SENATE BILL NO. 521–COMMITTEE ON TAXATION

MARCH 22, 1999

Referred to Committee on Taxation

SUMMARY—Revises provisions governing exemption of works of fine art from certain taxes. (BDR 32-1661)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

AN ACT relating to taxation; revising the provisions governing the exemption of works of fine art from certain taxes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 361 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. If a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068, the tax otherwise payable for a fiscal year for which the exemption is claimed becomes due to the extent of the net revenue derived by the taxpayer for that fiscal year.***

2. For the purposes of this section, "net revenue" means the amount of the fees collected during that fiscal year less the following paid or made during that fiscal year:

(a) The direct and indirect costs of owning and exhibiting the fine art;

(b) Contributions by the taxpayer to charitable organizations;

(c) The cost of educational programs associated with the taxpayer's public display of fine art; and

(d) Taxes on personal property, other than taxes payable pursuant to the provisions of this section, and sales and use taxes, with respect to works of fine art.

3. A tax resulting from the operation of this section is due with the tax otherwise due under the taxpayer's first statement filed pursuant to NRS 361.265 after the 15th day of the fourth month after the end of the

fiscal year in which the net revenue was received or, if no such statement is required to be filed, under a statement of the net revenue filed on or before the last day of the fourth month after the end of that fiscal year.

Sec. 3. ***The exemption provided in paragraph (j) of subsection 1 of NRS 361.068 applies to taxes on personal property otherwise due from the owner of a work of fine art that is leased to a person who publicly displays the work. The price or value to which that section refers is the price or value of the work that is leased.***

Sec. 4. NRS 361.068 is hereby amended to read as follows:

361.068 1. The following personal property is exempt from taxation:

(a) Personal property held for sale by a merchant;

(b) Personal property held for sale by a manufacturer;

(c) Raw materials and components held by a manufacturer for manufacture into products, and supplies to be consumed in the process of manufacture;

(d) Tangible personal property purchased by a business which will be consumed during the operation of the business;

(e) Livestock;

(f) Colonies of bees;

(g) Pipe and other agricultural equipment used to convey water for the irrigation of legal crops;

(h) All boats;

(i) Slide-in campers and camper shells;

(j) ~~[Fine]~~ ***Except as otherwise provided in section 1 of this act, fine*** art for public display; and

(k) Computers and related equipment donated for use in schools in this state.

2. The Nevada tax commission may exempt from taxation that personal property for which the annual taxes would be less than the cost of collecting those taxes. If such an exemption is provided, the Nevada tax commission shall annually determine the average cost of collecting property taxes in this state which must be used in determining the applicability of the exemption.

3. A person claiming the exemption provided for in paragraph (j) of subsection 1 shall, on or before June 15 for the next ensuing fiscal year, file with the county assessor an affidavit declaring that the fine art ~~[:~~

~~(a) Was purchased in an arm's length transaction for $25,000 or more, or has an appraised value of $25,000 or more;~~

~~(b) Will be on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of the year for which the exemption is claimed; and~~

~~(c) Will be available for educational purposes.]~~ ***will, during that ensuing fiscal year, meet all the criteria set forth in paragraph (b) of***

subsection 5. If the gallery, museum or other building or area in which the fine art will be displayed will not be opened until after the beginning of the fiscal year for which the exemption is claimed, the fine art must be on display for at least 20 hours per week during at least 35 weeks of the first full fiscal year after the date of opening, and the date of opening must not be later than 2 years after the purchase of the fine art displayed.

4. To qualify for the exemption provided in paragraph (k) of subsection 1, a taxpayer must donate the property through a foundation or organization, not for profit, that accepts such property for use in schools in this state. The foundation or organization shall issue a voucher identifying each item of property donated. To obtain the benefit of the exemption, the taxpayer must apply to the county assessor and tender the voucher. The county assessor shall compute the assessed value of the property for the year in which the donation was made using the original cost and the year of acquisition. The county assessor shall allow a credit of that amount against the personal property assessment for the year following the donation.

5. As used in this section:

(a) "Boat" includes any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(b) "Fine art for public display" means a work of art which:

(1) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(2) Was purchased in an arm's length transaction for $25,000 or more, or has an appraised value of $25,000 or more;

(3) Is on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of each year for which the exemption is claimed ~~[;]~~ ***or, if the facility displaying the fine art disposes of it before the end of that year, during at least two-thirds of the full weeks during which the facility had possession of it;*** and

(4) Is available for ~~[educational purposes.]~~ ***group tours by pupils or students, during at least 20 days of each full year during which the facility in which it is displayed is open, by prior appointment and at reasonable times, without charge.***

(c) "Personal property held for sale by a merchant" includes property that:

(1) Meets the requirements of subparagraphs (1) and (2) of paragraph (b);

(2) Is made available for sale within 2 years after it is acquired; and

(3) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a

fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

Sec. 5. NRS 361.068 is hereby amended to read as follows:

361.068 1. The following personal property is exempt from taxation:

(a) Personal property held for sale by a merchant;

(b) Personal property held for sale by a manufacturer;

(c) Raw materials and components held by a manufacturer for manufacture into products, and supplies to be consumed in the process of manufacture;

(d) Tangible personal property purchased by a business which will be consumed during the operation of the business;

(e) Livestock;

(f) Colonies of bees;

(g) Pipe and other agricultural equipment used to convey water for the irrigation of legal crops;

(h) All boats;

(i) Slide-in campers and camper shells; and

(j) **[**~~Fine~~**]** ***Except as otherwise provided in section 1 of this act, fine*** art for public display.

2. The Nevada tax commission may exempt from taxation that personal property for which the annual taxes would be less than the cost of collecting those taxes. If such an exemption is provided, the Nevada tax commission shall annually determine the average cost of collecting property taxes in this state which must be used in determining the applicability of the exemption.

3. A person claiming the exemption provided for in paragraph (j) of subsection 1 shall, on or before June 15 for the next ensuing fiscal year, file with the county assessor an affidavit declaring that the fine art **[**~~:~~

~~(a) Was purchased in an arm's length transaction for $25,000 or more, or has an appraised value of $25,000 or more;~~

~~(b) Will be on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of the year for which the exemption is claimed; and~~

~~(c) Will be available for educational purposes.~~**]** ***will, during that ensuing fiscal year, meet all the criteria set forth in paragraph (b) of subsection 4. If the gallery, museum or other building or area in which the fine art will be displayed will not be opened until after the beginning of the fiscal year for which the exemption is claimed, the fine art must be on display for at least 20 hours per week during at least 35 weeks of the first full fiscal year after the date of opening, and the date of opening must not be later than 2 years after the purchase of the fine art displayed.***

4. As used in this section:

(a) "Boat" includes any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(b) "Fine art for public display" means a work of art which:

(1) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(2) Was purchased in an arm's length transaction for $25,000 or more, or has an appraised value of $25,000 or more;

(3) Is on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of each year for which the exemption is claimed ~~[;]~~ ***or, if the facility displaying the fine art disposes of it before the end of that year, during at least two-thirds of the full weeks during which the facility had possession of it;*** and

(4) Is available for ~~[educational purposes.]~~ ***group tours by pupils or students, during at least 20 days of each full year during which the facility in which it is displayed is open, by prior appointment and at reasonable times, without charge.***

(c) "Personal property held for sale by a merchant" includes property that:

(1) Meets the requirements of subparagraphs (1) and (2) of paragraph (b);

(2) Is made available for sale within 2 years after it is acquired; and

(3) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

Sec. 6. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation on its sale or use pursuant to NRS 374.291, during the first full calendar year after its purchase, the tax otherwise payable during the year in which it was purchased becomes due to the extent of the net revenue derived by the taxpayer for that first full calendar year.

2. For the purposes of this section, "net revenue" means the amount of the fees collected during the calendar year less the following paid or made during the calendar year:

(a) The direct and indirect costs of owning and exhibiting the fine art;

(b) Contributions by the taxpayer to charitable organizations;

(c) The cost of educational programs associated with the taxpayer's public display of fine art; and

(d) Taxes on personal property and sales and use taxes, other than taxes payable pursuant to the provisions of this section, with respect to works of fine art.

Sec. 7. NRS 374.055 is hereby amended to read as follows:

374.055 1. "Retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business of tangible personal property.

2. The delivery in a county of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in the county, is a retail sale in the county by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

3. As used in this section, "sale for any purpose other than resale in the regular course of business" includes a sale of property that:

(a) Meets the requirements of paragraphs (a) and (b) of subsection 2 of NRS 374.291;

(b) Is made available for sale within 2 years after it is acquired; and

(c) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

Sec. 8. NRS 374.080 is hereby amended to read as follows:

374.080 ***1.*** "Storage" includes any keeping or retention in a county for any purpose except sale in the regular course of business or subsequent use solely outside the county of tangible personal property purchased from a retailer.

2. As used in this section, "sale in the regular course of business" includes a sale of property that:

(a) Meets the requirements of paragraphs (a) and (b) of subsection 2 of NRS 374.291;

(b) Is made available for sale within 2 years after it is acquired; and

(c) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

Sec. 9. NRS 374.085 is hereby amended to read as follows:

374.085 "Storage **[**~~" and "use" do~~**]** ***, use or other consumption" does*** not include **[**~~the~~**]** ***:***

1. The keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state ~~[.]~~ ***; or***

2. The keeping or retention of property that:

(a) Meets the requirements of paragraphs (a) and (b) of subsection 2 of NRS 374.291;

(b) Is made available for sale within 2 years after it is acquired; and

(c) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

Sec. 10. NRS 374.291 is hereby amended to read as follows:

374.291 1. ~~[There]~~ ***Except as otherwise provided in section 3 of this act, there*** are exempted from the taxes imposed by this chapter the gross receipts from the sales of, and the storage, use or other consumption in a county of, works of fine art for public display.

2. ***In determining whether a payment made pursuant to a lease of a work of fine art is exempt under subsection 1, the value for the purpose of paragraph (b) of subsection 3 is the value of the work and not the value of possession for the term of the lease, and the year described in paragraph (c) of subsection 3 is the first full calendar year after the payment is made.***

3. As used in this section, "fine art for public display" means a work of art which:

(a) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(b) Is purchased in an arm's length transaction for $25,000 or more, or has an appraised value of $25,000 or more;

(c) Will be on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of the first full calendar year after the date on which it is purchased; and

(d) Will be available for ~~[educational purposes.]~~ ***group tours by pupils or students, during at least 20 days of each full year during which the facility in which it is displayed is open, by prior appointment and at reasonable times, without charge.***

Sec. 11. If a facility containing a public or private art gallery, museum or other building or area for exhibition was under development or construction on July 1, 1997, sections 1 and 2 of chapter 592, Statutes of Nevada 1997, at pages 2979 and 2980, apply to works of art purchased before that date and displayed in the gallery, museum or other building or area within 2 years after their purchase. In that case, the required period of display is the later of the year for which the exemption is claimed or the first full year after the gallery, museum or other area or building is first opened for exhibition, and the affidavit required by section 1 of chapter 592, Statutes of Nevada 1997, at page 2979, must be filed on or before June 15 preceding the applicable year. As used in this section, "year" means fiscal year for purposes of section 1 of chapter 592, Statutes of Nevada 1997, and calendar year for purposes of section 2 of chapter 592, Statutes of Nevada 1997.

Sec. 12. 1. This section and sections 1 to 4, inclusive, and 6 to 11, inclusive, of this act become effective on July 1, 1999, and apply to sales, leases, disposition, keeping and retention, and to property held before, on or after that date.

2. Section 4 of this act expires by limitation on June 30, 2003.

3. Section 5 of this act becomes effective on July 1, 2003.

~