determines the assessment is no longer needed all employers are to be notified. Any money remaining in the fund is to be deposited to the Unemployment Compensation Fund.

Effective: June 2, 2013

Comment: The Administrator has already sent a letter notifying employers that they would be receiving a special assessment to pay the interest. Payment cannot be combined with the quarterly tax payment and must be made separately, and is due by July 30, 2013. The assessment will be calculated at 0.08854 percent of an employers 2012 taxable wages. The interest payment for this year is \$17 million and is due by September 30, 2013.

AB 515 - Special Assessment for Debt

Authorizes the State Board of Finance to issue revenue bonds to fund the repayment of federal advances and interest to pay extended unemployment benefits and establish adequate balances in the Unemployment Trust Fund. A special dedicated trust fund is established in the State Treasury known as the Unemployment Compensation Bond Fund. The Administrator of Employment Security shall determine an assessment to pay the bonds. In part, the Legislative Declaration says, “It is in the best interest of this State to authorize the issuance of bonds, when appropriate, for the purpose of continuing the unemployment insurance program at the lowest possible cost to this State and to employers in this State and to avoid reductions in the federal unemployment tax credit.”

Effective: June 10, 2013.

Comment: If and when the bonds are sold the assessment levied pursuant to AB 482 (above) will cease and employers will be notified of the assessment authorized by this legislation.

VEHICLE TAXES AND FEESFuel Taxes**AB 413 - Fuel Tax Indexing**

Authorizes the Clark County Commission to impose, by a 2/3's vote, indexing of all motor vehicle fuels (gasoline, diesel, compressed natural gas, bio diesel, etc.) sold in Clark County. The ordinance must be adopted by October 1, 2013. The increase is annual and begins on January 1, 2014 and continues to January 1, 2016. To continue indexing fuels beyond 2016 voters will have to approve the proposal at the 2016 general election. The index is to be based on historical increases in the cost of highway and street construction. A person who uses special fuel and requests a refund must pay a fee of \$100, which must be deposited in the Local Fuel Tax Indexing Enterprise Fund. A person who uses special fuel must file a return with the Department of Motor

continued next page

VEHICLE TAXES AND FEES CONTINUED**AB 413 continued**

Vehicles (DMV) to determine if the person is entitled to a refund or owes any money. Refunds must not exceed 20 percent of the money collected by the county.

At the November 8, 2016 general election voters in all counties, but Washoe (and Clark, if the ordinance is approved), will be asked whether or not they approve of their board of county commissioners imposing indexing fuel tax for the period of January 1, 2017 to December 31, 2026. A ballot question will also be placed on that ballot that asks if the voters approve indexing fuel tax for the State. The Legislature is also authorized to impose indexing on state motor fuel tax beginning on January 1, 2017 and ending on December 31, 2026. To continue beyond 2026 will require approval of the voters at the November 2026 general election.

Comment: Washoe County voters approved indexing gasoline tax in 2003 and in 2009 expanded indexing to all motor vehicle fuel taxes collected in Washoe County. It is expected the average increases in Clark County due to indexing will be 3 cents per gallon, per year.

Effective: In Clark County if the ordinance is adopted by October 1, 2013.

AB 464 - Special Fuel Users Fee

Allows DMV to establish a fee by regulation for the issuance of an identifying device to a special fuel user, not to exceed estimated administrative costs. The interest fee for delinquent payment of fuel tax is changed from 1 percent to a rate established in accordance with the provisions of the International Fuel Tax Agreement (IOTA).

Effective: July 1, 2013

License Plates**AB 24 - 150th Anniversary License Plate**

Provides for the issuance of a special license plate to commemorate the 150th anniversary of Nevada's admission as a State at a fee of \$7.50 in addition to payment of an initial issuance fee of \$25.00 and for each renewal a fee of \$20.00. DMV shall deposit the fees for the duration of the collection of the fees to be used for the celebration of the 150th anniversary and related projects as specified in the act.

Effective: June 7, 2013.

AB 189 - New Tier for Special License Plates

A new tier of not more than 5 special license plates may be issued by DMV, if the applicants post a surety bond of \$20,000 and demonstrate the issuance of at least 3,000 plates to illustrate the viability of the plates. These 5 special plates are in addition to the existing 30. The Commission on Special License Plates must approve the design, preparation and issuance.

Effective: June 1, 2013 for the purpose of performing any preparatory administrative tasks, and July 1, 2013 for all other purposes.

AB 473 - License Plate Production Fee

A fee, as determined by regulation by DMV, to defray the cost of producing the license plate, is to be credited to the License Plate Production Account which is created in the State Highway Fund. This is in addition to the existing fee of 50 cents for each license plate issued.

Effective: July 1, 2013.

Registration Fees**AB 145 - Contribution to Complete Streets Program**

DMV is to provide for a voluntary contribution of \$2.00 when a person registers or renews his or her vehicle registration at a kiosk or via the internet. The contribution is to be remitted to the county in which the fee was collected and used for the Complete Streets Program, which is to be administered by the Regional Transportation Commission in the county or the county board of highway commissioners. Money received from the fee may only be used for projects that are part of the program. The Complete Streets Program is to provide access to streets and highways considering all users, including pedestrians, bicycle riders, persons with disabilities, etc.

Effective: June 11, 2013 for the adoption of regulations and October 1, 2015 or when the Director of DMV notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient revenues are available, whichever occurs first.

AB 145 continued

Effective: June 11, 2013 for adopting regulations and performing administrative tasks and October 1, 2015 or the date on which the Director of DMV notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient resources are available to carry out the provisions of this act, whichever occurs first.

AB 167 - Vehicle Registration: Out-of-State Vehicles

A nonresident business owner of a vehicle that is used in Nevada for business purposes must permit the vehicle and pay a fee of \$200 for the first vehicle and \$150 for each additional vehicle that will be used in the State. The nonresident owner will be issued an “indicator” which must be displayed when the vehicle is operated in the State. An application for the permitted vehicle is to be made within 10 days of commencing operations in the State. The indicator is non-transferable and expires 1 year after issuance. These provisions do not apply to a vehicle leased or rented by a short-term lessor.

Effective: June 11, 2013 for the purpose of adopting regulations and January 1, 2014, for all other purposes.

AB 336 - Commercial Trailer Registration

Allows a person to register a full trailer or semi trailer for a period of 3 years upon payment of all applicable taxes and fees the person would pay for one year and then renewed for two consecutive years. For other than a recreational vehicle or travel trailer, a full trailer or semitrailer, allows a person to apply for a nontransferable registration that does not expire until the owner transfers the ownership for a flat non-refundable registration fee of \$24, and for the purposes of the governmental services tax the charge is \$86.

Effective: January 1, 2015.

AB 491 - Governmental Services Tax (GST): Sunset Removed

This legislation continues the deposit of the increased revenue to the state’s general fund, deferring until July 1, 2015 the deposit of funds to the highway trust fund. In addition, commissions and penalties retained by DMV are transferred to the state’s general fund for unrestricted use. The administrative costs of 22 percent (of funds collected) allowed to DMV are increased to 32 percent during FY 2014-2015.

Effective: June 10, 2013 for the removal of the sunset and July 1, 2013 for all other provisions.

Comment: In 2009 the depreciation schedule of the GST was “bumped up” 10%. Through June 30, 2013, the increased revenue generated was deposited to the State’s general fund. Thereafter it was to be deposited to the Highway Trust Fund.

Miscellaneous**AB 472 - Motorcycle Safety Program**

Increases the fee from not more than \$100 to not more than \$150 for the program for the Education of Motorcycle Riders.

Effective: July 1, 2013.

SB 303 - Driver’s Privilege Card

Allows for the issuance of a driver authorization card by the Department of Motor Vehicles (DMV). Provides for the information to be contained regarding the permit application, the requirements for persons applying for the card and the requirements for instruction permits. The fees for issuance and renewal are the same as those charged for drivers licenses. The privilege card is valid for one year and may not be used as identification for any other purpose. Provides an appropriation for FY 2013 of \$739,110 and for FY 2015 of \$893,852.

Effective: May 31 for adopting regulations, July 1, 2013 for the purpose of providing the appropriation to DMV to pay the costs of developing and issuing the cards, and January 1, 2014 for all other purposes.

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was obvious that it wouldn’t survive. Even another version attempted by the Speaker at the end of session was doomed for being too late. The LET needed and still needs reforming, as the number of lawsuits that have been filed over the application can attest to. It needs to be one rate. The tax should not be applied to food, drink and merchandise as these items are subject to sales tax. Similarly situated businesses are treated differently;

think exemption for professional baseball, but no other professional sport; think exemption for NASCAR, but no other professional races, etc.

Speaker Kirkpatrick has vowed to bring a bill on the LET back next session.

The next issue of Tax Topics will continue with impressions on the session and other Legislative enactments, including the fee bills that were passed.

Vetoed Bills

The following bills will be returned to the 2015 legislative session for reconsideration. To read the complete veto message go to: <http://www.leg.state.nv.us/Session/77th2013/Reports/VetoMessages/>.

Bill #	Description	Reason for Veto
AB 126	Requires the disclosure of nutritional information in certain restaurants.	The bill is redundant. The Patient Protection and Affordable Care Act requires nutritional information to be disclosed at restaurants.
AB 150	Provides for the legislative review of governmental agencies to promote governmental oversight and accountability.	The Legislature, through the Legislative Commission and 14 standing committees currently has this authority. It is duplicative.
AB 209	Revises the provisions governing the distribution and sale of "certified raw milk".	The proposed regulations will not mitigate the health risks associated with consumption of unpasteurized milk.
AB 218	Revises provisions relating to public works.	The bill only targets non-union and therefore creates an unfair distinction among Nevada workers.
AB 240	Revises provisions governing comparative negligence.	This bill reinstates joint and several liability in negligence action. This radical change alters the landscape of tort litigation.
AB 345	Revises the provisions governing the management of certain wildlife.	The bill is duplicative of the current process established and could inhibit the effective management and protection of Nevada's wildlife.
AB 391	Revises provisions relating to energy.	Adding additional Public Utility Commission jurisdiction and regulation over an entity that is owned by its members and serves only its members is unnecessary.
AB 440	Revises provisions relating to voter registration.	Nevada offers more voter registration options than most states.
AB 441	Makes changes to elections	Nevada's election laws already provide a great deal of flexibility with early voting and absentee voting.
SB 180	Court Awards to an employee injured by certain unlawful employment practices	The bill goes too far and adds compensatory and punitive damages to State claims that have no federal parallel.
SB185	Revises the limitation on the principal amount of bonds and other securities that may be issued by the Board of Regents of the NSHE to finance certain projects.	The Conference Committee amendments redefined what constituted a "public work" for projects within NSHE and resulted in the removal of the limited "public works" exemption.
SB 198	Provides that a chiropractor's assistant may perform certain ancillary services under indirect supervision in certain circumstances.	The qualifications of chiropractic assistants are not sufficient to allow the treatment of patients with indirect supervision.
SB 221	Makes certain changes relating to public safety (Gun Control).	The bill imposes unreasonable burdens and harsh penalties upon law-abiding Nevadans, while doing little to prevent criminals from unlawfully obtaining firearms.
SB 312	Makes various changes concerning victim impact panels involving driving under the influence.	Existing law already provides judges with the oversight of these panels and there does not appear to be a compelling reason to transfer oversight from judges to the DMV.
SB 373	Makes various changes relating to judgments	The bill would tilt the current balance between creditors and debtors. It unnecessarily expands protections to judgment debtors at the expense of Nevada businesses.
SB 421	Requires a court to excuse a juror for cause under certain circumstances	This bill will unnecessarily restrict the discretionary power of the court and burden the jury selection process.
SB 457	Requires ward voting in the city elections of Carson City, Henderson, Reno and Sparks.	At the 2012 general election, 76% of Reno voters chose retaining the existing requirements for electing council members.

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