

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

**Seventy-Fifth Session
April 2, 2009**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:35 p.m. on Thursday, April 2, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/75th2009/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
Assemblywoman Marilyn Kirkpatrick, Vice Chair
Assemblyman Paul Aizley
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblyman Ed A. Goedhart
Assemblyman Tom Grady
Assemblyman Don Gustavson
Assemblywoman Ellen Koivisto
Assemblywoman Sheila Leslie
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman James A. Settlemeyer, Assembly District No. 39

Minutes ID: 725

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STAFF MEMBERS PRESENT:

Russell J. Guindon, Senior Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Mary Garcia, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Dave Dawley, Assessor, Carson City Assessor's Office, Carson City, Nevada
Michael Hillerby, Executive Vice President, Wingfield Nevada Group, Sparks, Nevada
Karen Hinton, Dean/Director, University of Nevada Cooperative Extension, University of Nevada, Reno, Reno, Nevada
Tim Tetz, Executive Director, Office of Veterans' Services, Reno, Nevada
Dino DiCianno, Executive Director, Department of Taxation
Mark Froese, Administrator, Research and Development Division, Department of Motor Vehicles
Jeff Fontaine, Executive Director, Nevada Association of Counties, Carson City, Nevada
Dennis Johnson, Private Citizen, Carson City, Nevada
Jeff Johnson, Assessor, Humboldt County Assessor's Office, Winnemucca, Nevada
Mark Schofield, Assessor, Clark County Assessor's Office, Las Vegas, Nevada
Barbara Smith Campbell, former Chairwoman, Nevada Tax Commission, and Chair, Nevada Tax Commission's Blue Ribbon Subcommittee to Study Property Taxes
Laurie Mookini, Chief Appraiser, Churchill County Assessor's Office, Fallon, Nevada
Joshua Wilson, Assessor, Washoe County Assessor's Office, Reno, Nevada

Chair McClain:

[Roll was called.] We have four bills to hear today. However, we are going to begin with our work session because I have Committee members who have to go testify on their bills in other committees. Michael, do you want to walk us through this?

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

There are three bills on work session today. The first is Assembly Bill 146.

Assembly Bill 146: Provides for the establishment of a state business portal.
(BDR 7-972)

Michael Nakamoto:

This is Assemblyman Ocegüera's bill, which was heard by this Committee on March 19. This bill requires the Secretary of State to establish a state business portal to facilitate interaction between businesses and governmental agencies by allowing businesses to conduct necessary transactions through the use of the portal. The bill also requires the Secretary of State to:

- Establish the standards by which state and local agencies may participate in the portal.
- Authorize state or local agencies to participate in the portal if the Secretary of State determines the standards and requirements necessary for participation are met.
- Prescribe the appropriate forms and format to be used by businesses and governmental agencies conducting transactions through the portal.
- Adopt regulations and take any appropriate action necessary to facilitate the creation of the portal.

Assembly Bill 146 moves the responsibility for collecting the annual state Business License Fee from the Department of Taxation to the Office of the Secretary of State. The bill will also require any entity organized pursuant to Title 7 of *Nevada Revised Statutes* (NRS), except for nonprofit corporations and corporations sole, to obtain a state business license. It requires that the entities who register to do business with the Office of the Secretary of State pay the annual fee at the time their initial or annual list is filed with that Office.

Testimony on the bill was fairly extensive, and I am not going to repeat it. I will go through a few of the concerns raised by the Committee during that testimony. There were questions regarding the mock-up of the proposed amendment.

There was a question of why the payment of the fee for exhibitions was removed from the mock-up. Nicole Lamboley, Chief Deputy, Office of the Secretary of State, had indicated the Office was not set up to handle that

portion of the tax. The Office felt the Department of Taxation was better equipped to handle those particular provisions.

There were questions about the costs of the proposal. Secretary of State Miller said his office had submitted a fiscal note indicating costs of approximately \$5 million for the biennium. I would note this bill is eligible for an exemption pursuant to Joint Standing Rule 14.6.

Section 13 concerns a natural person not needing to obtain multiple business licenses for performing combinations of activities. There have been questions about whether the provisions in that section would apply to companies who conduct businesses in multiple locations. The Office of the Secretary of State indicated the bill was only set up such that any entity, irrespective of the number of locations, would be required to obtain one business license. Concerns were raised as to whether that should be amended.

The amendment submitted by Assemblyman Oceguera makes numerous changes to the bill as it was originally introduced:

- It amends section 2 to require the Secretary of State to establish, through a cooperative effort, the standards and requirements necessary to design, implement, and build the state business portal.
- It amends the use of the word "business" to the term "entity" where applicable in reference to those entities who must file initial or annual lists with the Secretary of State.
- It deletes all references to the provisions transferring payment of the Business License Fee for exhibitions to the Secretary of State, and these provisions would remain within the purview of the Department of Taxation.
- It creates a notification process in section 14 that requires the Secretary of State to notify a holder of a business license of its pending expiration 90 days before the expiration date.
- It requires the Secretary of State to provide written notices indicating the amount of fees and penalties due for persons who are not required to file an annual list with the Secretary of State but who have not submitted their Business License Fee in a timely manner.
- It allows the Secretary of State to adopt regulations as necessary to carry out the provisions of the Business License Fee.

- It adds a new section that allows the Secretary of State to require a state or local agency to send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.
- It moves the effective date of the act from January 1, 2010, to passage and approval.
- It adds provisions dealing with that change for businesses or entities that already have their business license through the Department of Taxation and prorates that fee for the new license that would have to be obtained from the Office of the Secretary of State.

Assemblyman Mortenson:

Is the \$5 million cost for the fee a one-time occurrence, or will that be ongoing? Do we not get a credit from the Department of Taxation? Was there any discussion of that?

Michael Nakamoto:

Based on the fiscal note that has been submitted by the Office of the Secretary of State, the \$5 million costs appear to be ongoing for the maintenance of the business license portal as well as its implementation. Testimony given about that cost indicated the Office of the Secretary of State believed that additional revenues—generated from the provisions in the bill that would expand who was required to obtain the business license—would offset the cost of implementing and maintaining the portal.

Chair McClain:

Obviously, we are going to send this to the Committee on Ways and Means and let them deal with the cost aspect. Believe it or not, this is a policy committee.

Assemblywoman Koivisto:

I am looking for assurances that, if we approve this, they will be able to get the information on big companies like Wal-Mart and Home Depot and the rest of them that have multiple, multiple locations in the state. They are currently paying only \$100, just like Charlie down on the corner with his tire shop, and I want to make sure we fix that. That information is probably available from all the counties where these companies are paying for licenses.

Chair McClain:

Thank you; that is in the record and noted. Are there any other questions?

Assemblyman Goedhart:

I just want a clarification. Even if you have multiple locations, are you only required to have one license, or do you have to have a license for each location?

Chair McClain:

Right now, you are only required to have one license.

Are there any other questions? [There were none.] I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS ASSEMBLY BILL 146 WITH THE AMENDMENT PROPOSED BY ASSEMBLYMAN OCEGUERA.

ASSEMBLYMAN MORTENSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN LESLIE WAS ABSENT FOR THE VOTE.)

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

The next bill on work session today is Assembly Bill 205.

[Assembly Bill 205](#): Makes various changes relating to the administration of property taxes. (BDR 32-703)

Michael Nakamoto:

This bill, which was heard on March 10, is the assessors' omnibus bill that makes various changes relating to the administration of property taxes:

- It revises the formula for calculating the partial abatement applicable to properties for the correction of an overassessment of an improvement due to a factual error of where the taxable value has been reduced as a result of the partial or complete destruction or removal of an improvement to the property.
- It changes the deadline by which appeals of the applicability of a partial abatement must be filed from January 15 to June 30 of the fiscal year for which the determination is effective.
- It allows a county assessor to use plans, drawings, or other representations of an improvement that have been prepared by the architect or builder of that improvement to establish its size or quantity

for determining the replacement cost of that improvement or establishing its taxable value.

- It clarifies that the individual tax bill provided to an owner of property on the unsecured tax roll serves as the notification of the assessed valuation of the property after the regular appraisal or reappraisal of the property by the county assessor.
- It clarifies that a person who wishes to appeal the assessment on his property placed on the unsecured roll may do so on or before January 15 if the property was assessed on or after May 1 and on or before December 15.
- It moves the date by which the county assessor must file, with the Department of Taxation, a statistical report showing values of property on the secured tax roll from July 31 to August 10.
- It creates penalties for removing, defacing, covering, or otherwise concealing the notice of seizure of personal property whose taxes are delinquent, or for moving, selling, or attempting to move or sell, or assisting another person to move or sell the property.
- It revises the criteria by which certain unpaid personal property taxes may be deemed uncollectible by the county treasurer and specifies criteria for determining when a golf course has been converted to a higher use and the amount of property taxes due upon the conversion of any open space property to a higher use.
- It moves the prospective sunset of the 2 percent commission that may be kept by county assessors for the acquisition and improvement of technology in the county assessor's office to June 30, 2011, meaning the assessors can keep that commission for another 2 fiscal years.

Testimony in support of the bill was primarily given by Dave Dawley, the Carson City Assessor, and Jeff Payson from the Clark County Assessor's Office, going through the various needs with respect to the provisions of the bill.

There was testimony from Russell Rowe and Michael Hillerby regarding the purpose of sections 15 and 16 of the bill concerning the applicability of the open space assessment for golf courses. They noted the provisions currently in statute, which were adopted by the 2005 Legislature, were not particularly

clear on how golf courses are supposed to be taxed when they are converted from open space to a higher use.

Carole Vilardo from the Nevada Taxpayers Association spoke in support of the bill, particularly section 1, which clarifies the applicability of the partial abatements for properties where the improvements have been destroyed or removed. She also spoke in support of the extension of the assessors' commission for technology.

The only testimony in opposition to the bill was from Randy Robison of the Nevada Association of School Superintendents, Ann Loring of the Washoe County School District, and Dotty Merrill of the Nevada Association of School Boards, who all testified in opposition to the extension of the 2 percent commission. They cited the amount of money going to the county assessors as money potentially lost from the school districts. It was money they felt they could use.

Four amendments have been submitted to this bill. The first amendment was submitted by Dino DiCianno, Executive Director of the Department of Taxation. It would amend section 7 to require county assessors to prepare and file a segregation report showing the assessed values for each taxing entity within the county on or before December 31 of each year, in addition to the segregation report that is currently required to be prepared and filed on or before January 31. It would require assessors to make projections for the upcoming fiscal year for real and personal property.

In addition to the projections required for the current fiscal year, they would be required to make projections for the upcoming fiscal year for unitary property and the Net Proceeds of Minerals Tax. They would also be required to prepare and file a statistical report for both the secured and unsecured rolls showing values for all categories of properties on or before October 31, in addition to the statistical reports that must be filed under current law.

The second amendment, numbered 2A, was submitted by Michael Hillerby on behalf of the Nevada Golf Industry Alliance. It would make various changes to the language regarding golf courses in sections 16 and 17. Paragraph (b) of subsection 1 of section 16 would be amended to clarify that a change in zoning of the golf course property would be required in addition to the cessation of golfing activity to constitute conversion to a higher use for that golf course property. Subsection 1 of section 17 would be amended to remove the changes proposed to *Nevada Revised Statutes* (NRS) 361A.265. If this were adopted, it would essentially strike section 17 from the bill, as there would no longer be any changes to NRS 361A.265.

Amendment 2B ([Exhibit C](#)) was submitted by the Nevada Assessors' Association based on conversations between the Clark County Assessor's Office and Mr. Hillerby about concerns the Assessor's Office had about amendment 2A. This amendment would make similar changes to those sections. Section 16, which would currently change the definition of "converted to a higher use" in NRS 361A.031, would be further amended to clarify that the term does not apply to any portion of a parcel that continues to qualify as agricultural or open space real property.

This amendment will also amend NRS 361.23A to add provisions requiring the county assessor to enter golf courses on the assessment roll with the valuation based on the open space use until the golf course becomes disqualified for open space use assessment by cessation of use of the property for golf or golfing practice. Exceptions would be made for seasonal closures of the property to such use, a temporary closure of the property for maintenance or repairs, or upon notification to the county assessor of a temporary closure for any other purposes incidental to such use or necessary for the continuation of such use for a period not to exceed 12 months.

The last amendment ([Exhibit D](#)) was submitted by the Nevada Assessors' Association. It is my understanding that this is based on conversations between the assessors and Carole Vilardo, President of the Nevada Taxpayers Association. It would make various changes to sections 2–6.

Section 2, which would allow the assessor to use representations of an improvement prepared by the architect or builder, would be further clarified to allow the assessor to use only the final version of that representation prepared by the architect or builder. Section 3, which would allow the tax bill to serve as adequate notice to the owner of the assessed valuation of his property as determined by the appraisal or reappraisal, would be clarified to state these provisions would only apply to personal property billed on the unsecured tax roll. Sections 4, 5, and 6 make similar clarifications with respect to applying only to personal property on the unsecured tax roll.

Chair McClain:

I only have one question: Is everybody happy?

Assemblyman Anderson:

The school districts did not submit any proposed amendments to take care of their concerns? [They had not.]

Michael Nakamoto:

Amendments 2A and 2B are mutually exclusive. You will need to choose one or the other.

Chair McClain:

Mr. Dawley, Mr. Hillerby, which alternative did you agree on?

Dave Dawley, Assessor, Carson City Assessor's Office, Carson City, Nevada:

Amendment 2B would replace 2A, and we are requesting that 2B be amended into the bill.

Michael Hillerby, Executive Vice President, Wingfield Nevada Group, Sparks, Nevada:

I want to thank the Nevada Assessors' Association and others who worked with us extensively. Amendment 2B replaces the amendment I originally submitted and gets us all where we were trying to go, which is protecting a golf course that goes out of business for up to a year before the higher-use designation would be applied. We think that is a better solution.

Chair McClain:

That is great. Is everybody clear on that? What is the pleasure of the Committee?

ASSEMBLYMAN GRADY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 205 WITH AMENDMENTS 1, 2B, AND 3.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

Chair McClain:

Is there any other discussion?

Assemblyman Anderson:

I probably will not be able to support the motion. I am disappointed because I think the amendments are very important, and I think they probably get at the issue. However, I am still concerned about the issues raised by the school districts regarding their need for facilities and the potential loss of money to the school districts. I do not think I can support it.

Chair McClain:

Does anybody else have a concern? Actually, Mr. Anderson, if you think about it, this gives more money to the school districts in the long run because it upgrades their technology.

Assemblyman Anderson:

I hate to debate the issue, but I believe it upgrades the technology for the assessors.

Chair McClain:

Right, so they can collect more property tax for the schools.

Assemblyman Anderson:

That is a theory.

THE MOTION PASSED. (ASSEMBLYMAN ANDERSON VOTED NO.)

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

The last bill on work session today is Assembly Bill 329.

Assembly Bill 329: Provides funding for recreational facilities in certain smaller counties. (BDR 32-745)

This is Assemblyman Goicoechea's bill that was heard by the Committee on March 26. The bill revises the allowable use of the sales tax that may be imposed in counties whose population is less than 15,000 for the operation and maintenance of a swimming pool. The bill expands the allowed use of the proceeds of this tax to allow the revenue to be used for the operation and maintenance of a recreational facility in addition to the currently allowed use for a swimming pool.

The testimony given by Assemblyman Goicoechea indicated White Pine County had asked its voters for this authorization in the November 2002 election. The voters approved a question authorizing the imposition of a \$0.0025 sales tax for the operation and maintenance of a swimming pool. The Legislature then passed Assembly Bill No. 208 of the 72nd Session, which gave the Board of Commissioners in White Pine County the authority to enact an ordinance to impose this \$0.0025 sales tax.

Based on the economic conditions in White Pine County, however, the county was unable to construct the swimming pool. As a result, the money collected from this particular tax has not been used for any specific purpose because the purpose is limited in statute only to the operation and maintenance of a swimming pool and not the construction.

There were questions regarding whether Mr. Goicoechea had a feel for the opinions of the people of the county toward the issue. He indicated he had no such feel, and that no polls had been conducted. However, he felt the residents of the county were aware this money was sitting there and could not be used for any purpose.

There were questions on how much money had been generated from this tax. Fiscal staff indicated there was approximately \$1 million in the fund that could not be used. The amount of money going into the fund is very small at this point because the county is currently not imposing the tax as a result of recommendations made by the Department of Taxation and the Nevada Tax Commission because of the county's severe financial emergency.

Based on the concerns raised by that piece of information, Dino DiCianno, Executive Director of the Department of Taxation, clarified that the particular tax rate in White Pine County was merely in abeyance, and there was nothing to stop the county from enacting another ordinance that would resume the collection of this tax if it so desired.

There was also testimony in support of the legislation from Ferrel Hansen, CEO of the Rural Nevada Development Corporation, who had presented written testimony in support of the bill from both the White Pine Board of County Commissioners and the Mayor of the City of Ely. They indicated the county and the city were in line for a grant from the Donald W. Reynolds Foundation, which would allow them to build a recreational facility contingent upon making available a source of funds for the maintenance and operation of that facility. As part of the grant application, they had noted they had this particular piece of legislation for consideration by the Legislature for this particular use.

There were no amendments to the bill, and there was no testimony in opposition.

Chair McClain:

This was a relatively straightforward bill. Does anybody have any problems with it?

Assemblyman Grady:

I do not have a problem with it, but I would like to ask Mr. DiCianno if he could provide me with the statute that allows the Department of Taxation to take a voter-approved tax that was approved by the Legislature and change its use, which was very specific. What statute allows them to make that change?

Chair McClain:

We will ask him to get with you on that one. I am sure it has something to do with the whole financial hardship situation. We will make sure he explains it to you.

This bill is relatively simple. It is pretty obvious White Pine County is not going to get the money to build a swimming pool. They have this money, so they would rather get the grant to build a recreation center and use the money for the operation of that center. A swimming pool and a recreation center are basically the same concept.

Does anybody have any questions? They can always add the pool to the recreation center later on. I would accept a motion to Do Pass.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS
ASSEMBLY BILL 329.

ASSEMBLYMAN MCARTHUR SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN LESLIE WAS
ABSENT FOR THE VOTE.)

Chair McClain:

We have four bills on the agenda today. Two are very odd, and the other two we should really pay attention to. I am going to open the hearing on Assemblyman Settelmeyer's bill, Assembly Bill 328, first.

Assembly Bill 328: Provides for an abatement of the ad valorem taxes levied on a single-family residence purchased by a first-time homeowner at a foreclosure sale. (BDR 32-164)

Assemblyman James A. Settelmeyer, Assembly District No. 39:

This bill came about because of what we have all seen: foreclosed homes and prices going down. It was my opinion that we, as government, needed to do something outside the box: the idea that first-time home buyers would get a tax break if the home was owner-occupied. I started doing a little more research on it and, interestingly enough, someone stole my bill.

They even added a provision that an individual would actually get \$8,000 for buying a new home. They also defined first-time home buyers as anybody who has not bought a home in the last three years for owner-occupation. However, considering it was the President of the United States who stole it, there is not much I can do about it.

I do not think you even have to have any testimony on the bill. I would just encourage you to go home and tell your constituents about it. The website is www.federalhousingtaxcredit.com. Anybody who buys a home this year can get \$8,000 back. If the buyers do not pay \$8,000 in taxes—say they only pay \$2,000—they will get a check for \$6,000. This is a fascinating way to encourage people to try to get a home. If you have homes in your area that are selling for \$100,000 now, as some in Clark County are, the idea of somebody giving a prospective buyer \$8,000 might actually get him into a home.

Chair McClain:

Thank you. Do we want to accept his proposition? I also think it is very interesting that the President is going to preempt us, but what the heck. Maybe we will get some of these young families into some of these foreclosed homes. Maybe they can get a down payment and halfway decent credit. That is the end of A.B. 328.

The next odd bill, Assembly Bill 375, is mine.

Assembly Bill 375: Requires a portion of the proceeds of property taxes currently levied for cooperative extension programs to be used to provide services for senior citizens. (BDR 38-122)

This was a clever idea; it just did not go over really well. The concept came to me when I was looking for money because we never have enough services for our seniors. We have transportation services, in-home services, and such things as home modifications and landscaping—all these little things our seniors really need help with just to live normal lives in their own homes.

I thought: Cooperative Extension is always talking about all the family programs they have. I would just grab some of their money for senior services. Then I got to talking to Ms. Hinton, who is the Dean/Director of the University of Nevada Cooperative Extension, and actually ran across one of their booklets that said, "Aging Study Opens the Door to Senior Programs." They have had a couple of different senior forums and have identified several different things they will be able to work on to provide some more services to our seniors.

Rather than try to force them to do this, I would prefer they go ahead with the programs they are trying to get started now. I am going to call a halt to the "money grab" and count on them to agree to work with me to provide some of the services our seniors so desperately need. Ms. Hinton, do you want to make a comment?

Karen Hinton, Dean/Director, University of Nevada Cooperative Extension, University of Nevada, Reno, Reno, Nevada:

We are very much looking forward to expanding our senior educational programming. I think we share a common goal. Seniors are a continually growing population in this state, and we all recognize that. Cooperative Extension spans six subject matter areas, and all of those areas are important to seniors.

This has been a goal of ours, and, as the Chairwoman stated, we went through a pretty extensive process to look at the needs of seniors across the state. We are now moving forward on that plan. We are looking everywhere we can to find grant money and expand those services and programs. As I said, we are very much looking forward to working with you as you see opportunities and ideas coming forward. We want to expand this area of programming.

Chair McClain:

That is the end of A.B. 375. I really appreciate the effort from Cooperative Extension. Thank you.

Vice Chair Kirkpatrick:

We will now open the hearing on Assembly Bill 345.

Assembly Bill 345: Makes various changes concerning the veterans' exemptions from property taxes and governmental services taxes. (BDR 32-101)

Assemblywoman Kathy McClain, Clark County Assembly District No. 15:

With me is Tim Tetz, Executive Director of the Office of Veterans' Services. Assembly Bill 345 makes changes to our veterans' exemptions on property taxes and the Governmental Services Tax. This is pretty expansive, but it actually came out of my Legislative Commission Subcommittee to Study Issues Relating to Senior Citizens and Veterans. That was the interim study committee we had during the last interim. We had six different meetings all on senior issues and veterans issues.

This came out as one of the top priorities of our veterans groups. Rather than me trying to explain this and actually confusing the issue, I am going to let Mr. Tetz explain the bill and give some background, because it was also a high priority in the 2008 Nevada Veterans Legislative Summit we held last year.

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

I will try to explain this complex issue as clearly as I can. Assembly Bill 345 was an outreach of our Veterans Legislative Summit, which is held in the off

years of your sessions. The veterans come to us with all their issues, and they help us prioritize them as we come before you. At that meeting, they brought approximately eight ideas that had to do with veterans' exemptions or tax exemptions. We threw them all up on the board.

Senator Care and Assemblywoman McClain then explained the state was not doing very well financially, so we had to strike a lot of those ideas. We struck about four, which left us with four. I provided you a handout ([Exhibit E](#)) that talks about the four items that remained. We tried to prioritize those remaining four items and look at what we needed to get done versus what would be nice if the fiscal environment were to improve. Little did we know in February where we would be sitting this week.

The first purpose of A.B. 345 was to take those veterans who are considered 100 percent individually unemployable (I.U.) and give them the same tax exemption as those with 100 percent service-connected disabilities. I hope to soon explain to you what the difference is.

The second purpose was to increase the veterans' property tax exemption from the \$2,000, which has been adjusted with the Consumer Price Index (CPI) over time, to \$2,500. This is the property tax exemption that is available to any wartime-era veteran. In reality, this is just a several-hundred-dollar increase in the amount.

The third item was to increase the 100 percent service-connected veterans' tax exemption. The Disabled American Veterans (DAV) and several of the veterans said there were a lot of states that gave veterans a 100 percent exemption if they had a 100 percent service-connected disability. This would give those veterans that 100 percent property tax exemption.

Finally, item number four, which we doubted would be approved, was to add a new category of property tax exemption for those veterans between 40 percent and 59 percent disabled.

The veterans behind me—and I thank them for their attendance and support today—read the papers like we all do. They are fully aware of the fiscal circumstances of this state. Knowing that, certainly they would like to accomplish all four. However, knowing the fiscal circumstances, if we had to draw a line in the sand, item 1 is the one thing we absolutely need to accomplish this session to right an egregious situation.

When we look at the fiscal note, I want to help allay some of your fears of what those dollars really mean. It is my opinion that much of that fiscal note was

either the result of a misunderstanding or they did not use the proper numbers. Thus, I provided to you the data, as of March, on how many veterans are receiving disability compensation and by what category. It gives hard, fast numbers from the U.S. Department of Veterans Affairs (VA).

When we have counties or other entities who say they have 10,000 veterans this could apply to, that is clearly not an accurate number. I have given you some more overall accurate numbers on a statewide basis. How you prorate that out to the counties is certainly open for discussion.

I want to point out in this list that, all in all, 31,000 veterans in Nevada receive compensation from the VA in some form. Almost 3,000 of those are pensions. These people would normally be on welfare, but, because of their service to the country, they get a service-connected pension. The remaining veterans receive some sort of compensation because they incurred a service-connected injury while in the service that plagues them today. That compensation follows the graduated rankings shown in the table in my handout.

Looking at that table, you will see that, as of last March, there were 2,304 veterans in Nevada receiving service exemptions of 100 percent. Of those, 1,800 are currently using their veterans' tax exemption toward their property. About 80 percent of the veterans who are 100 percent disabled are actually using their exemption right now for that first \$20,000 of the valuation of their property.

The next category within Nevada Revised Statutes (NRS) 361.091 is the 80 percent to 99 percent disabled category. You may be looking at that category and saying, "Tim, there are no 91 percents or 92 percents." This is where the math gets weird. The VA always rounds numbers up, so the percentage of disability always ends in a zero. This category only includes veterans with 80 percent or 90 percent disability, of which there are a total of 760. Currently, 286 of them, or 38 percent, are using their exemptions.

We have one more category of eligible exemptions, and that is the 60 percent to 79 percent disabled. There are 2,535 veterans eligible for this exemption, and 23 percent, or 574, are currently using it. Our item 4, adding a 40 percent to 59 percent category, would allow approximately 4,400 veterans in Nevada to receive a greater exemption than the \$2,000 that is currently available to them.

Item 3 would give the 2,304 veterans with 100 percent disability a 100 percent exemption on their one piece of property. Item 2 would take those veterans

who are not getting one of these exemptions and allow them to have \$2,500 on their property instead of \$2,000.

Finally, item 1, which I would really like you to focus on today, would allow those 2,283 veterans listed as 100 percent individually unemployable (I.U.) to get the same exemption as the veterans with 100 percent service-connected disabilities. The 100 percent I.U. veterans are veterans whom the VA has determined, because of their service-connected disability, cannot maintain meaningful employment. They are prohibited by law from earning more than \$12,000 a year—that is adjusted according to where a veteran lives, but that is an approximate figure for Nevada. If they earn more than that, they lose the exemption. The VA pays the full 100 percent disability, but the veterans are told they cannot go out and earn more money. These people are, without their compensation, living at or below the poverty level, and the VA supplements that with their compensation.

One of the things I think was misunderstood is that all of these people who are 100 percent I.U. probably already receive a tax exemption. If they have a 60 percent to 90 percent disability with one issue—meaning one problem brings them to 60 percent to 90 percent—and that problem shows they cannot work, they can get 100 percent I.U. through the VA. If they have two problems or more, as one of the veterans behind me has—he is rated 80 percent for his back and 60 percent for his neck. Combined, that is more than 100 percent, but he does not have that 100 percent outright, so he might be getting that 100 percent I.U. because he has two issues.

That is where the complexity comes in, and that is where you cannot think those 2,900 people we would be adding are suddenly coming from nowhere. They are probably already getting a property tax exemption.

Let me close with an interesting thought. The reason it is important for you to add the 100 percent I.U. veteran to that category of 100 percent exempt is because right now, if you are 100 percent disabled, you can get \$2,800 for you and your spouse each month because of your compensation, and you can go out and earn as much money as you want. You can be a bank president. You can become a teacher. You can earn all that money, and there is no limitation.

However, if you are 100 percent I.U., you get that \$2,800 a month, but your job—what income you bring in as a veteran—cannot exceed \$12,000. If there are people we need to extend a little help to, it is those people who are literally living right on that poverty line. I hope you support A.B. 345 as we do.

Chair McClain:

There are a few little flaws in here, but we wanted this bill to get a hearing today so we could get a mock-up depending on items 1, 2, 3, and 4. You know this is going to Ways and Means. We wanted to get a feel for how much the Committee could support, what you think we should not do, or if you think we should send it all over to Ways and Means and let them sort it out. We still have a couple of little things we have to tweak.

Vice Chair Kirkpatrick:

Are there any thoughts from the Committee?

Assemblyman Grady:

I need to disclose that I am on the Veterans Cemetery Board for Fernley, but this would not affect me either way. Secondly, I really could support items 1 and 2. I think they would be good ideas.

Vice Chair Kirkpatrick:

I will disclose my husband is a veteran.

Assemblywoman McClain:

I guess I will disclose I am the Chair of the Nevada Veterans' Services Commission.

Vice Chair Kirkpatrick:

Mr. Anderson has the same disclosure, as does Mrs. Koivisto. Is there anyone on the Committee who is not a veteran or related to a veteran? Just so the record is clear, Mr. Goedhart, Mr. Mortenson, and Mr. Gustavson raised their hands.

Assemblyman Goedhart:

But I have more than 7,000 veteran voters just in Pahrump alone, so I will not be able to be completely unbiased.

Vice Chair Kirkpatrick:

Does anybody on the Committee have a problem supporting items 1 and 2 as Mr. Grady suggested? This is just to give Ms. McClain an idea before we hear more testimony.

Assemblyman Mortenson:

Could we not send it all forward but assign priorities? Ms. McClain, you are on Ways and Means, and you know better than I how they react.

Assemblywoman McClain:

That is up to this Committee.

Vice Chair Kirkpatrick:

What I am trying to do is get the priorities from this Committee so Ms. McClain knows what they are. So far, I believe, before we hear testimony, the Committee would like to do as much as we can, but items 1 and 2 would probably be the Committee's priorities.

Assemblywoman McClain:

Then we will do a mock-up and include those two items.

Vice Chair Kirkpatrick:

Then, at this time, I would like to call those in support of A.B. 345 to the witness table. Is there anybody who would like to testify in support of A.B. 345?

Assemblywoman McClain:

They are here; they just do not want to come forward.

Vice Chair Kirkpatrick:

Could those of you who support A.B. 345 give me a show of hands? [A group of veterans in the audience raised their hands.] Would anybody like to testify in Las Vegas in support of the bill? [There was no response.] Would anybody in Las Vegas like to testify who is neutral toward the bill? [There was still no response.] Is there anybody here in Carson City who is neutral and would like to testify?

Dino DiCianno, Executive Director, Department of Taxation:

As I am sure you are aware, we did file a fiscal note on this. After discussing this with Mr. Tetz, who provided us with additional information, we would like to be able to reject that fiscal note. I will contact the Budget Division of the Department of Administration to have them reject that fiscal note back to us in order to amend it. I believe it is overstated. If you will give us the opportunity, we will provide you with a new one. We are neutral with respect to the bill.

Vice Chair Kirkpatrick:

In that case, I will direct you to reject that fiscal note and bring us a mock-up for the new one next week.

Dino DiCianno:

I will do that.

Vice Chair Kirkpatrick:

Thank you. Is there anybody else who would like to testify as neutral on A.B. 345?

Mark Froese, Administrator, Research and Development Division, Department of Motor Vehicles:

We are neutral on this bill. The Department did submit a fiscal note on this bill as it is written.

Jeff Fontaine, Executive Director, Nevada Association of Counties, Carson City, Nevada:

We are also neutral on the bill. I know a number of counties have submitted fiscal notes, and we look forward to working with the proponents of A.B. 345 in terms of fiscal impact with the new priorities once the bill gets over to Ways and Means.

Vice Chair Kirkpatrick:

Is there anybody else who would like to testify from a neutral position? Is there anybody in opposition to A.B. 345? Is there anybody in Las Vegas who is in opposition? [There was no response.] In that case, we will pull this back today. Mr. DiCianno, I hope you can get us the fiscal note sooner. Do you think you can do that? [Mr. DiCianno indicated he would.] With that, we will close the hearing on A.B. 345.

Chair McClain:

[Addressed the veterans in the audience.] Thank you, gentlemen, for your support. We will open the hearing on Assembly Bill 400.

Assembly Bill 400: Limits the methods allowed for determining the taxable value of land by appraisal. (BDR 32-751)

Assemblyman James A. Settelmeyer, Assembly District No. 39:

[Distributed a mock-up of a proposed amendment ([Exhibit F](#)).] No other state appraises property the way we do in Nevada. We are unique. We are the only state left that still values property on a bifurcated system. We value the property and the land separately and then combine those to get a total. At times, that actually causes problems, especially in situations where the value of the property suddenly rises or, as we are now seeing, suddenly drops. Then things get rather confusing.

I served, during the interim, on the Nevada Tax Commission's Blue Ribbon Subcommittee to Study Property Taxes, which was put together to try to bring some consistency to the appraisal process. I served on it with

Senator Townsend; former U.S. Senator Bryan; Mr. Schofield, the Assessor from Clark County; Mr. Sonnemann, the Assessor from Douglas County; and Mr. Wilson, the Assessor from Washoe County. We met every other week for ten weeks. We started to actually have some resolution. We came together on different ideas for the first seven weeks.

In the eighth week, I had to be in Las Vegas for a meeting of Chair McClain's Legislative Commission's Study on Issues Relating to Senior Citizens and Veterans. During that meeting I missed, things went a little awry. By the time I got back for the next meeting, there was no longer any agreement. Discussions came forward on eliminating the view as a factor in appraising property, as some people felt it was being improperly used.

In the interesting discussions we had while trying to find a solution, everybody agreed there was something wrong, although we did not know what was wrong. Everybody thought something should be done, but nobody knew what to do. Unfortunately, we are still in that quandary here today.

We decided to bring a bill forward in an attempt to achieve some resolution. The *Nevada Constitution* clearly states things have to be equal in taxation. How do you do that when you have different counties appraising in different ways? This is just an attempt to bring some uniformity to the appraisal process.

As the economy gets worse, I think we are going to see far more lawsuits being filed regarding property assessments. In that respect, I believe the assessors would actually welcome the idea of trying to bring some resolution because they do not want to be named in any more lawsuits. This bill is an attempt to make a start at this.

I admit there are some problems and some issues. The assessors are wondering how this would be implemented. All we are trying to say is if they change the way they assess a property, then, when they notice individuals of their property assessments every year, they could include those changes with that notice so people would at least understand how their assessments had been calculated.

We feel some of the problems came about because people really did not understand how their property was assessed. As you talk to most constituents, if you tell them we have a bifurcated system for calculating the property tax, their eyes will glaze over because they do not understand what that means. Frankly, it is something like the rule against perpetuities. Even though you understand it, you really cannot explain it to anybody else.

I would welcome questions or comments on how we could make this a better bill. We would like to bring some resolution to decrease the number of lawsuits being filed.

Chair McClain:

Explain to us some of the mechanics of this. Give us some examples of what you mean by "comparable sales of land or capability of property to generate income."

Assemblyman Settlemeyer:

Currently, in the law, the assessor comes in, merely looks at your property, and does, in my opinion, somewhat of an abstraction method. They literally look at a property and say, "All right. We know about sales of property comparable to yours in surrounding areas. We know that homes in this area sold for—to take Incline Village as an example--\$1.2 million." However, using our system of valuation—the Marshall & Swift valuation method of establishing what the home is worth—you have to consider how much it cost to build the home in that particular area. You come to the conclusion it cost \$500,000 to build a home. That tells you the land is worth \$700,000.

But they are supposed to base the value on sales of similar land in the area. How do you do that if there are no comparable land sales? That is where some of the problems come in.

Some areas, such as parts of Clark County, have run out of vacant land sales to compare to find that number. Luckily, they have a fairly sophisticated computer program down there that balances this all out. The assessor just punches in the numbers. I think he said that computer system requires \$130,000 to \$140,000 just for maintenance. Obviously, there is no way White Pine County or Eureka County could use that program.

Again, how do we create something that will bring some consistency to this process so people actually understand how their property is appraised? Most of the problems actually came from northern Nevada. We are just looking for a way to provide that consistency. It might be helpful to hear additional testimony to try to find an answer.

Chair McClain:

Thank you. Do we have anybody else in support? Is there anybody in opposition?

Dennis Johnson, Private Citizen, Carson City, Nevada:

I am here to speak conditionally in favor of A.B. 400. I have worked in property for over 30 years, almost 25 years of that in and for public agencies. During the course of that time, I have had to appraise properties of all types, sizes, shapes, and conditions. I understand what the appraisers in the various counties are going through trying to clarify things. I also understand what Assemblyman Settlemeyer is trying to accomplish through this bill.

I would look at the bill as being very easily passable if one other element were to be added in. In the course of property appraisal, there are generally the market, the sales, and the cost to consider. In determining value, when a governmental agency looks to buy a property for any kind of public project or in general sales, there is also the provision that if nothing fits into the round hole, any reasonable method of determining the value can be used. The regulation does not have to specifically identify a process.

I think using the comparable land sales or a market-rent valuation process for determining the value of property is very limiting. I would think very strongly that there should be at least an alternative to the two methods that are presented in this bill.

Chair McClain:

Have you seen Mr. Settlemeyer's amendment?

Dennis Johnson:

No, I have not.

Chair McClain:

Mr. Settlemeyer, would you like to explain your amendment and give Mr. Johnson a copy?

Assemblyman Settlemeyer:

The amendment came out of numerous discussions with different individuals trying to figure out some kind of resolution. I would occasionally go knock on my assessor's door and try to get his input. I also tried to add in all the other players that were part of this, from Senator Townsend to Senator Bryan—I ran across him at one meeting—saying, "What can we do?" Everybody felt we should put something forward, but nobody knew what it should be.

The bill wound up being a combination of things, but it was just the concept. Adding in these additional lines gives the assessors more flexibility than the original bill. It gives them a time frame of 36 months for appraisals but allows them to go outside of that if need be. It gives them some wiggle room.

This was an attempt to establish a concept of priorities—you will do this, but if you cannot find that information, such as comparable sales, you are allowed to go here, then you are allowed to go here, and then you are allowed to go here. We were trying to create some type of uniform system so we could have some consistency among the counties. Some of the biggest problems were the discrepancies between appraisals in Washoe County, Douglas County, and Lake Tahoe. They are not that far apart, and they have basically the same view and the same area. However, the prices are dramatically different.

That is what this tries to reconcile. We worked with numerous individuals just trying to find something that would work. We talked to Mr. DiCianno a bit asking if the Nevada Tax Commission could help us out. That way, things would have to be approved by the Tax Commission to try to create that uniformity.

Assemblywoman Kirkpatrick:

What I do not want to do, if this is just a northern problem, is change the process that works in the south. In 2005, I learned that the way the rocks were placed could make a difference in how a property was assessed. I thought we had fixed that.

Assemblyman Settlemeyer:

That discussion did come up during testimony. Unfortunately, it seems sometimes when we think we have fixed something, something new comes along. The whole issue of rocks originally began with the concept of view. The issue was if you could see the lake from your property. Then it became a question of from where on your property. Did you have to be standing in your house, on the deck, leaning over the deck, or just anywhere?

Some of the data included on the latest form, which Josh Wilson thought was all right but I had trouble with, asked if the property had a pleasant view. I think that is very subjective. The other issue concerning view on his form was the degree of panorama. My question became was that with your head tilted or not? He could not really answer that question.

Getting two out of four on this form added 15 percent to 25 percent to the value of your property. That is where the issue of view came in. Mr. Wilson said, "Okay, fine; take the view form away from me. But then, how do I get to the right number? How do I prove I have comparable sales of \$3 million on these homes? How do I get to that number when Marshall & Swift says the value of the home is really only \$400,000 and the sale value of the vacant piece of land next door was \$300,000? How do I get to the combined number of \$1.4 million?

Assemblywoman Kirkpatrick:

In Clark County, we have some of the same type of things. Lake Las Vegas has a gorgeous view of the lake. Did you ask if they do it any differently?

My last question would be what do you do if you have a 36-month window during which you have seen values go from one extreme to another? Would you just find the average mean?

Assemblyman Settlemeyer:

In my opinion, you would find the average mean. Then again, if something does not fit within this restriction, you could always go to the Tax Commission or notice the property owners of why it changed. We are entering into a no-man's-land in many respects. Clark County, for the longest time from my understanding, had enough sales turnover that they actually had reasonable comparable sales that would give them the information.

Now we are entering a situation where the last sale was actually a short sale. How will that skew the numbers? It is going to start affecting everybody across the board. We are trying to put something in law now to try to head off some of the problems that may occur, but this is a work in progress. I appreciated your hearing it, and I have no problem adding anybody's input into it to try to find resolution that would try to prevent all these lawsuits against assessors.

Assemblywoman Kirkpatrick:

I am going to stick up for the Tax Commission. I do not want to just tell them to fix these problems. That is unfair to them. I am trying to make sure that, whatever the intent is, we make it very clear, either today or during work session, what type of regulations we expect them to come up with. We are giving them the task, and if we are not clear on what we are asking them to do, we, as legislators, cannot complain about the process.

Assemblyman Settlemeyer:

I think you hit the nail on the head: clearness and clarity. We want something that is established. Most people are angry with their property tax appraisal because they do not know how it is done. We are trying to state what the system is. If an assessor wants to do something else, he is more than welcome to do so, but he needs to go to the Tax Commission, describe that process, and have them approve it as a valid process.

That transparency is, to me, the heart of the matter. That way, the Tax Commission and the appraisers all understand the set guidelines and rules. That might alleviate the lawsuits. I think one suit, which was brought by 9,000 people at Incline Village, was just dismissed a couple of weeks ago.

Assemblyman Anderson:

I think Mrs. Kirkpatrick clearly understands the issue. Being a northern legislator, I recognize Douglas County has a different method of operation from Washoe County and Carson City, which are the three entities that hold property up at Lake Tahoe. I also know that the makeup of the sand at the lake is different at the northern shore from that on the western shore, as is the steepness of the terrain. Hard as it may be to imagine, those factors affect the property value.

Although Mr. Settelmeyer's family arrived here long before mine did, we are both native Nevadans. Clearly, we all see the vista of the land in front of us as unique, especially the beauty of Tahoe. Tahoe is famous worldwide for its uniqueness, but I think that is part of the problem the assessor is faced with, and thus the reason for the suit.

Clark County, which is the largest, has a computer system and has moved to an annual assessment rate. The last time we talked about this several sessions ago, the rest of us had not yet moved forward into full automation.

The question I would ask Mr. Settelmeyer is: have the assessors had an opportunity to look at your proposed amendment? Also, have you had any kind of agreement from the assessors in Washoe County, Elko, and some of the smaller-populated counties? Have they had an opportunity to get their input into the final document you are proposing to us, and have they signed off on it?

Assemblyman Settelmeyer:

I have not really had time. The amendment came out of Legal very recently. Douglas County has looked at it, because I ran into Doug Sonnemann earlier today. I have not had an opportunity to show it to the other assessors. I do plan on sending it out tonight to the other assessors across the state to try to get their input. I am trying to find a happy medium. Even Mr. Sonnemann has indicated he has some concerns with it.

Assemblyman Anderson:

Considering the fact that this issue is under legal dispute currently, I believe it is still an ongoing question.

Assemblyman Settelmeyer:

I believe that suit was dismissed by the Nevada Supreme Court.

Assemblyman Anderson:

In its entirety?

Assemblyman Settlemeyer:

The problem is there are three or four different cases.

Assemblyman Anderson:

I was going to say I believe it is still under legal discussion. I would prefer that we not support either side of the issue while it is under adjudication. Has the LCB Legal Division taken a look at the question of how this would potentially impact the legal standing of those counties that are currently involved in the assessor suits?

Assemblyman Settlemeyer:

Not to my knowledge. It is my opinion, though, that there has been no real time when someone has not had a case pending in front of their board of equalization. We have so many board of equalization problems in each county on a daily basis. I understand exactly what you mean, though, and it concerns me, too, that we might affect things that are already in the system. I am not sure there is a really good answer to that. I will ask Legal.

Chair McClain:

We can have staff check on that.

Assemblyman Anderson:

I was not as concerned about the board of equalization question, because that is always going to be present. The actual suit has a different set of parameters to it, and that was what I was concerned with.

Assemblyman Settlemeyer:

I do have an update on the Washoe County case that I will email to you.

Chair McClain:

Okay, but we can have Michael Nakamoto check on that question of whether or not we should effect legislation that would affect an open court case.

Does anybody else want to weigh in? I know we have a new amendment that not many people have seen, but you are welcome to give your opinions.

Jeff Johnson, Assessor, Humboldt County Assessor's Office, Winnemucca, Nevada:

I do have some questions and concerns regarding the amendment. One of my concerns is that in a county of our size—about 9,700 square miles and not very densely populated—there are a lot of rural parcels that we do not have a lot of data for, especially if we get that time period down to 36 months. As I understand it, there is a 40,000 population limit in here somewhere. If you

have a population of less than 40,000, you can go back further than 36 months. This would limit us to going back only three years.

If we have seven or eight sales comparisons for one parcel, I am terribly excited. I feel like I just hit a bucket load of sales. A lot of times I may have one or two sales, and sometimes those are improved. Trying to figure out the value of the land in a sale in Denio would be nearly impossible. All we have to go by are vacant land sales. If I try to compare it to sales in Winnemucca 90 miles away and make adjustments, that gets to be very difficult. I have a number of concerns with that.

I am not sure I totally understand section 6 of the amendment and how we are noticing those people if there is a different valuation method used. I am a little confused by the wording there, so I am not exactly sure how that would work.

The other concern is we try to value land every year. If we did use a different valuation method, this would mean I would be in front of the Tax Commission on an annual basis asking for different methodologies or ways of getting the land values accomplished.

I really appreciate Assemblyman Settlemeyer's attempt to make this a bit less of a conflict and to simplify things. I am just concerned that this will make it a lot more difficult for us to find ways to value our land.

Chair McClain:

Thank you. Let us hear from someone in the south.

Mark Schofield, Assessor, Clark County Assessor's Office, Las Vegas, Nevada:

I had the distinct pleasure of working with Assemblyman Settlemeyer on the Nevada Tax Commission's Blue Ribbon Subcommittee to Study Property Taxes to try to resolve some of these disputes. He certainly brought a refreshing intellect and a whole new perspective to the problems facing the citizens of Incline Village and the assessors who dealt with their issues.

I would like to give you a little background into what has occurred here. The assessors who have to deal with the appraisal of land and improvements in the Tahoe Basin area are presented with a unique challenge. Senator Townsend characterized it very well during one of the meetings of the Blue Ribbon Subcommittee when he said that area is probably the most pristine place on the planet and, therefore, presents some unique challenges relating to the appraisal of the property.

These disputes have actually been going on for several years. The regulations adopted by the Nevada Tax Commission back in 2004 governing the appraisal of property included some changes that concerned the citizens of the Tahoe area who were having their property appraised. One of the changes was that 36-month period of time for which assessors can use sales unless they are in a county with a population of less than 40,000. They can only use sales that are no older than 36 months. That was a direct result of workshops and the subsequent embedding of that language into the regulation in 2004.

Prior to the 2004 change in regulation, I had the pleasure of meeting with the then Department of Taxation Director Chuck Chinnock; then Tax Commission Chairwoman Barbara Smith Campbell; a delegation from the Incline area, Ms. Maryanne Ingemanson and Mr. Les Barta; and representatives from Washoe County. We tried to meet to hammer out some of the details prior to this regulation being passed and codified by the Legislative Commission. I am not trying to be argumentative, but I believe most of what Mr. Settlemeyer is trying to accomplish is already incorporated into the code.

In 2008, we had multiple workshops with multiple participants, not only citizens from Incline but also the Nevada Taxpayers Association. Many lawyers were involved in crafting the language that was subsequently passed by the Nevada Tax Commission on March 3, 2008. We can provide the minutes to you.

We felt we reached a consensus. Most of the changes in that regulation were subsequently codified by the Legislative Commission and are now the assessors' bible, if you will, for the assessment of land. It almost mirrored the language from 2004 but with some minor modifications. We felt we had embedded into the code as many bright lines as we possibly could.

My concern would be if you embed language governing appraisal methodology into the statute, you might bring about some unintended consequences. As you and I know, back in the day when I was the lobbyist for the Nevada Assessors' Association, we would write legislative language. That language would go through the LCB vetting process and come before you, and the law would get passed.

Often, we would discover later that we had not thought of a ramification at the time the law was passed, and we would have to go back and get it changed the next session. I think the appropriate venue for clarification or modification of any type of appraisal methodology is the *Nevada Administrative Code* (NAC) through the Nevada Tax Commission.

Again, I very much appreciate Assemblyman Settlemeyer's efforts, but unfortunately, we are at a disadvantage here because we do not have copies of the amendments. All we have is a partial copy of the bill itself, so it is difficult for me to articulate what I think the amendment says. My colleagues in the north would have to address that.

Chair McClain:

I think Mr. Settlemeyer is going to try to get copies to the assessors in every county. We are not going to do anything with the bill today anyway. Are there any questions for Mr. Schofield? [There were none.]

Barbara Smith Campbell, former Chairwoman, Nevada Tax Commission, and Chair, Nevada Tax Commission's Blue Ribbon Subcommittee to Study Property Taxes:

We had a great group of people, including Assessors Schofield, Wilson, and Sonnemann, Assemblyman Settlemeyer, and Senator Townsend, working on this very difficult issue. As you all know, the impetus for this came from the Incline Village lawsuits, but that does not mean this does not translate across the whole state. The *Nevada Constitution* tells us we have to assess properties in the same manner. I think what Assemblyman Settlemeyer is attempting to do in the amendments to A.B. 400 is to create that transparency that needs to take place so taxpayers understand how their property is being valued.

The other part I liked so much about this—and I have not had a chance to read it in its final format—is the fact that the Tax Commission, especially under the results of the Nevada Supreme Court's decision in *State, Bd. of Equalization v. Bakst*, 122 Nev. 1403 (2006), needs to make sure it is keeping current with all the regulations necessary for the assessment of property. One of the things I like in the amendment is that if assessors are not able to reach a comparable sale, either within that 36-month period or, with a waiver, outside that 36 months, they need to bring the methodology forward to the Tax Commission for review to make sure it is appropriate and consistently administered across the state. If it is a new methodology that comes about out of technology, such as new computer systems, then it is incumbent on the Commission to make sure the regulations are adjusted to ensure that it is approved or not approved as technology or assessment practices, going forward.

I would encourage everyone to be very supportive of the amendments and the bill. I know the assessors and all the interested parties really need to look at it a bit more, but I would love to be able to bring back to you some consensus language in a work session. I know we are getting close to the April 10 deadline, but I think it is very important that the regulations be consistent across the state and there is transparency for taxpayers so they know how their property is being assessed.

Mark Schofield:

I would like to go back to Assemblyman Anderson's concern. He is correct that there is a pending lawsuit, and it is not the one remanded back by the Supreme Court. There is an additional lawsuit that challenges the constitutionality of the regulations that were passed on March 3, 2008. There is, in fact, litigation out there dealing with this issue.

In addition to that, if we could have the approval of Assemblyman Settlemeyer, we would like an opportunity to also provide an amendment to this bill.

Chair McClain:

You people are going to have to get together because we only have until one week from today, and we only meet twice a week. I will leave it up to Mr. Settlemeyer to try to get in touch with everybody.

Mark Schofield:

We have copies of our proposed amendment ([Exhibit G](#)). Mr. Johnson can pass those out to the Committee members and Assemblyman Settlemeyer.

Chair McClain:

We will get Mr. Settlemeyer's amendment down to you too. We are going to try to fax it down to staff at the Grant Sawyer Building right now.

Does anybody else down south want to speak? Okay, back up in Carson City.

Laurie Mookini, Chief Appraiser, Churchill County Assessor's Office, Fallon, Nevada:

We basically want to mirror Mr. Johnson's concerns as a smaller, rural community being tied to the 36-month time period. In Churchill County, 2006 was our peak period, so if we are only able to use sales from 2006 to the present, when there are not a lot of sales after 2006, we are probably going to end up being out of market. That is one of the things we do not want to do at this time. Other than having the 36-month limit and not being able to use other types of methodology that have already been approved, we have certain concerns with this, especially for the rural communities.

Chair McClain:

So you two have the same problem with the time frame? [Ms. Mookini confirmed that.] I am sure Mr. Settlemeyer will work with you.

Joshua Wilson, Assessor, Washoe County Assessor's Office, Reno, Nevada:

I know there have been some issues surrounding the Washoe County Assessor and the assessments in the Incline Village area. I thank Mr. Settelmeyer for bringing this issue forward to try to reach some sort of clarification and find some resolution to this seemingly never-ending litigation.

Having said that, I might have some concerns with the initial bill in that vacant land sales in an area where land is scarce could actually lead the assessor to arrive at an inflated land value. I was summoned to a deposition on the case Assessor Schofield referenced, whereby the Village League to Save Incline Assets is challenging the constitutionality of regulations adopted by the Nevada Tax Commission and the Legislative Commission. In some of the arguments I can recall over the past seven years that I have dealt with this tax dispute—not in the capacity of assessor but in the capacity of an appraiser—I recall them wanting to place more emphasis on the improved-sales analysis. That was because there was such a great abundance of improved sales by which we could try to either subtract the improvement value or allocate a certain portion of the land to the improvement.

The bottom line is—and perhaps Assemblyman Anderson can relate to this—I have to reappraise the Probasco area of Sparks. There are no vacant land sales in that area. I am going to have to pull comparable land sales from Spanish Springs or maybe D'Andrea, try to determine that they are somehow comparable, and adjust them down to the Probasco area. We will have to use abstraction or any mechanism or method of analysis for looking at an improved sale to estimate a land value in a built-out area.

That is what we appraisers are here for. We are here to look at a sale of a property, figure out the puzzle of why certain people paid this for the property, and, ultimately, assess a fair and equitable land value throughout the county. That is our challenge, and it is certainly somewhat difficult at times.

Chair McClain:

Do either of these amendments help you at all?

Joshua Wilson:

No.

Dino DiCianno, Executive Director, Department of Taxation:

I think a lot of this has already been brought to light by the comments of Assemblywoman Kirkpatrick and Assemblyman Anderson. There is a long history here that started before 2004. It precipitated a bill from Assemblyman Hettrick, Assembly Bill No. 392 of the 73rd Session, which is the

language you see in front of you. They were trying to achieve some kind of statewide consistency in the valuation of land.

The issue here is not the improvements. The issue is the ability to value land and to equalize it uniformly statewide. That is why the onus was placed with the Tax Commission to promulgate regulations to assist the assessors in getting to that result.

Unfortunately, we are constantly being sued. It would appear everything the Commission, the Department, and the assessors have tried to do does not seem to resolve the issue. I think that is why Mr. Settlemeyer brought this before you today. What we want to do is resolve this once and for all for everyone concerned. That is why I do not have a problem with it.

I would be more than happy to assist this body, Mr. Settlemeyer, the assessors, and all the taxpayers to try to put this to bed. This issue has an impact not only on the Commission and the assessors but also on the State Board of Equalization. The Board of Equalization has to hear an appeal and then equalize not only the property that is under appeal but the property within that county and throughout the state. This is a never-ending issue, and I hope we can put it to rest.

Chair McClain:

Thank you. Have you seen Mr. Schofield's amendment? Would that help by using the most current editions of *The Appraisal of Real Estate* published by the Appraisal Institute and *Property Assessment Valuation* published by the International Association of Assessing Officers?

Dino DiCianno:

I believe what he is attempting to do is provide the assessors with the tools necessary to value the property. What they are concerned with is that, if you limit their abilities or the tools in the tool box, it may not necessarily address the problem. I do not take issue with what Mr. Schofield and the assessors have brought forward to you. I do not take issue with what Mr. Settlemeyer has brought forward. We are all attempting to put this to bed.

Chair McClain:

I think this is always going to be a problem with a state like ours that is so diverse. If you try to compare one of those little mountains between here and Las Vegas with Lake Tahoe, there is no way they can be considered equal. I was just wondering, though. We use international building codes and such. Is there some sort of international code we can refer to that would get everybody off our backs?

Assemblyman Gustavson:

I cannot help but bring this up. We tried to solve this problem last year through an initiative petition. I know some people are not supportive of it, but many of the citizens are. It would simply base a property's value on the actual sale of the home, tax it at 1 percent of the value of the home, and increase it every year automatically up to 2 percent or the cost of living, whichever is less.

We are the only state that has this convoluted tax system right now. Other states do it the way we tried to do it. Unfortunately, I did not introduce that this session. I could have solved the problem if I had introduced that again as a bill this session. I believe that would really have solved this problem.

Chair McClain:

Thank you for not doing that. What would our budget hole be if that were passed?

Assemblyman Gustavson:

Actually, we did the calculations. In the long run, most counties wind up with more money. Generally, in a normal economy, the counties would wind up with more money than they actually have now, and it would give everybody a stable, predictable tax base. You would know what your tax would be every year, and it would not exceed that.

Normally, homes sell about every 5–7 years on average. The valuation would be based on the new sale price of the home. Therefore, in the long run, the counties would wind up with more money than they do today.

Dino DiCianno:

I do not want to belabor this, but I believe all the folks at Incline Village want is the ability to understand what the assessor does and that the value of the property is fair and equal. That is the bottom line, that is all the assessors are trying to do statewide, and I think it is important to get there. Even with the regulation that was adopted by the Tax Commission after this body directed them to establish the regulations the assessors use, there is a court battle going on over that right now. We seem to be going in circles, and I just want to stop the circle.

Chair McClain:

Yes, to quit chasing your tail. Is there anything out of this that we could do that might help?

Dino DiCianno:

Absolutely, and I would be happy to provide any assistance I can to put this thing to rest.

Chair McClain:

Let us have all of you get together to see if you can come up with something workable.

Barbara Smith Campbell:

I would like to ask the Assembly Committee members to remember that part of the equalization problem is not the example the Chair brings up of how to assess something out in the mountains versus Incline Village. Part of the issue on equalization, which the assessors and the Department of Taxation work so diligently on, is to make sure the methodologies used by the 17 county assessors are consistent from county to county. That creates equalization issues as well. I think this bill goes a long way toward trying to establish more parameters to ensure that equalization methodologies used by the assessors, in and among themselves, are equal.

Chair McClain:

I think that is probably the best we can do.

Joshua Wilson:

The constitutional requirement of Article 10 of the *Nevada Constitution* that I have been faced with is uniform rate of assessment and taxation. In my mind, what the framers of our Constitution were looking for was that if Joe Bob's property was worth \$100 and Will Smith's was worth \$100 then they would pay the same taxes. That is how equalization is achieved. Throughout the country and in every other state I am aware of, equalization is traditionally measured by the resulting value compared to what the property is worth on the open market.

What matters is not whether you are at 100 percent of market value or 20 percent of market value but that everybody is equally shouldering their share of the tax burden. Anything we can do to try to assist in that process and have a way to measure when property is, in fact, equalized is crucial to the well-being of the State of Nevada.

Assemblyman Anderson:

I think Mr. DiCianno's point is important, but I think it would be very unusual if we actually settled the question of property taxes and ended the complaints from people who, because they do not understand the formula, think their appraisals are set too high. I have yet to see one of those formulas that is clearly understandable to everyone or a taxpayer who was not unhappy about having to pay what they consider an unjust tax. With all due respect, regardless of how we come out of this, I do not think we are going to make everybody happy. I will be surprised if we make anybody happy in the end.

Even in those states where they seem to have a consistency of assessments, the appeals panels still go on and suits still take place. I do take to heart, however, Mr. DiCianno's admonition that we do not have to stand around and wait for the settlement of the lawsuit because there is only going to be another one following it. I think that is an absolute truism, and I would agree. I just want us to be cautious and not undermine what is going on.

Mark Schofield:

I would like to touch on what Mr. DiCianno was referring to. I certainly echo Assemblyman Anderson's statement that when one lawsuit is settled, another one is just around the bend. There is litigation on property tax in every state in the nation, and there always will be.

I would like to refer you to the fiscal note prepared by the Department of Taxation. I would just like to read the last paragraph:

Assembly Bill 400, as proposed, could potentially eliminate *Nevada Administrative Code* 361.119 [which is the one on which we put forth a great deal of due diligence and which was the most recently passed regulation governing the assessment of land] as currently stated because the sales comparison approach is defined in the regulations as limited to comparisons of vacant land. If the sales comparison approach could not be used because of insufficient sales and the income approach is not appropriate as a method of valuation for residential property, it is possible that the alternative methods in *Nevada Administrative Code* 361.119 could not be used because they are not allowed under the *Nevada Revised Statutes*.

With that said, this amendment could change that viewpoint. However, I would urge you to exercise an abundance of caution if you choose to codify appraisal methodology in *Nevada Revised Statutes*. I plead with you not to tamper with what Mr. DiCianno referred to as the current tools in the assessors' tool box that he uses in a desperate attempt to maintain uniform and equal appraisals of property.

Chair McClain:

Thank you, Mr. Schofield; warning well taken. Does anybody else have any comments on A.B. 400? [There was no response.] See what you can do. Unfortunately, this is one of those last minute introductions, and I think it is going to need more work than you have time for. Give it a shot, though. We will close the hearing on A.B. 400.

We do not have anything else today. This is probably how we will do our next few meetings: starting with a work session, hearing bills, and then, if we have time, some more work session. With that, we are adjourned [at 3:26 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: April 2, 2009

Time of Meeting: 1:35 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>A.B. 205</u>	C	Michael Nakamoto	Proposed amendment 2B
<u>A.B. 205</u>	D	Michael Nakamoto	Proposed amendment from the Nevada Assessors' Association
<u>A.B. 345</u>	E	Tim Tetz	Memorandum providing background information
<u>A.B. 400</u>	F	Assemblyman Settelmeyer	Mock-up of proposed amendment
<u>A.B. 400</u>	G	Jeff Johnson	Proposed amendment