

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Fourth Session
March 8, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:34 p.m., on Thursday, March 8, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblyman David R. Parks, Vice Chair
Assemblywoman Francis Allen
Assemblyman Morse Arberry Jr.
Assemblyman Mo Denis
Assemblyman Tom Grady
Assemblyman William Horne
Assemblyman John W. Marvel
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Peggy Pierce
Assemblywoman Valerie E. Weber

STAFF MEMBERS PRESENT:

Michael Nakamoto, Deputy Fiscal Analyst
Mary Garcia, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Jeff Payson, Manager of Appraisal, Clark County Assessor's Office
Douglas Sonnemann, Douglas County Assessor

Minutes ID: 484



Dave Dawley, Carson City Assessor

Carol Sala, Administrator, Division for Aging Services, Department of Health and Human Services

Carolyn Misumi, Administrative Services Officer, Division for Aging Services, Department of Health and Human Services

Dino DiCianno, Executive Director, Department of Taxation

Wayne Fischer, Private Citizen, Incline Village, Nevada

Jason Guinasso, representing Village League to Save Incline Assets, Inc.

Tim Tetz, Executive Director, Office of Veterans Services

Carole Vilardo, President, Nevada Taxpayers Association

James Wells, Deputy Superintendent, Department of Education

Anne Loring, representing Washoe County School District

Sam McMullen, Private Citizen, Las Vegas, Nevada

Frank Holzhauer, Legislative Chairman, Nevada State Council, Knights of Columbus

Chair McClain:

[Meeting was called to order at 1:34 p.m. Roll was called.] Today we have two bills on our agenda from the Nevada Assessor's Association. I will open the hearing on Assembly Bill 210 first.

Assembly Bill 210: Revises provisions governing certain exemptions from and refunds of property taxes and requirements for the assessment of common-interest communities. (BDR 32-470)

Jeff Payson, Manager of Appraisal, Clark County Assessor's Office, Las Vegas, Nevada:

Assembly Bill 210 ([Exhibit C](#)) contains six sections relating to property tax and assessment. Section 1 removes the specific dates that a veteran must have served in order to qualify for the veterans' exemption. They still have to meet the requirements of the 90 consecutive days, just not within those specific dates. They also have to meet the other requirements in statute, including that the service person has received an honorable discharge.

Section 2 is actually clarifying language regarding the "common elements" bill that was heard two years ago. It describes common elements in a common-interest community and how they should be taxed and assessed. During testimony last year and in certain workshop sessions we have conducted, the terms "exclusive use" and "exclusive benefit" were used throughout to define the common elements differently. We would like to clarify that "exclusive use" should be added, defining them differently from typical common elements of a common-interest community.

The best way to explain this is to give an example of a planned community with a golf course. The planned community would have common elements such as a club house, parks, et cetera. Those would be common elements for the exclusive use of the homeowners or unit owners. The golf course itself could be owned by the homeowners' association. However, it would not be for the exclusive use, as members of the public could play that course. Testimony at the time was that they did not want the nonexclusive common elements to be assessed the same way as the exclusive-use elements. Generally, there is going to be a profit motive, which is also the case with restaurants within some common-interest communities. That is a one-word change.

Section 3 is a simple change to the Senior Citizen Tax Assistance/Rental Rebate program. It changes the maximum refund amount. That would originally have been \$750, but we have an amendment to change that to \$1,000 ([Exhibit D](#)), which would keep the amount consistent with Senate Bill 179.

Sections 4 and 5 would remove the sunset clause from the apprenticeship programs. They currently get an exemption. This has also been included in A.B. 110, which has been passed by the Assembly.

Chair McClain:

We decided to leave the repeal of the sunset clause in this bill. It does not conflict with A.B. 110, but complements it. If A.B. 110 does not pass, that provision will still be in A.B. 210. Are there any questions on "exclusive benefit"?

Assemblywoman Allen:

Under Section 2, part 2, you gave the examples of homeowners' association properties that might or might not be exclusive. A person cannot go to the Red Rock Country Club unless hosted by a member of the club. Is that somewhere in between, and how do you define these gray areas?

Jeff Payson:

I am not sure if the Red Rock Country Club is owned by the homeowners' association. The only one I am aware of that is owned by the homeowners' association is the one at Sun City. That would be different from a private country club. It would be based on the ownership. Typically, if the homeowners or unit owners, such as those homeowners surrounding the Red Rock Country Club, have an association they have to belong to by virtue of owning that property, and they do own that golf course, then it would, in fact, be a common element. I do not know how Red Rock handles their fees, or if there is a membership fee. In theory, it goes back to who owns the golf course and whether it is exclusive to the homeowners or unit owners of that property.

Chair McClain:

If a health club is for the exclusive use of the homeowners, then the assessed value of that health club is divided between the homeowners and added to their property value. It is not assessed separately, is that correct? However, if public use is allowed, then it is not added to the assessed value for individual homeowners.

Jeff Payson:

Yes. The tax bill on a golf course or health club that is not for exclusive use would actually go to the homeowners' association on that property.

Chair McClain:

By saying it is "exclusive benefit," that excludes facilities that are used by the public from being added value to the individual homeowners, is that correct?

Jeff Payson:

It excludes those facilities from being added to the taxable assessed value, yes.

Chair McClain:

I do not think it is a bad idea. I am curious as to why we are now taking out all the dates that, over the years, we have so meticulously added to the veterans' exemption.

Jeff Payson:

This has actually been brought before the Legislature at least two times in previous years. We feel that a veteran, even though he might not have served in any specific time of war, should still be able to avail himself of this exemption—not because he happened to serve on April 20, 1898, instead of April 21, 1898.

Chair McClain:

Since both these bills are directly related, we will take testimony on both and then hear from the public. Is that satisfactory? We will proceed to A.B. 209.

Assembly Bill 209: Makes various changes regarding the imposition and administration of property taxes. (BDR 32-469)

Douglas Sonnemann, Douglas County Assessor, Minden, Nevada:

In Section 1 of A.B. 209 ([Exhibit E](#)), we are asking to be able to provide information as a follow-up to some of the bills that occurred in the last session concerning assessors being able to provide information on the Internet or whatever other resource might be available to us. We would like to have spelled out where we can provide this information. An issue that often arises is

the situation of homesteads in the State of Nevada. In Nevada, that means protecting your property against liens. In many other states, it is an exemption. Much of the information we provide is along that line, helping the people understand the tax laws and what their benefits are.

In Section 2, the current statute reads that geothermal or solar improvements to one's property are exempt from taxation. The problem is that we are required to value those properties and then turn around and exempt them. We simply ask to be able to recognize that they are exempt and not have to go to the trouble of valuing that property and then exempting it.

One of the secondary issues here is that taxes are currently calculated prior to the exemption from the previous year to the current year, and then the exemption applies. That skews the value of those exemptions. In a county like Douglas, where the tax rate has gone up, they would actually get more benefit than the property being exempted. This legislation would put that on a more even playing field. Section 2, subsection 2, would keep the commercial buildings the same, so as not to conflict with the laws regarding energy efficiency in commercial buildings.

Sections 3 through 7 would rectify a misunderstanding on our part regarding the proper dates to acknowledge the Consumer Price Index (CPI) exemptions. Most of those dates became part of the statutes in the 2003 Session to allow for increases in the CPI over time. In trying to make this more user-friendly, we changed the date of analysis from December to July, so that it could be included on the notification cards we send each December. Unfortunately, we used the wrong fiscal year, 2006/2007, and the wrong origination date. We are asking to correct that so the taxpayers get the proper CPI the Legislature intended to be able to apply to their exemptions.

The next item is a request from the taxpayers, primarily in Clark County, but is applicable statewide. Current law exempts charitable organizations, fraternal organizations, et cetera, for their real property and up to \$5,000 of their personal property. We are asking for that \$5,000 limit on the exemption to be removed so that these organizations, which are beneficial to our community, would not have pay personal property tax on their ceremonial items, regalia, et cetera. The only fiscal impact we are aware of totals \$842 ([Exhibit F](#)). The full exemption would certainly be of benefit to these organizations, and would have minimal fiscal impact.

The current deadline for filing for an exemption from property tax is June 15. If someone purchases a property before June 15, there is time to file before that deadline. If an organization purchases property after June 15, even though the organization is fully exempt and owned the property as of July 1, they would not be allowed to become exempt and would have to pay taxes because of that date. We are asking that those who purchase their property between and including June 15 to July 1 could come into our office and apply and get an exemption on their property. This would include surviving spouses and veterans as well. That would accurately reflect their taxable status as of July 1, and organizations would be able to enjoy that tax benefit.

Dave Dawley, Carson City Assessor, Nevada:

Section 10, lines 25 and 26, include clarifying language from the Legislative Counsel Bureau (LCB). In subsection 5, our intent is to match the current legislation that county boards follow. Under *Nevada Revised Statutes* (NRS) 361.345, section 1, it states a change so made is effective only for the fiscal year for which the assessment was made. We are trying to make the State Board's language and the county boards' language match. We met with the Nevada Taxpayers Association, and they suggested a proposed amendment ([Exhibit G](#)) that would say, "Any change made in an assessment appealed to the State Board of Equalization is effective only for the year for which the assessment was made."

In Section 11, we are suggesting that if a State Board of Equalization's decision is challenged and a judicial review is requested, that the review be handled in the county in which the decision was made. In making this suggestion, we are trying to avoid unnecessary expenses. Hypothetically, if a Clark County case were filed in Carson City, everyone would have the expense of traveling up to Carson City to testify on this issue. We believe it would be more convenient if the review were to take place in Clark County.

Section 12 is clarification in which county a property owner would file an action.

Section 13, lines 44 and 45, is language that was added by LCB. The change in subsection 3 is in response to the recapture law that was passed with A.B. No. 489 of the 73rd Legislative Session and S.B. No. 509 of the 73rd Legislative Session. We have found that if there is an increase or decrease of 15 percent within one year, that can be recaptured over the next three years. Some recaptures are problematic. One in particular is for \$0.14. We have to divide that \$0.14 by three and send out a bill for the resulting amount in each of the next three years. We want to say that if the total amount of the

recapture is less than \$100, then that recapture must be paid in full in the first year.

The other issue is that sending out tax bills for \$0.14 or \$0.23 is not cost effective. The Nevada Tax Commission has the ability to levy an exemption on a certain amount if it would actually cost more to send out a tax bill than to collect it. We are asking that provision be added for us as well. The other red sections on pages 14 and 15 ([Exhibit E](#)) were eliminated by the LCB.

We have an amendment to Section 14. This section says that if a person is appealing the exemption they were given on a particular property, they have until January 15 to appeal to the treasurer's office. They cannot wait two years or even until the end of the fiscal year; they must appeal within a reasonable time period so it can be heard before the end of the fiscal year.

Section 15 is basically the same thing, but it deals strictly with the actual taxes paid. The tax has to be paid and a statement issued to the Treasurer's office requesting a waiver of penalties. The taxpayer cannot request such a waiver after two or three years, or after ten years, as a taxpayer recently did. We would like the statute to specify a reasonable time period for the request of a penalty waiver.

I will address Sections 16, 17, 18, and 23 together, as they deal with the Assessor Technology Fund, which the Legislature so graciously granted us last year. We provided a handout ([Exhibit H](#)) that shows what the assessors have done with this particular technology. We have shared it with other departments within our counties, and we have used it for the school districts. We have purchased a large amount of equipment with it. We are asking you to continue with that money because now that we have these items, we would like to be able to maintain them and continue with their use.

Assemblyman Grady:

On page 14, Section 13, subsection 3, it says, "The Nevada Tax Commission may exempt from the requirements of this section." Would they do that each year for all 17 counties so they would not have to go back to each county based on what it might cost that particular county to collect a tax? I am not certain of your intention there.

Dave Dawley:

Currently, the Department of Taxation does a study. They gather all the information from the county assessors and make a determination. The Tax Commission then approves how much of that would be exempted each year. When this was originally started for personal property, the cutoff amount was

\$15. This year it is \$19. The Department analyzes that every year and takes it to the Commission for their approval.

Chair McClain:

I may have to have staff answer this, but beginning in Section 8, subsection 2, I cannot quite understand why we are turning four "shalls" into an "are," a "must," a "must," and a "may."

Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:

Changes like this are generally the Legal Division doing cleanup. I do not have a specific answer as to why they made these particular changes, but I can get that answer for you.

Douglas Sonnemann:

The only other example we can think of is if an exempt organization rents to another exempt organization, they may still be exempt and not subject to the profit-making situation. The "must" would be for an exempt organization renting to a nonexempt organization.

Chair McClain:

We will get that clarified through staff.

Also, where we are repealing that section to take away the sunset, I notice that within the repealed part there is a change from 8 percent to 6 percent. Do we understand what we are doing there?

Dave Dawley:

I asked LCB, and they said we were repealing a previously repealed section. All it is doing is repealing the sunset provision.

Chair McClain:

We will include that in the question to the Legal Division.

Assemblyman Mortenson:

I have an amendment to A.B. 209 ([Exhibit I](#)). I was informed by the LCB Legal Division that this was the appropriate vehicle for it. It is a very innocuous amendment that does not in any way affect the assessors' bill or incur any cost to the taxpayer. NRS 361.111 allows real property and improvements thereon to be tax exempt by three organizations: the Nature Conservancy, the American Land Conservancy, and the Nevada Land Conservancy. This amendment adds the Archaeological Conservancy. This entity does a lot of

good work here in Nevada and throughout the United States. They have acquired some very precious sites where artifacts exist, and they protect them.

Chair McClain:

Thank you. We will consider this along with the other amendments to this bill during work session. We want to wait until Dino DiCianno arrives to talk about the fiscal impact. In the meantime, I would like to take testimony from interested parties.

Carol Sala, Administrator, Division for Aging Services, Department of Health and Human Services, Nevada:

[Distributed a prepared statement ([Exhibit J](#)).] Section 3 of A.B. 210 addresses that part of the statute relating to our property tax refund program for senior citizens under the Property Tax Assistance Program. This program provides relief to eligible senior citizens who carry an excessive residential property tax burden in relation to their income and to those seniors who, through rent payments, pay a disproportionate share of their income toward property taxes. Such situations leave our senior citizens with insufficient funds for other things essential to their well-being.

Currently, Section 2 of the statute limits the maximum amount of tax refund to the lesser amount of the approved property tax or \$500. Assembly Bill 210 amends the \$500 maximum refund to \$750. However, I hear there is a possible amendment to change that to \$1,000 ([Exhibit D](#)), so I have the impact on the program of both figures.

Currently, raising the maximum refund to \$750 would amount to an increase in total refunds of \$967,976 in Fiscal Year (FY) 2009. This increase would have an impact on all future biennia. Raising the refund to \$1,000 would increase total refunds \$1,421,743. Additionally, with either of those increases, the senior tax program would require updating and testing by the Department of Information Technology programmer in FY 2008 so that the FY 2009 refunds, which are paid primarily in July and August, reflect the proposed change. We estimate the programmer and database administration costs to be \$2,098.

Chair McClain:

What are you budgeted for?

Carolyn Misumi, Administrative Services Officer, Division for Aging Services, Department of Health and Human Services, Nevada:

In FY 2009, we are currently budgeted for \$6,082,613, which does not include the assessor's fees, for the \$750 increase. That is the \$967,976 increase over the budgeted \$6 million.

Chair McClain:

So the \$6 million is for your entire Department?

Carolyn Misumi:

That is for the Category 10 tax assistance category only.

Chair McClain:

How much is your budget with the maximum refund at \$500?

Carolyn Misumi:

The budget with the refund at \$500 is the \$6 million. If we adopt the \$750 increase, we would be at \$7 million, excluding the county assessor fees.

Dino DiCianno, Executive Director, Department of Taxation, Nevada:

Terry Rubald, Chief of the Division of Assessment Standards, assisted me in putting together the fiscal notes for both bills. Talking specifically about A.B. 209, based on our review of the bill with respect to the Debt Service Fund, there was a minimal impact. It is my understanding that there was a question earlier regarding a certain section of the bill. The amendment to NRS 361.4725, Section 13 of the bill, states that, "the Nevada Tax Commission may exempt from the requirements of this section the levy of any taxes in an amount which is less than the cost of collecting those taxes." We viewed that as being no different from the minimum cost associated with sending out property tax bills. Based upon that reading, our fiscal note shows the impact as minimal at best. If it is something more, we would have to go back and get a better understanding of that fiscal impact. If someone from the Nevada Assessor's Association can explain it to me, I can verify that.

Douglas Sonnemann:

Mr. DiCianno is exactly right. It is very similar to, if not exactly the same as, the personal property legislation on the de minimis, as far as not wanting the billing to cost more than the amount of the bill.

Dino DiCianno:

When we first looked at the bill, there were two other areas we felt would require a fiscal note. Those were Sections 3–6, dealing with the base year for the application of the CPI adjustment. That new base year raises the total exemption amounts about 3 percent. If we try to tie that to the CPI adjustment indicated in this particular bill, we felt there would be minimal impact to the state debt service. I was only interested in a state-related revenue loss, and that would be the state debt service. That same analysis follows through on all the other sections within the bill; that state debt service amount would be minimal at most.

Chair McClain:

So basically A.B. 209 has minimal fiscal impact. We do not have to worry about it.

Dino DiCianno:

That is correct. I would not say you do not have to worry about it, but there is minimal impact to the State Debt Service Fund. With respect to the language changes, that is a policy question for the Legislature.

Chair McClain:

Were you able to review the proposed amendments [([Exhibit D](#)) and ([Exhibit G](#))]? I do not think they would change the fiscal note, but I would like you to look at them.

Dino DiCianno:

I have not yet seen the amendments, but I will look at them.

Assemblyman Grady:

Have we heard back from the counties about any impact the bill may have on local governments?

Chair McClain:

I believe that is part of the fiscal note. Mr. DiCianno, may we have your comments on the fiscal impact of A.B. 210?

Dino DiCianno:

With respect to the fiscal note, we focused primarily on the expansion of the property tax exemption for veterans. Initially, eligible veterans were limited based upon their service in times of war. This bill would expand that more fully. Based on our analysis of the information we received from the counties and our own analysis, the loss from the local property tax portion for FY 2008 would be approximately \$500,000. For FY 2009, it would slightly more than \$1 million. These are local revenues for all 17 counties. For the future biennia, the loss would be approximately \$1.2 million. With respect to the State Debt Service Fund, which is a portion of that property tax that would be a part of that exemption for veterans, the loss for FY 2008 would be about \$25,000. The loss would be slightly higher for FY 2009, and the loss for future biennia would be about \$54,000. That is minimal compared to the total amount collected for debt service for the State.

The other specific area is the apprenticeship program. A bill on that subject has already passed the Assembly based on our review that the fiscal impact is minimal. The program currently receives this exemption, so there would not be an additional impact in the future.

Chair McClain:

Thank you. You might take a look at Mr. Mortenson's amendment ([Exhibit I](#)) as well. The impact of it is probably also minimal.

Ms. Sala, if this passes with the \$1,000 refund increase, but your budget does not get the additional money, will it cut the number of people who can get refunds?

Carol Sala:

Yes. However, in the 2003 Session, we made changes to the program so that it holds harmless the lowest-income people. Instead of the decrease affecting all recipients of the rebates, those with the most need would get their full amount, and the sliding fee scale would go up to where people with more income would get a smaller rebate.

Wayne Fischer, Private Citizen, Incline Village, Nevada:

I would like to address page 12, Section 11, lines 20 and 21 of A.B. 209. I vehemently oppose taking out the words "State of Nevada" and substituting "county in which the taxes are paid." We, as taxpayers, have a hard time challenging each of the counties, their assessors' offices, and the State Board of Equalization. This wording would continue to restrict the taxpayers in how they can challenge the assessors in doing their jobs. In the past, we have had many problems with that, and we would like to keep the option open for where we can file our court cases. Also, in the rural areas, there may not be a judge in one county, and another county may do an even better job. For those of us in Incline Village, Carson City is actually closer than our own Washoe County and Reno.

Jason Guinasso, representing Village League to Save Incline Assets, Inc., Incline Village, Nevada:

[Distributed ([Exhibit K](#)), ([Exhibit L](#)), ([Exhibit M](#)), and ([Exhibit N](#)).] I am here to oppose Sections 11 and 12 of A.B. 209. We would ask that an amendment be made to A.B. 209 to strike those sections ([Exhibit K](#)). There are three reasons for this. First, the issues regarding venue are governed by Chapter 13 of NRS, and they have been governed by that chapter since Nevada was a territory. The considerations under Chapter 13 of NRS have been handled competently by the courts for more than 125 years. The matter of where proper venue should lie

should rest with the court on a case-by-case basis as has already been determined by our Legislature in enacting Chapter 13 of NRS.

Second, the proposed change to NRS 361.420 that is represented by A.B. 209 limits a taxpayer's ability to select a venue when they petition for judicial review of a decision from the State Board of Equalization. It is interesting that the county assessors are seeking to take the taxpayer's right to select venue when, in fact, they are appealing the decision of a state board and not directly appealing the decision of the county assessor. At the state judicial review, there has already been an assessor's evaluation, a petition to the county board of equalization, an appeal to the State Board of Equalization, and a petition for judicial review of the State Board of Equalization's decision. In that situation, when you are considering convenience to parties and cost, proper venue is always going to be Carson City.

I think Mr. DiCianno missed a fiscal impact to the State. The State, in order to defend petitions for judicial review, is going to have to go to the respective counties all across the State to represent on matters that are being petitioned by taxpayers. I submit to you that there is probably going to be a fiscal impact to the State when and if this Legislature accepts the proposed amendments to NRS 361.420.

Finally, in the ongoing litigation with Incline Village and Washoe County, it is important that this Committee and the Legislature understand that the litigation began in the First Judicial District, which is this district, with *State Board of Equalization v. Bakst*, 148 P.3d 717 (2006). I have provided a copy of the decision of Judge Maddox of the First Judicial District ([Exhibit L](#)). I also provided a copy of the Nevada Supreme Court's decision affirming Judge Maddox's decision finding that methodologies used by the Washoe County assessor to arrive at assessed values in Incline Village were, in fact, unconstitutional ([Exhibit M](#)). There is something in the context of this proposal that may help you understand why the assessors are trying to tie taxpayers to a particular county rather than letting the taxpayer select venue in a place that is proper not only for the taxpayer but also proper for the State. I ask that you consider amending A.B. 209 to strike Sections 11 and 12.

Chair McClain:

Thank you. If you could, please submit that recommended amendment in writing to the secretary to make sure it gets entered into the record. She can make sure we all get copies of it. We also received this letter ([Exhibit N](#)) from Maryanne Ingemanson, President of the Village League to Save Incline Assets, Inc., which she wanted made part of the record. She is in opposition to Sections 11 and 12 of this bill and would like them taken out.

Tim Tetz, Executive Director, Office of Veterans' Services, Nevada:

Our belief in treating veterans equally and fairly across the board continues to be a message we have pushed throughout this session. Our testimony in support of A.B. 209 and A.B. 210 relates predominantly to Section 1 and to those sections that identify what a veteran is. Our agency submitted Bill Draft Request (BDR) 0-638 (later introduced as A.B. 486), which will greatly change all of NRS and adjust the definition of what a veteran is. There is currently no definition of a veteran within the NRS. This bill, if passed by the Legislature this session, will address that issue. Section 1, lines 3-26, of A.B. 210 will be stricken in its entirety. In doing so, we are going back to the basics of what a veteran is, which is someone who has taken the oath of office and promised to serve his country.

The Air Force has a training program of 12 weeks, or less, depending on when someone went into the Air Force. That means half of the time someone was on active duty, if he was killed during training exercises or immediately deployed and killed, he would be excluded from this because he did not fit the time period. We went back to the basics and said a veteran was a veteran if he or she served for one day on active duty. We also said there should be no categorizations of who a veteran is. Depending on what section of the NRS you look at, I am a veteran or I am not. My job requires that I be a veteran, but in some sections I am a veteran because I served in the Persian Gulf and in some sections I am not.

Finally, the periods of service and the quality of service will be removed. Several district attorneys throughout the State have said that when you read that section that says "an honorable discharge or a certificate of satisfactory service," there are a number of veterans who have been denied their veteran's exemption because they received a general or medical discharge. Our definition of a veteran, as we go back through and rephrase that, is anyone with other than a dishonorable discharge. If you ask the various branches of the military what the various types of discharges actually are, the only one they can define with clarity is the dishonorable discharge. They know exactly what a dishonorable discharge is, but the others depend on who was processing that soldier, sailor, or airman out that day. If they got in a fight with their wife that morning, some people got general discharges that day. If they had a good day, those people might have gotten honorable discharges. I am sad to say there is no nice, simple rule or standard for that. For us to match what is used on a federal level, along with what is used on other levels, we have changed that line to read, "service other than dishonorable," opening this up to those who are medically served. The veteran we are naming a day after here today is most likely going to be medically discharged from the military. He nearly lost his foot in Iraq. Is that dishonorable service? No, but by some of the interpretations of

the district attorneys, it is not honorable, and they are not granting this benefit. That is a travesty that we are hoping to clear up. Please keep in mind that BDR 0-638 will change some of these sections and, we hope, treat every veteran equally and fairly across the board.

Chair McClain:

When your BDR becomes a bill, will it supersede whatever we do here?

Tim Tetz:

I asked LCB how this happens, knowing these bills were out here, and I was advised that when it is not a substantive change, meaning two things that are clearly in conflict, they fix them both at the same time. I was assured that as long as we are not making significant changes, they would go hand-in-hand throughout the process.

Chair McClain:

My concern is whether we can get this clarified through LCB because this bill leaves in the 90-day and honorable discharge provisions. I hope your bill will address all sections in NRS that affect veterans.

Tim Tetz:

It is currently 89 pages long, and it covers every time the word "veteran" is mentioned. It is a very substantial bill. One of the oddities I note in A.B. 210 is that Section 1(b) is left in, which is yet another time period clause, even though in Section 1(a), all the time period clauses have been stricken. Section 1(b) refers to those veterans serving since August 2, 1990, when we went to war in Operation Desert Shield. I believe that is a qualifying clause that the bill drafter simply neglected to strike.

Chair McClain:

Do any of the assessors have a problem with that? [They all shook their heads to indicate a negative answer.]

Carole Vilardo, President, Nevada Taxpayers Association:

I am speaking first in support of A.B. 209 with the amendment to Section 14, subsection 1(a), that changes the date from 30 days to January 15 ([Exhibit G](#)). That is a good change that makes that section consistent with the rest of the appeal provisions. We are also in support of the language we recommended because there are instances where there has been an appeal and a value has been reduced that would remain reduced until there was a reason for the value to change. We would like the assessor to be able to recognize that and take care of it without having to go through the annual appeal cycle in those instances.

I have heard about the two other amendments. It is hard for me to comment on the last amendment because, for business license tax and sales tax, we came before you to get the inclusion of the local courts to save travel expense for the taxpayer. Relative to Mr. Mortenson's amendment, I am not familiar with the group, but you know the problems we often have with these exemptions. I do support the technology use. I have seen some of the advantages. It is provided to the assessors to get more timely and accurate reflections of changes of value in order to get better and accurate billings, given that you want to get revenue to the local governments in a timely fashion.

As for A.B. 210, that is your decision. I want to stress the time certain on the exemption for the apprenticeship programs. Mr. Claborn knows I will be at the Senate trying to get the exemption timeframe put in. If you process the bill, I would like a timeframe put in there. I could live with 15 years instead of ten.

James Wells, Deputy Superintendent, Department of Education, Nevada:

The Department of Education (NDE) does not take a position on A.B. 209. However, we would like to clarify some potential fiscal impacts that may not have been readily apparent. The property tax relief bill last session, combined with some changes in Senate Bill No. 525 of the 73rd Legislative Session, changed the method in which the Distributive School Account (DSA) reimburses school districts for their portion of the property tax revenues. Previously, there was a simple calculation that was done by multiplying 0.0025 times the assessed valuation. That amount was reduced from the amount that was provided by the DSA. Senate Bill No. 525 of the 73rd Legislative Session changed that to read "the amount collected by the school districts." This means that the assessors' fees, because they are not included in the amounts that are remitted to the districts, will be made up by payments from the DSA.

We attempted to collect the information from the school districts to get a potential for the fiscal impact in FY 2006 when this went into effect. We were able to receive estimates on the assessors' fees from most of the counties relating to both the personal property and net proceeds from minerals. The total estimate for the 8 percent was approximately \$4 million in assessors' commissions. This affects the school districts directly because the DSA wealth adjustment calculation does not take into account the amount that is reduced from their payment for the 66.66 percent portion of those property tax revenues. The school districts will be shorted by 66.66 percent of that \$4 million for the total amount of the assessment. The remaining 33.33 percent is made whole by a reimbursement from the DSA.

Our estimate is that the DSA reimbursed school districts approximately \$1.3 million for these fees in 2006. The additional 2 percent equates to approximately \$325,000 that is being provided out of the State General Fund to the school districts to offset the loss in revenues due to the assessment fees being taken out. Not all the districts were able to provide information on the assessors' fees; therefore these numbers are probably a bit low.

Anne Loring, representing Washoe County School District, Nevada:

We want to express concern with Sections 16 and 17 of A.B. 209 that repeal the sunset. Prior to 2005, 6 percent of the personal property tax receipts and 3 percent of the net proceeds of mines receipts were retained by the assessors. In 2005, they requested and received an additional 2 percent of each of the personal property and net proceeds of mines taxes for the purchase of technology with a sunset of June 2007. Apparently those purchases were made.

We acknowledge the assessors need to fund their offices, and we acknowledge the positive impact their work has on us. We do not object to the original commissions that were enacted prior to 2005, but our teachers, principals, and students also need technology. We request that the sunset on the technology not be repealed.

I do need to clarify the fiscal note from the Washoe County School District. The impact on our general fund is approximately \$79,000 a year, about 66.66 percent of which is not made up by the State through the Nevada Plan. There is an additional impact of roughly \$42,000 a year of the 2 percent annually on our capital budget.

Chair McClain:

I am a little confused because the fiscal notes from the schools all say "minimal impact."

Anne Loring:

In 2005, Clark County School District joined us in providing a fiscal note on the 2 percent. What may have happened is that the other districts did not realize the significance of Sections 16 and 17. I cannot speak for what the impact would be on other counties except for what Mr. Wells has already said.

Chair McClain:

We will double-check this.

Sam McMullen, Private Citizen, Las Vegas, Nevada:

Today I am speaking for myself as a member of a homeowners' association. I would like to deal only with Section 2 of A.B. 210, which addresses the "exclusive benefit" of the owners of the community units. This one-word amendment would, in many situations, take away the full effect of what the Legislature tried to do in S.B. No. 358 of the 73rd Legislative Session, which was to say the common elements of a homeowners' association would not be double-taxed. It would be recognized that the assessed and taxable value of the units would include the value of those common elements associated with them. A condominium without any rights of access or amenities would not be worth very much. That bill was passed solidly by both houses but has not been fully implemented yet because of practical problems. However, I have put together some language to try to rectify those problems.

I am part of a homeowners' association whose clubhouse is utilized by women in the area for a bridge program, although they do not all live in the area of the homeowners' association. This part of the bill would, by definition, say that because someone other than a member of the homeowners' association benefited from the use of that clubhouse, all of a sudden that common element would be taxed separately by bill to the homeowners' association and paid for by the dues paid by unit owners. We homeowners would pay taxes on that clubhouse as part of the value of our units, and then again as dues-paying members of the homeowners' association. I do not think the assessors mean to do that.

There are situations where the common elements are all one parcel, so use of the clubhouse would invalidate the common element taxation and valuation of all the common elements. Again, I do not think they mean to do that, but that could be the operative effect, whether it is used for money or value or not. This would take away the opportunity for any homeowners' association to try to spread the costs of operating its common elements to people from the public who might use it. If the association rented the clubhouse for \$100 to community groups who wanted to use it, as is commonly done, that would theoretically make that element fully taxable. I do not think that is what you want to have happen.

We will be spending some time with the assessors to work out language to do what they feel they need to do with this. If I really wanted this bill to be ineffective, I would let it go in the form it is right now. This exemption is drafted with the word "or" in "By any person on behalf or for the exclusive benefit," so it says "By a person on behalf of . . . the owners of the community units." If something satisfies that test as a common element, it does not have anything to do with exclusive use. This language will have to be cleaned up if

you mean to pass this the way the assessors want, which is with exclusivity. However, I hope that is not really what the assessors want to do. It would negate what you tried to do last session, and it requires some real thought. We have asked for a bill draft. Solving this correctly is not an easy thing to do, but we are close to having some language. The issue is much bigger than the few examples raised today.

I think the assessors are trying to address profit-making exercises that the common elements are used for. I do not think you would want to give a full pass to a clubhouse restaurant that is open to the public as well as to association members. That would be a business similarly situated to one right outside the homeowners' association's parcel. That should be taxable. There should be a way to sort all that out.

Frank Holzhauer, Legislative Chairman, Nevada State Council, Knights of Columbus:

We are in total support of Section 8 of A.B. 209. If we were to have to replace most of our regalia, that would cost us well over \$5,000. We really appreciate that kind of exemption.

From a personal point of view, having two youngsters currently serving in the military—one of them in Iraq—we vigorously support giving the veterans a little better deal. The changes might also help me as I currently do not quite meet the date requirements. I might become eligible.

Chair McClain:

Do we have any other public comment? Seeing none, I will close the hearings on A.B. 209 and A.B. 210. We will cover those bills and their amendments in a

future work session. If there is no more business for this Committee, we are adjourned [at 2:58 p.m.]

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: March 8, 2007

Time of Meeting: 1:34 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>A.B. 210</u>	C	Jeff Payson / Clark County Assessor's Office	Color copy of bill
<u>A.B. 210</u>	D	Jeff Payson / Clark County Assessor's Office	Proposed amendment
<u>A.B. 209</u>	E	Jeff Payson / Clark County Assessor's Office	Color copy of bill
<u>A.B. 209</u>	F	Jeff Payson / Clark County Assessor's Office	Table: Assessed value of property of fraternal organizations
<u>A.B. 209</u>	G	Jeff Payson / Clark County Assessor's Office	Proposed amendments
<u>A.B. 209</u>	H	Jeff Payson / Clark County Assessor's Office	List of technology purchases for county assessors
<u>A.B. 209</u>	I	Assemblyman Mortenson	Proposed amendment
<u>A.B. 210</u>	J	Carol Sala / Division for Aging Services, Department of Health and Human Services	Prepared testimony
<u>A.B. 209</u>	K	Jason Guinasso / Village League to Protect Incline Assets	Memorandum in opposition
<u>A.B. 209</u>	L	Jason Guinasso / Village League to Protect Incline Assets	Judge Maddox's decision in <i>State Board of Equalization v. Bakst</i>
<u>A.B. 209</u>	M	Jason Guinasso / Village League to Protect Incline Assets	Nevada Supreme Court's decision affirming Judge Maddox's decision in <i>State Board of Equalization v. Bakst</i>
<u>A.B. 209</u>	N	Jason Guinasso / Village	Letter from

		League to Protect Incline Assets	Maryanne Ingemanson, President, Village League to Protect Incline Assets
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