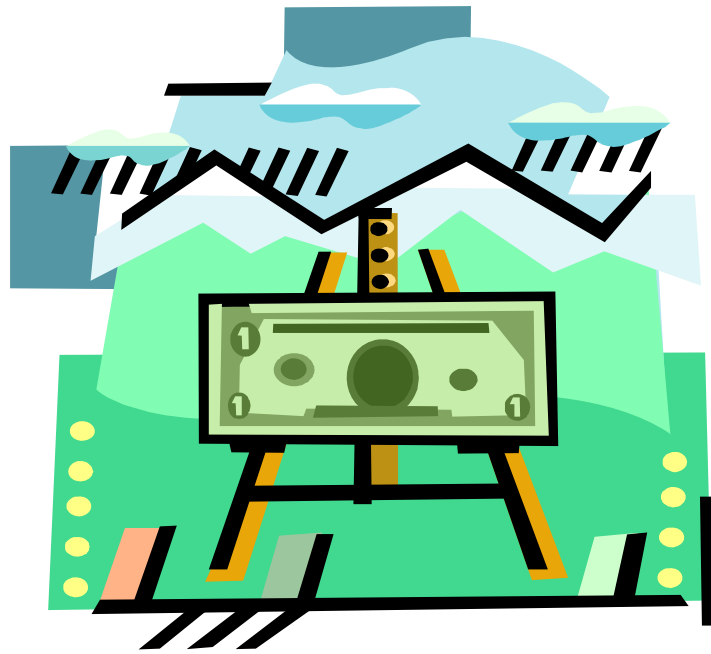


TAX POLICY



TAX POLICY

Though the economy in Nevada and nationwide had begun to recover in 2011 and 2012, it was believed by many that the revenue enhancements originally passed during the 2009 Session and renewed in 2011 would need to be continued during the 2013 Session in order to continue essential state government services. Indeed, several months before The Executive Budget was submitted to the Legislature, Governor Sandoval announced that many of the revenue enhancements that were due to expire on June 30, 2013, would be continued as part of the budget submitted for the 2014-15 biennium.

Ultimately, though several pieces of legislation were introduced and considered that would provide additional sources of revenue for the state in addition to those proposed in the Governor's budget, the Legislature approved extensions of many of the revenue sources set to expire at the end of Fiscal Year 2013, including the increases in the Local School Support Tax, Modified Business Tax on Nonfinancial Institutions, and Business License Fee, as well as delaying the redirection of a portion of the Governmental Services Tax to the State Highway Fund and the proceeds from the state 3 percent room tax to the State Supplemental School Support Fund until Fiscal Year 2016. The Legislature also considered and approved, as part of the legislation approved for the regulation of medical marijuana, a new excise tax for the sale of marijuana products sold in the state for medical purposes. The proceeds of the excise tax are to be used to support the administration of the program and for the support of K-12 education.

A significant focus of the Legislature during the 2013 Session was on the authorization of revenue sources for the benefit of local governments. The Legislature approved three separate bills authorizing additional tax rates for local governments and school districts – two bills for the benefit of Clark County and one for Washoe County – that would provide revenue for road construction and maintenance, hiring and equipping of police officers, and for maintenance and repair of school facilities.

During the 2013 Session, the Legislature also approved two programs designed to promote economic and community development in Nevada by providing credits against certain taxes paid to the State General Fund. A transferrable film tax credit program was authorized for four years that provides credits against the gaming percentage fee tax, Modified Business Tax, and insurance premium tax based on a percentage of certain expenses associated with filming productions in the state. A "New Market Tax Credit" program was established that provides credits against the insurance premium tax to insurance providers who make qualified equity investments in certain community development entities.

BILLS REGARDING STATE REVENUES AND TAXES

Senate Bill 475 is the major General Fund revenue enhancement bill enacted by the Legislature during the 2013 Session for Fiscal Years 2014 and 2015. The bill removes the June 30, 2013, sunsets for the 0.35 percent increase in the Local School Support

Tax portion of the statewide sales and use tax rate and the \$100 increase in the Business License Fee collected by the Secretary of State, maintaining these increased rates until June 30, 2015.

The bill revises the Modified Business Tax on Nonfinancial Institutions by increasing the level of taxable wages that are exempt from the tax per quarter, from \$62,500 to \$85,000 through June 30, 2015, and maintains the 1.17 percent tax rate on taxable wages over the exempt amount. Effective July 1, 2015, the Modified Business Tax on Nonfinancial Institutions will revert to a flat rate of 0.63 percent on all taxable wages.

Senate Bill 475 also continues the advanced payment of the tax on the net proceeds of minerals and royalties for two years by extending the expiration date from June 30, 2013, to June 30, 2015, and also extends the expiration date for two years for which certain expenses are not allowed as deductions against gross proceeds.

Assembly Bill 491 implements several of the revenue actions recommended by the Governor and approved by the Legislature, including:

- Requiring that the portion of the Governmental Services Tax scheduled to be deposited in the State Highway Fund beginning on July 1, 2013, continue to be deposited in the State General Fund until June 30, 2015, with the revenue to be deposited in the State Highway Fund beginning on July 1, 2015;
- Requiring the transfer of a portion of the commissions and penalties received by the Department of Motor Vehicles from the collection of the Governmental Services Tax to be transferred to the State General Fund in Fiscal Year 2015 only; and
- Increasing the limit on the amount of vehicle license and registration fee revenue that may be used for the administrative costs of the department from 22 percent to 32 percent during Fiscal Year 2015 only.

Senate Bill 374 provides for the registration and certification of medical marijuana establishments authorized to cultivate, test, or dispense medical marijuana, edible marijuana products or marijuana-infused products to persons authorized to engage in the medical use of marijuana. The bill provides for the imposition of an excise tax of 2 percent on each sale of medical marijuana, edible marijuana products and marijuana-infused products by cultivators, producers and dispensaries. The bill specifies that the 2 percent excise tax on retail sales of such products is in addition to any applicable state and local sales and use taxes that are otherwise imposed on medical marijuana products as tangible personal property.

Seventy-five percent of the revenues collected from these excise taxes must be deposited to the State Distributive School Account in the State General Fund and the remaining 25 percent must be expended to pay the administrative costs of the Health Division of the Department of Health and Human Services to carry out the provisions of this act.

Senate Bill 374 requires each applicant for a medical marijuana establishment to pay a one-time, non-refundable application fee of \$5,000 and any related costs incurred by the Health Division in processing the application. In addition to the non-refundable application fee, the bill also establishes the following fees for the initial issuance and annual renewal of a registration certificate required for each type of medical marijuana establishment:

- Dispensary - \$30,000 initial registration / \$3,000 renewal;
- Cultivation facility - \$3,000 initial registration / \$1,000 renewal;
- Facility for the production of edible marijuana products or marijuana-infused products - \$3,000 initial registration / \$1,000 renewal;
- Establishment agent registration card - \$75 initial registration / \$75 renewal;
- Independent testing laboratory - \$5,000 initial registration / \$3,000 renewal;

The bill requires revenue generated from the one-time application fee and the registration certificate fees to be expended first to pay the administrative costs incurred by the Health Division to carry out the provisions of this act. If the revenue generated from the non-refundable application fee and the registration certificate fees exceed the costs incurred by the Health Division to administer the program, the additional revenue must be deposited to the State Distributive School Account in the State General Fund.

Senate Bill 468 increases fees for certain applications and permits in the Office of the State Engineer, Division of Water Resources, Department of Conservation and Natural Resources, and establishes fees for several new categories concerning certain permits and applications relating to wells, maps, and flood control detention basins. The bill also amends existing law that requires fees collected by the State Engineer to be deposited in the State General Fund and instead requires fee revenue to be placed in the Water Distribution Revolving Account to fund salaries and operating expenses incurred by the Division of Water Resources.

Senate Bill 470 increases certain existing licensing and application fees collected by the Commission on Postsecondary Education and imposes a new fee on certain private postsecondary educational institutions for approval of applications to offer an alcohol awareness program. All proceeds from the licensing and application fees are deposited in the State General Fund.

Assembly Bill 482 creates the Interest Repayment Fund as a special revenue fund for the purpose of repaying interest accruing and payable on any advances received to the Unemployment Compensation Fund from the federal government. The bill also requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to establish an assessment, of which certain employers who are subject to the provisions governing unemployment compensation are required to pay a proportionate share, for deposit into the fund.

Assembly Bill 482 requires that, if the Administrator determines that the assessment is no longer necessary, he or she notify all such employers and shall not accept any

further payments. Any money remaining in the Interest Repayment Fund must be deposited into the Unemployment Compensation Fund after: (1) the payment of all interest payable on the advances received from the Federal Government; and (2) a determination by the Administrator that no further payments are anticipated.

BILLS REGARDING TECHNICAL AND ADMINISTRATIVE CHANGES

Senate Bill 7 requires the Department of Taxation to prepare technical bulletins to educate the public on issues related to their businesses and the taxes administered by the department. A technical bulletin is also required for written opinions received by the department from the Attorney General. The technical bulletins may include examples for clarification purposes or provide information and guidance concerning specific issues or topics. A technical bulletin must not include advice on a specific fact situation but may include information that is applicable to a specific industry or type of business.

The technical bulletins must be made available on the departments website or upon request at the offices of the department and each proposed bulletin and any revisions to a bulletin must be submitted to the Nevada Tax Commission for approval before the bulletin or revised bulletin is published.

Senate Bill 17 changes the date by which nonrestricted gaming licensees must submit reports and payment related to the gaming percentage fees and expired slot machine wagering vouchers, pursuant to Chapter 463 of NRS. The reporting dates are changed from the 24th to the 15th day of the month following each applicable monthly or quarterly reporting period.

Senate Bill 135 establishes provisions for redevelopment projects undertaken in a redevelopment area within a city whose population is 500,000 or more (the City of Las Vegas). The bill requires a public agency to obtain certain information from a developer, if the agency provides the developer with a financial incentive of more than \$100,000 for a public project within such a redevelopment area.

The developer is required to submit an employment plan, which must include information regarding the efforts that will be taken, by the developer and each new employer as a result of the project, to hire veterans and other persons of both sexes and diverse ethnicities that are residents of certain qualified areas. The qualified areas are defined as the redevelopment area, an area in the city for which the city council has adopted a plan for neighborhood revitalization or which is eligible for a community development block grant, or the Southern Nevada Enterprise Community.

Senate Bill 135 also requires the public agency to withhold payment of an amount equal to 10 percent of the incentive until the following conditions are met:

- 1) At least 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of any qualified area;

- 2) At least 15 percent of the jobs created by employers who relocate to the redevelopment area as a result of the project are filled by residents of any qualified area; and
- 3) The developer satisfies other reporting requirements related to employment outreach, training and scope of services for the project.

Senate Bill 152 revises provisions of current law that allow a retailer to claim a deduction or refund of sales and use taxes related to bad debts. When a retailer remits the full amount of sales tax due for a credit transaction, financed by the retailer, current law allows the retailer to claim a deduction or refund of sales tax if the retailer is unable to collect the full sales price from the customer and the uncollected amount is written off as a bad debt. Senate Bill 152 authorizes this deduction or refund of sales tax to also be claimed by a retailer who assigns a debt to an entity which is part of an affiliated group that includes the retailer.

Senate Bill 215, brought forth on behalf of the Nevada Assessors' Association, makes various changes to provisions governing county assessors, including:

- An appraiser that is certified by the Department of Taxation to perform the duties of an appraiser for purposes of taxation on property is required to attend 36 hours of training every 3 years versus every 5 years.
- If certain extenuating circumstances exist, the county assessor is authorized to waive the 10 percent penalty for the failure to report a mobile or manufactured home to the county assessor within 30 days, as required by NRS 361.5644.
- A qualified veteran or disabled veteran who wishes to transfer an exemption from the Governmental Services Tax to his or her spouse must submit an affidavit of transfer to the Department of Motor Vehicles (DMV) rather than to the county assessor.
- The June 30, 2013, expiration date for the 2 percent commission on personal property taxes and the net proceeds of minerals tax that county assessors may keep for the acquisition and improvement of technology that was originally approved pursuant to Senate Bill 394 of the 2005 Session and extended by the Legislature during the 2007, 2009 and 2011 Sessions, is removed to allow the assessors to receive the 2 percent commission permanently.

Senate Bill 216, brought forth on behalf of the Association of County Treasurers of Nevada, authorizes the county treasurer to provide tax bills in an electronic format, in lieu of mailing a paper bill, if requested by the property owner or holder of the mortgage. The bill clarifies that the notification required prior to the sale of a tax lien must be published in a newspaper at least once a week for 4 consecutive weeks, starting at least 22 days before the sale. The bill also provides that the county treasurer may accept payment for delinquent taxes on a property up until 3 days prior to a tax lien sale as opposed to the current law, which requires that the payment be received before the tax lien sale is advertised in a newspaper.

Senate Joint Resolution 15 of the 76th Session proposes to amend Article 10, Section 1 of the *Nevada Constitution*, which provides for uniform and equal rates of assessment on taxation, to remove the exception to this provision provided for mines and mining claims which, under current law, shall be assessed and taxed only as provided in Article 10, Section 5 of the *Constitution*.

Additionally, Senate Joint Resolution 15 of the 76th Session proposes to repeal Article 10, Section 5 of the *Constitution*. This section allows the Legislature to impose a tax on the net proceeds of minerals at a maximum rate of 5 percent, prohibits the imposition of any other tax upon a mineral or its proceeds until the identity of the proceeds as such is lost, provides for the distribution of this tax revenue among local governments and school districts, and provides for an exemption from property taxes for patented mines and mining claims where at least \$100 worth of labor has been performed.

Pursuant to Article 16, Section 1 of the *Nevada Constitution* and Chapter 218D of NRS, the provisions contained within this joint resolution, having been approved by the Legislature during both the 2011 and 2013 Sessions, must also be approved by voters at the November 4, 2014, General Election in order to be ratified.

Senate Bill 400 amends various provisions of existing law governing the taxation of mines, mining claims and mineral extraction. The bill becomes effective only if Senate Joint Resolution 15 of the 76th Legislative Session is approved by the voters at the November 4, 2014, General Election.

The bill provides for the imposition of an excise tax upon mineral extraction for the privilege of engaging in mineral extraction in the State of Nevada and clarifies that the excise tax upon mineral extraction is not an ad valorem or property tax upon the value of the mineral extracted. Senate Bill 400 preserves, without change, the amounts appropriated to each local government or other local taxing entity from the revenue generated by the excise tax upon mineral extraction and royalties. The bill preserves, without change, the existing tax rates applied to royalties and each extractive operation. The bill also maintains, with certain technical revisions, the methods, standards and procedures used by the Department of Taxation to determine and certify the gross yield and net proceeds, and to impose and collect the excise tax upon mineral extraction and royalties.

Finally, the bill makes conforming changes to existing law that become necessary because of the enactment of the excise tax upon mineral extraction and royalties and because of the repeal of the constitutional provisions governing the taxation of minerals proposed by S.J.R. 15.

Senate Bill 402 changes the penalty amount for a person failing to renew their real estate license from one and one half times the renewal fee amount to a flat fee of \$100, if the licensee renews the license within one year after the expiration date along with the appropriate renewal fee. Senate Bill 402 also establishes a penalty fee of \$20 for a

person failing to renew their permit to engage in property management by the expiration date, but renewing the permit within one year of the expiration date along with any required renewal fee.

Senate Bill 516 revises and expands the procedures and licensing requirements of wholesale dealers, nonparticipating manufacturers, and the Office of the Attorney General related to the statutory enforcement of the Tobacco Master Settlement Agreement (MSA). Specifically, Senate Bill 516:

- Requires the Department of Taxation to notify wholesale dealers when a manufacturer or brand of cigarettes is added to or removed from the directory of cigarette manufacturers and stipulates that a wholesale dealer shall not purchase cigarettes for resale from a manufacturer not listed in the directory;
- Expands the provisions governing the importation of cigarettes and provides that an importer is jointly and severally liable for certain escrow deposits;
- Authorizes the state to enter into an agreement with an Indian tribe to enforce and administer provisions related to the licensing, taxing and manufacturing of tobacco products;
- Defines qualified tribal land and requires that each cigarette package sold on qualified tribal land bear a tribal stamp issued by the Department of Taxation;
- Authorizes the state to release to an Indian tribe, pursuant to a compact with that tribe, not more than 50 percent of the amounts deposited in a qualified escrow fund in accordance with the MSA for cigarettes sold on or after January 1, 2015, from a retailer on the qualified tribal land for the purposes of public safety and social services; and
- Authorizes the Department of Taxation to temporarily suspend or permanently revoke a license of a wholesale dealer if the dealer fails to file or inaccurately files its monthly report to the Department of Taxation, fails to pay certain taxes, fails to cure certain liabilities, sells unauthorized cigarettes, or imports or exports any unauthorized cigarettes.

Assembly Bill 50 extends the termination deadline for a redevelopment plan adopted by a redevelopment agency of a city whose population is 500,000 or more (the City of Las Vegas) from 45 years after the date on which the original plan was adopted to 60 years after the date on which the original plan was adopted, so long as certain conditions are met.

The bill additionally requires a city whose population is 500,000 or more (the City of Las Vegas) to set aside 18 percent of property tax revenue received on property located within a redevelopment area on or after October 1, 2011, but before March 6, 2031, for increasing, improving, preserving, or enhancing the operating viability of dwelling units in the community for low-income households, as well as for the improvement of existing public educational facilities located within a redevelopment area or within one mile of a redevelopment area. After March 6, 2031, the 18 percent of revenues received must be used exclusively for the improvement of existing public educational facilities located within a redevelopment area or within one mile of a redevelopment area.

Assembly Bill 50 also eliminates the prohibition in existing law against a city or county creating a tourism improvement district after October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area. In the case of a tourism improvement district created after October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area, the bill prohibits a redevelopment agency and the governing body of a county or city from providing financing or reimbursement pursuant to the financing and reimbursement mechanisms of both a tourism improvement district and a redevelopment area.

Assembly Bill 114 contains provisions related to the provision of interactive gaming by licensed gaming establishments within the State of Nevada. The bill removes conditions specifying that a license to operate interactive gaming in the state does not become effective until the passage of federal legislation or notice providing that interactive gaming is permissible under federal law.

The bill also prohibits the issuance of a license to operate interactive gaming for a period of five years after the effective date of the bill (February 21, 2013) for certain entities that operated interactive gaming involving patrons located in the United States after December 31, 2006. The Gaming Commission is permitted to waive these prohibitions if it determines that the entity complied with all applicable provisions of federal law or the law of any state when, after December 31, 2006, those entities operated interactive gaming involving patrons located within the United States.

Assembly Bill 114 also authorizes the Commission to adopt regulations to increase or decrease the fees for the initial issuance and renewal of a license for an establishment to operate interactive gaming under certain circumstances.

Assembly Bill 335 provides for the creation of the University of Nevada, Las Vegas, Campus Improvement Authority for the purpose of studying the need for, feasibility of, and financing alternatives for a large events center and other required infrastructure and supporting improvements on the campus of the University of Nevada, Las Vegas.

The Board of Directors of the Authority must prepare a report of the results of the study of the Board, including any recommendations for legislation, to the 78th Session of the Legislature.

Assembly Bill 360 makes various changes to the state's gaming laws regarding interactive gaming, including providing definitions of the terms "cashless wagering system," "gaming employee," "gross revenue," and "wagering credit" for the purposes of the statutory provisions governing the licensing and control of gaming in Nevada.

Assembly Bill 360 also makes changes to Assembly Bill 114 of the 2013 Session, which became effective upon passage and approval (February 21, 2013), to allow interactive gaming agreements to be made with governmental units of other nations, states, or

local bodies that exercise governmental functions. The bill also moved the effective date for requirements for the issuance of certain restricted licenses, approved by the Legislature in Senate Bill 416 of the 2013 Session, from July 1, 2013, to January 1, 2014.

The bill also requires the Legislative Commission to create a committee to conduct an interim study concerning the impact of technology upon the regulation of gaming and upon the distinction between restricted and nonrestricted gaming licensees.

Assembly Bill 466 requires the Executive Director of the Department of Taxation to prepare and send a report of tax expenditures to the Governor and the Legislature on or before November 10 of each even-numbered year. The bill defines a “tax expenditure” as any state law that exempts, in whole or in part, certain persons, income, goods, services, or property from the impact of established taxes.

The report must include certain information regarding each tax expenditure, including a description of the tax expenditure, the year the tax expenditure was enacted, the purpose of the tax expenditure, any subsequent amendments to the tax expenditure and, to the extent that pertinent information is available, estimates of the following:

- The fiscal impact of the tax expenditure on both state and local governments;
- The number of taxpayers benefiting from the tax expenditure; and
- The revenue that would result from repeal of the tax expenditure.

BILLS REGARDING EXEMPTIONS, ABATEMENTS AND POSTPONEMENTS

Senate Bill 165 provides for a transferable tax credit to be administered by the Governor’s Office of Economic Development and granted to a producer of certain film and other qualified productions, if the production is in the economic interest of the state, at least 60 percent of the total qualified expenditures and production costs for the production will be incurred in Nevada, and the production costs of the qualified production exceed \$500,000.

The base amount for the transferable tax credit is 15 percent of certain qualified expenditures which are incurred in Nevada, with additional tax credits that can be earned based on wages, salaries, and fringe benefits (compensation) paid to certain out-of-state personnel. A tax credit of 12 percent can be earned based on the compensation paid to above-the-line personnel (actors, producers or directors) who are not Nevada residents. A credit based on compensation paid to below-the-line personnel (non-actors, producers or directors) who are not Nevada residents may be earned at the rate of:

- 12 percent for the period beginning January 1, 2014 to December 31, 2015;
- 10 percent for the period beginning January 1, 2016 to December 31, 2016; and
- 8 percent for the period beginning January 1, 2017 to December 31, 2017.

An additional tax credit of 2 percent of the qualified expenditures incurred in Nevada may be earned if at least 50 percent of the below-the-line personnel is comprised of Nevada residents. An additional tax credit of 2 percent of the qualified expenditures incurred in Nevada may also be earned if more than 50 percent of the filming days of the qualified production occurs in a county which, in each of the two years immediately preceding the date of the application, qualified productions incurred less than \$10 million of direct expenditures.

Senate Bill 165 further provides that the tax credit may be used by the producer or transferred to a third party who may claim the tax credit against the Modified Business Tax, the gross gaming percentage fee tax, or the insurance premium tax. The bill additionally limits the amount of tax credits that may be granted for any single production to \$6 million, and limits the amount of tax credits that may be granted in a single fiscal year to \$20 million. If the entire \$20 million worth of tax credits are not issued in a particular fiscal year, the Office of Economic Development may carry forward the amount of unused tax credits in that fiscal year to be issued over the immediately following two fiscal years.

Any transferable tax credits issued by the Office of Economic Development expire four years after the date on which the credits are issued to the producer. The provisions of the bill prohibit the approval of any applications for transferable tax credits that are received on or after January 1, 2018, and the provisions of the bill expire by limitation on June 30, 2023.

Senate Bill 357 enacts the Nevada New Markets Job Act. The measure allows insurance companies to receive a credit against the tax imposed on insurance premiums in exchange for making a qualified equity investment in a community development entity, particularly those that are local and minority-owned. A community development entity that receives such an investment is required to provide capital or equity investments in or loans to certain qualified low-income community businesses and at least 30 percent of the total qualified equity investment amount must be provided to such businesses located in severely distressed census tracts.

The bill requires the Department of Business and Industry to certify a total of \$200 million in qualified equity investments, and prohibits the certification of any single qualified equity investment of less than \$5 million or the certification of more than \$50 million in qualified equity investments to any single applicant, including all affiliates and partners of the applicant which are qualified community development entities.

In exchange for making a qualified equity investment in a community development entity, insurance companies are entitled to receive a credit against the taxes imposed on insurance premiums in an amount equal to 58 percent of the total qualified equity investment that is certified by the department. The bill specifies the following manner in which the total credit amount of 58 percent must be claimed over a period of 6 anniversary dates following the date on which the investment is initially made:

Date the investment is made – 0% of the qualified investment may be claimed;
1 year after the investment is made – 0% of the qualified investment may be claimed;
2 years after the investment is made – 12% of the qualified investment may be claimed;
3 years after the investment is made – 12% of the qualified investment may be claimed;
4 years after the investment is made – 12% of the qualified investment may be claimed;
5 years after the investment is made – 11% of the qualified investment may be claimed;
6 years after the investment is made – 11% of the qualified investment may be claimed;

Senate Bill 357 also sets forth the application procedures, as well as the requirements the Department of Business and Industry must follow when determining whether to approve or disapprove an application. The measure provides for the recapture of tax credits under the provisions of the bill if certain conditions are met, as well as an exception from recapture. Senate Bill 357 also requires the Department of Business and Industry to review the qualified community development entities annually and submit a report to the Legislative Counsel Bureau, for transmittal to the Legislature, concerning the impact of the program on the economy and the compliance of the qualified community development entities with the provisions of this bill.

Assembly Bill 33 makes several changes to existing provisions governing the granting of partial abatements of taxes by the Nevada Office of Energy, including:

- Requiring that the Green Building Rating System adopted by the Director must include standards and ratings equivalent to the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, or an equivalent rating system;
- Increases the number of Optimize Energy Performance credit points that must be obtained in order to become eligible for tax abatements;
- Repeals provisions allowing partial abatements to be granted for manufacturers who renovate existing buildings; and
- Specifies that the Director may not approve an application for a partial abatement of property taxes unless the application is approved or deemed approved by the board of county commissioners in the county where the facility is located.

The amendatory provisions of Assembly Bill 33 do not apply to a building or other structure for which a partial abatement has been received or for which an application for a partial abatement has been submitted pursuant to NRS 701A.110 on or before the effective date of the act (June 11, 2013).

Assembly Bill 61 makes several changes relating to the duties of the Governor's Office of Economic Development, including:

- Specifying that a partial tax abatement whose projected value to a single entity of \$250,000 or more must be approved by the Board of Economic Development, and may be approved by the Director if the projected value to a single entity is less than \$250,000;

- Revising the composition of the Board of Economic Development to include the Director of the Department of Employment, Training and Rehabilitation;
- Allowing the Director to declare void any contract between the Office and a regional development authority;
- Removing the requirement for the office to develop a State Plan for Inland Ports;
- Specifying that only counties or cities may apply for grants or loans from the Catalyst Fund; and
- Abolishing the Interagency Committee for Coordinating Tourism and Economic Development and the Advisory Council on Economic Development.

Assembly Bill 138 allows a new or expanding business that makes a capital investment in an institution within the Nevada System of Higher Education to receive a partial abatement of taxes on personal property. To be eligible to receive these abatements, the business must make a capital investment of at least \$1 million in a research program at the University of Nevada, Las Vegas; the University of Nevada, Reno; or the Desert Research Institute; or at least \$500,000 at the Nevada State College or a smaller institution within the Nevada System of Higher Education; and must meet additional criteria in order to become eligible.

If the business meets the eligibility requirements, it may receive a partial abatement of its personal property taxes for five years. The total amount of the abatement received may not exceed 50 percent of the personal property taxes imposed on the business during the period of the abatement or 50 percent of the amount of the capital investment, whichever is less.

The provisions of Assembly Bill 138 expire by limitation on June 30, 2023.

Assembly Bill 239 makes several changes related to partial abatements of taxes approved by the Office of Energy, including:

- Allowing the Director of the Office of Energy to charge and collect a fee from each applicant for a partial abatement, in an amount not to exceed the actual cost to the Director of processing the application;
- Removing persons who operate a facility for the transmission of electricity generated from renewable energy or geothermal resources from the list of persons who may apply for a partial abatement;
- Increasing the number of employees working on the construction of the facility who must be Nevada residents from 30 percent to 50 percent;
- Increasing the average hourly wage requirement for employees working on the construction of a facility from 150 percent of the average statewide hourly wage to 175 percent of the average statewide hourly wage for facilities located in a county whose population is 100,000 or more or in a city whose population is 60,000 or more;
- Specifying that abatements may not be approved for facilities for the generation of process heat from solar renewable energy or wholesale facilities for the generation of electricity from renewable energy unless the application is approved or deemed

approved by the board of county commissioners in the county where the facility is to be located; and

- Repealing provisions requiring a portion of the property taxes paid by a facility be deposited in the Renewable Energy Fund.

The provisions of Assembly Bill 239 requiring approval from a board of county commissioners before a partial abatement for certain facilities are identical to provisions approved in Assembly Bill 388 of the 2013 Session.

Assembly Bill 333 requires the Office of Economic Development and the Office of Energy to periodically conduct an analysis of the relative costs and benefits of each incentive for economic development previously approved by the respective offices and in effect during the immediately preceding two fiscal years, to assist the Governor and the Legislature in determining whether the economic benefits of the incentive have accomplished the purposes of the statute pursuant to which the incentive was approved and warrant additional incentives of that kind.

The bill requires each office to report to the Chief of the Budget Division of the Department of Administration a report of the result of the analysis conducted by each office and establish a schedule for performing and reporting the results of the analysis, ensuring that the results of the analysis reported by each office are included in the Governor's Executive Budget.

Assembly Bill 333 also clarifies that the minimum benefit thresholds that must be met for new and expanding businesses seeking partial abatements of taxes from the Office of Economic Development specifically require minimum expenditures on health care benefits.

Assembly Bill 388 specifies that partial abatements from taxes may not be approved by the Director of the Office of Energy for facilities for the generation of process heat from solar renewable energy or wholesale facilities for the generation of electricity from renewable energy unless the application is approved or deemed approved by the board of county commissioners in the county where the facility is to be located. The application must be approved or denied by the board of county commissioners not later than 30 days after the board receives a copy of the application; however, if the board does not approve or deny the application, it is deemed to be approved.

The provisions of Assembly Bill 388 requiring approval from a board of county commissioners before a partial abatement for certain facilities are identical to provisions approved in Assembly Bill 239 of the 2013 Session.

Assembly Bill 506 provides that consideration is not received for the complimentary portion of any food, meals or nonalcoholic drinks provided on a complimentary basis to the employees, patrons or guests of a retailer and, thus, the sales tax would not apply to the complimentary portion of such food, meals or nonalcoholic drinks.

Assembly Bill 506 further provides that the complimentary portion of any food, meals or nonalcoholic drinks provided on a complimentary basis to the employees, patrons or guests of a retailer does not lose its status as food for human consumption and, thus, is exempt from the use tax.

This legislation was introduced and passed by the Legislature as a condition of a settlement between the state of Nevada and certain businesses related to the applicability of sales and use taxes to complimentary food and beverages provided by these businesses.

Assembly Bill 1 of the 27th Special Session, sponsored by the Governor's Office of Economic Development, makes numerous changes to the state's economic development laws and the issuance of abatements and deferrals by the Office, including the following:

- Repealing provisions relating to the qualification for partial abatements of taxation for businesses that further the development and refinement of intellectual property, patents, or copyrights into a commercial product;
- Reducing the number of employees that a new business must hire in order to become eligible for partial abatements of taxes from 75 to 50 in a county whose population is 100,000 or more or a city whose population is 60,000 or more;
- Reducing the number of employees that a new business must hire in order to become eligible for partial abatements of taxes from 15 to 10 in a county whose population is less than 100,000 or a city whose population is less than 60,000;
- Specifying that an expanding business in a county whose population is 100,000 or more or in a city whose population is 60,000 or more must increase the number of employees on its payroll by 10 percent or 25 employees, whichever is greater;
- Reducing the amount of capital investment that must be made by new or expanding businesses in a county or city in order to become eligible for partial abatements of taxes;
- Allowing for a partial abatement of up to 75 percent of personal property taxes paid for businesses locating within an activated foreign trade zone for up to five years;
- Increasing the minimum threshold for eligibility for a deferral of sales and use taxes due from a sales price of \$100,000 to \$1 million;
- Establishing the that property and sales tax abatements available to a business that is or will be located in a historically underutilized business zone, a redevelopment area, an area eligible for a community development block grant, or an enterprise community may be granted for between one and five years and may not exceed 75 percent of the personal property taxes payable by the business; and
- Establishing the that property and sales tax abatements available to a data center that is or will be located in a historically underutilized business zone, a redevelopment area, an area eligible for a community development block grant, or an enterprise community may be granted for between one and fifteen years and may not exceed 75 percent of the personal property taxes payable by the business

Assembly Bill 1 of the 27th Special Session includes the provisions contained within Assembly Bill 38 of the 2013 Session, which was not passed by the Legislature before the end of the 120-day session.

BILLS REGARDING LOCAL GOVERNMENT TAXES AND REVENUES

Senate Bill 1 of the 27th Special Session makes various changes to the Clark County Sales and Use Tax Act of 2005, which is imposed for the hiring and equipping of additional police officers by the law enforcement agencies in Clark County. The changes to the Act including the following:

- Temporarily suspending the provisions which prohibit these tax revenues from supplanting or replacing existing funding for police departments until July 1, 2016;
- Requiring additional reports to be filed relating to the expenditure of revenues during the period which these provisions are suspended;
- Resetting the base year for determining when the use of these sales tax revenues supplant or replace existing revenues; and
- Authorizing the imposition of an additional sales and use tax rate of up to 0.15 percent in Clark County, which may be imposed on or after October 1, 2013, but before July 1, 2016. In order to become effective, the rate must be approved by a two-thirds majority of the Clark County Commission.
- Establishing provisions for the expenditure of the proceeds from the 0.15 percent tax rate dependent upon employing an equal number of police officers in unfilled budgeted positions using money other than the proceeds from the 0.15 percent sales tax rate. The County Treasurer must be satisfied that a police department meets these requirements before allocating the money.
- Establishing provisions for the police department to apply for and be granted a waiver by the Committee on Local Government Finance from the unfilled budgeted positions requirements under certain conditions.
- Allowing any other police department that meets the unfilled budgeted positions requirements or has been granted a waiver to apply for the allotment of any proceeds from the 0.15 percent tax rate that the County Treasurer determines should not be allocated to a police department that fails to meet the positions requirements or is granted a waiver.
- Requiring the Committee on Local Government Finance to submit a report on or before September 1 of each year to the Legislative Commission regarding the number of waivers granted during the preceding fiscal year and the reason for the waivers.

Senate Bill 1 of the 27th Special Session includes provisions contained within Assembly Bill 496 of the 2013 Session, which was not passed by the Legislature before the end of the 120-day session.

Assembly Bill 46 authorizes the board of county commissioners of a county whose population is 100,000 or more, but less than 700,000 (Washoe County) to impose, by a two-thirds majority vote, additional sales and property tax rates within the county for

deposit into the county school district's capital construction fund. The bill authorizes the imposition of a sales and use tax rate of one-quarter percent in the county, as well as the imposition of an additional property tax rate of 5 cents per \$100 of assessed value, so long as a two-thirds majority of the board of county commissioners approves the imposition of these taxes on or before January 1, 2014.

The provisions of Assembly Bill 46 specify that, if the property tax rate is authorized by the board of county commissioners, the tax rate of 5 cents would not be subject to the provisions of NRS 361.453, which limits the combined property tax rate in any tax district within the state to \$3.64 per \$100 of assessed value. The property tax rate would also not be subject to the partial abatements of property taxes that were approved by the Legislature pursuant to Assembly Bill 489 of the 2005 Session.

If the taxes are approved by the board of county commissioners, Assembly Bill 46 specifies that the school district in the county is allowed to pledge the proceeds of these taxes to the payment of any bonds or other obligations the school district issues for capital projects. The bill additionally authorizes Washoe County to pledge the portion of the Governmental Services Tax (GST) whose allocation to the school district is based on the amount of the property tax levy attributable to debt service to the payment of any bonds or other obligations the school district issues for capital projects.

Senate Bill 301 requires a county treasurer to assign a tax lien against a parcel of real property upon which taxes have become delinquent, if the property owner enters into a written agreement with the assignee of the lien. The assignee of the lien must pay to the county treasurer an amount equal to the delinquent taxes assessed against the property, as well as any accrued penalties, interest, fees, and costs.

Senate Bill 301 allows the assignee to bring an action against the owner of the property for the recovery of delinquent taxes, penalties, interest, fees, and costs, if the tax lien is not redeemed by the owner. The assignee may not commence this action before the earliest date on which an action could be commenced by the district attorney under current law.

Senate Bill 406 makes various changes to provisions governing tourism improvement districts and Sales Tax Anticipated Revenue (STAR) bonds, including:

- Specifying that a tourism improvement district created within a redevelopment district on or after October 1, 2009, may utilize the financing mechanisms allowed for either the tourism improvement district or the redevelopment district, and not both;
- Prospectively removing the Local School Support Tax from the tax revenues that may be pledged in the tourism improvement district;
- Clarifying the information that must be provided in certain reports currently required to be prepared by the Department of Taxation;
- Modifying the bid process for subcontractors if the contractor or developer does not receive the minimum number of bids required under current law;

- Specifying that a developer may not provide financing or reimbursement in a new district for facilities that relocate into the district on or after July 1, 2013; and
- Specifying that prevailing wage requirements in Chapter 338 of NRS apply to certain projects within the district.

Senate Bill 479 authorizes an insurer to carry forward credits against the premium tax paid for its policies of industrial insurance. The credits do not expire and may be carried forward into subsequent years until entirely used.

Senate Bill 509 removes the requirement that the 2.5 percent room tax rate imposed within the City of Sparks pursuant to Assembly Bill 205 of the 2003 Session must expire upon the repayment of certain general or special obligation bonds. The bill also provides that the imposition and collection of this 2.5 percent rate after the repayment of certain general or special obligation bonds, as prohibited by A.B. 205, is authorized, ratified, approved and confirmed in all respects pursuant to this bill.

Assembly Bill 68 is the legislation that was brought forth based on the recommendations of the Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account, which was formed as a result of Assembly Bill 71 of the 2011 Session. The interim committee brought forward several recommendations for changes to the Consolidated Tax Distribution (CTX), as follows:

- Use the five-year average percentage change in the Consumer Price Index (CPI) to adjust the annual base allocation for local governments and special districts, instead of only the average percentage change in the CPI during the prior year, beginning in Fiscal Year 2014;
- Revise the method by which a local government or special district's annual base allocation is calculated to include all revenue (base plus excess) distributed to that entity in the prior year, adjusted for the five-year average percentage change in the CPI, beginning in Fiscal Year 2015;
- Modify the excess distribution formula for all seventeen counties, such that the 1-plus formula is used in all counties whose population is less than 100,000 (all counties except for Clark and Washoe), and a 0.02-plus formula is used in a county whose population is 100,000 or more (Clark and Washoe Counties);
- Require, in a county whose population is 100,000 or more, that the five-year average percentage change in assessed value for special districts and local governments be set to zero when determining excess revenue shares, if this average percentage change is negative;
- Require, in a county whose population is 100,000 or more, that if the sum of 0.02, the five-year average change in population, and the five-year change in assessed value for any local government is negative, that this sum be set to zero for the purpose of determining that local government's excess distribution factor;
- Require, in a county whose population is 100,000 or more, that excess revenues be distributed in the same shares as base revenues if all local governments' excess distribution factors are zero;

- Change the date by which a cooperative agreement for an alternative distribution of revenue among local governments and/or special districts within a county must be submitted to the Department of Taxation, from December 31 to April 1 prior to the fiscal year that will be governed by the cooperative agreement;
- Require that a notice of intent be filed with the Department of Taxation on or before March 1 of each year for each local government or special district that intends to enter into a cooperative agreement for an alternative distribution of revenue; and
- Revise the method by which annual population estimates are used to determine the distribution of the liquor tax, the cigarette tax, and the Basic City-County Relief Tax at the first tier of the CTX.

Assembly Bill 413 allows the board of county commissioners in a county whose population is 700,000 or more (Clark County) to adopt an ordinance imposing an additional tax on gasoline and special fuels sold in the county no later than October 1, 2013. The rate would be an indexed rate based on the federal, state, and local rates for gasoline and other fuels, and would be permitted to be indexed for three calendar years. The additional fuel tax is applicable to gasoline, special fuel (diesel), liquefied petroleum gas, compressed natural gas, and water-phased hydrocarbon fuel.

Clark County may continue indexing based on the federal and local rates on these fuels in 2017 and future years only if a ballot question on the November 2016 General Election is approved by voters. The indexing based on the state rates may not continue in 2017; however, the county may continue imposing the rate that was imposed in 2016 based on the indexing of the state rates.

The bill also requires ballot questions to be added on the November 2016 General Election ballot seeking approval for an additional indexed tax rate. A statewide question would seek approval of an additional indexed rate based on the current state gasoline and special fuel tax rates, with the proceeds distributed to the State Highway Fund. A separate question would be added to the November 2016 General Election ballot in all counties except for Washoe and Clark Counties for approval of an indexed rate based on the current federal and local fuel tax rates, with the proceeds dedicated to transportation projects in that county.

Assembly Bill 413 also requires the Department of Motor Vehicles to adopt regulations establishing a system to provide for the reimbursement and repayment of any amounts owed by any person under the International Fuel Tax Agreement as a result of the imposition of the indexed special fuel taxes contained within the bill.

Assembly Bill 418 revises the distribution of the 5-cent property tax rate imposed pursuant to NRS 354.59815 in a county whose population is 700,000 or more (Clark County). The provisions require that 40 percent of the proceeds be divided among the county and the cities within the county as follows:

- The board of county commissioners shall direct the county treasurer to retain 30 percent; and

- The remaining 70 percent is to be distributed among the county and the cities within the county in the proportion that the projected assessed value of the unincorporated areas of the county and each of those cities for the fiscal year bears to the sum of the projected assessed values of the unincorporated areas and all those cities for that fiscal year.

The provisions of Assembly Bill 418 do not affect the distribution of the 60 percent portion of the rate to the State Highway Fund, pursuant to the provisions of Assembly Bill 595 of the 2007 Session.

Assembly Bill 503 temporarily authorizes a governing body of a local government to transfer or loan money in an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created, or any income or interest earned on money in an enterprise fund to be used in a fiscal year, if the ending fund balance of the general fund of the local government at the end of the preceding fiscal year is less than 9 percent of the total expenditures of the local government from the general fund during that fiscal year. Any such loan or transfer requires the prior approval of the Committee on Local Government Finance.

Any money loaned or transferred by the governing body must be used only, in order of priority: (1) to restore police and fire services; (2) to restore the operation of libraries, parks and other recreational services; and (3) to settle any legal claim outstanding on the date on which the loan or transfer is made.

The bill requires the governing body of a local government that loans or transfers money pursuant to that section to make certain quarterly reports to the Committee on Local Government Finance concerning the loan or transfer. The Committee must also adopt regulations specifying the procedure for obtaining the approval of the Committee.

Assembly Bill 503 also requires the governing body of any local government which makes such a loan or transfer to report certain information to the Director of the Legislative Counsel Bureau on or before January 15, 2015, for transmittal to the Audit Division of the Bureau and to the Legislature.

