

**MINUTES OF THE  
SENATE COMMITTEE ON TAXATION**

**Seventy-third Session  
May 10, 2005**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 2:07 p.m. on Tuesday, May 10, 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:**

Assemblyman John C. Carpenter, Assembly District No. 33  
Assemblyman Pete Goicoechea, Assembly District No. 35  
Assemblyman Lynn C. Hettrick, Assembly District No. 39  
Assemblyman Richard D. Perkins, Assembly District No. 23

**STAFF MEMBERS PRESENT:**

Brenda J. Erdoes, Legislative Counsel  
Chris Janzen, Deputy Fiscal Analyst  
Tanya Morrison, Committee Secretary  
Ardyss Johns, Committee Secretary

**OTHERS PRESENT:**

Doug Sonnemann, Assessor, Douglas County  
Carole Vilardo, Nevada Taxpayers Association

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Maryanne Ingemanson, President, Village League to Save Incline Assets  
John Yacenda, Capital City Investment Group, Limited Liability Company;  
Capital City Investments; Global Contract Buyers, Unlimited  
David K. Schumann, Nevada Committee for Full Statehood  
Scott Watts, Nevada Alliance for Retired Americans  
William J. Birkmann, Communication Workers of American

CHAIR MCGINNESS:

We will open the hearing on Senate Bill (S.B.) 509. This is the trailer bill to Assembly Bill (A.B.) 489.

**SENATE BILL 509**: Revises provisions governing property taxes. (BDR 32-1452)

**ASSEMBLY BILL 489 (4th Reprint)**: Provides for partial abatement of ad valorem taxes imposed on property. (BDR 32-1383)

BRENDA J. ERDOES (Legislative Counsel):

Section 1 of S.B. 509 adds new sections to *Nevada Revised Statute* (NRS) chapter 361. Section 2 provides the procedure for a taxpayer to appeal a determination regarding the applicability of a partial abatement from taxation which was provided through A.B. 489. We thought this should be added because what you would normally appeal is the valuation of the property. Because this kind of determination should probably be made by the Nevada Tax Commission, it necessitated this new section. It would not go to the county board of equalization like most tax appeals, but instead would go to the Nevada Tax Commission. You should think about this one if that is not what you intended.

Section 3 authorizes the tax receiver of a county to allow a partial abatement of the property tax on single-family residences when the taxpayer, for good cause, fails to claim the abatement in a timely manner. This was not in the original tax bill; it was brought to our attention by the assessors. Section 4 provides for the imposition of a penalty against a person who falsely claims entitlement to a partial abatement from property taxation with the intent to evade payment of the tax. The penalty is three times the amount of the tax deficiency. This same provision currently exists for sales and use tax when you fraudulently claim exemption from the sales tax. Since it would be easy to claim eligibility for the abatement, there should be some penalty for fraudulently claiming the abatement.

Section 5 specifies the order of applicability of the partial abatements and partial exemptions from property taxes provided by A.B. 489. This tells you in which order to apply any partial abatements or exemptions. For example, it would make a difference if you applied the partial exemption, such as a veteran's exemption, first and then applied the partial abatement.

Section 6 contains technical revisions to make this conform to section 6 of A.B. 489. It requires the Nevada Tax Commission to adopt regulations providing a methodology for applying a partial abatement for single-family residences to a parcel used for multiple purposes. Initially, the abatement only went to single-family residences that did not have common walls. Through conference committee amendments, common-wall homes were added as a parity issue. Also added was a provision suggested by Senator Coffin regarding home businesses. In order for the assessors to apply this the way we thought Senator Coffin wanted the provision, it became necessary to add this section about multiple-use residences. This section also defines "primary residence of the owner," for purposes of the partial abatement for single-family residences.

Section 7 contains technical revisions to conform to section 10. Section 8 also contains technical revisions; however, the second part clarifies which portion of the U.S. Department of Labor Consumer Price Index is intended to be used. Several people went on the Internet and found different rates, so it became necessary to specify the one you wanted us to use.

Ms. ERDOES:

Section 9 provides for the continuing administration of the tax recapture provisions of A.B. 489 after the next biennium. The way they were initially drafted set them all to start July 1. This provides for increments. Section 10 clarifies the conditions under which a taxing entity is allowed to increase its property tax based upon a determination that the increase is necessary to satisfy obligations secured by the proceeds of property taxes. This is probably the meat of this bill in the way it makes these partial abatements work. It also clarifies that an increase in the tax rate pursuant to this section must be included within the calculation of the partial abatements from taxation provided by A.B. 489 unless the obligations necessitating the increase are issued before July 1 or those after that date not expected to require any increase in the tax rate. This section also allows the tax levy of an increase in the tax rate authorized pursuant to this section without obtaining the approval of the

Tax Commission. This was necessary for obligations secured by the proceeds of the bonds. We were trying to make sure we do not impair the bond contracts.

Section 11 clarifies a majority of registered voters is required to approve an exemption from partial abatements pursuant to section 7 of A.B. 489. It also limits the circumstances under which a question, submitted for the voter approval of such an exemption, indicates no additional tax levy will result from the approval of the question. It authorizes the combination of a question with certain other questions regarding the issuance of bonds and certain tax overrides. It clarifies the scope of a voter-approved exemption from the issuance of certain bonds, and allows the tax approved by the voters to be levied without the approval of the Tax Commission. Both sections 10 and 11 authorize approval of rates by entities without going to the Tax Commission.

Section 12 revises requirements for the provision of certain assistance and information to the owners of real property used to conduct a business for determining the value of the property using the income approach. This is just change in the language. It was submitted by the Department of Taxation.

Section 13 contains technical revisions as does section 14. Section 15 clarifies the number and residency requirements of registered voters necessary for the approval of an exemption from the partial abatements from taxation for certain levies approved before the effective date. It also clarifies that tax levies for certain bond issues, approved before the effective date of A.B. 489, are exempt from partial taxation abatements. It allows taxes exempted pursuant to this section to be levied without the approval of the Nevada Tax Commission. This is the third place in which a tax may be levied without Tax Commission approval.

Section 16 makes the bill effective upon passage and approval.

SENATOR CARE:

Allow me to go back to section 2. This applies only to the eligibility for the abatement and not the valuation of the property, is that correct? It says "applicability."

MS. ERDOES:

Right, this is applicability of the abatement. If the taxpayer is aggrieved by the decision made by the tax receiver, who would be the assessor in most cases or the Department if it is centrally assessed property, they can appeal it to the Tax Commission within 30 days after receiving the notice.

SENATOR CARE:

If you falsely claim entitlement to abatement in section 4, the punitive measure is "three times the amount of the tax deficiency, in addition to the amount of the tax due and any other penalty provided by law." Did you say that penalty currently applies to sales tax?

MS. ERDOES:

Yes, the same provision is currently in the law for fraudulently claiming to be exempt from the sales and use tax and not paying. It is a similar situation because you fill out a card to get, for example, a wholesaler's license to not pay the tax.

SENATOR CARE:

A question was raised about how this would work. Each property owner would receive a card, similar to what veterans receive on a yearly basis. You receive the card, fill it out, and send it back. When the property changes hands, how is the new homeowner made aware of his or her duty to fill out a card? Was there any discussion regarding that?

MS. ERDOES:

I was not privy to any such discussion, but you might want to ask the assessors.

SENATOR CARE:

It is not in the bill; perhaps, it could not be.

DOUG SONNEMANN (Assessor, Douglas County):

We did have discussions regarding this. Some of the assessors would like to send the cards out on an annual basis, approximately every May, which would catch any transfers within the year. Some of the other counties were more interested in sending a card whenever there is an address or ownership change.

CHAIR MCGINNESS:

Everyone should have a copy of Assemblyman Carpenter's proposed amendment to S.B. 509 ([Exhibit C](#)).

ASSEMBLYMAN JOHN C. CARPENTER (Assembly District No. 33):

This amendment provides that local governments could not raise their tax rates except to respond to an emergency. Some local entities already plan to raise the tax rate which really goes against the intent of the Legislature. In my district, the city says they are going to raise the rate and then the county decides to raise its tax rate in order to get part of this increase; pretty soon, you are going to get right up to the 3-percent cap. The intent of the legislation we passed was to hold down property tax or ad valorem tax. With this situation, we will be up to the 3-percent cap soon. Unless money is needed to respond to an emergency, they ought to stay where they are until the Legislature comes back in a couple years to see what happens. In Elko County, the increase has been minimal for the last 2, 3 or 5 years, maybe somewhere between 1 percent and 2 percent. The taxpayers are going to see a greater increase if local governments are allowed to raise their rates even though there is no emergency.

ASSEMBLYMAN PETE GOICOECHEA (Assembly District No. 35):

I would like to offer A.B. 244, which died in the Assembly earlier in the Session, as an amendment to S.B. 509.

**ASSEMBLY BILL 244**: Revises provisions governing distribution of proceeds of tax on net proceeds of minerals. (BDR 32-793)

ASSEMBLYMAN GOICOECHEA:

As we go along, I will refer to a handout ([Exhibit D](#)) labeled "Property Tax Impact Analysis" in the upper left corner. As we worked on A.B. 489, many members of this body came to realize that a number of rural mining counties were struggling with negative growth numbers and a declining ad valorem tax base.

When you see numbers like -22 percent, -6.8 percent, -2.5 percent and -13.3 percent highlighted in the handout, it becomes apparent a property tax cap will create additional hardships. These counties have typically been conservative with their tax rate to protect their constituents and businesses.

Allowing these counties to receive their full net proceeds allowed under statute, or the \$3.64 cap, will give these local jurisdictions funding for infrastructure. Net proceeds are typically used as one-shot money to do water improvements, street maintenance and repair, and building construction or retrofit. These funds can also be used as debt service if they are put in a rainy-day fund for mitigation and, in fact, can be used to service school district debt.

There is an impact on state revenue. However, this will happen as the counties raise their tax rates to the cap anyway. Returning net proceeds to local governments is a responsible way to maintain property taxes while allowing negative counties to at least maintain their infrastructure and schools without burdening the State.

Your support of this change in distribution allows immediate relief to these struggling counties and returns property tax to 16 out of 17 counties without increasing anyone's tax bill.

SENATOR CARE:

This formula was in section 1 of the original A.B. 244.

ASSEMBLYMAN GOICOECHEA:

The bill came out of the Legal Division that way and I am assuming the language would not change at all. We would just amend the language into S.B. 509. This is actually how the net proceeds of mines are calculated today. If there is an appetite to incorporate this into S.B. 509, I would take it to drafting. I did not want to waste their time, yours or mine if there was no consideration from the Committee.

CAROLE VILARDO (Nevada Taxpayers Association):

I understand the need to get this processed so the assessors and treasurers know what is needed. However, the second trailer bill will probably need language for the redevelopment distribution and how to handle annexation. There is also a question concerning what happens if you go to the State Board of Equalization and have a reduction good for one year. How does the five-year recapture provision fit in?

In a conversation with the Clark County Treasurer's office, we had a question regarding section 2 subsection 1, paragraph (a) of S.B. 509. It is my understanding the appeal would have to be made to the assessor's office. The

treasurer's office is the ex officio tax receiver and does nothing more than extend the information they are given by the assessor. If you claim you did not get what you were supposed to under the provisions of A.B. 489, the treasurer would have no information whether your claim was valid. It was suggested the claim be made to the assessor. The assessor would then forward his determination to the tax receiver. If the determination is positive, the tax receiver would issue the necessary adjustment in the property tax bill.

CHAIR MCGINNESS:

Is it urgent we get this bill out today, or can we take time to look at these amendments and do it Thursday?

MS. ERDOES:

Thursday is fine. I would like to address the issue Ms. Vilardo mentioned in reference to redevelopment and annexation. A tentative decision was made to leave those out of this bill because the solutions were not yet worked out. We thought it might take at least another week or so.

CHAIR MCGINNESS:

If there is a second trailer bill, would Assemblymen Carpenter's and Goicoechea's amendments fit into it?

MS. ERDOES:

At this point, I am not sure I can say they absolutely would. This is a broader-based bill because of the germane rule based on the different things included in the bill itself. If the bill only dealt with annexation and redevelopment areas, I do not believe either of those would fit.

CHAIR MCGINNESS:

From the assessor's standpoint, would an extra two days cause any great problems?

MR. SONNEMANN:

Since the issue would not come up until July, there would be no problem.

CHAIR MCGINNESS:

We will close the hearing on S.B. 509 and open the hearing on A.B. 392.



**ASSEMBLY BILL 392 (1st Reprint)**: Requires adoption of and compliance with uniform regulations governing assessment of property for purposes of taxation. (BDR 32-275)

ASSEMBLYMAN LYNN C. HETTRICK (Assembly District No. 39):

This bill came out of issues regarding valuation of properties and the variation in valuation of properties. I brought along an expert who will give you testimony as to the differences. What the bill does is simple. Section 1 says the Tax Commission shall adopt general and uniform regulations governing the assessment of property. In addition, it shows who would be regulated by that assessment, state boards, county boards and the Department of Taxation.

The remainder of the bill simply says each of those entities affected must follow the standardized rules. Ms. Ingemanson's testimony will explain to you why we are trying to do this.

MARYANNE INGEMANSON (President, Village League to Save Incline Assets):

The entire purpose of this effort is to effect stability and equality in the taxation of property. As an example, I would call your attention to Tab B in the package provided to you ([Exhibit E](#), original is on file at the Research Library). This document represents the disparity between two sister counties—Washoe and Douglas.

The two comparable properties are both lakefront parcels in the Tahoe Basin. The Douglas County Assessor, Doug Sonnemann, graciously provided me with all the details about the home in Douglas County. The property sold for \$7 million and is located in a lovely gated community on a parcel over an acre in size. It is 2,000 square feet larger and 10 years younger than the Washoe County home, which is located on a parcel less than half an acre in size and valued at \$1 million less. However, the taxes on the Douglas County property are approximately \$18,000 per year, and the taxes on the smaller, less expensive Washoe County property are approximately \$77,000 per year.

I am intimately familiar with the home in Washoe County and the taxes paid, as it is my home. The question asked by the Assembly Committee on Taxation was what drives these differences? The answer is a lack of uniform standards in determining taxable values.

Assembly Bill 392 requests that the Nevada Tax Commission, which everyone acknowledges is the ultimate arbiter of tax issues in the State, "shall adopt" the standards by which the assessors appraise real property. All counties should assess properties using the same rules.

An amendment removed the portion of the bill which provided the Nevada Tax Commission could take action upon evidence "that a county assessor has knowingly violated a regulation ...," including awarding attorney's fees against that assessor. There are currently no consequences for not following the regulations. There is no way to enforce compliance. Therefore, some assessors have used their own standards of assessment. In Washoe County, a number of innovative methods have been adopted, such as the rocks-on-the-beach standard. There are five grades of beaches, including sandy, sandy pebble, rocky pebble and rocky. In Crystal Bay, there are boulders nearly the size of this room. The difference these grades make to the amount of taxes levied is staggering. I am quoting from the assessor's work packet which says, "The frontage-type adjustments are made in \$2,500-per-foot increments." In other words, as most parcels on the lakefront have 100 feet of frontage, and the assessor determines a parcel adjustment from rocky pebble to rocky, it adds \$2,500 for each adjustment times 100 feet, totaling an increase to that one parcel of \$250,000. If an adjustment was made by the assessor from rocky to sandy, which would be 5 adjustments, the increase to the value of that property would be \$1,250,000.

These are amazing numbers, and this is what drives the difference between the two counties. Some of these adopted standards are not used by other counties in the State. The assessors say the appraisal of property is an art form, probably because the value is in the eye of the beholder.

MS. INGEMANSON:

Assembly Bill 392 is meant to standardize the law. As voiced by Washoe County Deputy District Attorney Terrance Shea, "The taxpayers have more administrative remedies than any criminal." The taxpayers are not criminals, and the remedies of which he speaks are so intricate that most folks have no way of successfully jumping through all of the hoops and jingles.

He also mentioned that taxpayers, in trying to exhaust their administrative remedies, had appealed to a board of experts at the county and state levels. At the county level, they cannot get enough people to create a second board, and

the folks who have agreed to serve are certainly not experts. The State Board of Equalization is still lacking two members since last year to even have a full five-member panel.

Tab C in your packet, [Exhibit E](#), is just for your information. The Nevada Legislature Web site has a page where folks can vote for bills they would like to have passed and against bills to which they are in opposition. I have indicated in red in Tab C where A.B. 392 has more votes for passage than any other bills presented in this entire Legislative Session.

In Tab D of your packet, those same folks can indicate why they voted the way they did. I randomly picked some, but the general tenor of those comments is "a level playing field" and "equal opportunities for all," not just those who can afford representation. The next tab is a copy of *Nevada Revised Statute* (NRS) 622.400 and NRS 622.410. Both were passed in the last Legislative Session; they allow a regulatory body to collect attorney's fees from a person who did not follow the rules despite attempts by the regulatory body. However, it is not reciprocal. Nothing in statute says if, in fact, the person wins the case, he or she has any recourse to attorney's fees. It is not a normal-type passage one finds in most contracts where it is the prevailing party-type situation.

MS. INGEMANSON:

This bill is supported by the Nevada Taxpayers Association, whose position I highlighted in Tab F of your packet. It says, "Support section 7, subsection 4 to allow attorney fees and costs to the taxpayer who prevails in a court case. It simply levels the playing field since the taxpayer is subject to attorney fees and costs if they lose in court."

Tab G of your packet, [Exhibit E](#), is an affidavit from a taxpayer saying that a Washoe County Assessor informed her the assessors had "found a contradiction in the new rules and that they will ignore the requirement of classifying views from the land," even though the Tax Commission had adopted the rules in June that became law on August 4, 2004.

It is not out of line to say most taxpayers would not begrudge paying their fair share of taxes to improve their communities, schools, security and firefighters. However, paying four times what the neighboring folks pay sticks in one's craw. Can you imagine the Douglas County constituent's reaction if their taxes increased 400 percent in one year to match those of Washoe County? It could

happen anywhere in the State. Assembly Bill 392 is trying to keep what happened to the taxpayers of Incline Village and Crystal Bay from ever happening again. It is important citizens know their tax burden. We ask for your support by passing this bill, which will be one step toward correcting the problems now existing in all of Nevada.

SENATOR LEE:

If this microphone were the property line and two houses were on either side, one in Douglas County and the other in Washoe County, from what I understand, Washoe County measures the size of the beach sand and boulders and whether you had a clear view of the lake or a filtered view. Is that correct, or does Douglas County do it in this manner as well?

MR. SONNEMANN:

I cannot say exactly how it is done in Washoe County. There is not a lot of good information when it comes to valuing lake parcels, whether lakefront, lake view, off the lake or of sand, gravel or rocks. Douglas County values lakefront parcels on the front-foot basis. There could be some addition for size if the size becomes an estate issue. Most parcels are valued on a lakefront basis so a view is not particularly an issue. View is definitely an issue if they are not lakefront. I am not sure how much of an issue rocky or sandy is in Douglas County because many of these could be retired folks not as interested in having beachfront.

SENATOR LEE:

Do you appraise the trees and rocks on property?

MR. SONNEMANN:

No, we do not. Landscaping falls into a gray area. Even though trees and rocks add incredible value to property, they are not something we pick up. We would pick up paving, decking, stone pavers and flagstone, but not a boulder. We would probably pick up a fountain with a rock garden as what we call a visual site improvement which adds some value in that manner.

SENATOR CARE:

I want to address the larger issue. Professional appraisers in litigation all have the same standards and rules by which they must abide. They can have differences of opinion, but the methodology or method used must be applied the same way. You have an organization with which you meet all the time. Surely

this subject has come up about how you approach assessing residential property, whether in Douglas County, lake view or lakefront property, or in the middle of District 7, for example. There must be some uniformity. Maybe I am wrong, but it sounds like what we are hearing today is you have 17 different systems in our 17 different counties.

MR. SONNEMANN:

Lake Tahoe is a fairly unique situation, and some of it is subjective. When you look at sales of vacant or improved parcels, you have to make a judgment on the effect of the attributes. Therefore, it is more of an individual analysis of the subject at hand rather than a difference from county to county. I am sure there is variation within the 17 counties; but for the very reason you stated, we have those meetings to try to deal with properties in a consistent manner.

SENATOR CARE:

If we were to adopt this amidst uniformity with the Tax Commission promulgating its regulations, conceivably, there could still be differences of opinion. Maybe they would not be as dramatic as the example brought to our attention today, but the juxtaposition of two properties could still occur. Could it not, even if you had the Commission issuing rules of uniformity?

MR. SONNEMANN:

Yes, that certainly would be true. There are different markets at Lake Tahoe, and Washoe County sells for a higher amount than Douglas County. Washoe County also sells for a higher amount than the California side of the Lake. As far as technique, as Ms. Ingemanson indicated, the Tax Commission redid the *Nevada Administrative Code* to make things more precise and concise to eliminate ambiguities. Unfortunately, subjectivity still exists.

SENATOR COFFIN:

I question how in the world this would apply to me in my little district with all of the older homes and older folks. Clark County is going to run into the same problem. We have 50 or 60 high-rise developments right now, either under construction or on the boards. I do not know what assessment standards the Clark County Assessor uses, but we better tackle this because evaluation questions will be based on the elevation of these high-rises. Will the first five floors be worth less than the next five, et cetera? If one side of the building is facing The Strip and another is facing my district, one side might be worth more than the other. What arguments would those people have? I see this in the

case of the Turnberry Condominiums, a beautiful development just outside my district, where they have put up two additional towers. With two more, some will face The Strip, some will face the mountains, some will face a partial this and partial that and some will face another building. There could be 10 or 15 view variations, based upon that kind of calculation. Maybe this bill is the vehicle to start addressing this.

ASSEMBLYMAN HETTRICK:

You hit the nail on the head. We need to think about two or three things regarding this. View is in the eye of the beholder. Some people think Lake Tahoe is beautiful and love to look at it while others would say they love the sagebrush in Elko County and think it is just as beautiful. Senator Coffin's comments could not be more correct. One person at the top of the high-rise would tell you he or she thinks looking at The Strip is awesome and loves the lights at night. Another person might not want to see those lights at all but would rather see the mountains. We have to take the subjectivity out of this and give some kind of rule.

I would point out a couple of things to the Committee. First, the *Constitution of the State of Nevada* says property shall be assessed uniform and equal. It does not say you can have a subjective standard that changes because you happen to think it looks better than somebody else might. Second, if you look at the first page of A.B. 392 and read the old language, it says "The Nevada Tax Commission may: Establish and prescribe general ... ." Now go to page 5 of the bill, again, remembering uniform and equal in our Constitution. If you look at the current language, section 3, subsection 7 says, "The county assessor shall establish ... ." Every assessor can establish whatever he or she chooses, and that is the problem. It is currently not uniform and equal. What we are saying here is "use the standards." It does not say those standards cannot include some subjective material. It does not say they cannot value beachfront. It does not say they cannot say a bigger rock or a better view is not worth more money. It says the Nevada Tax Commission should apply standards with some basis of uniformity and equality for all taxpayers in this State. That is what this bill requests; Senator Coffin hit it on the head. It may not sound like a problem for downtown Las Vegas today, but it will be.

MS. INGEMANSON:

Over the last 2 years, there have been nearly 2,700 appeals in Washoe County just from the Incline Village area. Of those appeals, probably 200 were given

some adjustment. We are talking about millions of dollars. It is not an easy subject, and it is a huge problem.

SENATOR TOWNSEND:

You talked about receiving your attorney's fees to equalize that. Is that supposed to be an amendment, or is there an assumption? What am I missing?

ASSEMBLYMAN HETTRICK:

The initial bill asked for declaratory relief and other things as well as attorney fees. The assessors and the Department of Taxation as well as others in the Assembly disagreed with those provisions. In order to get standardized assessing values, we agreed to take those items out of the bill. Ms. Ingemanson was trying to point out that it is already tilted in favor of government. It really ought to be leveled, but in order to pass this bill, we have to stick to where we are because that was the agreement we made in order to get it to uniform and equal and a standard valuation procedure.

CHAIR MCGINNESS:

We will close the hearing on A.B. 392 and open the hearing on A.B. 393.

[ASSEMBLY BILL 393 \(1st Reprint\)](#): Provides for sale of tax liens against parcels of real property. (BDR 32-196)

ASSEMBLYMAN HETTRICK:

Assembly Bill 393 is a bill we heard last Session. It managed to make it out of committee, but got lost in the end. I brought back an improved version to present to the Committee today.

I will read a brief description of the bill, how it works and what it proposes to do, and then I will go through the bill by section. Assembly Bill 393, as amended, is an enabling bill that allows counties, at the county treasurer's discretion, the option to sell delinquent tax liens in a tax-lien sale. The idea is that many counties have the opportunity to generate significant cash flow from this bill without losing any total revenue. I would like to give the Committee a basic description on how the tax-lien system works today and how a tax-lien sale is different.

Under the current procedure regarding delinquent property taxes in the State of Nevada, it typically takes about three years before action is taken against

a party whose property tax is delinquent. At that time, they are served notice and told their property will be sold at auction. They are then given the opportunity to come in and pay the taxes along with penalties, interest and any costs. Ninety-seven percent of the people involved in that situation do go in and pay their taxes, penalties and interest. Only 3 percent of all delinquent properties, nationally and in Nevada, ever go to actual sale. I want to make sure everyone understands that ultimately, the taxes are paid.

During the time they are not paid, interest, penalties and costs accrue, but schools, counties and the State do not get the use of the tax money. They lose that revenue. That money is out there for up to three years. Twenty-eight states in the United States presently allow the sale of tax liens. Obviously, selling the tax lien, when available for sale, increases the cash flow to the schools, counties and the State. The lien is sold to an investor who, for a guaranteed interest rate secured by the lien on real property, pays the taxes, the penalties, the interest and the costs included in the delinquent property tax bill. The county then gets the money, as do the schools and the State. The purchaser of the lien is responsible for his own due diligence. The county does not guarantee anything; it simply has a lien sale if it chooses to do so. This is an enabling piece of legislation. They do not have to sell the lien, but if they choose to, they may. They guarantee nothing to the purchaser and are not liable in any way to assure the purchaser the lien is even collectable.

ASSEMBLYMAN HETTRICK:

As amended, A.B. 393 is a viable tool to enhance cash flow for the counties and so on. The county has many options in this bill. I want to give you a simplified example of how this works. One year after delinquency on a parcel, the county establishes a lien, as they do now, and assesses interest, penalties and costs just as they do now. They would then have a choice. They could decide to do nothing and go on like they do now or they could decide to sell the tax liens they choose with interest, penalties and costs at a lien sale. There is no requirement to sell anything. If they think it would enhance cash flow and decide on selling a tax lien, an investor would buy the lien on the delinquent parcel in the amount of everything we discussed earlier. If it was the first year of the delinquency, the taxing entities would have full use of that money for two years, assuming it ran the current course. Otherwise, that money would not be available.



If the parcel remains delinquent at the end of the second year, the county would again assess all interest, penalties and costs. It would then decide whether to sell another lien on that property. If they decide to sell the lien the second time, they offer the option to the buyer of the first lien. This is because we do not want to have two liens out there, and we do not want to have any issues over priority. If the buyer of the first lien declines to purchase the lien, the treasurer can decide to sell it to someone else. The buyer of the second lien must redeem the first and take over both liens. Therefore, you have one lien in the paperwork. Again, the county can choose not to do it. They can sell the lien the first time and decide not to do it the second time.

ASSEMBLYMAN HETTRICK:

The idea of doing this is to control and minimize county paperwork as much as possible. The counties, the schools and the State would have the revenue collected on the second lien sale for at least a full year more than if you do nothing under the current system. If the property tax on the parcel remains delinquent at the end of the third year, a lien holder may commence an action, exactly as the county under the same rules. The bill says, "pursuant to the sections," and it lists the section numbers. It says they "may" commence a sale, but the county would have commenced a sale in the third year anyway. That is the identical procedure we have now.

In the existing procedures, counties go as long as three years without collecting the revenue. Under this procedure, the counties could collect two-thirds of the revenue before it went to sale, and they would have use of the money. If the lien is not collectable in the end, the investors lose the money, not the schools, counties or State. This bill is enabling, and I cannot repeat that often enough. If there is an actual sale of real property, all equity remaining from the sale transfers back to the delinquent taxpayer. This is how it exists under the law pertaining to counties. If you have a parcel worth \$100,000, with a \$50,000 mortgage, and you have a \$2,000 delinquent tax bill, after 3 years it goes to auction. If it sells, the lien is paid off with costs and interest. The mortgage holder gets paid off. The law specifies the counties get a certain amount of money for having dealt with this. Any remaining revenue, the net equity of the property, goes back to the property owner. This is exactly what happens whether the county or an investor holds the lien. Nothing is changed in the way this is handled.

Section 2 of A.B. 393 defines "tax lien." Section 6 allows the county to sell the tax lien, but it says "a government, governmental agency or political subdivision" cannot buy a tax lien. We added a new provision in this section. First, I would point out that insurance companies like these tax liens because they get a guaranteed interest rate secured by a lien. It is a secure, collateralized, monetary document. We provided if an insurer wants to buy liens, the insurer is required to either have a home office in the State or sell medical liability insurance in Nevada. Currently, Nevada's captive insurer program is generating a great deal of revenue for this State. The people willing to move their offices to Nevada and employ people here should have the right to buy these tax liens before any other insurance company.

Section 7 says before a county can sell, it must adopt an ordinance determining the manner of the sale. The National Tax Lien Association is interested in this bill and testified on it last Session to indicate some things counties can do if they choose to sell liens. There is a process to determine who will get to buy the lien. Companies make bids and offer a premium to the county. For example, they say, "If you sell me this block of tax liens, I will give the county this amount of money as a premium." The county can use that money, interest free, for the period of the lien. Section 8 says the "county treasurer may sell a tax lien against a parcel of real property after the first Monday in June."

SENATOR CARE:

Are these things advertised or noticed? How would anybody ever know they are available? You are allowing some discretion here with the treasurers' offices throughout the State, but how do you envision this working?

ASSEMBLYMAN HETTRICK:

They are noticed, and they are public auctions. The buy-down procedure is done publicly with the companies sitting there actually bidding each other down on the buy-down rates, so the county benefits. These are all done just like the public auction to sell real property. They are held in a fully noticed, open setting.

Section 9 says, "The county treasurer shall issue a certificate of purchase to each purchaser of a tax lien." It describes what must be included. It says the interest rate will be established by the county board. It may not be less than 10 percent and no more than 20 percent. Some states have interest rates as high as 36 percent allowed in tax liens to make it attractive for people to come and buy these things. We tried to hold it down to a reasonable amount.

Section 10 says the treasurer must keep the information for each lien. Section 11 explains how to replace a lost certificate. Section 12 says if a parcel is delinquent for the second year, the county treasurer shall attempt to collect the taxes using the existing procedures. If the taxes cannot be collected, a new lien is created. If the treasurer decides to sell that lien, he contacts the holder of the first lien who may purchase the additional lien. If the lien holder chooses to not purchase it, the original lien can be redeemed and both liens sold to a new investor.

Section 13 details who may redeem a certificate. Section 14 requires the county treasurer to notify the lien holder when a lien is redeemed and to pay the lien holder upon presentation of the certificate of purchase. This says the party who owes the taxes would pay the county and not the lien holder. There should be no contact between the lien holder and the person who is delinquent on the taxes. This process is identical to the existing process. The county has to collect the money, not the lien holder.

Section 15, as amended, allows the lien holder to commence an action for collection on the amount due on the certificate. Section 18 is cleanup language. It says the certificate of purchase of a tax lien is proof for an action.

ASSEMBLYMAN HETTRICK:

Section 19 limits the action of the persons who are delinquent and/or the owners of the parcel. You cannot go around suing anybody. We are not opening this up as a field day for lawyers or people who want to get into this in order to make money on lawsuits. The action is limited to the delinquent person or the owner of the parcel. The rest of this is procedural cleanup language.

Again, this is enabling legislation. Nothing requires the counties to do anything. A treasurer who has concerns with this might go to the county and say, "If you make me do tax-lien sales, I will need four more people, more office space and a variety of extra expenses." The treasurers are either going to get people to do the job, or they are not. If they do not, they do not have to deal with tax-lien sales. The county commission can decide what it would like to do. If the county commissions want to proceed, they can fund appropriately and give treasurers the money to get the job done. This bill gives us an opportunity. Some treasurers think this is worth doing. According to testimony, two years ago Clark County had \$10 million outstanding in unpaid property tax. If you could

collect just one-third of that amount, it would be significant in terms of cash flow.

SENATOR LEE:

This is an interesting concept. If a lien goes on a piece of property, can a secondary market take place where people buy and discount these liens like second trust deeds and the like?

ASSEMBLYMAN HETTRICK:

I never thought about that, but it is an interesting question. I presume there would probably be a market in selling liens if you had one and wanted your cash back out. I am sure there is a market for retailing the liens somewhere.

SENATOR LEE:

Can you tell me how this would work with a homestead?

ASSEMBLYMAN HETTRICK:

I am not an expert in homestead law. Senator Townsend can probably answer that question.

SENATOR TOWNSEND:

The only things that supercede the homestead are your taxes and your mortgage. After that, the homestead comes in place and all your other debts.

CHAIR MCGINNESS:

Does this end up costing the taxpayer any more than if the county had kept it?

ASSEMBLYMAN HETTRICK:

It depends on how the county wants to handle the tax-lien sale. The way it is done now is at the end of the year if the tax is delinquent, the county adds on interest. Penalties and costs are tacked on. If the county knew it was going to sell a tax lien, it could choose not to tack on the interest because it is going to get the money from the sale, and the investor would get the interest. Therefore, it would not cost the taxpayer any more money. If the county instead chooses to go ahead and tack on the interest, it would be in addition to the penalties and the costs and would then cost the taxpayer more.

SENATOR COFFIN:

In my bill, S.B. 259, which was not processed, the concept was about deferring the taxes so a lien would become the unpaid tax. You defer the tax for a homeowner and the tax deferred is a lien. If this had been in place from the 2003 Session, it would have made it a lot easier for people to understand the concept as I was bringing it forward to the Committee. Local governments were worried about loss of revenue from the tax money hanging back. This is a good idea.

SENATE BILL 259: Provides for postponement of payment of increase in property taxes. (BDR 32-1183)

JOHN YACENDA (Capital City Investment Group, Limited Liability Company; Capital City Investments; Global Contract Buyers, Unlimited):

We support A.B. 393 in its entirety and the amendments in particular. I would like to make three points regarding this bill. It is government-friendly, investor-friendly and property-owner friendly. This bill is a result of a lot of people working together. The revenues for the counties are more predictable; there is a higher property tax revenue collection, and it is a safe, short- and long-term investment for investors. If an owner died while there was a lien on the property, his or her heirs could redeem the property. In a sense, it allows them to defer the taxes at a time when they cannot afford to pay those taxes. Later on, they could redeem them and keep the property in the family for a longer period of time.

We find it works in all facets of the real estate, tax investment and revenue picture. We urge you to pass this bill. It really does protect the sale of the property in the end and gives investment and equity to the property owner, even if he or she is unable to pay those taxes, and the property has to be sold. In most states, the owner loses all of his or her equity in the property at a tax sale. Assembly Bill 393 is viable economically, and it is a positive step. It puts our State in a sound position in terms of leading this kind of financial-investing and revenue-producing arena of tax liens and tax certificates.

SENATOR COFFIN MOVED TO DO PASS A.B. 392.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR COFFIN MOVED TO DO PASS A.B. 393.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR MCGINNESS:

We will consider what action we want to take on A.B. 418, which we heard on May 3 and May 5. We have an e-mail from Dino DiCianno, Deputy Executive Director, Department of Taxation, with proposed amendments in regard to the effective date of the bill (Exhibit F). Because of administrative limitations in not meeting the noticing requirements for retailers by July 1, he proposes moving the effective date to October 1. He also notes the fourth recommendation in Exhibit F should read, "2. This act expires by limitation on October 1, 2025," instead of 2005.

ASSEMBLY BILL 418 (1st Reprint): Authorizes Board of County Commissioners of Clark County to increase sales tax to employ and equip additional police officers. (BDR S-413)

SENATOR COFFIN MOVED TO AMEND AND DO PASS AS AMENDED A.B. 418.

SENATOR LEE SECONDED THE MOTION.

SENATOR COFFIN:

Six months ago I would have opposed this bill because I felt the proper way to pay for law enforcement was, and still is, through property tax. However, we took a radical ax to the tax levels by limiting the local governments to 3 percent on residences and 8 percent on businesses. It presents a real problem in the future, and I feel obliged to vote for this bill.

SENATOR CARE:

I want to go back to two years ago in July in the 20th Special Session when we were trying to come up with some mechanism to get the tax bill out of here. The one thing I said publicly, as did others, was I would not vote for a sales tax increase because by doing that you tax everybody. Therefore, I am going to have to vote no. I am uncomfortable with the idea of saying we are going to cap your property tax and we might even give you a rebate, but if we do all that, we are going to raise your sales tax to make up the difference. The positions are philosophically incongruous.

SENATOR LEE:

When you get elected to the Senate by your district, people elect you for your values, your virtues and things they read about you. In my district, this bill is overwhelmingly approved. The people in North Las Vegas asked to get relief to the overall crime burden. Therefore, I am following the dictates of the people who put me in office, and in this case, they have made the right decision.

CHAIR MCGINNESS:

There is a motion to amend and do pass A.B. 418.

THE MOTION CARRIED. (SENATORS CARE AND TIFFANY VOTED NO.)

\* \* \* \* \*

CHAIR MCGINNESS:

Next, look at A.B. 547. Questions on the formula for the distribution of revenue in this bill have been answered.

ASSEMBLY BILL 547: Revises formula for distribution of revenue from tax on certain motor vehicle fuel. (BDR 32-423)

SENATOR TIFFANY MOVED TO DO PASS A.B. 547.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR MCGINNESS:

We will open the hearing on A.B. 320.

**ASSEMBLY BILL 320 (1st Reprint)**: Prescribes sales tax holiday from certain sales and use taxes for certain sales of computer equipment, clothing and school supplies. (BDR 32-1201)

ASSEMBLYMAN RICHARD D. PERKINS (Assembly District No. 23):

When we sat down to draft A.B. 320, we wanted to find a way to provide a little extra relief for all Nevadans in addition to some form of tax rebate. The bill, in its original form, would have taken a measure to the voters that would enable future Legislatures to establish tax-free days. It occurred to me Nevadans want and need this relief now, so we changed it to do just that.

The bill before you establishes the weekend of August 26 to August 28 this year as a sales tax holiday for back-to-school shopping. All clothing, computers and school supplies will be exempt from all but 2 percent of the sales tax. The remaining 2 percent cannot be suspended, even temporarily, without voter approval. It seemed this would be the best way to give Nevada's families a little relief right away.

This bill creates the holiday only for this year, allowing next Session's Legislators the opportunity to see how it worked, look at problems with implementation and adjust the holiday to work better for our citizens.

The National Retail Federation says the average family in 2004 spent about \$219 on clothes alone for one child leading into the new school year. Alone, the savings are only about \$10, but this \$10 can stretch a long way. Add to this a family computer or the latest edition of a Microsoft Corporation software product and costs start to add up, with savings topping \$100. While right now this does not seem like a lot of money, it is a small break from the additional taxes everyone has to pay. For many of Nevada's families, every little bit helps.

This measure would be a boon for Nevada's businesses, relief for Nevada's taxpayers and a windfall for our economy at large. People go in droves from neighboring states to find sales tax holidays and businesses see record sales in response. A Web site even catalogs, for deal-savvy consumers, each state that has a holiday and the dates. Extra money for these businesses will allow them



to expand their operations in our State, benefiting our consumers and our economic base.

Benefits for taxpayers and our businesses translate to a stronger economy across-the-board. It is our responsibility to get extra money back into taxpayers' pockets, and this is just one small part of how we can do it. This effort does not replace the planned rebate to provide Nevada's hard-working citizens with relief, but rather to supplement it. It is something taxpayers can count on to help build stronger business, better savings and a stronger economy.

SENATOR RHOADS:

Is there a limit on how much you can buy? Could I go out and buy a \$100,000 tractor?

ASSEMBLYMAN PERKINS:

The bill includes a list of items available for purchase with the tax holiday in mind. There is a limit of \$1,000 on clothing items. It talks about computers and the like. There is a laundry list of what is appropriate. It does not include automobiles or farming equipment.

SENATOR RHOADS:

If it is not on this list, you cannot buy it?

ASSEMBLYMAN PERKINS:

If it is not on the list, you do not get the sales tax holiday. An expiration provision in the bill at the end of this year keeps us in compliance with the streamlined sales tax discussions happening throughout the United States. It can always be reauthorized.

SENATOR LEE:

Can you go a week early to lay items away and wait for this holiday? Let us say you went in to buy a computer, but everybody else thought it was a great day to buy a computer too. Would rain checks be covered under this?

ASSEMBLYMAN PERKINS:

I would defer to each individual retail store's policies. In an effort to increase sales for that day, the store would probably allow you to make the purchase and pick it up later. I cannot speak for the retail folks operating in our State.

SENATOR LEE:

It would have to be at the point of sale during those three days. You would have to purchase it during those three days.

ASSEMBLYMAN PERKINS:

That is correct, and those three days were chosen because they are the three days preceding the start of the school year. You heard a similar bill proposed by Senator Carlton. That bill puts a proposal on the ballot to remove the other 2-percent portion of the sales tax. However, it will not be available to Nevada residents this year. It will go on the ballot in 2006.

CHAIR MCGINNESS:

It says it does not include any sewing equipment and it goes on to list patterns, pins, scissors, sewing materials that become part of clothing, et cetera. Was there a reason people who make their own clothing are left out?

ASSEMBLYMAN PERKINS:

I am not entirely sure. We lifted this language from another state that had experience. I certainly would not consider it an unfriendly amendment should this Committee choose to move in that direction. A number of people in this State create clothing for their children prior to school.

SENATOR RHOADS:

On the first page, I see a limit of \$1,000. Does that mean you can buy up to \$1,000 worth of computer equipment, \$1,000 worth of clothing and \$1,000 worth of school supplies?

ASSEMBLYMAN PERKINS:

That limitation was on clothing.

DAVID K. SCHUMANN (Nevada Committee for Full Statehood):

A sales tax holiday sounds grand, but since restricted to computer equipment, clothing and school supplies, only people with school children or those in the market for a computer would benefit. If you have a sales tax holiday, it ought to be a sales tax holiday. If we just say there is no sales tax for this one, two or three days, then it is honest.

This turns out as a smokescreen to deter people from going out and getting back the excess money that flowed into the State as a result of S.B. No. 8 of

the 20th Special Session. Last year, we had double-digit increases in sales tax revenue, so now we have a \$500-million surplus. We ought to just skip this and increase the rebate to the citizens of Nevada.

CHAIR MCGINNESS:

We will close the hearing on A.B. 320 and open the hearing on Assembly Joint Resolution (A.J.R.) 11.

**ASSEMBLY JOINT RESOLUTION 11 (1st Reprint)**: Proposes to amend Nevada Constitution to effect limitation on property taxes for senior citizens. (BDR C-1184)

ASSEMBLYMAN PERKINS:

During the property tax debate earlier in the Session, we heard from many of our constituents who were facing truly difficult circumstances. Many feared that given the drastic increases in property values, they could not afford to stay in their homes. The vast majority of these were senior citizens who live on fixed incomes, often social security, that increase only slightly each year, if at all. For many, the death of a spouse is financially devastating.

The property-tax proposal passed by this Legislature will certainly help seniors, but it does not go far enough. Seniors have paid taxes their entire lives, raised their families and contributed to our economy. They have given generously to our society, and we need to ensure they can live comfortably in their retirement years.

For this reason, I introduced A.J.R. 11 that would amend the *Constitution of the State of Nevada* to freeze property taxes for seniors. Given the past growth in assessed valuation, particularly in Clark County where many seniors are concentrated, we have no assurance these drastic increases will not continue. We need to act now to ensure a level of stability for retired Nevadans.

The 3-percent cap for homeowners was a step in the right direction, but for many seniors, even 3 percent is too much, particularly given the Cost of Living Allowance for social security can be well below that.

The proposed amendment is simple. It would freeze property taxes for seniors who paid property taxes in Nevada for the previous ten years. If for any reason the actual payment decreased, they only have to pay the lower amount.

This ensures long-time Nevada residents receive the benefit of this freeze. Any senior who moves to Nevada after reaching retirement age would have their property taxes frozen at the level they pay after living here for ten years.

This is a simple Nevada solution to a unique Nevada problem. I urge this Committee to act now to give Nevada seniors peace of mind in their golden years.

SCOTT WATTS (Nevada Alliance for Retired Americans):

I am here today on behalf of our membership of approximately 16,000 seniors with 18 affiliated chapters throughout this State. We support this bill. Assemblyman Perkins mentioned the golden years. The golden years for seniors today are really not the golden years. We are on a fixed income and need all the help we can get. We ask that you support this bill and get it through the Senate and on the Governor's desk.

WILLIAM J. BIRKMANN (Communications Workers of America):

I represent approximately 500 members in this State as the appointed chair of the Retired Member Council, and I urge you to support A.J.R. 11. Most of my members cannot foresee the increased prices of property taxes and prescription drugs. Even though some are lower, middle-class income, they are in a catch-22 at this point because those increases caused their incomes to drop to poverty level. However, because of their incomes, they do not benefit from being at poverty level.

MS. VILARDO:

I speak in opposition to A.J.R. 11 as written. We suggested an amendment in the Assembly which was not accepted. If you process this bill, we suggest adding a provision that says:

The amount of property tax postponed, pursuant to this subsection, becomes due and payable upon the sale of the property, sale of the interest in the property by the claimant or upon the death of the claimant.

That language is straight out of a bill offered by Senator Coffin earlier this Session. If this goes to the voters, that is no problem; I would look forward to it because I qualify. However, the reality is my estate should pay that tax. If you process this, it needs to be amended.

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CHAIR MCGINNESS:

If there is no further testimony, this meeting of the Senate Committee on Taxation is adjourned at 3:54 p.m.

RESPECTFULLY SUBMITTED:

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Ardyss Johns,  
Committee Secretary

APPROVED BY:

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Senator Mike McGinness, Chair

DATE: \_\_\_\_\_