

**MINUTES OF THE JOINT MEETING OF THE
SENATE COMMITTEE ON TAXATION
AND THE ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Seventy-third Session
March 15, 2005**

The joint meeting of the Senate Committee on Taxation and the Assembly Committee on Growth and Infrastructure was called to order by Chair Mike McGinness at 2:13 p.m. on Tuesday, March 15, 2005, in Room 4100 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

SENATE COMMITTEE MEMBERS PRESENT:

Senator Mike McGinness, Chair
Senator Sandra J. Tiffany, Vice Chair
Senator Randolph J. Townsend
Senator Dean A. Rhoads
Senator Bob Coffin
Senator Terry Care
Senator John Lee

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Mr. Richard D. Perkins, Chair
Ms. Chris Giunchigliani, Vice Chair
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Tom Grady
Mr. Lynn C. Hettrick
Mrs. Marilyn Kirkpatrick
Ms. Sheila Leslie
Mr. Harry Mortenson
Mr. David R. Parks
Ms. Peggy Pierce
Mr. Scott Sibley
Ms. Valerie E. Weber

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GUEST LEGISLATORS PRESENT:

Senator Dina Titus, Clark County Senatorial District No. 7
Senator Joe Heck, Clark County Senatorial District No. 5
Senator Steven A. Horsford, Clark County Senatorial District No. 4
Assemblyman Kelvin D. Atkinson, Assembly District No. 17
Assemblyman John C. Carpenter, Assembly District No. 33
Assemblywoman Heidi S. Gansert, Assembly District No. 25
Assemblyman Joe Hardy, M.D., Assembly District No. 20
Assemblyman Brooks Holcomb, Assembly District No. 24
Assemblyman John W. Marvel, Assembly District No. 32
Assemblyman Harvey J. Munford, Assembly District No. 6

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Russell J. Guindon, Deputy Fiscal Analyst
Chris Janzen, Deputy Fiscal Analyst
Lorne J. Malkiewich, Director, Legislative Counsel Bureau
Tanya Morrison, Committee Secretary
Keith Norberg, Deputy Fiscal Analyst
Susan E. Scholley, Committee Policy Analyst
Ardyss Johns, Committee Secretary

CHAIR MCGINNESS:

We will call this joint meeting to order and ask Lorne Malkiewich, Director of the Legislative Counsel Bureau (LCB), to go through the three proposed bill draft requests (BDR) before us today. These proposals lay out three different concepts regarding property tax relief. Please allow him to go through the entire packet before you ask any questions because some of your potential questions will be answered as he goes through these proposals.

LORNE J. MALKIEWICH (Director, Legislative Counsel Bureau):

Approximately two weeks ago, I requested you give our staff time to develop some additional information on the tax proposals. This issue is extremely complicated, and we had a large number of requests when trying to run the numbers. As I go through this presentation, I think you will get an appreciation of how trying to run numbers and draft bills for 20 different proposals and the

various permutations and combinations simply would not have been possible. We asked for some time to allow our consultant, Jeremy Aguero, who is the principal analyst with Applied Analysis, to come up with some database information for us. When we get some direction from these Committees on which of these paths you would like to take, and at what level you will set these various limits, we can give you some real numbers on the impacts on the taxpayers and on the local governments. Since there are approximately 300 taxing districts in the State, trying to determine the impact of any plan, when each plan has 100 variables in all the different taxing districts, is simply an impossible task. Now that we have had some time to do this, I would like to talk briefly about these three proposals.

The challenge over the next few weeks is to balance tax relief for taxpayers who have seen their assessed valuations increase dramatically, and to do so within the parameters of the *Constitution of the State of Nevada*. We need to pass a bill accomplishing this in the next 16 days, so the assessors can get something in place for the July 1 tax bills. What we do not need is a proposed constitutional amendment, even though it may be a component of the overall solution and could give the Legislature more flexibility in dealing with this issue in the future. With some of these proposals, you may wish to include some sort of a severe economic hardship exemption, or a relief mechanism for local governments. Once we have this in place, we may find there are unanticipated impacts on local governments for which we may want to provide some mechanism.

The proposed BDR S-1385 ([Exhibit C](#)) relates to caps. This proposal is probably the best example of the concept of caps and what a resulting bill would look like. There are a large number of permutations and combinations on how, exactly, to determine the final product. I will attempt to point out the things these various proposals have in common. What a cap does, if your tax bill, assessed valuation, or something increases more than by a certain percentage, we are going to cap it at that percentage. The benefit of capping is those properties hardest hit get the greatest relief. We will use a hypothetical 6-percent cap, just for discussion purposes. Someone whose assessed valuation went up 30 or 40 percent would only see their assessed valuation or their tax bill go up 6 percent and would, therefore, get a great deal of relief. Someone

whose property does not go up as much will get less relief, if any. There will be some differences in the overall tax rate. The cap may result in a higher rate for properties not increasing as rapidly.

With all of these proposals, one of the things in the background is the impact limiting the revenue will have on the various local governments and on the State. As we walk through these proposals, you will see some things common in all three. In the first sections of all of these proposals are the legislative findings and declarations explaining the situation and the difficulty with the current tax system. Each one shows how the bill is designed to ensure property owners in this State are protected from these severe property tax spikes in the next few years, while we study the current tax structure and determine an appropriate remedy. Section 2 of [Exhibit C](#) provides the capping mechanism. As you can see in subsection 1, this particular iteration is capping the tax bill. It says no person may be held liable for taxes in an amount that exceeds the fixed percentage. Then, the formulas in paragraphs (a) and (b) say the increase cannot be more than whatever the fixed percentages are. In other words, whatever percentage you decide upon, the tax bill of a person could not increase by more than that percentage in the first year and not more than that in the second year. This would be applied on a taxpayer-by-taxpayer, parcel-by-parcel basis. Subsection 2 of section 2 provides some exceptions.

MR. MALKIEWICH:

To maintain constitutionality, section 3 of this proposal is the concept we need to rebase property not having a separate assessed valuation the prior year. Both subsections of section 3 are doing this for the two different fiscal years. Section 4 provides for the entire tax to be reduced across the taxing entities. For instance, if instead of getting a 20-percent increase, you are only getting a 6-percent increase in revenue, it is then spread out across the taxing entities. In subsection 2, the county auditor, in cooperation with the Department of Taxation, ascertains the effect of these provisions on the owners and provides the information to the tax receiver to compute the bills.

Section 5 requires the Nevada Tax Commission to establish a formula for determining the amount of tax liability, which, but for the provisions of our caps, would otherwise have been incurred by someone in this State. Subsection 2 adopts regulations to carry out the act.

Another thing these proposals have in common is an interim study requirement. In this proposal, it is described in section 6. The theory behind these proposals is we need a short-term fix to deal with, and get us through, a current short-term crisis. The study is a part of the overall solution. We are putting something in place, making temporary changes so we can keep somewhat of a status quo while we are studying the tax structure and proposals in order to see what we can do for relief.

At this point, I would like to turn to Table 1 of a document you have containing 5 charts ([Exhibit D](#)). Table 1 is entitled, "Example of the Cap Proposal on Hypothetical Property." This makes it a little easier for you to see how a cap works. Here, we are assuming 5 parcels, all valued at \$100,000. In Year 2, they all increase by various percentages. There is a column showing how much the tax liability would be without a cap, as well as a column showing the tax liability with a cap. For Parcel 1, where the property grew at 5 percent with a 6-percent cap, there was no impact. All of the others grew by more than the 6 percent, but are limited to a 6-percent increase, so the overall increase goes from \$5,250 to \$5,550.

The last two columns show the amount saved. As I noted earlier, the properties with higher increases in value are the ones having the greater relief. Parcel 5, which increased 40 percent, gets a \$410 reduction in the tax liability. The percentages of the reductions vary across the board.

One of the issues you have with caps is new growth. This is a problem in some of the initial proposals because they assumed new growth would come in outside of the cap. Keeping new growth outside of the cap, in the opinion of our legal counsel, will violate the uniform and equal clause of the Constitution. You will have property allowed to increase in value before it is put on the roll, but not allowed to increase in value because of the cap.

Table 2 of [Exhibit D](#) gives you an example of what a comprehensive cap does, and its effect on hypothetical property. Parcels 1 through 5 are the same as in Table 1. In the third column under "New Property," you see under "Year 2 — Taxable Value," new property coming in at \$120,000, \$130,000 and \$140,000. However, we cannot just tax them at those rates, because they increased the full amount from the prior years instead of only increasing at 6 percent. What we have done here is what we call a deflator factor. We need

to pretend this property was backed up to its prior year value, and then apply the cap. The shaded area shows the effect of deflating all of these property values in the prior year by 25 percent. Even though those values did not really exist the year before, this is the fiction we create to come up with base-year values of the new property. The cap is then applied on the increase in those amounts. As you can see, the adjusted tax liability is substantially lower than if you had applied the tax liability at the level at which the new property came in. This is a component we have added to bill drafts having a capping feature, or something of this nature, to make sure we do not have a constitutional problem.

MR. MALKIEWICH:

One of the things we have been able to do over the past few weeks is get some basic numbers. We have more detailed charts, but there are so many different variables on how these factors would be applied, these will give you a general picture. Table 3 of [Exhibit D](#) shows a comparison based upon a simple comprehensive cap, which is one that values new property at a base year. It then shows the effect of a 6-percent cap, a 3-percent cap and a 0-percent cap on the property tax revenues you receive from one year to the next. The left column shows anticipated increases in assessed valuation. Assuming tax rates are the same, based on the increase in assessed valuation, this is how much the tax revenue would increase. Statewide, at the top of the chart, shows 22 percent, Clark County shows 28 percent and Douglas County shows 19 percent. As you can see, some of the counties would be fairly flat or actually be losing money. If you apply a cap of 6 percent, the Statewide would result in an increase in revenue of 5 percent. It is lower than the amount of the cap because every piece of property coming in at less than the cap is taxed at its actual value. Even though some properties are declining in value, the most you would get out of anything is a 6-percent increase in value. The amounts shown per county are set forth down the chart. These numbers are a little lower than some of the early projections because some of the initial cap proposals did not include this concept of rebasing. The second and third columns show the impact on a county basis. It is just the tip of the iceberg as far as what these proposals would do.

The next proposed bill draft request is BDR S-1152 ([Exhibit E](#)). This is something our LCB staff developed. The concept is, instead of limiting the tax revenue, which may have differing effects on properties growing at different rates, to simulate a reduction in the tax rate and have the effective tax rates

reduced. If your property value goes up 20 percent, but you simulate a reduction in the tax of 20 percent, you are going to end up paying the same thing. This type of effective rate reduction can establish growth factors per county. We could do the same thing with a cap, but it would be more difficult to defend. A growth factor is the average rate of growth in assessed valuation in a county over a ten-year period. It will be different in different counties and will result in different factors for growth. You can say the U. S. Department of Labor's Consumer Price Index (CPI), or CPI plus something, or CPI plus population growth or any factor related to a particular county would generate what the factor is for that county. By affecting the tax rate, you can have the same tax rate apply to all of the property within a taxing district. This is even stronger for uniform and equal. It helps the slow-growth parcels, which you will see when we start walking through one of the examples. A parcel that does not grow, or grows at a slow rate, is going to receive the same percentage benefit as a parcel that grew quickly. You would not get quite as much relief on the high-end growths. Those properties with a large spike are not going to have their property tax reduced as much as the slow-growth properties.

Again, in this proposed BDR, section 1 is the declarations. In section 2, we are talking about the State rate, which is the rate the State imposes. It says the total amount of revenue received from taxes cannot exceed the sum obtained by adding to the total amount of revenue received from those taxes for the prior year plus the population growth and the growth in the CPI for the previous year. If the total amount by which the State revenue from the bond and indebtedness, the 17 cents, can only grow by say, 6 percent, you would have the effect of achieving that amount of revenue. You would reduce the rates to come up with an amount equal to that amount of revenue. Since this is a statewide tax for the purposes of uniform and equal, the percentage growth is measured statewide.

Subsection 2 of [Exhibit E](#) applies this concept on the county level. We are determining a growth factor for the county; so in one county, it may be 6 percent, and in another county, it may be 3 percent. The limitations we will impose on the rate of growth are tied to the different historic rates of growth in different counties. Subsection 3 on page 6 asks the Nevada Tax Commission to establish formulas for allocating these limitations among the various taxing entities on a proportional basis. If you have a reduction in revenue of 10 percent, you would reduce the taxing districts within it in determining the maximum rates they can impose. This proposal includes an option, which, after

a reduction amount has been calculated, and relief has been provided, if a local government still believes it needs more revenue, allows a taxing entity to impose an ad valorem tax rate that exceeds the maximum allowed here. They would need to state it separately on the tax bill. It would say, "Your tax bill, instead of being \$1,250, is \$1,000, but the city increased their rate by 2 cents and, therefore, your bill went up this many dollars."

Table 4 of [Exhibit D](#) shows an application of this. You have the same 5 parcels increasing by 5, 15, 25, 35 and 45 percent, but the total allowable increase is a certain percentage, so we are only going from \$5,250 to \$5,559 based on the growth-factor limitation. This illustrates how a reduction in the effective tax rate works. To achieve the dollar amount we need, we are going to adjust the tax rate down from \$3 to \$2.54 and apply it across the board. The benefit here is you have the same tax rate applying to every property within the district. The second to the last column shows the tax liability difference per property. Everyone here gets a reduction of 15.3 percent. Instead of a large reduction for the properties that spiked, everybody gets a 15.3-percent reduction. If you look at Parcel 5, there is still a pretty large increase in the bill, but instead of going to \$1,523, it is going to \$1,290. At the bottom of the page, you see the new property. Under this proposal, you do not need a base year because you are just applying the rate to the full assessed value of the current year. You will see again, the reduction is 15.3 percent. To illustrate this more clearly, Table 5 puts a capping mechanism and the effective rate reduction side by side in order to compare the two approaches. You can plug in whatever numbers you want, and you can put in different alternatives on how we will compute this. In general, you can see capping provides higher rate reduction with the spike, but differing rates and percentages on how much of a reduction.

The third proposal is BDR S-840 ([Exhibit F](#)), put forth by Senator Titus. I will let her explain the details.

SENATOR DINA TITUS (Clark County Senatorial District No. 7):

I will ask Senator Heck to join me since this proposal was a joint effort. Last summer, as many of us walked precincts in southern Nevada, we began to hear from constituents about the rising cost of houses and the potential impact on property taxes. Certainly, the people were glad their property values were going up, but most were not in a position to take advantage of the increase by selling the houses, or take on the added burden of corresponding skyrocketing tax

increases. They should not have to. Local governments are not entitled to windfalls at the expense of people whose demand for services have not changed. This problem of exorbitant increases became more evident when the Clark County Assessor began to do his calculations for assessed values for the 2005 tax bills. Then, we learned it was also a problem in Washoe County, Douglas County, Carson City, parts of Lyon County and at Lake Tahoe. Before long, property tax reform became the most pressing issue facing the Legislature as we convened in February.

For some six weeks now, the Legislature has grappled with a possible solution, one that would provide taxpayers with relief, and still would allow local governments and school districts to provide needed services. We needed a solution that would stand constitutional muster and be easy to understand and administer while not unduly harming rural Nevada. Needless to say, it is no easy task. From the beginning, I have promoted a freeze on assessed value of the 2004 level to give us time to carefully study this issue. Too much is at stake to rush with a politically expedient solution, which could have major long-term consequences; so today, I would like to formally present my proposal for your consideration. It comes in the form of BDR S-840.

This includes the freeze as well as a second year CPI cap, which was proposed by Senator Heck. He has worked with me to try to roll these in together. This is simple and straightforward. Some of it is the same as in the other two proposals presented here today because there are things all three have to have in common in order to establish constitutionality and to deal with this issue.

Section 1 is a statement of the situation at hand and the justification for our need to implement a temporary fix. This is the same as in all three of the proposals with the exception of subsection 9, at the top of page 3. This paragraph gives you a summary of what you will find in this proposal and how the freeze and the cap will work.

Section 2 does two things. First, it establishes the freeze/cap. Subsection 1, paragraph (a) requires in Year 1 that assessed values be frozen at the 2004 level. Then, subsection 1, paragraph (b) goes on to state assessed value increases for the second year would be limited to the CPI. Subsection 2 has the provision for dealing with new property, or improvements to property that did not exist in 2004, which is the frozen, or base year. In subsection 2,

paragraph (a), you have the formula, which has already been described to you by Mr. Malkiewicz, for calculating the value of new property entering the rolls in 2005, but calculated at the 2004 level. In subsection 3, you find the same formula outlined for improvements to real property. This section allows local governments to capture the growth money, but that growth money is calculated at the 2004 rather than the 2005 assessed level in order to meet the constitutional requirement of uniform and equal.

Section 3 of [Exhibit F](#) is where it starts to get interesting. This is where you find a second cap, which is needed for two reasons. First, a freeze benefits those whose property values have increased considerably, but does little to help those whose property has remained virtually the same. Second, even though assessed value is frozen or capped at the CPI level, local governments still have the ability to raise their tax rates. This, again, could disproportionately hurt the person whose value has not increased. The second cap is a limitation on the local governments' ability to raise tax rates beyond growth plus inflation. We recognize the fact growth does not pay for itself. If you have more people, then you need more services. Nonetheless, you cannot give local governments free rein to compensate for frozen assessed values by increasing tax rates at an unreasonable clip. This cap on rates is similar to the formula you heard described by Mr. Malkiewicz in proposed BDR S-1152. It is progressive in that those with higher values will pay more, but within limits, and it also strengthens the constitutional arguments for the freeze.

Section 4 contains two important parts. The first part is the administrative detail that directs the Nevada Tax Commission to establish and recognize the needed formulas for calculating the growth, and also the formula for the cap on tax rates. That is something for which we want the Tax Commission to be responsible in order to ensure it is applied the same way by everybody across the State.

SENATOR TITUS:

Subsection 2 of section 4 includes the safety valve for local governments. A taxing entity may impose an ad valorem tax at a rate exceeding the maximum rate authorized in this bill. We included this safety valve for local governments because, despite all these calculations, we have no real way of determining what the impact will be on taxing entities. We do not want to be called into a special session if some mosquito district cannot function as we had hoped it

could under the provisions of this proposal. Furthermore, I believe there are safeguards already in place to keep local government from abusing this provision. First, local government officials are close to the voters. They are very accessible, and they can be held accountable. In order for them to increase the rate beyond this provided in the bill, they would have to do it in a public hearing with a public vote. Second, as Mr. Malkiewicz described earlier, they would also have to state on the bill that it is, in effect, an override. Third, we have a cap of \$3.64 already in place, which is not being changed at all by this bill. Fourth, under *Nevada Revised Statute* (NRS) 354.59811, which was enacted with a tax shift in the early 1980s, there is a provision again limiting local governments. It prevents them from getting revenue from ad valorem taxes of more than 6 percent over what they got the previous year. Those four things give me assurance you can provide this kind of safety valve for local governments if they, indeed, cannot provide the services they need to provide under the provisions of this tax freeze proposal.

Section 5 of [Exhibit F](#) creates an interim study committee of Legislators to study this issue and come up with other potential changes that could have long-term effects, including constitutional amendments. One of the amendments I hope they will consider, and which I am bringing forward, is a split-roll arrangement. Primary residences would be charged at a different rate than secondary, or vacation homes, much as you see in a number of states, including Utah and Hawaii.

Let me conclude by urging your consideration of this proposal, or one like it. I believe it is easy to understand; it is fair; it is constitutional; it gives immediate relief to taxpayers, and it allows local governments enough revenue and leeway to provide needed services. In the coming days, as staff and the Committees begin to refine the numbers for these various proposals in order to calculate their impact on the State and on local government revenues, I would urge you to keep a few things in mind. First, remember property taxes are only a part of both local and State government revenues. They range from 18 percent to 40 percent, depending on the county. The other sources of revenue coming in right now are at an all-time high. You have sales tax, gaming tax, liquor, cigarette and real estate transfer taxes. All of those are up, so the State is likely to have a \$500-million surplus. Therefore, if property taxes are not increased to the level anticipated, they can more easily be made up this year than in others because of those high revenues from other sources.

Second, I urge you to remember this proposal does not reduce revenue for local governments. Local governments still get the growth money and can still raise their rates, albeit within limits. We are not talking about reducing rates. It is just an increase that may be less than what those local governments want, even with a freeze and a cap. Having said that, if local governments can make the argument they do, indeed, need more money than is provided in this proposal, we will listen, but let us make them argue it. If you start at the top, you never go down from there, so start with a freeze and require justification for any increase.

Finally, with all due respect to the talented number crunchers we have, I would ask you to please remember these are the same people who ran the numbers for us last Session when we were looking at various tax proposals. Those projections, as it turned out, had very little to do with reality. In the long run, we have to provide taxpayers with relief that is real, that is clear and that is responsible. If we do, Nevada taxpayers will appreciate it and will not be lured in to a California-type Proposition 13, which, in California, turned out not to be a tax relief, but a tax shift. I trust the Nevada voters. I think Nevada taxpayers are smart and know they have to pay for schools, roads and fire protection, but they also want to know they are not being unnecessarily gouged and that they are getting their money's worth. I believe this proposal will provide them with that assurance.

SENATOR JOE HECK (Clark County Senatorial District No. 5):

I appreciate the opportunity to be able to roll my BDR into this bill that allows the freeze as well as the inflationary increase. We tried to decrease the workload on legislative counsel by taking one more proposal and BDR out of the mix. This bill will provide the most effective, most fair and most constitutional relief to the taxpayers of Nevada.

MR. MALKIEWICH:

Committee, you have a handout from the Nevada Department of Taxation ([Exhibit G](#)), which shows actual audited revenues from selected counties and cities from the fiscal year ending June 30, 2004. It shows the percentage of revenue received from ad valorem taxes in each county and certain cities within those counties. The proposal you just saw is an excellent example of how you can mix and match some of the components included in other bills: Do you have an outlet for the local government to increase taxes? Which components do you

pick from these in determining the rates? What are the results in the bill with which you want to go forward? We can determine estimated fiscal impact in conjunction with this table, showing roughly how much revenue local governments are receiving from other sources. As I indicated at the beginning of my presentation, what we prefer not to do is run 300 tax districts on 20 different plans. As you have seen from this last proposal, even the 20 different plans can have a lot of permutations. If the Committees indicate this is something they would like to see, we will move forward with our consultants in generating some numbers. The bill drafters can then work with the State and local government tax experts on the language of the different types of bills, the language of a cap, the language of a rate limitation and the language of something that limits the overall increase in rates.

ASSEMBLYMAN ANDERSON:

If we were to follow the proposal put forth by Senators Titus and Heck, would it not be detrimental to the school districts' bonding capacities and bonding ratings? The impact on school districts remains a major concern.

SENATOR TITUS:

We have discussed the impact of this on the bond rating not only for school districts, but for the State as well. Because this is a temporary proposal, and the committee is in place to talk about the future, those bond ratings will not be negatively affected for the long run.

ASSEMBLYMAN ANDERSON:

One of the basic questions I have had relative to this whole process is, since those are voter-approved bonding programs, are we not circumventing what the voters have looked for?

SENATOR TITUS:

The bonding affected the rate, so you are not changing the rate. I do not see how it would be circumventing what the voters wanted when they approved an increase in the rate through the bond.

ASSEMBLYMAN ANDERSON:

Those dollars cannot be made up out of General Fund revenue because those are specifically earmarked for capital improvements.

MR. MALKIEWICH:

To the extent we put limitations on the amount of revenue generated through property tax, it is going to have impacts on all statewide rates, the State bonding rate as well as the school rate. One of the estimates we showed was if you had an actual increase of 6 percent in your revenue, it would have a 45-percent impact on the distributive school account because the budget is built with an 8.5- and 9-percent increase. Whatever kind of a mechanism you put in is going to limit the amount of revenue that goes for these. As for local governments, the more severe the restriction, the more the impact on the amount of revenue generated.

ASSEMBLYMAN ANDERSON:

Could we have some additional discussion or statistics on the question of freezing the school district debt rate in an effort to generate additional revenue for building new schools? Economists love to talk about what is going to happen in the future, but I am concerned with what is going to happen, not just in my Washoe County School District, but also in Clark and Storey Counties. Clark, Washoe and Storey Counties have passed ballot questions freezing school district debt rates, and it would be helpful if we could generate some information in that area.

CHAIR MCGINNESS:

Now, with these proposals out, some local governments, school district assessors and a lot of folks out there on that side of the table are going to be able to start dissecting some of these. They can start running some numbers in order to see what is going to happen. The assessors will come forward and tell us which of these, if any, are even feasible. Since these proposals are now out, those types of questions will come forward and those types of answers will be generated.

ASSEMBLYWOMAN GIUNCHIGLIANI:

As the school districts and the various groups look at these proposals, I think we need to anticipate the roll-over impact, which is what Assemblyman Anderson was talking about. Part of what they have done in at least the two larger counties, for the longer-term school construction, was roll over the rate so there was no increase to the property holder. It did not expire as quickly as it normally would have. This needs to be looked at as they anticipate what the

impacts may be on the construction. I know Clark County is going to need to build a school shortly, and I think Washoe just did a rollover pass-through.

SENATOR TITUS:

I appreciate the concern for education. It is a major concern for me, as well. What I fear, though, is if we do not respond in some way to give some relief people can see, and suck it up for a couple of years, to a small extent you will get a proposal that will hamstring school districts and local governments in the long term. Every one of these proposals causes a reduction in revenue. Not just the cap, but the 6 percent, the freeze or whatever, is less than would have been anticipated or than you would have gotten if you used the higher assessed value. We need to do something in the short term. If you think it is hard to live with a 6 percent or something for two years, try living with a Proposition 13 from now on. I think a Proposition 13 would do much greater harm to local services and school districts than a short-term reduction in revenues.

ASSEMBLYMAN PERKINS:

I will ask our staff to check with bond counsel, particularly with the debt service concerns, to see how the various proposals might affect the covenants we have with the bondholders. I am sure that in 1997, when we did the rollover in Clark County, there was some modeling that anticipated various amounts of growth. Perhaps, there has been enough growth to satisfy that. I do not know, but we need to check with bond counsel to ensure we have not negatively affected our bond ratings.

ASSEMBLYMAN ANDERSON:

No one would have anticipated the great growth in population in this State and the continuing impact on school districts because of their capital needs over and above the educational needs in the classroom. It would be nice to have been able to put dollars into a stable population. I think the school districts are doing a pretty good job of guarding the dollar now, and I would not want to imply they are not. They are in this kind of predicament because of the great growth factor. Expecting them to solve the problem of the child in the classroom, while simultaneously ignoring the roof over his head, is not good public policy. I am very concerned about this part of the issue.

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SENATOR COFFIN:

Do any of these options have the potential to create any revenue shifting amongst the counties to create an imbalance in unexpected ways? If we can look ahead, at least we have a little time to anticipate any unforeseen problems. After the last major tax changes in 1981, it took us a long time to unwind the unforeseen consequences.

MR. MALKIEWICH:

In this case, depending on what option you choose, the bigger concern is within the county where the amount going to one city versus another may get out of balance based upon the complicated combined distribution formulas. We are not shifting from property to sales here; we are just limiting the rate of growth. The only situation I see where you might have a difference among the counties would be where you have the different factors in the different counties. There, you might see where one county has been held down more than another county because we have used county growth factors that differ from county to county. I do not anticipate much of a shift of revenues among the counties.

SENATOR COFFIN:

Could you give me your opinion on which of the proposals we have seen so far would cause us potential grief within a county?

MR. MALKIEWICH:

I really do not have the level of knowledge to say. We need to get some direction and priorities from these Committees. If you can identify the result you want, then we can use these tools to craft a solution to produce that result. After we craft those solutions, we can then look at our 300 taxing districts and see where the problems are, which we can fix, or possibly see a problem that really messes up the balance when you get down to the second and third level of the distribution of revenue.

SENATOR LEE:

I know the price of fuel, food, construction materials, childcare and utility bills seems to be different within the United States. Does our CPI regionalize or nationalize?

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SENATOR HECK:

The CPI put into this bill is the all-consumer, all-elements consumer CPI, which, this year, is 2.6 percent. If you look at each individual component, some raise much more quickly than others, especially the health care sector. It averages it all out based on what is high and what is low.

SENATOR LEE:

In the West, we probably might have higher prices on eight out of ten items because of the growth and everything we are doing. Are we taking into consideration we might actually have a more specific percentage of CPI?

SENATOR HECK:

Actually, if you look at the West Region CPI for this year, it is lower than the actual CPI.

CHAIR MCGINNESS:

In Table 1 of [Exhibit D](#), when you talked about the higher value, Parcel 1 gets 0-percent reduction, whereas Parcel 5 gets 26.9 percent. Does this instance lead us on that slippery slope of unconstitutionality?

MR. MALKIEWICH:

That is one of the issues that led us to develop the effective tax reduction as an alternative to this. We believe we can defend these based upon some of the things you have seen in the declaration at the beginning of the bill, specifically, the citation of the emergency situation in which we find ourselves. We have had spikes far beyond anything that can be planned, spikes inconsistent with the constraints of the Constitution. Also, we are proposing a short-term solution here. We are not saying this is the way it is going to be from now on. We are going to allow someone whose property doubles year after year to continue to pay as though their property was still \$100,000. We are putting into effect a short-term, stopgap limitation, which, I believe, makes it more defensible. That is one of the reasons you see the interim study requirement in all of these proposals. We are saying we have an emergency and are passing an emergency relief package, and in the meantime, working on a permanent solution.

There was a case related to the first tax shift that indicated when the tax shift came into effect there were so many inequalities for a year or two. The court, in that case, said these temporary inequalities were okay. It said so long as we

were moving toward something consistent and uniform, the court would approve it. That is what we are attempting to do here. Certainly, if you have something where the effective tax rate is the same, it is easier because we can say our defense is we have taxed them equally. Here, the defense is we are treating all property the same. We are applying the same formula to all the property to determine the tax liability, and we are coming up with a short-term solution to address our problems.

SENATOR TITUS:

When I first started talking about a freeze as a short-term solution and then doing an interim study, some people were critical. Some said we should not shirk our duties by putting this off on some future Legislature. All three of these proposals are short-term proposals. It is not a matter of shirking duty. It is a matter of being impossible to project beyond these two years. You do not see any figures projected out. These are all short-term solutions until we can do something about amending the Constitution and until the market levels out.

ASSEMBLYMAN PERKINS:

Going back to Table 1 again, I am looking at Parcels 2 and 4. Both started out at \$100,000 and grew at different rates and yet the homeowner in Parcel 2 is only going to see a reduction of \$94 and the homeowner of Parcel 4, \$305. It seems we are treating those folks disparately, which causes me some concern since they all started out the same. You have already talked about how it is defensible because it is a short-term solution. To give some folks more relief than others causes me concern.

MR. MALKIEWICH:

When I first introduced the caps, this is the precise point I made. Caps provide greater relief to faster-growing properties. You can look at it as a good thing or a bad thing. The good thing is someone who has a huge increase in their value does not get a huge spike. You have had two days of testimony, from both northern and southern Nevada, of horror stories of people who could not afford their property taxes. A cap addresses that. On the flip side of the coin, you could argue that those properties with the huge increases are getting a disproportionate share of the benefit. That is the sort of issue on which these Committees need to make a decision. Once you decide who you want to benefit and how much you want to benefit them, we will try to give you an idea of the specific impacts it will have on different properties.

ASSEMBLYMAN PERKINS:

This is a short-term fix until a long-term solution comes into play. It therefore makes these concepts much more defensible. It seems the growth outside the cap, in a short-term arrangement, could be defensible as well.

BRENDA J. ERDOES (Legislative Counsel):

We are evaluating these proposals on the basis of how they fit within the uniform and equal clause of the Constitution. We are comparing them one to another to determine which will have a more disparate effect and which will actually be defensible in terms of the overall picture of uniform and equal. Treating new property coming on the rolls differently than existing property sticks out more in terms of uniform and equal. At least with a cap, there is a straight, across-the-board percentage, and you can make the argument that it is uniform in and of itself. That cap is uniformly applied. There is not much of an argument to be had for the property being added to the roll at a different assessed value, under different standards. Case law is very clear in terms of when you compare one property to another, and what you have to do when you assess it. That applies more literally to new property coming on the roll than it does to a cap straight across-the-board.

ASSEMBLYMAN PERKINS:

It seems to me, if I do not yet have a property on the roll, I do not have the same expectation as the property owner who does. When I come on the roll, I come on at a market value. In my lay view of trying to apply this, it would be at that point the cap kicks in for me. This being a two-year, temporary thing allows us a bit more flexibility, based upon the previous case law. If the flexibility still exists, we can provide a lot more relief for the current property owner if the future properties come on at market value. We do not owe the future property owner the same protections as the current property owner.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I want to pursue Mr. Malkiewicz's comment regarding a cap providing greater relief to the faster-growing properties. It is an issue for those of us who represent an older part of town. Those people are suffering with the need for relief as well, but if we are not careful in what we choose, we are going to affect our middle- and low-income property owners far more so than those having the greater value of their housing. Is that part of what happens here?

MR. MALKIEWICH:

Precisely. The point of this presentation is you can choose what impacts you want to have. I have described in general terms the effect of a rate reduction and the effect of a cap. If you choose something in the nature of a cap, the net impact is going to be greater as far as a benefit on the rapidly growing properties. Then, there is the corresponding lack of benefit, or perhaps even detriment, depending upon the method you choose. If you allow revenues to go up and cap how much the assessed valuation goes up, there is actually going to be some shifting. Revenue that would have come from those higher-priced properties will now be shifted to some of the lower-priced properties because there will be a larger percentage of the overall assessed valuation of the district. The main thing we want to do, as staff, is make sure you walk into these with your eyes open and see what the consequences are for the different affected properties.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Would the shifting that could occur then throw us into a constitutional question of uniform and equal?

MR. MALKIEWICH:

None of these plans come with a guarantee as to the constitutionality of any proposal, but in drafting the bill, we will try to make them defensible. We believe the general concept of the short-term fix is something we can defend in court. As Ms. Erdoes said, if you are applying different rules to new and old properties on assessing the values, it sticks out. However, if we apply the same rule to both the old and new, and we are only doing it for a couple years to address a factually verifiable emergency situation, I believe those things would allow us to defend them. We are not imagining a 28-percent increase in assessed valuation in Clark County. We have it. Although constitutionality is a yes or no question, we want you to realize certain choices you make can create more risk.

ASSEMBLYMAN HETTRICK:

In regard to the cap, it is fair to point out if you have a 0-percent increase in assessed value, then you have no increase in your tax bill. If you had a 30-percent increase in your assessed value, you would be capped at a 6-percent increase. The next year, you would get another 6 percent, as well as the next year and the year after. Should we allow this kind of anomaly or this

kind of a spike in values to have a negative impact on the residents of Nevada instead of smoothing this so it is affordable for people on fixed and lower incomes who are negatively impacted by these increases? Are any of these plans perfect? I think every one of us would agree, you can have an anomaly in every one of them that is unfair or less advantageous to somebody. The question is are we going to try to smooth it at a level that makes some sense? I agree with Senator Titus when she says the long-term effects of a Proposition 13-style initiative petition would be devastating. We need to do something to assure the residents of this State that we have made a reasonable, logical attempt to smooth this out so they can afford to stay in their homes and pay their property taxes.

SENATOR HECK:

We recognize the cap on assessed values would predominately benefit those having escalating assessed values, which is why we have this dual-cap approach. In section 3 of proposed BDR S-840, we also place the cap on the amount the property tax bill can increase in any one year, also related to the CPI. That, in and of itself, will benefit those who do not see the large increases in their assessed value. Both those who have rapidly escalating assessed values and those who do not, receive some type of property tax relief through both provisions within this bill.

SENATOR TITUS:

I would like to go back to Assemblywoman Giunchigliani's point because I, too, represent an older district. The houses in my neighborhood are going up maybe 2 or 3 percent, so a 6-percent cap really does them no good. If you freeze assessed value, then their bill will be the same as it was before. If you look at the percentage of relief they get, compared to the percentage of relief somebody gets whose value increases greatly, yes, their percentage of relief is smaller. However, if you look in terms of real relief, money in their pockets they did not have to spend on an increase in their property tax bill, then it is something substantial. This is the reason for the combination freeze and CPI.

ASSEMBLYMAN ANDERSON:

The community in which I live has a large number of homes 30 years old or older and are potentially experiencing, according to this, a 27-percent increase in the city and a 42-percent increase in the county. The freeze may sound advantageous unless you have a very small community reassessing every

five years. The anticipated growth over that five-year period would be to put things off again and again. The reason the Legislature mandated assessing every five years in the first place was so these giant increases would not take place. I appreciate the difference between Clark County and the other counties in the State, but we have heard from many of the rural folks who have indicated there is just no way to do the things that happen in Clark County.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I would ask, with whatever we process, we also look at the issue of depreciation. For example, a house here in Carson City, which was built in 1874, has been gutted and totally remodeled and is valued at \$550,000. The taxes are \$700 per year, so there is another disparity we are not recognizing. If we are going to look at the issue of uniform and equal, I would hope the study could also take a look at the whole issue of depreciation. Our assessors are not consistent when they do the assessments, and depreciation ought to be part of the factor we look at. The software and the equipment should be the same, so we are guaranteed they are assessing uniformly across the State. I hope the study language could anticipate those types of discussions.

SENATOR COFFIN:

In other meetings of these Committees, we discussed other options, including an averaging formula to avoid the spikes. Has the averaging formula fallen out of favor, or is it in a state of process?

CHAIR MCGINNESS:

On Thursday, we will hear other proposals from Legislators. If anyone has a proposal you think will magically fix this, we want you to come to the table and let us know.

ASSEMBLYMAN PERKINS:

At the risk of exposing my stubborn streak on the new growth discussion, one of the things we hear from our constituents all of the time is, "growth does not pay for growth." If we are going to find some limiting factor that bases something off of a particular year, and not bring new properties on at their market value, it will further inhibit this State's ability to make growth pay for itself. For people who are going to buy homes next year or the year after, there

is not an expectation to base their values upon last year's base. Whatever this Committee processes, it would be my recommendation to at least consider the option of bringing new growth in at market value.

ASSEMBLYMAN HETTRICK:

I agree with Assemblyman Perkins in regard to new growth. However, I have been convinced by legal staff we are not going to make that pass muster this Session. We can work on constitutional amendments after we solve the issue of what we intend to do about the actual tax bills. I would support a constitutional amendment allowing us to bring new property on at market value. I would also support a constitutional amendment allowing revaluation upon resale. This would help with the issue of new growth, and I think it is fair. I do not see why when a home costing \$250,000 to build is resold for \$1 million, it should get to stay on the tax rolls at \$250,000. If the same person bought a new home, he or she would end up paying tax on \$1 million. It makes no sense to me. They do not have a reduced impact upon service requirements or anything else, and to carry that value forward is incorrect.

I would make one other comment in regard to depreciation. We are all hearing this spike is caused by the increase in the value of land, which I believe is true, but we have also discussed the increased cost of construction. Very soon the bible by which the assessors must value replacement cost for improvements is going to change. Those numbers are going to go up significantly and will impact the cost of improvements in the next round of assessments. When that happens, this anomaly is going to become a pretty long-term anomaly. It will become the norm instead of the exception. It is something we need to be addressing and consider in the long-term. Land prices may stabilize, but the cost of construction is going to go up.

CHAIR MCGINNESS:

I will ask the assessors to do a little homework. We need to know what software and hardware county assessors might need in order to provide us with balanced information in the same form. It would not only be helpful to Mr. Chinnock in the Department of Taxation, but make it easier for us to work on this in future weeks and years.

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ASSEMBLYMAN PERKINS:

I want to request, for the record, information regarding the ability to cost out these three particular proposals addressing the impacts we felt by the education piece, the debt service piece and the local government piece. We need to have a picture of what it is each one does and how each one interacts. I do not anticipate we will have the information overnight, but it would also require cooperation from local governments and others in calculating those impacts.

ASSEMBLYWOMAN PIERCE:

Could we get a table like one of these in [Exhibit D](#) to go with the freeze plan?

RUSSELL J. GUINDON (Deputy Fiscal Analyst):

Yes, we can provide that.

CHAIR MCGINNESS:

We may also ask the local governments and school districts to provide information to us.

ASSEMBLYMAN PERKINS:

Among the other concepts, we would like to hear about how we might integrate severe economic hardship into anything this body processes.

SENATOR TIFFANY:

Are we also going to talk about what we want to think about for the constitutional amendments? I know there are a lot of ideas other than the split rolls mentioned by Senator Titus.

CHAIR MCGINNESS:

Senator Titus threw the split rolls out as one of the ideas we can talk about for the study, but there are other possibilities out there, too.

SENATOR TITUS:

We have to get the process for constitutional amendments going now because to put it off until the next interim would bump it back another couple of years.

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SENATOR TIFFANY:

That was my feeling. There is no reason to put anything in a study if we come up with something we think needs to be done now. Is a constitutional amendment part of what we can craft along the way, as opposed to sticking it into an interim study?

CHAIR MCGINNESS:

Absolutely, but as Mr. Malkiewicz indicated in the beginning, it is not one of the things facing us in a three-week deadline.

ASSEMBLYWOMAN GIUNCHIGLIANI:

In one of our meetings, we received a document from our research staff which took each state and noted what they did within their constitutions. Assemblyman Parks and I are working on the whole issue of split rolls, homestead exemptions, senior exemptions, exemptions for the disabled and all those things. Maybe we could make sure the Senate Committee members get a copy of that document, so we are all looking at the same point. We can try to gather some information or ideas regarding a constitutional amendment. We do need to move it forward this Session, and we should make sure it is as inclusive as we want it to be.

ASSEMBLYMAN ANDERSON:

I would presume the request from Senator Tiffany is not relative to this Thursday's meeting, but something into the future. I would hope the constitutional question, while it has to be part of our overall discussion, would not be something we are expecting staff to do by this Thursday. There are too many elements in it, and I would rather see us focus on these three proposals.

SENATOR TITUS:

Prior to this discussion about constitutional amendments, you were talking about running the tables. When you run those tables, I urge you to be sure you note which ones are hard freezes and which ones allow local governments to raise their rates. If you just look at the impact of the cap or the freeze, without taking into consideration local governments can raise their rates a certain amount, it will not give you a real reflection of what the impact is going to be. As far as the economic hardship, I would remind you, the Senate bill I introduced last week expanding the exemption for low-income seniors went to the Senate Committee on Human Resources and Education and was passed out

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of that Committee. It is one little piece and one little way to help people with economic hardship, and it is something we can do this Session without a constitutional amendment.

ASSEMBLYMAN PERKINS:

This reminded me of a question I had on one of the earlier bill drafts. Mr. Malkiewicz mentioned the ability for local governments to raise rates. They already have the ability to raise rates under particular caps. If they lower them one year, they can raise them back up to where they were. Are we creating an additional authority for local governments to raise property taxes?

MR. MALKIEWICH:

I do not believe so. Two of these three bills have a mechanism allowing local governments, as a safety valve, to increase rates, but it would still be subject to the \$3.64 limitation. It would also still be subject to the fact the local government would need the authority to increase rates. They could not put a rate on areas that required voter approval without voter approval. The laws applying to changing rates would still apply to those as well. If we have something saying you are having your rates frozen, then it is going to have a different impact than if you allow a limitation on the amount of revenue you can receive. The question of whether or not you can then make up the difference with rates is a separate issue.

ASSEMBLYMAN PERKINS:

The last thing we need to have in any of these bills is some sort of bait and switch, where we are providing some legislative relief and then on the other

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end, allowing it to go unfettered. That would certainly be counterproductive to this entire exercise.

CHAIR MCGINNESS:
We are adjourned at 3:40 p.m.

RESPECTFULLY SUBMITTED:

Ardyss Johns,
Committee Secretary

APPROVED BY:

Senator Mike McGinness, Chair

DATE: _____

Assemblyman Richard D. Perkins, Chair

DATE: _____