MINUTES OF THE
SENATE COMMITTEE ON TAXATION

Seventy-fourth Session
May 8, 2007

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 1:35 p.m. on Tuesday, May 8, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mike McGinness, Chair
Senator Randolph J. Townsend, Vice Chair
Senator Dean A. Rhoads
Senator Mark E. Amodei
Senator Bob Coffin
Senator Michael A. Schneider
Senator Terry Care

GUEST LEGISLATORS PRESENT:

Assemblyman Pete Goicoechea, Assembly District No. 35

STAFF MEMBERS PRESENT:

Tina Calilung, Deputy Fiscal Analyst
Brenda Erdoes, Legislative Counsel
Russell J. Guindon, Senior Deputy Fiscal Analyst
Julie Birnberg, Committee Secretary

OTHERS PRESENT:

Doug Sonnemann, Assessor, Douglas County
Michele W. Shafe, Assistant Director of Assessment Services, Clark County
Laurie L. Carson, Board of Commissioners, White Pine County
Gary Lane, Board of Commissioners, White Pine County
Julie A. Wilcox, Southern Nevada Water Authority
Andy Belander, Southern Nevada Water Authority
Dave Dawley, Assessor, Carson City

Anne Loring, Washoe County School District
Trevor Hayes, Rhodes Homes
William J. McKean, Rhodes Homes
Jason D. Guinasso, Village League to Save Incline Assets, Inc.
Samuel P. McMullen, Pine Wild Homeowners Association, Association of Condominium Hotels
Carole A. Vilardo, Nevada Taxpayers Association
Shaun E. Jillions, City of Henderson
Seth Floyd, City of Las Vegas
Alvin P. Kramer, Treasurer, City of Carson City

CHAIR MIKE MCGINNESS:
We will open the hearing on Assembly Bill (A.B.) 209.

ASSEMBLY BILL 209 (1st Reprint): Makes various changes regarding the imposition and administration of property taxes. (BDR 32-469)

RUSSELL J. GUINDON (Senior Deputy Fiscal Analyst):
Assembly Bill 209 was the Nevada Assessors Association bill heard by the Assembly Committee on Taxation. Technical amendments developed by Fiscal Analysis Division and Legal Division staff were necessary to the partial abatements approved in A.B. No. 489 of the 73rd Session and S.B. No. 509 of the 73rd Session. The changes to A.B. 209, sections 15 and 16, have to do with the alternative partial abatement where the single-family, owner-occupied homes get a 3-percent abatement and the alternative of the abatement is a 2-part rule. It is the greater of those two parts; the first part was the lesser of the average percentage change in the assessed value in the county or 8 percent and twice the percent increase of the consumer price index (CPI).

Under current statute, it is possible that if the CPI increase is greater than 4 percent, then the maximum alternative abatement could be greater than 8 percent. This was not the understanding when A.B. No. 489 of the 73rd Session was approved by the 2005 Legislature. Secondly, by the formula in statute, if the CPI rate of increase and inflation is negative—and this would rarely occur—the alternative abatement is negative. These provisions, as amended and approved by the Assembly Committee on Taxation, prevent that. They would not allow the alternative abatement to go less than zero or greater than 8 percent.

CHAIR MCGINNESS:
Is that language now included beginning at line 45 at the bottom of page 18, and lines 1 and 2 on page 19?

MR. GUINDON:
Sections 15 and 16 make A.B. 209 work.

BRENDA ERDOES (Legislative Counsel):
Section 10, page 12, line 7, amends *Nevada Revised Statute* (NRS) 361.233 which provides assessment of property taxes for a common-interest community on community units and not on common elements of the community. This was a provision added last session, but when interpreted, it was difficult to make it work. These provisions should make it work better. The amendments do three things. They first specify the methodology required for determining taxable value of a parcel that includes such a community interest, which is the value of the unit itself, plus a proportionate value of common elements based upon the total number of units. Secondly, it clarifies the definitions of community unit and common elements for this purpose. The third thing is require that the Nevada Tax Commission adopts regulations to carry the session in a uniform and equal manner that avoids any double taxation. That issue caused this section to be originally amended when Senator Bob Beers brought that bill. This will work better.

We added an amendment to section 23 on page 30, line 41 that affects NRS 361.4733 by authorizing the Committee on Local Government Finance to adopt certain regulations regarding allocation among entities receiving revenue from property taxes of any reductions in tax revenue resulting from tax caps enacted during the 2005 Legislative Session. Amendments in A.B. 209, require the community to adopt additional regulations in accordance with the principle specified in the amendments as appropriate for that purpose. The reason for the amendment drafted in 2005 did not work. This works better. We worked with bond counsel to make sure they were okay with it. Section 29, page 34, line 26 ratifies the regulations previously adopted by the Committee pursuant to NRS 361.4733 that relates to section 23. The amendment also requires the adoption of additional regulations by December 31 to make that assessment period work.

SENATOR CARE:
Back to section 10 under the language of the proposed legislation, let us say a homeowners association has 500 units, all the same size. There is a tennis court, swimming pool, clubhouse and park. If we adopt this, each unit owner is going to pay property tax for their own specific dwelling and maybe the grounds upon it but the association will pay property tax for all common elements, is that right?

MS. ERDOES:
No, that is one of the things this does. If they let the public use the tennis courts and charge them for it or anything that is a commercial use, that becomes a community unit that gets assessed by itself and unit owners get a proportionate share of the common elements. Under this proposal, you have the community units that pay for improvements of shared land plus a proportionate share of the 500 units by 0.2 percent value of common elements assessed to the units.

SENATOR CARE:
What homeowners associations have these commercial units within them?

MS. ERDOES:
This adds to the provisions of NRS 361.233. This allows a common element that actually gets assessed separately and pays for a proportionate share of the common elements such as a commercial venture, golf course or restaurant, for example. Not just the people who live there and their guests within the community unit get assessed, they also pay a part of the common elements.

SENATOR CARE:
I do not recall the testimony from Senator Bob Beers two years ago. Was there any discussion of these commercial operations?

MS. ERDOES:
Because that was not included, they were having difficulty applying the statute as amended by Senator Beers' bill. It did not take into account the commercial part. Recent developments allow you to have a condominium building or group that includes a commercial unit.

SENATOR RHOADS:
If you have 100 houses in an association with a swimming pool and they charge people from the outside to go in the swimming pool, they pay taxes on that swimming pool?

MS. ERDOES:
If they do not make a commercial part, then all units split the value. But if it is a commercial venture, it becomes one of the community units that pays not only for itself but also for a proportionate share of the common elements.

SENATOR RHOADS:
The association would have to pay for that?

MS. ERDOES:
Yes, or the commercial venture that runs it pays. Not only would the swimming pool pay for itself, it would also pay a portion of the 1 percent of the common elements.

SENATOR AMODEI:
Page 15, section 12, subsection 2 formerly said the State Board of Equalization may "commence a suit" for judicial review in any court of competent jurisdiction in the State of Nevada. Now it is changed to "county in which the taxes were paid." On page 16, section 13, line 42 strikes "Carson City" for the county where the owner resides. What was the impetus for that?

MS. ERDOES:
This is part of the assessors' bill we have not discussed; they were to come talk to you about making it so a homeowner could go to court in their own county. Currently, they must come to Carson City or wherever they bought it. This makes it so you go to the court where the property taxes were paid.

DOUG SONNEMANN (Assessor, Douglas County):
In response to Senator Amodei's question, part of the impetus was a cost saving issue for some local governments to defend the decision of the county or State Board of Equalization in their home territory rather than to have to pack up and bring all their stuff into Carson City. As it stands, you can appeal in either place and it boils down to a budget issue.

SENATOR AMODEI:
And those counties would be?

MR. SONNEMANN:
One would be White Pine County, maybe if they could have it in their home jurisdiction and not pay travel expenses.

SENATOR AMODEI:
If I appeal the State Board's decision, does the Attorney General represent you?

MR. SONNEMANN:
That is correct, sir.

SENATOR AMODEI:
Did I miss the Attorney General's Office in White Pine County? We have a bill coming from the Assembly Committee on Judiciary adding judges due to workloads in Clark and Washoe Counties. The First Judicial District has a history of hearing a lot of these things to build up expertise. Is it for convenience or that White Pine County is in Carson City every month on equalization matters for the State Board? I would like to see that before we take an historical judicial district—that is not adding judges because of workload—out of business for judicial review on some of these petitions.

MR. SONNEMANN:
You have a valid point. In further discussions, it would be an easy one to eliminate. Let us start with the bill on page 3, section 1. In the 2005 Session, there was an interest in providing public information. This follow-up to that specifically allows us to disseminate information. We have experienced the issue of homesteads. Homesteads in other states are different than homesteads in Nevada. Homesteads in Nevada protect from a creditor; homesteads issued in other states protect from a certain level of taxes. This information provides good public service to the people so they understand the benefits of filing a homestead exemption.

In section 2, we add value for solar-renewable resource components added to a house. When you apply an exemption, it can have a different effect than originally intended. Sometimes the exemption will be magnified; we are asking to eliminate the need to add the value and then immediately subtract it. It is unnecessary work. This makes it cleaner as far as what ends up on someone's

tax bill. Part of this provision was written with the help of Legislative Counsel Bureau (LCB).

Beginning on page 4, sections 3 through 7 address an issue from the 2005 Session that was a misunderstanding on our part. The Legislature enacted the CPI adjustments in the 2003 Session. We asked for a slight modification in the date of the CPI adjustment so in the fall, we could add it to the assessment notices and only send out one assessment notice and avoid sending a corrected notice for a CPI adjustment in the spring. In their fiscal note, the Department lists the total exemption. Some amounts for this issue alone are one year's CPI adjustment. Tax consequences to the local entities or state are much less than the total exemption listed in the state's fiscal note.

On page 10, section 7.5 is an amendment requested by Assemblyman Harry Mortenson to add the Archeological Conservancy as an exempt organization. Looking at this statewide, only one property in Nye County of 2.35 acres at an assessed value of $18,707 appears to not significantly increase the exemptions.

On page 11 is a request for taxpayers or owners affected in Clark County; these lodges and similar-type charitable organizations are asking to remove a $5,000 assessed limit so they would be fully exempt. A total of four tax consequences at this point is $842.57. All these occur in Clark County at fairly minimal impact for four benevolent organizations. In section 3, there was a question in the Assembly as to why line 18 changes "shall" to "may" instead of "must." That allows an exempt organization that rents to another exempt organization to continue as exempt.

In section 9 at the middle of page 11, the University of Nevada, Las Vegas (UNLV) Foundation bought a property in Clark County on June 22. They are an exempt organization, but because of the June 15 time frame, they were not able to apply for the exemption. Therefore, they were taxed for the first year. In this case, we suggest allowing those people who buy June 15 or after to have the additional window so they are entitled to the exemption as of the lien date.

On page 14, line 32, subsection 5, we are asking for this change to make the State Board of Equalization regulations conform with the county board of equalization. This allows us to keep those changes that need modification because when situations change, it specifically allows us to make changes as appropriate.

SENATOR CARE:
Go back to section 9. This is the change in statute that requires filing an initial claim for tax exemption on real property acquired after June 15 or before July 11 on or before July 5. Who was that again?

MR. SONNEMANN:
It was the UNLV Foundation. As an example, it could be a church or similar organization that bought a parcel after the June 15 deadline for filing an exemption. It seemed unfortunate to us that a truly exempt organization that owned the property as of the lien date was unable to take advantage of the exemption to which they would normally be entitled.

SENATOR CARE:
How did everybody settle on the language in section 9, page 11, line 26 "... July 1 must be filed on or before July 5" as opposed to July 15 or July 30?

MR. SONNEMANN:
There was some discussion; the treasurer's office is the one more concerned about this. If it goes too far, it would create a certain burden to redo a lot of tax bills. It would never make it enough where we could pick up some of the truly exempt properties and not overly burden the treasurer.

CHAIR MCGINNESS:
If somebody comes back on June 10 and misses the deadline, are we going to move this all of the time?

MR. SONNEMANN:
That would be one of the issues with the amendment. We would not envision any kind of change. This would allow a deadline of June 15 to be set and still followed with the only exceptions allowed for a small group that would purchase a property after June 15 or before July 1.

CHAIR MCGINNESS:
Deadlines are the problem with going into July for the treasurer sending out tax notices; everything has to happen on a regular basis.

MR. SONNEMANN:
You are right. Some of the treasurers' concern emanated from that.

MICHELE W. SHAFE (Assistant Director of Assessment Services, Clark County):
Section 19 on page 26 of A.B. 209 is about the recapture. The recapture happens any time property values drop by 15 percent in taxable value in the subsequent year and then regain that value by 15 percent or more. This is more of an issue to the treasurers. Some of these recapture amounts shown on my handout (Exhibit C) are much less than $100; some of them are less than $1 and this causes a problem for the treasurers. They are spending their time tracking and billing such small amounts; it costs more to bill than they actually receive. The other thing in here goes along with the de minimis amount for personal property starting July 1 that will be $17. That allows the flexibility to not bill anything $17 or less. Again, it is flexible; the treasurer can bill it or not.

Section 25, page 33 sets an appeal date for abatement appeals as the same date for other property appeals. The appeal date is not clear. Until they get the tax bill, some taxpayers may not realize what kind of cap they get or if they even get a cap. This allows them—say they get their tax bill in July—up until the following January to appeal if they did not get the abatement or think they should have received 3 percent instead of 8 percent.

Section 26, page 33 requires anyone requesting a penalty waiver to submit it within 30 days after the tax payment is made. This will also help the treasurers to not have someone come to them a year or two after submitting their payment with a penalty and asking for the penalty to be refunded. In the Clark County Assessor's office with regard to personal property, most people send a letter asking for a waiver with the payment, but nothing in the statute sets a deadline for it.

In section 27, page 34, we ask to remove the sunset on the 2-percent collection commission for assessor technology. The handout titled "2006/07 and Ongoing Assessor Technology Improvements" (Exhibit D) lists completed or ongoing projects by county. This money has been important to us and helps us do our annual reevaluation. In Clark County, we have over 700,000 parcels. Other

counties that never did an annual reevaluation with the continuation of technology funding are all looking at doing that at some point.

Section 30 goes over the dates when things become effective. The majority of the bill becomes effective July 1; some portions having to do with abatements become effective upon passage. More language in subsections 3 and 4 deals with tax abatements that become effective January 1, 2008.

CHAIR MCGINNESS:
When you talked about exempting taxes less than $17, would that be written off? Will the taxpayer still get a notice every year?

MS. SHAFE:
Yes, we would handle that similarly to personal property. If the tax bill is $17 or less, we will send a notice indicating we will not send a bill. With this, it is permissive. It would be up to the county assessor or the treasurer.

CHAIR MCGINNESS:
That would be handled on a year-to-year basis. If the person decides to sell after five years, although the money is not that large, they are not going to have a bill for $150; the balance would be zero if the treasurer decides to do that.

MS. SHAFE:
This strictly deals with the recapture—a one-time deal—spread over three years. I am not sure how many times a property would be recaptured.

MR. SONNEMANN:
The Nevada Tax Commission just went through that process yesterday morning. The theory is to bill one of those accounts. The cost for the county is $17. The Department of Taxation does a study among the 17 counties; they have come up with a de minimis value of $17 with the theory it would be $17 to bill out whether it is $1 or $16. By not billing, you are saving the county money; there would be no accumulation of debt.

ASSEMBLYMAN PETE GOICOECHEA (Assembly District No. 35):
The amendment to A.B. 209 is all about equity. How can White Pine County—already under severe economic hardship being managed by the Department of Taxation—have its tax base further eroded by the acquisition of millions of dollars of ranch property in the County? You will see a map of those ranches

purchased in Spring Valley by Southern Nevada Water Authority (SNWA) with the purchase price and tax impact so far. (Exhibit E, original is on file in the Research Library.) My testimony (Exhibit F) addresses the amendment.

You will hear from SNWA about their willingness to sit down and negotiate as far as a settlement and payment. You should not be forced to your knees before you have to negotiate. Southern Nevada Water Authority intends to run these ranch properties as ranches. That is where the inequity comes in. Commissioner Gary Lane will discuss the Attorney General's Opinions from 1946 by Alan Bible that say if they are in fact separate from the SNWA and managed as ranch properties, they should be taxed as such. In Proposed Amendment 3824, we have worked hard not to impact other government properties and governmental agencies with the language (Exhibit G, original is on file in the Research Library).

The effective date is August 1, 2006. If they have a resolution between the two entities, there would be no tax burden in place. Telecommunications held by the government are being paid. Presently, Churchill County pays into Humboldt County even though they are tax-exempt. At this point, $79 million has been expended to acquire ranches in Spring Valley; there are two others in escrow. It will exceed $100 million; this is a big piece of White Pine County's tax base. They cannot afford it.

CHAIR MCGINNESS:
The Exhibit E map has some small squares down the center. Before I pass this around to the Committee Members, I wanted to know which squares are the subject.

LAURIE L. CARSON (Board of Commissioners, White Pine County):
The black outline with the white interior is all that is left of private property and the different colored properties are the ranches.

ASSEMBLYMAN GOICOECHEA:
At least two of those ranch properties are in negotiation. It depends on who you talk to whether they are in escrow. Ultimately, these blacked-out ranches will be gone.

CHAIR MCGINNESS:
Even the small properties? What is left will be eventually gone?

ASSEMBLYMAN GOICOECHEA:
Some of those are in negotiation and some are in escrow.

SENATOR AMODEI:
Has anybody discussed that if this goes out of agriculture (ag), the indications are they will continue to ranch? It has been a while since I looked at NRS 361A on agriculture and conversion that involves liens seven years back. Have there been any discussions about if you move the water out of the basin it impacts your ag designation and triggers seven years deferred taxes at the new rate? Has anybody looked that far down the road for purposes of negotiation?

ASSEMBLYMAN GOICOECHEA:
From my perspective, this bill addresses the properties as if they were ag deferred. At this point, they intend to run them as ranches; in the future, they clearly will.

MS. CARSON:
There has been no contact with SNWA for negotiations, even though SNWA repeatedly says we will not sit down. On the Las Vegas news, I heard we are in negotiations. Unfortunately, that is not true. I do not know where this will go. Our biggest hurdle is that we feel they should pay taxes.

SENATOR RHOADS:
If this bill goes through, would they pay taxes on the assessed value or the tax dollars?

ASSEMBLYMAN GOICOECHEA:
Are you asking whether they pay on the purchase price or the ag deferred? The assessed value would be ag deferred.

SENATOR RHOADS:
But they would pay?

ASSEMBLYMAN GOICOECHEA:
No change in this would move it away, it is still ag property.

MS. CARSON:
Your handout (Exhibit H, original is on file in the Research Library) includes: a list of ranches purchased so far by their value and acreage; a page of SNWA's financial statement notes as of June 30, 2006, that is interesting because in our discussions with them, they stated they were not going to buy the ranches in Spring Valley, which unfortunately was not true; copies of deeds for ranches that have closed so far; a copy of the Attorney General's ruling; minutes from our hearing with our community about how they wanted to proceed and whether we should retain or drop our protests; and input from the community and how they felt. Refer to my presentation for the remainder of my testimony in Exhibit H on pages 1 and 2.

GARY LANE (Board of Commissioners, White Pine County):
I would like to discuss the Attorney General's Opinion No. 1946-349 and Opinion No. 1946-353 in Exhibit H starting on pages 27 and 30, respectively. This last paragraph is completely within context of Opinion No. 1946-353 by former Attorney General Alan Bible in 1946:

> Exemptions based on the use and ownership follow the rule expressed in 61 C.J. 420, section 456, which is, "Under constitutional and statutory provisions exempting property owned by municipal corporations and held for public or municipal purposes, municipally owned property, not used for public or municipal purposes is not exempt." Therefore, it appears that water rights and mains and other equipment of the city waterworks system located outside the boundaries of the city are not subject to taxation under the constitutional and revenue statutes, but ranch property that makes up no part of the water system is subject to taxation. This property would come under the principle expressed in 3 A.L.R. 1454 in that lands leased to individuals are subject to taxation, the theory being that the tax is levied against the lessee and not against the municipality.

The people who are working for the Water Authority have been placed on the public payroll. The SNWA has publicly said they want to keep these working viable ranches. If they are going to ranch, they still come under the Attorney General's Opinion of 1946. They have also said they made us a $12 million offer. Up front, they offered us $1 million and a mitigation of $5 million from impacts by their pipeline. They put $5 million of that $12 million away for that.

They would pay us $6 million over a period of 20 years at $300,000 per year. There was no cost-of-living or inflation factor put into that offer. We analyzed this offer, and the cost to White Pine County would be up to $20 million after 75 years. They are obligated to pay the taxes and are impacting our County to the tune of over $360,000.

SENATOR CARE:
This is still the county assessors' bill. Two years ago it got amended; there were several amendments. Why did county assessors approve these amendments?

ASSEMBLYMAN GOICOECHEA:
I talked with the assessors and asked them if I could put this on their bill and also talked with the Chair of this Committee. If it would jeopardize the assessors' bill in any way, I will withdraw that amendment.

SENATOR AMODEI:
Could you take a couple of days to think about changing something to say land is in ag deferred and any portion of water that goes with it is to be moved from the basin for municipal purposes elsewhere, that this is a conversion under ag deferred that is not tax-exempt regardless of the owner?

ASSEMBLYMAN GOICOECHEA:
Have you applied the numbers to what would happen to ag-deferred properties at the point you moved to convert that water?

SENATOR AMODEI:
Take the Nevada Land Resources, LLC purchase—if those folks in southern Nevada are going to keep ranching, they will. If an application to move the water is listed under ag deferred as a conversion or trigger to a higher non-agricultural use, would those numbers work out if not exempt?

ASSEMBLYMAN GOICOECHEA:
I would love to work those numbers, but the key is what you just hit on. As long as they are exempt, it has no bearing.

SENATOR AMODEI:
Everything you are talking about makes them nonexempt. Instead of trying to get a grip on the transfer tax, if it is ag property and it removes agriculture as an exemption, is that not a clean way to approach the issue?

ASSEMBLYMAN GOICOECHEA:
That would be the trigger mechanism when they lose their exemption.

SENATOR AMODEI:
Yes.

JULIE A. WILCOX (Southern Nevada Water Authority):
We have purchased seven ranches to date. Two are still in escrow, El Tejon Ranch and Huntsman Ranch. We were approached by several other ranchers in that area to consider their properties. When we decided to move forward, we actually were in negotiations in White Pine County with them. We made an initial offer to them after many hours of discussion about what the County wanted. One thing they wanted was to make sure the ranching lifestyle was kept intact, that those lovely lands stay green. There is a way we can get the water Las Vegas needs and maintain the lifestyle, ranching culture and green of the area. A significant amount of water that comes in from those mountains goes into the playa and evaporates. We have ways to catch, recharge and increase water in the basin. We had one employee managing the Wahoo Ranch at the time of our purchase. He wanted to stay in the area and continue ranching. We have a three-year contract with him as an employee. When we purchased the Robison Ranch from Nevada Land Resources, lessees were already on that ranch with leases good through October of this year. One of the essential things in moving water from this area is the environment. In order to manage the sensitive environmental areas in that basin, owning the ranches and water rights helps us manage them in a way that will not hurt the environment. We have a stipulation with the federal government that resulted before the State Engineer's hearings began. Those talks are beginning; all federal government agencies involved will be a part of the planning and restoration on anything that goes on out there.

We could not come to an agreement with White Pine County, and that ended before last summer. We did agree to continue relations and talk about the issues, although we were going to stop until after the State Engineer made his ruling. We have a memorandum of understanding with White Pine County that basically says we want to continue talking. Patricia Mulroy, General Manager, SNWA, has written a letter to Brent Eldridge, White Pine County Commission Chair, saying we are ready to start anytime they are because we were told by White Pine County's team they wanted to wait for the State Engineer's decision. We did make an offer, we have a copy of the time line of our

negotiations starting in 2003, and we have the first offer if you would like to see that. We also have the information on how we purchased the ranches, how we valued the land, the water, etc.

SENATOR AMODEI:
The ranches you purchased have existing water rights certified through the State Engineer's office, right?

MS. WILCOX:
Yes, sir.

SENATOR AMODEI:
None of those applications the Engineer granted in his recent ruling are agriculture right? They are all municipal.

ANDY BELANGER (Southern Nevada Water Authority):
The applications were not for change of use, they were applications for unappropriated water within the basin.

SENATOR AMODEI:
You do not have plans to use some of the water for agriculture, do you?

MR. BELANGER:
The groundwater we applied for in Spring Valley is for municipal purposes.

SENATOR AMODEI:
None of that is the subject of any of this potential we are discussing. Even under Assemblyman Goicoechea's scenario, that is all outside.

MR. BELANGER:
No.

MS. WILCOX:
Even the groundwater we purchased associated with the ranches.

SENATOR RHOADS:
When assessors appraise a piece of property, do they just appraise the land or do they appraise the land and water separately, then add the two together?

MS. WILCOX:
I cannot answer that question.

MR. SONNEMANN:
No, we do not value the water rights, just the land in its functionality, value and use.

SENATOR AMODEI:
The state pays Carson City "in lieu of" a compensation based upon the Capitol Complex, is that my imagination?

DAVE DAWLEY (Assessor, Carson City):
The only entity that pays any type of "in lieu of" taxes is that senior apartment complex on California Street in Carson City. As far as any part for the state, no.

ASSEMBLYMAN GOICOECHEA:
When the Department of Wildlife purchases a ranch property in a county, they pay at that rate for the next 20 years.

ANNE LORING (Washoe County School District):
In 2005 when this bill originally passed, the assessors asked that an additional 2 percent of tax receipts from both personal property and net proceeds of mines be deposited into their technology fund. This revenue came at the expense of school districts and others that also face serious needs for technology and facilities. The compromise reached last session when the school districts raised a concern about this was the additional 2 percent would sunset in July. The assessors bought both hardware and software that benefit all of us for whom taxes are collected, including school districts. Now the request is that they keep that additional 2 percent permanently. We request to not lift this sunset in order to return this part of the revenue to your school districts (Exhibit I).

TREVOR HAYES (Rhodes Homes):
Our proposed amendment (Exhibit J) before you amends section 9, pages 11 and 12, and addresses our concerns with the assessors about this; they did not pose opposition to the concept. The example given by Doug Sonnemann about the UNLV Foundation helps clarify what we are doing. He stated that the reason they wanted to move the date in section 9 to July 1 or July 5 was because the property was bought between June 16 and June 30 and they had to pay property taxes for a year. This administrative deadline assists the

assessors in putting out the property tax rolls. If they do not have a deadline, they cannot move the rolls to the treasurer and it ties things up. Not that this deadline, even in its current state, prohibits someone from applying for a property tax exemption, but because it is not clearly spelled out how you apply for an exemption in statutes we felt one was needed. Section 6 in our amendment allows an exemption, whether for a deadline or substantive issue for denial, to go through the county board of equalization. Senator McGinness expressed earlier concern about "does this carry on forever?" Section 25, page 33, line 9 calls for on or before January 15 of the fiscal year as a deadline. This would apply and become an ultimate deadline. The Legislature spoke their mind by exempting certain entities, whether the UNLV Foundation or nonprofits, by saying they want to support certain nonprofit activities or organizations through a property tax exemption. An arbitrary deadline denying folks who should have the exemption were it not for clerical error should be clarified.

SENATOR CARE:
The amendment you are seeking in section 9, subsection 6 in Exhibit J says "if the application, affidavit or claim for exemption is not timely filed or the exception is denied." Is that a denial in all cases or just denial because it is not timely filed?

WILLIAM J. MCKEAN (Rhodes Homes):
The exemption under section 6 would apply to a timely filed but also to substantive issues. In prior cases, taxpayers have appealed the application of an exemption either whole or in part; there are a couple of Attorney General opinions on points where taxpayers have appealed to the county or State Board of Equalization for determination under the facts, whether the exemption applies in whole or in part.

SENATOR CARE:
If we adopt this amendment and it becomes part of the bill, would it apply to property purchased after June 15 of last year?

MR. HAYES:
The deadline of January 15 of the current fiscal year still applies so the deadline for the current fiscal year is already over. July 1 or July 5 could be appealed through January 15, 2008, but January 15 has expired.

JASON D. GUINASSO (Village League to Save Incline Assets, Inc.):
I request A.B. 209 be amended by removing sections 12 and 13 which propose to alter the long-established venue provisions of property tax appeals in the district courts. Please refer to my memorandum (Exhibit K). I appreciated Mr. Sonnemann's candor in expressing to the Committee that there is not any quantifiable cost or expenses they are saving by having this provision. At least thought has not been given to how much each county would save with these proposed amendments. I appreciate the fact that the assessors are not in the position to pursue this matter any further. There is minimal cost to the counties as the law is right now. An anatomy of a tax case is simply this, a taxpayer disagrees with the assessed value assigned to his or her property, goes before the county board, gets a decision, goes before the State Board of Equalization, gets a decision and then files for judicial review or files suit under NRS 361.420. In that regard, once we get to district court, all the heavy lifting has been done. The cost of litigating at that point has to do with filing briefs and making an appearance to give our argument. These costs are minimal as the issue is litigated through the administrative process whether you appear in the county where the taxes are paid, or come to Carson City. Sections 12 and 13 may increase the cost of litigation in the short term because language in this proposed bill conflicts with other statutes. *Nevada Revised Statute* 361.420 provides that a taxpayer may file suit in any court of competent jurisdiction in Nevada. Because the suit needs both the county and State Board of Equalization, the county court of competent jurisdiction has always been the First Judicial District in Carson City. However, the general statutory provision for actions against the state and the agency are found in NRS 41.031. This provision requires that action be filed in either the county of cause or in Carson City. If this body in the Legislature adopts A.B. 209, they have to deal with this conflict in NRS 41.031. Additionally, there is a conflict with NRS 233B.130, subsection 2, paragraph (b): "be instituted by filing a petition in the district court in and for Carson City, in and for the county in which the aggrieved party resides or in and for the county where the agency proceeding occurred." A copy of NRS 233B.130 is in Exhibit K. Section 6 of NRS 233B.130 provides the exclusive means of judicial review or action concerning a final decision and a contested case involving an agency to which this chapter applies. *Nevada Revised Statute* 233B.130 applies to the State Board of Equalization and other taxing authorities. The provision of A.B. 209, if accrued, creates unnecessary and wasteful litigation dealing with conflicts of this language with regard to NRS 41.031 and NRS 233B.130.

The venue provisions proposed by A.B. 209 create an equal protection problem between taxpayers. If the property owner has more than one property in a county, they can either bring an action in Carson City or the county in which they own the property. That statute was amended in 1999 to give taxpayers a greater choice of venue by allowing them not only to go to Carson City but to go to their home jurisdiction. The venue-limiting provisions of sections 12 and 13 of A.B. 209 create a potential conflict of interest issues for district court judges. In the administrative bodies, there is a case involving about 9,000 taxpayers as a result of an affirming decision by the Nevada Supreme Court to equalize and roll back those properties to their 2002-2003 levels. Once the administrative proceedings in that matter conclude, this case will be heard on judicial review. If the proposed language for sections 12 and 13 of A.B. 209 were adopted, district court judges would face a case that would affect the revenue of the county wherein they are employed as district court judges. All district court judges who I have appeared before in Washoe County are competent, capable and ethical. They would not likely be comfortable to rule on such a matter and would likely recuse themselves. What I would say to this body is not to put district court judges in a position where they have to make that kind of determination. Venue provisions in NRS 41.031, NRS 233B.130 and NRS 13 have worked decades to establish the venue in taxpayer actions. Proposals in A.B. 209 to limit that venue are an overreaction to actions brought by Incline Village taxpayers in Carson City where decisions made by the First Judicial District were affirmed by the Nevada Supreme Court. The Carson City courts have greater experience, as Senator Amodei pointed out, and expertise in dealing with these tax reviews than the other district courts. Carson courts have become a specialty court in reviewing these sorts of petitions and have a special confidence that district courts in other counties do not have. Most disturbing is that sections 12 and 13 provide assessors an expectation to get a better decision. If there is no additional cost to changing or limiting our venue, they are hoping to get a better decision from the hometown court. That is not an appropriate reason to limit the taxpayers' venue. By proposing these provisions in sections 12 and 13 of A.B. 209, the assessors are saying the district courts are not capable or competent to decide venue issues.

SENATOR CARE:
Testimony from the Assessor was as strident as you say, not that you do not have valid points. It may be a cost factor, but they were not married to the language.

MR. GUINASSO:
If significant costs are associated with coming to Carson City to brief these issues and give oral argument, I want to see those costs. They did not come today with testimony for this Committee quantifying those costs. I propose that those costs are minimal.

SAMUEL P. MCMULLEN (Pine Wild Homeowners Association, Association of Condominium Hotels):
I want to support section 10 of A.B. 209. A number of pieces solve a lot of problems. Section 10 is the product of hours spent by LCB drafting staff and outside people to solve implementation issues of S.B. No. 358 of the 73rd Session making sure common element taxation was a function of unit taxation in a common-interest community, not necessarily the homeowners association. As you heard from the chief bill drafter, Brenda Erdoes, it does clarify that in a constitutional way that comports with her opinion issued last summer. More than anything, we thank not only your staff for their hard work in finding a way to implement that but also the assessors for working with us to ensure a bright-line test. It pushes common element taxation to the units which comport with the value bills, even though that may not be the way it is assessed. It will make sure common element taxation is done in a uniform and equal way to common elements assessed and taxed under section 10 before the statutes, assessment and appraisal guidelines that stand as a predicate. These common elements have a careful but reduced value in that their restrictions on use and alienability are generally not on pieces of property that can be purchased by the entire world and used as such.

Assembly Bill 209 will solve not only that issue in terms of valuation of common elements but a serious issue that was a red herring last time with some double taxation. This guards against that. We included a provision that says the Committee on Local Government Finance would have the ability to adopt regulations of ensuring the uniformity and quality of taxation avoid double taxation, particularly, common elements. The language protects against that ever happening. We wanted to ensure that was part of the record because of the concern two years ago upon adoption.

CAROLE A. VILARDO (Nevada Taxpayers Association):
New and emerging technology allows the assessors to do a better job in valuing parcels of land. The more accurate the tax bills, the more tax revenue you collect because of that point of accuracy. I have no problem with sunset dates

and the Committee may put another sunset on this to see what is accomplished. A part of this also assists smaller counties that are not on an annual appraisal cycle. Picking up the equipment necessary to get them to the annual cycle is important. I urge you to keep that provision. Technology is moving such that they are able to do so much, even in the field with tablets and actually deriving square footage with aerial shots and digital cameras that also give you height with length—important when you are looking at fences and outside lines.

SHAUN E. JILLIONS (City of Henderson):
We raised concerns on the amendment proposed by Assemblyman Goicoechea to A.B. 441, while you heard testimony about Southern Nevada Water Authority and White Pine County. The language of A.B. 441 is quite sweeping, to include all municipalities in the state. We foresee the possibility of locating wastewater facilities outside our municipal boundaries and acquiring right-of-way to serve future areas of our city. For this reason, we have concerns with the language Assemblyman Goicoechea proposed.

ASSEMBLY BILL 441: Requires a local government to make payments in lieu of property taxes and real property transfer taxes on property it owns or acquires outside of its boundaries. (BDR 32-1299)

SETH FLOYD (City of Las Vegas):
I echo comments of my colleague from Henderson, Shaun E. Jillions, in opposition to Assemblyman Goicoechea's amendment for A.B. 209.

CHAIR MCGINNESS:
We will close the hearing on A.B. 209 and open the discussion on A.B. 585.

ASSEMBLY BILL 585: Makes various changes to provisions governing public financial administration. (BDR 32-336)

ALVIN P. KRAMER (Treasurer, City of Carson City):
Assembly Bill 585 on behalf of the Association of County Treasurers of Nevada goes over a couple of issues which might be considered housekeeping. First, section 1 moves the interest rate charged on overpayment of taxes to 0.5 percent per month which is the same as the bill brought forward by the Department of Taxation, Senate Bill (S.B.) 504. This makes interest rates fixed, not prime plus two based on some month starting in the past and changing as

time goes forward; it is just one number. Section 2 puts us in a position to oversee the county assessor, and we would like to get out of that position.

In section 3, if you overpay your taxes by 30 cents or underpay by 30 cents, we would like to keep the 30 cents if you overpay and not charge you the 30 cents if you underpay because it costs so much to make that bill. If someone comes in and overpays by 30 cents, we keep track of that and would be happy to pay at the counter, but we do not want to issue an accounts payable check. If you want that 30 cents back, you need to come back within six months while records are in place. The rest of the language is more cleanup than anything else. The major issue is establishing a de minimis amount for the treasurer to keep or pay from a penalties and interest fund.

Section 4, addresses the fact that it is 10 percent per annum for delinquent taxes for prior years. Is that assessed monthly, is it assessed daily? We want to apply it at the beginning of the month and provide some consistencies with different treasurers and counties. When we have a parcel of delinquent land, we go to the county commissioners to sell the parcel in a tax auction. Then a title search tells us who we have to notice that their land is going to be sold. We do not want to be held liable later because somebody's name was not on that list and they did not get a notification. If we do the extra step—we are not required right now to get that list from the title company—we would like to be held harmless.

Section 5 establishes monthly assessment and adds penalties, interest and costs. It is cleanup more than anything else; it is not just taxes we go after, it is also penalties and costs. Section 6 moves the language over in subsection 5 from NRS 361.585 to NRS 361.610. Assembly Bill 585, section 7, subsection 5 says, "Except as otherwise provided by specific statute, the deed conveys to the county treasurer as trustee for the State and county," such that the deed to the purchaser goes without any other lien, taxes or assessments. Some statutes have, for example, irrigation districts; there could be another lien on the property not covered by property taxes. So if someone buys a parcel in a tax sale, they do not get that free and clear if there is another prescribed lien against it by a specific statute. We are not trying to name all of those, but we know of some in irrigation laws.

In section 8 of A.B. 585, we are adding clarity because there are those of us who are not sure what constitutes an "absolute deed." but most of us are pretty clear as to a quitclaim deed. We are trying to use terminology with which we are all familiar. We delete a bit of language in section 9. If I have property that is in its third year and the county takes a trustee position, the language says we can collect rent on that property if it is a rental. Because of the ability to sell property at a tax sale, we always get our money. We are rent collectors as well as tax collectors. It still allows us to do that. There are situations where it is appropriate and if those rents are collected, they apply toward taxes, penalties, interest and costs.

Section 10 moves the language from who can make a claim to when the claim was made. Section 11 adds the word "interest" into what costs can be collected. In section 12, two lists are made in June, one to the district attorney for amounts over $3,000 in taxes owed and another for amounts owed over $1,000. Coming up this year, I have about 18 parcels that are 3 years delinquent, and all of them come under that section. In fact, of 464 parcels delinquent this year, over half of them were over $1,000 and 20 percent over the $3,000 mark. We send certified letters in some cases, regular mail in other cases, publish in the newspaper and then we have the district attorney send out a letter without enforcement behind it, at least from Carson City. The treasurer may do that when directed by the board of county commissioners; otherwise, it becomes an optional matter to send those lists.

In section 13, we have to pay contractors interest on money held back in payments. We hold back 10 percent, 90 percent or whatever. We pay interest on that money held back. The law says we pay them interest at the highest rate paid at a certificate of deposit duration of 90 days on the first day of the quarter. But it also says you can go to the rate quoted by at least three financial institutions. Given the Internet these days, you can find a financial institution with high rates. We are bringing it into the realm of what is available here by saying insured bank, credit union or savings and loan association in this state.

In section 14, if I take a piece of property in trust, I have to continue to assess taxes—in a sense assessing taxes to myself—but I do not have to collect those. We assess taxes to the homeowner who is the trustee just as though there was no trustee involved. Should they not pay by that time, we are in the mode of selling the property for nonpayment of taxes.

SENATOR CARE:
In section 3, if the taxpayer wants the $5 refund, what is the notice requirement?

MR. KRAMER:
We do not have a notification on that; some counties say they will make that $2. We were trying to establish by the Treasurers Association. A district attorney from one of the counties said, "You cannot waive a penny unless it is in the statute that you are allowed to do that." Most of us do not waive the money, we pay it from another fund. Instead of paying the money—as the Assessor said, it was costing $17 to write a check—we are saying you do not want to send someone a bill for 30 cents. I do not want to broadcast it because I do not want people to pay their taxes and just short me because they know I am going to write it off.

SENATOR CARE:
We had a bill earlier in the Assembly.

MR. KRAMER:
Senate Bill 375 deals with sections 6 and 10 of this bill. In my bill, I just moved that language from one paragraph to another. Senate Bill 375 changes the language in that part I moved; if S.B. 375 does not pass, the language stays the same.

SENATE BILL 375 (First Reprint): Revises provisions governing certain unclaimed property held by a county treasurer. (BDR 32-74)

SENATOR CARE:
In its original form, S.B. 375 lifted the cap. There was no cap, correct?

MR. KRAMER:
That is correct.

SENATOR CARE:
When it left the Senate, was it restored?

MR. KRAMER:
The amendment did not restore the cap.

SENATOR RHOADS:
Could you explain the fiscal note that says $500,000 for the City of North Las Vegas?

MR. KRAMER:
No, I cannot. I do not know the source of the $500,000. The only item I see as a fiscal note is interest paid to contractors. The potential interest amount paid to contractors that we lowered was not raised. I cannot account for another number.

CHAIR MCGINNESS:
Mr. Kramer, Legislative Counsel noted four areas of disagreement between S.B. 375 and A.B. 585; let us start with No. 1. The agreement wherein A.B. 585 imposes certain requirements is somewhat different than the agreement to which S.B. 375 refers—the requirement that A.B. 585 repeals.

MR. KRAMER:
Assembly Bill 585 does not repeal any of those items. What it does is move it from one paragraph to another. It takes it out of section 6 and puts it in section 10. The language is exactly the same where we take it out as where we put it back in.

CHAIR MCGINNESS:
Concern No. 2 says requirements specified in A.B. 585 mirror requirements repealed from NRS 361.585 by that bill but do not reflect the amendment of those requirements by S.B. 375.

MR. KRAMER:
That is correct. I say this because A.B. 585 is a treasurers' bill, S.B. 375 is not. I did have some impact on the amendments that went into S.B. 375, but our Treasurers Association does not endorse that, and it is not in our bill.

CHAIR MCGINNESS:
You want the language of A.B. 585 to remain.

MR. KRAMER:
The compromised amendment that came out of S.B. 375 is acceptable to the Treasurers Association. It would not cause us any hardship. One good aspect of S.B. 375 indicates who has priority over funds that result from excess proceeds

of a tax sale. The holder of the first mortgage has access to those funds before a mechanics' lien or the owner of the property whereas before, there was no such priority. If S.B. 375 were passed in place of section 10, subsection 6 of this bill, the Treasurers Association would be comfortable. We understand the restriction to 10 percent is similar to the language for unclaimed property. For anybody who is in that business finding money for people, 10 percent does not cut it.

CHAIR MCGINNESS:
In No. 3, the requirement imposed by S.B. 375 for license as a private investigator (PI) has no application if NRS 361.585 is amended to repeal the applicable agreement.

MR. KRAMER:
We anticipated moving that language straight across. Senate Bill 375 would basically say that if you are a finder, it adds the qualification that you have to hold a PI license. This is one of the things that made us accept the idea that the 10-percent total would go away if we could reduce the number of people who queried us for information. If it is a PI, they know where to go to find this stuff. We can tell them to look it up themselves. Other people who do not know anything about Nevada lean on us to find information to make them money. If you restrict the pool to more qualified people, you get fewer phone calls and wasted time. If S.B. 375 passes, then I would see section 10 of A.B. 585 modified by what comes out of S.B. 375.

CHAIR MCGINNESS:
In No. 4, it is uncertain whether the agreement provided by A.B. 585 supersedes the additional authorization for filing claims provided by S.B. 375.

MR. KRAMER:
If S.B. 375 passes, it would supersede what we have in A.B. 585 as far as section 10 is concerned.

CHAIR MCGINNESS:
Do you know what the status is on S.B. 375?

MR. KRAMER:
It is going to be heard this Thursday by the Assembly Committee on Government Affairs.

CHAIR MCGINNESS:

We adjourn this meeting of Senate Committee on Taxation at 3:29 p.m.

RESPECTFULLY SUBMITTED:

Julie Birnberg,
Committee Secretary

APPROVED BY:

Senator Mike McGinness, Chair

DATE: