

MEMBERS PRESENT:

CHAIRMAN PRICE
VICE CHAIRMAN CRADDOCK
ASSEMBLYMAN CHANEY
ASSEMBLYMAN COULTER
ASSEMBLYMAN DINI
ASSEMBLYMAN MANN

ASSEMBLYMAN BERGEVIN
ASSEMBLYMAN MARVEL
ASSEMBLYMAN RUSK
ASSEMBLYMAN TANNER
ASSEMBLYMAN WEISE

MEMBERS ABSENT:

NONE

GUESTS PRESENT:

BOB WARREN, NEVADA MINING ASSOCIATION
EARLENE HINES, STATE DEPARTMENT OF TAXATION
ROY NICKSON, STATE DEPARTMENT OF TAXATION

Chairman Price called the meeting to order the purpose of hearing subcommittee reports.

AB 112

Mr. Marvel stated that the subcommittee had suggested some possible amendments to this bill which would annualize the net proceeds of mines.

Bob Warren, Nevada Mining Association, reiterated the testimony he had presented previously on this bill. He presented copies of their suggestions, which are attached to this bill as Exhibit A.

Mr. Tanner stated that he was still somewhat concerned with the time lag which would allow some of the smaller operators to get away without paying taxes.

Earlene Hines of the State Department of Taxation stated that there was a problem with the smaller unstable operations. The longer time lapse does make it harder to keep track of them and billing them.

Mr. Warren stated that they would agree to go to semi-annual estimated payments.

Mr. Craddock inquired about the number of operations they were talking about. Mrs. Hines stated that there are 162 operations in all that report. About 2/3 of these are small operations. The bulk of the money received by this does, however, come from the large responsible operations.

Mr. Tanner pointed out that about 1/3 of the companies represent about 80% of the revenue and that problem concerns the 2/3 in the smaller category that only pay about 20% of the total tax.

Mr. Price stated that he had received a call before the meeting from the Lander County Assessor, who indicated that their county would have lost \$39,200 under this type of bill.

Mr. Warren stated that total amount of money that might be lost if annualized, as estimated by the Tax Department, would be as of 1977 about \$72,000 less. Lander County is the biggest county in this category in 1977.

Mr. Dini stated that his County Commissioners were opposed to the bill. He added that it makes it very difficult to budget on the Net Proceeds Tax. He suggested that perhaps a two year study should be made on the whole subject of Net Proceeds on Mines. He cited an example of in 196? when Chile nationalized their copper mines, Anaconda charged off part of their loss to the Yerington operations.

Mr. Marvel stated that in the mining business you never know what it is going to be from year to year, especially in the marketing conditions. He added that he felt that this could not be used as a true budgetary item by the county.

Mr. Warren stated that he would hope that Mr. Dini would reconsider his request for a study as it could result in real injury to the industry. He stated that out of state experts are very anxious to step into this area and testify on slapping additional taxes on the industry. The Association would rather see the bill die then to have a study on it.

Mr. Marvel stated that he felt that the taxes should be such that it would encourage this type of industry, which would be good for the economy.

Mr. Craddock stated that he could see nothing wrong with a study as they had conducted one on the geothermal industry without any problems.

Mr. Warren stated that there really was no relationship between the two. Geothermal energy is considered the energy of the future by the environmental organizations. They are strongly supporting this and will offer any testimony to support. The mining industry has the opposite support.

Mr. Craddock stated that in the previous hearing a concern had been expressed about getting this on a 6 month interval as far as payment was concerned. The amendment does not do this beyond the first year. Mr. Warren stated that they were in agreement with the 6 month estimated and had asked for the amendment, however, the amendment did not come out of drafting in that manner.

Mr. Tanner stated that he would recommend that they go with the calendar year filing, calendar assessment but with a 6 month declaration and estimate deposit of 50% of the estimated gross for the year. When those are certified, then if the deposit is short of the actual tax, that it carry a 10% penalty.

Mr. Tanner stated that he felt that the dates discussed are satisfactory, that is the 15th February, May 30 and June 30.

Mr. Marvel stated that they were attempting to make them consistent with when these people are filing their taxes and annual audits so that there wouldn't be a duplication of work.

Mr. Warren stated that they polled their people and ascertained that most of their people were on the calendar year in Nevada.

Mr. Tanner added that he would also suggest that the lien ought to extend beyond the property and be on the capital assets or stockpiles.

At this point Chairman Price interrupted the meeting to discuss another subject that had been brought to his attention.

Mr. Mann moved that, because the Senate had just amended AB616 by placing SB204 in it and have indicated publicly that this committee did not want to meet with the Senate committee, this committee send Chairman Price down to the Senate Taxation Committee to announce publicly that this committee voted unanimously to have meetings prior to conference committee with Senate Taxation. Mr. Craddock seconded the motion. Mr. Weise stated that he felt that it was important to have a meeting with the Senate Taxation Committee to have some exposure as to what the problems are. The vote was unanimous.

Mr. Price then called for a recess of the committee for this purpose. The committee in its entirety recessed to the Senate Taxation Committee meeting. There Mr. Price expressed the Assembly Taxation Committee's desire to meet with them at any time that could be set aside for that purpose.

After this recess Mr. Craddock once again called the meeting to order and stated that they were still on AB 112 subcommittee report.

Mr. Tanner inquired whether on payments that were delinquent were there provisions for interest and penalties. Mrs. Hines stated that this was as other ad valorem taxes are collected. That means that there is a penalty and interest.

Mr. Tanner moved that the committee amend AB 112 to cover these recommendations. This would include to provide for annual filing and assessment, provide for filing of estimated tax semiannually with payment of 50%, provide for annual certification of tax and if estimated tax is deficient that deficiency would be subject to a 10% penalty, and finally, provide for a lien in the case of default on the capital assets.

Mrs. Hines stated that there were some problems with legal description of what is considered to be capital assets. Mr. Weise suggested that it just be assets which would be all inclusive.

Mr. Marvel seconded Mr. Tanner's motion. The motion passed unanimously.

Mr. Price announced that he had just received word that the Senate Taxation Committee would like to meet with this committee at 4:00 this afternoon until 5:00 and then to come back again at 8:00 tonight to go over the two bills. The committee agreed to the meeting. Mr. Miles suggested that the committee might want to go over some material that he had submitted to them on AB 616. This is attached to these minutes as Exhibit B.

Mr. Price then called upon Mr. Tanner for his subcommittee report on the senior citizen bills. Mr. Tanner stated that he did not have any real figures to submit at this time but that they were looking at approaching the lower income levels which really need the help. He would recommend leaving the income levels alone and increasing the percentages. He stated that if they passed AB 111 as it stands, under the current law it would cost another \$400,000. He stated that he had looked at how the current law would be effected if AB 616 or SB 204 passed. What this would do, by reducing property taxes by 30%, instead of \$1,600,000 expenditure under the current program that would be reduced by about \$450,000. With tax reform, they could give some real help to the bottom of this program and perhaps even end up spending less money. Mr. Miles is going to come up with some new charts on this at various levels to show some comparisons.

Mr. Weise suggested that perhaps something could be done so that Social Security can't be used to compute household income. This would help to really adjust the income portion of this program.

Mr. Mann stated that they are going to be badly in need of some state surplus in the budget. He would suggest that the committee not consider anything that would increase expenditures.

Mr. Tanner stated that he would suggest that they don't increase the budgeting for this program at all. Any adjustments would have to be within that framework.

It was decided that the committee would wait for the figures that Mr. Miles would work out before any action would be taken on this.

At this point, Chairman Price adjourned the meeting so that they could reconvene in the Assembly Lounge in joint meeting with the Senate Taxation Committee.

Respectfully submitted,

Sandra Gagnier
Sandra Gagnier
Assembly Attache

Memorandum

To: Assembly Committee on Taxation, Robert Price, Chairman
Sub-committee on Net Proceeds of Mines: Assemblyman Joseph Dini
Assemblyman John Marvel
Assemblyman Darrell Tanner

From: Nevada Mining Association
Tax Committee, Robert A. Watts, Chairman

Subject: Proceeds of Mines Tax (1) Reporting Period assembly Bill
(2) Payment of Tax 112
(3) Liens

1. Current Position

Present law (NRS 362) provides that "net proceeds" are assessed semiannually for the six month periods ending June 30 and December 31. The mine operator must file, by January 31 and July 31, a statement showing gross yield (sales for the period) less costs of mining, processing, marketing, repairs and maintenance, depreciation (determined by the Tax Department), insurance costs and royalties to determine Net Proceeds.

The Net Proceeds statement is reviewed by the Nevada Tax Department, certified by the Tax Commission and sent to the appropriate County by April 15 and October 15. The County applies its current property tax mill rate to the proceeds and sends a tax bill to the operator, usually within two weeks of receiving the certified statement of Net Proceeds. The operator has 30 days to pay the tax.

The Act provides a lien on the mine or mining claims for the amount of the tax.

2. Problems

There are two problems with the semiannual tax:

- (a) Some mining operations (mostly smaller companies) have seasonal fluctuations in income ^{and/or costs,} hence most of their income is reported in one six month period, requiring corresponding taxes, and much of their costs are in the other six month period, resulting in a loss.
- (b) Each operator must prepare and file a statement twice each year and the Tax Department must review and the Tax Commission certify those statements twice each year.

If an operator does not pay his taxes, the County, by enforcing a lien on the property, can attach the mine or mining claims. Those operators who do not pay their taxes normally leave nothing of value at the mine. Alternately, the claim owner may be faced with a lien on his claim for non payment by the lessee operator.

3. Assembly Bill 112

This bill provides for a once-per-year calendar assessment for Proceeds of Mines and a single tax payment.

It solves both the problems of the two-per-year assessment periods and the duplication of work for the operator and the Tax Department but it creates a new problem.

Under this Bill 112, payment will not be due until the November after the end of the year. For the initial year of the change, 1979, the tax will not be paid until November 1980.

Additionally, the Bill does not address the concern that liens for unpaid taxes should be applied to assets of the person responsible for the taxes rather than the present law which provides a lien on the mine or mining claim.

4. Recommendations

- (a) The gross yield and claimed net proceeds should be determined annually for the calendar year.

The operator will file an annual statement by February 15 for the immediately preceding calendar year. A 30-day extension may be granted by the Tax Department if application is made by the operator prior to February 15.

- (b) For the initial year of the change to annual reporting, that is, for 1979, a prepayment of 50% of the estimated tax due for the calendar year shall be calculated and paid by the operator by August 31, 1979.

Such prepayment shall be paid to the County and the County will issue a receipt to the operator with a copy to the Tax Department.

Such prepayment shall be applied against the tax due for the calendar year 1979 and any overpayment shall be refunded to the operator. If the prepayment is less than one-half of 50% of the actual taxes for the calendar year, the County may impose a penalty of 10% of the prepayment that should have been made.

(c) A lien shall be attached on the real or personal property of the person, corporation or association responsible for payment of the tax on the proceeds of mines.

For instance, assets of the operator would be attached for taxes due on the net proceeds from his mining operations. Assets of the lessor of the property would be attachable for tax on royalties received by him from mining operations.

5. Comments

The purpose of the calendar year assessment is explained at the beginning of this memorandum. Filing of the statement by February 15 will allow the Tax Department sufficient time to review the file and pass it to the Tax Commission for certification prior to its deadline of May 1.

In turn, the certified assessments will be sent to the counties in sufficient time to allow them to bill the mining companies and receive the tax due well before their fiscal year end of June 30.

The purpose of the one-time prepayment is to allow counties to adjust to the once per year receipt of proceeds of mines tax.

The lien procedure of attaching assets of the person responsible for the tax will be more fair than the present law which attaches the mine owner's interest, even though the operator in a lessee position has no ownership in the mine. It also broadens the scope of the lien to attach real and personal property.

STATE OF NEVADA
LEGISLATIVE COUSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



EXHIBIT B
LEGISLATIVE COMMISSION (702) 885-5627

DONALD R. MELLO, *Assemblyman, Chairman*
Arthur J. Palmer, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 885-5640

FLOYD R. LAMB, *Senator, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*

ARTHUR J. PALMER, *Director*
(702) 885-5627

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

April 10, 1979

MEMORANDUM

TO: Assembly Taxation Committee
FROM: Dan Miles, Deputy Fiscal Analyst
SUBJECT: A.B. 616

Since the printed version of A.B. 616 is now generally available, I have been receiving some comments concerning possible technical amendments that may be appropriate to put into the final tax relief bill. The following are points the committee may wish to consider and the rationale for consideration:

1. Budget base - includes all funds receiving property taxes or payments from the state school fund. It has been suggested that certain other funds that are subsidized by ad valorem taxes be excluded in addition to debt service funds. Some local governments subsidize what are really enterprise funds from property taxes. Lincoln County, for instance, puts 20¢ of their tax rate into the County Hospital, which is primarily funded from service fees. Including this type of fund in the cap may restrict medical services or force the County Commissioners to seek an emergency variance from the cap from the Tax Commission. In order to provide some control, the Department of Taxation could be given the regulatory authority to determine which of these types of funds should be excluded.
2. Section 28, page 13, line 19 - there is no open [before the word such.
3. Section 160, page 37, line 48 "of a particular kind." This provision requires the Department of Taxation to regulate the allowable ending balance local governments may include in their budgets. The committee, I believe, had felt that the size of the ending balance should correlate to the size of the budget inversely. That is, the larger the budget, the smaller the percentage of ending balance allowed. The

Assembly Taxation Committee
April 10, 1979
Page 2

language "of a particular kind" would probably be interpreted to mean all cities should have uniform ending balances and all counties should have a uniform ending balance etc. The committee, therefore, may want to consider changing the language to "of a particular size," or some other appropriate wording.

4. It is impossible to tell at this point exactly what effect the local government expenditure limit will have in every corner of the state. The committee may want to vest with the Department of Taxation the authority to allow local governments to make changes in their accounting practices to eliminate any severe dislocations which occur only because of an unsuitable fund structure or budgeting technique. Accounting changes designed to thwart the cap, of course, should not be allowed. Any fund change allowed should have a corresponding change made to the base, if applicable, to avoid an artificially expanded base. There are a variety of problems that could occur, and therefore, this type of allowance would probably best be left to regulation. The law, perhaps, should clearly give this authority to the Department.
5. S.B. 204 has, in addition to the trigger for more tax relief, a de-trigger in case state revenues do not come up to expectations and there aren't enough funds for both tax relief and all other state programs. This feature could easily be worked into A.B. 616 by reducing the amount funded through the school fund and allowing a correspondingly higher property tax rate for the schools. (Allow the 50¢ school rate to increase depending on the revenue short-fall).
6. It has been suggested that the ballot question and explanation on exempting food from sales tax should specifically include the statement about the self-destruct if Question 6 should pass. This may avoid confusion and possibly some legal question should Question 6 pass.

Also attached are some comments and notes I have received and suggested statutory language.

DM:ca

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RECEIVED
LEGISLATIVE COUNSEL BUREAU

APR 9 - 1979

SUBJ: AB 616

OFFICE OF FISCAL ANALYSIS

Below are some general comments regarding AB 616 and attached are some proposed changes with explanations which reflect my other concerns. The proposals are meant to be suggestions only; the bill drafters will be able to put those ideas into better language.

GENERAL:

1. Local governments are to file their final budgets by April 10 and the Tax Commission is to certify rates on May 1; it would appear that the act should include a provision to extend both of these times for this year only as there will be definite rate and expenditure adjustments.
2. A cap on the ad valorem levy is a cleaner, simpler and less restrictive method of control than a cap on expenditures; however, it only limits one revenue source, property tax. Accordingly, the question arises, what is the intent of the legislation? If the intent is to slow government expansion through limiting expenditures to meeting growth as a result of inflation and population, then a cap on expenditures is appropriate, providing the fund base is clearly delineated. If the intent is to reduce property taxes or at least slow their increase, then a cap on levies is appropriate which would leave local governments the option to expand other revenue sources to further expenditures.

The problems of counties like Lyon and White Pine remain under either approach, tho the cap on levies has the least impact and gives the entity greater flexibility. In Lyon County's case, it would appear that there is a population error, and an appeal to the Nevada Tax Commission should give the county a better factor or indice to use. For special cases such as Lyon or White Pine, once could include a clause to freeze their expenditure level so that it could not be less than their 1978-79 budget.

1 2. The limit for each biennium is calculated as follows:

2 (a) The amount of expenditure constituting the base is multiplied by
3 the percentage of change in population for the current biennium from
4 the population on July 1, 1974, and this product is added to or sub-
5 tracted from the amount of expenditure constituting the base.

6 (b) The amount calculated under paragraph (a) is multiplied by the
7 percentage of inflation or deflation, and this product is added to or sub-
8 tracted from the amount calculated under paragraph (a).

9 (c) If the amount resulting from the calculations under paragraphs
10 (a) and (b) represents a net increase over the base biennium, the chief
11 may increase the proposed expenditure accordingly. If the amount repre-
12 sents a net decrease, the chief shall decrease the proposed expenditure
13 accordingly. If the amount is the same as in the base biennium, the pro-
14 posed expenditure must not be increased.

15 3. The revised estimate of population for the state issued by the
16 United States Department of Commerce as of July 1, 1975, must be
17 used, and the most recent available provisional estimate must be used
18 in determining the percentage of increase or decrease in population for
19 each succeeding biennium. The Consumer Price Index For All Urban
20 Consumers published by the United States Department of Labor for July
21 preceding each biennium must be used in determining the percentage of
22 inflation or deflation.

23 4. The chief may exceed the limit to the extent necessary to meet situ-
24 ations in which there is a threat to life or property.

25 Sec. 10. NRS 353.150 is hereby amended to read as follows:

26 353.150 NRS 353.150 to 353.246, inclusive, [and] section 3 of
27 [this act] chapter 78, Statutes of Nevada 1979, and section 9 of this act
28 may be cited as the State Budget Act.

29 Sec. 11. Chapter 354 of NRS is hereby amended by adding thereto
30 a new section which shall read as follows:

31 1. The aggregate amount budgeted by a local government during the
32 fiscal year commencing July 1, 1978, for expenditure from all of its funds
33 which receive property taxes or payments from the state distributive
34 school fund, except funds for debt service, including any amount allowed
35 as an ending balance for that fiscal year as adjusted for this purpose by
36 the Nevada tax commission, less any contribution to the state for aid
37 to the medically indigent, is the base from which the permissible expendi-
38 ture from that fund in subsequent years must be calculated. The restric-
39 tions imposed by this section do not apply to any fund established by a
40 county fair and recreation board whose revenues consist primarily of
41 license taxes assigned or appropriated for its use.

42 2. The governing body of a local government shall calculate the aggre-
43 gate permissible expenditure from the funds so limited for a given year as
44 follows:

45 (a) The base is multiplied by the percentage of change in population
46 in the current year or enrollment estimated for the year for which the
47 budget is prepared from the base year and this product is added to or
48 subtracted from the base.

49 (b) The amount calculated under paragraph (a) is multiplied by 80
50 percent of the average annual percentage of inflation or deflation for the

NOTE: 1. An inequity is created by lumping all funds which receive property taxes
(some entities must subsidize enterprise and intragovernmental funds with an
ad valorem levy because non-property tax service revenues are insufficient.
For example, why should Carson-Tahoe Hospital or Washoe Medical be exempt from
the cap if the Nye County and Pershing County hospitals are not simply because
they require being subsidized? Why should a capital improvement fund which may
receive a large federal grant for construction be allowed to affect the overall
fund structure and expenditures of an entity simply because that entity was
prudent in building up a capital reserve instead of relying entirely on bonding?
The Senate definition of general fund incorrectly defines a general fund in
accordance with generally accepted governmental accounting, but does reasonably
define an appropriation fund. The limitation should be placed on appropriation
funds with a definition included therefor. (See attached A)

2. How does a new entity establish a cap on expenditures? A procedure must be
established to assure that a new entity meets the restrictions of this act.
If Lake county is established there should be statutory guidance as to how
it comes into line; also, the formation of general improvement districts is
rather common. Attached is one possible method. (See attached A1)

3. The new language pertaining to the limitation on expenditures should
be a part of the local government budget act, thus a section similar to
what is done in Section 10 should be added, especially if further amendments
containing new statutory language are made. (See attached A2)

EXHIBIT B

EX B

ATTACHMENT A

29 Sec. 11. Chapter 354 of NRS is hereby amended by adding thereto
30 a new section which shall read as follows:

31 1. The aggregate amount budgeted by a local government during the
32 fiscal year commencing July 1, 1978, for expenditure from all of its

appropriation funds including any amount allowed
35 as an ending balance for that fiscal year as adjusted for this purpose by
36 the Nevada tax commission, less any contribution to the state for aid
37 to the medically indigent, is the base from which the permissible expendi-
38 ture from that fund in subsequent years must be calculated. The restric-
39 tions imposed by this section do not apply to any fund established by a
40 county fair and recreation board whose revenues consist primarily of
41 license taxes assigned or appropriated for its use.

42 2. The governing body of a local government shall calculate the aggre-
43 gate permissible expenditure from the funds so limited for a given year as
44 follows:

45 (a) The base is multiplied by the percentage of change in population
46 in the current year or enrollment estimated for the year for which the
47 budget is prepared from the base year and this product is added to or
48 subtracted from the base.

49 (b) The amount calculated under paragraph (a) is multiplied by 80
50 percent of the average annual percentage of inflation or deflation for the

Sec. 11.1 Chapter 354 of NRS is hereby amended by adding thereto
a new section which shall read as follows:

"Appropriation fund" means any operating fund which receives or is
entitled by statute to receive ad valorem taxes, but the term does
not include debt service, intragovernmental, enterprise, trust and
agency or capital project funds designated in accordance with
generally recognized principles of governmental accounting and
subsidized by ad valorem taxes.

ATTACHMENT A1

Add as a new paragraph 8 to Sec. 11 (insert following line 49 on
page 6).

8. An entity formed subsequent to July 1, 1978 will use as its
permissible expenditure amount an average of the total appropriation
fund expenditures for its first two years of operation and will
use the population or enrollment certified during its first year of
operation as the base year for computing the percentage required
in subsequent years.

ATTACHMENT A2

Sec. 11.2 NRS 354.474 is hereby amended to read as follows:
354.470 NRS 354.470 to 354.626, inclusive, and sections 11
and 11.1 of this act may be cited as the Local Government Budget
Act.

ATTACHMENT B

— 6 —

1 60 months preceding the month of November preceding the fiscal year
 2 for which the budget is prepared and further multiplied by the number
 3 of years from July 1, 1978, to July 1 of the current year, and this product
 4 is added to or subtracted from the amount calculated under paragraph
 5 (a).

6 (c) If the amount resulting from the calculations under paragraphs (a)
 7 and (b) represents a net increase over the base year, a governing body may
 8 increase its expenditure accordingly. If the amount represents a net
 9 decrease, the governing body shall decrease its expenditure accordingly. If
 10 the amount is the same as in the base year, expenditures must not be
 11 increased.

12 3. The department of taxation shall disapprove any tentative budget
 13 of a governing body which does not comply with the limitations of sub-
 14 sections 1 and 2.

15 4. On or before December 1 of each year:

16 (a) The governor shall certify to the department of

taxation and the affected entities, the population

and its

percentage of increase or decrease

for each county and city.

18 (b) The state board of education shall certify to the

department of taxation and the several school

districts

the percentage of

19 increase or decrease in enrollment estimated for each school district for
 20 the following school year. As soon as possible, but not later than Decem-
 21 ber 1, the state board of education shall certify any difference exceeding
 22 0.5 percent between the percentage previously estimated for the current
 23 year and the actual percentage, and the board of school trustees shall
 24 decrease or may increase its expenditures accordingly.

ATTACHMENT B1

25 Every other local government must use a population
 percentage determined as follows:

(a) Except as provided in paragraph (b), towns
 and special districts must use 1/4 of the county's
 population percentage of increase or decrease.

(b) Multi county districts and districts that
 serve more than one-half of the unincorporated area
 of a county must use

26 the percentage of increase or
 27 decrease in population for the county in which it, or the largest fraction
 28 of its population, is located. Any local government which believes that
 29 the percentage certified by the governor or the state board of education
 30 is not a true figure may appeal the certification to the Nevada tax com-
 31 mission which may increase or decrease the percentage as the evidence
 before it reasonably requires. The decision of the tax commission is
 final.

1 60 months preceding the month of November preceding the fiscal year
2 for which the budget is prepared and further multiplied by the number
3 of years from July 1, 1975, to July 1 of the current year, and this product
4 is added to or subtracted from the amount calculated under paragraph
5 (a).

6 (c) If the amount resulting from the calculations under paragraphs (a)
7 and (b) represents a net increase over the base year, a governing body may
8 increase its expenditure accordingly. If the amount represents a net
9 decrease, the governing body shall decrease its expenditure accordingly. If
10 the amount is the same as in the base year, expenditures must not be
11 increased.

12 3. The department of taxation shall disapprove any tentative budget
13 of a governing body which does not comply with the limitations of sub-
14 sections 1 and 2.

15 4. On or before December 1 of each year:

16 (a) The governor shall certify the percentage of increase or decrease in
17 population for each county and city.

18 (b) The state board of education shall certify the percentage of
19 increase or decrease in enrollment estimated for each school district for
20 the following school year. As soon as possible, but not later than Decem-
21 ber 1, the state board of education shall certify any difference exceeding
22 0.5 percent between the percentage previously estimated for the current
23 year and the actual percentage, and the board of school trustees shall
24 decrease or may increase its expenditures accordingly.

25 Every other local government must use the percentage of increase or
26 decrease in population for the county in which it, or the largest fraction
27 of its population, is located. Any local government which believes that
28 the percentage certified by the governor or the state board of education
29 is not a true figure may appeal the certification to the Nevada tax com-
30 mission which may increase or decrease the percentage as the evidence
31 before it reasonably requires. The decision of the tax commission is
32 final.

33 5. The Consumer Price Index For All Urban Consumers published
34 by the United States Department of Labor must be used in determining
35 the percentage of inflation or deflation.

36 6. For the purposes of this section, "enrollment" means the sum
37 of the particular counts of pupils enrolled in and scheduled to attend
38 programs of instruction in the public schools described in subparagraphs
39 (1) to (5), inclusive, of paragraph (a) of subsection 1 of NRS 387.1233.

40 7. The governing body of a local government may exceed the
41 limitation imposed by subsections 1 and 2:

42 (a) To the extent necessary to meet situations not reasonably foresee-
43 able in which there is a threat to life or property, if the amount of the
44 additional expenditure is approved by the Nevada tax commission; or

45 (b) To the extent necessary to provide a new or expanded program
46 of service if the governing body proposes the program and it is approved
47 by two-thirds of the voters voting on the question in a general election or
48 a special election called for that purpose. Such an approval may be made
49 effective for not more than 2 years.

50 Sec. 12. NRS 354.598 is hereby amended to read as follows:

NOTES: 1. To whom does the certification go? The entities and the department of
taxation all require the information; the same is true of the school un-
rollment. To avoid undue delays, problems with new administrations, etc.,
direction should be given in statute. A possible amendment is attached.
(See attached B)

2. To allow towns and special districts to use the same population factor
as the county is inequitable and, in effect, will not place a cap on their
expenditures. Should Bunkerville town and the Henderson Library District
be allowed to use the same population factor as Clark County? The answer is
no, but since enumeration districts are not available, some fraction of the
county factor could be used. For multi-county and county wide districts,
the county factor is appropriate. To indiscriminately allow towns to use
the county factor is to open the door for potential abuse. A county could
charge a town additional administrative, recreational or public safety costs
to help cover what should be its own expenditures. A possible amendment
is attached. (See attached B1) The formula proposed will assist large
districts such as the Clark Co Library Dist. and the Truckee Meadows Fire
Dist. and yet prevent any attempt at fiscal run away.

3. See Attachment A1, prior page.

EXHIBIT B EMB

1 354.598 1. At the time and place advertised for public hearing, or
2 at any time and place to which such public hearing is from time to
3 time adjourned, the governing body shall hold a public hearing on the
4 tentative budget, at which time interested persons [shall] must be given
5 an opportunity to be heard.

6 2. At the public hearing, the governing body shall indicate changes,
7 if any, to be made in the tentative budget, and shall adopt a final budget
8 by the favorable votes of a majority of all members of the governing
9 body. The final budget [shall] must be adopted on or before April 10 of
10 each year. [Should] If the governing body [fail] fails to adopt a final
11 budget that complies with the requirements of law and the regulations
12 of the department of taxation on or before the required date, the budget
13 adopted and approved by the department of taxation for the current year,
14 adjusted as to content and rate in such manner as the department of
15 taxation may consider necessary, [shall] automatically [become]
16 becomes the budget for the ensuing fiscal year. When a budget has been
17 so adopted by default, the governing body may not reconsider such
18 budget without the express approval of the department of taxation. If
19 such a default budget exceeds the expenditure permitted by section 11
20 of this act, the Nevada tax commission shall reduce the total expenditure
21 to the permitted amount. If the default budget creates a combined ad
22 valorem tax rate in excess of the [constitutional limit.] limit imposed
23 by section 2 of this act, the Nevada tax commission shall adjust [such]
24 the budget as provided in NRS 361.455.

25 3. The final budget [shall] must be certified by a majority of all
26 members of the governing body and a copy thereof, together with an
27 affidavit of proof of publication of the notice of the public hearing,
28 [shall] must be transmitted to the Nevada tax commission. If a tenta-
29 tive budget is adopted by default as provided in subsection 2, the clerk
30 of the governing body shall certify the budget and transmit to the Nevada
31 tax commission a copy of the budget, together with an affidavit of proof
32 of the notice of the public hearing, if such notice was published. Certi-
33 fied copies of the final budget [shall] must be distributed as determined
34 by the department of taxation.

35 4. Upon the adoption of the final budget or the amendment of the
36 budget in accordance with NRS 354.606, the several amounts stated
37 therein as proposed expenditures [shall] must be and become appro-
38 priated for the purposes indicated in the budget.

39 5. No governing body [shall] may adopt any budget which appro-
40 priates for any fund any amount in excess of the budget resources of that
41 fund.

42 Sec. 13. NRS 354.615 is hereby amended to read as follows:
43 354.615 If resources actually available during a budget period
44 exceed those estimated, a local government may [institute] augment a
45 budget [augmentation proceeding] in the manner provided below:

46 1. If it is desired to augment the appropriations of an appropriation
47 fund, the governing [board shall.] body must, by majority vote of all
48 members of the [governing board.] body, adopt a resolution reciting
49 the appropriations to be augmented, and the nature of the unbudgeted
50 resources intended to [implement] be used for the augmentation.

NOTE: 1. NRS 354.599 should not be repealed in its entirety as it is on page 13,
but should be inserted on this page and amended to conform to the intent
of this act, Paragraphs 2 and 3 should be retained because a) the date is
set for the final filing of an amended budget, and b) because the legislature
may mandate a program and even if it funds the program, there is no way in
the act for the local government to absorb that revenue and/or expenditure
without dislocation of its existing budget. don't feel that paragraph 7
of Section 11, page 6 is applicable to this situation. A proposed
amendment follows.

Sec. 12.1 NRS 354.599 is hereby amended to read as follows:

354.599 1. [In any year in which the legislature by law increases
the revenues of a local government, and such increase was not
included or anticipated in the local government's final budget
as adopted pursuant to NRS 354.598, the governing body of any
such local government may, prior to July 15 of the budget year,
file and amended budget with the department of taxation increas-
ing its anticipated revenues and expenditures over that
contained in its final budget to the extent of the actual
increase of revenues made available by such legislative
action.

2. [In any year in which the legislature enacts a law requir-
ing an increase in expenditures of a local government, which
expenditures were not anticipated or included in its final
budget as adopted pursuant to NRS 354.598, the governing body
of any such local government may, prior to July 15 of the
budget year, file an amended budget with the department of
taxation providing for an increase in expenditures over that
contained in its final budget to the extent of the actual
amount made necessary by the legislative action.

3. Such amended budget, as approved by the department of
taxation, shall be the budget of such the local government
for the current fiscal year.

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1 Sec. 28. NRS 539.6363 is hereby amended to read as follows:

2 539.6363 1. To levy and collect taxes, the board of directors shall:
3 (a) Determine in each year the amount of money necessary to be
4 raised by general (ad valorem) taxation, taking into consideration other
5 sources of revenue of the district; and

6 (b) Fix a rate of levy which, when levied upon every dollar of
7 assessed valuation of taxable property within the district and together
8 with other revenues, will raise the amount required by the district
9 annually to supply funds for paying promptly in full, when due, all
10 interest on and principal of bonds of the district.

11 In the event of accruing defaults or deficiencies, an additional levy may
12 be made as provided in NRS 539.6364.

13 2. The board of directors shall certify to the board of county
14 commissioners of each county within the district, or having a portion of
15 its territory within the district, at the same time as fixed by law for certi-
16 fying thereto tax levies of incorporated cities, the rate so fixed, with
17 directions that at the time and in the manner required by law for levying
18 taxes for county purposes, [such] the board of county commissioners
19 shall levy such] the tax upon the assessed valuation of all taxable prop-
20 erty within the district, in addition to such other taxes as may be levied
21 by [such] the board of county commissioners at the rate so fixed and
22 determined.

23 3. The board of directors shall levy such general (ad valorem) taxes
24 upon all property in the district which is by law taxable for state, county
25 and municipal purposes, without regard to any statutory tax limitation
26 now or hereafter existing and without limitation as to rate or amount,
27 fully sufficient, after making due allowance for probable delinquencies,
28 to provide for the prompt payment of [such] those bonds as they become
29 due, both principal and interest, but subject to the limitation of section
30 2 of article 10 of the constitution of the state.

31 [4. Any such general (ad valorem) tax levy shall enjoy the same
32 priority as provided by NRS 350.600, as from time to time amended, for
33 other taxes levied for the payment of bonded indebtedness over taxes
34 levied for all other purposes where reduction is necessary in order to
35 comply with the limitations of section 2 of article 10 of the constitution
36 of the state.]

37 Sec. 29. NRS 349.246, 350.600, 354.599 and 428.370 are hereby
38 repealed.

39 Sec. 30. At a special election on June 5, 1979, a proposal shall be
40 submitted to the registered voters of this state to amend the Sales and
41 Use Tax Act, which was enacted by the 47th session of the Nevada leg-
42 islature, approved by the governor in 1955, and subsequently approved
43 by the people of this state at the general election held on November 6,
44 1956.

45 Sec. 31. As long in advance of the special election as is practicable,
46 the secretary of state shall issue a proclamation giving notice of the spe-
47 cial election. The proclamation must be in substantially the following
48 form:

NOTE: 1. In order to conform this page to page 7 as proposed, it would necessary
to delete the reference to 354.599 on line 37.

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1 after the payment became delinquent, or within 3 years after the last
2 recording of an abstract under section 106 of this act, or of a certificate
3 under section 109 of this act, give notice of it personally or by registered
4 mail to all persons, including any officer or department of the state or any
5 political subdivision or agency of the state, who have in their possession
6 or under their control any credits or other personal property belonging
7 to the delinquent, or owing any debts to the delinquent or person against
8 whom a determination has been made which remains unpaid, or owing
9 any debts to the delinquent or that person. In the case of any state officer,
10 department or agency, the notice must be given to the officer, department
11 or agency before the time it presents the claim of the delinquent taxpayer
12 to the state controller.

13 2. After receiving the notice, the persons so notified may not transfer
14 or otherwise dispose of the credits, other personal property, or debts in
15 their possession or under their control at the time they received the notice
16 until the department consents to a transfer or other disposition, or until
17 60 days after the receipt of the notice, whichever period expires earlier.

18 3. All persons so notified shall, within 10 days after receipt of the
19 notice, advise the department of all such credits, other personal property,
20 or debts in their possession, under their control, or owing by them.

21 4. If the notice seeks to prevent the transfer or other disposition of a
22 deposit in a bank or other credits or personal property in the possession
23 or under the control of a bank, the notice must be delivered or mailed to
24 the branch or office of the bank at which the deposit is carried or at
25 which the credits or personal property is held.

26 5. If, during the effective period of the notice to withhold, any per-
27 son so notified makes any transfer or other disposition of the property
28 or debts required to be withheld, to the extent of the value of the prop-
29 erty or the amount of the debts thus transferred or paid, he is liable to
30 the state for any indebtedness due under this chapter from the person
31 with respect to whose obligation the notice was given if solely by reason
32 of the transfer or other disposition the state is unable to recover the
33 indebtedness of the person with respect to whose obligation the notice
34 was given.

35 Sec. 99. 372.520 Action for collection of tax, penalties, interest:
36 Limitation. At any time within 3 years after any tax or any amount
37 of tax required to be collected becomes due, and at any time within 3
38 years after the delinquency of any tax or any amount of tax required
39 to be collected, or within 3 years after the last recording of an abstract
40 under section 106 of this act, or of a certificate under section 108
41 of this act, the department may bring an action in the courts of this state,
42 or any other state, or of the United States, in the name of the people of
43 the State of Nevada, to collect the amount delinquent together with
44 penalties and interest.

45 Sec. 100. 372.525 Attorney general to prosecute action; provisions
46 of NRS, N.R.C.P., N.R.A.P. applicable. The attorney general shall
47 prosecute the action, and the provisions of NRS and the Nevada Rules
48 of Civil Procedure and Nevada Rules of Appellate Procedure relating
49 to service of summons, pleadings, proofs, trials and appeals are appli-
50 cable to the proceedings.

NOTE: 1. In order to conform this provision to Chapter 374, NRS, the local
school support tax law, the following amendment should be made:

Line 3, insert or certified after the word "registered".

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1 SEC. 153. 372.790 Remedies of state are cumulative. The remedies of the state provided for in this chapter are cumulative, and no action taken by the department or the attorney general constitutes an election by the state to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.

6 SEC. 154. 372.795 Department's authority. In all proceedings under this chapter the department may act for and on behalf of the people of the State of Nevada.

9 SEC. 155. Chapter 374 of NRS is hereby amended by adding thereto a new section which shall read as follows:

11 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of food for human consumption.

13 2. "Food for human consumption" does not include:

14 (a) Alcoholic beverages.

15 (b) Pet foods.

16 (c) Tonics and preparations.

17 (d) Prepared food intended for immediate consumption.

19 SEC. 156. The section numbers and leadlines contained in the respective sections added to chapter 372 of NRS by sections 43 to 154, inclusive, of this act are for convenient reference only and are not part of the law.

23 SEC. 157. There is hereby appropriated from the state general fund to the state distributive school fund for the purposes of this act:

25 1. For the fiscal year 1979-80, \$57,816,000.

26 2. For the fiscal year 1980-81, \$79,931,000.

27 The sums appropriated by this section are available for both fiscal years and may be transferred from one fiscal year to another with the approval of the interim finance committee.

30 SEC. 158. There is hereby appropriated from the state general fund to the state distributive school fund to compensate for the reduction in the local resources of school districts resulting from the added exemption from the local school support tax:

34 1. For the fiscal year 1979-80, \$6,900,000.

35 2. For the fiscal year 1980-81, \$8,000,000.

36 The sums appropriated by this section are available for both fiscal years and may be transferred from one fiscal year to another with the approval of the interim finance committee.

39 SEC. 159. 1. For the purposes of this section, the relevant taxes are:

40 (a) The tax accrued pursuant to the Sales and Use Tax Act. The increase in its yield is determined by comparing the total accruals for the three calendar quarters beginning July 1, 1979, and ending March 31, 1980, with the total accruals for the three calendar quarters beginning July 1, 1978, and ending March 31, 1979.

45 (b) The quarterly state license fee based upon gross revenue from gaming, collected pursuant to NRS 463.370. The increase in its yield is determined by comparing the total collections for the three calendar quarters beginning July 1, 1979, and ending March 31, 1980, with the total collections for the three calendar quarters beginning July 1, 1978, and ending March 31, 1979.

NOTE:

1. While I believe in administrative discretion, I feel that the exclusion of the definitions of "prepared food" and "eating establishment" leaves the matter too open. I feel strongly that the whole section deleted should be restored giving the department a better base from which to draft regulations as they become necessary. However, I have not read Assembly Amendment 512; it may be that its "legislative declaration or intent" approach may be adequate to overcome the problem.

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1 2. For the fiscal year 1980-81, if the combined increase in yield of
 2 the relevant taxes is in one of the ranges tabulated below, the state board
 3 of examiners shall fix a greater multiplier to be used in the calculation
 4 required by paragraph (c) of subsection 1 of NRS 387.1233 and the
 5 corresponding lesser amount of the optional school levy which may be
 6 made under subsection 1 of NRS 387.195 as specified below for the
 7 respective ranges:

8	Equal to or	but less	Multiplier	Optional school
9	greater than	than		levy in cents per \$100
10	12 percent	13 percent	.0032	\$0.48
11	13 percent	14 percent	.0035	.45
12	14 percent	15 percent	.0039	.41
13	15 percent	16 percent	.0042	.38
14	16 percent	17 percent	.0045	.35
15	17 percent		.0048	.32

16 3. Before fixing a greater multiplier and the corresponding lesser
 17 amount of the optional school levy, the state board of examiners shall
 18 determine that there is sufficient money in the state distributive school
 19 fund to permit the allocation of the additional amount required by the
 20 greater multiplier. In making this determination, the board shall review
 21 enrollments for 1979-80, estimated enrollments for 1980-81, informa-
 22 tion on property assessments for the 1980-81 tax year, and the antici-
 23 pated level of receipts in the state distributive school fund from revenue
 24 sharing, slot machine tax credit, federal land leasing and local school
 25 support tax from out-of-state businesses. If there is not sufficient money
 26 in the state distributive school fund to allow the greater multiplier first
 27 proposed, the greater multiplier and lesser optional school levy must be
 28 reduced to the highest greater multiplier for which there is determined
 29 to be sufficient money.

30 Sec. 160. 1. For the purpose of preparing budgets for the fiscal year
 31 beginning July 1, 1979, the governor shall certify the percentage of
 32 increase or decrease in population of each city and county, and the state
 33 board of education shall certify the percentage of increase or decrease
 34 in enrollment estimated for each school district for the school year
 35 1979-80, on or before the 5th day after the effective date of this act or
 36 March 20, whichever is later.

37 2. For the purpose of determining the base from which the aggregate
 38 permissible expenditures of a local government must be calculated under
 39 section 11 of this act, the Nevada tax commission shall adjust any
 40 amount allowed by the local government as an ending balance, for the
 41 fiscal year commencing July 1, 1978, of its respective funds as limited by
 42 that section, by:

43 (a) Subtracting the amount allowed respectively from the amount
 44 budgeted by the local government during that fiscal year for expenditure
 45 from those funds; and

46 (b) Adding back to the amount budgeted an amount as an ending
 47 balance which is reasonable and uniform in its application to local
 48 governments of a particular kind.] /o

49 Sec. 161. 1. This section, sections 30 to 41, inclusive, and section
 50 160 of this act shall become effective upon passage and approval.

NOTE: 1. While the intent of the marked provision has been explained, neither the
 local government section of the department nor myself interpret it to be
 sufficient to manage ending balances as they should be managed. ~~We interpret~~
 the phrase "which is reasonable and uniform in its application to local
governments of a particular kind" (emphasis added) to mean that all like
 entities would have the same ending balance percentage. If the intent is
 to allow a range for all entities, then I'd suggest the following amendment:

Delete lines 46, 47 and 48 and insert:

(b) Adding back to the amount budgeted an amount as an ending balance
which is reasonable and appropriate for each local government.

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