

## SENATE TAXATION COMMITTEE

MARCH 11, 1975

The regular meeting of the Senate Taxation Committee was held on Tuesday, March 11, 1975, in Room 231. Senator Brown called the meeting to order at 2:30 p.m.

COMMITTEE MEMBERS PRESENT: Chairman Mahlon Brown  
 Senator Echols  
 Senator Close  
 Senator Raggio

SENATE BILL 167: Provides for separate appraisal, valuation and partial deferred taxation of agricultural and open space real property.

Senator Brown introduced Mr. John Moschetti, Elko County Assessor, who had requested an opportunity to comment on the proposed bill. Mr. Moschetti read the following statement:

"As assessor of Elko County which contains 21% of the agricultural land in Nevada and 39% of the assessed valuation of livestock, I am concerned about SB 167.

As of May, 1974, there were 34 states and 7 Canadian provinces that have some type of use value farmland assessments. From 1950 to 1972 the national average shows 6.1% loss of agricultural land to other uses.

In 17 states	there was	more than	20% loss
" 9 states	"	"	more than 30% loss
" 4 states	"	"	more than 40% loss
" 2 states	"	"	more than 50% loss

In Elko County in the past decade when most of our loss has occurred, we show 6.3% loss of our agricultural land to other uses; less than 1% per year. Even this number could be reduced since in the past 7 years I have changed many assessments from agricultural to special which I felt were not bona fide agricultural.

SB 167 causes too much paper work for the other 99% of the land by requiring annual filings and dual assessments.

When I supported AJR 23<sup>\*</sup> I felt Nevada had been using use-value farmland assessments for years and this legislation would legalize what we were doing and all that would be affected would be the urban fringe. To tell me that I must dual assess 2 1/2 million acres of agricultural land annually is not necessary and would be more costly than benefits ever received. Did you know that deferred taxes collected in California with its higher tax rates than ours only amounted to \$84,725 in 1972-73?

\* of the 56<sup>th</sup> Session.

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What I think we need is more local decision making; a one time application automatically renewable, no dual assessments and the deferred tax computed at the time of conversion on the acreage converted.

I would like to quote a couple of paragraphs from a recent study on use-value farmland assessments compiled by the Research and Technical Services Department of International Association of Assessing Officers. These paragraphs coincide very closely with an editorial prepared by our local editor just prior to the November election on AJR 23.<sup>\*</sup>

The Rollback Tax and Land Speculation.

"It is not clear whether or not the rollback tax discourages land speculation. Probably it does not. The speculator can maintain his profit margin by two means: (1) paying the farmer less for his land, and (2) passing part of the cost on to the developer or home buyer. Because of the elasticities of the demand and supply curves involved, both of these measures are likely to be quite operative. In short, the farmer or original holder of the land and the homeowner or ultimate user are the only parties likely to be adversely affected. In fact, any hope for the prevention of a land use change depends, as we have seen, upon the participating farmer being so penalized in the form of a lower sales price that he is discouraged from selling. Only in this regard, can the rollback tax be considered an encouragement, and then not a guarantee, for maintaining land in agricultural or open space use."

The Rollback Tax in Perspective.

"The fact that the rollback tax is generally a rather ineffective land use control measure does not mean, of course, that it is an altogether useless or undesirable provision. Certainly it has some marginal effect upon land use. More importantly, however, it provides society with a means of recapturing tax concessions which were made without securing the intended social benefit."

Mr. Moschetti advised the committee that he was very concerned about the amount of paperwork that will be required if this, and similar bills are enacted by the legislature.

Senator Raggio made the following statement: "We are not here to discuss the amount of paperwork involved. We are here to discuss a situation that presently exists in the State of Nevada. There has been a lot of loose talk about what we are trying to do here, and apparently a lot of people fail to understand it. They fail to understand the benefits we are trying to establish. The object is to preserve for agricultural land the right to assess it at use value.

This is something that is completely voluntary on the part of the property owner, no one is compelling anyone to apply for this program. This only applies to land that has a higher use than its present use. Unless land has higher potential value or higher use value, it would not qualify for this deferred tax benefit. Whatever we do here will have to be implemented in some way.

The present constitution of Nevada requires that all land be assessed at a uniform and equal rate. In spite of that, the legislature tried to give the assessors the right to assess on a 'use value' and we have been doing that until the Supreme Court held it was unconstitutional to do so. Use value assessment is not constitutionally permissible unless we enact this legislation or some legislation of this kind.

They said you couldn't assess agricultural land at use value because the constitution forbids your doing that. We have known right along that, at any time, someone could come in and threaten to bring a taxpayer's suit because land that is higher value, being assessed at lower value, means that the county is not getting the revenue. That's where we are today. The legislators are aware that they are subject to a law suit at any time. They amended the constitution to say that the legislature may provide for use value assessment or for a lower assessment value on agricultural land or open space land, but if we don't do it, we will be required to assess the land at its full value. Also provided in the constitution; that if the legislature passes a measure to allow them to assess agricultural land at its use value, they must provide for recapture of the taxes for at least seven years. This measure was adapted from the other 37-plus states that have this same policy. This bill does not require a contract. It says, "you make an application for what portion of your land you want treated as agricultural; you don't have to do this, but unless you do, you will be assessed at the full value". Recapturing of the taxes is something they are required to do under the constitutional amendment. There is no way you can assess this one time, and do it equitably to the rancher; nor can you do it correctly.

If a farmer or a rancher has some acreage that has an actual value and is near a city and is worth, for example, \$1,000 per acre and you are assessing it at use value for \$50 or \$100 per acre, he pays the tax on the lower use. Ten years from now, if he converts or subdivides it, then he is required under this law, or whatever law is enacted, to recapture; that is, to pay the deferred tax; the tax he didn't pay during those years. We don't have any choice about that. That's what the constitution requires.

All the assessor is being asked to do, in addition to what they do normally, is set the assessed use value, plus the regular value; and they have to do that already. The Committee is not telling them to make two values of land unless the land has a higher potential or market value than its' present use. They would then know what the difference in taxes would be."

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Senator Brown asked for comments from the audience on particular points of the bill:

Mr. Peckham, Washoe County Assessor, stated he was very familiar with the bill and extended his thanks to the Senators for attempting to make what they are presently doing with taxes, legal.

Specific areas of questions:

A. Section 4: Is it right to limit this to those individuals who work exclusively on their ranch. During some years, it is necessary for some ranchers to obtain outside work in order to maintain their families. Senator Raggio explained they had included this in order to eliminate the "gentleman farmer", i.e. those individuals who owned a small parcel of property with a few animals for pets, as opposed to working ranches. They didn't want to grant the tax differential to that type of land owner.

It has been suggested that a provision be included to require a limit of \$2500. gross revenue to be obtained from the property each year, as the dividing line, and some suggestion has been made on setting a minimum number of acres.

B. Mr. Peckham suggested rather than saying "October 1st" for deadline for registration, say instead "first Monday of October", or some similar language. This would be beneficial to the assessor's office in determining the tax year.

C. On the requirement for an annual application, Mr. Peckham stated he had no preference, however, he did question the ability of any assessor's office to reappraise the property each year. In discussion, it was pointed out that the property would not have to be reappraised each year, but every five years. However, it would be necessary to maintain a dual assessment at all times; one for the use value, and one for the highest potential use. This might be the biggest problem facing the assessors. Section 13 provides "he may inspect the property".

Mr. Louis Bergeiun, representing the Cattlemen's Association, called attention to Page 2, Section 4, strike "which business is the primary.. inasmuch as this will not be helping the rancher, or, as an alternative perhaps a definition of "rancher" could be included in the bill. He also suggested including a minimum acreage requirement of five or ten acres in order to qualify for the differential tax assessment. Senator Monroe suggested including in the definition, "any land on which a marketable agricultural product is produced". Senator Raggio wants to make this as broad a definition as possible, keeping in mind ex-

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clusion of the developer, speculator, or gentleman farmer.

Mr. Bergeiun called attention to Line 48, at the bottom of page 3, calling for copies of deeds to be filed. The assessor should have copies of descriptions of land, and would be unnecessary.

Senator Raggio asked if it were agreeable that the property owner be required to produce evidence of ownership of some type. This was agreeable with Mr. Bergeiun.

Senator Close stated he would want to see the requirement changed in Section 12, subsection 3, where every owner of the property has to agree to go into this program, rather than having one person, or representative, permitted to apply. This was agreeable to the committee members.

Considerable discussion on the time requirement for the differential taxation; the measure as drafted calls for a 120 month period. However, it was pointed out that the voters had approved "at least 7 years", and this was preferred by those individuals in attendance. Senator Raggio explained that 7 years is a minimum, however, the bill was an attempt to meet the requirements of the amendment. Because the amendment was supported more by advocates of the greenbelt than those that were trying to protect the rights of the agricultural users, the ten years had been drafted into the bill. The additional period of time would give benefit to the open use projects. It was pointed out, however, that the 120 months is a "shifting period" - you would always go back ten years from any given point in time.

On the question of when this deffered tax would become effective, it was explained that the bill would become effective upon passage and approval, and any recapture would have to go back only to the date of the initial application.

It was stressed several times there is no penalty in this bill.

Section 16: An objection was raised as to the inclusion of the word "exclusively". It was agreed this would be deleted.

There is no fee involved in applying for the program.

Purpose of the annual application is to get away from the "contract" concept. By way of annual application, the property owner can withdraw from the program at any time. It was suggested that, perhaps, a contract can be used in dealing with the open space use properties, which could involve a longer period of time.

Section 25: Calls for appeal measure through district court, however,

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it was determined that this should be handled through something similar to the board of equalization.

Testifying in opposition to the measure were:

Mr. B. A. Johnson: He questioned what would happen if the value of the land were to go down, rather than increase. He realizes the committee has to do something, but is opposed to this approach.

Mr. Mario Belli: He objected to the measure. He explained that this will create liens against property that could be passed on to heirs and does not accept this program.

Mr. Lee S. Smith: Wondered if it would be possible to eliminate the six percent interest on the tax monies.

Senator Raggio commented, in closing, that if something is not done by the legislature, the assessors will have to begin assessing at the true value, rather than the use value, and the tax assessments will go up immediately.

There being no further business, the meeting was adjourned at 5:30 p.m.

Respectfully submitted,

*Nycki Kinsley*  
Nycki Kinsley, Committee  
Secretary

APPROVED:

*B. Mahlon Brown*  
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Senator B. Mahlon Brown, Chairman

AGENDA FOR COMMITTEE ON.....TAXATION.....

Tuesday Date.....<sup>\*</sup>March 11, 1975 Time.....pm adj..... Room..... Room 231

Bills or Resolutions to be considered	Subject	Counsel requested*
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SB 167	Provides for separate appraisal, valuation and partial deferred taxation of agricultural and open space real property.	
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\*Please do not ask for counsel unless necessary.