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Taxation

Taxation; 1981 Tax Reform Plan

N.R.S. §§354.— - 354.—, 361.— - 361.—, 377.— - 377.—, 463.— (new); 354.5981, 354.5983, 354.5985, 361.267, 361.285, 361.290, 361.735, 361.750, 361.760, 370.330, 387.199, 387.328 (repealed); 118.165, 279.636, 279.638, 279.676, 354.430, 354.470, 354.598, 354.599, 354.615, 354.618, 354.624, 360.215, 361.010, 361.025, 361.055, 361.225, 361.227, 361.249, 361.260, 361.300, 361.320, 361.325, 361.333, 361.340, 361.345, 361.355, 361.360, 361.365, 361.380, 361.390, 361.395, 361.405, 361.420, 361.450, 361.465, 361.483, 361.505, 361.535, 361.562, 361.695, 361.795, 361A.020, 361A.130, 361A.155, 361A.160, 361A.220, 361A.240, 361A.280, 362.130, 367.025, 367.030, 367.050, 369.173, 370.260, 372.355, 372.360, 372.370, 372.380, 372.405, 372.430, 372.445, 372.510, 372.635, 372.660, 372.775, 374.110, 374.190, 374.310, 374.315, 374.360, 374.365, 374.375, 374.385, 374.410, 374.435, 374.450, 374.515, 374.640, 374.665, 374.780, 374.785, 377.020, 377.030, 377.040, 377.050, 387.1233, 387.1245, 387.195, 463.370, 463.373, 463.375, 482.180 (amended).

SB 411 (Committee on Taxation); STATS 1981, Ch 150
(§§1-17 *effective July 1, 1981*; §§18-20 *effective May 20, 1981*)

AB 369 (Committee on Taxation); STATS 1981, Ch 149
(§§25 & 28 *effective July 1, 1981*; §§1-26 *effective May 1, 1981*; §§10.5, 11.5 & 22.5 *effective July 1, 1983*; §§27-31 *effective July 1, 1981*; §§32-40 *effective April 30, 1981*)

SB 69 (Committee on Taxation); STATS 1981, Ch 427
(§§1-30.6 *effective July 30, 1981*; §§19.3, 22, 25 *effective July 1, 1982*; §§31-39 *effective June 1, 1981*)

SB 678 (Committee on Taxation); STATS 1981, Ch 578
(§§1-7 *effective June 3, 1981*; §§1.5, 3 *effective July 1, 1981*)

AB 116 (Committee on Taxation); STATS 1981, Ch 443

AB 134 (Committee on Taxation); STATS 1981, Ch 310
(§1 *effective May 23, 1981*; §§3, 5, 7 *effective July 1, 1983*)

AB 430 (Committee on Taxation); STATS 1981, Ch 93
(*Effective April 13, 1981*)

Chapters 150, 149, 427, 443, 310, 93, and 578, hereinafter referred to as "the Tax Plan," repeal limitations on expenditures; place new limitations on property tax revenue, license and permit fees, and uses of excess ending balances; provide exceptions to the limitations; reform assessment and appraisal practices; change the date when tax liens attach; temporarily increase revenues from local school support tax, city-county relief tax, and gaming tax; set guidelines for distribution of new revenue; require landlords and lenders to pass along property tax savings; significantly revise filing and other deadlines; reschedule budgeting and tax collection process for 1981; set up an integrated system of audits and enforcement for the tax program.

Limitations on Local Government Revenue

Prior to the enactment of Chapter 150,¹ there were substantial limitations on expenditures by local governments.² Chapter 150 has changed the focus of local government finance from the control of expenditures to the control of revenue through a set of limitations placed on property tax revenue, revenues from license and permit fees, and use of excess ending balances.³

Using a two-tiered 'phase in' of limitations on revenue, Chapter 150 employs special procedures for fiscal year 1981-1982⁴ and replaces those procedures with a standardized approach for subsequent fiscal years.⁵ Specifically, Chapter 150 limits the combined amount of taxes ad valorem⁶ and supplemental city-county relief taxes⁷ for fiscal year 1981-1982 to the lesser of the tax rate as certified for fiscal year ending June 30, 1981 applied to the assessed valuation, as equalized for tax for fiscal year beginning July 1, 1981,⁸ or 112% for taxes ad valorem calculated to be collectible during fiscal year ending June 30, 1981.⁹ While these limits place a ceiling on the revenue, the actual amount to be

1. See STATUTES OF NEVADA 1981, c. 150, §§1-21, at —.

2. See *id.* 1979, c. 593, §14, at 1238 (enacting N.R.S. §354.5981), c. 593, §15, at 1239 (enacting N.R.S. §354.5983), c. 593, §16, at 1240 (enacting N.R.S. §354.5985).

3. See *id.* 1981, c. 150, §§1-21, at —. But see N.R.S. §§354.— (limitations on use of road funds) and 354.— (limitations on use of local government self-insurance funds). See generally N.R.S. §354.— (audit controls), N.R.S. §354.— (definition of new government and procedures for establishment of basic revenue structure).

4. See N.R.S. §354.—.

5. See *id.* §354.— 2, 3.

6. See *Powell v. Gleason*, 50 Ariz. 542, 74 P.2d 47, 114 A.L.R. 838 (1937) (defines taxes ad valorem as: "according to value" and is used in taxation to designate an assessment of taxes against property at a certain rate upon its value).

7. See *id.* §354.— (defines Supplemental City-County Relief Tax (hereinafter referred to as SCCRT): those fees, taxes, interest and penalties which derive from that portion of the City-County Relief Tax that exceeds the original tax levied at the rate of one percent).

8. See STATUTES OF NEVADA 1981, c. 150, §18 2(a), at —.

9. See *id.* §18 2(b), at —.

received will be based on the simple formula¹⁰ of the tax rate certified for fiscal year ending June 30, 1981¹¹ multiplied by the assessed valuation¹² less the amount to be received from the supplemental city-county relief tax¹³ reduced by any amount necessary to bring it within any applicable limits provided by Chapter 150.¹⁴

For all fiscal years subsequent to 1981-1982, the property tax rate may not exceed a level that will produce a 4.5% year-to-year increase in collections on existing property.¹⁵ In addition, revenues from the combined ad valorem¹⁶ and supplemental city-county relief tax may¹⁷ increase no more than the percentage that results from comparing an entity's previous year's assessed valuation with the same valuation adjusted by changes in the Consumer Price Index plus new property added to the roll.¹⁸

The Legislature has also incorporated into the Tax Plan three methods of exceeding these limits should the local governments wish to do so. Local governments facing problems that substantially impair their ability to provide services for which they were created may apply to the Interim Committee on Local Governmental Finance requesting a temporary exemption not surpassing two years in duration nor exceeding \$.50 per \$100 of assessed valuation above the limits established by Chapter 150.¹⁹ The Interim Committee on Local Governmental Finance will then analyze the recommendations of the Director of the Department of Taxation, population changes, major public works, significant decreases in revenue, cost increases, uncommon events, general economic conditions of the community, and the effects on the taxpayer in making the decision concerning the exemption.²⁰ Secondly, local

10. See N.R.S. §354.—.

11. See *id.* §354.—1(a) (tax rate as certified for that local government for fiscal year ending June 30, 1981).

12. See *id.* §354.—1(a) (assessed valuation as equalized for the collection of taxes during the fiscal year beginning on July 1, 1981).

13. See *id.* §354.—1(b) (SCCRT shall be estimated annually by the Executive Director of the Department of Taxation on or before December 1 preceeding the fiscal year to which it applies. A local government may appeal the estimate by the Executive Director on or before March 1). See note 7 *supra* for definition of SCCRT.

14. See *id.* §354.—1(a)(1), (c) (any county with a tax rate, for other than repayment of debt, of less than \$.50 per \$100 of assessed valuation may not exceed a rate of \$.80 per \$100 of assessed valuation), 1(a)(2) (any fire district in a county with a tax rate exceeding \$.50 per \$100 of assessed valuation may not exceed \$1.10 per \$100 of assessed valuation).

15. See *id.* §354.—3(a). See generally *id.* §354.—3(b) (rate must be applied to the total assessed valuation, including new real property, possessory interests and mobile homes, for the current fiscal year).

16. See note 6 *supra* (definition of tax ad valorem).

17. See note 7 *supra* (definition of SCCRT).

18. See N.R.S. §354.—2. But see *id.* §354.—2(b) (additional methods by which limits can be increased).

19. See *id.* §354.—1.

20. See *id.* §354.—2.

governments may submit a proposal of an additional levy ad valorem to the registered voters, but the proposals must have the support of a majority of the voters voting in order to implement this increase.²¹ Finally, the Interim Legislative Committee on Governmental Finance may authorize an increase in revenues equivalent to the cost incurred by a local government for any substantial program or expense mandated by the Legislature that was not in effect during the preceding fiscal year.²²

Chapter 150 also controls local government revenues by limiting revenue from the adoption of or increases in fees for permits or licenses.²³ Specifically, Chapter 150 limits increases in existing fees to a maximum of 80% of the Consumer Price Index increase for the preceding year multiplied by a base rate which is the prior year's fee structure.²⁴ In addition, there is to be no more than one increase per year.²⁵ A local government may propose new fees, however, the proposed fees must be submitted to the Executive Director of the Department of Taxation for approval if (1) the method of computing a fee for a license or permit is changed,²⁶ (2) the method of computation existing on July 1, 1981 is based on a fraction or percentage of the gross revenue of the business,²⁷ (3) the classification of a type of business is changed or new categories of business are added,²⁸ or (4) the license fee for which increases are proposed has been increased between July 1, 1979 and July 1, 1981.²⁹

Furthermore, a local government may *not* increase any fee for a license or permit that is based on a fraction or percentage of the gross revenue of a business if the revenue from the fee has increased during the preceding year by 80% or more of the Consumer Price Index increase for that same year.³⁰

The Legislature has also provided methods of appealing the limit on license and permit fee revenue.³¹ The first allows any government or individual who is required to pay the fee to appeal the decision of the Executive Director of the Department of Taxation to the Interim Legis-

21. *See id.* §354.— 4.

22. *See id.* §354.— 5.

23. *See id.* §354.— (the provisions of this section apply to any license or permit for any purpose regardless of the fund to which the revenue from it is assigned).

24. *See id.* §354.— 2. *See generally id.* §354.— 1 (for exceptions to the application of this rate structure).

25. *See id.* §354.— 2. *See generally id.* §354.— 1 (for exceptions to the application of this rate structure).

26. *See id.* §354.—3(a).

27. *See id.* §354.—3(b).

28. *See id.* §354.—3(c).

29. *See id.* §354.—3(d).

30. *See id.* §354.—4.

31. *See id.* §354.—3(d), 5.

lative Committee on Local Governmental Finance.³² The second allows any local government to submit an application to the Interim Legislative Committee on Local Governmental Finance requesting an exemption from the limits.³³ The Committee will then approve the exemption if it meets at least one of the following criteria: (1) the local government is experiencing problems which substantially impair its ability to provide services for which it was created,³⁴ (2) the local government has not previously charged a fee for a license or permit or imposed a service charge,³⁵ or (3) the last increase was not recent and the rates charged by the local government are at a significantly lower level than those of similar local governments in the state.³⁶

Chapter 150 also places restraints upon the use of ending balances in the general or special revenue funds.³⁷ Chapter 150 specifies that in order to utilize these funds there must be a majority vote in favor of doing so by the local government's governing body as well as approval from the Executive Director of the Department of Taxation.³⁸ Moreover, the Executive Director may only give approval if the use of the ending balance is for the sole purpose of replacing an identifiable, specific appropriation that lapsed at the end of the preceding fiscal year and which has not been reappropriated in the year in which the use is to become effective.³⁹ As an alternative, if the local government has problems which substantially impair its ability to provide services for which it was created, a temporary exemption from the use of an ending balance may be granted.⁴⁰ Finally, should a local government wish to appeal the decision of the Executive Director of the Department of Taxation concerning the use of an ending balance, it may do so by appealing to the Interim Committee on Local Governmental Finance.⁴¹ The decision by the Committee, however, is final.⁴²

32. *See id.* §354.—3(d).

33. *See id.* §354.—5.

34. *See id.* §§354.—, 354.—5(a).

35. *See id.* §354.—5(b).

36. *See id.* §354.—5(c).

37. *See id.* §354.— (ending balance is defined as the amount in the general or special fund, less amounts established for federal, state or private grants in aid, less amount appropriated for opening balance of succeeding year, less 1/12 of expenditures from that fund for fiscal year just ended).

38. *See id.*

39. *See id.*

40. *See id.* §354.—.

41. *See id.* §354.—.

42. *See id.*

Assessment and Appraisal Practice Reform

Prior to the enactment of Chapter 427, the procedure for assessing homes did not allow for depreciation to the extent allowed for commercial and industrial properties.⁴³ In addition, reassessment was to occur every five years.⁴⁴ With the enactment of Chapter 427 and its three year 'phase in' plan,⁴⁵ homes are to be assessed and taxed in the same fashion as commercial and industrial properties, and the land upon which the home is situated will be valued based upon its use.⁴⁶ In addition, Chapter 427 modifies the five year cyclical method of assessment.⁴⁷

Specifically, with the ultimate goal of bringing property appraised *before* 1980-1981 in parity with property appraised *during* 1980-1981,⁴⁸ Chapter 427 has prepared numerical multipliers⁴⁹ for fiscal year 1981-1982 that are to be applied to the existing appraised value of real property that will yield an adjusted cash value.⁵⁰ A 35% assessment ratio⁵¹ is then applied to this adjusted cash value to determine assessed valuation.⁵² In order to minimize the effect of the rapid rate of appreciation of residential property seen in recent years, Chapter 427 has developed a separate set of multipliers to be applied to residential real property for fiscal year 1981-1982.⁵³

For fiscal year 1982-1983, the Department of Taxation is to prepare a new list of multipliers that are to be approved by the Interim Committee on Local Governmental Finance and then applied to the adjusted

43. See generally MEMORANDUM from Assemblyman Paul May and Senator Keith Ashworth to members of the Sixty-first Nevada Legislature regarding the 1981 Tax Reform Plan, June 1, 1981, page 3 (copy on file at *Pacific Law Journal*) [hereinafter cited as MEMORANDUM].

44. See STATUTES OF NEVADA 1979, c. 62, §8, at 80-81 (amending N.R.S. §361.260).

45. See generally MEMORANDUM, *supra* note 43, at 3 (full cash value is changed to taxable value throughout this chapter. For definition of taxable value, see N.R.S. §360.215).

46. See N.R.S. §361.227 1-7.

47. See *id.* §361.260 3.

48. See STATUTES OF NEVADA 1981, c. 427, §33 1, at —.

49. See *id.*, c. 427, §31 1, at —.

Year of appraisal	Factor for residential improvements	Factor for other property
1976-1977 earlier	1.416	1.438
1977-1978	1.190	1.313
1978-1979	1.000	1.199
1979-1980	0.840	1.095
1980-1981	0.706	1.000

50. See *id.*

51. See *id.* c. 427, §31.3, at —. See generally MEMORANDUM, *supra* note 43, at 3 (35% assessment ratio).

52. See STATUTES OF NEVADA 1981, c. 427, §31 1, at —.

53. See *id.* See generally MEMORANDUM, *supra* note 43, at 3 (rapid rate of appreciation of residential property).

cash values of fiscal year 1981-1982.⁵⁴ Furthermore, assessors will not be required to make physical reappraisals during this period.⁵⁵ For all years subsequent to 1981-1983, taxable value for vacant land, improved land, improvements on land, possessory interests in property, and personal property will be determined by these new methods.⁵⁶ Mobile homes sold on or after July 1, 1982 will be assessed by factors that most closely determine their useful lives.⁵⁷ In establishing the value of other mobile homes, the Commission shall begin with retail selling price and depreciate it by five percent per year, but not below twenty percent of its original amount.⁵⁸

In addition to these methods of appraisal, Chapter 427 institutes a modified method of cyclical reappraisal.⁵⁹ This program requires physical reappraisal of property at least every five years.⁶⁰ In addition, the Nevada Tax Commission must prepare a factor which represents a reasonable year-to-year change in value, and apply that factor to the assessed value of the year immediately preceding that year where no physical reappraisal has occurred.⁶¹ Furthermore, an owner of property may appeal a decision regarding the value of any taxed property to the Board of Equalization.⁶²

Finally, prior law stated that tax liens attached on the first Monday in September prior to the date on which the taxes are levied.⁶³ Chapter 427 provides that tax liens attach in July of the year when taxes are due,⁶⁴ resulting in taxes being paid for the current year rather than the previous year.⁶⁵

Temporary Revenue Increases

In order to achieve the revision of assessment practices as well as to reduce school and local government dependency on the property tax during the two-year period ending July 1, 1983,⁶⁶ the legislature has permitted a limited increase in revenues derived from the local school

54. See STATUTES OF NEVADA 1981, c. 427, §31.3 2, at —.

55. See *id.* c. 427, §31.3 3, at —.

56. See N.R.S. §361.227. See generally [1972] OP. ATT'Y GEN. NO. 79 (May 1, 1972); MEMORANDUM, *supra* note 43, at 3.

57. See STATUTES OF NEVADA 1981, c. 443, §1 3, at —.

58. See *id.*

59. See N.R.S. §361.260 3.

60. See *id.*

61. See *id.*

62. See *id.* §§361—1, 2, 361.360, 361.355, STATUTES OF NEVADA 1981, c. 427, §34(5), at —. See generally N.R.S. §361.340 (Board of Equalization makeup and appeal meeting dates).

63. See STATUTES OF NEVADA 1977, c. 483, §4, at 1000 (amending N.R.S. §361.450).

64. See N.R.S. §361.450.

65. See generally MEMORANDUM, *supra* note 43, at 4.

66. See generally MEMORANDUM, *supra* note 43, at 1.

support tax⁶⁷ and the city-county relief tax.⁶⁸ Prior law placed a tax on retail sales at 3.5%, consisting of 2% sales tax, 1% local school support tax, and .5% city-county relief tax.⁶⁹ Chapter 149 temporarily increases the local school support tax to 1.5%⁷⁰ and the city-county relief tax to 2.25%,⁷¹ bringing the total retail sales tax to 5.75%.⁷² These increases terminate July 1, 1983, at which time the old rates are reinstated.⁷³ Moreover, Chapter 149 now requires that payments of the taxes imposed in this Chapter (sales tax, local school support tax, city-county relief tax) be made monthly rather than quarterly.⁷⁴ Finally, Chapter 149 establishes a complex set of regulations that govern the actual distribution of the revenue to each county and ultimately the communities.⁷⁵

In addition to the temporary adjustments to the retail sales tax, Chapter 310 temporarily increases state taxes on gaming that will also expire July 1, 1983.⁷⁶ Chapter 310 increases the quarterly fee on gross gaming revenue in excess of \$400,000 from 5.5% to 5.75%.⁷⁷ In addition, Chapter 310 increases the restricted and non-restricted slot machine fees by \$10.00 per machine.⁷⁸ Finally, the Legislature has also revised the percentage deduction the taxpayer may withhold to cover the cost of the collection of taxes to 1.5%.⁷⁹

Additional Significant Changes and Additions

Existing law requires specific property tax savings to be passed on

67. See N.R.S. §374.010 (N.R.S. §§374.010-374.795 known as the Local School Support Tax Law).

68. See N.R.S. §377.010 (N.R.S. §§377.010-377.070 known as the City-County Relief Tax Law).

69. See generally MEMORANDUM, *supra* note 43, at 1.

70. See N.R.S. §§374.110, 374.190. *But see* N.R.S. §374.310 (exempted from the additional taxes imposed are the gross receipts from the sale and storage and consumption of tangible personal property used for the performance of a contract on public works executed prior to May 1, 1981).

71. See *id.* §374.040 1.

72. Sales Tax 2.00%
Local School Support Tax 1.50%
City-County Relief Tax 2.25%
5.75%

73. See STATUTES OF NEVADA 1981, c. 149, §41, at —. See generally STATUTES OF NEVADA 1981, c. 149, §§10.5, 11.5, at —, 22.5, at —.

74. See N.R.S. §§372.355, 372.385, 372.360.

75. See *id.* §§377.—, 377.— (distribution involves the disbursement of \$71,110 annually, diminished 10% annually, by specific percentages to a variety of governments).

76. See STATUTES OF NEVADA 1981, c. 310, §§1-8, at —.

77. See N.R.S. §463.370 1.

78. See *id.* §463.373 1.

79. See *id.* §§372.370, 374.375. See generally [1973] OP. ATT'Y. GEN. NO. 132 (June 3, 1973). See also N.R.S. §§374.785, 377.050.

from the landlord to the tenants in the form of rent reductions.⁸⁰ Chapter 149 now specifies that 90% of the savings in property taxes for 1980-1981 must be passed on to the tenant in the form of rent reductions, and that if the tenant makes a written demand for the reduction twenty days prior to filing suit, the tenant is entitled to costs and attorney's fees.⁸¹ In addition, lenders with loans secured by an encumbrance of real property and who require periodic payment by the borrower into a special account for the payment of taxes must also make adjustments in payments to that account in accordance with the tax savings resulting from the Tax Plan.⁸²

Chapter 149 also revises the computations for determining the basic support of each school district by deleting the revenue received from the property tax.⁸³ Furthermore, Chapter 149 changes the requirement of an optional tax levy to a mandatory levy of 50¢ per \$100 of assessed valuation.⁸⁴ Finally, recognizing the complexity of the budgeting requirements resulting from the enactment of the 1981 Tax Plan, the Legislature has revised the budgeting and tax collection schedule for 1981.⁸⁵

Conclusion

The Nevada Legislature, through the enactment of the 1981 Tax Plan, has embarked on a new era of local government finance.⁸⁶ Characteristic of this new era will be specific limitations on revenues, including those derived from the property tax,⁸⁷ as well as the license and permit fees.⁸⁸ More importantly, assessment practices have been revised to bring equality to the assessment process.⁸⁹ The temporary revenue increase resulting from the increase in retail sales tax eases the burden of lost property tax revenue.⁹⁰ Finally, the new integrated tax plan⁹¹ will receive aid in its implementation by the complex system of audits⁹² and enforcement⁹³ the Legislature has devised.

80. See STATUTES OF NEVADA 1979, c. 593, §6, at 1235 (enacting N.R.S. §118.165).

81. See N.R.S. §118.165 4.

82. See STATUTES OF NEVADA 1981, c. 427, §35.5, at —.

83. See N.R.S. §387.1233 1, 2.

84. See *id.* §387.195 1.

85. See STATUTES OF NEVADA 1981, c. 93, §§1-6, at —.

86. See generally *id.* 1981, c. 150, §§1-21, at —.

87. See N.R.S. §354.—.

88. See *id.* §354.—.

89. See generally STATUTES OF NEVADA 1981, c. 427, §§1-40, at —.

90. See generally MEMORANDUM, *supra* note 43, at 1.

91. See STATUTES OF NEVADA 1981, c. 150, §20, at —, *id.*, c. 149, §40, at —, *id.* c. 427, §20, at —.

92. See N.R.S. §§354.—, 354.624.

93. See *id.* §§354.—, 361.535, 372.510, 374.515.

