

SENATE BILL NO. 154—COMMITTEE ON TAXATION

FEBRUARY 26, 2007

Referred to Committee on Taxation

SUMMARY—Contingently allows the imposition of certain taxes in certain counties to fund capital projects for the county school district and clarifies certain provisions governing taxes on transfers of real property. (BDR 32-712)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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

AN ACT relating to taxation; contingently allowing the imposition in certain counties of a tax on transfers of real property and a tax on revenue from the rental of transient lodging to fund capital projects for the county school district; clarifying the applicability of an exemption from the taxes on transfers of real property for transfers relating to changes in identity, form or place of organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the imposition of taxes on transfers of real property. (NRS 375.020, 375.023, 375.026) **Section 1** of this bill provides for the imposition of such a tax in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) at the rate of 60 cents for each \$500 of value of the transferred property, upon the request of the board of trustees of the county school district, for deposit in the county school district's fund for capital projects, and requires the use of at least 80 percent of the proceeds of the tax for enlarging, remodeling or repairing existing buildings or grounds for schools.

Existing law provides that certain transfers are exempt from taxes on transfers of real property. (NRS 375.090) **Section 3** of this bill revises an exemption for transfers relating to a change in identity, form or place of organization to clarify that the exemption applies to the reorganization of any business entity.

Existing law provides for the imposition of taxes on the rental of transient lodging. (NRS 244.3351, 244.3352) **Section 5** of this bill provides for the imposition of such a tax in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) at the rate of one and five-eighths percent of the gross receipts from such rentals, upon the request of the board of trustees of



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the county school district, for deposit in the county school district's fund for capital projects, and requires the use of at least 80 percent of the proceeds of the tax for enlarging, remodeling or repairing existing buildings or grounds for schools.

The provisions of this bill that provide for the imposition of additional taxes will become effective on January 1, 2009, only if the voters of the affected counties approve of the imposition of those taxes at the 2008 General Election.

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

Section 1. Chapter 375 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a county school district in a county whose population is 100,000 or more but less than 400,000 may adopt and transmit to the board of county commissioners of that county a resolution requesting the board of county commissioners to impose a tax, in addition to all other taxes imposed on transfers of real property other than another tax imposed in the county pursuant to this section, at the rate of 60 cents for each \$500 of value or fraction thereof, on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, if the consideration or value of the interest or property conveyed exceeds \$100. Upon the receipt of a resolution adopted pursuant to this subsection, the board of county commissioners shall impose the requested tax.

2. The amount of any tax imposed pursuant to this section must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.

3. The county recorder shall collect any tax imposed pursuant to this section in the manner provided in NRS 375.030, except that he shall transmit all the proceeds of the tax imposed pursuant to this section and any applicable penalties and interest thereon to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund, except that not less than 80 percent of those proceeds must be used for the purposes described in paragraph (b) of subsection 1 of NRS 387.335.

4. The proceeds of any tax imposed pursuant to this section must not be:

(a) Considered in any negotiations between a recognized organization of employees of a school district and the school district; or



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1 ***(b) Used to reduce or supplant the amount of any money***
2 ***which would otherwise be made available for the purposes***
3 ***described in subsection 1 of NRS 387.335.***

4 **Sec. 2.** NRS 375.030 is hereby amended to read as follows:

5 375.030 1. If any deed evidencing a transfer of title subject to
6 the tax imposed by NRS 375.020 and 375.023 and, if applicable,
7 NRS 375.026 ***and section 1 of this act*** is offered for recordation, the
8 county recorder shall compute the amount of the tax due and shall
9 collect that amount before acceptance of the deed for recordation.

10 2. The buyer and seller are jointly and severally liable for the
11 payment of the taxes imposed by NRS 375.020, 375.023 and
12 375.026 ***and section 1 of this act*** and any penalties and interest
13 imposed pursuant to subsection 3. The escrow holder is not liable
14 for the payment of the taxes imposed by NRS 375.020, 375.023 and
15 375.026 ***and section 1 of this act*** or any penalties or interest
16 imposed pursuant to subsection 3.

17 3. If after recordation of the deed, the county recorder
18 disallows an exemption that was claimed at the time the deed was
19 recorded or through audit or otherwise determines that an additional
20 amount of tax is due, the county recorder shall promptly notify the
21 person who requested the recording of the deed and the buyer and
22 seller of the additional amount of tax due. If the additional amount
23 of tax is not paid within 30 days after the date the buyer and seller
24 are notified, the county recorder shall impose a penalty of 10
25 percent of the additional amount due in addition to interest at the
26 rate of 1 percent per month, or portion thereof, of the additional
27 amount due calculated from the date of the original recordation of
28 the deed on which the additional amount is due through the date on
29 which the additional amount due, penalty and interest are paid to the
30 county recorder.

31 4. This section does not prohibit a buyer and seller from
32 agreeing by contract or otherwise that one party or the other will be
33 responsible for the payment of the tax due pursuant to this chapter,
34 but such an agreement does not affect the ability of the county
35 recorder to collect the tax and any penalties and interest from either
36 the buyer or the seller.

37 **Sec. 3.** NRS 375.090 is hereby amended to read as follows:

38 375.090 The taxes imposed by NRS 375.020, 375.023 and
39 375.026 do not apply to:

40 1. A mere change in identity, form or place of organization,
41 such as a transfer between a ~~corporation~~ ***business entity*** and its
42 parent ~~corporation, a~~ , ***its*** subsidiary or an affiliated ~~corporation~~
43 ***business entity*** if the affiliated ~~corporation~~ ***business entity*** has
44 identical common ownership.



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2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

↳ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and



(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 4. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 *and section 1 of this act* do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or



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(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,
➔ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 5. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a county school district in a county whose population is 100,000 or more but less than 400,000 may adopt and transmit to the board of county commissioners of that county a resolution requesting the board of county commissioners to impose a tax, in addition to all other taxes imposed on the revenue from the rental of transient lodging other than another tax imposed in the county pursuant to this section, at the rate of one and five-eighths percent of the gross receipts from the rental of transient lodging. Upon the receipt of a resolution adopted pursuant to this subsection, the board of county commissioners shall adopt an ordinance imposing the requested tax throughout the county, including its incorporated cities, upon all persons in the business of providing lodging.

2. An ordinance imposing a tax pursuant to this section must include all the matters required by NRS 244.3352 for the mandatory tax, must be administered in the same manner, and imposes the same liabilities, except that:

(a) The collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second



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1 *calendar month after the adoption of the ordinance imposing the*
2 *tax; and*

3 *(b) The governmental entity collecting the tax shall transfer all*
4 *collections to the county treasurer and may not retain any part of*
5 *the tax as a collection or administrative fee.*

6 *3. The proceeds of any tax imposed pursuant to this section*
7 *and any applicable penalties and interest thereon must be*
8 *deposited in the county school district's fund for capital projects*
9 *established pursuant to NRS 387.328, to be held and expended in*
10 *the same manner as other money deposited in that fund, except*
11 *that not less than 80 percent of those proceeds must be used*
12 *for the purposes described in paragraph (b) of subsection 1 of*
13 *NRS 387.335.*

14 *4. The proceeds of any tax imposed pursuant to this section*
15 *must not be:*

16 *(a) Considered in any negotiations between a recognized*
17 *organization of employees of a school district and the school*
18 *district; or*

19 *(b) Used to reduce or supplant the amount of any money*
20 *which would otherwise be made available for the purposes*
21 *described in subsection 1 of NRS 387.335.*

22 **Sec. 6.** NRS 244.3359 is hereby amended to read as follows:

23 244.3359 1. A county whose population is 400,000 or more
24 shall not impose a new tax on the rental of transient lodging or
25 increase the rate of an existing tax on the rental of transient lodging
26 after March 25, 1991, except pursuant to NRS 244.3351 and
27 244.3352.

28 2. A county whose population is 100,000 or more but less than
29 400,000 shall not impose a new tax on the rental of transient lodging
30 or increase the rate of an existing tax on the rental of transient
31 lodging after March 25, 1991 ~~§~~, *except pursuant to section 5 of*
32 *this act.*

33 3. The Legislature hereby declares that the limitation imposed
34 by subsection 2 will not be repealed or amended *after January 1,*
35 *2009*, except to allow the imposition of an increase in such a tax for
36 the promotion of tourism or for the construction or operation of
37 tourism facilities by a convention and visitors authority.

38 **Sec. 7.** NRS 387.328 is hereby amended to read as follows:

39 387.328 1. The board of trustees of each school district shall
40 establish a fund for capital projects for the purposes set forth in
41 subsection 1 of NRS 387.335. The money in the fund for capital
42 projects may be transferred to the debt service fund to pay the cost
43 of the school district's debt service.

44 2. The board of trustees may accumulate money in the fund for
45 capital projects for a period not to exceed 20 years.



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3. That portion of the governmental services tax whose allocation to the school district pursuant to NRS 482.181 is based on the amount of the property tax levy attributable to its debt service must be deposited in the county treasury to the credit of the fund established under subsection 1 or the school district's debt service fund.

4. No money in the fund for capital projects at the end of the fiscal year may revert to the county school district fund, nor may the money be a surplus for any other purpose than those specified in subsection 1.

5. ~~[The]~~ *Subject to the limitations set forth in sections 1 and 5 of this act*, the proceeds of the taxes deposited in the fund for capital projects pursuant to NRS 244.3354, 268.0962 and 375.070 *and sections 1 and 5 of this act* may be pledged to the payment of the principal and interest on bonds or other obligations issued for one or more of the purposes set forth in NRS 387.335. The proceeds of such taxes so pledged may be treated as pledged revenues for the purposes of subsection 3 of NRS 350.020, and the board of trustees of a school district may issue bonds for those purposes in accordance with the provisions of chapter 350 of NRS.

Sec. 8. NRS 388.750 is hereby amended to read as follows:

388.750 1. An educational foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010; and

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 *and section 1 of this act* pursuant to subsection 13 of NRS 375.090.

2. An educational foundation is not required to disclose the names of the contributors to the foundation or the amount of their contributions. The educational foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "educational foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated exclusively for the purpose of supporting one or more kindergartens, elementary schools, junior high or middle schools or high schools, or any combination thereof;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 9. NRS 396.405 is hereby amended to read as follows:

396.405 1. A university foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;



(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 *and section 1 of this act* pursuant to subsection 14 of NRS 375.090; and

(d) May allow a president or an administrator of the university, state college or community college which it supports to serve as a member of its governing body.

2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his contribution or any information which may reveal or lead to the discovery of his identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated exclusively for the purpose of supporting a university, state college or a community college;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 10. At the general election on November 4, 2008, in each county whose population is 100,000 or more but less than 400,000, a question must be placed on the general election ballot in substantially the following form:

Shall:

1. The tax on transfers of real property in this county be increased by 60 cents for each \$500 of the value of the transferred property; and

2. The tax on the revenue from the rental of transient lodging in this county be increased by one and five-eighths percent of the gross receipts from such rentals,

↳ to fund capital projects for the county school district?

Sec. 11. 1. This section and sections 3 and 10 of this act become effective on July 1, 2007.

2. Sections 1, 2 and 4 to 9, inclusive, of this act become effective on January 1, 2009, only if a majority of the voters voting on the question placed on the ballot pursuant to section 10 of this act vote affirmatively on the question in all the counties in which the question was placed on the ballot.

