

LEGISLATIVE REPORT

An electronic publication of the Nevada Taxpayers Association ♦ Serving the citizens of Nevada since 1922

ISSUE 19-18

Through May 24, 2019

May 26, 2019

This issue of Legislative Report contains a summary of bills and amendments, which directly or indirectly will have an impact on our members or be of interest to our members. It does not include industry specific bills.

Issue 18 marks the final issue of 2019 Legislative Report. Significant legislative measures of interest to our members will be reported in a Legislative Brief as appropriate. A final wrap-up will appear in Tax Topics no later than July 2019.

Notes:

- ♦ Page numbers continue in sequence from the last issue.
- ♦ To access the full text of the bills reported in this issue, use the link which appears at the end of the bill summary.
- ♦ Unless otherwise shown, the effective date of bills reported is July 1, 2019. (The Legislative default date is October 1).
- ♦ Some bills have a fiscal note, which is not indicated in the summary, as specific fiscal information is not currently provided.
- ♦ To review all bills introduced to date or the BDR list, click [here](#) or go to www.leg.state.nv.us and click on "Session Information – 80th (2019) Session.

TAXES

Constitutional Amendment for 2/3s Vote Majority

Section 18, subsections 2 and 3 of Article 4 of the Nevada Constitution require a 2/3s vote of each House of the Legislature to approve a public revenue measure, or a simple majority if the measure is put to the voters for approval. The following is the language as it appears in the Constitution.

2. Except as otherwise provided in subsection 3, an affirmative vote of not fewer than two-thirds of the members elected to each House is necessary to pass a bill or joint resolution which creates, generates, or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates.

3. A majority of all of the members elected to each House may refer any measure which creates, generates, or increases any revenue in any form to the people of the State at the next general election, and shall become effective and enforced only if it has been approved by a majority of the votes cast on the measure at such election.

TAXES: Business

AB 538 –Modified Business Tax (MBT) Rate Adjustment

Notice of Exemption. Introduced by Committee on Ways and Means on behalf of the Governor's Finance Office. Referred to Committee on Taxation. (BDR 32-1199)

Eliminates the scheduled MBT (payroll) tax rate reduction and the corresponding MBT credit in an amount equal to 50 percent of the amount of the commerce tax paid.

Effective: Upon passage and approval.

NTA Comment: The imposition of the commerce tax and the offsetting credit was approved during the 2015 legislative session.

NTA POSITION: OPPOSE any erosion of 2/3s. See full Constitutional language regarding the 2/3s majority vote above. This decision will resonate through the remainder of this session and into future sessions. Bills that would have been marked with a 2/3s majority requirement which would result in an increase in revenue, or the expiration of a tax to be extended, will now be decided by simple majority.

<https://www.leg.state.nv.us/Session/80th2019/Bills/AB/AB538.pdf>

TAXES: Sales

AB 309 – Distributive School Account Formula (Issue 19-10:75, K-12) as proposed to be amended

Mock-up amendment. An amendment was approved by Committee on Ways and Means on May 24, but not yet available at time of publication.

The mock-up amendment includes, but is not limited to adding language for: a Grant Fund for Licensed Educational Personnel (NRS 391; to adding a new Chapter in Title 32 (Taxes) to restrictions on funds spent to; to an appropriation for FY 2019-2020 and FY 2020-2021; to various restrictions on funds spent; and provides for funds for a special or investigative audit by the Legislative Auditor. The new tax chapter allows each county commission if they choose, to place a ballot measure before voters or 2/3s of commission members to approve a sales tax increase of ¼ of one percent for various programs.

(continued page 148)

AB 309 (continued)

Those programs include provisions for each school district to establish performance pay and enhanced compensation for recruitment and retention of licensed teachers and administrators and to reduce truancy. It expands the intent of the original bill to allow local governments to also use the sales tax increase for homelessness and to address affordable housing.

Editor's Notes: Originally reported under the heading of K-12 Education.

The language and its placement may differ between proposed amendment mock-up and official amendment.

See Appropriations – Not in Executive Budget, this issue page 149 for additional information on AB 309.

NTA Comment: It would appear this bill has been expanded to allow local governments to utilize the increase in revenue for homelessness and affordable housing to incentivize local elected officials to either approve or put before their voters the ¼ percent increase in the sales and use tax. Since the original intent of this bill was the support of education, would it not make more sense to keep with the original intent of funds for education by putting a statewide question on the ballot? Additionally, if the question is to be approved on a county-by-county basis, isn't the reality that this proposed amendment, if the increase in approved in some counties and not others, will increase county cross-border evasion? Is sales tax the way to go? According to Tax Foundation reports issued in January 2019 and May 2019 Nevada ranks 13th highest in rate and 5th highest in reliance of revenue respectively. It should be noted that as a consumption tax, sales tax is more volatile in an economic downturn.

https://www.leg.state.nv.us/App/NELIS/REL/80th2019/ExhibitDocument/OpenExhibitDocument?exhibitId=43107&fileDownloadName=0514_AB309.pdf

MISCELLANEOUS TAXES AND TAX ISSUES

AB 535 – Cigarette Licensing – Requires 2/3 Majority

Notice of Exemption. Introduced by Committee on Ways and Means on behalf of Governor's Office of Finance. Referred to Committee on Taxation. (BDR 32-1242)

Increases annual licensing fees of wholesale cigarette dealers from \$150 to \$650. Establishes annual licensing fees for cigarette manufacturers at \$1,000; cigarette retailers at \$50; other tobacco wholesale dealers at \$650; and other tobacco retail dealers at \$50. Fees distributed to the State General Fund.

Effective: Vary from October 1, 2019 to January 1, 2020.

NTA POSITION: OPPOSE. Consistent with a policy issue adopted by the NTA Board of Directors, fees should not be used to fund general fund services (see full statement below under "Fees, Fines & Penalties" heading).

<https://www.leg.state.nv.us/Session/80th2019/Bills/AB/AB535.pdf>

AB 535 – Proposed Amendment -Cigarette Licensing – Maintains 2/3 Majority

Mock-up amendment. An amendment was approved by Committee on Taxation on May 24, but not yet available at time of publication.

The mock-up amendment includes "license fee proceeds be retained by the Department of Taxation, rather than being deposited in the State General Fund".

Editor's Notes: Language and its placement may differ between proposed amendment mock-up and official amendment.

NTA POSITION: OPPOSITION REMOVED if the amendment is approved as proposed and fees are treated as fees rather than a tax which is deposited to the general fund as a revenue source.

https://www.leg.state.nv.us/App/NELIS/REL/80th2019/ExhibitDocument/OpenExhibitDocument?exhibitId=43913&fileDownloadName=0523ab535_taxa_AB%20535%20Proposed%20Amendment%20-%20Department%20of%20Tax.pdf

FEES, FINES & PENALTIES

NTA Policy Statement on Fee Financing of Public Services

- *Fee revenue should be used to finance specific services, licensing, or products provided to the fee payer by the governmental agency. Fees should not finance general governmental services that have a broad benefit to the general community, such as law enforcement, fire services, libraries and education. These are governmental services that are traditionally and appropriately financed by tax revenue.*
- *Fees should cover the cost of the service, license, or product and not exceed the costs reasonably borne by the government entity in providing the service or product, including overhead costs.*
- *Fee revenue should not be used to finance services other than those for which the fees are charged. If fees produce revenue greater than the amounts necessary to finance the indicated services, the fees should be reduced rather than transferred to other accounts for other uses.*

BUSINESS ISSUES**AJR 10 – Minimum Wage**

Introduced by Committee on Commerce and Labor and referred to same. (BDR C-1273)

Proposes to amend the Nevada Constitution to set the minimum wage paid by private employers at \$12 per hour beginning July 1, 2024, regardless of whether-or-not the employer provides health benefits to employees. Removes the annual adjustment to the minimum wage, provides the minimum wage is increased to the amount established for the federal minimum wage anytime that amount is greater than \$12 per hour. Allows the Legislature to establish a minimum wage greater than the hourly rate set forth in the Constitution.

<https://www.leg.state.nv.us/Session/80th2019/Bills/AJR/AJR10.pdf>

EDUCATION: K-12**SB 549 – New Nevada Education Funding Plan**

Notice of Exemption. Introduced by Committee on Finance and referred to same. (BDR 34-1276)

Removes the specific assessments used by the Department of Education to determine the number of pupils for which an allocation of money may be awarded and instead requires the use of an assessment implemented by the Department. Revises the frequency of the annual evaluation of a public school that receives dollars by an independent evaluator on the effectiveness of the services provided to an evaluation during even numbered years.

<https://www.leg.state.nv.us/Session/80th2019/Bills/SB/SB549.pdf>

GOVERNMENT: Local**AB 539 – County Counsel**

Introduced by Committee on Government Affairs and referred to same. (BDR 20-1264)

Authorizes a board of county commissioners by ordinance to create an office of county counsel to perform noncriminal duties otherwise assigned to the district attorney. In counties with a county manager, the county manager appoints the county counsel. In counties without a county manager, the county commissioners appoint the county counsel. Provides for qualifications and responsibilities of county counsel.. County counsel may appoint deputies, investigation, and operational staff.

Effective: Upon passage and approval for adopting ordinance and administrative tasks. July 1, 2019 for all other purposes.

<https://www.leg.state.nv.us/Session/80th2019/Bills/AB/AB539.pdf>

STATE BUDGET: Appropriations NOT in Executive Budget**AB 309 – Distributive School Account Formula (Issue 19-10:75, K-12) as proposed to be amended.**

Mock-up amendment. An amendment was approved by Committee on Ways and Means on May 24, but not yet available at time of publication.

Makes an appropriation for a block grant to school districts and charter schools for non-tax provisions of bill. The appropriation, \$1,471,904 each fiscal year 2019-2020 and 2020-2021 is not tied to the sales tax increase, but rather a fund that already exists, for purposes including but not limited to teacher incentives and purchasing library books. Money may not be used to settle or arbitrate disputes. Any remaining balance of the transfer for FY 2019-20 must be added to the money transferred for FY 2020-21. Any remaining balance of the transfer for FY 2020-21, including money added from fiscal year, must be used for the purposes identified in the bill and does not revert to the General Fund.

Editor's Notes:

Originally reported under the heading of K-12 Education

The language and its placement may differ between proposed amendment mock-up and official amendment.

See also AB309, this issue, page 147 for information on other provisions of the bill, including sales tax imposition.

https://www.leg.state.nv.us/App/NELIS/REL/80th2019/ExhibitDocument/OpenExhibitDocument?exhibitId=43107&fileDownloadName=0514_AB309.pdf

AB 536 – Commission on Judicial Discipline

Notice of Exemption. Introduced by Committee on Ways and Means and referred to same. (BDR S-1274)

Appropriates \$49,897 from the General Fund to the Commission on Judicial Discipline for unanticipated operating expenses.

Effective: Upon passage and approval.

<https://www.leg.state.nv.us/Session/80th2019/Bills/AB/AB536.pdf>

SB 548 – Millennium Scholarship Trust Fund

Notice of Exemption. Introduced by Committee on Finance and referred to same. (BDR S-1275)

Appropriates \$33,000,000 from the General Fund to the Millennium Scholarship Trust Fund.

Effective: Upon passage and approval.

NTA Comment: Money from the fund currently comes from the tobacco settlement fund and donations.

<https://www.leg.state.nv.us/Session/80th2019/Bills/SB/SB548.pdf>

STUDIES**SCR 9 – Reapportionment and Redistricting**

Introduced by Committee on Legislative Operations and Elections and referred to same. (BDR R-1271)

Directs the Legislative Commission to appoint a legislative committee to conduct an interim study of the requirements for reapportionment and redistricting.

Effective: Upon passage and approval

<https://www.leg.state.nv.us/Session/80th2019/Bills/SCR/SCR9.pdf>

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