



MIKE O'CALLAGHAN
GOVERNOR

STATE OF NEVADA
ASSESSMENT AND TAX EQUITY COMMITTEE

G. W. ATKINSON, CHAIRMAN
B. M. BROWN, SENATOR
C. F. DODGE, SENATOR
D. J. DEMERS, ASSEMBLYMAN
P. W. MAY, ASSEMBLYMAN
R. H. SMITH, ASSEMBLYMAN
J. L. BLUT
N. D. BROWN
R. L. MORGAN

ASSESSMENT AND TAX EQUITY COMMITTEE

FINAL REPORT

SUBMITTED TO THE HONORABLE MIKE O'CALLAGHAN
GOVERNOR OF NEVADA

October, 1974





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The Honorable Mike O'Callaghan, Governor
State of Nevada

Pursuant to Senate Bill 610 the Assessment and Tax Equity Committee presents the attached report. In addition to the Committee's report and recommendations, we have included reports of three consultants retained by the Committee. Mr. L. J. Eastman, a consulting valuation engineer formerly with the California Board of Equalization, prepared a report on the taxation of public utilities and railroads; Mr. Robert Paschall, a valuation engineer with the California Board of Equalization reported on the net proceeds of mines tax; and Dr. Richard W. Lindholm, Professor of Finance at the University of Oregon, studied agricultural land taxation.

In addition to the analyzes and recommendations of those consultants, the Committee heard testimony from interested private citizens and property tax professionals working in Nevada. Thus, our recommendations are based on sound professional practices, but tailored to meet the needs of the citizens of Nevada.

The Committee acknowledges the generous assistance of the staff of the Nevada Tax Commission. In particular we want to thank John Sheehan, James Lien, James Anderson and James Salo for providing us with data and advice at every stage of this study. William Bible of the Budget Division not only managed our budget, but assisted in our research as well. The staff of the Legislative Council Bureau also provided valuable assistance. County assessors, individually and through their state association, contributed their ideas. It would be impossible to acknowledge all of the private citizens who testified to this Committee, but their input was extremely valuable.

Donald Rozelle, Keith Tierney, and Joseph Seifers, all graduate students at the University of Nevada, deserve a special thanks for their very competent staff work.

The Honorable Mike O'Callaghan, Governor
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I want to personally thank the Department of Economics and the Bureau of Business and Economic Research at the University for allowing me to participate in this project, and for providing the staff with support services.

Respectfully submitted,


Glen W. Atkinson
Chairman

CHAPTER 442

AN ACT creating a committee to study assessment and tax equities and the structure of the Nevada tax commission; requiring the committee to report to the governor before the next legislative session; making an appropriation; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. A committee to study assessment and tax equities is hereby created. The committee shall be bipartisan in nature and shall be composed of nine members, four of whom shall represent both houses of the legislature. The governor shall appoint the members and shall designate one of their number as chairman.

SEC. 2. The committee shall:

1. Undertake an evaluation study of assessment and tax equities in the area for which the Nevada tax commission is statutorily responsible, including:

- (a) Agriculture and livestock assessment;
- (b) Utility and railroad valuation;
- (c) Taxes on net proceeds of mines; and
- (d) Validity of annual assessment studies within the counties.

2. Review the propriety of the composition of the Nevada tax commission as to providing fair and adequate representation for all the various groups of property taxpayers.

SEC. 3. 1. The committee may request, and shall be furnished staff assistance from the executive agencies of the state, the University of Nevada System and the legislative counsel bureau for the committee's conduct of the study and preparation of a report based thereon.

2. Within the limit of appropriated funds, the committee may contract for services that will be of assistance in its undertaking.

SEC. 4. The members of the committee are entitled to receive the per diem expense allowance and travel expenses as provided by law.

SEC. 5. Prior to the commencement of the 58th session of the legislature, the committee shall submit to the governor a report of the committee's findings as to assessment and tax equities and shall also present recommendations as to a more appropriate and effective composition or structure for the Nevada tax commission if the committee considers such a restructuring to be in the best interests of the people of the state.

SEC. 6. There is hereby appropriated from the general fund in the state treasury the sum of \$50,000 to the director of the department of administration for use of the committee in carrying out the provisions of this act.

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RECOMMENDATIONS REGARDING THE NEVADA TAX COMMISSION

I. Introduction

A. Findings

1. Based on testimony before the Governor's Assessment and Tax Equity Study Committee, a survey of other states and independent research, it is recommended that the Nevada Tax Commission be restructured to better meet the demands of a growing population, the need for appeal equity and administrative efficiency. The recommendations that follow are not to be interpreted as a critique of the present Tax Commission, but rather steps which this committee feels are necessary to meet the growing demands caused by population growth, changes in the tax base and revenue structure.
2. The theme of the recommendations that follow are based in part on developments in tax

administration and Nevada's historical demand for community involvement in State and local government.

II. Department of Taxation

A. This committee recommends the Tax Commission Staff be named the Department of Taxation. This Staff will serve not only the reformed Tax Commission, but also the proposed Board of Tax Appeals and Equalization.

1. Executive Director. It is recommended that the Executive Director of the Department of Taxation be appointed by and serve at the pleasure of the Governor. His principal duties are to include interpretations of tax policy in consultation with the Tax Commission and Board of Tax Appeals and Equalization, directing the general budget, and operational activities of the Department in conjunction with the Division Directors.

B. Excise Division

1. The Excise Division will administer all sales tax and related activities. It is recommended that the current Revenue and Audit Divisions be incorporated into sections of the Excise Division. The Division will operate under a separate budget developed by the Director and submitted to the Executive Director of the Department of Taxation. Personnel decisions affecting the Excise Division will be initiated by the Director and submitted to the Executive Director of the Department for review and final approval.
2. Director. It is recommended that the Director be a career professional paid commensurate with highest professional qualifications obtainable.
3. The Excise Division will maintain and direct where necessary regional offices and personnel in the outlying counties.

C. Ad Valorem Division

1. It is recommended that under a separate Director the Ad Valorem Division be established to administer state-wide utility assessment, assessment standards, and assist county assessors in all areas relating to property taxation. This Division would assume the principal duties of the present Division of Assessment Standards. The Division will consist of separate sections for Centrally Assessed Property and Assessment Standards and Assistance. All valuation duties would be included in this Section. Such duties are valuation of mining property, agricultural land and livestock, public utilities and banks. The Assessment Standards and Assistance Section would be responsible for training programs and assessment assistance to county assessors. This Section would also be responsible for insuring assessment equity among and within counties. The Division will

operate under a separate operating budget subject to Department approval. Personnel decisions affecting the Ad Valorem Division will be initiated by the Director and submitted to the Executive Director of the Department for review and final approval.

2. Director. It is recommended that the Director be a career professional paid commensurate with the highest professional qualifications obtainable.
3. It is further recommended that the Ad Valorem Division establish and supervise regional offices or activities where conditions warrant. It is recommended that careful considerations be made whereby individual counties share the expense of direct assessment provided by the Ad Valorem Division.

D. Research, Personnel, Budget, and General
Administrative Sections

1. It is recommended that a section be established under direct supervision of the Department Executive Director to coordinate all department-wide functions and department-wide support activities.

III. Tax Commission

A. We recommend that the Tax Commission be reduced from nine to seven Commissioners. The Commissioners would continue to be appointed by the Governor. In order for such a lay commission to function properly and have the confidence of the people, it must consist of qualified people who can represent the public interest as well as members who are knowledgeable about industries with special problems. Qualifications and interest in serving in the capacity of a Tax Commissioner should be the main criteria in all appointments. Because of the constantly changing structure of Nevada's economy, the sectors to be represented should no longer be specified by statute. However, people knowledgeable about, but not necessarily engaged in, agriculture, mines and public utilities would be valuable on the committee. Qualified people who would represent such interests as the homeowner, consumer and labor should also be sought. Generally we recommend that the Tax Commission be so composed as to develop an equitable balance in membership to bring forth knowledge and judgement in centrally assessed properties as defined in NRS 361.320 and other tax paying groups.

- B. This would be a lay board, compensated for expenses on a per diem basis. They would meet at least four times a year.

IV. Appeals and Equalization Structure

All available evidence dealing with improving property tax administration has stressed the recommendations to separate administration and policy duties from the appeals functions of the administering agency. At present, both duties are performed by the Nevada Tax Commission (see Appendix II). The above description is a model for administration and policy. Below is a model of an appeals and equalization structure. The model represents the combined thinking of various experts in the field and the concurrence of the committee.

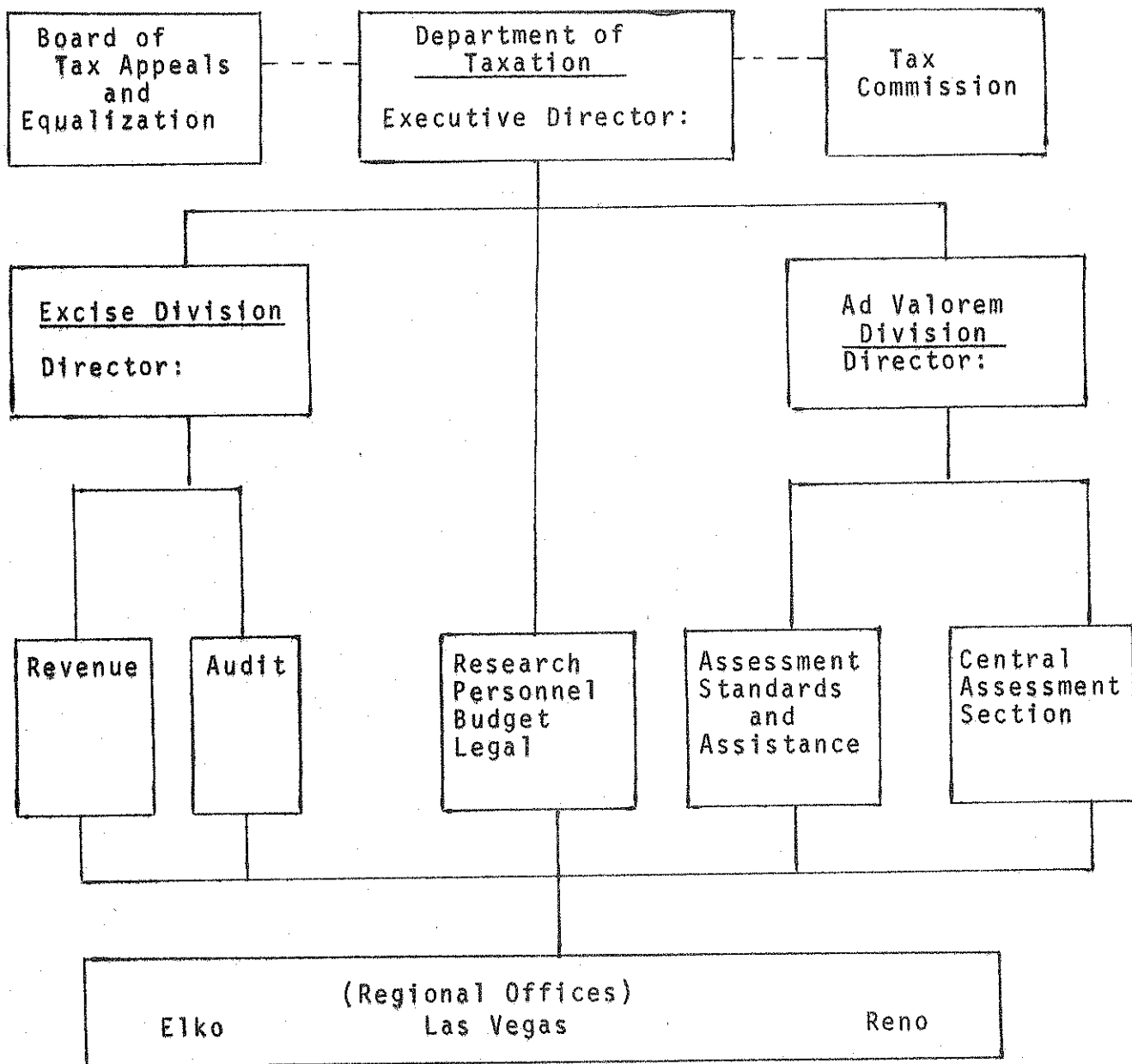
B. State Board of Tax Appeals and Equalization

The committee recommends:

1. That a State Board of Tax Appeals and Equalization be established:

- (a) To perform the tax equalization function.

NEVADA STATE DEPARTMENT OF TAXATION



(b) And hear appeals from decisions of the Department of Taxation and county boards.

(c) The Board would consist of three qualified lay members.

2. That besides hearing individual appeals, the Board will have the power to instruct the Department of Taxation and individual county assessors to take appropriate action in order to equalize assessments among different classes of property and among individual counties.

3. That the Governor appoint the members of the Board for four years on a staggered basis.

4. That membership on the Board would be constituted from the following:

(a) One qualified property appraiser

(b) One certified public accountant

(c) One qualified public member

Additional secretarial staff and legal counsel would be provided by the Chairman of the Department of Taxation and the Attorney General's Office.

5. That the State Board of Tax Appeals and Equalization meet immediately after county appeals are heard to hear major appeals of centrally assessed properties, to settle major disputes which would affect local revenue most severely. Following the session on major appeals the Board will hear local resident appeals in the outlying counties. The taxpayer must file intent by a specified date and be allowed to pay his taxes under protest pending the appeal decision. Such appeals would follow a minimum procedure, to insure complete ease and understanding of the appeals process. Determination of minor disputes should be made before the second fiscal quarter or October 1 instead of the present February deadline. A financial burden is not placed on those taxpayers paying under protest pending an appeal, since only one quarter of taxes must be paid under protest. This extension will spread the workload of the State Board over a longer period of time so that the burden is not so heavy on the individuals serving on the Board, and yet not place an undue burden on the taxpayer.

V. County Administration of the Property Tax

- A. The evidence that has come to this committee has not only consisted of recommendations regarding state level administration and appeal, but it has also dealt with attempts to improve administration and equity of the property tax at the county level. The following are recommendations directed at improving local assessment, administration, and equity.
- B. Regarding County Assessors, it is recommended that stringent professional qualifications be required through State directed training programs. The initial qualifications to run for the office of County Assessor would not be changed. However, it is recommended that the Ad Valorem Division of the Department of Taxation establish criteria for certification of competence of County Assessors and their appraisal staff and that they be required to meet the certification standards. The Assessors and their staffs would be given four years to meet these standards. Failure to meet the standards would disqualify filing for a new term of office. Staff who

failed to be certified would be removed from office.

In order to encourage continuing education of assessors and appraisers compensation should be increased not only for completing certification, but for participating in training programs approved by the State beyond the minimum certification program.

C. County Tax Appeals and Equalization

1. It is recommended that the present County Appeals Board be reconstituted by an appointed, three to five man lay, professionally qualified Board.

Nomination to the Board will be made by the Chairman of the County Commissioners and approved by the full Commission. It is further recommended that the Commission Chairman select his nominees from the following areas: real estate appraisal, accounting or finance, locally elected official, and the general public at large. The make up of the local lay board would emphasize professional qualifications. Locally elected officials may be included,

but not more than two on a five man committee or not more than one on a three man committee.

Determination of the size of the Board will be made on a population basis, possibly with Clark and Washoe Counties having five man boards and the remaining counties having three man boards. Once the size of the Board has been determined, changes will not be allowed. This will prevent "board packing" by the County Commissioners.

APPENDIX I

Recommendations of the Advisory Commission on Intergovernmental Relations.

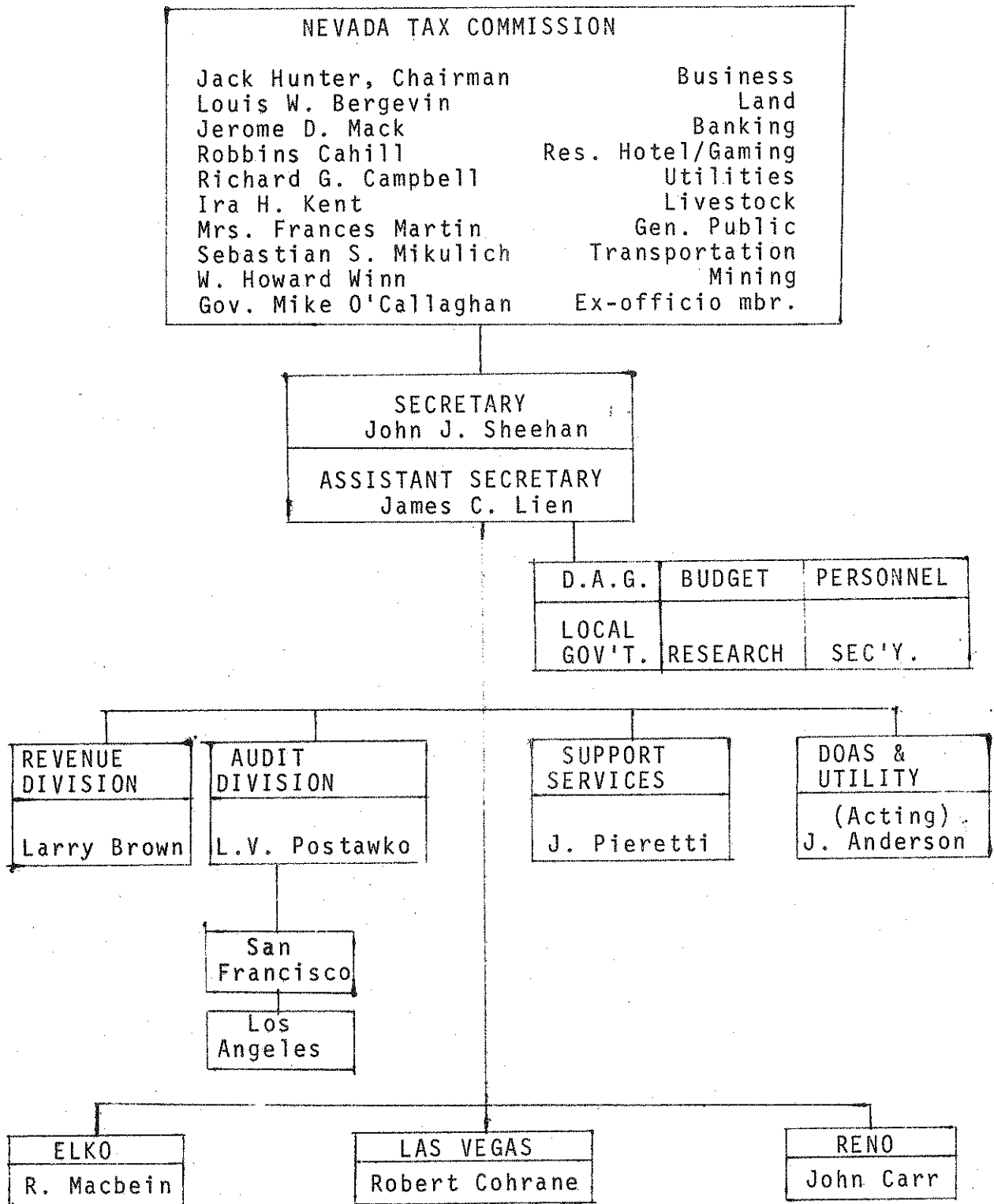
Recommendation No. 28: The review machinery should have a two-level organization, with both the local and state agencies serving only an appellate function and being professionally well staffed for that purpose; the State agency - either an administrative board or a tax court - should be separate from any State agency for property tax administration, should be an appellate body to hear appeals from decisions of local review agencies and from central assessments by the State supervisory agency, and should include a small claims division with simple, inexpensive procedures; appeals from the State agency, but on questions of law only, should be to the supreme court of the State.

Recommendation No. 18: The State legislature should prescribe, or authorize the State supervisory agency to prescribe, and in either case authorize the agency to enforce, minimum professional staffing requirements in all local assessment districts; and the legislature should authorize the supervisory agency and any local district to enter into agreements under which the agency will provide the district with specified technical services. (This recommendation follows the recommendation that all assessors be appointed by county boards for indefinite terms.)

APPENDIX II

ORGANIZATION

NEVADA TAX COMMISSION JULY 1, 1972



RECOMMENDATIONS REGARDING THE ASSESSMENT RATIO STUDY

RECOMMENDATIONS

- A. Sample Magnitude
- B. Range of Tolerance
- C. Stratified Sample
- D. Statistical Analysis
- E. Subpoena Power
- F. Notification of Real Estate Transfer
- G. Computerization
- H. Ratio Study Report

FINDINGS

The purpose of the ratio study is to determine the level of uniformity of total property assessment among counties and of different types of properties within and among counties.

A ratio study can provide a wealth of information to administrators and taxpayers. It can tell assessors how their appraisal techniques compare to other taxing districts on similar classes of property. It provides the basis for statewide equalization and uniform assessment practices. While assessment ratio

studies are primarily used in making inter-county comparisons, they can be a help in bringing to light variations in assessments that occur within assessing districts. The assessor can then view ratios and their respective statistics as the first step toward correcting any lack of uniformity of assessment of property within classes and between classes and areas.

After hearing testimony from the staff of the Division of Assessment Standards and various county assessors, it is the finding of this committee that the ratio study as it now exists does not accomplish its intended purpose.

State law requires that all property subject to taxation shall be valued at 35 per cent of full cash value, and requires the determination each year of the average ratio of assessed value to full cash value of all taxable property in each county. One problem, as determined by this committee, is the present averaging concept and the method of reporting the assessment ratio.

An example provided by the Washoe County

Assessor's Office will help illustrate the concern of the committee and the justification for the recommendations that follow. (See "Hypothetical Statistical Analysis" attached hereto.)

The present ratios in the studies compiled by the Division of Assessment Standards and the ratio used for statewide equalization are the arithmetic means or averages of the assessment ratios of each class of property. As can be seen in the three county example, County C is apparently doing the best job and County A the worst. The fallacy of basing a judgment on the arithmetic mean becomes very evident when the range, average deviation (from the mean) and the coefficient of dispersion or standard deviation are calculated. County B becomes the best county, and County C the worst. These examples of inter-county comparisons can also be applied to intra-county. In that case, an example might read: Property A (residential), Property B (agricultural), and Property C (industrial).

In addition, the ratios are not reported and

HYPOTHETICAL STATISTICAL ANALYSIS

THREE COUNTY RATIO STUDY

COUNTY	MEDIAN RATIO	ARITHMETIC MEAN RATIO	
A	35.0%	29.6%	
B	35.0%	30.5%	
C	35.0%	32.9%	
	RANGE	AVERAGE DEVIATION	DISPERSION COEFFICIENT
A	14.2	4.2	12.0
B	6.4	1.5	4.2
C	59.7	13.5	38.6

MEDIAN OR MEAN RATIO

A measure of central tendency. The median ratio is not affected by extremes. The mean ratio is greatly affected by extremely high or low ratios.

RANGE

The difference between the lowest and the highest ratio in the population.

AVERAGE DEVIATION

A measure of the degree by which individual ratios differ from the median or mean.

DISPERSION COEFFICIENT

A measure of assessment equality. The larger the coefficient, the poorer the quality of assessments. A goal within reach by proper application of appraisal personnel would be a coefficient of 10.0%.

explained to the taxpayer in such a way that can be easily understood. Every property taxpayer should be able to compare his assessment with the county ratio to determine the uniformity of his assessment.

RECOMMENDATIONS

A.

SAMPLE

MAGNITUDE

It is the recommendation of this committee that the Division of Assessment Standards continue to base its ratio study on a full countywide sample. Only through a countywide sample can assessment uniformity be insured. This is because of the wide variation between periods of total assessment in each county. Through proper program design the magnitude of the sample in some instances can be decreased dependent upon solid statistical criteria.

RANGE OF

TOLERANCE

It is recommended that the current tolerance range of the ratio be expanded from 5 per cent to 10 per cent, or 30 per cent to 40 per cent range of the required 35 per cent of assessed valuation. By expanding the range of tolerance on a countywide sample more

flexibility of county assessment practices can be recognized and ease of compliance with the ratio study can result. This should reduce some of the objections by county assessors to a countywide sample and the problems arising because of inflation between periods of assessment and the annual ratio study. Further, expanding the tolerance range will allow greater flexibility to assessors as more accurate and informative statistical measures are reported.

STRATIFIED
SAMPLE

It is the recommendation of this committee that the ratio study sample be stratified and also that separate ratios be reported for residential, farm, commercial and industrial properties.

If properties cannot be stratified by use, then it is recommended that the sample be stratified according to total value. A recommended stratification is that all properties under \$5,000 be in one stratum, those between \$5,000 and \$15,000 in the second stratum and so on. Stratum One would include mostly vacant lots, Stratum Two

mostly residential and the higher strata
ranches and commercial properties.

It is recommended that all centrally
assessed property be reported separately
from county assessed properties. The
county assessor is not responsible for
the centrally assessed property and as such
it should not be reported as part of the
county ratio. The purpose of the ratio
study is to provide information to the
assessor regarding his tax assessment
administration, and this does not include
centrally assessed properties.

STATISTICAL
ANALYSIS -
MEDIAN,
MEAN, AND
DISPERSION

To improve the meaningfulness, equity and
uniformity insuring capabilities of the
ratio study, it is recommended that the
Division of Assessment Standards report
the mean, median and dispersion of the
stratified samples. This information is
available through inexpensive program
techniques using available data.

SUBPOENA
POWER

Given adequate information, the county
assessors still lack a tool that is needed
to improve their overall assessment

standards. It is therefore recommended that county assessors be given subpoena power to collect accurate inventory data for assessment purposes. Given the subpoena power, the county assessor will have the same tools for assessment that DOAS has in preparing the ratio study. Without this tool it is unlikely that the local county assessor, with less than accurate data, would ever be in compliance with a ratio study.

Reliance on subpoena power could be reduced in establishing full cash real estate values if data on the real property transfer tax document were sworn to be accurate of the full cash value by the buyer or seller. At present there is no penalty for filing a false or inaccurate statement. However, subpoena power would still be needed to establish accurate assessed values on personal property such as inventories. Some have suggested that the assessor can now obtain accurate data from the taxpayer by placing an arbitrarily high value on an inventory. This would require the taxpayer to present accurate data in his protest.

This is hardly good tax administration. Also presently there are inequities because of different inventory turn over rates, so this committee recommends investigation into a change in the constitutional amendment concerning taxation of inventories.

NOTIFICATION
OF
REAL ESTATE
TRANSFER

The county assessor is required by law to assess property at 35 per cent of its full cash value. In order to provide the assessor with accurate information to determine the full cash value, it is recommended that as a part of the deed transfer, the complete purchase price be listed along with the title changes. To insure the accuracy of this data, it is recommended that the total purchase price as listed in the deed transfer, be notarized.

COMPUTERIZATION

It is the recommendation of the Tax Study Committee that a comprehensive development program leading toward computerization of assessment practices be undertaken by the state. The development should include assessment duties of both the Division of Assessment Standards and the county assessors

offices. The program should also include facilities which are complementary to both large urban counties and small rural counties. Only through eventual use of coordinated computerized systems can the increasing demand for manpower and equality of assessment be met. The first step and minimum recommendation is that parcelization of tax roles for all counties be completed at the earliest possible date. The committee strongly recommends close coordination between state and counties so that a uniformity of computer programs comes about.

RATIO STUDY REPORT

It is the recommendation of the committee that the Tax Commission publish the findings of the annual assessment ratio study in a manner that will inform the taxpayers of the average level of assessment in his county. It is further recommended that the Legislature provide that the assessment ratio thus established may be introduced by the taxpayer as evidence in appeals to the county and state equalization agencies on the issue of whether his assessment is inequitable.

CONCLUSIONS
PROPERTY TAX

There is within the property tax much inequity, but as long as it is depended upon as a prime source of revenue all possible effort should be made to insure that all citizens receive fair and equitable treatment. The above recommendations do not alter the basic inequity of a property tax, but within its given parameters they are steps toward insuring that it is just and fair to all citizens.

RECOMMENDATIONS REGARDING TAXATION OF AGRICULTURAL LAND

RECOMMENDATION

The Governor's Assessment and Tax Equity Committee has unanimously endorsed the passage of Proposition No. 3, which would amend the State Constitution. This change is most necessary for more rational land use planning and more equitable taxation to become realities in Nevada.

The Nevada Constitution reads in reference to taxation of real property:

The legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulation as shall secure a just valuation for taxation of all property, real, personal and possessory... (Nevada Constitution, Article X, Section 1).

Passage of AJR 23 will insert into this section of the Constitution the following:

Notwithstanding the provisions of this section, the legislature may constitute agricultural and open-space real property having a greater value for another use than that for which it is being used, as a separate class for taxation purposes and may provide a separate uniform plan for appraisal and evaluation of such property for assessment purposes. If such a plan is provided, the legislature shall also provide for retroactive assessment for a period of not less than 7 years when agricultural and open-space real property is converted to a higher use conforming to the use for which other nearby property is used.

AJR 23 is not an act itself, but an amendment to the State Constitution which will enable the legislature to develop the actual implementing laws. The objectives of AJR 23 are (1) to protect agricultural land from speculative land uses; (2) to

prevent agricultural or open-space land from being forced into other uses because of taxation policy; (3) to permit local and state governments to recapture deferred tax revenues when and if development does occur; and (4) to effect better land use planning. This committee most definitely recognizes the necessity for passage of legislation that halts further land speculation coupled with tax breaks, creates more rational land use planning, and recaptures tax revenues when land is switched from agricultural or open-space use to other uses. In enacting laws to accomplish these objectives, the legislature must consider several important issues and definitions which will influence the degree of effectiveness the ensuing legislation will have. This committee has listed several of the important issues in consideration of legislation which should be enacted after the passage of AJR 23. This report is being submitted prior to the general election when the people of the State of Nevada will be voting on Proposition 3. If it is not passed, this committee will draft recommendations for other types of legislation needed.

DEFINITION OF AGRICULTURAL AND OPEN-SPACE LAND

The Nevada Tax Commission recently adopted the following definition of agricultural land:

Agricultural land is land used by the owner or tenant primarily with the major purpose and intent of the furtherance of the science or art of cultivating the soil and its fruits, the harvesting of the same, or the rearing, feeding

and management of livestock, poultry and dairying thereon, including every process and step necessary and incident to the preparation of products therefrom for consumption or market but not including actual marketing locations; and if not inconsistent with the above definition of agricultural land, the assessor may utilize any of the following guideline criteria to aid in the classification of such lands:

- (a) The parcel produces a minimum of \$2,500 gross income from agricultural pursuits during the immediate preceding calendar year, or,
- (b) The parcel is actually and primarily utilized in the furtherance of agricultural pursuits and produced an average gross income from such pursuits of \$2,500 for the immediately preceding three (3) years.
- (c) The parcel is one which the assessor determined has as its highest and best economic use that of agricultural land as defined herein, but which provided insufficient gross income during the immediately preceding calendar year to satisfy either paragraph (a) or (b).

For the purpose of classification of real property as agricultural income data and documentation as the assessor deems in his discretion to be required. (NRS 360.200, Property Tax Regulation No. 5, Definition of Agricultural Land, adopted Feb. 26, 1974, effective March 29, 1974)

Definitions of agriculture vary from state to state. Some laws in different states leave the meaning of "agricultural use" largely to the judgment of the local assessor, sometimes with a local board to help him. In defining agriculture, the most

important issue is to distinguish between "bona fide farmers" and "speculators." A Maryland regulation provides 29 criteria which local assessors can use to judge whether land is in agricultural use. Alaska requires the owner to derive at least one-fourth of his income from the farm use land. Lindholm in his report for this committee also suggested a definition which is based on some proportion (one-half) of the landowner's income coming from farming. In Florida, if the sales price of the land is more than three times its agricultural assessment, the law presumes that it is not in agricultural use unless the owner proves otherwise.

Minnesota uses a owner limited eligibility law; that is, a farm must either be the owner's homestead or have been in the family's possession for seven years. A family farm corporation is eligible if all shareholders are related to each other within the third degree of kinship.

Kentucky specifically excludes real property owned by a corporation organized for other than strictly agricultural or horticultural purposes.

Whether or not the land is being sufficiently and adequately cared for in accordance with accepted commercial agricultural practices such as fertilizing, tilling, mowing, etc., is important in some states' criteria of agricultural use. Florida also considers whether the land is under lease, and the effective length, terms and conditions of the lease in determining whether

land is in agricultural use. In other states zoning of the land is considered in the classification of agricultural land. New York and Oregon have different application procedures and other requirements for farms inside agricultural zones. In Hawaii, differential assessment system is tied closely with other land use controls. Kentucky specifically denies deferred taxation to land where zoning classification other than for agricultural or horticultural uses have been petitioned for or have been granted.

California spells out the definition of farmland quite specifically:

"Agricultural use means using the land to produce an agricultural commodity for commercial purposes" (agricultural commodity includes any plant and animal products produced for commercial purpose).

Prime agricultural land means any of the following:

- (1) land which is rated as Class I or Class II by the Soil Conservation Service;
- (2) land which is rated 80-100 on the Storie Index Rating;
- (3) land which supports livestock used for production of food and fiber if it has a minimum capacity of one animal unit per acre;
- (4) land planted with fruit or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than 5 years and will normally return at least \$200 per acre each year;
- (5) land which has produced unprocessed agricultural plants with an annual gross value of not less than \$200 per acre for 3 of the 5 previous years.

California also provides for the establishment of "Agricultural Preserves" which are areas which are devoted to agricultural use, recreation use, open-space use, compatible uses, or any combination of these. The preserves may be established by any city or county which has a general plan. The purpose of the preserves is to establish areas within which the city or county will be willing to enter into contracts (see under "contracts").

OPEN-SPACE LAND

AJR 23 specifies open-space real property to be treated as a separate class for taxation purposes. However, no definition of open-space real property is included in the resolution. "Open-space" can become a semantic trap. Objectives of the open-space must be spelled out since open-space can have many different meanings. The desire for open-space may really be the desire for recreational areas: parks, golf courses, etc.; or the desire for preservation of areas with peculiar ecological value, such as salt marshes. Sometimes open-space seems to mean any low density land use other than a junkyard or a dump. The purpose may be to preserve scenery or to force city expansion into certain patterns and densities.

Listed below are various states' definitions of "open-space" land not necessarily used in agriculture:

Connecticut:

"that land ... including forest land and not excluding farmland, the preservation or restriction of the use of which would;

- (1) maintain and enhance the conservation of natural or scenic resources;
- (2) protect natural streams or water supply;
- (3) promote conservation of soils, beaches or tidal marshes;
- (4) enhance value of to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;
- (5) enhance public recreation opportunities;
- (6) preserve historic sites or;
- (7) promote orderly urban or suburban development."

Municipal planning commissions are empowered to designate areas for preservation as open-space land; the owner of land in such zone can apply for designation as open-space land if his land meets the definition.

Pennsylvania:

"Open-space land includes farm, forest, and water supply land where the amount of land covered by buildings, roads, and other paved areas does not exceed 3 per cent of the site, in addition to other criteria."

Maine:

The planning board of a municipality may prepare a comprehensive plan and designate land for preservation a open-space land. An owner of land in an area so designated may then apply for this classification.

New Hampshire:

Open-space land means any farmland, forest land, wet land, recreation land, flood plain, or wildlife land and any underdeveloped or unoccupied land that is designated by action of a town or

city for a period of at least 10 years.
(recreation land, wetland and wild
land are further defined).

Rhode Island:

An owner must apply to his local
assessor for classification of his
land as open-space land. The
assessor will determine if the land
is indeed open-space land.

Virginia:

Real estate in open-space use means
land used for park or recreation
purposes, the conservation of land
and other natural resources, floodways,
historic or scenic purposes and for
guiding community development. Uniform
standards will be prescribed by the
director of the commission of outdoor
recreation.

Washington:

Open-space land means (a) land so
designated in an official
comprehensive land use plan and
zoned accordingly, or (b) any land
area whose preservation would:

- (1) conserve and enhance national
or scenic resources
- (2) protect streams or the water
supply
- (3) promote the conservation of
soils, wetlands, beaches, or
tidal marshes
- (4) enhance the value to the
public of neighboring parks,
forests, wildlife preserves,
or other open-space
- (5) enhance recreational
opportunities or preserve
historical sites, or
- (6) retain in its natural state
land located in an urban
area, where the land is at
least 5 acres in size and is
open to public use.

California:

Open-space use includes land maintained
so as to preserve its natural
characteristics, beauty or openness for
the enjoyment of the public, protection

of wildlife, or production of salt as long as the land is in any of the following uses for which definitions are also provided in this section: scenic highway corridor, wildlife habitat area, salt pond, municipal wetland area, and submerged area.

Open-space easements are created under a separate law. In granting such an easement, the owner relinquishes to the public the right to construct improvements on the land except as limited by the grant. The grant may be accepted by a city or a county which has adopted a general plan. The easement and covenant may not run for a period of less than 20 years.

No grant of an open-space easement may be accepted by a city or county unless the appropriate governing body finds that: (a) the preservation of this open space is consistent with the general plan of the city or county, and is (b) for the enjoyment of scenic beauty, for use of natural resources, for recreation, or for production of food and fiber. In order for the grant to be accepted, the city or county planning department must have reported that it is consistent with the general plan. Once the open-space easement has been granted, no building permit may be issued to allow the construction of a building which would violate the easement.

ZONING

An important mechanism in implementing legislation to accomplish the stated objectives of AJR 23 is zoning at the county level. As mentioned in some states zoning of the land actually enters into the definition of agriculture land (Kentucky,

New York, Oregon). Zoning by itself is not sufficient to retain agricultural open-space land since county commissioners can change zoning at any time. However, zoning coupled with the preferential tax and deferred payment, and a State-wide Master Plan may slow the transfer of land from agricultural and open-space to commercial and residential.

The zoning question generally aims at State versus local determination of assessment level if the agriculture and open-space definition are not well spelled out but are left to the determination of the county assessor. Zoning by county commissioners may designate those properties to be assessed agricultural or open-space. The chief advantage of the local home rule (zoning only) is its non-coercive nature. It avoids the political trauma associated with state mandated blanket increases in assessed valuation. In 1970 Vermont passed the Environmental Control Law which provides for a state-wide comprehensive land-use planning and zoning procedure to control future developments and to see that such developments conforms to plans and does not unduly change the environment. Permits are required for virtually all construction and development. The Governor of Michigan proposed a restrictive-use program in mid-October 1973 which excluded from the program of lands that are zoned for non-agricultural use to complement land-use planning. To prevent "sweetheart" deals between landowners and zoning boards, the zoning in effect at the time of application would be binding for the duration of the contract. County master plans that include

county-wide land zoning as a portion of the plan and which has been approved by the voters could provide for open-space appraisals according to Professor Lindholm. The plan and related zoning provisions must include areas that are definitely identified as areas that can be and that must be designated as open-space lands. From county master plans, a state-wide plan can be developed. This committee recommends a close coordination between county and state-wide plans.

CONTRACTS

Another tool for implementing AJR 23 is the use of contracts between landowners and local governments. For example, California has a system where any city or county may enter into contracts with respect to eligible land in agricultural preserves (see above in definition of agricultural lands). The purpose of the contract is to limit the use of the land for at least 10 years to preserve its agricultural or other open-space use. A contract may provide for restrictions, terms, conditions, payments, and fees more restrictive or in addition to those required by the state enabling legislation. It will prohibit uses of the land for the purposes other than agriculture and uses compatible with agriculture. When the contract lasts for at least 10 years but less than 20 years, it is automatically extended for another year at each anniversary date unless notice of nonrenewal is given by either party shortly before the anniversary date. Contracts for 20 years or more, however, may contain provisions for automatic extension only after expiration of up to 11 years of

the contract term. The contract will be binding of all successors in interest of the owner. Once notice of nonrenewal has been given, then the existing contract will be in effect for the balance of the contract period. Conditions of the contract cancellation are very narrow. The landowner must show the county board or city council that cancellation is not inconsistent with the purpose of the act and that cancellation is in the public interest. Existence of an opportunity for another use of the land of the uneconomical character of the existing agricultural use is not grounds for cancellation except under closely defined circumstances. When cancellation is accomplished, the landowner will have to pay a cancellation fee equal to 12 1/2% of the full cash value of the land after it is free of the contractual restrictions unless the fee is waived by the governing body with the approval of the secretary of the state resources agency.

Several states have laws permitting local governments to make agreements with landowners under which the landowners agree to restrict use of the land for a period of years in return for tax concessions. Usually, the state or local government has an option of granting restrictive agreements only in those areas where it wants to preserve open space. In Hawaii, landowners may petition the State. If the State approves the petition, the landowner forfeits any right to change the use of his land for a minimum period of 10 years. If the owner fails to observe the restrictions on the use of his land he must pay all of the difference between the taxes that were paid and those that would

have been paid under the higher use back to the time of the initial dedication, plus a 10 per cent per year penalty.

Washington State law provides that the land must remain in the restricted use for at least 10 years. After the eighth year, the owner can give 2 years notice of his desire to revert to the standard method of taxation. When the land reverts to standard taxation, 7 years deferred taxes are collected, with interest. If the owner fails to give the required notice and changes the use of the land, deferred taxes with the interest plus a 20% penalty are collected. A recent New York law permits 8-year automatically renewable agreements under certain circumstances.

Similar laws are on the statute books of Maine, Pennsylvania, and Vermont but appear to have had little use. New Hampshire's recently enacted law will become effective in 1974. Florida has such a law for park, recreation and open-space land; Maryland has one for country clubs and woodlands.

VALUATION

With the passage of AJR 23, the legislature may enact legislation enabling agricultural land to be taxed according to its use value until which time the land is converted to a higher use when it will then be assessed at a value conforming to the higher use. Use classification is usually associated with zoning as well as establishing a procedure for assessment below the value being set in the market place. In Nevada the "full cash value" of agricultural land has been determined as that "of the production or income potential of a working ranch or farm."

Possessory rights that accompany private spreads are not included in establishing animal unity months, (AUM), of feed associated with a particular acreage. (AUM are the units used to value the land, known as the "Bulletin" method). Because the procedure of use value tends to set the value of land as it exists for the weakest holder, market value of land should be reduced when it is used as an item in cost of operations.

The present "Bulletin" method in determining value has shortcomings largely because rising land prices are not included in the income while the rising cost of land is considered as an expense to be deducted from gross income. Professor Lindholm in his report to this committee suggests that the concept of defining agricultural use be made in terms of owner activity and income sources and not just in terms of use of land.

Various valuation methods can be considered, but as Lindholm points out, few are successful. Establishment of value by using cost of production data or original cost less depreciation is not available for the land portion of real estate. Calculations of net income and turning this into capital values through the use of a rate of capitalization has been noted for lack of success. This leaves adjusted marked values as very nearly the sole useful base for setting land values. (In Nevada basic value that must be estimated by the assessor is that which would be taken in payment of a just debt due from a solvent debtor, this is termed full cash value (NRS 361..025). However market value arises from speculation and can only be established by confirmed sales.

Professor Lindholm recommends using income to establish land value as an alternative. Presently DOAS has adopted a procedure of setting a capitalization rate that is based on a reconstruction of gross income and total cost per AUM and relating this to the selling price of the land. The present procedure, according to Lindholm does not really provide an independent income determination of value. He goes on to say that however, if the procedure used to set the income is uniform for the type of property in question and if sales are freely made, the capitalization rate required to make the income and market values equal will be uniform.

Lindholm lists the unique role that land costs play in affecting net income. He suggests for Nevada the use of wealth changes, tax relationships, subsidy provisions and the value of non-market pricing of BLM land be included in the income total. When this is done he believes you have the foundation for a genuine independent income determination of the value of the fee land to which the going market rate of interest can be applied to arrive at a capitalized value. He also suggests developing income figures which exclude land costs.

California laws provide guidelines for determining what is income. They also provide for the State to set a capitalization rate based on an interest component, a risk component, a property tax component, and where appropriate, a component for the amortization of an investment in perennial crops. The capitalization formula is to be applied by local assessors.

New Jersey and other states including Nevada provide

advisory values for various types of farmland. The state tax department or a committee created especially for the purpose provides recommended values each year for land in various capability classes. Local assessors then determine the capabilities of the land and apply the value. At this period in time Nevada's Bulletin No. 131 has predetermined values for different classes of land according to their ability to produce.

For valuation of land subject to open-space restrictions, California has the county assessors using the capitalization of income method, and forbids the use of sales data. Where sufficient rental information is available, the income will be the fair rent imputed to the land. The rent may be actually received by the owner or may be a rent typical of the area. Where sufficient rental information is not available, the income will be what the land can be expected to yield under prudent management and subject to the enforceable restrictions. Income will be the difference between revenue and expenditure. A detailed method for determining revenue and expenditure is provided in the law. Also a detailed method for determining an appropriate capitalization rate is provided.

Other states are not as detailed in spelling out methods of valuation for agricultural and open-space land as is California. Colorado says the value of agricultural land will be based on its earnings or productive capacity during a reasonable period of time, capitalized at a rate of 11 1/2 per cent. Connecticut says value of agricultural forest, or open space will be based

on its current use, without regard to neighboring uses of a more intensive nature. Delaware bases value of agricultural land on use, jointly determined by evidence of land capability, assessor's own knowledge, and the recommendations of the state farmland advisory committee, who annually determine a range of values for each use in several classifications of land in agriculture, horticulture, and forest use in various regions of the State. Hawaii determines the value of land classified and used for agriculture. The assessor will consider rent, productivity, nature of actual agricultural use, advantages, or disadvantages of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and the opinions of persons who have a special knowledge of land values.

The Oregon code provides two methods for valuing farm land:

1. Farm property is to be assessed for ad valorem purposes based on market data information for comparable uses in bona fide farming. Comparable use is determined when the purchaser meets "the prudent investor for farm use" test.
2. When comparable sales figures are not available, the assessor may utilize an income approach and the capitalization rate shall be that rate used for appraising nonagricultural commercial land.

Colorado determines actual value of agricultural lands exclusive of improvements thereon by consideration of the earning or productive capacity of such lands during a reasonable period of time, capitalized at commonly accepted rates.

In Nevada currently the derivation of a capitalization rate by DOAS is made so that the net income arising from the income concept is kept in line with market determined values. Lindholm suggests the cost of land be excluded (including land taxes). He also suggests a variable capitalization rate based on the federal marginal income tax rates. This he proports would coordinate property tax with income tax. Presently the capitalization rate used in Nevada is relatively low. The reason for this is the treatment of possessory interests. The Nevada Constitution definitely provides for the inclusion of possessory rights in the property tax base; however the present procedure comes up with income that arises only from the AUM provided by fee land while the market price of fee land includes in addition the income arising from AUM provided by the possessory right to graze on U.S. Government land. Lindholm points out this lower AUM income base is why such a low capitalization rate is used to come up with a value approaching that observed in the fee sale of rural ranch land.

CONCLUSIONS

Proponents of differential assessment often push all three approaches--preferential assessment, deferred taxation, and

restrictive use agreements--as means of preserving agricultural land and/or open space. Of the three approaches, however, only the restrictive use contracts even attempt to affect land use decisions directly; the other two leave such decisions solely in the hands of the landowner. The probable effect of preferential assessment and deferred taxation on land use is slight. While relief from immediate property tax pressures may well enable or encourage a farmer to hold out for a time--perhaps long enough to assure the farmer, rather than some professional developer, realizes most of the property value appreciation--such relief might be expected to make a difference only in marginal cases. Restrictive agreements which are voluntary will not entice an owner who is in a position to sell his farm at a handsome profit in a relative short period of time into entering a 10 year contract. Something stronger such as zoning coupled with a state-wide master plan may be required for effective land use control. This committee endorses a coordination of state-wide and county master planning for an effective land-use control tool. Vermont and Michigan have come up with multi-faceted legislative programs which offer a combination of the approaches for land use control with property tax. Attached are provisions enacted or proposed by Vermont and Michigan. (Excerpted from Advisory Commission on Intergovernmental Relations-The Property Tax-Reform and Relief-A Legislators Guide).

If deferred taxation does not control conversion of farmland, it will at least yield greater revenue to local governments at the time of conversion.

As previously mentioned, in the event that AJR 23 is defeated by the voters, this committee will draft recommendations for other types of legislation needed.

Vermont's Multi-Faceted Program:
Putting It All Together

More than any other one State, Vermont has been moving on several fronts bearing on the property tax and land-use control. As of the fall of 1973, four program elements were on the statute books, and a fifth had been proposed. Those already enacted are:

1. A heavy-duty circuit-breaker (revised in 1973), which protects against residential property tax overloads. The relief under this program is available to renters as well as homeowners, to the non-elderly as well as the elderly, and to moderate-income families as well as low-income families;
2. A 1969 differential assessment law for farmers and certain other property owners which gives land owners two options: They can sell or otherwise transfer to public institutions or agencies certain property rights or interests and be taxed only on the value of the rights or interests retained, or they can enter into contracts to have their property tax frozen for up to ten years;
3. The 1970 Environmental Control Law which provides for a statewide comprehensive land-use planning and zoning procedure for Vermont to control future developments and to see that such developments conforms to plans and does not unduly damage the environment. Permits are required for virtually all construction and development;
4. A tax on capital gains arising from holding land less than six years which was enacted in 1973. The tax is graduated according to two criteria-- length of ownership (the longer the land is held, the lower the tax on the gain) and relationship between sales price and purchase price (the greater the percentage gain, the higher the tax).

In 1974, the Vermont legislature will take up the Governor's proposal for tax relief for open land. The first part of this proposal would make circuit-breaker relief available for taxes on up to 100 acres (which would cover most of the State's farms), thereby bringing farmers into the program for relieving property

taxes that constitute an extraordinary burden in relation to income. The second part of the open-land tax relief proposal would provide for property tax reduction on any holding of 20 acres or more if the owner enters into a contract not to develop the land in any way for a 15-year period. If a land owner were to break such a contract, previous tax reductions would come due, with interest plus a 10 per cent penalty.

The various programs complement each other. Compassion is shown for those whose property taxes exceed some legislatively-determined "acceptable" level. By means of a cash-flow test, income is made a superior test of ability to pay when the logic of the ad valorem tax would impose "too high" a burden. On the other hand, the capital gains tax reflects the notion that increasing property values are an appropriate basis for taxation, and this tax provides a means for collecting the tax on such values only when the gains have been realized. Through the differential assessment program, which is linked with the land-use control program, and the proposed "no-development" contracts, tax reductions granted by the community at large to particular land owners are exchanged for concessions made by those land owners in the interest of the greater community.

Coordinating Property Tax Relief and Land-Use Control: The Michigan Proposal

In mid-October 1973, the Governor of Michigan also proposed a restrictive-use program to relieve farm property taxes and to preserve farmland. As in Vermont, the program would be in addition to circuit-breaker relief, although there are significant differences between the two States' proposals.

Under terms of the Michigan proposal 1/, farmers could enter into contracts with the Michigan Department of the Treasury. In exchange for property tax relief, the farmer would agree not to develop his land in any way inconsistent with agricultural use for 10 years. The property tax relief would be of the circuit-breaker variety. For land under restrictive-use contract, property taxes (less credits under the general circuit-breaker) in excess of eight per cent of household income would be credited against State income tax liability; cash refunds would be made where the credit exceeds income tax liability. In contrast to conventional current-use assessment programs, circuit-breakers for farmers,

1/ The proposal discussed here is contained in the "Senate Substitute for House Bill No. 4244."

which tie tax relief to current income, provide a form of "crop insurance."

The proposal includes a substantial penalty for breaking the contract: The applicant must pay the greater of 50 per cent of the sales price or 100 per cent of current State equalized value (which is intended to be 50 per cent of market value). The penalty would not apply if the land were sold through condemnation, or if the purchaser entered into an agreement with the State for the balance of the original 10-year period.

Other notable features of the Michigan proposal include:

- Income-and prior-agricultural-use tests, together with exclusion from the program of lands not suitable for agricultural use, to restrict the program to bone-fide farmers;
- Exclusion from the program of lands that are zoned for non-agricultural use to complement land-use planning. To prevent "sweetheart" deals between land owners and zoning boards, the zoning in effect at the time of application would be binding for the duration of the contract;
- Provision for a State clearinghouse to review all grants and other programs that would promote development of infrastructure that would support urbanization, so that development of such infrastructure on or near land under agricultural-use contracts could be discouraged.

RECOMMENDATIONS REGARDING TAXATION OF PUBLIC UTILITY PROPERTY

Mr. L. Judd Eastman, a consulting valuation engineer prepared a report on the taxation of public utility property for the Assessment and Tax Equity Committee. First Mr. Eastman made eight independent appraisals of public utility firms in Nevada, and compared his appraisals with appraisals of the same firms made by the Nevada Tax Commission. Second, he made a study of the present method of allocating assessments of utilities to local taxing jurisdictions. Finally, Mr. Eastman studied the adequacy of the present staff of the Tax Commission to perform its assigned duties.

The consultant summarized his findings in the following words:

- First, there is inequity to a greater or lesser degree between the assessments of utilities and railroads made by the Nevada Tax Commission.
- Second, there is inequity in taxation between state-assessed taxpayers and owners of common property, and concomitant inequity in taxation between owners of common property.
- Third, there is inequity between the assessments of state-assessed property and locally assessed property.

Based on these findings the following recommendations were made by the consultant and endorsed by this committee:

1. It is recommended that the valuation studies of the consultant be forwarded to the Nevada Tax Commission for their review.

All of the changes suggested under this recommendation are technical valuation questions rather than matters that need legislative direction. Therefore, the committee concluded that the valuation section of Mr. Eastman's report should be forwarded to the N.T.C. for their review. We trust they will take appropriate action.

2. It is recommended that the allocations of assessments of utilities and railroads to local taxing jurisdictions be changed from a mileage basis to a situs cost basis.
3. It is recommended that Recommendation No. 2 not be implemented until a thorough and complete study can be made to determine the fiscal consequences on each county and possible remedial actions can be suggested.

With two dissenting votes the committee endorsed Recommendation No. 2. But this action was explicitly coupled with Recommendation No. 3 which calls for further study to determine the fiscal consequences on various counties, and how these consequences can be alleviated. For example, Esmeralda County derives 52 per cent (see table) of its tax base from centrally assessed property. The committee unanimously endorsed Recommendation No. 3.

The consultant recommended that N.R.S. 361:320 subsections 2, 3 and 4 be repealed and a new statute be enacted to require utility assessments to be allocated to situs. The consultant is

well aware that the implementation of this suggestion would not be simple and that a thorough and complete study should be made.

4. It is recommended that the activities of the Utility Section of the N.T.C. be extended to make possible the implementation of Recommendations Nos. 1 and 2.

This recommendation again suggests technical improvements in valuation practices and allocations of assessments by the Tax Commission.

5. It is recommended that the staff of the Utilities Section of the N.T.C. be augmented to handle the increased workload detailed under Recommendation No. 4.

The committee presents its total staffing recommendations in a separate section of this report.

RATIO OF CENTRALLY ASSESSED PROPERTY
TO TOTAL ASSESSED VALUE

<u>COUNTIES</u>	<u>TOTAL PROPERTY</u>	<u>CENTRALLY ASSESSED PROPERTY</u>	<u>PERCENTAGE</u>
Carson City	95,494,707	6,380,979	6.68
Churchill	47,064,919	13,023,205	27.67
Clark	1,670,438,040	202,690,749	12.13
Douglas	96,340,093	9,596,457	9.96
Elko	133,363,931	22,884,965	17.16
Esmeralda	7,967,447	4,186,168	52.54
Eureka	15,134,669	5,020,631	33.17
Humboldt	47,597,132	13,352,757	28.05
Lander	19,757,457	6,798,174	34.41
Lincoln	16,553,188	6,097,887	36.84
Lyon	56,785,769	19,673,703	34.65
Mineral	635,745,877	9,695,967	1.53
Nye	49,140,964	11,091,049	22.57
Pershing	29,152,815	14,942,804	51.13
Storey	7,076,940	2,334,701	32.99
Washoe	845,942,255	75,549,131	8.93
<u>White Pine</u>	<u>39,997,712</u>	<u>4,126,921</u>	<u>10.32</u>
Totals	3,718,059,208	421,065,269	11.32

RECOMMENDATIONS REGARDING TAXATION OF MINES IN NEVADA

1. CENTRALIZE THE ASSESSMENT OF ALL PROPERTY INCIDENT TO THE OPERATION OF MINES
 - A. The present system of local assessment on mine improvements (plant and equipment) has resulted in serious inequities relative to other types of property. Net proceeds of mines are now centrally assessed. We recommend both net proceeds and plant and equipment be centrally assessed.
 - B. Presently there is an incorrect computation of the state assessed net proceeds tax at the local level since depreciation deduction used in computing the net proceeds tax depends on the values put on the local assessment roll for plant and equipment. These values are in general, rather suspect, hence the depreciation deduction is also.
2. APPRAISE ALL MINE-RELATED IMPROVEMENTS AT FULL CASH VALUE
 - A. Taxpayer reporting forms should be standardized.
 - B. Taxpayer returns should be periodically audited.
 - C. Application of the sales data or replacement cost less depreciation approaches to value should be made by the assessor, and not the taxpayer.
3. THE DEPRECIATION DEDUCTION FOR THE NET PROCEEDS TAX BE CHANGED IN N.R.S. SUBSECTION 362.102.2
 - A. The intent of this subsection is to subtract from the gross income of a mining operation a sufficient amount to provide income to the plant and equipment, and

therefore to exclude the value of the plant and equipment from the net proceeds assessment, which applies only to the mine.

- B. Present technique uses percentage deduction for depreciation applied to assessed values of plant and equipment rather than historical costs - deduction is seriously understated, because the assessed value is only 35 percent of someone's estimate of present value.
- C. Return on investment provided for in depreciation rate, but not for amortization of the investment.
- D. The present technique provides for a gross understatement of the depreciation deduction. The mining industry has never protested this understatement (which consequently would result in an overstatement of the net proceeds tax) because of consistent underassessment of mines plant and equipment. Paschall shows that undertaxation at mine plant and equipment level more than compensated for the overtaxation at the net proceeds level.
- E. The amount of the tax levy might be modestly improved on by applying a statewide uniform tax rate instead of the local property tax rate.

4. THE TAX COMMISSION SHOULD RESCIND ITS DECISIONS CREATING EXEMPTIONS FROM TAXATION OF CERTAIN MINERAL COMMODITIES AND SHOULD REFRAIN FROM FUTURE ACTION CREATING SUCH EXEMPTIONS.
- A. The commission's decisions in 1967 and 1969 to exempt sand and gravel and surface rock run contrary to Nevada law, fundamentals of mining geology and economics.
 - B. In 1969 the commission ruled the exemption of limestone and clay used in cement from mines net proceeds taxation. Limestone does have a value "in itself" for the purpose of making cement, since there is not a substitute for it. Also both limestone and clay must be mixed with something else, in order to create a useful product, in no way implies that, alone, neither has value.
 - C. Many other nonmetallics and metallics that need to be processed or mixed with something else to create a useful product are presently being taxed under the net proceeds law, e.g., gypsum, barites, etc.
The theory of exempting limestone, sand and gravel is not valid.
 - D. The profit and loss statement should render the decision on a mine's value. Arbitrary tax exemption of certain classes of rock and minerals is not the answer.

5. AMEND THE PORTION OF SECTION 362 OF N.R.S. DEALING WITH THE PENALTIES FOR FAILURE TO FILE AND FOR FILING A LATE STATEMENT

A. Inequities can arise from "not less than \$100 nor more than \$5,000" penalty for failure to file statements.

This can become overly burdensome for a small operation, e.g., a net proceeds assessment of \$5,000 will incur a tax levy of \$175--a minimum late filing penalty of \$100 which would be 57% as great as the tax itself; or a tax in a large operation with net proceeds of \$5,000,000 would be \$175,000--the maximum penalty of \$5,000 would be less than 3% of the tax.

B. Solution---Amend subsection to read "A penalty of \$50 or not more than 10% of the tax levy, which ever is greater."

C. Other subsection "Penalty for False Statements", and then provides no specific monetary penalty for perjury.

D. Solution---Subsection 362.240 might be rewritten to impose a penalty of, say 10% of the tax for a false statement, and a later penalty of an additional 15% of the tax if the false statement is proved to be willful.

RECOMMENDATIONS REGARDING ADDITIONAL STAFF

A. County Administration of the Property Tax

It is recommended that the costs of panelling, drafting and reappraisal of counties by the State Tax Commission be shared with the respective counties and that ways of making service charges to the county be explored.

B. Additional staff to accomplish state-wide parcelling, improve utility and mining property assessments, and provide for state-wide computer assisted appraisal system:

1. 7 additional positions in the Central Assessment Division.
2. 3 draftsmen in the Division of Assessment Standards.
3. 10 positions to the Division of Assessment Standards for assistance to county assessors and readying the State for conversion to a computer assisted appraisal system.

This reorganization and additional staffing into a section with computer capabilities and the expertise necessary to physically verify utility real property, develop private carline evaluation procedure, and develop a computerized stratification program for mobile homes. Also the additional staffing will enable the agency to carry out a more vigorous county assessor assistance program and develop the computer assisted appraisal system, parcelling system, and tax

accounting system necessary to assure tax equity.

Revenues recovered from underassessment will help
offset some of the total costs. (see attached letters)

Nevada Tax Commission

CARSON CITY, NEVADA 89701

Telephone (702) 885-4820
In-State Toll Free 800-992-0900

MIKE O'CALLAGHAN, Governor

JOHN J. SHEEHAN, Secretary

September 9, 1974

Dr. Glen Atkinson, Chairman
Governor's Assessment and Tax
Equity Committee
University of Nevada
Reno, Nevada

Dear Dr. Atkinson:

Following are the recommendations that this Agency has submitted to the Budget Office regarding staffing and related costs in its Budget Request for the 1975-77 Biennium pursuant to those consultant recommendations made to the Tax Equity Committee.

In the Agency's Personnel Request it has established a Priority III, the definition of which is "Personnel and support requirements needed in the event the anticipated major recommendations of the Governor's Assessment and Tax Equity Committee are approved. This priority may apply to either the first or both years of the biennium. To the extent that the anticipated recommendations are approved, these fund requirements follow and are additive to Priorities I and II."

It should be pointed out that the Agency is also building into its budget request the meeting of State goals for which it is responsible as issued by Governor O'Callaghan on March 1, 1974. The State goals program calls for the establishment of "a statewide computerized system of property appraisal and tax accounting that will reflect current appraised values and tax status at all times for all property." This has been included under Priority III also. A goal for statewide parcelling by 1979 has also been set down by the Governor; the meeting of this goal has been given a Priority II, FY 1976-77. We estimate there are 93,965 parcels to be plotted by 1979. That step is necessary prior to the implementation of a computer assistant appraisal system.

In reviewing the several consultant recommendations, the Agency has proposed the establishment of a Central Assessment Section under the Division of Assessment Standards. That section would be headed by a Utility Valuation Engineer and would encompass the following: responsibility of establishing valuations for utilities, railroads, airlines, private carlines, banks and bank shares; net proceeds of mines certifications, and appraising mine improvements as well as mobile home valuations.

It is pertinent to note at this point that the Legislative Subcommittee for the Study of Mobile Home Taxation has recommended the Tax Commission budget for this establishment of a computerized stratification valuation system for mobile homes.

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Under Priority I, which is considered to be weak areas, the Agency has requested one Utility Valuation Engineer, one Principal Accountant, one Property Appraiser II and one Statistical Clerk II for fiscal 1975-76. All four positions will be placed in the new Central Assessment Section which will bring the Carson City compliment of that section to seven. (With the transfer of net proceeds of mines to this section, a Tax Examiner is also being added.) The net proceeds of mines auditor will remain assigned to the Audit Division in order to retain the separation necessary between the establishment of value and the auditing of same.

In addition, under Priority I for the 1975-76 fiscal year, we have requested two Property Appraisers and one Statistical Clerk to be placed in the Elko Office but under the direction of a Central Assessment Section for the purpose of utility valuation and the appraisal of real and personal property of mining companies. This would mean that the Central Assessment Section would have three Property Appraisers, two Statistical Clerks, three Principal Accountants, one Tax Examiner and one Utility Engineer, a total of 10 persons. It would be our recommendation to State Personnel that at least one Property Appraiser be classified as a Utility Valuation Analyst for specialized training and the Property Appraisers retained in the field for the net proceeds of mines operation and utility real property verification.

The cost of the above under current salary scales will approximate \$78,553 in FY 1975-76 and \$82,007 in FY 1976-77 or a biennium cost of \$160,560.

Instate travel for Priority I will approximate \$23,776 for the biennium and equipment costs will approximate \$6,176.

We are requesting three Engineering Technicians (draftsmen) for FY 1976-77 as a move toward meeting the parcelling goal and provide field support - one draftsman per two appraisers. Salary cost will approximate \$31,996 and equipment costs, \$3,102.

In addition, we are requesting under Priority III a Property Appraiser III, two Property Appraiser II's, two Statistical Clerks and three Engineering Technician III's (draftsmen) for the Carson City Office. In addition to that, two Property Appraiser II's are being requested under Priority III for the Elko Office for performance of urban and rural property appraisals in the Elko, Lander, Eureka and White Pine County areas. This adds 10 persons to the Division of Assessment Standards for assistance to the county assessors and readying the State for conversion to a computer assisted appraisal system.

This staffing pattern will cost approximately \$195,905 in FY 1975-76 and \$204,455 in FY 1976-77 for a total biennium request of \$400,360.

Based on an anticipated travel cost per man year of \$2,477.51, interstate travel under Priority III has been estimated at \$27,253 for each of the two years of the biennium or a total of \$54,506.

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Also, we have submitted under Priority III in the operating category the following related costs:

	1975-76	1976-77
Office Supplies	\$ 1,323	\$ 1,455
Communications	2,793	3,072
Printing, duplicating, copying	9,585	5,194
Contract services	70,000	-0-

This item covers aerial photography and feasibility and project studies pertaining to computerization to property tax rolls and contingency.

	1975-76	1976-77
Electronic Data Processing	\$90,000	\$90,000

This item covers the programming implementation of computerizing county tax rolls, and private carlines, etc.

	1975-76	1976-77
Other Building Rentals	\$ 8,311	\$ 8,311

This category covers the additional space required in Carson City and Elko meaning that we are requesting in the operating category for the first year of the biennium \$182,012 and in the second year \$108,032 or a biennium total for Priority III of \$290,044.

We have computed that it will be necessary in the first year of the biennium to budget \$11,286 to equip the personnel requested from the Priority III.

Lastly, we have a training category and for the certification program for county assessors and staff we have estimated a cost of \$9,674 based on a cost of \$80.61 per trainee.

In summary, the Agency has budgeted for seven new personnel under Priority I, three under Priority II and 10 under Priority III as relates to property taxation. Total costs for the biennium under Priority I will approximate \$192,512, Priority II, \$35,098 and under Priority III, \$656,196.

This will consolidate mines, mobile homes and utilities into a visible section with computer capabilities and the expertise necessary to physically verify utility real property develop private carline valuation procedure and develop a computerized

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stratification valuation program for mobile homes. Secondly, this will create staff necessary to carry out a more vigorous county assessor assistance program and develop the computer assisted appraisal system, parcelling system and tax accounting system necessary to assure tax equity.

Very truly yours,

John J. Sheehan
Executive Secretary

By 

James C. Lien
Assistant Secretary

JCL/jbd

Nevada Tax Commission

CARSON CITY, NEVADA 89701

Telephone (702) 885-4820

In-State Toll Free 800-992-0900



MIKE O'CALLAGHAN, Governor

JOHN J. SHEEHAN, Secretary

September 24, 1974

Dr. Glen Atkinson, Chairman
Governor's Committee on Assessment
and Tax Equity
Economics Department
University of Nevada
Reno, Nevada

Dear Dr. Atkinson:

In order to more fully explain the benefits an entity derived from a reappraisal, as compared to the cost thereof, we have isolated two reappraisal projects, Esmeralda County and the City of Yerington.

The cost to reappraise total Esmeralda County was \$20,700. The assessed valuation of the County was increased by \$760,148 or 36 percent. The tax dollars generated from that increase at a \$4.50 tax rate equals \$34,206 per year or a five year recapture of \$171,033. The five year figure is used due to the fact that reappraisals are required only once every five years which means that Esmeralda County entities will realize a bonus of \$161,531 in tax dollars over the five year period with an investment of \$0 since the State absorbed the \$20,700 cost. The State will recoup \$9,502 over the five year period.

The reappraisal of the City of Yerington increased its assessed valuation by \$2,022,140 or 66 percent. The cost of reappraising the city was \$18,484 to the Division of Assessment Standards; however, a one year tax recovery at the combined tax rate of \$5.00 will be \$101,107 to be distributed to the City, County, School District and State. Over a five year period that increased assessed valuation will generate \$505,535 in taxes, an additional \$487,051 over the cost which, however, was born by the State and not the City of Yerington or Lyon County.

To give you an idea of the man days involved, the City of Yerington required 197 man days in reappraisal plus an additional 101 man days for mapping or a total of 298 man days or approximately 14.2 months based on a 21 working day month.

In summary, the two projects cost the State of Nevada \$39,184 but will generate over the next five year period a tax recapture of \$676,568 or a tax profit of \$637,384 to the involved entities. This means that the cost of reappraising the properties is approximately 6 percent of the tax recapture potential.

This will verify that entities dramatically benefit from a reappraisal project. When the increase valuation is multiplied by the \$.25 State tax rate, it generates \$34,779 over the five year period while the project cost was \$39,184; a loss of \$4,405. Unless the State is going to provide a direct service to the counties, there should be a cost sharing program since it is the local entities that benefit most from a reappraisal program as demonstrated in the figures above.

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We find, looking at it in another way, that for each man day expended in the City of Yerington, the Division of Assessment Standards produced \$339 in taxes which, when multiplied by five years, mean a recovery of \$1,696 per man day expended, yet the cost of reappraising Yerington was but \$62 per man day.


The County Assessors at the Nevada Assessors' Association meeting in Ely earlier this month expressed their desire to have the Division of Assessment Standards upgraded to provide county assistance because of the ability of the State to secure a better quality of employee competence and control consistency in the reappraisal program throughout the State. It is for these reasons we are suggesting Priority III, based on the need to reappraise throughout the state to increase the valuation for tax recapture and as a result to improve the capability of local government to support themselves rather than making demands upon State government. And yet, because of the tremendous tax recovery potential, serious consideration should be given to the proposal that the counties be required to share the cost of the reappraisal programs.

Enclosed is a schedule showing the impact of the DOAS personnel requests.

Should you have any further question, please contact me.

Very truly yours,

John J. Sheehan
Executive Secretary

By 
James C. Lilen
Assistant Secretary

JCL/clb

Enclosure