TAX POLICY

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BACKGROUND

As the 2003 Legislative Session convened, the effects of the recession that began in March 2001, which the September 11 terrorist attacks intensified, had produced a significant slowdown in the growth of the Nevada economy and a stagnant state revenue picture. Simultaneously, the slowdown increased the demands for state services creating a sizable gap between revenues and expenditures.

The events of September 11 initiated an unprecedented decline in state tourism activity. The result has been very sluggish gaming and sales tax revenue collections that continued into 2003. Because these two sources account for about 70 percent of state General Fund revenues, the underperformance led to a projected revenue shortfall of approximately $150 million for the 2001-03 biennium, when compared to the Economic Forum forecasts used to support the budget approved by the 2001 Legislature. The state also faced an additional shortfall of approximately $75 million in the Distributive School Account (DSA) because of the slower growth in revenues from the Local School Support Tax (LSST).

The Governor’s Task Force on Tax Policy in Nevada, which was created by the 2001 Legislature principally to address the state’s longer-term revenue needs, began to design a solution to the short-term revenue problem which became obvious shortly after September 11. The Task Force concluded its work by recommending a package of tax increases and new taxes to address both the short and long-term revenue needs of the state of Nevada.

Using the Task Force recommendations as a template, The Executive Budget for the 2003-05 biennium proposed tax increases and other revenue changes to support the General Fund through FY 2004-05 and for some years thereafter. Included in the proposal were increases in the cigarette, liquor and business license taxes and Secretary of State and restricted slot fees. These new revenues were recommended to take effect April 1, 2003 to help balance the FY 2002-03 budget and to partially replenish the state’s stabilization fund.

Continuation of these tax and fee increases, and proposals to adopt an annual business license fee and a transactions tax on non-participatory amusement activities and several minor revenue adjustments were designed to support the FY 2003-04 budget. To finance FY 2004-05 spending, these revenues were to be further supplemented with a statewide property tax of 15 cents per $100 of assessed valuation.

The Governor’s budget also requested the 2003 Legislature to approve a gross receipts tax on businesses and an increase in the top gaming tax rate combined with a reduction in the business license tax to support the General Fund budget beginning with the 2005-07 biennium and beyond. The enactment of a gross receipts tax was a key component of the revenue recommendations made by the Governor’s Task Force on Tax Policy in Nevada.

LEGISLATION

In May 2003 the Economic Forum forecast modest increases of 4.5 and 5.0 percent in General Fund revenues for FY 2003-04 and FY 2004-05, respectively, from a FY 2002-03 base that was considerably reduced from the Forum's May 2001 projections. With these revised forecasts, overall revenue growth would remain far below the combined effects of population growth and inflation since FY 2000-01. The Executive Budget proposal and various alternative revenue enhancement plans to support the Governor's budgetary recommendations proved to be the most debated and controversial issue for the Legislature, not only during the 72nd Regular Session, but through the 19th and 20th Special Sessions as well.

The revenue package to support the General Fund appropriations was ultimately adopted at the conclusion of the 20th Special Session of the Nevada Legislature, which ended on July 22, 2003. The three bills approved to raise the revenue, Assembly Bill 4 and Senate Bills 2 and 8, included several of the elements contained in the revenue proposal submitted in January by the Governor. Nevertheless, the final funding plan also differed from the Governor's revenue proposal in many important details.

One of the Governor's proposals that was not approved by the Legislature was bridge revenues to help balance the FY 2002-03 budget. Instead, the Legislature approved the transfer of $135 million from the Rainy Day Fund, which represented almost the entire balance of the fund and $85 million more than was recommended by the Governor. The increases in cigarette and liquor taxes and restricted slot fees recommended by the Governor to take effect in April were included in Senate Bill 8, but their effective dates were delayed by more than three months because the bill was not approved until the latter part of July 2003.

Senate Bill 8, which encompasses more than 90 percent of the revenue package, include the annual business license fee and a live entertainment tax. The Governor's proposals for a state property tax and a gross receipts tax were not adopted. In their place, the revenue needs for the 2003-05 biennium and future biennia were met with a combination of a real estate transfer tax, a modified business tax and a larger gaming tax increase than was proposed by the Governor. The enactment of a modified business tax, in the form of a payroll tax with a special higher rate on financial institutions and a deduction for costs of providing medical coverage for employees, also resulted in the repeal of the state business license tax.

The remaining two bills, Assembly Bill 4 and Senate Bill 2 are estimated to provide about $75 million in revenue over the 2003-05 biennium through reductions in tax payment and collection allowances for liquor, cigarette, other tobacco and sales taxes and higher fees on commercial recordings and securities collected through the Secretary of State's office.

Although the bills to support the General Fund spending plan were the most significant legislation considered in 2003, the Nevada Legislature approved numerous other bills that have an effect on the state's tax system. Additional information concerning the three revenue bills and details about other significant tax legislation are covered in the remainder of this section.

STATE REVENUE BILLS

Senate Bill 8 of the 20th Special Session includes the key components of the Legislature's revenue package to support General Fund appropriations. The key components include:

- A modified business tax for businesses other than financial institutions
- A modified business tax for financial institutions
- An excise tax on bank branch offices
- An annual business license fee
- An increase in taxes on gross gaming revenue and restricted slot operations
- An increase in cigarette taxes
- An increase in liquor taxes
- A tax on live entertainment
- An increase in the real property transfer tax

Modified Business Tax for Businesses other than Financial Institutions
The Legislature imposed a new tax of 0.7 percent on gross wages paid effective October 1, 2003. The rate lowers to 0.65 percent on July 1, 2004. The Legislature authorized employers to deduct from gross wages on a dollar-for-dollar basis amounts paid for health insurance or health benefit plans. Employers other than financial institutions, Indian tribes, nonprofit organizations and political subdivisions are required to pay the tax on gross wages if they are required to make a contribution for unemployment insurance pursuant to NRS 612.535.

Modified Business Tax for Financial Institutions – The Legislature imposed upon financial institutions a new tax of 2 percent on gross wages paid effective October 1, 2003. Financial institutions are also authorized to deduct from gross wages on a dollar-for-dollar basis amounts paid for health insurance or health benefit plans. For the purposes of the new tax, a financial institution includes banks, savings and loan institutions, installment loan companies, debt adjusters, thrift companies, check-cashing and deferred deposit service providers, mortgage companies, brokers and agents and collection agencies. The tax must also be paid by financial services providers, including security and commodity brokers, dealers, exchanges and services and holding and other investment offices. Credit unions are specifically exempt from the requirement to pay the tax.

Excise Tax on Bank Branch Offices – The Legislature imposed a new excise tax on each bank at the rate of $1,750 for each branch office in excess of one maintained by the bank in Nevada effective January 1, 2004.

Business License Fee – The Legislature replaced the current one-time $25 licensing fee for businesses with a $100 annual licensing fee effective July 22, 2003. Sole proprietors are required to pay the annual fee unless the proprietor operates the business from his home and earns from that business not more than 66-2/3 percent of the average annual wage for the preceding calendar year.

Gross Gaming and Restricted Slot Taxes – The Legislature increased the current tax rate on gross gaming revenue of nonrestriced gaming licensees by 0.5 percent effective August 1, 2003, and increased the fee for the operation of slot machines in restricted gaming locations by 33 percent effective July 22, 2003.

Cigarette Taxes – The Legislature increased the current tax on cigarettes by 45 cents per pack of 20 cigarettes from 35 cents per pack to 80 cents per pack of 20 effective July 22, 2003. A total of 70 cents per pack of twenty cigarettes is deposited to the state General Fund, with the remaining 10 cents allocated to local governments.

Liquor Taxes – The Legislature increased the current tax on intoxicating liquors by 75 percent effective August 1, 2003. The table below provides a comparison of the former and current tax rates on the various types of intoxicating liquors:

Intoxicating Liquor Tax Rates Per Gallon

Liquor Type	Old Rate	New Rate	Difference
Beer or Other Malt Beverage	$0.09	$0.16	$0.07
Wine (0.5-14% Alcohol)	$0.40	$0.70	$0.30
Liqueurs & Wines (14-22% Alcohol)	$0.75	$1.30	$0.55
Hard Liquors (Over 22% Alcohol)	$2.05	$3.60	$1.55

Live Entertainment Tax – The Legislature imposed a new excise tax on admission to any facility where live entertainment is provided at the following rates:

- If the maximum seating capacity of the facility is less than 7,500, 10 percent of the admission charge and 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.
- If the maximum seating capacity is 7,500 or more, 5 percent of the admission charge to the facility.

Live entertainment provided at a nongaming establishment is exempt from the tax if the facility in which the entertainment is provided has a maximum seating capacity of less than 300. Live entertainment provided at a gaming establishment licensed for less than 51 slot machines, less than six games or any combination of slot machines and games within those respective limits is also exempt if the facility in which the entertainment is provided has a maximum seating capacity of less than 300. Entertainment provided by nonprofit organizations and boxing contests or exhibitions are also exempt from the requirement to pay the tax.

The new live entertainment tax is effective January 1, 2004. The Legislature revised the current casino entertainment tax to eliminate certain exemptions effective during the period between September 1, 2003, and December 31, 2003. The current casino entertainment tax is repealed effective January 1, 2004, when the Live Entertainment Tax becomes effective.

Real Property Transfer Tax – The Legislature imposed a new state tax on the transfer of real property at the rate of $1.30 of each $500 of value effective October 1, 2003.

Assembly Bill 4 of the 20th Special Session reduced the allowances for the collection of sales and use taxes and taxes on intoxicating liquor, cigarettes and other tobacco products to 0.5 percent of the amount collected and increased by 100 percent the fees for the privilege of selling securities in Nevada.

Senate Bill 2 of the 20th Special Session makes various changes to the filing requirements for business entities, adds new provisions concerning foreign business entities doing business in Nevada, provides for the creation of a new type of business entity, the limited-liability limited partnership, and makes various other changes pertaining to business entities. The bill includes the creation of new filing fees for business entities and increases various existing filing fees by various amounts. Finally, the bill incorporates into the Nevada Revised Statutes certain fees pertaining to securities that are currently established by administrative regulation and set forth in the Nevada Administrative Code and doubles the current amount of those fees.

TECHNICAL AND ADMINISTRATIVE BILLS

Assembly Bill 348 establishes procedures for the Nevada Tax Commission to follow before adopting factors that are applied annually to the taxable value of improvements for property that has not been reappraised.

Assembly Bill 437 revises the definition of "supplier" relating to liquor that is imported from outside the United States to ensure that this definition does not conflict with other statutory provisions relating to the importation, distribution, sale and taxation of such liquor in Nevada. The bill also authorizes a retail liquor store that holds a nonrestricted gaming license to transfer an original package of beer to another retail liquor store that holds a nonrestricted gaming license under certain circumstances if the wholesale dealer of the beer approves the transfer in writing. The bill also requires the Attorney General to enforce statutory provisions regulating trade practices with respect to alcoholic beverages.

Assembly Bill 514 enacts and revises various state statutes relating to sales and use taxes to carry out the provisions of the Streamlined Sales and Use Tax Agreement. Among other things, the agreement is designed to pave the way for the collection of sales taxes on purchases through the internet and other forms of remote sales. The bill provides for the electronic registration of sellers, establishes requirements for determining the place of sales, establishes requirements for claiming an exemption from the taxes and provides for the electronic payment of the taxes. The bill also submits to the voters at the 2004 General Election a ballot question to conform state sales and use tax law to the agreement. Through this ballot question, voters will be asked to approve or disapprove various exemptions, abatements and definitions to align the provisions of the state Sales and Use Tax Act and the provisions governing all local taxes within the Local School Support Tax law. After the voters decide on the question, all like items will be treated identically for purposes of both state and local sales taxes.

Assembly Bill 531 corrects existing law to apply the same joint and several liability provisions for the payment of tax by a person responsible for the use tax that are currently in effect for sellers who are required to collect and remit sales taxes.

Senate Bill 314 requires the Department of Taxation to collect primary and supplementary data regarding electronic commerce that is conducted in Nevada and requires the department to prepare a report compiling the data collected for the year.

Senate Bill 475 revises the manner in which the value of certain electric light and power companies is assessed. The bill requires the Nevada Tax Commission to segregate from the collective unit the value of a facility placed into operation by an electric light and power company on or after July 1, 2003, in a county whose population is less than 100,000. The value of the facility must then be assessed in the county where the facility is located, rather than in all of the counties in which the company is operating.

BILLS REGARDING EXEMPTIONS, ABATEMENTS AND POSTPONEMENTS

Assembly Bill 199 exempts the proceeds from the annual tax that a county may impose to support a museum, art center or historical society from the limitation on allowed revenues from property taxes for that county.

Assembly Bill 346 authorizes a person to travel in a motor vehicle on the highway with dyed special fuel in the fuel tank of the motor vehicle if the person is only crossing the highway to travel from one parcel of land owned or controlled by the person to another parcel of land owned or controlled by the person. The bill also limits the authorization to operate any special mobile equipment or farm equipment with special fuel in its fuel tank on a highway only to the extent permitted by federal law.

Assembly Bill 355 provides for an exemption from personal property taxation for certain commercial helicopters in a county whose population is 400,000 or more and establishes a temporary moratorium on the construction or operation of new heliports in such counties. To be eligible for an exemption from personal property taxation, a helicopter operator must operate from a preferred airport or other facility for the takeoff and landing of commercial helicopters designated by the Board of County Commissioners, or must comply substantially with the technological modifications and other measures for noise reduction that are recommended by the Board of County Commissioners.

Senate Bill 313 clarifies that the Department of Taxation shall apply the exemption from sales and use taxes for state and local governments to include any type of motor vehicle transferred for use by a state or local entity, whether by sale or lease.

Senate Bill 353 clarifies that an organization is exempt from the payment of sales and use taxes if the sole or primary purpose of the organization is to operate a public hospital, private hospital or other medical facility licensed pursuant to Chapter 449 or 450 of NRS and the organization complies with all other current statutory requirements to be considered an organization created for charitable purposes.

Senate Bill 440 authorizes the owner of a single-family residence to file a claim to postpone the payment of property taxes under certain conditions. To be eligible for a postponement, the assessed value of the residence cannot be more than $175,000, the owner cannot own other property with an assessed value of more than $30,000 and the owner must have occupied the residence for at least six months. The bill provides that the owner cannot be the subject of bankruptcy proceedings and cannot owe delinquent taxes on the residence for a year other than a year for which the postponement is requested. The bill further provides that the owner must have suffered a severe economic hardship that is expected to last for at least a year and that the total annual income of the household cannot exceed the federally designated poverty level. The bill would allow for a postponement period of no longer than three years.

Senate Bill 464 makes various changes to the manner in which sales and use taxes are collected with respect to sales of various types of watercraft. The bill requires the Department of Taxation to apply the exemption for the sale of tangible personal property delivered by the vendor to a forwarding agent for shipment out of state, to include the sale of a vessel to a nonresident. The bill excludes the value of a vessel taken in trade from the sales price of a vessel for the purposes of the Local School Support Tax and other local sales and use taxes. The bill exempts a motorboat that has been documented, pursuant to federal law, from the requirement of obtaining a title pursuant to the provisions governing watercraft, but requires that all boats be numbered in this state or another state. Finally, the bill requires the Division of Wildlife to receive proof that all taxes have been paid before issuance to the buyer or transferee of a new certificate of ownership and certificate of number for a motorboat.

Senate Bill 473 reduces the number of full-time employees that a new business is required to have on its payroll to obtain an abatement from property taxes, business license taxes or the Local School Support Tax. The bill also authorizes the Commission on Economic Development to approve a partial abatement on taxes for a business that furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product if the business meets certain requirements.

The bill also revises the additional requirements for a partial property tax abatement for new businesses by reducing the amount of the capital investment that is required and provides that if a partial abatement from property taxes is approved for an energy storage device, the abatement shall last for a period of 10 years and equal 50 percent of the taxes payable. The bill eliminates the graduated scale of exemption percentages for a partial exemption from the Business License Tax and provides that the exemption is 50 percent of the amount of tax otherwise due during the first four years of operation.

The bill provides that an abatement from the Local School Support Tax on the gross receipts from the sale and the storage, use or other consumption of eligible machinery or equipment lasts for the duration of the lease if the machinery or equipment is leased and clarifies that the lessee is the taxpayer who is eligible for the abatement.

Finally, the bill extends until June 30, 2009, the prospective expiration of the provisions that authorize an abatement of taxes for facilities for the generation of electricity from renewable energy that are currently set to expire on June 30, 2005.

Senate Bill 489 allows an exemption from the Local School Support Tax and the City-County Relief Tax for a solar energy system for heating water that reduces the consumption of electricity or any fossil fuel. The bill allows a similar exemption for solar lighting systems that use solar energy to provide indoor lighting. The bill delays the prospective expiration of the exemption for products or systems designed or adapted to use renewable energy to generate electricity to June 30, 2005.

BILLS AFFECTING LOCAL GOVERNMENT TAXES AND REVENUES

Assembly Bill 205 amends the 1999 special act (Senate Bill 477) relating to the imposition of additional room taxes in Washoe County to increase the room tax by 2.5 percent in the City of Sparks in order to develop and promote projects and events and to pay for various capital improvements to attract and expand tourism within or to benefit the Victorian Square area of the Sparks Town Center Project. The bill provides that the City of Sparks will not continue to receive annual increases in its allotment from the 1999 Room Tax Act by providing that the allotments for Sparks cannot exceed $200,000 in each year after July 1, 2001.

Assembly Bill 208 authorizes the county commission in a county with a population of less than 15,000 to impose, if approved by the voters, a sales tax of up to 1/4 of one percent for the operation and maintenance of a swimming pool. Because voters in White Pine County approved an advisory question at last year's General Election supporting such a tax, the bill authorizes the imposition of the tax in that county by ordinance with no additional voter approval required.

Assembly Bill 516 makes three separate changes applicable to the distribution of fuel tax revenues. The first change is the establishment of a statutory definition of "total road and street mileage" to ensure that mileage is counted and reported uniformly from county to county. The second change corrects an oversight in previous legislation by allowing the one-cent gasoline tax to be distributed directly to each county and city to match how other local gasoline taxes are now distributed. The third change revises how revenues from the 3.6 percent portion of the local gasoline taxes are distributed to those counties eligible to receive revenues in excess of the base-year guarantee amounts established as a result of the 2001 amendments to the distribution formula. The legislation approved in 2001 inadvertently included a method for distributing surplus revenues that was not recommended by the 1999-2000 Interim Legislative Committee. The amendments in Assembly Bill 516 correct the formula to correspond to the earlier recommendation and ensure that no county loses revenue because of the formula changes by revising the year used to determine the guarantee amounts from FY 2000-01 to FY 2002-03.

Assembly Bill 16 of the 20th Special Session authorizes the imposition of a fee on rental cars to finance a performing arts center and a facility for providing vocational training in culinary skills in a county whose population is more than 400,000. The bill authorizes the Board of County Commissioners in such a county to impose by ordinance a fee of not more than 2 percent of the rental costs for all rental cars other than those rented as replacement vehicles. The bill requires the Clark County Board of County Commissioners to distribute the first $3 million collected from any fee imposed pursuant to the provisions of the bill in Clark County to the Culinary and Hospitality Academy of Las Vegas for the planning and design of a vocational training facility in southern Nevada.

Senate Bill 237 revises various provisions as necessary to carry out advisory questions in Clark and Washoe Counties relating to funding for regional transportation projects. Based on the approval of Question 10 in Clark County, the bill allocates to the Regional Transportation Commission the proceeds from the mandatory one-cent per gallon levy on fuel for jet or turbine-powered aircraft sold, distributed or used in Clark County and requires that the proceeds be used for transportation projects described in the regional plan for transportation. The bill also increases, over the next 15 years, the maximum tax rate that may be imposed by a county on the privilege of new residential, commercial, industrial and other development for the improvement of transportation and adds air quality projects to the list of activities for which optional motor vehicle fuel taxes imposed pursuant to NRS Chapter 377A can be used. The bill also provides for an increase of one-quarter of one percent in the sales and use tax in Clark County for the construction, maintenance or repair of roads or the maintenance of a public transit system.

Based on the approval of Question WC-2 in Washoe County, the bill authorizes the Washoe County Board of County Commissioners to adopt an ordinance to index the local fuel tax rates and the optional fuel tax levy for the Regional Transportation Commission each year to the average percentage increase in the Consumer Price Index or to increase the rate by 4.5 percent, whichever is less, and authorizes a local government that imposes an impact fee to pay the cost of constructing a street project to index the fee each year to the average percentage increase in the Consumer Price Index or to increase the rate by 4.5 percent, whichever is less. The bill also provides for an increase of one-eighth of one percent in the sales and use tax in Washoe County for the construction, maintenance or repair of roads or the maintenance of a public transit system.

Senate Bill 370 authorizes a Board of County Commissioners in a county whose population is less than 400,000 to impose an additional tax on the transfer of real property, not to exceed $0.05 for each $500 of value. The proceeds of the tax must be used by the Department of Agriculture for programs for the exclusion, detection and control of invasive species and certain endemic pests and weeds and for grants to local governments and nonprofit organizations for the control or management of invasive species and certain endemic pests and weeds.

Senate Bill 465 deletes provisions providing that any property tax rate authorized for school capital projects must be included as part of the property tax rate used to determine the school district’s portion of the basic governmental services tax revenues.

Senate Bill 467 authorizes a special district to pledge a percentage of revenue received from the supplemental city-county relief tax for the payment of general obligation or revenue bonds issued by the special district.

Senate Bill 470 authorizes the governing body of a city in a county with a population of less than 100,000 to impose a tax of not more than four cents per gallon on fuel for jet or turbine-powered aircraft and eight cents per gallon on aviation fuel sold, distributed or used at an airport that is owned or operated by the city. The bill also revises the manner in which the Department of Motor Vehicles allocates the revenues collected from taxes on fuel for jet or turbine-powered aircraft and aviation fuel to ensure that the revenues are provided to the governmental entity that owns or operates the airport or, if the airport is neither owned nor operated by a governmental entity, to the county in which the airport is located. Finally, the bill limits the authority to use the proceeds of these taxes for marketing purposes to owners and operators of airports in counties with a population of less than 400,000.

Senate Bill 471 makes various changes to provisions relating to the collection and administration of fees for petroleum products and fuels for motor vehicles and aircraft. The bill requires the licensure of exporters and transporters of motor vehicle fuel, aircraft fuel and special fuel and increases the time period within which the DMV can perform an audit of dealers, suppliers, exporters and transporters of such fuels. The bill authorizes the department to approve an extended reporting period for special fuel dealers under certain circumstances and provides for a standardized 12-month period during which motor vehicle fuel licensees, aircraft fuel licensees and special fuel licensees can apply for a refund of taxes paid. The bill also provides that a person who is responsible for collecting a tax on motor vehicle, aircraft or special fuel cannot retain the 2 percent collection allowance if the taxes are not paid when due. Finally, the bill eliminates the requirement for a licensee who is responsible for collecting motor vehicle, aircraft and special fuel taxes to hold the amounts collected in a separate account in trust for the state unless the licensee has failed to remit the taxes in a timely manner in the past.

Senate Bill 490 authorizes the Board of County Commissioners of Washoe County to expend the money in the county's infrastructure fund for the operation and maintenance of certain projects for the management of floodplains or the prevention of floods. The bill limits the use of the money in the infrastructure fund to those flood control projects that were included in the plan for expenditures from the fund adopted by the Washoe County Board of County Commissioners as that plan existed on January 1, 2003.

Senate Bill 495 authorizes the acquisition of art and tourism projects and entertainment projects pursuant to the provisions of the Consolidated Local Improvements Law. The bill allows a municipality in a county whose population is less than 400,000 to pledge for an improvement project that will increase retail expenditures by tourists not more than 75 percent of the proceeds from the mandatory sales and use taxes collected in the improvement district, after deducting a sum equal to 0.75 percent of the amount of those proceeds.

Senate Bill 497 authorizes the imposition of a fee on rental cars to finance a minor league baseball stadium in a county whose population is 100,000 or more, but less than 400,000. The Board of County Commissioners in such a county is authorized to impose by ordinance a fee of not more than 2 percent of the rental costs for all rental cars other than those rented as replacement vehicles. The bill also increases the recovery surcharge that a lessee may charge a rental car lessor from 3.5 percent to 4 percent of the total amount for which the car was leased. The recovery surcharge is to reimburse the lessor for the costs of vehicle licensing fees and taxes paid by the lessor.