BUSINESS LICENSE FEE (NRS 360.760 – 360.795) – TECHNICAL ISSUE

RECOMMENDATION NO. 1

Draft legislation amending the statutes for the annual business license fee (NRS Chapter 360), authorizing the Department of Taxation to:

a.) allow an individual with multiple businesses to establish a common anniversary date mutually agreed upon by the taxpayer and the Department of Taxation for the submission of the $100 annual renewal fee for each business on that anniversary date,

b.) allow for the proration of the $100 annual renewal fee for those businesses for which the $100 business license fee has been paid for a partial year based on the anniversary date established for all businesses,

c.) allow for the proration of the original $100 business license fee required for any additional new businesses licensed by an individual who has established a common anniversary date with the Department of Taxation with the proration based on the established anniversary date.

(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 1

Approval of Recommendation No. 1 will authorize the Department of Taxation to allow individuals with multiple businesses to establish a common anniversary date for the submission of the $100 annual business license fee for each business on the established anniversary date. The Department of Taxation could, through regulation, create a process for establishing an anniversary date mutually agreed upon by the taxpayer and the Department. Approval of Recommendation No. 1 will also allow the Department of Taxation to establish in regulation a process to allow for the proration of the $100 business license fee payable when the common anniversary date is initially established for those businesses which have already paid the $100 fee prior to the establishment of a common anniversary date. Approval of Recommendation No. 1 will also allow the Department of Taxation to establish through regulation a process to provide for the proration of the initial business license fee for any additional new businesses licensed by an individual who has established a common anniversary date with the Department for paying the annual business license for all businesses on the established anniversary date.

Under current statute (subsection 5 of NRS 360.780), the renewal or anniversary date for submitting the annual $100 business license fee is the last day of the month in which the initial $100 license fee was paid and the business license was issued. An individual having multiple businesses originally licensed on different dates would have multiple anniversary dates on which the $100 annual renewal fee would be due for each business.

Requester provided testimony to the Committee at prior meetings that allowing an individual to select a common anniversary date for renewing multiple businesses each year could create a more efficient reporting and collection system that would benefit not only owners of multiple businesses, but also third-party entities, such as accountants, attorneys, resident agents, handling the various taxes and fees required by Nevada's statutes. The proposed change may minimize the potential of a business missing a renewal date and becoming delinquent and incurring the $100 penalty.

For reference, the statutes for the business license fee (NRS 360.760 – 360.795) are included under Tab VI-A.

FISCAL IMPACT FOR RECOMMENDATION NO. 1

The principal fiscal impact is a change in the timing of the collections during the initial fiscal year period a common anniversary date is established due to the proration of the $100 fee for those businesses that have already paid the license fee prior to the establishment of a single common anniversary date. There will be a one-time decrease in the amount collected in the initial fiscal year that the common anniversary date is established. Secondly, the proration of the $100 annual fee for new businesses brought under the common anniversary date means a full $100 will not be collected in that fiscal year period. For any 12-month period, the amount paid for each business will be the $100, but the amount collected in the initial fiscal year the anniversary date is established will be decreased, compared to the current situation without a common anniversary date for all businesses.

Given the lack of information available on the number of individuals and the number of businesses that would use this option if approved, it is difficult for staff to estimate the impact. However, staff feels the potential impact in any particular fiscal year will be minimal.

BUSINESS LICENSE FEE (NRS 360.760 – 360.795) – TECHNICAL ISSUE

RECOMMENDATION NO. 2
Draft legislation amending the statutes for the business license fee (NRS Chapter 360), specifying that a natural person is required to obtain only one business license for multiple business activities reported to the Internal Revenue Service on the schedules cited in NRS 360.785.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 2
Approval of Recommendation No. 2 will provide in statute that a natural person conducting multiple activities that are required to be reported to the IRS on more than one schedule specified in NRS 360.785 is required to obtain only one business license for these multiple activities. Approval of Recommendation No. 2 will place in statute the regulation in NAC 360.764 developed by the Nevada Tax Commission and ratified by the Legislative Commission.

NRS 360.785 deems the activity or activities conducted by a natural person to be a business subject to the business license fee if the person is required to file a Schedule C, E, or F with the Internal Revenue Service. (***NRS 360.785 is provided under Tab VI-A)***

NAC 360.764 (provided below) is the regulation adopted by the Nevada Tax Commission providing that a natural person is <u>not required</u> to obtain more than one business license if the person conducts a combination of activities which are reported on multiple schedules to the IRS for any one tax year.

NAC 360.764 Natural persons: Limitation on number of business licenses required. (NRS 360.090**,** 360.780**,** 360.785**)** A natural person is not required to obtain more than one state business license for any combination of activities conducted by that person which are reported to the Internal Revenue Service for any federal tax year on two or more of the forms described in NRS 360.785. (Added to NAC by Tax Comm'n by R174-03, eff. 2-18-2004)

The requester provided testimony at the May 26 meeting of the Committee indicating the regulatory language adopted by the Nevada Tax Commission should be placed in statute to provide a clear understanding of when the business license fee is required to be paid. The requester stated this was important, as an individual may review the statutes to determine tax liabilities but may not be aware of the Department's regulations placed in Nevada Administrative Code.

FISCAL IMPACT FOR RECOMMENDATION NO. 2
There is no fiscal impact, as this recommendation is placing in statute the regulation used by the

Department of Taxation to determine the liability for the business license fee of a natural person conducting activities requiring the filing of multiple schedules with the IRS.

BUSINESS LICENSE FEE (NRS 360.760 – 360.795) – TECHNICAL ISSUE

RECOMMENDATION NO. 3
Draft legislation amending the statutes for the business license fee (NRS Chapter 360), that:
a.) eliminates NRS 360.770, which defines an employee;
b.) eliminates the provision in paragraph (c) of subsection 2 of NRS 360.780 requiring a business to report the estimate of the number of employees to the Department of Taxation when paying the annual business license fee;
c.) eliminates the provision in subsection 4 of NRS 360.795 that requires the Director of the Department of Taxation to report the number of employees to the Division of the Industrial Relations of the Department of Business and Industry.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 3
Approval of Recommendation No. 3 eliminates language in Chapter 360 (business license fee) regarding the definition of an employee and other provisions regarding an employee that have no formal function and can be eliminated from statute.

Approval of section a.) of Recommendation No. 3 eliminates NRS 360.770, which defines an employee under the statutory language for the business license fee. This section of the NRS can be eliminated as a technical adjustment, as this is language previously required for the repealed business license tax and plays no formal function with regard to the provisions of the $100 annual business license fee. Sections b.) and c.) in Recommendation No. 3 are additional provisions in Chapter 360 related to the employee reporting requirements relating to the repealed business license tax, but are not needed for the annual business license fee.

For reference, NRS 360.770, 360.780, and 360.795 are provided under Tab VI-A.

FISCAL IMPACT FOR RECOMMENDATION NO. 3 – No Impact.

BUSINESS LICENSE FEE (NRS 360.760 – 360.795) – TECHNICAL ISSUE

RECOMMENDATION NO. 4
Draft legislation amending the statutes for the business license fee (NRS Chapter 360), that specifies that the term "earns" in paragraph (c) of subsection 2 of NRS 360.765 means "net earnings."
(Statutory clarification based on testimony provided by Carole Vilardo, Nevada Taxpayer's Association and discussions with the Department of Taxation)

BACKGROUND FOR RECOMMENDATION NO. 4
Approval of Recommendation No. 4 will specify in statute that the term "earns" means "net earnings" with regard to the 66-2/3 percent of the state's average annual wage criterion used to determine a liability for home-based business under the $100 annual business license fee. Approval of Recommendation No. 4 will provide conformity in statute with the "net earnings" language in NAC 360.766 and NAC 360.768, approved by the Nevada Tax Commission and ratified by the Legislative Commission.

Paragraph (c) of subsection 2 of NRS 360.765 (shown below) refers to the earnings test for a home-based business relative to the 66-2/3 percent of the state's average annual wage criterion.

c) A person who operates a business from his home and earns from that business not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

The regulations approved by the Nevada Tax Commission and ratified by the Legislative Commission (NAC 360.766 and 360.768) regarding the earnings test for home-based business specify that the earnings be based on net earnings.

For reference, NRS 360.765 is provided under Tab VI-A and NAC 360.766 and NAC 360.768 are provided under Tab VI-B.

FISCAL IMPACT FOR RECOMMENDATION NO. 4 – No impact, as Recommendation No. 4 places in statute the regulatory language in the NAC used by the Department of Taxation for implementing the 66-2/3 percent of the state's average annual wage earnings test for home-based businesses required in statute for the $100 annual business license fee.

BUSINESS LICENSE FEE (NRS 360.760 – 360.795) – POLICY ISSUE

RECOMMENDATION NO. 5

Draft legislation amending the statutes for the business license fee (NRS Chapter 360) that specifies:

1.) a person or governmental entity that operates a facility at which craft shows, exhibitions, trade shows, conventions or sporting events are held is responsible for the payment of the business license fee for those persons who do not have a business license fee;

2.) the entity operating the facility where the craft show, exhibition, trade show, convention or sporting event can pay the fee due in one of two ways:

a.) as an annual flat fee of $5,000 on or before July 1 for all shows held at the facility during that fiscal year, or

b.) on a per show or event basis equal to the product of the total number of businesses taking part in the show or event who do not have a business license multiplied by the number of days the show or event is held multiplied by $1.25, payable to the Department of Taxation on a quarterly basis. (Requested by Luke Puschnig, Las Vegas Convention and Visitors Authority and Jo Elle Hurns, Laughlin Chamber of Commerce)

BACKGROUND FOR RECOMMENDATION NO. 5

Approval of Recommendation No. 5 will allow an entity putting on craft shows, exhibitions, trade shows, conventions or sporting events at a facility to have the option to pay an annual flat fee of $5,000 or a fee of $1.25 per day for each day the event takes place times the number of businesses participating in the event who do not have a business license. The operator of the facility will be responsible for remitting the proper amount to the Department of Taxation, if paid on the $1.25 per day basis. The $5,000 annual fee will be due on or before July 1 for all events held at the facility during that fiscal year. If paid on the $1.25 per day per participant basis, the payment can be made on a quarterly basis to the Department of Taxation. Recommendation No. 5 is based on the language previously used under the repealed business license tax of $100 per full-time equivalent employee and provides an alternative mechanism for entities holding these types of events with numerous participants to pay the business license fee in lieu of each participant being required to obtain a business license to conduct business in the state on a temporary basis while conducting business at a craft show, exhibition, trade show, convention, sporting event or similar events. ***For reference, Tab VI-C contains draft statutory language for Recommendation No. 5 developed by the Legal Division.***

As the statute is currently written, each exhibitor is required to obtain a business license and pay the $100 to participate at craft shows, exhibitions, or sporting events that are generally of limited duration.

The LVCVA is concerned that public events such as the Harvest Festival, craft shows, exhibitions, sporting events and other like events might be driven out of Nevada because of the imposition of the $100 business license fee on each participant or exhibitor at the event. ***Two letters provided to staff by Mr. Puschnig are included under Tab VI-C, one from a representative of the Harvest Festival and one regarding the Las Vegas BikeFest event, expressing their concerns regarding the imposition of the $100 business license on these events.***
The Laughlin Tourism Committee, in a letter to the members of the Committee, has expressed concerns that the imposition of the $100 fee will cause individuals to choose not to participate in the different events held in the Laughlin area. ***The letter prepared for the Committee by the Laughlin Chamber of Commerce expressing concerns regarding the business license fee is included under Tab VI-C.***

The requesters cited the prior statutory provision that was repealed in S.B. 8, NRS 364A.152, that addressed this type of situation under the repealed business license tax (based on a $100 per year per full-time equivalent employee) by allowing the operator of the facility in which the show is held to pay an annual fee of $5,000 or an amount for each show based on the number of businesses taking part in the show times the number of days of the show times $1.25. The Committee was asked that a similar type of provision be considered for the current business license fee in which the operator of the facility pays a flat fee or alternative fee in lieu of each individual exhibitor being subject to the business license fee.

FISCAL IMPACT FOR RECOMMENDATION NO. 5
There will be a negative fiscal impact from the approval of Recommendation No. 5, as most venues or events would generate more business license fee revenues if each exhibitor were required to pay the full $100 fee compared to the lump-sum $5,000 annual fee or the amount received from the prorated amount of $1.25 per day per event. Staff does not have sufficient information available to prepare an estimate of the potential impact. As an example, consider an event that lasts three days which has 100 participants that would be required to pay the $100 business license fee under current statute. Under current statute, this event could potentially generate $10,000 in business license fee revenues. Under the proposal in Recommendation No. 5, the flat fee of $5,000 could be paid to cover this and all other events held during the fiscal year at the facility or a fee of $375 could be paid for this event based on the $1.25 per day per participant formula.

BUSINESS LICENSE FEE (NRS 360.760 – 360.795) – POLICY ISSUE

RECOMMENDATION NO. 6
Draft legislation amending the statutes for the business license fee (NRS Chapter 360), providing an exemption from the business license fee for a person who derives rental income from four or fewer dwelling units.
(Requested by Carole Vilardo, Nevada Taxpayer’s Association)

BACKGROUND FOR RECOMMENDATION NO. 6
Approval of Recommendation No. 6 will provide an exemption from the $100 annual business license fee for a person who derives rental income from four or fewer dwellings. Under the current statutory language, the liability for the business license fee for individuals who derive income from the rental of residential housing is

based on their filing a Schedule E with the IRS to report this income no matter how many dwelling units the individual may have.

The requester states that many individuals who are not in the rental business are required to obtain a business license because a Schedule E is filed with their IRS tax return.

Requester notes that four or fewer dwelling units is the standard used in statute to determine the existence of a tax liability under the business personal property tax on household furnishings in rental property.

FISCAL IMPACT FOR RECOMMENDATION NO. 6
There will be a negative fiscal impact from providing the exemption to individuals having four or fewer rental dwelling units who are currently required to pay the $100 business license fee. Staff does not have the information available to estimate the fiscal impact from providing an exemption to this group of individuals, but does not believe the potential impact will be significant.

BUSINESS LICENSE FEE (NRS 360.760 – 360.795) - POLICY ISSUE

RECOMMENDATION NO. 7
Draft legislation amending the statutes for the business license fee (NRS Chapter 360), removing the exemption for businesses that create or produce motion pictures (as defined in NRS 231.020) from the business license fee.
(Recommendation developed based on information provided to the Committee by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 7
Approval of Recommendation No. 7 removes the exemption from the $100 annual business license fee for businesses that create or produce motion pictures (as defined in NRS 231.020).

Under prior statute, businesses that create or produce motion pictures were exempt from paying the repealed business license tax and $25 one-time business license fee. Under the language approved in S.B. 8, businesses that create or produce motion pictures were exempt from the $100 business license fee, but required to pay the modified business tax. Carole Vilardo of the Nevada Taxpayer's Association, at prior meetings of the Committee, requested clarification of this issue regarding the exemption from the business license fee, but inclusion under the modified business tax.

Chapter 364A, repealed by Senate Bill 8, included the language for the initial one-time business license filing fee of $25 and the quarterly business license tax based on the number of full-time equivalent employees. Under paragraph (c) of subsection 3 of NRS 364A.020, a business that creates or produces motion pictures, as defined in NRS 231.020, was not a business for the purpose of the old business license fee and the repealed business license tax.

As the language from Chapter 364A was used to construct the language for the $100 annual business license fee, the provision excluding businesses that create or produce motion pictures was carried forward since there was no explicit decision made to remove this exemption with respect to the provisions of the new business license fee.

A business being subject to the provisions of the modified business tax is linked to whether the entity is required to pay the unemployment insurance compensation tax in Chapter 612 of the NRS. As there was no specific legislative request made to exempt businesses that produce motion pictures from the modified business tax, they are subject to the provisions of the tax if they are required to report and pay unemployment insurance taxes on the wages paid to their employees.

FISCAL IMPACT FOR RECOMMENDATION NO. 7
Adoption of Recommendation No. 7 removes the exemption for businesses that create or produce motion pictures from paying the $100 annual business license fee. Removing this exemption will produce a positive fiscal impact from requiring these types of businesses to pay the $100 annual fee, but is difficult for staff to estimate the potential amount due to the lack of information about the number of these types of businesses operating in Nevada.

MODIFIED BUSINESS TAX (NRS Chapter 363B) AND MODIFIED BUSINESS TAX – FINANCIAL INSTITUTIONS (NRS Chapter 363A): ISSUES RELATING TO BOTH TAXES - TECHNICAL ISSUE

RECOMMENDATION NO. 8
Draft legislation amending the statutes for the modified business tax (NRS Chapter 363B) and the modified business tax on financial institutions (NRS Chapter 363A), indicating the tax does not apply to things the state is prohibited from taxing under the Constitution or laws of the United States or the Nevada Constitution.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 8
Requester noticed that the preemptive language regarding Constitutional and statutory exemptions provided for other taxes was not included in the statutory sections for the modified business tax and modified business tax on financial institutions and asked the Committee to consider making this technical adjustment for these two taxes.

FISCAL IMPACT FOR RECOMMENDATION NO. 8 – No Impact.

MODIFIED BUSINESS TAX (NRS Chapter 363B) AND MODIFIED BUSINESS TAX – FINANCIAL INSTITUTIONS (NRS Chapter 363A): ISSUES RELATING TO BOTH TAXES - TECHNICAL ISSUE

RECOMMENDATION NO. 9
Draft legislation amending the statutes for the modified business tax (NRS Chapter 363B) and the modified business tax on financial institutions (NRS Chapter 363A), eliminating the requirement for a taxpayer to submit a copy of his/her quarterly unemployment insurance tax form along with the modified business tax form filed with the Department of Taxation each quarter.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 9
Approval of Recommendation No. 9 eliminates the provision in paragraph (a) of subsection 3 of NRS 363B.110 (modified business tax) and in paragraph (a) of subsection 3 of NRS 363A.130 (modified business tax on financial institutions) requiring the taxpayer to file each quarter with the Department of Taxation a copy of any report required by the Employment Security Division of the Department of Employment, Training and Rehabilitation for determining the amount of the contribution required pursuant to NRS 612.535 for any wages paid by the employer during that calendar quarter.

Requester states that deleting this requirement would align the statutory provision with the actual practice implemented by the Department of Taxation. The information on a taxpayer regarding his/her unemployment insurance tax filings is obtained from the Employment Security Division of the Department of Employment, Training, and Rehabilitation through an intergovernmental agreement. The Nevada Tax Commission has adopted a regulation (section 16 of R204-03) regarding the use of an agreement with the Employment Security Division to obtain the information on a taxpayer's unemployment insurance tax return instead of requiring the taxpayer to provide a copy of the unemployment tax return to the Department of Taxation (shown below).

Sec. 16. 1. An employer is not required to file a copy of a report with the Department in the manner provided in subparagraph (2) of paragraph (a) of subsection 3 of section 50 of Senate Bill No. 8 of the 20th Special Session of the Nevada Legislature, Chapter 5, Statutes of Nevada 2003, 20th Special Session, at page 142 (NRS 363B.110), if the Department is able to obtain the information contained in the report pursuant to an agreement with the Division. The Department will notify an employer if the Department is unable to obtain that information pursuant to such an agreement.

FISCAL IMPACT FOR RECOMMENDATION NO. 9 – No Impact.

MODIFIED BUSINESS TAX (NRS Chapter 363B) AND MODIFIED BUSINESS TAX – FINANCIAL INSTITUTIONS (NRS Chapter 363A): ISSUES RELATING TO BOTH TAXES - POLICY ISSUE

RECOMMENDATION NO. 10

Draft legislation amending the statutes for the modified business tax (NRS Chapter 363B) and the modified business tax on financial institutions (NRS Chapter 363A), to include in statute the following definitions adopted in regulation for implementing the health care deduction allowed under the modified business tax and the modified business tax on financial institutions:

1. "Claims" to mean claims for those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

2. "Direct administrative services costs" to mean, if borne directly by a self-insured employer and reasonably allocated to the direct administration of claims:

(a) Payments for medical or office supplies that will be consumed in the course of the provision of medical care or the direct administration of claims;

(b) Payments to third-party administrators or independent contractors for the provision of medical care or the direct administration of claims;

(c) Rent and utility payments for the maintenance of medical or office space used for the provision of medical care or the direct administration of claims;

(d) Payments for the maintenance, repair and upkeep of medical or office space used for the provision of medical care or the direct administration of claims;

(e) Salaries and wages paid to medical, clerical and administrative staff and other personnel employed to provide medical care or directly to administer claims; and

(f) The depreciation of property other than medical or office supplies used for the provision of medical care or the direct administration of claims.

3. "Employees" to mean employees whose wages are included within the measure of the excise tax imposed upon an employer by NRS 363A.130 and their spouses, children and other

dependents who qualify for coverage under the terms of the health insurance or health benefit plan provided by that employer.

4. "Health benefit plan" to mean a health benefit plan that covers only those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

5. "Any amounts paid by an employer to a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) for participation in an employee welfare benefit plan" to mean any amounts which are:

(a) Paid by an employer to a Taft-Hartley trust which:

(1) Is formed pursuant to 29 U.S.C. § 186(c)(5); and

(2) Qualifies as an employee welfare benefit plan, as that term is defined in 29 U.S.C. § 1002; and

(b) Considered by the Internal Revenue Service to be fully tax deductible pursuant to the provisions of the Internal Revenue Code.

(Requested by Jim Wadhams, representing the views of a variety of taxpayers)

BACKGROUND FOR RECOMMENDATION NO. 10

Approval of Recommendation No. 10 puts in the statutes for the modified business tax (NRS 363B) and the modified business tax on financial institutions (NRS 363A) the definitions adopted by the Nevada Tax Commission and ratified by the Legislative Commission in NAC 363B.120 and NAC 363A.370 for terms relating to the health care deductions allowed under NRS 363B.110 (modified business tax) and NRS 363A.130 (modified business tax on financial institutions). ***For reference, NRS 363B.110 and NAC 363B.120 are provided under Tab VI-D.***

The requester asked the Committee to consider clarifying the statutory language regarding the health care deduction to ensure parity and equality in the deduction for self-insured employers and employers that provide health care benefits in forms other than through the purchase of commercial insurance programs. The requester stated in testimony provided at the January 27 meeting that the Tax Commission had accomplished the parity being requested through its regulations adopted regarding the modified business tax and modified business tax on financial institutions.

FISCAL IMPACT FOR RECOMMENDATION NO. 10 – No impact, as approval of Recommendation No. 10 places in statute the regulations used by the Department of Taxation for defining allowable health care deductions for the modified business tax and modified business tax on financial institutions.

MODIFIED BUSINESS TAX (NRS Chapter 363B) - POLICY ISSUE

RECOMMENDATION NO. 11

Draft legislation amending the statutes for the modified business tax (NRS Chapter 363B), to exempt the wages paid by individuals to employees who provide in-home domestic health care services to their employer or family members of the employer.

(Recommendation developed by staff from a request by Senator Raggio based on a constituent's letter)

BACKGROUND FOR RECOMMENDATION NO. 11

Approval of Recommendation 11 provides an exemption from the modified business tax on the wages paid to domestic employees who provide in-home domestic health care services to their employer or family members of the employer. Approval of Recommendation 11 will not provide an exemption from the modified business tax to businesses that pay wages to employees that provide in-home health care services to individuals. The exemption will only be granted for the wages paid to privately-employed “domestic” employees providing qualified in-home health care services to their employer or members of the employer’s family.

As background, this item is being brought forward at the request of Senator Raggio based on a private citizen’s letter sent to the Governor and the members of the Legislature regarding the individual’s liability under the modified business tax on wages paid to employees privately hired to provide home-based health care services to a family member. Since the individual is required by NRS 612.095 (shown below) to pay the unemployment insurance tax based on the amount of wages paid to the domestic service employees, the person is deemed to be an employer under the language approved in Senate Bill 8 and is required to pay the modified business tax.

Under NRS 612.095 of the unemployment insurance tax, domestic service employees are excluded from unemployment insurance tax requirements, if the wages paid by the employer are less than $1,000 in a calendar quarter.

NRS 612.095 “Employment”: Domestic service in private home excluded; exception. “Employment” does not include domestic service in a private home unless the amount paid in cash wages by an employer or employing unit is $1,000 or more for service performed in any calendar quarter of the current calendar year or the preceding calendar year.

[Part 2:129:1937; renumbered in error 2.19:129:1937, 1945, 299; A 1949, 257; 1951, 253; 1951, 474; renumbered 2.9:129:1937 and A 1955, 698]—(NRS A 1977, 832)

The point for consideration is whether the modified business tax should be imposed on the wages paid to employees for the in-home or domestic health care services provided to the employer or members of his/her family, as the individual is not formally operating as a business to provide the services, but is the consumer of the services provided by the personal domestic employees.

Secondly, the wages paid to domestic employees providing in-home health care services can be considered for exemption from the modified business tax due to the type of service provided and a potential benefit to the state. An argument can be made that the state potentially receives the benefit of reduced costs for social welfare programs from in-home health care services provided by domestic employees and the wages paid to domestic service employees for in-home health care or similar services should not be subject to the modified business tax.

FISCAL IMPACT FOR RECOMMENDATION NO. 11

Approval of Recommendation No. 11 provides an exemption from paying the 0.65 percent tax on gross wages less a deduction for allowable health care expenses for individuals who hire employees to provide in-home domestic health care services to the employer or family members of the employer. The exemption will produce a negative fiscal impact that is difficult for staff to estimate based on the information available on individuals using personal employees to provide domestic health care services, but the impact will most likely be minimal on the overall collections of the modified business tax.

MODIFIED BUSINESS TAX – FINANCIAL INSTITUTIONS (NRS Chapter 363A) - POLICY ISSUE

RECOMMENDATION NO. 12

Draft legislation amending the statutes for the modified business tax on financial institutions (NRS

Chapter 363A), replacing current statutory language for defining financial institutions relying of the NAICS definitions with language defining a financial institution based upon the licensing, registration, or other state or federal requirements for doing business.
(Alternative language for defining financial institutions developed to deal with issues discussed before the Committee by various groups or individuals.)

BACKGROUND FOR RECOMMENDATION NO. 12
Approval of Recommendation No. 12 will replace the current language in NRS Chapter 363A (modified business tax on financial institutions) that relies on the NAICS (North American Industrial Classification System) to classify or define financial institutions with a method based on licensing, registration, or other state or federal requirements for doing business to provide a basis for determining whether a business is a financial institution. Specifically, Recommendation No. 12 replaces paragraphs (b) through (d) of subsection 1 of NRS 363A.050 (the definition of “financial institution,” which controls who is required to pay the higher Modified Business Tax) with additional provisions similar to paragraph (a) of that section, thereby alleviating the need to refer to the ancillary indicators such as the NAICS codes. The definitional approach in statute would rely solely upon the licensing, registration or other state or federal requirements for doing business to define the class of “financial institutions” that would be required to pay the higher tax.

The Legal Division has drafted language based on this alternative approach to defining financial institutions. This draft language can be adjusted by the committee to ensure that only those businesses the Legislature determines to be financial institutions are required to pay the higher tax. **For reference, the current statutory language for NRS 363A.050 and the new language drafted by the Legal Division are provided under Tab E.**

The drafted language is intended to come as close to the existing definition in NRS 363A.050 as possible, while including the following changes requested by various individuals at previous meetings of the Committee:

A. Clarify the definition of financial institutions with regard to provisions covering holding companies, management of trusts, owning or leasing franchises, patents, and copyrights, and investing in oil and gas royalties or leases. (Requested by Carole Vilardo, Nevada Taxpayer’s Association)

B. Clarify the meaning of “Any other person” in paragraph (c) of subsection 1 of NRS 363A.050 with regard to conducting loan or credit card processing activities. Clarify “other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this state.” (Requested by Carole Vilardo, Nevada Taxpayer’s Association)

C. Clarify the definition of a financial institution to ensure that entities such as casinos are not deemed to be financial institutions under a broad interpretation of the current statutory language. (Requested by Jim Wadhams)

D. Exclude self-insured groups for worker’s compensation from the modified business tax on financial institutions. (Requested by Mary Lau, Retail Association of Nevada)

For the Committee’s consideration, a letter sent to the Chairman by the Nevada Collectors Association regarding support for the proposal contained in Recommendation No. 12, especially with respect to exempting collection agencies covered under Chapter 649, is provided under Tab VI-E.

FISCAL IMPACT FOR RECOMMENDATION NO. 12
Approval of Recommendation No. 12 may produce a potential negative fiscal impact, as entities previously included under the NAICS-based approach to defining financial institutions may no longer be deemed to be

financial institutions under the approach proposed in this recommendation. Based on the information available, it is difficult for staff to estimate the dollar impact. If Recommendation No. 12 is approved, staff will work with the Department of Taxation to determine a fiscal impact to be included with the bill draft request.

MODIFIED BUSINESS TAX – FINANCIAL INSTITUTIONS (NRS Chapter 363A) - POLICY ISSUE

IF METHOD FOR CHANGING THE APPROACH FOR DEFINING FINANCIAL INSTITUTIONS PROPOSED IN RECOMMENDATION NO. 12 IS APPROVED WITH NO CHANGES, THEN RECOMMENDATION NOS. 13, 14, 15, AND 16 ARE NOT NECESSARY. IF RECOMMENDATION NO. 12 IS NOT APPROVED, THEN RECOMMENDATION NOS. 13, 14, 15, AND 16 CAN BE CONSIDERED BY THE COMMITTEE WITH REGARD TO MAKING THE REQUESTED CHANGES TO THE CURRENT STATUTORY LANGUAGE FOR DEFINING FINANCIAL INSTITUTIONS.

RECOMMENDATION NO. 13

Draft legislation amending the statutes for modified business tax on financial institutions (NRS Chapter 363A), eliminating the following sections of paragraph (b) of subsection 1 of NRS 363A.050 (which defines financial institutions):

(8) Holding or owning securities of companies other than banks, for the sole purpose of exercising some degree of control over the activities of the companies whose securities the person holds;

(12) The management of the money of trusts and foundations organized for religious, educational, charitable or nonprofit research purposes;

(13) The management of the money of trusts and foundations organized for purposes other than religious, educational, charitable or nonprofit research;

(14) Investing in oil and gas royalties or leases, or fractional interests therein;

(15) Owning or leasing franchises, patents and copyrights which the person in turn licenses others to use;

(17) Investing.

(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 13

Approval of Recommendation No. 13 eliminates subparagraphs (8), (12), (13), (14), (15), and (17) of paragraph (b) of subsection 1 of NRS 363A.050 regarding the activities conducted by a person subject to the modified business tax on financial institutions.

The requester asked the Committee to consider clarifying the language in statute defining financial institutions with regard to the provisions concerning holding companies, management of trusts, owning or leasing franchises, patents, and copyrights, and investing in oil and gas royalties or leases. The requester feels these broad categories include entities that would not be considered financial institutions. For instance, holding companies extend to more than true financial institutions, such as banks and mortgage companies. Trusts can include family trusts. The language regarding owning and leasing franchises, patents, and copyrights can capture activities which the state is trying to attract for economic development that are not financial businesses, such as software companies. The term investing (number 17 in NRS 363A.050) may be construed so broadly as to include businesses and activities that are not financial institutions. Requester questions why the activities of investing in oil and gas royalties (number 14 above) were included with regard to defining a financial institution.

FISCAL IMPACT FOR RECOMMENDATION NO. 13
Approval of Recommendation No. 13 could potentially produce a negative fiscal impact due to removing certain entities from the 2.0 percent tax imposed on the wages paid to employees of entities deemed to be financial institutions. The Department of Taxation clarified in regulation whether certain entities were actually financial institutions under the statutory language contained in NRS Chapter 363A. The Department of Taxation, through regulations, also allows individuals to appeal to the Nevada Tax Commission as to whether their classification as a financial institution is appropriate. Given these factors, it is difficult for staff to determine the fiscal impact from implementing the provisions included in Recommendation No. 13, as some of these entities may already not be paying the modified business tax on financial institutions at the 2.0 percent rate, but paying the modified business tax at the 0.65 percent rate.

MODIFIED BUSINESS TAX – FINANCIAL INSTITUTIONS (NRS Chapter 363A) - POLICY ISSUE

RECOMMENDATION NO. 14
Draft legislation amending the statutes for the modified business tax on financial institutions (NRS Chapter 363A), eliminating the following language in subsection 1 of NRS 363A.050 (which defines financial institutions):
(a.) Any other person conducting loan or credit card processing activities in this state (paragraph (c) of subsection 1 of NRS 363A.050)
(b.) other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this state (portion of paragraph (d) of subsection 1 of NRS 363A.050).
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 14
Approval of Recommendation No. 14 eliminates paragraph (c) of subsection 1 of NRS 363A.050, which states that any person conducting loan or credit card processing activities in this state is deemed to be a financial institution. Approval of Recommendation No. 14 also eliminates a portion of paragraph (d) of subsection 1 of NRS 363A.050 stating that any other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business activity is considered to be a financial institution.

The requester asked the Committee to consider clarifying the meaning of "Any other person" in paragraph (c) of subsection 1 of NRS 363A.050 with regard to conducting loan or credit card processing activities and to consider clarifying "other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this state."

The requester feels the language in the regulations adopted by the Tax Commission and ratified by the Legislative Commission in NAC 363A.130 regarding interpretation of the business of lending money, providing credit, or securitizing receivables for the purposes of the modified business tax on financial institutions could be considered as possible clarifying language.

FISCAL IMPACT FOR RECOMMENDATION NO. 14
Approval of Recommendation No. 14 could potentially produce a negative fiscal impact due to removing certain entities from the 2.0 percent tax imposed on the wages paid to employees of entities deemed to be financial institutions. As discussed above, the Department of Taxation clarified in regulation whether certain entities were actually financial institutions under the statutory language contained in NRS Chapter

363A with regard to extending credit. The Department of Taxation, through regulations, also allows individuals to appeal to the Nevada Tax Commission as to whether their classification as a financial institution is appropriate. Given these factors, it is difficult for staff to determine the fiscal impact from implementing the provisions included in Recommendation No. 14 as some of these entities may already not be paying the modified business tax on financial institutions at the 2.0 percent rate, but paying the modified business tax at the 0.65 percent rate.

MODIFIED BUSINESS TAX – FINANCIAL INSTITUTIONS (NRS Chapter 363A) - POLICY ISSUE

RECOMMENDATION NO. 15
Draft legislation amending the statutes for the modified business tax on financial institutions (NRS Chapter 363A), stating that licensed gaming establishments are not considered financial institutions.
(Requested by Jim Wadhams)

BACKGROUND FOR RECOMMENDATION NO. 15
Approval of Recommendation No. 15 will provide in the statutes for the modified business tax on financial institutions that licensed gaming establishments are not deemed to be financial institutions.

The requester asked the Committee to consider clarifying the definition of a financial institution to ensure that entities such as casinos are not deemed to be financial institutions under a broad interpretation of the current statutory language.

The requester is concerned that without language specifically exempting these types of businesses from the modified business tax on financial institutions, a risk exists for a potential misstatement of financial condition under the Sarbanes-Oxley Act, if the potential liability for the tax is not properly revealed and accounted for in their financial statements. Although the regulations adopted by the Tax Commission do not affirmatively include casinos as financial institutions, a potential liability could still exist if a subsequent court case rules they are subject to the tax, given the current language in NRS 363A.050, which defines financial institutions.

FISCAL IMPACT FOR RECOMMENDATION NO. 15 – There is no fiscal impact from the approval of Recommendation No. 15, as the Department of Taxation does not classify casinos as financial institutions subject to the modified business tax on financial institutions.

MODIFIED BUSINESS TAX – FINANCIAL INSTITUTIONS (NRS Chapter 363A) - POLICY ISSUE

RECOMMENDATION NO. 16
Draft legislation amending the statutes for the modified business tax on financial institutions (NRS Chapter 363A), specifying that self-insured groups for worker's compensation are not considered to be financial institutions.
(Requested by Mary Lau, Retail Association of Nevada)

BACKGROUND FOR RECOMMENDATION NO. 16
The requester asked the Committee to consider excluding self-insured groups for worker's compensation from the modified business tax on financial institutions.

These types of entities are included under NAICS category 525190 – Other Insurance Funds, which was included in the NAICS codes used to determine financial institutions. The NAICS description for 525190 is: this industry comprises legal entities (i.e., funds (except pension, and health- and welfare-related employee benefit funds)) organized to provide insurance exclusively for the sponsor, firm, or its employees or members. Self-insurance funds (except employee benefit funds) and workers' compensation insurance funds are included in this industry.

Although under the supervision and regulatory authority of the Division of Insurance, self-insured workers' compensation groups are not classified as insurance companies under state law. Self-insured workers' compensation groups are not providing insurance, but are providing a means for smaller businesses to self insure their mandatory workers compensation requirements.

Testimony provided by the requester states that self-insured compensation groups are organized as an unincorporated not-for-profit association, whose assets and liabilities are owned by the members. Each association is managed by a separate plan administrator who contracts with and reports to the board of trustees. A financial advising company has a separate contract with the group to carry out the investment activities of the fund. The self-insured group is not lending money, providing credit, or conducting other financial activities.

FISCAL IMPACT FOR RECOMMENDATION NO. 16 – There is a potential negative fiscal impact from the approval of Recommendation No. 16, as this would eliminate this group of businesses from the 2.0 percent modified business tax on financial institutions. However, staff does not have the information necessary to produce an estimate of the fiscal impact from excluding this specific business classification.

LIVE ENTERTAINMENT TAX (NRS Chapter 368A) - TECHNICAL ISSUE

RECOMMENDATION NO. 17
Draft legislation amending the statutes for the Live Entertainment Tax (NRS Chapter 368A), to provide the Gaming Commission with the regulatory authority over the gaming portion of the Live Entertainment Tax.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 17
Approval of Recommendation No. 17 will change the regulatory authority over the gaming portion of the Live Entertainment Tax from the Gaming Control Board to the Gaming Commission. The language approved in S.B. 8 provided the Gaming Control Board, not the Gaming Commission, regulatory authority over the Live Entertainment Tax applicable to licensed gaming establishments. The Gaming Commission has regulatory authority over all other taxes and fees administered by the Gaming Control Board.

Requester states the proposed technical change will provide statutory consistency, as the Gaming Commission is vested with the regulatory authority for the other gaming taxes and fees administered and collected by the Gaming Control Board.

FISCAL IMPACT FOR RECOMMENDATIONS NO. 17 - No fiscal impact.

LIVE ENTERTAINMENT TAX (NRS Chapter 368A) - TECHNICAL ISSUE

RECOMMENDATION NO. 18
Draft legislation amending the statutes for the Live Entertainment Tax (NRS Chapter 368A), to specify that the tax is based on maximum occupancy of the facility, not maximum seating capacity.
(Requested by Carole Vilardo, Nevada Taxpayer's Association, and Jo Elle Hurns, Laughlin Chamber of Commerce)

BACKGROUND FOR RECOMMENDATION NO. 18
Approval of Recommendation No. 18 replaces the term "maximum seating capacity" in subsection 1 of NRS 368A.200 with the term "maximum occupancy". The requesters feel this change will provide a clearer understanding for taxpayers that the tax is based on occupancy capacity of a facility and not the seating capacity.

Subsection 1 of NRS 368A.200 uses the term "maximum seating capacity" with regard to establishing whether the live entertainment provided at a facility is subject to the live entertainment tax. Subsection 6 of NRS 368A.200 then defines "maximum seating capacity" based on a three-stage process for determining capacity of a facility. The first two definitions in subsection 6 make reference to "maximum occupancy" of the facility, and the third definition references the actual seating capacity of the facility, if maximum occupancy cannot be established. ***For reference, NRS 368A.200 is provided under Tab VI-F.***

Several entities feel there is confusion as to whether the capacity of the facility for determining the appropriate tax liability is based on "maximum seating" or "maximum occupancy", which may not represent the same capacity number. In fact, this issue was the subject of extensive testimony and discussion at the meetings held by the Nevada Tax Commission and Gaming Commission, where it was agreed that "Maximum Seating Capacity" and "Maximum Occupancy" are not necessarily comparable measures.

FISCAL IMPACT FOR RECOMMENDATIONS NO. 18 - No fiscal impact.

LIVE ENTERTAINMENT TAX (NRS Chapter 368A) - POLICY ISSUE

RECOMMENDATION NO. 19
Draft legislation amending the statutes for the Live Entertainment Tax (NRS Chapter 368A), to provide an exemption for food and product demonstrations conducted at shopping malls, craft shows, membership stores, and similar facilities.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 19
Approval of Recommendation No. 19 will provide a specific exemption in statute for food and product demonstrations conducted in shopping malls, at craft or trade shows, membership stores, and similar facilities. The current statute makes no specific reference to these types of activities. The Department of Taxation and the Gaming Control Board have informed staff that these types of activities are not currently interpreted as entertainment subject to the live entertainment tax.

The requester would like to have a specific exemption for shopping malls, trade and craft shows, and membership stores be added to statute due to the concern that the current statutory language could be interpreted to cover food and product demonstrations as live entertainment subject to the tax.

FISCAL IMPACT FOR RECOMMENDATIONS NO. 19

Adoption of Recommendation No. 19 will have no fiscal impact, as the proposal will clarify in statute events not subject to the live entertainment tax that the Department of Taxation and Gaming Control Board are not currently taxing.

LIVE ENTERTAINMENT TAX (NRS Chapter 368A) - POLICY ISSUE

RECOMMENDATION NO. 20
Draft legislation amending the statutes for the Live Entertainment Tax (NRS Chapter 368A), exempting a nonprofit organization from the live entertainment tax on the purchase price of a ticket to a live entertainment event in the situation when a for-profit entity sells tickets to an event at a discount to the nonprofit organization for resale by the nonprofit with the difference benefiting the nonprofit organization.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 20
Approval of Recommendation No. 20 will provide in statute language specifying that a nonprofit organization has no liability for the Live Entertainment Tax when the tickets are purchased at a discount from a for-profit organization and then sold by the nonprofit organization for an amount above the discounted amount, with the difference retained for the benefit of the nonprofit organization. Although the current statute does provide an exemption from the LET for live entertainment provided by or entirely for the benefit of a nonprofit organization, the statutes do not specifically address the situation considered in Recommendation No. 20. Staff has discussed this issue with the Department of Taxation and the Gaming Control Board, and both organizations have indicated that the nonprofit organization is not required to pay the live entertainment tax upon the resale of the ticket.

The requester asked the Committee to consider expanding the exemption for nonprofit organizations to include the situation where a ticket for a live entertainment event is sold to a nonprofit group by a for-profit business providing the event at a discounted amount. For example, a for-profit business allows a nonprofit group to purchase a block of tickets at half-price and then sell the tickets at full-price, with the difference kept for the benefit of the nonprofit organization. The requester is concerned that the nonprofit group would be liable for the LET on the full ticket price, although the statutes do not specifically address this type of situation regarding nonprofit groups and the applicability of the live entertainment tax. The requester would like to have it clearly stated in statute that nonprofit organizations do not have a liability for the tax under this situation and not depend upon the determination of the authorities responsible for regulating and collecting the tax.

FISCAL IMPACT FOR RECOMMENDATION NO. 20
Adoption of Recommendation No. 20 will have no fiscal impact, as the proposal places in statute an exemption for nonprofit organizations for certain transactions that the Department of Taxation and Gaming Control Board are not currently interpreting to be taxable activity.

REAL PROPERTY TRANSFER TAX (NRS Chapter 375) - POLICY ISSUE

RECOMMENDATION NO. 21
Draft legislation amending the statutes for the real property transfer tax (NRS Chapter 375), to provide the Attorney General with the jurisdiction to issue legal interpretations requested by a

County Recorder on the tax on the transfer of real property instead of the County District Attorney. (Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 21

Requester states that the proposed change will eliminate the current problem of the county District Attorneys issuing different rulings on the same issue, creating multiple (and often conflicting) interpretations on the same issue, resulting in similarly situated taxpayers being treated differently.

FISCAL IMPACT FOR RECOMMENDATION NO. 21

There will be no fiscal impact on the state's General Fund revenues.

SHORT-TERM CAR RENTAL TAX (NRS 482.313, NRS 244A.810, AND NRS 244A.860) - POLICY ISSUE

RECOMMENDATION NOS. 22 AND 23 ARE TWO ALTERNATIVE PROPOSALS FOR THE COMMITTEE TO CONSIDER REGARDING THE STATE AND LOCAL OPTION CAR RENTAL TAX.

IF RECOMMENDATION NO. 22 IS APPROVED, THEN RECOMMENDATION NO. 23 IS NOT NECESSARY.

RECOMMENDATION NO. 22

Draft legislation amending the statutes for the state (NRS Chapter 482) and local option (NRS Chapter 244A) short-term car rental tax, that:

a.) exempts the amounts charged for collision damage waiver and concession fees or charges to do business at an airport from the total lease amount subject to the state car rental tax (amends subsection 7 of NRS 482.313),

b.) amends NRS 244A.810 and 244A.860 (local option car rental taxes) to include the provisions in subsection 7 of NRS 482.313 (state car rental tax) regarding items that cannot be included in the total lease amount subject to the local option car rental tax. *(This change makes the total lease amount on which the state and local car rental tax are applied identical.)*

c.) eliminates the exemption in subsection 2 of NRS 244A.810 and 244A.860 for replacement vehicles from the local option car rental tax. *(This change makes the rental or lease of replacement vehicles subject to both the state and local car rental tax.)*

(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 22

Approval of Recommendation No. 22 will exempt the amount charged for collision damage waiver and concession fees or charges to do business at an airport from the amount subject to the state short-term car rental tax. Approval of Recommendation No. 22 amends the statutes for the local option short-term car rental tax to provide that the same items that cannot be included in the total lease amount subject to the state car rental tax ***(see subsection 7 of NRS 482.313 provided under Tab VI-G)*** cannot be included in the total lease amount subject to the local option rate. Approval of subsection c.) of Recommendation No. 22 eliminates the replacement vehicle exemption provided in current statute for the local option car rental tax. The changes requested in subsections b.) and c.) of Recommendation No. 22 will make the total lease amount subject to the state and local option rates identical.

Assembly Bill 267, approved during the 2003 Regular Session, contained amendments to the car rental tax in NRS 482.313 that clarified what items were not to be included in the total amount of the car rental lease on which the 6 percent rental tax and the recovery surcharge could be applied (see subsections 7 and 8 in NRS

482.313 below). The intent of the amendments was to clarify what items could be included in the total lease amount to eliminate the possibility that items included in the lease amount were already taxed and thus a tax was being applied to an item that was already taxed. Secondly, the changes were intended to provide consistency with sales tax imposed on car rental lease amounts.

As introduced, subsections 7 and 8 of section 1 in A.B. 267 had the identical provisions with regard to items that could not be included in the total amount of the rental lease with regard to the state rental tax and the recovery surcharge. However, the fiscal note on the changes with respect to the state rental tax in subsection 7 carried a large fiscal impact based on the fiscal note prepared for the bill. In an effort to reduce the fiscal impact, the items dealing with the amount charged for collision damage waiver and amount for concession fees or charges to do business at an airport were removed from subsection 7 (state car rental tax), but were included in subparagraph (b) and (g) in subsection 8 (recovery surcharge).

Senate Bill 497, approved during the 2003 Regular Session, and Assembly Bill 16, approved during the 20th Special Session, authorized an optional local government car rental tax of up to 2 percent that could be approved by local ordinance.

S.B. 497 and A.B. 16 included an exemption from the optional local rental tax for replacement vehicles.

The language in subsection 7 was not included in S.B. 497 and A.B. 16 regarding which items could not be included in the total lease amount to which the optional local tax could be applied. S.B. 497 and A.B. 16 contained the prior language used in NRS 482.313 that was amended in A.B. 267.

The requester asked consideration be given to amending A.B. 267 (as enrolled), S.B. 497, and A.B. 16 to the language in A.B. 267 as introduced during the 2003 Session. The requester feels that with the passage of A.B. 267, S.B. 497, and A.B. 16, the differences in the provisions regarding the state and optional local car rental taxes are creating different applications of the taxes imposed on the rental of a car with respect to the state car rental tax, local car rental tax, and the sales tax on car rentals. Based on information provided to the requester, some car rental companies are having difficulties dealing with the different provisions with regard to the computer software used by their company to administer and collect the tax. The requester feels the proposed changes would provide consistency between the state and local car rental tax and the sales tax and provide a car rental tax that is easier for the businesses to administer.

For reference, the statutes imposing the mandatory state rental car tax (NRS 482.313) and the optional local government rental car tax (NRS 244A.810 - Washoe County and NRS 244A.860 – Clark County) are provided under Tab VI-G (major differences between the state and local provisions are bolded and capitalized).

FISCAL IMPACT FOR RECOMMENDATION NO. 22

The approval of subsection a.) of Recommendation No. 22, which provides for the elimination of the collision damage waiver and the airport concession fees from the state car rental tax, will have a potential negative fiscal impact on the state's General Fund revenues.

Approval of subsection b.) of Recommendation No. 22 will potentially produce a negative fiscal impact on the revenues generated from the local option car rental tax due to the potential to expand the list of items not included in the total lease amount subject to the local option tax rate. This potential to reduce local option revenues may affect the bonding issues in the local governments that have approved the local option car rental tax, but it may be possible to address this issue without causing problems for the local governments.

Approval of subsection c.) of Recommendation No. 22 will produce a positive fiscal impact on the revenues generated from the local option car rental tax due to eliminating the exemption for replacement vehicles from the tax base.

It is uncertain what the net impact on the revenues generated from the local option car rental tax will be from the negative fiscal impact in subsection b.) and the positive fiscal impact in subsection c.).

SHORT-TERM CAR RENTAL TAX (NRS 482.313, NRS 244A.810, AND NRS 244A.860) - POLICY ISSUE

IF RECOMMENDATION NO. 22 IS APPROVED, THEN RECOMMENDATION NO. 23 IS NOT NECESSARY.

RECOMMENDATION NO. 23
Draft legislation amending the statutes for the state and local option short-term car rental tax that:

a.) makes the provisions regarding items not to be included in the total amount to which the state car rental tax is subject (section 7 of NRS 482.313) applicable to optional local car rental tax included in NRS 244A.810 (S.B. 497 – 2003 Regular Session) and NRS 244A.860 (A.B. 16 – 20th Special Session). ***(This change makes the total lease amount on which the state and local car rental tax is applied identical.)***

b.) makes the exemption from the local option car rental tax in subsection 2 of NRS 244A.810 and 244A.860 for replacement vehicles applicable to the state car rental tax. (*This change makes the rental or lease of replacement vehicles exempt from both the state and local car rental tax.)*

(Alternative to reconcile differences between legislation passed during the 2003 Regular Session and the 20th Special Session affecting the state and local option car rental taxes based on testimony provided to the Committee by Carole Vilardo, Nevada Taxpayer's Association.)

BACKGROUND FOR RECOMMENDATION NO. 23

Approval of the alternative proposal provided in Recommendation No. 23 will make the total lease amount subject to state and local option car rental taxes identical by:

a.) making the provisions in subsection 7 of NRS 482.313 stating which items are not to be included in the state rental tax applicable to the local option rental tax, and

b.) making the exemption from the local option rental tax for replacement vehicles applicable to the state car rental tax.

For reference, the statutes imposing the mandatory state rental car tax (NRS 482.313) and the optional local government rental car tax (NRS 244A.810 - Washoe County and NRS 244A.860 – Clark County) are provided under Tab VI-G (major differences between the state and local provisions are bolded and capitalized).

FISCAL IMPACT FOR RECOMMENDATION NO. 23

Approval of subsection a.) of Recommendation No. 23 will potentially produce a negative fiscal impact on the revenues generated from the local option car rental tax due to the potential to expand the list of items not included in the total lease amount subject to the local option tax rate. This potential to reduce local option revenues may affect the bonding issues in the local government that have approved the local option car rental tax, but it may be possible to address this issue without causing problems for the local government.

Approval of subsection b.) of Recommendation No. 23 will produce a negative fiscal impact on the General Fund revenues generated from the state car rental tax from providing the exemption for replacement vehicles from the tax base.

SALARIES OF NEVADA TAX COMMISSION MEMBERS – POLICY ISSUE

RECOMMENDATION NO. 24
Draft legislation amending NRS 360.050 to make the salary of the chairperson of the Nevada Tax Commission $55,000 per year and the salary of the other seven members of the Nevada Tax Commission $40,000 per year.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 24
Approval of Recommendation No. 24 establishes annual salaries for the chairperson and other seven members of the Nevada Tax Commission equivalent to the annual salaries paid to the chairperson and other two members of the Nevada Gaming Commission, replacing the current salary of $80 a day while the members of the Commission are meeting.

The requester argues that the current salary of $80 a day effectively costs Commission members money and time to serve. The requester feels the increasing workload of the commissioners is making it difficult to retain individuals who attend meetings and workshops one or more days a month and are frequently required to spend an amount of time equal to or greater reading backup material in preparation for the meetings and workshops.

For reference, the Nevada Gaming Commission consists of three members, with the chairperson paid a salary of $55,000 and the other two members paid $40,000 per year, per NRS 463.026.

FISCAL IMPACT FOR RECOMMENDATION NO. 24
The combined salaries for the chairperson and other seven members of the Nevada Tax Commission will be $335,000 per year.

TAXPAYERS' BILL OF RIGHTS – POLICY ISSUE

RECOMMENDATION NO. 25
Draft legislation amending the statutes for the Taxpayers' Bill of Rights (NRS Chapter 360), that:
1.) makes the provisions of the Taxpayers' Bill of Rights (NRS 360.291) applicable to:
a.) the Live Entertainment Tax on gaming establishments administered by the Gaming Commission covered under Title 32, Chapter 360 of the NRS;
b.) the gaming taxes administered by the Gaming Commission covered under Title 41, Chapter 463 of the NRS;
c.) the Insurance Premium Tax administered by the Nevada Tax Commission covered under Title 57, Chapter 680B of the NRS;
d.) the Short-Term Car Rental Tax administered by the Nevada Tax Commission covered under Title 43, Chapter 482 of the NRS; and
e.) the fuel taxes administered by the Department of Motor Vehicles covered under Title 32, Chapters 365 and 366 of the NRS.
2.) changes the dissemination requirements for the Taxpayers' Bill of Rights in NRS 360.292 by:
a.) eliminating the provision requiring a pamphlet on the Taxpayers' Bill of Rights be distributed to each taxpayer on record; and
b.) requiring the Taxpayers' Bill of Rights be made available to taxpayers and the public on the websites and at the offices of the Department of Taxation, Gaming Control Board, and the Department of Motor Vehicles, and at public libraries.
(Requested by Carole Vilardo, Nevada Taxpayer's Association)

BACKGROUND FOR RECOMMENDATION NO. 25

Approval of Section 1 of Recommendation No. 25 makes the Live Entertainment Tax and all other gaming taxes and fees administered by the Gaming Control Board, the insurance premium tax administered by the Department of Taxation, and the fuel taxes administered by the Department of Motor Vehicles subject to the provisions of the Taxpayers' Bill of Rights. Approval of Section 2 of Recommendation No. 25 eliminates the requirement that a pamphlet on the Taxpayers' Bill of Rights be distributed to each taxpayer on record with the authority responsible for administering the tax and allows the agency to make the pamphlet on the Taxpayers' Bill of Rights available to taxpayers and the general public on the agency's website, at the agency's offices, and at public libraries.

Information for Section 1 of Recommendation No. 25

Subsection 3 of NRS 360.291 relating to the Taxpayers' Bill of Rights states:

3. The provisions of this section apply to any tax administered and collected pursuant to the provisions of this title or any applicable regulations by the Department. (Title refers to Title 32 of the NRS and Department means the Department of Taxation.)

Currently, the Taxpayers' Bill of Rights covers taxes collected by the Department of Taxation covered under Title 32 of the NRS. The taxes included in Title 32 for which the Department of Taxation is responsible are: sales and use tax, property tax, net proceeds of minerals tax, modified business tax, liquor taxes, cigarette and other tobacco taxes, real property transfer tax and live entertainment tax in non-gaming establishments.

The requester is asking that the rights provided in the Taxpayers' Bill of Rights be available to any person or business responsible for the payment of the Live Entertainment Tax on gaming establishments administered by the Gaming Control Board, as well as all other gaming taxes; fuel taxes administered by the Department of Motor Vehicles; and the short-term car rental tax and the insurance premium tax administered by the Department of Taxation.

The Live Entertainment Tax on gaming establishments and the fuel taxes are included in Title 32, but are not covered by the Taxpayers' Bill of Rights, since they are not administered by the Department of Taxation.

Although the short-term car rental tax and insurance premium tax are administered by the Department of Taxation, they are not covered by the Taxpayers' Bill of Rights since they are not included under Title 32. The short-term car rental tax is under Chapter 482 in Title 43 and the insurance premium tax is under Chapter 680B in Title 57.

Information for Section 2 of Recommendation No. 25

The intent of the proposed changes in Section 2 of Recommendation No. 25 is to reduce the costs associated with expanding the provisions of the Taxpayers' Bill of Rights to additional taxes collected by the Department of Taxation, the taxes collected by the Gaming Control Board, and the fuel taxes collected by the Department of Motor Vehicles. This is done through eliminating the requirement to send a pamphlet to each taxpayer on record for the different taxes administered by each of these agencies. Approval of Section 2 of Recommendation No. 25 does not eliminate the requirement to produce a pamphlet on the Taxpayers' Bill of Rights, but does eliminate the requirement to provide a copy to each taxpayer on record. An alternative method for disseminating the pamphlet to taxpayers and the general public via the internet, the agencies' offices and public libraries is proposed.

Due to the potential negative fiscal impact of the provisions of Section 1 of Recommendation No. 25 if approved, the requester has proposed the changes in Section 2 of this recommendation as a potential solution to reduce the fiscal impact from expanding the provisions of the Taxpayers' Bill of Rights as proposed in Section 1 of Recommendation No. 25.

If Section 1 of Recommendation No. 25, which expands the Taxpayers' Bill of Rights to additional taxes and agencies, is not approved, Section 2 of Recommendation No. 25 can still be considered by the Committee as a means to reduce the costs of the carrying out the provisions of the Taxpayers Bill of Rights for the current set of taxes specified in statute administered by the Department of Taxation.

(***NRS 360.291 and 360.292 of the statutes for the Taxpayers' Bill of Rights are provided under Tab VI-H.)***

FISCAL IMPACT FOR RECOMMENDATION NO. 25

Making the Taxpayers' Bill of Rights applicable to the other taxes proposed by the requester will produce a positive fiscal impact on the additional agencies (Gaming Control Board and Department of Motor Vehicles) brought under the provisions of the Taxpayers' Bill of Rights and expand the costs for the Department of Taxation due to adding additional taxes under the Bill of Rights. Although other provisions of the Taxpayers' Bill of Rights may produce a fiscal impact on these agencies, the requirements in NRS 360.292 requiring the affected agencies to produce a pamphlet to be provided to each taxpayer on record will most likely require additional funding to comply with these provisions of the Taxpayers' Bill of Rights.

The intent of Section 2 of Recommendation No. 25 is to reduce an agency's costs associated with complying with the distribution provisions of the Taxpayers' Bill of Rights.

It is difficult for staff to quantify the potential fiscal impact from the implementation of the changes proposed in Recommendation No. 25. A fiscal note will need to be prepared by the Department of Taxation, Gaming Control Board, and the Department of Motor Vehicles to determine the potential fiscal impact from implementing the changes proposed in Recommendation No. 25.