

**Minutes of the Meeting of the Advisory Committee to the  
Legislative Committee to Study the Distribution among Local Governments of  
Revenue from State and Local Taxes, NRS 218.5388 to 21853886, inclusive  
August 10, 2000  
Las Vegas, Nevada**

The meeting of the Advisory Committee to the Legislative Committee to Study the Distribution among Local Governments of Revenue from State and Local Taxes was called to order by Guy Hobbs, Chairman, on August 10, 2000, at 9:45 a.m. in Room 4412 of the Grant Sawyer State Office Building, Las Vegas, Nevada.

**COMMITTEE MEMBERS PRESENT:**

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Guy Hobbs, Chairman, Hobbs, Ong and Associates  
Mike Alastuey, Committee on Local Government Finance  
Bruce Brooks, Humboldt County  
Gary Cordes, City of Fallon  
Rick Kester, Committee on Local Government Finance  
Marvin Leavitt, City of Las Vegas  
Dave Pursell, Executive Director, Department of Taxation  
Linda Ritter, City of Elko  
Terri Thomas, City of Sparks

**COMMITTEE MEMBERS ABSENT:**

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Janet Murphy, Tahoe-Douglas District  
John Sherman, Washoe County

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

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Kevin Welsh, Deputy Fiscal Analyst, Fiscal Analysis Division  
Ted Zuend, Deputy Fiscal Analyst, Fiscal Analysis Division  
Kim M. Guinasso, Principal Deputy Legislative Counsel, Legal Division  
Jeanne Peyton, Secretary, Fiscal Analysis Division

**EXHIBITS**

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**Exhibit A** is the Meeting Notice and Agenda.  
**Exhibit B** is the Attendance Record.  
**Exhibit C** is testimony submitted by Sally Devlin, a Pahrump resident.  
**Exhibit D** is a memorandum from Linda Ritter addressed to the Committee members, dated August 9, 2000.  
**Exhibit E** is proposed amendments to A.B. 314 submitted by Carole Vilardo, Executive Director, Nevada Taxpayers' Association.  
**Exhibit F** is a memorandum addressed to the Advisory Committee members from Linda Ritter, City Manager, City of Elko, dated August 9, 2000.  
**Exhibit G** is a packet prepared by the Department of Taxation, dated August 10, 2000, regarding Exemptions and Exclusions.  
**Exhibit H** is draft language for changes to the statutes in tax increment areas.  
**Exhibit I** is a memorandum and bill draft request addressed to All County Recorders, from Judith A. Vandever, County Recorder, by Robert Spencer, Auditor, dated June 27, 2000.

There were approximately 35 persons in the audience.

## **Call to Order -- Opening Remarks**

Chairman Hobbs called the meeting to order and noted that the committee had a lengthy agenda to cover today. He called for a motion to approve the minutes from the March 29, 2000, meeting.

## **Approval of the Minutes from the March 29, 2000, Meeting**

MR. LEAVITT MOVED FOR APPROVAL OF THE MINUTES FROM THE MARCH 29, 2000, MEETING. MS. RITTER SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

Regarding Agenda Item III (Items for Conclusion), Mr. Hobbs said that these are issues the Committee has been dealing with for some time and they must be drawn to some form of closure by possibly making a recommendation to the Legislative Committee in the form of a bill draft request (BDR) or asking for additional policy direction. He said that some of the items would be taken out of order to accommodate the people testifying.

## **Discussion and Possible Action on Bill Draft Request (BDR) Regarding Calculation of the Base for the Local Government Tax Distribution Fund**

### Guy Hobbs

Chairman Hobbs explained that this issue has been discussed since the passage of Senate Bill 254 (Chapter 660, *Statutes of Nevada 1997*) and involves the computation of the base from year to year. He questioned if this was an issue that the Committee would like to address by modifying the statutes and is it the intent that the base remain static at either the initial year or that it continues to roll forward adding the excess each year.

Responding, Mr. Leavitt said that it would be logical to give more emphasis to the excess. The problem with the current formula is that growth occurs in the various counties at different times. He outlined ways to possibly improve the formula, including eliminating the Consumer Price Index (CPI); however, this would also eliminate the guarantee, which is important to some of the entities.

Ms. Thomas said that the formula could be adversely affected if growing communities do not have the same experience in a given year because of the lack of excess. In her opinion, this is a major issue because this was one of the key features of the formula. If communities are being treated inequitably that are growing the same but in different years, it could be a problem.

Chairman Hobbs suggested fixing the base at a point in time, keep the CPI in the formula, and cap the base and excess sometime in the future so that it will not go past a certain ratio. In his opinion, it should be decided today whether or not the current formula is an issue that will require further research to develop other options for the Committee to review. The concentration should be on the concepts of the formula and how they will work in the long term.

Mr. Leavitt indicated that a formula should be designed to work for all entities over time, both those communities that are experiencing growth and those who are not.

The Chairman said that on occasion create a ratio of base to excess in each year's total amount for distribution (i.e., 20 percent excess and 80 percent base) has been discussed. He informed the members of the audience that they should come forward to testify if they had any suggestions to offer the Committee.

### Phil Stoeckinger

Mr. Stoeckinger, City of Henderson, noted that if there was a revenue shortfall or slow growth in terms of sales tax revenue for a given year, the excess distribution portion of the formula only factors the population growth for a one-year period of time. Since a five year average is used for population and assessed valuation, he suggested using the same

system to determine the base distribution part of the formula.

He indicated that the City of Henderson projected numbers for 15 years forward in time, and two entities with similar populations were receiving diametrically different amounts from the distribution formula. The one-plus language in the current formula has always been a point of contention for the City of Henderson. However, a valid point made by Mssrs. Hobbs and Leavitt regarding a stabilizer in the formula is not to reward instantaneous distribution for instantaneous growth, but should be dealt with over a period of time.

The Chairman said that the discussion is covering two related issues: 1) whether or not there is sufficient revenue in the excess over time and how to accomplish that, and 2) the mechanics of how to distribute the revenue in the excess. By using both population and assessed valuation may be redundant because they are similar issues and if both are applied to the formula, growth may be rewarded twice in the formula. He asked if there should be additional analysis given to the base and excess other than what the law presently provides; and what types of alternatives the Committee should begin to discuss, evaluate and eventually analyze.

Mr. Leavitt said if a larger percentage were given to the excess, probably overtime the original base calculation would not always guarantee all the entities the CPI.

Mr. Alastuey indicated that the CPI does not serve on an equitable basis unless there is uniform growth among all the entities; therefore, giving precedence to CPI in all cases is an issue that the Committee needs to further explore.

Chairman Hobbs asked if it were the general consensus of the Committee and other interested parties to adjust the formula to provide more emphasis to the: 1) excess over time, 2) statistics that drive it; or 3 (correlation between the distribution of revenue and growth).

Mr. Leavitt thought it would be logical to run some theoretical figures to see what would occur in various situations.

The Chairman indicated that the Department of Taxation has been responsible for calculating all the numbers; therefore, it would be helpful to them if the Committee could narrow down the analysis to the areas that would be most logical. It is an extremely complicated issue and took over two years to develop the formula presently being used, so it will take some time to develop the appropriate revisions. He requested that a subcommittee be formed of members of the Advisory Committee and other interested parties to begin to identify the alternatives to the formula and any related mechanics that may be helpful to the Department of Taxation in performing the analysis. Prior to doing this, the Committee must decide what it is trying to achieve.

One thing the Subcommittee is trying to achieve is to provide more emphasis to the excess over time, said Mr. Leavitt. This would develop a relationship between how much emphasis is given to the excess and how much is given to the base plus CPI.

Mr. Alastuey indicated that according to the City of Henderson, some of the elements of the formula such as the one plus stabilizer, which has been discussed in detail during past meetings of this Committee, is a necessary element in order to eliminate events that may not be predicted from future growth patterns. He suggested using a blend of CPI and a fixed vs. a moving base to try to isolate various levels of base growth.

Mr Stoeckinger added that there should be some type of stabilization factor included in the formula. One element he said he would like to review is how the base is calculated and suggested that an average of five years should be considered. He noted that sometimes the CPI could have a dual effect of either rewarding or penalizing an entity, depending on how growth is occurring in the community.

Following Committee discussion it was the consensus of the Committee that the formula should include some type of stabilizer.

Robert S. Hadfield

Mr. Hadfield, Executive Director, Nevada Association of Counties (NACO), said that the reason he originally recommended adding the CPI to the formula was to guarantee those counties with no growth that they would be provided enough funding to remain operational. It was not recommended to deprive a growing area of any money. Many of the communities promote growth in order to generate more revenue in their tax base.

Responding to Mr. Leavitt, Mr. Hadfield said that he recommended using the CPI in the formula as an option for the counties to maintain purchasing power in the instance that they do not receive income from growth.

Following a brief discussion on various scenarios that could be calculated for the formula, the Chairman requested that a subcommittee be formed to further identify the areas that should be researched. He said that when discussing the formula, the subcommittee should concentrate on the areas of the original objectives, maintain focus on the need for a stabilization factor, and consider the conditions in some of the rural areas that are already experiencing economic hardship. He requested that these recommendations could be presented to the Legislative Committee at their next meeting.

Responding, the Chairman and the full Advisory Committee agreed to work on this issue.

CHAIRMAN HOBBS MOVED FOR THE WORKING GROUP TO IDENTIFY THE AREAS OF STUDY FOR PRESENTATION TO THE LEGISLATIVE COMMITTEE THAT FOCUS ON THE RELATIONSHIP OF THE BASE AND EXCESS ELEMENTS OF THE FORMULA. MS. THOMAS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

### **Public Testimony**

#### **Sally Devlin**

Ms. Devlin, a Pahrump, Nevada, resident indicated that the state funds are divided to the northern and the southern areas of the state; however, the central part of the state receives nothing. In her opinion, the state should be considered as a whole.

### **Discussion and Possible Action Regarding Government Accounting Standards Statement 34 (GASB 34) "Basic Financial Statements and Managements Discussion and Analysis for State and Local Government"**

#### **Marvin Leavitt**

Mr. Leavitt explained that the GASB 34 changes and adds to the reporting requirements for state and local governments. The Committee on Local Government Finance (CLGF) has undertaken a project to review Chapter 354 of *Nevada Revised Statutes* (NRS). During its review of GASB 34, the CLGF came to the conclusion that several inconsistencies that must be corrected. He indicated that GASB 34 would be a major project for some of the local governments. He said that the CLGF anticipates having a bill introduced by either the Nevada League of Cities or the Nevada Association of Counties. The problem is that the project is not finalized and the deadline for requesting a bill is getting closer. He suggested that the CLGF conduct a meeting prior to the next meeting this Committee. The information collected by the CLGF could be presented to this Committee at its next meeting to discuss the information that will require a bill draft.

Responding to Mr. Leavitt, Ms. Guinasso said that one bill could handle all the changes. She questioned if he were suggesting that the provisions of Chapter 354 be aligned with GASB 34.

Mr. Leavitt said yes, but that there also were other inconsistencies in Chapter 354 that have developed over the years. He also questioned introducing a bill that would provide the authority to do administrative code provisions.

#### **Carole Vilardo**

- Ms. Vilardo noted that clarification of the taxpayers' bill of rights is listed in NRS 360. This provision provides the Tax Commission the regulatory authority. She questioned if the Committee was considering changes to regulatory authority. She informed the Committee that the Tax Commission had to be provided regulatory authority because they were responsible to do the regulations.

Mr. Pursell asked if the Tax Commission members and the Committee on Local Government Finance members could prepare the regulations as a group.

Responding, Ms. Vilardo said it was discussed with the CLGF to provide in the law that in the instance of severe financial emergency, three members of the Tax Commission and three members of the CLGF would make the final determination. She noted that the Tax Commission strongly relies on the CLGF and the Department of Taxation to make these determinations. Also, because so many of the questions raised involve monetary or budgetary issues, the blending of the CLGF and the Tax Commission would work well.

Mr. Leavitt said maybe at its next meeting the Committee could come forward with a recommendation for revisions to Chapter 354. He indicated that many changes would be required and it should be a lengthy bill draft. He said he would like to schedule a meeting in mid-September 2000 of the CLGF and if it is necessary, to continue the meeting for two days.

### **Discussion and Possible Action on Bill Draft Request (BDR) Regarding Continuation of Review Period for Taxation of Intangible Personal Property (S.B. 411, 1999 Session)**

Guy Hobbs

- Chairman Hobbs said that this issue is related to S.B. 411 of the 1999 Session, which dealt with removal of the tax on intangibles. A reporting process was scheduled to assess the impact if this tax was removed. The first report is due in October 2000 and the review period will continue through the end of the interim period with subsequent reports due in February 2000 to the Senate Taxation Committee and the Assembly Committee on Taxation. Because this process will be a five-year phase in, it is suggested that the study period be continued through the 2001-2002 interim period.

Mr. Pursell indicated that at the last full committee meeting it was decided to review deregulation in terms of how these plants would be valued. He suggested that the S.B. 411 Subcommittee schedule a meeting to sort out some of these issues.

The Chairman suggested going forward with a bill draft request to alter the dates of review on the impact of the tax on intangibles.

Mr. Welsh indicated that the S.B. 411 Committee had a statutory requirement to provide a report by October 1, 2000.

THE CHAIRMAN MOVED TO PURSUE A BILL DRAFT REQUEST ALLOWING THE ADVISORY COMMITTEE TO CONTINUE THE REVIEW OF THE IMPACT OF THE TAX ON INTANGIBLES THROUGH THE FULL PHASE OUT PERIOD. MR. LEAVITT SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

### **Discussion and Possible Action Regarding Personal Property**

Guy Hobbs

Chairman Hobbs noted that John Sherman was unable to attend today's meeting because of other meeting obligations; therefore, he would update the Committee on this issue. He explained that the Western states questionnaire results that were presented at the last meeting were very informative. He indicated that the results of the Questionnaire should be

sent to the various economic development agencies, the S.C.R. 19 Subcommittee (Encouraging Businesses to Organize and Conduct Business in Nevada) and the Office of the Lieutenant Governor, unless it has already been sent.

Responding, Mr. Pursell said that the Department of Taxation did not forward the results as yet.

The Chairman indicated that Mr. Sherman made the following suggestions for modifications:

- The Urban and Rural communities are using different exemption amounts, which may need to be adjusted (NRS 361.068[2]).
- Develop more cost effective auditing methods.
- Payment due date vs. tax billing date – Adjusting either date to make the payment times more convenient for the taxpayer.
- The goal of simplifying the recording requirements for the taxpayer.
- Publication of payment delinquencies in the newspaper or general circulation, to better promote timely payments.

Other issues provided by Mr. Sherman include the affect of any modifications to tax on business personal property on centrally assessed and how increasing the exemptions would reduce compliance costs, said Chairman Hobbs.

Ms. Vilardo said that last interim the Committee reviewed adjusting the exemptions (NRS 361.068[2]). A bill was introduced to make all the economic development exemptions consistent. Because the smaller areas did not attract the same size businesses, a bifurcated process was decided upon to set up the criteria for the larger urbanized areas and the smaller rural communities.

Regarding cost efficiency for the auditing process, Ms. Vilardo said that unless there is a substantial amount due the auditing of business personal property will not be achieved. In her opinion, it will also be difficult to publish past due notices because businesses receive their tax bills at different times of year and the publishing process would have to be ongoing. She indicated that exemptions did not have a large impact on any of the counties.

Ms. Vilardo further indicated that the protest on personal property should be modified. The protest provision is archaic and stops any person who does not have their property on the secured roll from going to court if they disagree. She asked that the Committee review this issue and request a BDR. She further request that the BDR include:

- A first year phase in, even if it is done by biennium of at least a \$10,000 exemption.
- Two payments per year on personal property.

### Mark Schofield

Responding to Mr. Leavitt, Mr. Schofield, Clark County Assessor said that an analysis was done in Clark County. Initially, the bill requested by the assessors' association provided for a \$50,000 taxable value exemption to all businesses in the state. For Clark County that eliminated almost 20,000 businesses of the total 35,000 and the fiscal impact was approximately \$6 million. Mr. Schofield indicated that he could provide the analysis that was done by Clark County to the Committee, but also noted that total agreement among the assessors statewide does not exist on this particular exemption.

Mr. Schofield indicated that he firmly advocated the recommendations made by Ms. Vilardo. He further noted that there is nothing the Committee could craft into the statutes relating to the assessment of personal property that would assure compliance across the board. He said he appreciated the opportunity to bring this issue before the Committee and before the Legislative Committee, but in his opinion, the Committee should first determine if the issue is equitable. Secondly, the fiscal impact should be determined.

Since Clark County is experiencing such a tremendous amount of growth, Mr. Schofield said he would prefer having the appraisal associates in his office focus on real property assessment because that is where the county receives the largest amount of revenue.

Responding to Mr. Leavitt, Mr. Schofield said he did not know if any of the other assessors have run numbers, but said he would check with the other counties to request that they provide some calculations for the Committee.

Mr. Brooks said the focus with this issue seems to be in the urban areas and seems to be more of a procedural issue. He indicated that it is unfair to focus only on larger businesses. He said he would be interested to review the calculations done for Lincoln and White Pine Counties to determine what the impact would be.

Mr. Schofield said that when it was first suggested to exempt inventory from business personal property tax, which in his opinion was unfair because car dealerships did not have to pay on their inventory. In order to get this tax exemption, a constitutional amendment was required and it was phased in over a five-year period. The outcome was that it did not have a dramatic effect on local government revenue.

Ms. Vilardo added that it had no effect on local government.

The Chairman said that up until this point the Committee has only broadly discussed the issue of personal property. Because of the many tasks already before the Committee that must be resolved prior to the 2001 Session, the main mission of the Committee on this issue would be to identify the procedural areas for further review by Mr. Sherman's working group to be presented at the next meeting and include the pros and cons for discussion. It could then be determined which items should be presented to the Legislative Committee for consideration.

Mr. Schofield said that an interesting aspect in the evaluation of the assessment of business personal property by the working group is that various states were surveyed. He said, as an assessor, if he received a survey from another state asking questions such as "Do you have a problem with compliance on business personal property or do you have a problem administrating it," he would be skeptical about answering those types of questions forthrightly. He recommended surveying the various taxpayer associations.

Ms. Vilardo said that she has already surveyed the various associations and has the results to that survey.

In reply, the Chairman indicated that regardless of how conclusive the survey may or may not have been that was done by the Department of Taxation, it was determined that the State of Nevada's system is working better in some areas and not as well in others compared to the other states surveyed. Although the survey was not totally conclusive, any information that can be gathered is still helpful to have on file.

Following discussion on publishing past due tax notices and exemptions to personal property, it was noted that:

- Publishing would be difficult because of the staggered way tax bills are distributed.
- Adding additional exemptions would take away from the tax base.

The Chairman said that the Committee has done a lot of work on exemptions and is hopefully closer to slowing proliferation of exemptions in the future. Whether or not the Committee will review preexisting exemptions will have to be determined because of the many other issues involved. He suggested that the Committee provide specific direction to the group working on exemptions, as to exactly what their mission is. He indicated that the list could be refined at the Committee's next meeting and should include the pros and cons to both urban and rural communities. Once this list is complete, it can be presented to the Legislative Committee for its input.

Another issue for discussion is the auditing practice issue, mentioned the Chairman. He noted that he was not sure if only one specific way to audit was possible with the differences that exist between the rural and urban counties.

Ms. Vilardo said that one of the problems in completing an accurate audit is having the manpower. Many of the assessors do not have adequate staff to conduct audits on real property. Therefore, it will be up to the assessor to

prioritize which audits take place in their individual community.

For clarification, Mr. Schofield noted that Ms. Vilardo was not including Clark County when mentioning inadequate staff. He indicated that he had no intention of adding more staff to the Clark County Assessor's Office; however, was trying to utilize technology to diminish the amount of human resources needed.

The Chairman said, regarding the auditing issue, Mr. Sherman's working group should focus their discussions on:

- Issues relating to the protest process on personal property.
- A phase in of up to a level of exemption, which would simplify reporting.
- Payments for unsecured property and compliance.

Mr. Schofield asked if the Committee was in favor of Ms. Vilardo's proposal, would the next step be to try to determine what could be used to supplant any loss created by exempting that personal property?

In reply, Ms. Vilardo explained if a phase out is done, an oversight should be done so that if any major problems occur, they can be dealt with immediately.

The Chairman explained that the mission of the Committee today is to try to narrow the focus of the broad topics that the work group has been dealing with so that they can proceed to concentrate on more viable issues.

### **Discussion and Possible Action on Bill Draft Request (BDR) Regarding Consolidation and Clarification of Transient Lodging (Room) Tax Statutes**

Linda Ritter

Referring to Exhibit D, Ms. Ritter said that the working group on Transient Lodging (Room) Tax has prepared draft language consolidating the "Transient Lodging Tax" into one chapter of NRS. She noted that the standards for the collection and imposition of room taxes was also reviewed; and the areas for standardization may include:

- Definitions.
- Application of room taxes, including provisions for time-share and advance block purchases.
- Exemptions – the study group will need to further discuss this issue, specifically to address the 28-day exemption in northern Nevada and the 30-day exemption in southern Nevada. It may not be possible to standardize this issue.
- Penalties and Interest – a standardized approach should be possible. The one item that may have to be handled by local ordinance is the revocation of room tax licenses.
- Due Dates – it is possible that an across-the-board date can be set statewide.
- Record Requirements/Audits/Appeals/Notification of Changes in Room Tax Ordinance and Laws – The law should require anyone collecting room tax to be notified if there is any change.

She explained that Exhibit D is a draft of the language the working group has created thus far. In the draft, all the new language is underlined. Ms. Ritter briefly outlined each section (see Exhibit D for further details). She said the working group would like to send the draft language to the convention and visitors' authorities, and the cities and counties who are charged with collecting room tax, to request their comments. She indicated that in order to standardize these



procedures, each entity would have to be somewhat flexible when providing their input.

Ms. Ritter said she would mail the draft and request that comments are returned by a specific date. Following receipt of the comments she would like to schedule one more work study session and bring back a final draft at the next Advisory Committee meeting.

Responding to the Chairman, Ms. Ritter said she was confident that completion could be achieved within the next month.

Regarding the 28 or 30-day exemption issue, Chairman Hobbs indicated that it is important to be cognizant of the potential impacts. The Advisory Committee may want to be concerned with rating agency viewpoints toward what is being done. He said he would like to survey the two largest rating agencies to determine if they have any concerns.

### **Discussion and Possible Action Regarding *Nevada Revised Statutes Chapter 354***

#### **Guy Hobbs - Encroachment upon allowed ad valorem revenue**

- Explaining this issue, Chairman Hobbs said that all local governments in the state have a cap on property tax in some form. The entity is either taxing up to the allowed ad valorem or less. The question is whether or not one entity should be permitted to encroach upon another entities allowed ad valorem revenue without a specific process involved.

In Elko County, said Ms. Ritter, one of the cities has been faced with reducing its rate and not being able to tax at the amount needed because of the combined rate.

Ms. Thomas said this also happened in Washoe County. The County went before the Debt Management Commission on May 5, 2000, along with the City of Sparks. The City had two tax override initiatives totaling 11 cents. The County had several different bond proposals, one of which was ultimately removed because the judicial proposal was not ready for prime time. At that time, the Debt Management Commission approved both the city's 11 cent initiative and the park open space bond for Washoe County and the presumed debt service tax rate that would create, recognizing that both the City of Sparks and Washoe County had authority to levy under the maximum. She explained that there was a level of discomfort in a number of areas because the Debt Management Commission could not be assured that either the County Commission or the City Council of Sparks would impose the maximum rate when it came time to file the budget.

Mr. Alastuey suggested the possibility of having interlocal arrangements where an infrastructure project would eventually benefit both jurisdictions; and bring a joint proposal before the Debt Management Commission for administration of a combined portion of the property tax rate.

Responding to the Chairman, Ms. Ritter said that many of the small cities in Elko County require a large rate because they do not have a great deal of assessed value. If the county increases the rate, the city may have to lower their rate to allow for increases in the school district. The city will then have to eliminate services or use a buy down where the county will provide aid to that entity until they can become financially stable.

The Chairman said that perhaps the two circumstances could be separated since one comes about as the consequence of an initiative and the other is an ongoing issue that occurred because of the consequence of the \$3.64 cap and declining assessed value.

#### **Brent Hutchings**

- Mr. Hutchings, City Clerk/Administrator, City of Ely, indicated that the elected officers with the city, county and hospital district met and made a change to the CTX distribution. A committee, composed of the city treasurer, city clerk, two county commissioners and the county recorder and representatives from the school and hospital district, meet to discuss what the common goals are. He indicated that the city was allowed about \$4.1 million in ad valorem taxes and have over the last six years only been able to levy just slightly over \$400,000. Without working together the cities

in this community would not be able to grow and develop.

The Chairman questioned whether or not another entity be allowed to encroach upon another entities allowed ad valorem.”

Ms. Thomas pointed out that the activities that took place during the Debt Management Commission meetings, the city, the school district and the county all supported the initiatives. If there had been lack of cooperation, the Debt Management Commission may have come to a different conclusion.

Following some discussion among Committee members, the Chairman asked if this issue is something the Committee should begin to focus on and should some type of process be developed for further review and consideration.

Mr. Leavitt indicated that this problem might begin to occur more often.

Mr. Thomas indicated that if the Debt Management Commission was set up as a regulatory body, the Committee should review the language in Chapter 350 that would detail its authority and expound upon what their action does in terms of binding subsequent councils and commissions from adopting rates in their budget.

Several scenarios that could occur were discussed and it was determined that Ms. Thomas would coordinate the study on this issue to determine what areas should be considered by the Committee at its next meeting. The Chairman offered to work with Ms. Thomas on the study.

Carole Vilardo - Use of property tax rates (AB 314 & AB 463, 1999 Session)

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Ms. Vilardo referred to two Exhibits (Exhibit A, Tab IVB.3 and Exhibit E). She indicated when she researched the statute on museums, two references to property tax were found. She said that she requested that this issue be placed on today’s agenda because of the past discussions on “rate creep” and other issues that impact rates. Regarding A.B. 313, Ms. Vilardo suggested deleting the levy of an operating rate as it is in statute, outside the cap. She explained that as long as a cap exists, outside issues that may arise could further impact another entity.

Mr. Leavitt asked if the Legislative Counsel Bureau could perform a search for other inconsistencies in the statutes.

Ms. Vilardo requested a bill draft for the proposed amendments to A.B. 314.

Regarding NRS 62.845 (A.B. 313, Chapter 216, *Statutes of Nevada 1999*), Ms. Vilardo said this legislation came about during the 1999 Session. The Legislature had appropriated money for a five county regional children’s detention facility. The bill specified that “the board of county commissioners of each county may levy an ad valorem tax of not more than 5 cents on each \$100 of assessed valuation . . .” At that time, an amendment was requested because this was a regional facility and funding for construction was provided by the state; however, there was no funding allocated for operation of the facility.

Ms. Vilardo indicated that the problem she had with this legislation was that each item is being addressed separately. At that time, she offered a set of amendments that would have allowed any group of counties to share various services, including: youth detention facilities, adult detention facilities, recreational facilities, flood plain management, flood control and landfill. At the request of Assemblyman Dini, who was concerned that the amendment would be conceived as a tax increase, consideration of the amendment was withdrawn.

She explained that because of the discussion that has taken place during the Advisory Committee meetings on regional issues, she decided to bring this matter to the Committee’s attention. She suggested transferring this language into Chapter 354 of NRS and to include a list of services that could be combined. She also recommended developing language in the statutes signifying that property tax cannot be listed in the statutes other than Chapter 354.

Mary Walker

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Ms. Walker, representing Carson City, Douglas and Lyon Counties, said when Carson City, Churchill Douglas, Lyon and Storey Counties presented the Legislative Counsel Bureau with the five-county proposal, which was worked on by Judges and Juvenile Probation Officers for a period of four years, money was provided by the state to build the facility in Silver Springs, but no operating money was provided. The counties supported Ms. Vilardo's proposal to remove the language from Chapter 62 of NRS and insert it in Chapter 354 of NRS and to expand the use of the money. However, with the 120 Session, time was limited and there was not enough time to prepare the amendments and have them heard by both houses.

Continuing, Ms. Walker said that Carson City has directed her to begin searching for funding for regional transit, which the federal government has agreed to provide for a short period of time. It has already been approved by Douglas and Lyon Counties and will be presented to Carson City in the near future. She explained that the additional 5-cent tax levy was provided to those counties under \$400,000; therefore, Clark County was not included. She said that the counties she represents would support expanding upon the use of that tax. The counties have the levy, but whether or not it is imposed is up to each county.

Mr. Leavitt asked if a general statement could be placed in Chapter 354, which provides "when a board of county commissioners is allowed to levy a tax that it can be done with agreement of all involved county commissioners on a regional basis."

In response, Ms. Vilardo said that the budget for the interlocal regional agreement should be set every year and the amount imposed should be based on what is needed.

Ms. Walker also noted that Douglas and Lyon Counties implemented a portion of the 5-cent levy and Carson City has not levied any of the 5-cents.

Responding to Mr. Leavitt, Ms. Guinasso said the amendment is providing a general provision to the statutes to Chapter 354 and would eliminate language throughout the statutes that should be provided by Chapter 354. Ms. Guinasso said she would do a search throughout the statutes to make known any other provisions in statute that should be eliminated.

The Chairman said this item would be placed on the next agenda for this Committee for further consideration.

*Marvin Leavitt - Issues regarding declining assessed valuation and resulting increases in ad valorem tax rates (Rate Creep) / Issues regarding negotiations among local governments to keep ad valorem tax rates within statutory caps (Buy Down)*

Mr. Leavitt explained that the Committee has been working on the "rate creep" issue for a considerable length of time and the causes of it. The Committee began to focus specifically on the rapid depreciation of personal property and its effect on the formula. It appears in some counties that personal property is causing the increase to the rate. However, when trying to verify this by doing various calculations, many obstacles have been met because the computations on personal vs. real property have been done before eliminating the nontaxable exempt property; therefore, it has been difficult to obtain an exact number on the amount of taxable property. The Department of Taxation met with the assessors in an attempt to change some of the ways information is collected in order to differentiate between real and personal property. Mr. Leavitt indicated that the information should be available for FYs 2000 and 2001; therefore, he recommended deferring this issue until the assessors provide the correct information.

Regarding buy downs, Mr. Leavitt said that the 1999 Legislature outlawed the used of buy downs. He explained a hypothetical scenario where a city may be facing a situation where they may go over the rate. It is not officially called a buy down, yet the county will increase its rate while the city decreases its rate. Mr. Leavitt indicated that the county has the right to do whatever they want in relation to one of its cities. He said if a countywide levy is created, and the purpose of the levy is to provide money for a city, the county is actually levying a tax countywide that will benefit a limited geographical area.

Following discussion among the Committee members, Mr. Leavitt suggested continuing to oversee this situation for the next few years before any action is taken.

*Marvin Leavitt and Kevin Welsh - Subcommittee to Study the Cost of Maintaining Highways, Roads and Streets Report*

Mr. Leavitt informed the Committee that the Subcommittee to Study the Cost of Maintaining Highways, Roads and Streets Report, has made some recommendations regarding the fuel tax formula, which will be presented to the Legislative Committee. The Subcommittee agreed that the methodology for having an updated and continual inventory should be added to the statutes. He explained that the Nevada Department of Transportation (NDOT) would have the responsibility to audit and verify the inventory of roads. It was also determined to use road miles, which would be measured as center lane miles, and population to calculate the formula. The formula will be weighted by 2/3 population and 1/3 road miles.

Mr. Welsh added that on Thursday, August 17, 2000, a meeting of the Subcommittee will be held and the recommendations for bill draft requests will be made at this meeting. He noted that decisions were made by the Subcommittee on the following items:

- Counties would not be penalized who were not utilizing the full 9 cents optional tax.
- The “hold harmless” was agreed on.
- The distribution formula was agreed on.

He indicated that bill drafts would be requested on the items listed above. Since the Legislative Committee sunsets at the end of this interim, continuation of the Roads Subcommittee and the audit of road inventory will be incorporated into the bill draft requesting that the Legislative Committee be continued.

Mr. Leavitt explained that the “hold harmless” would be the actual amount received by the local government in the year prior to implementation of the new formula. It may take a number of years before some of the local governments exceed the guarantee amounts.

Mr. Brooks indicated that he recently received information from the state demographer on the state’s population estimates. He encouraged the Committee to review these statistics because some discrepancies were noticed for Humboldt County.

Regarding Tier 2 of the formula, Mr. Leavitt said there has been fear that the same formula as Tier 1 would be implemented; however, the Committee has come to several conclusions on Tier 1 that would be brought before the 2001 Legislature, but evaluation of Tier 2 would not begin until the next interim period.

Referring to Exhibit F, a memorandum regarding the 2<sup>nd</sup> Tier Distribution and suggested changes to NRS, Ms. Ritter indicated that 2<sup>nd</sup> Tier distribution of fuel taxes that are based on assessed value should not include net proceeds of mines valuation. She explained that as a result of the rapid growth in net proceed valuation in Elko county, the entities within the County are experiencing a reduction in those fuel taxes.

The Chairman said he would have this issue placed on the next agenda of this Committee.

*Dave Pursell - Discussion and Possible Action Regarding Definitions of “Exemptions and Exclusions”*

Mr. Pursell said that the Department of Taxation has prepared numbers for the Committee on property exemptions in the past. The assessors supplied fairly detailed information so that each exemption could be identified by statute and which exemptions have not been used. This information has been completed and distributed to the Committee. He explained that the Department is in the process of trying to gather the same information for sales tax, but it is more difficult because of the way the information is reported.

He explained that the Department has prepared definitions of an exemption and exclusion. The Office of the Attorney

General has been asked to review the definitions because of some current contested cases that exist where there is a difference of opinion between the Department and taxpayers on the definition of an exclusion.

Dino DiCianno

Mr. DiCianno, Deputy Director for Compliance, Department of Taxation, referred to Exhibit G, the Combined Sales and Use Tax Return and a spreadsheet detailing the Standard Industrial Code (SIC) that is utilized by the Department. He explained that it is important to have sound definitions that delineate what is truly an exemption and exclusion and why it was established. Regarding the collection of data determining the level of exemptions and exclusions, he referred to the Combined Sales and Use Tax Return. He explained that this form is used by the vendor to delineate where a sale occurs, total sales, amount subject to use tax, exemptions and taxable amount and then it is forwarded to the Department. Mr. DiCianno provided the Committee with a brief overview of the instructions to complete the form (see Exhibit G). The problem is when that the Department cannot determine exemptions and exclusions by statute.

Mr. Pursell said that the Department is coding the database to compile this report. After the report is compiled, the businesses will have to be called regarding the larger categories, to try to delineate the types of exemptions and exclusion. The report will be finalized from that information and will not be as detailed as the report prepared for property tax.

Guy Hobbs - Discussion And Possible Action Regarding Tax Increment Financing For Non-Redevelopment Purposes

Referring to Exhibit H, Chairman Hobbs said this was draft language to provide for tax increment areas. The Committee is looking for a way of financing projects as an alternative to using a special assessment district form of financing. He indicated that tax increment has been used in the State of Nevada solely for redevelopment purposes and would work best in the resort corridor. He explained that a tool for redevelopment projects already exists in Nevada, but there is no instrument for non-redevelopment projects. Because of the powerful nature of this type of funding tool, it would a good alternative form of financing for non-redevelopment projects.

The Chairman noted that unlike current tax increment mechanics, which take the full increment, one of the concepts that has been placed in the proposal (Exhibit H), is the use of a fractional increment. For example, if the cash flow necessary to retire debt that is needed to acquire the asset is less than the increment will produce over time, then a certain limit of the increment could be designated and the balance of the increment would flow back with normal tax apportionment to the entities that would otherwise be receiving it. This would reduce the impact that generally occurs with redevelopment tax.

He requested that the Committee review the draft language in Exhibit H and provide comments before the next meeting so that the draft can be further refined.

Mr. Kester asked what rational basis economically there was for including the 75-cent operating rate of schools in the increment.

Responding, the Chairman said that when dealing with redevelopment or tax increment, one of the areas of concern is the impact it will have on the overlapping entities and primarily on schools. He described a specially benefiting area as an investment that would be made in, i.e., transportation facilities in the resort corridor, could promote more tourism, which could generate additional investment and lead to greater assessed valuation and eventually lead to increased tax dollars for the school districts.

Mr. Kester said that the school districts create the major portion of the tax increment. Generally, for schools, it is almost impossible to produce the kind of return that would make up for the amount of the increment given up.

Responding to the Chairman, Mr. Kester said that the school districts would want to be cautious about how the tax increment financing was structured and would certainly want to be included in any discussions relating to this matter.

Discussion ensued among Committee members regarding the impacts of tax increment financing. The Chairman said

that the proliferation of redevelopment districts should be avoided where they are used to protect revenue and achieve one particular plan. At one time Clark County was considering the use of a redevelopment agency that would have basically encompassed the Las Vegas strip, which did not pass for several reasons.

### **Discussion and Possible Action Regarding Debt Management Commission Issues**

Terri Thomas

- Ms. Thomas said that the important points were covered on this issue during previous discussion on the encroachment issues. It was agreed to review Chapter 354 of NRS to determine what types of new provisions may be necessary in order for the Debt Management Commission to make an adequate judgment about the rates.

Responding to the Chairman, Ms. Vilardo said that because she is a member of the Clark County Debt Management Commission she could not participate in this discussion.

### **Discussion and Possible Action Regarding Pledging of New Revenue Sources**

The Chairman indicated that this item is a concern because a particular revenue source can be pledged for more than one reason. He noted that a particular revenue source can be pledged for more than one reason and primarily would be pledged to act as a form of security to acquire funds to accomplish a project. The terms are chosen based on cash flow limitations or other related factors. It has been rumored in some instances that some revenues have been pledged to protect them over long periods of time. When new revenue sources come up and are available for pledging, that may be a point in time when additional evaluation or information could be provided by a venue such as the Debt Management Commission. He explained that there is tremendous competition between the state and local governments for sources of funding, which will most likely be discussed as part of the fundamental review. He indicated that there might be a greater desire to protect revenue; however, when revenue is protected, flexibility is also lost. He said it might be useful to discuss whether or not there should be a process or additional information provided when a revenue source that has previously not been pledged is being proposed for pledging.

Mr. Alastuey asked how the Debt Management Commission would handle consideration of the reasonableness of pledging a source that has not been pledged in the past.

Responding, the Chairman said the Commission could require additional declarations from the applicant as to the need.

Carole Vilardo

- Having served on a Debt Management Commission, Ms. Vilardo said an annual report was requested from an entity so that the Commission would be aware when the revenue was being used for construction. The attorney advising the Commission said that it had no right to request an annual report. Fortunately, the entity has been gracious enough to submit the quarterly reports, but that could change if the administration of the entity changes. In her opinion, modifications could be made to the Debt Management Commission. Because the state is growing and the need for financing is becoming greater, both operational and capital, more loopholes in statute are being found. In Ms. Vilardo's opinion, whether or not the Debt Management Commission is chosen as the decision maker, the pledging of new revenue sources must be restructured.

The Chairman said that this is an issue that should be reviewed on an ongoing basis. He suggested including this issue as part of the Debt Management Commission study.

The Chairman indicated that the Advisory Committee would be scheduling another meeting before the next Legislative Committee meeting to conclude some of the issues that were discussed today. He suggested deferring Item VI of the Agenda – Items for Discussion Only: A) Impact of Fundamental Review upon Local Government Revenues; and B) Tax Initiatives and Local Government Revenue Consequences, unless the Committee had any comments.

Ms. Thomas agreed to defer these items due to lack of information. She also asked when the next meeting would be scheduled and indicated that because the last several Advisory Committee meetings were held in Las Vegas, that her travel budget is over its limit. She asked if the meetings could be alternated between Carson City and Las Vegas, as they had been done in the past.

Mr. Welsh said that a meeting was planned for September 7, 2000, in Las Vegas for the full committee, but there were problems obtaining a quorum on that date. He asked everyone to look at his or her calendar to decide on a date.

The Chairman explained that he hoped to come to closure on some of the issues at the next meeting, so that recommendations could be made to the Legislative Committee for their consideration. He said he was aware that the last few meeting were held in Las Vegas and the next meeting would be held in Carson City.

Following discussion among the Committee members, it was decided to schedule the next meeting for September 27, 2000, in Carson City at 10 a.m.

### **Public Testimony**

#### **Robert Spencer**

Mr. Spencer, Transfer Tax Auditor for the Clark County Office of the County Recorder (see Exhibit I) referred to a proposal that would dramatically change Chapter 375 of NRS, "Tax on Transfers of Real Property." These changes are needed because the Office of the Attorney General said that the Department of Taxation does not have the statutory authority to administer this tax and the Department of Taxation does not want the statutory authority to administer the tax. Parts of NRS 360 will have to be removed and placed in NRS 375, such as giving the recorder subpoena authority to subpoena escrow records from title companies. He explained some that the major highlights of these amendments include:

- Elimination of the deduction for assumptions.
- Elimination of exemptions.
- Tax any transfer of interest 25 percent or more of a business interest as a real property transfer.
- Additional of three items as nontaxable: 1) mortgage instruments, affidavit of surviving tenant, and a right of way conveyance.
- Establish time limits for the audits and collection of any additional tax and penalties.

Mr. Welsh indicated that the Assessors Association has approached the Advisory Committee and the Legislative Committee will also be asked to present Mr. Spencer's proposal as a bill draft to the 2001 Legislature.

### **Adjournment**

There being no further business before the Advisory Committee, Chairman Hobbs adjourned the meeting at 2:45 p.m.

Respectfully submitted,

Jeanne Peyton

Secretary

Approved:

\_\_\_\_\_  
Guy Hobbs, Chairman

\_\_\_\_\_  
Date

*Copies of the exhibits mentioned in these minutes are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the library at (775-684-6827).*