MINUTES OF THE
SENATE COMMITTEE ON TAXATION

Seventy-third Session
April 5, 2005

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 1:34 p.m. on Tuesday, April 5, 2005, in Room 2135 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.

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

GUEST LEGISLATORS PRESENT:

Senator Bob Beers, Clark County Senatorial District No. 6

STAFF MEMBERS PRESENT:

Chris Janzen, Deputy Fiscal Analyst
Tanya Morrison, Committee Secretary
Ardyss Johns, Committee Secretary

OTHERS PRESENT:

R. Michael Lee, President, Lee Bros. Leesing, Incorporated
Maureen Kachurak, Boys and Girls Club of Truckee Meadows
Andrew List, Nevada Association of Counties
Ed Fowler, Board of Commissioners, Mineral County
Bjorn (BJ) Selinder, Churchill County; Eureka County Commissioners
Gordon R. Muir, Legal Counsel, Day & Zimmerman Hawthorne Corporation

John Hasselquist, Controller, Day & Zimmerman Hawthorne Corporation
Gaylyn J. Spriggs, Nevada Taxpayers Association
Dino DiCianno, Deputy Executive Director, Department of Taxation
Linda Ritter, City Manager, Carson City
Mary C. Walker, City of Carson City; Douglas County; Lyon County
Michael R. Alastuey, Clark County
Carole Vilardo, Nevada Taxpayers Association
Mary Lau, Retail Association of Nevada
Doug Sonnemann, Assessor, Douglas County
Jeff Payson, Office of Assessor, Clark County
Norma Green, Assessor, Churchill County
Dave Dawley, Assessor, Carson City
James Wadhams
James F. Nadeau, Nevada Association of Realtors
Ted Harris
Ernie McNeill, Office of Assessor, Washoe County

CHAIR MCGINNESS:
This meeting of the Senate Committee on Taxation will come to order. We will open the hearing with Senate Bill (S.B.) 358, which Senator Beers will outline for us.

SENATE BILL 358: Revises provisions governing assessment of ad valorem taxes and special assessments upon property in common-interest community. (BDR 32-225)

SENATOR BEERS:
Property tax is assessed on the combined value of land and the building on the land, otherwise known as fair market value. There is a third component in the value of property run by homeowners associations that build additions for the exclusive use of its residents. That addition is one portion of the commonly owned property's value. I will give you an example. Sun City in Las Vegas has nice recreational centers that rival public facilities. The only way you can use those facilities is by being a homeowner inside Sun City. The market value of any home in Sun City consists of the land, the building and 1/8000 of the value of the commonly owned property. That is because there are 8,000 units. Therefore, once you have taxed the market value of one of those homes, you have automatically taxed 1/8000 of the value of all the commonly owned property available to that particular homeowner. Once you assess property tax

on all 8,000 of those homes, you have, in fact, assessed and taxed all of the commonly owned property in that homeowners association. Currently, the assessor is taxing the homeowners association separately for commonly owned property. Because that tax comes out of the homeowners' dues, those homeowners are taxed twice for the same property.

Nevada Revised Statute (NRS) 116.1105, section 2, subsection 2, paragraph (b), prohibits separate taxation of commonly owned property. However, the Nevada Supreme Court has ruled it is not fair and equitable, and thus, is an unconstitutional statute. I am working with the Legal Division of the Legislative Counsel Bureau to bring an amendment to S.B. 358 that eliminates this language and replaces it with more strongly worded language. Maybe a combination of justices and more explicit language will do the trick, assuming, as a policy matter, approval by this Committee and the Legislature.

CHAIR MCGINNESS:
I will remind you, our final meeting date is April 14.

SENATOR BEERS:
I will have an amendment ready by then.

CHAIR MCGINNESS:
We will close the hearing on S.B. 358 and open the hearing on S.B. 321.

SENATE BILL 321: Requires Department of Taxation to administer exemption for sales to nonprofit organizations to include motor vehicles transferred to nonprofit organizations. (BDR 32-1253)

R. MICHAEL LEE (President, Lee Bros. Leesing, Incorporated):
If S.B. 321 is passed, we will be exempt from the sales and use tax when leasing vehicles to a nonprofit organization.

CHAIR MCGINNESS:
Give us an example of how this transition might take place.

MR. LEE:
The Boys and Girls Club of Truckee Meadows, as a nonprofit organization, is exempt from sales and use tax. When Lee Bros. Leesing leases a vehicle to that organization, since we own the product, we are required to pay the use tax.

CHAIR MCGINNESS:
If you donate a van to the Boys and Girls Club for two years, even though you made the donation, you have to pay the use tax for that period?

MR. LEE:
Yes, usually what happens is we will donate everything except what we charge the nonprofit as a handling fee, which represents a similar amount to a use tax.

SENATOR LEE:
Can you explain to me why "religious" purposes was put into the bill?

MR. LEE:
It is because most religious organizations are tax-exempt.

MAUREEN KACHURAK (Boys and Girls Club of Truckee Meadows):
I am here to support Mr. Lee. From a nonprofit standpoint, any amount of money we can save allows us to expend more on services for our club members.

SENATOR TIFFANY:
I know car dealers give cars to the University of Nevada, Las Vegas for a year or until a certain number of miles are on the car, and then take it back and sell it. Is that what you are talking about?

MR. LEE:
If a vehicle is wholly given to a nonprofit organization, it is exempt from the sales tax. If it is leased to an organization, we just use the leasing as our internal method of donating these vehicles, but we still have to pay the use tax on them. Two years ago, a bill was passed allowing governments, states and municipalities to be excluded from the use tax. This year, with S.B. 321, we are trying to extend this to other groups such as nonprofits that are already excluded from the sales and use tax.

SENATOR TIFFANY:
Is a leasing company treated differently than a car dealership?

MR. LEE:
The difference in a lease transaction is a vehicle has a residual value and the ownership is not immediately transferred unless someone wishes to purchase the vehicle at the end of the term. On a car deal, if they sell a vehicle, ownership is immediately transferred.

SENATOR TIFFANY:
No, a car dealer loans the car to the university, say for a year, or until the car has 8,000 miles. Then, the dealer takes the car back into the dealership and sells it, at which point no tax is exchanged. Yours would be a similar situation in that you are not a dealer, but you are leasing a car to a nonprofit organization for a number of months or years. You then bring it back and either re-lease it or sell it.

MR. LEE:
Yes, in a situation where we are donating the whole thing.

SENATOR TIFFANY:
Are there instances where you never take it back?

MR. LEE:
Usually, we donate a car, like to the Boys and Girls Club, for the best life of the car and then, when it starts to cost them money, we bring it back and donate something else.

SENATOR TIFFANY:
I am trying to understand if we are doing this because you are a leasing company, or because it is a nonprofit? I am confused.

MR. LEE:
Many times, I lease vehicles to nonprofits because it is much cheaper for them than it is to purchase a vehicle. To answer your question directly, this bill benefits the nonprofits and has nothing to do with the leasing company itself.

SENATOR TOWNSEND:
The bill we passed in the previous Session was for educational institutions. Whether the gift was from a franchise, new car dealer, someone who has

a buy-sell license, used car license or lessee license, is not relevant. The type of transaction is what comes into question by the Department of Taxation and ultimately, the Internal Revenue Service. As a result, it affects all persons who are in that industry, no matter what statute they come under. It is more about the transaction, and not about the type of person involved. We did not include nonprofit organizations when we passed the educational exemption. Passing this bill would benefit not only them, but anybody who attempts to help a nonprofit by determining the best way to provide those kinds of donations.

SENATOR LEE:
Mr. Lee, if we do not pass this bill, it does not hurt you; it hurts the Boys and Girls Club because they end up having to pay.

MR. LEE:
That is correct. It will not affect me, whatsoever.

SENATOR LEE:
If this bill does not pass, the nonprofits have to pay the use tax instead of you.

MR. LEE:
I have to pay the use tax, which I will make up for by charging the nonprofit organization a handling fee.

CHAIR MCGINNESS:
We will close the hearing on S.B. 321 and open the hearing on S.B. 387.

SENATE BILL 387: Revises provisions governing appraisal of real property. (BDR 32-1094)

ANDREW LIST (Nevada Association of Counties):
Though S.B. 387 arose due to an instance in Mineral County, it has applicability to other Nevada counties as well. It applies to those counties having large amounts of public lands leased to contractors by federal agencies. Nevada has a type of tax called the possessory use tax. Because our counties have such a small private land base, it is rather difficult for those counties to generate any property tax. For instance, Esmeralda County is less than 2 percent privately owned, so it does not have a large private land base. The possessory use tax is intended to mimic property taxes in order to make up for that small tax base. It prevents a contractor who leases land from the federal government from

avoiding property tax. Back in the 1990s, a settlement agreement was reached between the Mineral County Board of Commissioners and the contractor. The agreement essentially set aside and decreased the contractor's taxes for that year and several years going forward. Because of that, the largest employer and the largest taxpayer in Mineral County was no longer responsible for carrying their fair burden of the taxes. That burden was shifted to the citizens of the county when the assessor and the county commissioners immediately increased the tax rate to $3.64.

The settlement agreement was subsequently declared null and void by the Nevada Supreme Court. Whether or not the county can get the back taxes has been a subject of litigation. There is some question as to how to calculate the possessory use tax. We are here today to fix what we believe to be some loopholes and errors in the drafting of this bill.

I will give you a little history of NRS 361.227. We did a legislative history review of these taxes going back about 25 years. On page 2 of S.B. 387, line 29 says, "The computed taxable value of any property must not exceed its full cash value." In other words, the taxable value cannot be more than what the property is worth. In Mineral County, the assessor calculates the taxable value of property. The tax for possessory interest is computed the same way as if the property were privately owned. The State Board of Equalization has said the full cash value of the possessory interest is the amount the contractor receives from the contract. We argued subsection 5 does not apply to possessory interest. They are completely different sections of the law and are not cross-referenced at all. According to legislative history, the law specifically stated the capitalization rate and the income approach shall not be used on possessory interest, which is in an entirely different section of the law. Over the years, however, things were changed and it was included, and then it was not included. It went back and forth. Finally, the last time the law was amended, it was taken out.

MR. LIST:
What we are seeking to do is to level the playing field, again. According to the State Board of Equalization, the less risk there is in a contract, the smaller the capitalization rate and the more you pay in taxes. The more risk you have, the higher your capitalization rate, which is a percentage, and the more taxes you pay. It is intuitive. In Mineral County, the rate determined by the State Board of Equalization is somewhere around 12 percent. That cuts the taxes, depending

on the year, by anywhere between one-half and two-thirds percent of what the assessor believes is owed. It results in the largest taxpayer in the county having their taxes cut by anywhere between 50 percent and 66 percent. This is a contributing factor to Mineral County's economic decline and, certainly, a contributing factor to their tax rate jumping up to $3.64.

We are seeking to change this law back to what it has been in the past, by not allowing the income approach and the capitalization method unless the contractor has some sort of substantial investment in the property. The contractor, in this case, does not have any sort of substantial investment. I have talked to the assessor and been involved in this lawsuit. Aside from a water well, the contractor has no substantial capital investment in the property. They have not improved the buildings, and they have not bought any vehicles. Everything they use on the federal property is owned by the federal government. The way this bill works is if a contractor has no capital investment in the property, that contractor cannot use this capitalization method and the fair economic income expectancy.

This is, admittedly, an end run around the State Board of Equalization. We do not like what they have done, so we are seeking to change the law to the way it has been in the past.

ED FOWLER (Board of Commissioners, Mineral County):
I am a former Army contract official from the Hawthorne Army Depot. My concern is if the State Board of Equalization keeps agreeing with the contractor, it is going to affect the possessory interest statute for the entire State. Once you allow the capitalization approach, you can never retreat from it. For example, the contract in place right now is a firm, fixed-price, performance-based contract. The former contract was a cost-plus-award-fee contract. At the end of this contracting period, if the army decides to go back to the old contract, the contract would be liable for about $18,000 to $20,000 in taxes. Under the old contract, the Army used to pass through all taxes under the possessory interest statute because they could not use the income approach.

This is bigger than Mineral County. It can really snowball and take away a source of revenue, especially in Nye County. We should return to the old method.

MR. LIST:
If this bill is passed, the contractor can go back and have their contract changed, which would allow them to bill the owner of the property, the federal government, for the taxes, so it is a pass-through. Although you might hear from the contractor's attorney that this would raise their taxes substantially, we disagree. It will raise their taxes, but they will be allowed to recover those directly from the United States Government. It is simply a flow-through.

MR. FOWLER:
Under federal acquisition regulations, when a contractor bids a contract with flawed financial data in favor of the contractor, the contractor has to give the money back to the government. The same is true if it is flawed in favor of the government. The government then would have to return money to the contractor. If this method changes, under this law, this contractor has the right to petition the contracting officer for any additional taxes between now and the end of his contract period. It would be no additional cost to him from this time forward.

BJORN (BJ) SELINDER (Churchill County; Eureka County Commissioners):
Churchill County has a significant military presence. There are numerous contractors serving a variety of services, ranging from general base maintenance to aircraft engine maintenance and avionics maintenance, as well as a lot more. We have a special concern with this bill because our assessed value, in terms of the contractors on the base, is somewhere in the neighborhood of 10 percent of our total assessed valuation. It would have a tremendous impact on us if this bill is not passed, and the contractors there decide to challenge the method of valuation and taxation. We support S.B. 387. It reinforces the method of calculating taxes on these types of properties.

SENATOR RHOADS:
If the contractor does not pay it, is the State liable to the county?

MR. FOWLER:
No, the State is never liable. The State, however, does take 17 percent out of our tax dollars and is a great loser if this bill fails. It is of monetary value to the State as well as the county. Mineral County has been losing roughly $500,000 per year in taxes for the last 5 years.

SENATOR RHOADS:
Is there any penalty if the contractor does not pay the tax?

MR. FOWLER:
There is a penalty arrangement; however, I do not think it has ever been invoked in Mineral County.

MR. LIST:
Mr. Fowler brings up a good point. When these taxes are not collected in Mineral County, or, in the future, Churchill or Nye County, anybody who participates in the property tax piece of the pie loses.

CHAIR MCGINNESS:
What percent of your budget is based on property tax?

MR. FOWLER:
Property tax is approximately 50 percent of our budget.

MR. SELINDER:
It is about 20 percent of Churchill County's budget.

GORDON R. MUIR (Legal Counsel, Day & Zimmerman Hawthorne Corporation):
I appreciate Mr. List's candor about this being an end run around the State Board of Equalization proceedings. However, it is disconcerting to think these proceedings can be used for that purpose. I trust and have confidence in you as Senators, and the other Legislators, that end runs do not happen in these proceedings. I will not take the time to address some of the inaccuracies I felt were stated by Mr. List in some of his declarations.

Day & Zimmerman pays its taxes on a regular basis. There was a statement about Day & Zimmerman not carrying its fair tax burden. It pays the taxes the law says it is supposed to pay and as regularly as the State Board of Equalization requires. This issue did not arise from a simple instance out of which this is arising, as Mr. List indicated. This is ongoing litigation that has transpired over many years with Mineral County. While Day & Zimmerman is sympathetic to Mineral County's plight, it pays the taxes it believes are due under the law. The State Board of Equalization has determined what those taxes should be on an annual basis, despite Mineral County's objection.

For the past four to five years, the State Board of Equalization has chosen to use the income approach of valuation for this possessory interest. There is no other real way to value possessory interest, as indicated in the letter I gave you from Mr. William G. Kimmel (Exhibit C) dated April 4. The affidavit attached to the letter is typical of the testimony and valuation principle Mr. Kimmel uses before the State Board of Equalization. You will note in paragraph 3 of the affidavit, starting on line 13, he has considered the three approaches of valuation. There are no comparable sales of similar facilities. There are no future sales of similar properties, so the market approach cannot be considered. The cost approach does not take into consideration economics and functionality. Therefore, in his expert opinion as an appraiser, the only way to value this interest is using the income approach. Talking with him last night, he is not even sure how he would approach this if he was not able to use the income approach in valuing this possessory interest.

Experts have testified to the contrary before the State Board of Equalization. The Board's job is to ensure a uniform and equal rate of assessment in taxation amongst the taxpayers. They rely on expert appraisers to make that decision. Mineral County has had their experts testify, and we have had our expert, Mr. Kimmel, testify. The Board made the decision that the income approach is the most viable method to value the possessory interest in this case.

Federal government contracts are difficult to value because there are no comparable sales. You do not sell government contracts. Day & Zimmerman does not lease land as indicated by Mr. List. It is just a federal contract where they manage the Army depot in Hawthorne. There is no market for the contract, and no real costs can be considered without reference to the income approach of valuation. There is no way to consider the functionality and economics of a possessory interest without utilizing the income approach. We have been before the State Board of Equalization five, six or seven times now. The last four or five times, the Board has ruled in our favor, using the income approach to valuation to determine a proper value of the possessory interest.

MR. MUIR:
The Department of Taxation has conducted a series of workshops. A lot of work and effort has been put into those workshops to come up with regulations to help identify and fine-tune some of these issues. In Mr. Kimmel's opinion, S.B. 387 is not an acceptable provision. It takes away one of the normal

techniques of valuing property. It is a technique he considers every time he is called upon to appraise property interests. He has been a certified appraiser for over 40 years.

I would further note, Mr. List indicated we were closing some kind of a loophole. That is a terrible characterization of what is happening. He is trying to legislate away a normal method of valuing property. Now, we are saying just because of one incidence in Mineral County, over a period of time, we are not going to use the income approach. I do not see that as a loophole. I see it as legislating away a normal appraisal practice. The only reason for which the proponents of S.B. 387 have admitted they favor the bill is because they do not like the outcome of the case in Mineral County. Whether or not it can be applied in other counties remains to be seen. I do not know of any other county in Nevada where it is happening at this time.

Nevada law says a taxpayer cannot be taxed beyond the full cash value of the property. I might have a federal contractor, whose contract, to him, is worth only $10 million, but he is utilizing $100 million of government property. Mineral County wants to tax that federal contractor on the $100 million, even though his interest may be worth only $10 million. That is what this is all about. They want to tax Day & Zimmerman, in some cases as high as $180 million, when the contract itself has been determined over the years to be worth less than $50 million.

My recommendation is to allow the experts to decide. Allow them to use the proper methods of valuation as they deem appropriate, and allow the State Board of Equalization to decide if the experts are doing it right.

Other significant problems with this bill go to its legalities and constitutionality. It clearly violates the provisions in the *Constitution of the State of Nevada* requiring a uniform and equal rate of taxation. If you are going to take away the income approach from Day & Zimmerman, as a federal contractor, you need to take it away from all other parties having their property valued. It is clearly discriminatory and it violates taxpayers' rights. We strongly urge this Committee to not consider this bill any further and not take any further action on it.

JOHN HASSELQUIST (Controller, Day & Zimmerman Hawthorne Corporation):
Day & Zimmerman has been the contract operator at the Hawthorne Army Depot since December 1981. For the first 19 years, the contract was a cost-reimbursable contract. We did pay possessory interest taxes during that period of time, and it was a pass-through cost to the Army. For the first 10 years, the average tax per year was $255,000. For the next 9 years, the average was $224,000.

Effective January 1, 2000, the Army competed the contract. There were two other competitors besides Day & Zimmerman, but we were fortunate enough to win. The type of contract changed. Now, it is a firm, fixed-price contract. In that process, we provided pricing for a 10-year period through 2009. During that period, we had to include in our pricing the estimated possessory interest taxes. Since this new contract began, the average annual taxes paid from tax year 2000 through 2004 has been $497,000. It has almost doubled from what was paid under the prior cost-reimbursable contract. Using the income approach, we estimate our tax bill will exceed $700,000 for the 2004-2005 tax year.

Mr. Fowler indicated all we had to do, under federal acquisition regulations, was notify the contracting folks of the U.S. Army, explain the situation, bill them and get reimbursed for increased taxes. I do not entirely agree. We could submit a request for an equitable adjustment, but whether or not the Army would approve and pay it, I cannot predict. They probably would not, since we have a firm, fixed-price contract with them.

SENATOR RHOADS:
You said your taxes next year would be around $700,000. If this bill passes, what will your taxes be?

MR. HASSELQUIST:
We would probably owe taxes on the assessor's valuation, so last year we would have been billed $1,085,000. Using the income approach last year, our taxes were $621,000.

GAYLYN J. SPRIGGS (Nevada Taxpayers Association):
I am speaking neither for nor against S.B. 387. I did want to bring to the Committee's attention that possessory interest applies to a lot of different properties in the State. It applies to the little florist who has rented a building in

an Elks' Hall, which the florist does not own. It applies to those types of things and not just to government property, so this bill would affect a lot of taxpayers other than the ones here today. In most cases, a leasehold interest, or a possessory interest, is appraised using the income approach.

DINO DICIANNO (Deputy Executive Director, Department of Taxation):
Initially, the Department of Taxation was neutral with respect to this bill, but we do understand the concerns of Mineral County and some of the other county assessors. However, in our opinion, the State Board of Equalization, correctly, did the right thing. This is not only concerning property on military bases and things of that nature. We are talking about all kinds of property, Statewide, subject to beneficial use, possessory interest or leasehold interest. The only method in the toolbox the Board felt was applicable was the income approach, which is why we have some concern with the language contained in the bill.

CHAIR MCGINNESS:
We will close the hearing on S.B. 387 and open the hearing on S.B. 389.

SENATE BILL 389: Creates chapter relating to tax increment areas. (BDR 22-815)

LINDA RITTER (City Manager, Carson City):
I am appearing before you today to support S.B. 389, which allows for the creation of tax increment areas. This bill represents a tool for economic development, a tool needed in rural Nevada communities. Economic development diversification is a competitive field. States throughout the country are seeking the same thing—a diverse economy that provides jobs for its citizens. Companies looking for new locations not only examine the quality of life a community has to offer or the overall tax environment they must first and foremost look at their bottom lines. Many states offer incentives to companies seeking a new location in order to enhance this bottom line. Through the Commission on Economic Development, our State offers tax incentives to do this, but for rural Nevada in particular, we need more.

Businesses are looking for what I will call plug-and-play locations. They are not in the development business. Often what they want is a business park, or a place where they can come in, build their facility, and immediately start to do business. Many communities have land available for new businesses, but there is no infrastructure serving that property. The cost to extend the infrastructure

is now expected to be paid by the business proposing to move to that location. This cost is calculated in that bottom line and can have a tremendous effect. In many cases, the project just does not pencil out. Tax increment financing would allow local governments to work with businesses interested in expanding in or relocating to their communities by providing a financing tool for the underlying infrastructure.

The tax increment financing available today is through redevelopment law. This tax increment financing is different in that it only finances infrastructure. It is project-specific, so you would identify a project and bond for it. The increment would be used to pay for the debt service, which cannot exceed 30 years. In many of the cases, redevelopment is not a good fit. We are not looking to redevelop property, but to develop it initially. We are trying to expand businesses and encourage new businesses to locate to our communities.

SENATOR LEE:
Does this apply to all counties with populations of less than 400,000, or is it tailored more for the counties looking to add to their business population?

MS. RITTER:
As written, this would apply to any county having a need for this. You have some communities, even in the larger counties, that may need this financing tool. I am addressing it from a rural perspective, which is my background, so I can speak to that personally. I have been involved in working with businesses to bring them in, only to find out, because of the cost of the infrastructure, it just did not pencil out.

SENATOR TOWNSEND:
I have a lot of time invested in this issue on behalf of Senator Amodei and myself to try to help Carson City, even though this is broader and will help everybody. I would like to make sure this meets all counties' concerns, as well as what Carson City is trying to accomplish.

MARY C. WALKER (City of Carson City; Douglas County; Lyon County):
I also support S.B. 389. It provides for the creation of tax increment areas by municipalities to defray the cost of certain projects.

The genesis of this bill is S.B. No. 266 of the 71st Session, which was presented to the Senate Committee on Government Affairs, and was a result of an interim study concerning distribution among local governments of revenue from State and local taxes. Once it got to the 2001 Legislature, there were problems with the bill, and no one had the time or ability to fix those problems.

Senate Bill 389, before you today, merely took S.B. No. 266 of the 71st Session and eliminated the problems expressed with the original bill.

Tax increment financing is similar to redevelopment financing. However, it does not renovate areas of blight, but is used more to attract economic development.

Here is how it would work. Let us say a local government wanted to attract a big-box store to their county. In most cases, to attract a major retailer, governments have to provide the infrastructure improvements for that development. We are talking about sewer, water and road-type infrastructure improvements. Many local governments do not have the wherewithal to pay the millions of dollars needed to fund these improvements.

Senate Bill 389 would allow a local government the ability to implement a tax increment district in the area under development. The increased property taxes from that development would be used to make the annual payments on bonds issued to fund the infrastructure improvements. Therefore, the development pays for itself. There are no other tax dollars needed from the general taxpayers, no gas taxes or other general public revenues, to pay for the cost of that development.

With S.B. 389, local governments would have another tool to attract economic development with tax dollars generated from that development and new development pays for its impact on the community.

We would appreciate your support of S.B. 389. We do have some friendly amendments. One is from John Swendseid (Exhibit D), and the other is a cleanup amendment from Clark County. We will be working with Carole Vilardo of the Nevada Taxpayers Association on other possible amendments to ensure all the bugs are worked out.

MICHAEL R. ALASTUEY (Clark County):
If you have an appetite to process the bill, Lesa Coder, Director of the Clark County Redevelopment Agency, suggested an amendment (Exhibit E). The bill, as drawn, offers a slight distinction between city and county prerogatives. As I read it, this amendment is intended to make city and county prerogatives more similar.

CAROLE VILARDO (Nevada Taxpayers Association):
I have been supportive of tax increment financing, but in reviewing the bill, I saw a number of issues. I can go through and offer some one-line amendments in some areas, but in others, I just need to raise some questions because of policy issues. Section 16, on page 3 of S.B. 389, allows the development of industrial and business parks. These business parks have been used for retail, and I do not know that you want to have a retail expansion. One of the reasons we had redevelopment used in one of our northern counties was to attract retail businesses.

Normally, a retail business goes where the business is. As an alternative, I find something done by Utah interesting. If you have economic development, there is a legitimate use for getting the building habitable so you can attract the subsequent tax revenue that would be generated. As an example, take the old bus station on Fall Street in Carson City where the Thai restaurant is now. It was a building you were not going to be able to rent because it had asbestos in it, and no business is going to take on asbestos. However, if you are putting in amenities, such as was done in Las Vegas with the Main Street Station where all of the antiques were purchased, there would need to be some distinction. In Utah, if they do something of direct benefit to the business, and if the business survives five years, there is either a full or partial payback, which is an interesting concept. Obviously, you want to have something like this specifically for that business, not just a general improvement. It would take some language to fix that.

Page 8, section 24, line 45 says, “The governing body determines that the undertaking is in the public interest.” I would like to see the public interest stated in a document prior to the adoption, because public interest can be in the eye of the beholder. To say something is in the public interest and just give cursory information as to why might not be what I feel is in the public interest. I am impacted by this area, and I want to have some input. Some of the input might be because of the public interest.

On page 9, line 19, it says, “The governing body may adopt the ordinance in the same manner as an emergency ordinance or in the same manner as a regular ordinance.” I would like to see “emergency ordinance” stricken because it should just follow normal procedure.

On page 10, there is discussion in section 26, subsection 1, paragraph (b), saying, “Except as otherwise provided in subsections 2 and 3, the portion of the levied taxes each year in excess of that amount must be allocated ... “ and paragraph (c) states the amount “paid into the tax increment account ... an amount not to exceed the combined total amount required for annual debt service of the project ....” I definitely appreciate that provision, but I am looking redevelopment or an economic development area, I wonder if we can get a clarification of why that language is there. You are taking the increment. You are not levying. Am I reading that wrong? It deserves an explanation.

On page 11 of S.B. 389, line 14 says, “Any tax that is approved on or after October 1, 2005, by a majority of the registered voters ....“ This is not a case where we are expanding the use of the redevelopment law as we have done previously, or trying to tighten up a provision. Since this technically does not exist right now, I would like to exclude any voter-approved property tax levies for debt, operating overrides or pay-as-you-go situations from the increment. This is going to be particularly important, given the property tax cap. Under a restriction, as passed in Assembly Bill (A.B.) 489, that caps the revenue you can receive, or the first measure, as to whether your taxes increase more than 3 percent per year or not, and then you are restricted to 3 percent or that 8 percent.

MS. VILARDO:
There are sufficient debt and overrides in a number of counties. We are telling those counties we are going to cap their revenue. I do not even know how we will use an increment with capped revenue. This raises another issue. How is the Nevada Tax Commission going to address apportioning out these increments if the length of time for A.B. 489 is two years, and you create this increment district? When I testified before the Committee, I talked about details. I made that note, relative to redevelopment, because they get an increment. They do not have a tax rate.

On page 12, line 8, paragraph (b) says securities issued pursuant to this section:

> May, at the option of the municipality, be made payable from the taxes levied by the municipality against all taxable property within the municipality, without limitation of the rate or amount except for the limitation provided in Section 2 of Article 10 of the *Constitution of the State of Nevada*.

There was a problem with this from the original bill, S.B. No. 266 of the 71st Session. Article 10, section 2 is the $5 rate; as I read this, I can impose anything over $3.64, the statutory rate, up to $5. I must be reading this wrong, but I cannot figure how I am reading it wrong. It may just be an error, but it has to be cleaned up.

Section 31, subsection 5 talks about performing contracts, and everything necessary relative to the operation, whether or not pertaining to the undertaking of the municipality. I still have not made a connection. If we are not using any of the increment money for these operations, why do we need to state that in the bill? I would like to see an economic development bill passed, because of the way redevelopment has been used, but this is an area in the bill I would like to see straightened out. This is why I am referencing and taking so much of your time to do this.

I do not understand why, in section 27, we would exceed the 106-percent cap. This is an increment, so that language does not belong in here.

CHAIR MCGINNESS:
We will close the hearing on S.B. 389 and open the hearing on S.B. 393.

SENATE BILL 393: Provides discount for electronic payment of certain taxes. (BDR 32-387)

MR. DICIANNO:
Senate Bill 393 was drafted on behalf of the Department of Taxation. The Department is currently working on a new computer system, called Universal Tax System (UTS). This bill would provide additional credit allowances on sales and use tax, liquor tax and tobacco tax to those businesses who file their payments electronically. The additional credit allowance is 0.5 percent, on top of the initial 0.5 percent they already get. The effective date, with respect to

the additional credit allowance for the payment of sales and use tax, is July 1, 2006. The effective date, with respect to the additional collection allowance for tobacco and liquor taxes, is July 1, 2007. Those are the dates in which the phases within the UTS will come on board.

I have furnished you with the requested fiscal note (Exhibit F). We realize there is a hit to both the General Fund and to local governments. However, in the long run, both the State and local governments will benefit from this because we will receive monies sooner than anticipated.

SENATOR TIFFANY:
There was a Statewide effort to centralize this. Are you going to do this on your own, and if so, what service are you going to use and what will it charge?

MR. DICIANNO:
There is a Statewide effort in regard to e-payment, and the contractor is the British company PayPoint Plc. I do not know what the charge will be. We hope to roll this out for other taxes in the future because it is the way to go and a benefit for businesses.

SENATOR TIFFANY:
I absolutely support this idea. When we did this with the Department of Motor Vehicles, there were some problems with using credit cards. What they were doing was taking the percentage for the credit card out of the gas taxes.

CHAIR MCGINNESS:
Because of the fiscal impact, will this have to go to the Committee on Finance?

MR. DICIANNO:
I would hope it does not. I did receive some phone calls from representatives of the different counties. They understand there could be a potential reduction in the revenues they receive. The amount shown on the fiscal note needs to be divided by the different counties. The largest potential hit would probably be to Clark and Washoe Counties. It would be substantially less to some of the others

SENATOR LEE:
Most of the bills we have looked at are effective July of this year, while this one is effective in 2006 and 2007. Does it take that long to get these online, or, if not, what is the reason?

MR. DICIANNO:
The UTS is a four-year project. We will go through different phases. Phase 1 would include business licenses and a modified business tax. Phase 2 would include sales and use tax, which will come on in 2006; thus the effective date is 2006. Phase 3, which will become effective in 2007, includes all the different excise taxes such as cigarettes and tobacco.

MARY LAU (Retail Association of Nevada):
I am also a member of the advisory board for the UTS committee which is working with the Department in putting the system in place. I am in favor of S.B. 393. There is a time-value money situation. Though there will be a fiscal note to the State, it can be offset by the investment of income generated by the quick and efficient collection of sales tax. The Retail Association pays its federal income taxes via phone. I am assuming there would be a credit card, phone and an Internet solution to paying taxes.

CHAIR MCGINNESS:
We will close the hearing on S.B. 393 and open the hearing on S.B. 394.

SENATE BILL 394: Makes various changes to provisions governing conveyance, subdivision and taxation of property. (BDR 32-258)

DOUG SONNEMANN (Assessor, Douglas County):
I will go through each section of the bill. We have provided a handout (Exhibit G) which shows some of the intentions behind our proposals. Throughout the bill, we have made changes to the language in trying to make the statute clearer, remove ambiguities and make it consistent throughout. Without getting into details as we go through some of those, we will just mention our corrections in items for consistency.

In the first six sections, two items are recurring, which I will detail. First, the statute currently provides penalties for filing a false affidavit for exemption. We are asking to change two other sections involving exemptions to provide the same language so all exemptions provide for the same penalty.

Secondly, we ask that the U. S. Department of Labor's Consumer Price Index (CPI) adjustment be changed from December of each year to July. This would allow us to receive the CPI changes by September so we can include the updated values with the assessment notices mailed in November. As it currently

stands, we mail the notices in November with the incorrect data from the prior year. We get the CPI changes in March, and then we have to send out new notices with the corrected amount. This would in no way eliminate the CPI adjustments.

The first item of change occurs on pages 2 and 3 of the bill. On page 3, lines 3 and 4, where it shows "owner" and "unit," we are asking to bring those forward to section 1 to more closely follow the section to which they apply. The changes in section 2 are wording changes. Subsection 5 applies to the penalty phase for filing a false affidavit. Subsection 6 is where we changed the dates in order to make the CPI more usable for us.

The changes in section 3, subsection 2 are also wording changes. Subsection 4 applies to the penalty, and subsection 5 is the date change.

In section 4, subsection 1, paragraph (a), we are proposing combining paragraphs (a) and (b) into one section. We remove the redundancy and make the one section cover both issues. The changes at the top of page 7 are just clarifications.

In section 7, we are proposing to consolidate NRS 361.123 and bring it into this section. This is the statute exempting the Nevada Children's Foundation, Inc. from taxation. We would like to see Habitat for Humanity International added to this section. They provide housing for low-income, disadvantaged people; when they receive property, it is still taxable. As a tax-exempt entity, adding Habitat for Humanity to this statute would allow them more money to provide housing for the constituency.

Changing "must" to "may" on line 31 of page 9 would give the assessors flexibility so if there was a compelling reason, they would not be required to assess penalties.

CHAIR MCGINNESS:
Did Habitat for Humanity come forward and ask to be included in this exemption? How did you identify them?

JEFF PAYSON (Office of Assessor, Clark County):
They approached our office in Clark County to ask for the exemption.

Sections 9 and 10, starting on page 9, deal with the issue of intangible personal property. *Nevada Revised Statute* 361.228 was intended to apply to centrally assessed properties that had their original assessment based on a unitary methodology, differently than locally assessed properties. Under that methodology, there was the chance intangible property may have been included based on the analysis of income. The language added in NRS 361.227 will not have any affect on this statute as it relates to centrally assessed properties. The language in NRS 361.228 has been misconstrued to apply to the test against full cash value under subsection 5 of section 9. The methodology used to value locally assessed properties inherently excludes intangibles from the equation. The language change in subsection 5 is intended to clarify that the test against full cash value may or may not include tangible aspects; the language in NRS 361.228 was not intended to exclude this under the definition of full cash value.

To allay the fears of people who do not want us to change NRS 361.228, we actually have an amendment in section 10 on page 11 to remove the language that says, "Except as otherwise provided in NRS 361.227 ...." We want to make sure we are not trying to go back and assess intangible personal property, which we realize is exempt from taxation. In section 10, we also want to add, water rights as an attribute of real property, such as zoning, location and view.

CHAIR MCGINNESS:
On behalf of the Chair of the Committee on Natural Resources, what does adding water rights really do?

MR. PAYSON:
It clarifies that water rights, because they are attached to a parcel of land, are an attribute of real property, and, in essence, are part of the taxable value. If you did not have water rights on a parcel, you probably would not have a very high taxable value. That is the way they are currently valued. It is just not stated as such in the statute.

In section 11 of S.B. 394, starting on line 43 of page 12, there is some rewording and cleanup language having to do with the factor for improvements. It does not change any of the meaning. Another amendment in that section starts at line 18 of page 13. It would delete all of our new language. It was specifically pointed out that paragraph (b) might conflict with some recently adopted code.

The amendment in section 12, on page 13, would allow us to include electronic signatures. In the same section on the next page, we are asking that the item of taxable personal property on the declaration include the year in which it was acquired.

The language in section 13 is twofold. It will allow for corrections to the reopened tax roll due to clerical-type errors, in addition to the factual errors. It will also allow changes, for all these reasons, for underassessments as well as overassessments without going to the board of commissioners. It also allows for these corrections to be heard at the next State Board of Equalization hearing, which is currently unavailable to the taxpayer.

NORMA GREEN (Assessor, Churchill County):
You can disregard the proposed change to section 14 because another bill addresses the same issue. The purpose of the language in section 15 is to coincide with *Nevada Administrative Code* (NAC) 361.741, which states the petitioner has the burden of proof when appealing his or her taxable value to a county board of equalization. This new language will reflect the directives of the Nevada Tax Commission. The language clarifies the data necessary to comply with NRS 361.227 and the consequences of failing to respond to a subpoena.

We do have some amendments. On line 10 of page 17 where it reads, "the appellant shows by substantial," we want it to read, "the appellant shows by verifiable." Also, on line 11, instead of, "established by the county assessor is excessive," we would like it to read, "exceeds full cash value, or is inequitable."

SENATOR CARE:
Would there be such a thing as substantial, verifiable evidence? When you talk about verifiable, how far do you have to go?

MS. GREEN:
That was a major debate when we proposed this language, even among the assessors. We chose verifiable to keep it more user-friendly for the taxpayer.

MR. PAYSON:
The term "verifiable" was something we just agreed on in the last couple of days in consultation with the Nevada Taxpayers Association. Any word you pick

is going to have a different definition. We are trying to say you have to come forward with some type of evidence to appeal the valuation of your property.

MS. GREEN:
We also have an amendment to the language on page 17, line 26. Where it says, "Has failed," we are proposing, "Refused without good cause."

In section 16, we are proposing added language to lines 9 and 10 of page 18 on the lien date of the fiscal year for which the taxes are levied. The State Board of Equalization is asking us to give them the latest information to compare our taxable value.

The proposed changes to section 17 will clean up the language and coincide with the NAC 361.741. Starting on line 11 of page 19, we are proposing new language and amendments to lines 14 and 17. In line 14, where it says, "The taxpayer has failed," we are asking that it read, "The taxpayer has refused without good cause." In line 17, where it shows, "The taxpayer fails to show by substantial," we want to change "substantial" to "verifiable."

The proposed change to section 18 will allow an additional 48 hours. The Board is due back to us on January 15. If taxpayers are represented by a tax representative, this gives them an additional 48 hours to get their authorization in to us.

We have an amendment to section 19, page 20, line 10. Where it says, "in the form of a notarized statement," we want to change "notarized statement" to "signed statement." If a property owner is paying under protest, we ask that they fill out a form showing they are paying under protest.

The changes we are proposing in section 20 are just a cleanup of that section. Not all assessors collect for personal property, so on lines 32 and 33, we are asking to add "tax receiver," and omit the other language, which we have also requested in section 21.

Sections 22, 29 and 33 all go hand in hand. Last Session, you approved an account in which to put technology funds. This year, in section 22 we are asking for the funds to go into that account. Lines 13 through 16 of page 22 contain the new language. Section 29, starting with lines 14 through 17 on page 28, also contains new language regarding those technology funds.

Section 33 makes us accountable for funds in the technology fund account. It requires an assessor to submit an annual statement to a board of commissioners on how we plan on spending the money. Any funds remaining in the account revert back to the General Fund.

MR. PAYSON:
The language in sections 25 and 26, along with the repealed language of NRS 361.765, is intended to simplify corrections made to the tax rolls. This will allow for consistency in correcting both overassessments and underassessments for the same reasons and the same time frames. It also allows for adequate appeal rights based on all corrections made for those affected by the corrections. The most substantial change is in section 26 where we have added "underassessed." In section 27, we just eliminated some language that no longer applies.

DAVE DAWLEY (Assessor, Carson City):
I would like to go back and clarify something in section 18 on page 20. We have amended it to read, "within 48 hours after the filing deadline or receipt of the petition, whichever is later." This would give the taxpayer time to get the authorization letter to us.

On page 27, section 28 refers to agricultural deferred properties. The purpose of the change is to recapture the liens for deferred taxes when the agricultural or open-space real property is converted to another use. Currently, when it is purchased by a tax-exempt entity, the deferred taxes must be cancelled.

We are deleting section 30 because it is in another bill on its way through the Houses. We are also deleting sections 31 and 32.

The change to section 34 clarifies that bondholders do not need to give consent when territory detached from a city is less than one one-hundredth of a percent of the assessed value of a city at the time of detachment. Currently, if a large parcel is subdivided and it has a bond on it, a new taxing district has to be created in order to collect the bond taxes or the bond amount. Many times the bond amount is only $20.

The added language in section 35 deals with a mapping issue. Many surveys delineate parcel boundaries with lot number identifiers. These survey lots are not legal lot lines as they are in a subdivision, and are not mapped by the

assessor as such. Many times, these lots are then used as descriptions on deeds of conveyance. For example, lot 1 of survey filed 100-43. Survey maps do not create legal lots and should not be used as legal descriptions. The proposed language would require a legal description of a parcel being conveyed.

Section 36 deals with subdivision and parceling problems. Many times, condominium maps are recorded and we cannot determine by the map if the garage units are to be conveyed and/or parceled separately. The added language in subsection 10 would require any condominium maps to feature a note on the map stating if any garage units, parking spaces or storage spaces or units could be conveyed separately from the units.

Section 37 is an increase to the senior citizens' rent and tax rebate program. Another bill in the works increases the amount of the assessed valuation to $120,000. At this point we are not really too concerned with this section.

There are many important issues in this bill and we have tried to work out as many problems as we can foresee. We would be more than happy to work with anyone who might have a problem with any parts of S.B. 394.

JAMES WADHAMS:
I am appearing here today in the capacity of a private attorney who practices in front of the State Board of Equalization and the Nevada Tax Commission. I have some concerns about this bill. In general, my concerns are centered on the dramatic change in the certainty of taxation Nevadans have enjoyed in the past. That means once the assessment process is completed and the tax roll closed, my appeal time is exhausted, and the tax is fixed for the preceding tax year. This bill does a variety of things that leave that open for an extended period of time.

The first section with which I have some difficulty is section 13 on page 13, particularly at line 16. It is an example of the dramatic change of the policy of this State from treating the tax law in a favorable way to the taxpayer. This allows the local government a second bite for errors they may have committed in the process. Historically, this has allowed the overassessment to be adjusted.

SENATOR CARE:
Is technology now such that errors can be caught that heretofore could not, or is this a reflection of an attempt to be more aggressive about seeking errors?

I would like to get a feel for why this language might be in here, what brought it on and how these errors are discovered in the first place. Did you go looking for them or did they just happen to come across the desk somehow?

MR. WADHAMS:
I am not in a position to explain why they have requested this. I am just here, basically, to explain, from the posture of a taxpayer, this is a dramatic shift in public policy. In regard to your question, I would draw your attention to section 26 on page 25, where you see a listing of those factors. In essence, this says my certainty at the close of my tax year is now in jeopardy for three years, based on the possibility of a discovery of some sort of an error by the assessor. It gives the assessor another bite at my billfold three years back into history.

That raises the question I am going to have to defer to the proponents of the bill. Why this policy change? It is, in my judgment, a serious policy change. If an error occurred, unbeknownst to the taxpayer, but later discovered by the assessor, he or she could go back three years and put a lien on my property for the additional tax then due because of the underassessment.

I would also like to draw your attention to section 17. This language was referenced by the proponents. I am looking at page 19, lines 14 through 19. I am troubled, as an attorney, by the additional requirement of proving my case. Perhaps I have not fully analyzed what this might mean, but I am just not sure where this is going to lead. I would suggest the Committee take that carefully into consideration.

Also discussed in the amendment was going from the word “substantial” to “verifiable.” In the common law, substantial evidence refers to the standard of evidence the reasonable person would rely upon in making a business decision. Introducing a new term is always great for us lawyers because it gives us an ample opportunity to charge somebody money to argue about what it means. I am not sure this is really an improvement in the body of the law. *Nevada Revised Statute* chapter 233B deals with the administrative procedures and sets the standard for those decisions at substantial evidence. Therefore, I caution the Committee in making this kind of a change. Whatever we might think in terms of our current diction, the courts have established a fair interpretation of what constitutes substantial evidence.

SENATOR TOWNSEND:
I would like to know what drove this request for a policy change. Mr. Wadhams is correct. When I went through the bill, the three-year issue jumped off the page at me, particularly for a business needing to plan. Can someone tell me the reason for changing overassessment to assessments?

MR. DAWLEY:
This wording is already in the statute. We are not trying to change anything. We are just trying to clarify it. Currently, it is under 3 or 4 different sections in the NRS chapter 361. The "three years preceding" is also in the statute. Again, we are trying to clarify it. I have a constant argument with my treasurer's office in determining the three years. Is it three years including this year and going back two, or is it this year and going back three? This clarifies that it is this year and the preceding three years. We can go back for an overassessment and for an underassessment. There is little likelihood we would actually do it for an underassessment if it were the error of the assessor's office. We would put it on the roll for the next fiscal year and not go back three years.

SENATOR TOWNSEND:
As long as the three years is in the law, you can go back and try to collect as long as it is inside the three years?

MR. DAWLEY:
Yes, if we find it now.

SENATOR TOWNSEND:
What if you find it six months from now? Can you not go back for those three years?

MR. DAWLEY:
If it was our error, we would not, but yes, we probably could.

MR. PAYSON:
The current language allows us to go back on clerical errors for the three years plus current. Unfortunately, the language is in the repealed section of NRS 361.765, which is a part of what we have combined to try to simplify this. Unfortunately, the statute did not allow the taxpayer to appeal the value. This allows the appellant appeal rights for any years a correction was made.

SENATOR TOWNSEND:
Referring to page 25, lines 20 through 22, what repealed section are you replacing?

MR. PAYSON:
It was part of the original NRS 361.769, which was combined with the repealed section. The only difference is the underassessed part. We were always able to go back for property which had not been assessed. If a 1,500-square-foot home was incorrectly assessed as a 1,000-square-foot home, we were not allowed to go back and make the correction if it had been assessed at all, even though it had been underassessed.

JAMES F. NADEAU (Nevada Association of Realtors):
We had some of the same concerns expressed by Mr. Wadhams. I would like clarification of the language in section 9, subsection 5 on page 10. The way I was reading it, with the original language in section 10, on page 11, line 31, the bill was amended to delete, "Except as otherwise provided in NRS 361.227." With that language deleted, I am still trying to figure out what the language does and the reason for it. It has been a real concern of ours as far as in the assessment of full cash value, compared to the taxable value. All the references back and forth were confusing for us as to the real implications.

TED HARRIS:
As a matter of principle, if the government can collect taxes from you for three years back due to an underassessment, what consideration might you give to a taxpayer who appeals his taxable value, and the State Board of Equalization grants him a reduction in that value? This valuation may have been applied incorrectly for two or three years. Would the taxpayer have a right to a refund?

MR. PAYSON:
Actually, the provision for the correction to any error goes both ways on all adjustments. However, they apply only to the items listed which are factual, typographical and mathematical. It does not apply to decisions based on marketvalue, or under changes that might come about at the Board of Equalization, which generally are market-driven changes. We try to take the subjectivity out and only deal with the factual items on that property or clerical errors.

CHAIR MCGINNESS:
Basically, the State Board of Equalization decisions cannot be appealed.

MR. PAYSON:
They are not correctable unless, for example, the Board found we had been taxing a swimming pool that had been removed from the property or never existed on a property. We would then go back the three years, but not on items of subjectivity or market value.

MR. HARRIS:
I know of a specific instance of a friend who appealed the taxable value on his property, based on the assessor's office calculating the square footage higher than it actually was. His square footage, which is a factual item, was less than shown by the appraiser. It was verified by the assessor's office. The valuation was placed on the property some years ago. Should he not be entitled to a refund for the previous three years as would the assessor's office be entitled to charge for the back taxes if they made a mistake?

MR. PAYSON:
Yes, our office would have gone back to make the correction. The boards of equalization are only allowed to rule on the current year. The assessor has the ability to go back three years on factual errors.

MR. HARRIS:
I would simply register an objection. If they can do it, I should as well.

ERNIE MCNEILL (Office of Assessor, Washoe County):
If we were made aware of a change based on these issues, square footage being one, we would go back and write a tax roll change request to enable corrections for prior years as well as in the current.

Senator Townsend asked about the request on page 15 to change overassessment to assessment. In Washoe County, we had a situation where in working a permit for a new air conditioner, we found the building had fallen off the record. We were unable to add the building back to the tax roll because we had the driveway and the porch, so we did have a little value on the property. It was grossly underassessed, but we were precluded from adding the value of the building because of this verbiage. If a property escapes taxation because of our error, it puts an undue burden on the other taxpayers in the area. If it is wrong,

it needs to be corrected whichever way it goes, whether it is in the favor of the taxpayer or the county assessor.

MS. SPRIGGS:
Changing assessment to underassessment should be carefully looked at by the attorneys or the bill drafters to make sure it is not making new public policy.

SENATOR TOWNSEND:
Ms. Spriggs makes a valid point. Are there changes other than those referenced with regard to page 19? Are the items in red in Exhibit G the amendments?

CHAIR MCGINNESS:
Yes, and the items in blue are just the explanations.

SENATOR TOWNSEND:
Would we be able to get a mock-up?

CHAIR MCGINNESS:
A mock-up would help, because this is a lengthy bill. As well as the assessors walked us through this, a number of us still have questions. If Mr. Dawley could get with Mr. Wadhams and Mr. Nadeau, who both had similar concerns, we can make sure those questions are answered.

CHAIR MCGINNESS:
We will close the hearing on S.B. 394 and open the hearing on S.B. 483.

SENATE BILL 483: Establishes joint and severable liability for payment of certain taxes, interest and penalties administered by Department of Taxation. (BDR 32-394)

MR. DICIANNO:
This bill was drafted on behalf of the Department of Taxation. We are asking to combine the responsible party provisions, found in NRS 372 and NRS 374, into our administrative chapter, which is NRS 360. We want to not only include the provisions of a responsible party determination for sales tax, but also for the modified business tax on financial institutions, live entertainment, liquor, tobacco and tire tax, the short-term lessor fee and the insurance premium tax. It is not as ominous as it sounds. All we are trying to do is ensure anyone who is found to be a responsible party will have his or her appeal rights as an additional

collection tool for the Department. Any decision within the Department can be appealed to the Nevada Tax Commission and above.

The effective date of the bill is as of October.

CHAIR MCGINNESS:
We will close the hearing on S.B. 483, and go directly into our work session, starting with S.B. 181. Ms. Walker has submitted a proposed amendment to the bill (Exhibit H). If you recall, S.B. 181 would authorize certain counties, upon approval of the voters, to impose additional taxes on certain motor vehicle fuels. It would allow those counties to adopt the tax and allow for an annual CPI increase. The proposed amendment would add a requirement to reauthorize every eight years.

SENATE BILL 181: Authorizes certain counties, upon approval of voters, to impose additional taxes on certain motor vehicle fuels. (BDR 32-596)

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 181.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
Next up is S.B. 218. This was brought to us by Senator Titus and you will recall this is the bill where the local governments were capturing professionals—engineers, architects, et cetera. Everyone who testified on this bill was in favor of it, including the Nevada Taxpayers Association and the Association of Engineers.

SENATE BILL 218: Revises provisions relating to licensing and taxing of certain persons by local governments. (BDR 20-789)

SENATOR TOWNSEND MOVED TO DO PASS S.B. 218.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
Senate Bill 307 is the aircraft bill. It was reviewed by Charles Chinnock, Executive Director, Department of Taxation, who came up with alternative language. It would change section 1, subsection 10 to read, "For the purposes of this section, an unscheduled air transport company does not include a company that only uses three or fewer fixed-wing aircraft with a weight of less than 12,500 pounds to provide transportation services." Mr. Chinnock said this language not only could work, but there would be less opposition.

SENATE BILL 307: Requires local assessment of unscheduled air transport companies that only use certain small planes. (BDR 32-1289)

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 307.

SENATOR TIFFANY SECONDED THE MOTION.

SENATOR COFFIN:
In this bill, is there any way we get into the tourism angle by creating an exemption for a group set off for tourism? I realize our intent here is rural air haulers.

CHAIR MCGINNESS:
The word unscheduled and the reference to weight would preclude those types of aircraft, such as those providing the scenic tours over the Grand Canyon.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
Senate Bill 339 is the one in which the rural counties wanted to be able to change the average wage to accommodate some rural counties. It came from

the Division of Economic Development. Ms. Walker submitted a proposed amendment to S.B. 339 (Exhibit I).

SENATE BILL 339: Makes various changes concerning partial abatement of certain taxes for new or expanded businesses. (BDR 32-845)

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 339.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
Senate Bill 321 was the bill regarding leasing to nonprofit organizations. The Boys and Girls Club testified on this bill. There were no amendments proposed.

SENATE BILL 321: Requires Department of Taxation to administer exemption for sales to nonprofit organizations to include motor vehicles transferred to nonprofit organizations. (BDR 32-1253)

SENATOR TOWNSEND MOVED TO DO PASS S.B. 321.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
We have gone over S.B. 393, which was from the Department of Taxation.

SENATOR TIFFANY MOVED TO DO PASS S.B. 393.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
Do we have a motion on S.B. 483? It is another bill we heard earlier today on behalf of the Department of Taxation in which they ask to combine the responsible party provisions.

SENATOR RHOADS MOVED TO DO PASS S.B. 483.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR MCGINNESS:
I appreciate everyone's help and perseverance. We are adjourned at 4:09 p.m.

RESPECTFULLY SUBMITTED:

_____
Ardyss Johns,
Committee Secretary

APPROVED BY:

_____
Senator Mike McGinness, Chair

DATE: _____