

MINUTES

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ASSEMBLY TAXATION  
FEBRUARY 25, 1975  
9:30

Members Present: Chairman May  
Mr. Mann  
Mr. Bennett  
Mr. Christensen  
Mr. Demers  
Mr. Harmon  
Mr. Murphy  
Mrs. Ford  
Mr. Young

Guests Present: See attached list.

The meeting was called to order by Mr. Mann, who presided at the request of Mr. May. Mr. Mann explained that this meeting was to discuss ACR 18, ACR 19, A.B. 224, A.B. 297, A.B. 298, A.B. 299 & A.B. 300.

ASSEMBLY BILL 224

Mrs. Sue Wagner, Assemblyman, was the first to testify in behalf of A. B. 224. She explained to the committee that this bill calls for action and ACR 19 just calls for a study of stratification methods to depreciate mobile homes. She then called on Mr. Jim Lien to explain further.

Mr. Jim Lien, Nevada Tax Commission, told the committee that A. B. 224 would direct the Tax Commission to use a depreciation schedule in order to assess mobile homes for property tax. The depreciation formulas would be developed by a computer and would be in effect as of July 1, 1976. He said that the cost for the program would be \$40,000 and that ~~then the cost would be \$5,000 to run it annually.~~ After being asked by several members of the committee if the Tax Commission could proceed with A. B. 224 if Ways and Means did not give them the \$40, 000, he said that with no money the Tax Commission could do a study on depreciation formulas but that was all. He said that without the money A. B. 224 turns into ACR 19.

ASSEMBLY CONCURRENT RESOLUTION 19

No testimony given.

ASSEMBLY CONCURRENT RESOLUTION 18

Mr. Lien, of the Tax Commission, told the committee that what ACR 18 does is to tell the Tax Commission to budget for a computerized property valuation program. So in two years the Tax Commission will be in front of the Taxation committees asking for the same thing that A. B. 224 asks for now. He added that ACR 18 and ACR 19 do the same thing in four years that A. B. 224 does in one year. He also added that when the

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Tax Commission comes back in two years (if ACR 18 and 19 are passed) they will have to ask for \$60,000 instead of \$40,000 because of rising costs.

ASSEMBLY BILL 297

Mr. Al Chapman of the Trailer Coach Association spoke in behalf of this bill. He said that changing the pay period to quarterly would make it a lot easier on the taxpayer who lives in a mobile home.

Mr. May gave a general explanation to the committee, he said that a stake home pays its taxes in quarterly installments and that the mobile home owner has to pay his tax payment in one lump sum.

Mr. Demers wanted to know what happens if a mobile home owner takes his mobile home and leaves during the year and doesn't complete his payment. No answer was given.

Included in the minutes is a copy of the Mobile Home Taxation study's thoughts on the subjects included in A. B. 297, 298, 299, and 300. For a general summary look at appropriate section.

ASSEMBLY BILL 298

Mr. May explained to the committee that this was a reaction to a localized problem. For a general summary look at appropriate section of Mobile Home Taxation study attached.

ASSEMBLY BILL 299

Mr. Al Chapman of the Trailer Coach Association spoke against the measure. He said it would cause a lot of problems and questions. An example was the question of, what happens if the owner of the mobile home does not own the land underneath it?

Mr. May read from the attached Mobile Home Taxation study. He also suggested that the measure could be made to refer to only those mobile home owners who own their own land also.

Mr. Homer Rodriguez, Carson City Assessor, spoke next. He said that presently the Nevada Tax Commission assess mobile homes and that if this measure passes it would put them under the jurisdiction of the county assessors

Mr. Jack Sheehan said that he felt the bill caused more problems than it had merit.

Mr. Don Peckham, Washoe County Assessor, also testified against the bill. He mentioned the use of a lien date.

ASSEMBLY BILL 300

Mr. Homer Rodriguez, Carson City Assessor, had some questions about the bill but after they were answered he said he was in favor of the measure.

Mr. May explained to the committee that presently there is no means of redemption for the mobile home owner if the mobile home is taken away. He said this would correct it. He then read from the Mobile Home Taxation study. See attached copy of sections of the study.

There being no further testimony to be heard at this meeting, action to be taken after the rest of the testimony is given on February 27, Mr. Mann adjourned the meeting at 10:39.

Respectfully submitted,

*Kim Morgan*

Kim Morgan  
Secretary

Guests

Feb 25

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PLEASE PRINT

Homer Reisinger

Canon City Assessor

John Casarella

DEPT OF MOTOR VEHICLES

J. L. Fletcher

Dept of Motor Vehicle

DON PECKHAM

WASHE ASSESSOR

Walter Montcho

"

"

Luc Wagner

Legislator

Tom Linn

new tax Comm

John J. Sheehan

tax Comm

Blair Gunnar

State Fire Marshal

William Deal

Mobile Home Commission

R.H. BAST

DEP. STATE FIRE MARSHAL

Margaret Gurdue

Voluntary Action Center, Las Vegas

Virginia Berg

Las Vegas Jr League

Jenny Des Vaux

Las Vegas Jr League

Martha Carter

Las Vegas Jr League

Leslie Cooper

Las Vegas Jr League

6. Taxation of Mobile Homes as Real Property

A.B. 299

In deciding to recommend that all mobile homes be assessed and taxed as real property at the option of the owner, the subcommittee reviewed three approaches taken in other states to the taxation of mobile homes as real estate.

In Pennsylvania, the mobile home is taxed as real property to the owner of the home only when it is permanently attached to the land. Texas also charges the tax to the owner of the mobile home, but the real property tax is levied regardless of whether the home is attached to the land. Finally, New York includes the value of any mobile home attached or not in the assessment of the land on which it rests, regardless of who owns the land.

Collection of the mobile home tax would be easier in New York where it is always a lien upon someone's land. But making someone else ultimately responsible for another's tax seems the least socially acceptable and legally sound of the approaches. The New York Court of Appeals, however, rejected the due process argument made against this approach on the rationale that the mobile home park owner could pass the increased tax onto the mobile home owner, the one who rightfully should pay the tax by a rent increase or an amendment to the lease. The U. S. Supreme Court backed the highest New York court's decision by dismissing an appeal from the case.

In Nevada, the New York approach of taxing a person for property he does not own would probably result in lengthy litigation. The subcommittee recommends that the property tax be levied at the option of the owner against the mobile home as real property in his hands. The tax should not become a lien on land he does not own. (See Bill "A".)

Having decided that a real property tax on mobile homes should be charged only to the mobile home owner, the subcommittee next considered whether permanent attachment of the mobile home to the land should be required. There would be the same difficulty with including the value of even a permanently attached mobile home in the assessment of land not owned by the mobile home owner. Thus, the effect of a requirement for permanent attachment would be to exclude all landless mobile home owners from

real property tax treatment. The subcommittee felt that if it were legally sound, all mobile home owners should have an opportunity to opt for such treatment.

Seemingly the only objection to treating permanently attached and nonattached mobile homes alike as real property for tax purposes is that mobile homes do not fit the traditional definition of real property. The definition of real property has always encompassed land and those objects permanently affixed to land. The Nevada Supreme Court has adhered to such a definition and in the absence of legislative direction would probably not treat the mobile home as real property unless it was somehow permanently attached to the land--either actually or constructively.

Under the fixture doctrine, courts may consider a structure constructively attached to land upon balancing the degree of physical attachment, the appropriateness of the realty to the article attached and the intention of the parties. Many courts focus almost exclusively on the parties' intention and consider the other two factors as evidence of such intent.

What constitutes permanent attachment can be whatever the legislature reasonably says it is, because clearly the legislature has power to classify and define what property is taxable as real property. But the question of what should constitute permanent attachment is very difficult and there is little authority for an answer in the country, or in Nevada. There have been informal discussions between the county assessors and the Nevada Tax Commission as to possible criteria. Physical attachment to a foundation, qualification for FHA financing and compliance with certain building code requirements have been suggested. But there is no consensus.

The practice among the county assessors, pursuant to NRS 361.-562, is to put a mobile home on the secured roll at the request of the owner if the mobile home is placed on land--whether permanently attached or not--owned by the mobile home owner and having sufficient value to cover both his personal and real property tax liability. Tax payments in quarterly installments would be available and, since the value of the mobile home is included in the assessment of the land, a

2-year redemption period would probably apply to the mobile home also. Where the mobile home is located on land owned by the mobile home owner, the only significance in saying that no mobile home is taxed as realty in Nevada is that all mobile homes, no matter where or how placed, are depreciated under the same schedule and are subject to the sales tax even when sold with the land. For otherwise full real property treatment of a mobile home, the owner need only own land. In practice and in statutory law permanent attachment is not required.

The subcommittee recommends that all mobile home owners have an opportunity to opt for certain benefits of real property treatment with certain qualifications as explained below, regardless of land ownership or permanent attachment, provided only that when the land on which the unit is placed is not owned by the mobile home owner, the taxes on the mobile home become a lien only on the mobile home. The legislature has the power to define what property shall be taxable as real property. The recommendation avoids the problem of taxing one person for the property of another and the problem of determining appropriate criteria for permanent attachment. Proposed bill "A" would effect this recommendation.

#### 7. Quarterly Payment of Taxes A.B. 297

Regardless of the option taken under proposed bill "A", all mobile home owners should also be able to choose between paying the property tax in single or quarterly installments. Under NRS 361.482 and 361.505, payment of the current year's taxes in a single installment is required except when land is owned. Initially a mobile home buyer must meet within 30 days of purchase a sales tax and a property tax bill which must be paid in full. Many mobile home owners living on fixed incomes are experiencing great difficulty in paying the full amount all at once.

In weighing the relative permanence of mobile homes today, the subcommittee recommends that taxes against unsecured mobile homes be collected during the fiscal year for which they are levied even though payment may be made in quarterly installments. Proposed bill "B" would effect this recommendation.

8. One-year Redemption Period for Delinquent Taxes

A.B. 300

Regardless of the option taken under proposed bill "A", all mobile home owners should also be able to redeem their homes prior to a forced sale for delinquent taxes. The mobile home owner has no opportunity to redeem. Under NRS 361.535, his home may be sold absolutely within 25 days of seizure for delinquent taxes. "Skipping" to evade taxes can be made more difficult through the trip permit system recommended and proposed in bill "F". The subcommittee feels that the greater number of mobile home owners who are law-abiding should not lose their homes because of a temporary inability to pay taxes on the ground that a few might skip to evade the tax.

Again, in weighing the relative permanence of mobile homes, the subcommittee recommends a 1-year redemption period for all mobile homes instead of the 2-year period given real property under NRS 361.565. Proposed bill "C" would effect this recommendation.

9. Stratified Depreciation of Mobile Homes

A.B. 224

(a) Depreciation of Mobile Homes in Nevada

Both mobile and conventional homes are subject to the same tax rate of up to \$5 for every \$100 of assessed value and the same assessment ratio of 35 percent of full cash value. This equality is mandated by article 10, section 1 of the Nevada constitution. The only differences in the manner in which the property tax is computed for the two forms of housing lies in the rate of depreciation and the frequency of assessment. Mobile homes are depreciated faster and assessed annually, while the conventional homes are assessed every 5 to 10 years.

The tax commission has pointed out that the difference in frequency of assessment is likely to change in the near future. Litigation on this issue is becoming more plentiful and a trend is developing toward annual assessments of all types of property. Annual assessments are already a reality in many states and are in the progressing stages of development in Washoe and Clark counties.



To understand depreciation generally, a clear distinction must be made between the "market value" of a mobile home and its "intrinsic value." "Market value" is what a willing buyer pays a willing seller for a particular mobile home in an arms-length transaction. The "intrinsic value" speaks to the condition or quality of the mobile home itself at the time of sale. There is considerable disagreement over the construction quality of mobile homes generally. Normally market value will decline as intrinsic value declines, unless the demand is so great that most people are willing to pay more than the intrinsic value would warrant. This is just what appears to be happening to mobile homes in Nevada today.

Market value is used in ad valorem taxation because it is deemed to be the fairest measure of one's ability to pay property taxes. Thus, the goal of any depreciation schedule is to reflect market value as accurately as possible.

Under NRS 361.325 the Nevada Tax Commission is charged with fixing and establishing the valuation for assessment purposes of all mobile homes in the state. Pursuant to this responsibility, in May of each year, the tax commission determines and adopts a single depreciation schedule which the county assessors apply to all mobile homes assessed, regardless of whether the home is on a foundation with wheels removed or on land owned by the mobile home owner. For the 1971-72 tax year, county assessors used a straight line 8 percent depreciation schedule based on a 10-year life and having a 20 percent residual value. Under this schedule, the mobile home was depreciated 8 percent each year for 10 years, at which point it reached 20 percent good. The mobile home would remain at 20 percent good for tax purposes from that point on for the balance of its life. (See Exhibit B.)

This schedule was revised for tax year 1972-73. Market data then indicated that mobile homes were experiencing a sharper depreciation in their early years than 8 percent

each year. Also their service life had become longer as evidenced by actual sales data showing that between 10 and 20 years after their initial sale, mobile homes were still selling well above 20 percent of their original suggested retail price. To reflect these changes in the market, the tax commission developed a "curved" line depreciation schedule in 1972-73 based on a 20-year life and having a residual value of 20 percent good reached in 20 years. (See Exhibit B.)

This schedule was in turn revised for tax year 1973-74. Sales data from Nevada counties used for the first time and from the Official Mobile Home Market Report showed that mobile homes were depreciating less rapidly in their earlier years, so the 1972-73 schedule was adjusted to curve less sharply in those years. (See Exhibit B.) This schedule has been readopted unchanged for use in tax year 1974-75. The extension of the service life from 12 to 20 years in 1972-73 and the flattening of the curve in the early years of depreciation in 1973-74 had the effect of increasing the assessed valuation of many mobile homes during those periods.

In formulating the 1973-74 mobile home depreciation schedule, the tax commission staff reviewed a total of 459 sales from several counties in the state and referred to information contained in the Official Mobile Home Market Report. The report is a comprehensive nationwide market study which is considered to offer an accurate method of determining the rate of depreciation. The current market selling price of a used unit is compared with the suggested retail price quoted in the market report. Then for each sale, the percentage difference between the current sale price, taking into consideration the year it was sold and the model, and the suggested retail price of that model when new is computed and marked on a graph. By linking the most concentrated marks of the graph, an approximate depreciation curve reflecting average depreciation of the average mobile home is obtained.

The number of sales reviewed (459) were considered to be a statistically sufficient sample for the purpose and is close to the number the present staff can adequately

process. It is recognized that a larger sampling could be developed with computer aids and would yield a more accurate schedule.

(b) Stratification

Since no two mobile homes depreciate in market value at exactly the same rate, any single depreciation schedule applied, as is Nevada's, to all mobile homes must be at best an average rate for the average home. The effect of using such a schedule is that many mobile homes will be assessed at a value either higher or lower than what was actually paid for the unit. There is strong evidence that this effect could be reduced if different categories of mobile homes were depreciated at speeds which more accurately reflected the actual rate for each mobile home. This system of depreciation has long been used for conventional homes. Different categories or "stratas" of conventional homes are assigned longer or shorter service lives as are justified by their price, quality of construction and other factors, and are consequently depreciated at different rates. This is the "stratification" method of depreciation.

Stratification assumes a direct relationship between "market value" and "intrinsic value" as discussed above. With adequate maintenance, the better built the home, the more slowly it should depreciate in both intrinsic and market value. In depreciating the better quality home, a schedule based on a longer service life would be used; for the poor quality unit, a shorter service life would be appropriate. Age-life tables prepared from a study of the 1971 market by the American Mobile Home Appraisal Company suggests that the point where the resale value of used mobile homes begins to drop below 20 percent of their original suggested retail price may occur anywhere between 15 to 33 years after its initial sale. Under stratification there would be a series of depreciation schedules, each based upon a service life falling somewhere within such a range.

The length of the service life which should be assigned to any one category or "stratum" of mobile homes must depend on several factors. Quality of construction could be used to differentiate groups of mobile homes, but there is considerable disagreement as to what the differences in quality are, or even that such differences exist. Many believe that most mobile homes are poorly constructed and that the price differential among them is due to optional decorations and other frills. The selling price of the mobile home would be another differentiating factor that would again have to be used in conjunction with other factors such as the make and model of the mobile home.

Such shortening or extending the service life of mobile homes from the present 20-year period would probably have the general effect of lowering taxes on less expensive, poorer quality mobile homes and of raising taxes on the more expensive, better quality units. The state and county would stand to lose and gain tax revenue accordingly.

The tax commission has been studying the feasibility of stratification. But its findings are as yet inconclusive. Without computer assistance, it has not been able to gather a large enough sampling of data from all the counties to determine whether the cheaper, poorer quality mobile homes do in fact depreciate at a faster rate than the more expensive, better quality units. The commission feels that an in-depth study would indicate such a difference.

A computer analysis program would be required to develop the necessary strata delineations and depreciation schedules. For this reason, the subcommittee recommends that the legislature request the tax commission to budget for a computerized valuation program for mobile homes. (See Proposed Bill "G".) The subcommittee finds that data currently available does indicate a strong possibility that stratification will result in more accurate, and therefore fairer, depreciation of mobile homes. A legislative request that the tax commission conduct an in-depth study of stratification is recommended. Proposed bill "D" would effect this recommendation.

10. Redistribution of City-County Relief Tax Generated by  
Mobile Homes

A.B. 298

When a mobile home is purchased new or used in Nevada, it is subject to a combined sales tax of up to 3 1/2 percent pursuant to NRS chapters 372, 374, and 377. When brought new into the state, the mobile home is subject to a use tax under the same chapters. The sales tax is levied against a mobile home each time it is sold in this state. "Occasional sales" of mobile homes between private individuals, however, are exempt from the sales tax if it is not one of three such transactions within a year. When a third sale of personal property within a 12-month period is made, the three transactions become subject to the sales tax. It is not known how much tax revenue is lost through the exemption on occasional sales because it is difficult to determine how many such sales are taking place.

NRS chapter 372 provides for a sales and use tax of 2 percent. All moneys collected under the chapter are deposited in the state treasury to the credit of the sales tax fund. It should be noted that this law was enacted by referendum and can only be amended through a referendum.

An additional 1 percent sales and use tax is levied for local school support under NRS chapter 374. Moneys collected under the chapter are deposited in the state treasury to the credit of the local school support fund. The amount collected in each county, less 1 percent of it retained by the state for administration, is returned to each county for local school support. The amount collected for out-of-state businesses not maintaining a fixed place of business within the state is deposited in the state's distributive school fund for educational purposes.

An additional 1/2 percent sales and use tax may be levied at the option of each county for city-county relief. One percent of the tax collected in each county opting for the tax is deposited in the state general fund for administering the tax. The remainder is returned to each county for city and county general purpose use. It is the city-county relief tax generated by mobile homes which the subcommittee recommends be distributed to the county of the mobile home's placement if different from the county of sale.

The subcommittee finds that there is a need to distribute the sales tax generated by a mobile home to the county which ultimately will have to provide it with community services. Some communities are having difficulty financing the services needed for their rapidly expanding mobile home populations, particularly when the homes are widely scattered rather than grouped in parks. The town of Dayton in Lyon County is a case in point. The town is a "bedroom" community for Carson City with a high mobile home population. Most of these homes were purchased in Carson City and other counties which received the tax revenue from their sale. Lyon County, which must provide services for the homes, received none of this revenue. Besides relieving financial hardship, it is felt that returning the sales tax generated by mobile homes to the county where it is located would help relieve some of the resentment against mobile homes.

It is not known how much revenue in sales and use taxes is generated by mobile homes. Records of these sales are combined with sales of boats, campers and even drugstores. We know only that last fiscal the state deposited \$46,539,432 of sales tax into the general fund. And a private informal poll of 16 mobile home dealers in the Reno-Sparks-Carson City area suggests that the sales tax collected there in fiscal 1972 could have totaled as much as \$712,800. There is also not enough information about the distribution of mobile homes throughout the state to determine how much revenue would be relocated and to which counties.

The subcommittee feels it should limit its recommendation for redistribution to the city-county relief tax. The 2-percent sales and use tax is an important source of revenue for the state's general fund (37.7 percent) and much of it is spent on education, roads and other services in the counties. Some of it is appropriated out of the general fund for the state distributive school fund. The 1-percent local school support tax is returned to the county but may only be used for school purposes. A redistribution of this tax would have no dollar impact on the county receiving it. Local available funds produced by mandatory taxes are subtracted from the basic support guarantee money provided each school district from the state distributive school fund. Thus, a gain of one dollar of local school support tax in a county results in a loss to that county of one dollar of school district basic support guarantee money.

The 1/2-percent city-county relief tax is apportioned between the county and the cities within the county that enacts it. It may be used for general county or city purposes. The subcommittee recommends distributing this tax to the county of a mobile home's placement if different from the county of sale.

The Nevada Tax Commission indicates that the procedures and costs of administering this redistribution would be manageable. The mobile home dealer's report of sale would have to name the county of sale and the county of placement. All mobile home tax revenue data would have to be isolated and computer processed to determine the amount of revenue each county should receive. It is uncertain at this point that redistributing the city-county relief tax alone would relocate enough money to the counties of placement to make the redistribution economically feasible. The subcommittee, of course, makes its recommendation on the condition that such feasibility be shown. Proposed bill "E" would effect this recommendation.

INDEX OF SELECTED SECTIONS OF A.B. 317  
(BDR 32-1026)

<u>Sections</u>	<u>Subject</u>
2	Expiration of terms of present commissioners.
4	Qualifications of commissioners.
11-14	Creation of department of taxation and position of its executive director.
44-50	Appraiser's certification and training requirements.
51	Parcelling map system requirements.
63	Ratio study requirements.
64	Composition of county board of equalization.
67	Composition of state board of equalization.
94	Appraisal and assessment of mining, reduction, smelting and milling properties.
96	Depreciation deduction from gross yield of mining net proceeds.
103 and 104	Penalty provisions relating to appraisal of mines, etc.
328 and 329	Repealers.
330	Effective dates.



PAUL W. MAY  
ASSEMBLYMAN  
DISTRICT No. 19, CLARK COUNTY  
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COMMITTEES  
CHAIRMAN  
TAXATION  
MEMBER  
GOVERNMENT AFFAIRS  
TRANSPORTATION

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# Nevada Legislature

FIFTY-EIGHTH SESSION

February 24, 1975

Permission to introduce BDR 32-1026 by committee on Taxation and refer to same was given in the following chart.

This is the result of a Governor's committee to study assessment and taxation over the last two years, with Dr. Glen Atkinson as chairman.

	YES	NO
MAY	on	
YOUNG	ok	
MANN	ok	
BERNCT	✓	
CHRISTENSEN	yes	
DENCAS	yes	
HARRMAN	yes	
MURPHY	ok	
FORD	OK	