

MINUTES

## ASSEMBLY TAXATION

April 17, 1975

9:00

MEMBERS PRESENT: Chairman May  
 Mr. Mann  
 Mr. Christensen  
 Mr. Demers  
 Mr. Harmon  
 Mr. Murphy  
 Mr. Young

MEMBERS EXCUSED: Mr. Bennett  
 Mrs. Ford

SPEAKING GUESTS: Mr. William B. Byrne, Asst. Clark County Assessor  
 M. Douglas Miller, Chairman, Advisory Mining Board  
 Shirlee Wedow, PTA  
 Senator Mahlon Brown  
 Andy Grose, Research Div., Legislative Counsel Bureau  
 Chris Zimmermann, IRS, Reno office  
 John Gianoti, Vice President of Harrah's Club  
 Richard Morgan, Nevada State Education Association  
 Vernon Willis, Attorney at Law  
 Al Collins  
 Ernie Becker

The meeting was called to order at 9:13 by Chairman May.

ASSEMBLY BILL 297

Mr. William B. Byrne spoke against the bill. He told the committee members that the concept would be nice, but it is not workable or practical because personal property, (mobile homes) are movable and it would be very difficult to collect taxes on something that can be moved to avoid paying taxes. He also pointed out that there might be a constitutional problem with this because boat owners, airplane owners might want the same consideration. He added that any person who wanted to pay his taxes quarterly could do so by asking that his mobile home be placed on the secured role.

ASSEMBLY BILL 300

Mr. Byrne also spoke against this bill. He said that the county doesn't seize and sell but very few mobile homes for failure to pay taxes. That is only done after much contact with the owner and many opportunities on the owner's part to pay. He said that this would only give the mobile home owner a better chance to get away with not paying his taxes.

ASSEMBLY BILL 546

Mr. Byrne felt that this was an excellent piece of legislation that corrected a long overlooked inequity in taxation. He did make one

suggestion to amend the bill. He said that as the bill was written there was a loop hole. He said that you should not exempt veteran's organizations from taxes because of ownership, but from use.

ASSEMBLY JOINT RESOLUTION 30

Mr. M. Douglas Miller, Chairman of the Governor's Advisory Mining Board, submitted a statement of support to the committee.  
(ATTACHMENT 1)

COMMITTEE ACTION

Mr. Murphy moved a DO PASS, seconded by Mr. Mann, passed unanimously.

SENATE JOINT RESOLUTION 5

Mrs. Shirlee Wedow representing the Parent-Teachers Association spoke in favor of the bill. She said that the majority of the leadership of the PTA was strongly in support of this measure. In speaking around the state, Mrs. Wedow had found that after the people understood that this was not an additional tax but a credit they were in complete support of the measure. She said that the most important thing to do was to educate the citizens of Nevada as to the real content of the resolution.

Senator Mahlon Brown was the next speaker in favor of the resolution. His testimony was as follows. The publicity and information spread about this resolution has been the worst type of propaganda he had seen in a long time. It was all ill advised. He said that the sponsors of the resolution in no way want to add any more taxes to Nevada and we also want to make sure that there is no harrassment on the Nevada citizens. This is a credit and not another tax. There will still be no inheritance tax in the state of Nevada. To give up this money would be a shame. This is the only tax I know of that will not hurt anyone because if you have an estate of more than \$60,000 you will have to pay the federal estate tax no matter what state you are living in. In the last three years the state of Nevada would have received from the federal government in the neighborhood of 18 million dollars. It would come to about 3 million dollars a year. The Nevada State Journal, the Las Vegas Sun, the Las Vegas Review Journal have all written editorials in support of the estate credit. Senator Brown then quoted from the minutes of the hearing on the same subject of two years ago when Mr. Elmer Vacchina from First National Bank had said that he and the bankers were in support of the move.

Mr. Murphy asked Senator Brown about the statement that has been made that if we pass this resolution people will stop coming to Nevada for the tax climate. Senator Brown said that that was the biggest myth ever perpetrated on the people of Nevada. People of this stature (\$60,000 and up) would have to pay the tax anywhere they were.

Mr. Mann asked if there was any truth to the statement that this would open the door to a lot of new taxes in Nevada. Senator Brown said that the only thing in this resolution, which will have to be voted on by the people, is the credit. Any other tax or change would also have to be voted on by the people.

Mr. Young asked how many states received the credit but in effect did not have a state estate tax.

Senator Brown told him that six states were "pick up" states.

Mr. Andy Grose, the Deputy Director of the Research Division of the Legislative Counsel Bureau, at the direction of Senator Brown, handed out a chart showing revenue and costs in "pick up" states. He explained the chart to the committee. He also handed out a research background paper on estate taxes compiled by the research division. These are included in the minutes as ATTACHMENT 2 and ATTACHMENT 3 respectively.

Mr. Chris Zimmermann, Estate Tax Attorney for the Internal Revenue Service in Reno. His written testimony is ATTACHMENT 4. Mr. Demers asked him what was the difference between an estate tax and an inheritance tax. Mr. Zimmermann told him that an estate tax was against the giver and the inheritance tax was against the recipient. He added that the inheritance tax would still not be applicable in Nevada if this resolution passed.

Mr. John Gianoti, Vice President of Harrah's Club was the next speaker. He said that he had been watching for several sessions the hearings on this subject and that until now he had not taken a stand. He said that he had not heard the opponents of this measure speak. He added that there was not a rational explanation that Nevada should not be getting free money from the government. He added that Mr. Bill Harrah, owner of Harrah's Club, had spent most of his life in Nevada and that he loved the state and that when he died he would want some of money to come back to the state he loved and not go to the federal government.

Mr. Richard Morgan, Executive Director of the Nevada State Education Association also spoke in favor of the resolution. He told the committee that the educational process was needing more and more money and that he saw this estate credit as a way of putting off raising the sales tax in Nevada for a few years. He said that the teachers association recommended that the committee pass this resolution and get it out as quickly as possible.

Mr. Vernon Willis, an attorney from Las Vegas, spoke in opposition of the bill for a group of business. He said that they opposed the measure for psychological reasons. He said that people come here because of the tax climate and not the weather climate. He read a letter from a Mr. Leo Dwerlkotte who spoke of his reasons for moving to Nevada because of the absence of inheritance taxes.

Mr. Demers pointed out to Mr. Willis that this resolution had nothing to do with creating an inheritance tax.

Mr. Mann asked Mr. Willis where the people would go if they did not go here for the tax climate. He said that there would be no change in the tax climate because those people would have to pay the federal estate tax no matter where they lived.

Mr. Al Collins told the committee that he was also afraid of the psychological effects of this measure.

Mr. Ernie Becker also stated that he was opposed to the passage of this resolution.

COMMITTEE ACTION

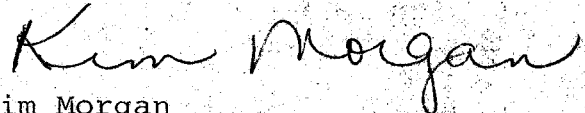
Assembly Bill 300- Mr. Mann moved to Indefinitely Postpone, Mr. Christensen seconded, passed unanimously except for Mr. Demers who voted "no".

Assembly Bill 297- Mr. Christensen moved to rescind the action whereby the committee recommended a DO PASS on A. B. 297. Motion seconded by Mr. Mann, passed unanimously. Mr. Mann moved to Indefinitely Postpone, seconded by Mr. Murphy, passed unanimously.

Assembly Bill 546- Mr. Christensen moved a DO PASS AS AMENDED, seconded by Mr. Mann, passed unanimously.

There being no further business, the meeting was adjourned at 10:45.

Respectfully submitted,



Kim Morgan  
Secretary

AGENDA FOR COMMITTEE ON TAXATION

Date Thursday, Apr 17 Time 9:30

Room 316

Bills or Resolutions  
to be considered

Subject

Counsel  
requested\*

✓ S.J.R. 5

Estate Tax

A.J.R. 3

Estate Tax

S.B. 167

The Green Belt Bill

A.B. 544

✓ A.J.R. 30

✓ A.B. 546

✓ A.B. 297

✓ A.B. 300

ATTACHMENT 1



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ADVISORY MINING BOARD

4249 KINGS CANYON ROAD  
CARSON CITY, NEVADA 89701  
Telephone 882-3534

April 17, 1975

Nevada State Assembly  
Honorable Paul W. May, Chairman  
Taxation committee  
Legislative Building  
Carson City, Nevada 89701

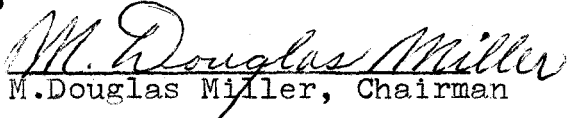
Supporting  
AJR-30, urging  
President of U.S.  
not to lower  
Tariff on Barite  
(BaSO<sub>4</sub>)

This Nevada Advisory Mining Board created under an act of the State Legislature under Chapter 513 and represented by the undersigned Chairman, M. Douglas Miller, After meetings with various segments of the mining business of the State of Nevada and after meetings with the representatives of the U.S. International trade Commission, Washington, D.C. Wish to recommend the adoption of AJR #30 since there are over 500 workers in Nevada in which over 61 per cent of the Barite in the U.S. producing over 675,000 tons of Barite in 1974, valued at about \$6,800,000.

We recommend that the Protective Tariff be held at \$1.27 per ton to protect this very important mining, mineral industry in Nevada

We urge the adoption of AJR-30

Respectfully submitted,

  
M. Douglas Miller, Chairman

Copy to: Hon. Senators  
Mahlon Brown and James Gibson  
Nevada State Senate

REVENUES AND COSTS IN "PICK UP" STATES

STATE	1973-74 REVENUE	ADMIN COST	RATIO	CHANGE PRIOR YEAR
Alabama	\$ 6,234,714	\$ 9,321	668:1	up 77%
Alaska	88,823	3,000-5,000	18:1	up 125%
Arkansas	2,000,000	"negligible"	200:1	up 53%
Florida	40,953,000	115,000	357:1	up 32%
Georgia	6,000,000	15,000	400:1	up 9%
New Mexico	(No data yet available, only enacted in 1973)			

Office of Research  
4/16/75 AG

NEVADA LEGISLATIVE COUNSEL BUREAU  
OFFICE OF RESEARCH BACKGROUND PAPER

1975 No. 5

ESTATE TAXES

I

Nevada is unique in many ways. One of those ways concerns the estate tax. The federal government and 49 states levy an estate tax. Nevada does not. There are several terms used in discussing taxes related to death. An estate tax is levied against the net estate of a decedent based on the right to transmit property from the decedent's estate to the living. The tax is paid by the estate, not by the heirs. An inheritance tax is levied against the right of a beneficiary of an estate to receive a portion of the estate and is payable by the heirs. The term "death taxes" is used to refer to either or both of these taxes. Both estate and inheritance taxes are considered indirect taxes because they are on the transfer of property, not property itself.

Estate and inheritance taxes account for 2.0 to 2.6 percent of federal revenues and about 2.0 percent of state revenues nationwide. This revenue source varies a good deal from year to year even at the federal level. While mortality rates are predictable, the wealth of decedents in any one year can cover quite a range.

There are two types of state estate taxes. Forty-three states have estate taxes which, to various degrees, add to the total tax against an estate. Six states have only what is known as a "pickup" tax. This means that the states levy an estate tax in the amount of the credit that the federal government allows for the payment of a state estate tax. The effect is to take a cut of the federal tax without adding anything to the total tax on the estate. Alabama, Alaska, Arkansas, Florida, Georgia and New Mexico have the "pickup" tax only.

II

In every regular session since 1961, the Nevada legislature has considered the "pickup" type of estate tax. The 1967 session directed a study of the need and feasibility of an estate tax in Nevada. This appeared as Legislative Counsel Bureau Bulletin 76 in January 1969. That study was directed only at the "pickup"



tax. In 1969, 1971 and 1973, legislation was introduced to amend article 10, section 1 of the constitution to allow an estate tax and to provide statutory authority for implementation. The 1969 assembly joint resolution was reported "do pass" by committee, but never voted on by the assembly. The 1971 and 1973 senate joint resolutions were both passed by the senate but died in committee in the assembly.

Committee hearings in 1971 and 1973 in the senate do allow the positions pro and con to be summarized. Testimony for the enactment of a "pickup" tax centered on two uncontested facts. First, a "pickup" tax costs the estate not a cent. In the absence of a state "pickup" tax, the federal government claims the portion that would go to the state. Second, the costs of administering the tax are very small. The reason is that the Internal Revenue Service does all the work. The IRS will not allow the estate tax credit on the federal estate tax until they receive a receipt reflecting payment of the state tax. If they do not receive it within 6 months, IRS will assess the estate in the amount of the state tax.

The opposing position can be characterized as the psychological argument. Financial institutions and others interested in attracting the wealthy to Nevada do not deny that a "pickup" tax would cost nothing extra, but they do contend that the absence of even a "pickup" tax enhances Nevada's image as a low tax state. This image, in turn, attracts people of wealth according to the viewpoint. The opponents also raise the specter of safety deposit boxes being sealed upon a death because of a state death tax. This contention, however, is not tenable because there is no necessity for this with only the "pickup" tax. The IRS will ensure that the state gets an accounting of an estate. No "pickup" state ever gets involved with safety deposit boxes.

Finally, opponents have held that the amount collected would be small relative to the costs of administration. This was probably true into the 1960's. There would have been less than a half million dollars collected in 1964. In 1975, however, based on IRS estimates, the state would have received 2.5 to 3 million dollars through a "pickup" tax. Based on other "pickup states," the cost of administration would be under \$20,000 per year. The revenue would be around 1 percent of state revenues so it is debatable as to the worth of the tax relative to the overall fiscal structure.

## III

The states with a "pickup" tax, their revenue and their costs of administration are listed:

Alabama--1973-74, revenues of \$6,234,714 with administration costs of \$9,321.

Alaska--1973-74, revenues of \$88,823 with administration costs of \$3,000 to \$5,000.

Arkansas--1973-74, revenues of approximately \$2,000,000 with administration costs not known but considered "negligible" since no full-time employee is required.

Florida--1973-74, revenues of \$40,953,000 with administration costs of about \$115,000. Florida does state auditing of estates, this accounting for its higher costs of administration.

Georgia--1973-74, revenues of approximately \$6,000,000 with administration costs of \$15,000.

New Mexico--"Pickup" tax enacted in 1973 with no data yet available.

## IV

A 1974 review of death taxation in the United States assessed Nevada's position on the estate tax.

In Nevada, which is the only state not to have some death duty, estates must still pay the federal tax. By not having at least a pickup tax, Nevada denies itself revenue and does not decrease the total amount of tax which must be paid.\*

The reasons for enacting a "pickup" tax are well established. Revenue likely to be produced and administration costs can be fairly accurately predicted. The reasons against enacting the tax are more difficult to establish and document although this fact does not necessarily make them invalid. There may exist a "tax climate" that attracts people to Nevada which would be disturbed by enacting the "pickup" tax. Tangible evidence of such an effect, however, is not available.

\*Business Research Bureau; Death Taxation in the American States; University of South Dakota, Vermillion, S.D., 1974.

SUGGESTED READING  
(Available in Research Library)

Bureau of the Census; State Government Finances in 1972, U.S.G.P.O., Washington, D.C., 1973.

Business Research Bureau; Death Taxation in the American States, University of South Dakota, Vermillion, S.D., 1974.

Commerce Clearing House, Inc.; State Tax Guide, Second Edition, 1972.

Committee on Taxation, Nevada Senate; "Minutes of March 16, 1971, meeting on SJR 20."

Governor's Committee on Taxation; Nevada Tax Handbook, Nevada Tax Commission, Carson City, 1968.

Legislative Counsel Bureau; "Need and Feasibility of Establishing an Estate Tax in Nevada," Bulletin No. 76, Carson City, January, 1969.

United States Code Annotated, Title 26, Section 2011, Wests Pub. Co., St. Paul, Minn., 1967.

Zubrow, R.A. et al; Financing State and Local Government in Nevada, State Printing Office, Carson City, 1960.

Thank you Mr. Chairman. My name is A. Christopher Zimmermann. I am an Estate Tax Attorney in the Reno office of the Internal Revenue Service. As has been explained, the Internal Revenue Service has no policy of favoring or opposing the measure under consideration. At the request of Sen. Brown I am here to present certain statistical information as to the effect of the proposed Nevada federal state death tax credit.

-  
The key section of the IRC is Section 2011. This in essence allows a credit against the basic federal estate tax for any state death taxes paid.

-  
I would like to briefly illustrate how this works. First, no estate tax return must even be filed for any estate of less than \$60,000. If a couple has, for example \$100,000 of community property, no return would be required if it is community property since each would have only a \$50,000 interest.

-  
If the net estate is over \$100,000 the Internal Revenue Code allows for a death tax credit. We are the only ones who tax between \$60,000 and \$100,000.

-  
I must note that at the present time only about 80 returns are filed annually in Nevada with net estates of over \$100,000.

-  
For example, if a net estate were \$300,000, the basic federal estate tax would be \$62,700. There would be allowable a credit for death taxes paid to the state of \$3,600. Thus, the net federal tax would be \$59,100.

-  
The key in all considerations of tax is obviously how much will it cost. On a net estate of \$300,000, from which we would first deduct the \$60,000 exemption, every estate whether it be in Florida, California or Nevada will pay at least \$62,700 in death taxes. Florida, which for example is one of those states that has a pickup tax, would get \$3,600; California in every case would take at least \$3,600; but Nevada would, at present, take nothing. Yet the Nevada resident's estate would pay the same as the Florida estate. The only difference is that in Nevada the Federal government, will take extra \$3,600.

-  
Every citizen has of course a concern as to whether any new system will impose not only an additional tax, but also whether it represents new burdens or delays.

If this measure is enacted there should be no additional delays in any estate.

From the viewpoint<sup>of</sup> the state, The state only needs to get copies of the federal form L-154. This is often referred to as the closing letter.

The closing letter indicates the amount of federal estate tax, ~~credit~~ as well as the credits allowed.

As a further practical matter the state would only be concerned with those estates paying more than \$4,800 in federal estate taxes. These would be the net estates exceeding \$100,000.

The ease of handling this type of case is pointed up in the state of Alabama. Their collections were slightly over \$1,800,000 in 1966 and have always exceeded \$1,250,000 per year. However, in recent years their revenues have rapidly risen. In 1971 they collected \$2,900,000, 1972 \$3,520,000, 1973, 2,669,000 while in 1974 they reached \$6,235,000.

Even with these substantial collections through their death tax credit, Mr. Eagleton of their Division of Research advises me that they have only one stenographer who handles the program. Their total cost of administration is \$14,000.

I would have to caution the committee that the revenues from a pickup tax credit measure can fluctuate greatly in a state as small as Nevada. Going back to 1967 72 returns would have paid state death taxes to Nevada under the present measure. The total revenues would have been \$962,000. However, of these 72 returns, 12 would have paid \$782,000, or 81% of the revenue. Again in 1968 Nevada lost \$1,610,000 on 87 returns, but again 20 of the returns accounted for slightly over \$1,200,000 or 74% of the revenue.

In the past I have estimated that Nevada was losing about \$2,000,000 per year in Revenues that was going to the Internal Revenue Service. With inflation, I believe that this is on the low side. There appears to have been a rash of deaths among the wealthy during 1973 and 1974. In reviewing the cases that I have under my present examination, which would represent about a year's work, there would be an allowable death tax credit of \$4,700,000. Of this sum \$75,000 has been claimed and paid to other states. Hence, simply on my cases, Nevada has lost in excess of \$4,600,000.

This measure is essentially directed at the very large estates. While certainly not a common sight, we are beginning to see more of the \$10,000,000 estates.

In each of these the state loses \$1,000,000

In prior years Mr. Warren Bate~~rs~~ our former director has said we would cooperate with the state on this matter. Mr. Swanson, our present director, has stated he would follow the same policy.

The Internal Revenue Service will only allow this credit if the tax is paid to the state. However, we do issue the closing letter in many cases prior to the payment of the tax. By reviewing the L-154 the state would have a quick and easy check of whether those owing a state <sup>death</sup> tax credit had paid or not.

In considering the potential in lost revenues, the skyrocketing collections in other states with pickup credits similar to this measure are very interesting. In Florida revenues have risen from \$18,000,000 in 1970 to 31,000,000 in 1972 and \$41,000,000 in 1974. To administer their system in Florida they have a staff of 14 people.

In Arkansas where they collected \$1,321,000 in 1974 the entire system is handled by one part time man.

In Georgia they have in recent years been collecting about 6.5 million per year. Two part time employees administer the system. They use about 5 hrs each per day.

I would judge that it would be difficult to have an employee spending more than ten hours a week to administer Nevada's system. The increase in numbers of returns has been about 15% per year. In 1975 we anticipate about 400 estate tax returns of which about 200 will have a state death tax credit. 10 hours per week would mean about 5 hours per return. I consider this a generous time allowance. In reality, most returns should be completed in one or two hours of work.

As stated at the outset, the amount of death taxes paid by the residents of Nevada will not be changed 10% by this measure. The only effect of this measure will be to divert about \$4,000,000 per year from the coffers of the Internal Revenue Service and place it in the Nevada state treasury.

Internal Revenue Service  
District Director

Department of the Treasury

Date:

Estate of:

Date of Death:

Person to Contact:

Contact Telephone Number:

Acceptance of Estate Tax Return  
(This is not a bill for tax due)

The computation at the bottom of this letter shows how we computed our determination of the Federal tax liability for the estate named above. It does not include any interest that may be charged.

You should keep a copy of this letter as a permanent record because your attorney may need it to close the probate proceedings for the estate. With proof of payment, it is evidence that the Federal tax return for the estate has either been accepted as filed, or has been accepted after an adjustment that you agreed to.

This is not a formal closing agreement under section 7121 of the Internal Revenue Code, but we will not reopen this case unless the provisions of Revenue Procedure 72-40, reproduced on the back of this letter, apply.

If you have any questions, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely yours,

*D. F. Swanson*  
District Director

Gross estate tax.....		\$ _____
Less credits allowed:		
State death taxes.....	\$ _____	
Federal gift tax.....	_____	
Tax on prior transfers.....	_____	
Foreign death taxes.....	_____	
Total credits.....		\$ _____
Net estate tax.....		\$ _____
Penalties, if any.....		\$ _____

# Rules governing the reopening of cases closed after examination in the Office of a District Director

## Rev. Proc. 72-40

### Section 1. Purpose

The purpose of this Revenue Procedure is to restate and amplify the conditions under which a case closed after examination in the Office of a District Director of Internal Revenue may be reopened to make an adjustment unfavorable to the taxpayer.

### Sec. 2. Scope

.01 This procedure pertains to all cases, regardless of type of tax, in which the prior audit and conference action, if any, did not extend beyond the jurisdiction of the Office of the District Director. It does not apply to cases previously closed after consideration by Regional Appellate Offices or Offices of Regional Counsels.

### Sec. 3. Definitions

#### .01 Closed Case:

1. A case agreed at the district level is considered closed when the taxpayer is notified in writing, after district conference, if any, of adjustments to tax liability or acceptance of his return without change.

2. An unagreed income, estate or gift tax case is considered closed when the period for filing a petition with the United States Tax Court specified in the statutory notice of deficiency issued by the District Director expires and no petition was filed.

3. An unagreed excise or employment tax case is considered closed when the period for filing protest and requesting consideration by the Appellate Division specified in the preliminary letter expires and no protest or request for Appellate consideration is filed.

#### .02 Examination and Reopening:

Contacts with taxpayers to verify or adjust items disclosed on information returns, including items of income distributable to taxpayers by partnerships, fiduciaries, or small business corporations, and contacts with taxpayers to correct mathematical errors are not examinations or reopenings.

### Sec. 4. Policy

.01 The Internal Revenue Service will not reopen any case closed after examination by a district office or Office of International Operations to make an adjustment unfavorable to the taxpayer unless:

1. There is evidence of fraud, malfeasance, collusion, concealment or misrepresentation of a material fact; or

2. The prior closing involved a clearly defined substantial error based on an established Service position existing at the time of the previous examination; or

3. Other circumstances exist which indicate failure to reopen would be a serious administrative omission.

.02 All reopenings must be approved by the District Director or by the Director of International Operations for cases under his jurisdiction. If an additional inspection of the taxpayer's books of account is necessary, the notice to the taxpayer required by section 7605(b) of the Code must be signed by the District Director, or by the Director of International Operations for cases under his jurisdiction.

### Sec. 5. Effect on Other Documents

This Revenue Procedure supersedes Revenue Procedure 68-28, C.B. 1968-2, 912.



ASSEMBLY  
HEARING

297

COMMITTEE ON TAXATION

Date April 22, 1975 Time 9:30 Room 316

Bill or Resolution  
to be considered

Subject

S. B. 167

The "Green Belt Bills"

A. B. 544

\*THIS AGENDA CANCELS THE PREVIOUS AGENDA FOR THIS DATE\*