

SENATE TAXATION COMMITTEE
MEETING OF APRIL 12, 1977

The meeting was called to order by Vice-Chairman Norman Ty Hilbrecht. The following members were present:

Senators Gary Sheerin, Carl Dodge, Norman Glaser, Floyd Lamb, Norman Ty Hilbrecht and Richard Bryan.

The following items were considered and action taken:

SB 441 Authorizes property tax exemption for surviving spouse of disabled veteran.

Testifying in support of the bill was:

Mr. Ray Crosby, Legislative Chairman for the Disabled American Veterans of Nevada, stated his organization was in full accord with SB 441. He asked that the language after chapter .801 include "or is drawing 100 per cent disability compensation." This would make 250 additional veterans eligible. Anyone drawing 100 per cent compensation is in just as dire of need for it as anyone under U.S. Code 38.

Senator Lamb asked how many people this bill would involve.

Mr. Crosby said there are presently 20 handicapped veterans under U.S. Code 38. The proposed amendment would add 250-300 more veterans. He added he could not say how many service-connected veterans have already died and their widows and orphans would be eligible for this.

Senator Hilbrecht asked Mr. Jim Lien, Deputy Director of the Department of Taxation, for an analysis of the bill.

Mr. Lien stated there are approximately 20 disabled veterans' widows who would receive benefits as this bill is written. That figure could double from individuals who are widows and are bonafide residents owning property. Counties have indicated that there aren't a great number of people qualifying under U.S. Code 38 who are major property owners. Even if the figure of 20 was tripled, it would cost less than \$3,000 in tax dollars. The proposed amendment expands it considerably. It opens up a potential of \$125,000. However, it is not known how many additional 250 veterans may own property. Probably less than 50 per cent of those would be property owners. SB 19, which was passed by this committee earlier, left the same qualifying clause in reference to U.S. Code 38.

Senator Dodge asked if Section 361.080 applies only to people who qualify under U.S. Code 38.

Mr. Lien said that was correct. The widows would now qualify if their husbands had qualified under U.S. Code 38.

Senator Dodge asked if that widow, because of low income, would also at a certain age qualify under the Senior Citizens Property Tax exemption.

Mr. Lien said if there is any tax liability following the exemptions that she is allowed here, then she would also qualify under the Senior Citizens Act. She is not restricted from general exemptions.

AB 463 Modifies requirement to report value of transferred real property and increases penalty for false declarations.

Mr. Lien presented a mock-up bill which included amendments. The mock-up is attached. He explained the amendment on page one restored the language which was deleted on lines 10-11 so that the computation and the imprint placed on the deed presently would still be placed on the deed. On lines 21-22, rather than stating that an affidavit must be attached to the filing, an affidavit will be submitted at the time of filing. Page two restores the language on line one. Contained on lines 1-11 is what would be stamped on the deed. In addition, the language beginning on line 12 indicates that when a deed is offered for recordation, a form would be submitted with the deed as prescribed by the Department of Taxation. The form would list those items which are noted on lines 16-21. A new section has been added in place of section four, lines 28-29. This would basically state something to the effect that the county recorder shall not record the affidavit but shall forward it to the county assessor, who shall retain one copy and forward one copy to the Department of Taxation. A document filed with the deed is similar to the material that the Department of Taxation now requests in letters of verification. The document is submitted with the deed but is not recorded.

Senator Dodge asked how this will affect the county recorders' paper work problems.

Mr. Lien replied the recorders have indicated it is not paper work they have to retain. The Clark County Assessor's Office felt it would be an asset to them because there would be no need to mail out large numbers of letters of verification. This would not require the recorders to do more than they already are doing. It would save them time.

Senator Dodge stated the reason this documentary tax was originally enacted was to give the assessors a track on local values in property to help make accurate determinations about market values. Has this been helpful to local assessors?

Mr. Lien stated it is not very helpful as it now stands because all it indicates is the tax that was paid and possibly other liens or encumbrances.

Senator Dodge asked if this bill would be helpful to local assessors.

Mr. Homer Rodriguez said it would help the assessor.

Senator Sheerin said more documentation is still being created. Now an affidavit is being prescribed which everyone will have to file along with their deed. It's still another piece of paper. He questioned who would make the copies.

Mr. Lien said the departments, as noted on page two, line 26, will supply the forms to each county recorder.

Senator Sheerin asked if the language up above could be amended to indicate the information will be stamped on the deed.

Mr. Lien stated that was suggested at the last hearing but the committee felt it did not want that recorded on the deed.

Senator Hilbrecht asked what is the practice now for securing the information.

Mr. Lien said the county assessors and the Department of Taxation use letters of verification. The rate of return varies from 25-50 per cent.

Senator Hilbrecht asked if recorders could be mandated to respond.

Mr. Lien stated the property owner, not the recorders, responds to these letters.

Ms. Joan Swift, Clark County Recorder, testified the additional paper could be a problem, but since it doesn't have to be filed in the office, it might not be that bad of a problem. It seems it is a duplication of information if the rubber stamp is retained.

Mr. Lien said the rubber stamp says it is computed on full cash value less liens and encumbrances, but it does not indicate what those liens and encumbrances are. The additional paper would ask for the full amount of liens assumed, any kind of encumbrances and interest rate.

Senator Hilbrecht stated the reason it is not on the stamp is the confidentiality question.

Ms. Swift said one problem she foresees is with the individual people who come in to record. Many of them don't have any idea what is meant when they are asked about equity. Some people get indignant because they feel the recorder is being nosy. With a longer affidavit, it's going to take longer to complete.

Mr. Jim Jones, Washoe County Recorder, stated he was nervous

about being put on the spot of asking people something which, in the past, was considered private. It bothers the recorders to have to ask a property purchaser about the full value.

Senator Hilbrecht asked Mr. Jones if he had problems with the mechanics of this bill.

Mr. Jones said there are problems with the mechanics. The recorders have not seen a sample of the actual form. If it needed to be notarized, the recorders would not be able to provide that in the office.

Mr. Lien said the form would be developed in conjunction with the county recorders and assessors.

Mr. Don Peckham, Washoe County Assessor, stated he apparently is doing something different than other assessors. Assessors were granted subpoena power in 1973. He subpoenas the records from the title companies to pick up the information.

Senator Dodge asked, under that procedure, can Mr. Lien obtain the information from Mr. Peckham's files.

Mr. Lien stated the department uses much the same procedure. That's one of the department's problems. It is time consuming and requires much travel to do so.

Senator Hilbrecht asked if the department utilizes the assessor's records when he has already subpoenaed the information.

Mr. Lien said the department does, if the assessor has the complete record available.

Senator Hilbrecht asked Mr. Peckham if he subpoenas the full market value information.

Mr. Peckham said the subpoena asks for the terms of the transaction.

Senator Hilbrecht stated that Mr. Peckham, then, is looking for the same information as Mr. Lien.

Mr. Homer Rodriguez, Carson City Assessor, said his office goes through the same procedure that the rest of the assessor's do in the state. His office has a very good relationship with the title companies in Carson City and it hasn't been necessary to use the power of subpoena. The title companies give Mr. Rodriguez all the information. Mr. Lien's proposed bill will save the assessors a lot of time. He said he didn't feel it would cause that much extra work for the recorders.

Senator Lamb disputed Mr. Rodriguez's last statement. It

isn't the desire to put extra work on the recorders because they are bogged down now. Is there some way this problem could be alleviated.

Mr. Lien said what is being done is to transfer part of what has been the assessor's work load to the recorder's office.

Senator Hilbrecht suggested a requirement in which the purchaser would go to the assessor's office to get a permit to record. That way the assessor would be doing his own work.

Mr. Lien stated there is concern about burdening the taxpayer. He said he wasn't nearly as concerned about burdening the department's office.

Senator Dodge stated the purpose of determining values is to help the assessor. He questioned whether it was right to put that burden on the recorder. Maybe the fact ought to be accepted that the public is going to be offended and the department should spend the money required to gather the information as it is doing presently. He asked if the documentary tax raises any money for the state.

Mr. Lien replied it raises \$800,000 for the state and \$270,000 for the counties.

Senator Dodge asked if Clark County uses the same method of securing the information as Washoe County does.

Mr. Lien replied Washoe County uses the microfilm received from the recorder's office and forwards letters of verification. He receives a 55 per cent return on these.

Senator Hilbrecht asked if there was any reason why this additional responsibility couldn't be transferred to the assessor.

Mr. Lien replied an original function of recording would be split up and there would be a risk in transferring original documents from one office to the other. It is not a proper function of the assessor.

Senator Hilbrecht stated that this committee determined last session that it was not a proper burden to place on the recorders. The recorders are already being burdened by collecting the department's tax.

Senator Sheerin asked what percentage of transactions go through title and escrow companies.

Ms. Swift replied 75 per cent for Clark County. Mr. Jones said 75 per cent for Washoe County. Ms. Bea DeHaven said 50 per cent for Lyon County.

Ms. Pat Williams, Douglas County Assessor, said she had questioned the county recorders in Elko, Lincoln and Churchill

counties. They were reluctantly in favor of the affidavit provided they did not have to keep a copy of it, they did not have to record it and the county could have the additional revenue for 100 per cent of the real property transfer tax. She said if the transaction goes through the assessor's office, there may be a problem of transferring the documents because the assessor's and recorder's offices aren't necessarily located in the same proximity.

Ms. DeHaven, Lyon County Recorder, stated she works closely with her county's assessor and would like to help him to establish values. Being from one of the smaller counties, people become upset when they are asked by the recorders what they pay for their land.

Senator Hilbrecht asked Ms. DeHaven if she liked the proposed amendments.

Ms. DeHaven said she like the idea of the assessor taking care of it first. He has the authority to determine the value from records which are not public.

Senator Dodge questioned whether the ideas being discussed will create more problems rather than develop a workable process.

Senator Sheerin asked Mr. Lien if the Department of Taxation has the same subpoena power as the assessors.

Mr. Lien replied in the affirmative. That method is used presently at the cost of \$34,000 per year.

Senator Bryan stated that he had more phone calls over the weekend on this particular bill than any bill the past three or four weeks. A number of people are concerned about the implications of the bill.

Senator Dodge moved to indefinitely postpone AB 463. It was seconded by Senator Sheerin and passed unanimously with Senators Glaser and Lamb absent.

SB 241 Lowers threshold for collection of delinquent property taxes by legal action.

Senator Bryan explained that Larry Struve, from the Washoe County District Attorney's Office, construed the list presently prepared for delinquencies of \$3,000 or more as mandating his office to take action. His concern was that if it was lowered to \$1,000, it would increase substantially the volume of work required by his office. There was also a question raised by Senator Dodge that there was no alternative method for collection. He questioned whether or not the threshold of that should be reduced. Senator Sheerin has prepared some amendments.

Senator Sheerin stated the thrust of the amendment is that the county treasurer shall prepare the list and submit it to the

District Attorney when the amount is over \$3,000. On the top of page two, it says he may prepare the list for delinquencies of \$1,000. In effect, what is being done, is that if the county treasurer wants to prepare the list for \$1,000 or \$2,000, he may do so. If it's over \$3,000, he must prepare the list. Senator Sheerin said he talked to Mr. Struve about the proposed amendments and he agrees with this approach. Also, the word accumulated cures another problem. There's always a question of whether the \$3,000 is a single year or is the total delinquencies.

Senator Dodge moved to Amend and Do Pass. It was seconded by Senator Glaser and passed unanimously with Senator Lamb absent.

AJR 12 Proposes to amend Nevada Constitution by authorizing Legislature to impose tax upon motorboats in lieu of property tax.

Senator Glaser moved to Do Pass. It was seconded by Senator Dodge and passed unanimously with Senator Lamb absent.

AB 447 Eliminates interest charge on certain deferred taxes against agricultural and open-space property.

Assemblyman Joe Dini stated this bill takes the interest out of the deferred tax under the Green Belt Act passed last session. The fiscal impact, as related by the Tax Commission, is very little. In the state's efforts to keep more land in agriculture, everything possible should be done to give these people the best break possible.

Senator Hilbrecht stated he talked to real estate people who felt the six per cent is going to be picked up anyway upon disposal of the property. This would be paid by the buyer anyway.

Assemblyman Dini stated the interest itself should never have been put on at that time.

Senator Dodge stated the law is silent on who is going to pick up the tab. This is a matter of negotiation.

Senator Hilbrecht said the farmer would never face the tax.

Senator Dodge said he would if he changed the use.

Senator Hilbrecht asked why would the farmer be entitled to the benefit if the use was changed.

Senator Dodge said when the use is changed, the seven-year recapture must be picked up.

Senator Hilbrecht said the whole theory of this tax was a deferral of tax, not giving away the tax. If it is deferred, it means the state's money is being used for seven years. After that there's forgiveness.

Senator Sheerin approached the question of balancing the equity. He said the state is trying to have equal taxation for everyone. Yet, the people in the cities don't have this tax break. The tax break is given to the agricultural people because the state wants their land kept in farming. Yet, when they sell, the reason for the exemption is gone. He said he wasn't sure why it shouldn't be recaptured.

Assemblyman Dini asked why penalize the farmer for keeping his lands in agriculture.

Senator Hilbrecht said the only time he is penalized is if he converts or takes it out of farming.

Assemblyman Dini said in reality the farmer is going to pay the deferred interest because of the negotiation of purchase price.

Senator Hilbrecht said it was a case of cold economic facts. It is desired to keep that land in agricultural use and the best way to keep it there is to penalize for taking the land out of agriculture. This bill would go the other direction.

Senator Dodge stated if the person accepts the assessment of the property rather than undergoe the seven-year period plus six per cent interest, as a matter of ordinary assessment procedures, the assessment levels over those years are going to be lower. There is another aspect to this and that is that the assessor would feel free about putting up a higher level of assessment on the deferential assessment if he figures he is not going to burden anyone because when the time comes to pay it the farmer has the money in hand.

Mr. Lien said Senator Dodge's statement was correct.

Senator Hilbrecht asked why there shouldn't be a penalty if that was the purpose of the deferential tax.

Senator Dode said that wasn't the primary purpose.

Senator Glaser explained the primary purpose of the bill was not to penalize the owner if the land was converted from agricultural use but to provide a tax incentive to keep it in. There was controversy over the six per cent interest when this was enacted. Nevada is the only state out of the 42 states which have tax deferential that charges interest. It is a sever penalty, particularly for the family farmer.

SB 414 Places real property in categories and requires reappraisal of selected category within 1 year.

Senator Dodge moved to indefinitely postpone SB 414. Senator Hilbrecht seconded the motion and it passed 3-1 with Senator Sheerin dissenting and Senator Lamb absent.

SB 327 Broadens property tax exemption for visual and performing arts.

Senator Dodge moved to indefinitely postpone. Senator Hilbrecht seconded the motion and it passed unanimously with Senator Lamb absent.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Colleen Crum

Colleen Crum

APPROVED:

Richard H. Bryan cc
Senator Richard Bryan
Chairman

TAXATION

DATE APRIL 12, 1977

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

TESTIFYING? NAME ORGANIZATION ADDRESS PHONE

TESTIFYING?	NAME	ORGANIZATION	ADDRESS	PHONE
SB 431 AB 463	✓ DANA GREENLEAF	D. A. V. Nev		
	✓ RAY CRASBY	D. A. V. Nev.		
	✓ JAMES K. JONES	WASHOE COUNTY RECORDER	RENO	785-424
98463	✓ JOAN L. SWIFT	CLARK COUNTY RECORDER	LAS VEGAS	386-4611
10463	✓ Patricia J. Williams	Douglas Co. Recorder	Minden	782-517
B463	✓ Jim Leim	Dept of Taxation	L. C.	
B463	✓ Bea De Haven	Lyon Co. Recorder	Yerington	463-2381
NU	Bobbie Henry	Lyon Co. Recorder	Yerington	463-238
	✓ DON PECKHAM	Washoe Co. Assessor	RENO	
	✓ Homer Rodriguez	CC Assessor	CC	

April 7, 1977

X2
Taxation Committee
Nevada State Senate
Legislative Building
Carson City, NV 89710

ATTENTION: Senator Richard H. Bryan, Chairman

SUBJECT: AB-100 'to place cigarette taxes directly upon the ultimate consumer'

I am, Janet B. Allen, a Paiute Indian, from the Fallon Indian Reservation, Churchill County, and also one of the 5 current appointees serving on the Governor's Commission on Indian Affairs for the State of Nevada. This Commission was created in 1965.

Copies of our report were handed to each committee member on 4-7-77, covering the high points given by each person testifying in opposition of AB-100. Therefore, I will not dwell on each specific point.

The Nevada Indian Commission recommends that you do not pass this particular bill but give full consideration to the recommendations cited on pages 9 & 10.

I do wish to state that the Tax Commission advised me that presently the 'cigarette taxes' collected are pro-rated back to the cities and counties to run their respective self-governments. In essence this is exactly what the Nevada Tribes are accomplishing with income derived from cigarette sales whether the Smoke Shop is tribally owned & operated; or under a lease contract to an individual Indian. All Smoke Shops are located on trust real property within Indian country.

The Court case "Walker River Paiute Tribe & Stephen King v. John Sheehan, et., al., Civil No. R-2888, U.S.D.C. of Nevada resulted in a judgment in favor of the plaintiff for the reasons listed as follows:

1. Interference with interstate commerce.
2. Interference with Indian sovereignty.

It would appear to me, that the issue, we now face (AB-100) should have been considered and resolved in the court case cited herein, as I noted that \$82,000.00 is the amount quoted as taxes lost to the State due to the sale of untaxed cigarettes by the plaintiff.

The State may believe that the passage of AB-100 will create only a very 'minute' burden on the Smoke Shops; however, I believe this will be a burden of a much greater magnitude, if it is enforceable.

The "Moe" decision has consistently been referred to by the proponents for AB-100. However, enforcement of this particular Court decision has not taken place and I understand, one attempt at seizure was made; but failed, because the purchaser refused to have the law enforcement officers inspect his vehicle without an appropriate search warrant issued by a Judge. Further, the Smoke Shops have refused to allow law enforcement officers to enter onto their trust real property, located within Indian country.

The Montana Legislature is proposing to pass Senate Joint Resolution #35 which calls to the attention of the Congress of the United States the jurisdiction problems in Indian country. One Senator remarked, "of all the resolutions, we in the Legislature have sent on to Congress, I have no way of knowing what impact these resolutions have had; but I dare say, that Congress doesn't and could not get very excited because of the various treaties and federal laws effecting Indian country".

Thank you,


Janet B. Allen

SENATE TAXATION

DATE APRIL 14, 1977

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

TESTIFYING?	NAME	ORGANIZATION	ADDRESS	PHONE
Yes	Yvonne T. Knight - atty represent Yerington Paiute Tribe	Native Amer. Rts. Fund	1506 Broadway Boulder, CO 80202	303/447- 8760
	Sandra S. Howard, Chairman	Yerington Paiute Tribe; Yerington Neveda	171 Campbell Lane Yerington Nev	702-462- 3670
Yes	James B. Allen	Neveda Indian Commission	Stewart, NEV & Fallon, NEV	882-3411
See	Lynida Arieman	Neveda Indian Legal Services	P.O. Box 128 Stewart	885-5112
Yes	Wellsten	Talho Tribe	9105 MISSION RD. Fallon, NV	423-4678
Yes	John J. Sheehan	TAX	1100 E. Williams	885-4892
Yes	JAMES D. SALO	ATTY. GEN.	1100 E. WILLIAMS	885-4892
NO	HAROLD WYATT	INTER-TRIBAL COUNCIL	98 Colony Rd.	786-3128
No	Jim Hornat	EPS	Parson City	885-4670
No	Bob Hunter	BIA	STEWART	882-3411
No	ROBERT PAISANO	BIA	STEWART	882-3411
NO	LAWRENCE ASTOR	RENO - SPARKS INDIAN COLONY	34 RESERVATION ROAD	329-293
No	CAROL WYATT	RENO SPARKS INDIAN COLONY	97 Colony Rd. RENO	322-632
NO	ALIKE Red Kone	RENO COLONY	"	"
YES	HY FORGERON	REPRESENTING BATTLE MOUNTAIN SMOKE SHOP	Box 452 BATTLE MTN	635-5195

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 348

ASSEMBLY BILL NO. 348—COMMITTEE ON TAXATION

FEBRUARY 24, 1977

Referred to Committee on Taxation

SUMMARY—Provides standard for determining assessed value of improvements under construction and clarifies which standards may be used in assessing agricultural land. (BDR 32-884)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to property taxes; providing a standard and method for valuing improvements under construction; clarifying which standards may be used in valuing agricultural land; and providing other matters properly relating thereto.

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

1 SECTION 1. Chapter 361 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:

3 1. *A major improvement which is not complete on July 1 of an*
4 *assessment year shall be entered on a supplemental assessment roll as*
5 *soon as it is completed. Its full cash value for that assessment year shall*
6 *be deemed to be its full cash value when completed, prorated for that*
7 *part of the assessment year during which it is complete. The supplemental*
8 *assessment roll shall be extended, using the proportionate value, in the*
9 *same manner as the real property roll.*

10 2. *The Nevada tax commission may adopt regulations necessary to*
11 *administer the provisions of this section.*

12 3. *As used in this section, "major improvement" means an improve-*
13 *ment whose full cash value when complete is at least equal to that of the*
14 *land on which it is situated.*

15 SEC. 2. NRS 361.325 is hereby amended to read as follows:

16 361.325 1. On or before the 1st Monday in June of each year, the
17 Nevada tax commission shall:

18 (a) Fix and establish the valuation for assessment purposes of all
19 livestock in the state.

20 (b) Classify all mobile homes in the state on the basis of those factors
21 which most clearly determine their service lives and fix and establish
22 their valuation for assessment purposes. The definition of "mobile home"
23 in NRS 361.561 applies to this paragraph.

Original bill is 2 pages long.
Contact the Research Library for
a copy of the complete bill.



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April 14, 1977

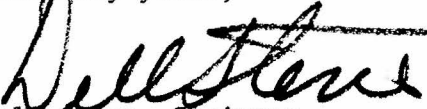
Senator Bryan, Chairman
Senate Finance Committee
Nevada State Legislature
Carson City, NV 89710

Dear Senator Bryan:

On behalf of Nevada Indian tribes, I wish to express our appreciation to your committee for the courtesy that your committee has extended to us. I realize that the views of some of the Indian testifiers were beligerent but for the most part these were not tribal chairman but that they only testified as individuals. As you will note, they were not listed in my letter.

As many of the other issues discussed including the question of automobile dealerships are crucial problem areas that should be discussed more thoroughly. Since the taxation question posed in Assembly Bill 100 is a difficult question to unilaterally attempt to solve, Indian leaders would be willing to sit down and discuss these problems with members of the Nevada State Legislature. At least, through such sessions, we will be able to adequately discuss in depth some of the problems of mutual interest. Therefore I do extend to members of the legislature the opportunity to meet and to discuss the problems which have surfaced during the Assembly Bill 100 discussions.

Sincerely yours,


Dell Steve, Chairman
Inter-Tribal Council of Nevada

cc: Senate Taxation Committee members

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MEMORANDUM

TO: Senate Committee on Taxation

SUBJ: Supplemental Testimony of Yvonne T. Knight

RE: Assembly Bill No. 100

DATE: 13 April 1977

The case of Moe v. Salish and Kootenai Tribes,
U.S., 48 L.Ed.2d 96 (1976), stands for two basic pro-
positions. First, states cannot validly impose taxes on
reservation Indians. And second, states can require that
cigarette sales taxes imposed on non-Indian purchasers be
collected by an Indian retailer where the burden on the
retailer is minimal and does not frustrate tribal self-
government or run afoul of any congressional enactment deal-
ing with the affairs of reservation Indians. We think that
Assembly Bill No. 100 is in several respects invalid because
it violates the foregoing two principles set forth in Moe.
These several respects will be discussed next.

First, as pointed out in my April 7th testimony,
§ 31(c) provides that members of a recognized Indian tribe
who buy cigarettes on an Indian reservation or Indian colony
are entitled to a refund for the tax paid. Plainly, the
Indian tribal members must in the first instance pay the
state tax. This taxation is clearly invalid under the Moe
decision. Notwithstanding the fact that the tribal member
may receive a refund of the tax, the tribal member is clearly
taxed in the first instance. We think Moe and McClanahan v.
Arizona Tax Commission, 411 U.S. 164 (1973) prohibit the state
from imposing any sort of taxing burden upon a tribal member
who purchases cigarettes within the reservation.

Second, Moe takes great pains to point out that the
requirement that the cigarette sales tax imposed on the non-
Indian consumer be collected by the Indian retailer was a

Native American Rights Fund

State Committee on Taxation
13 April 1977
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minimal burden on the retailer and that such burden did not frustrate tribal self-government or run afoul of any congressional statute dealing with the affairs of reservation Indians. Assembly Bill No. 100 imposes more than a minimal burden on the Indian retailer in the following ways.

The Indian retailer is subject to the following economic penalties:

1. A penalty of 5% of the tax owed to the state in addition to the tax itself with interest at the rate of 1% per month or fractioned thereof in instances where the retailer dealer is delinquent in the payment of the taxes due to the state. See § 29 of Assembly Bill No. 100.
2. Any cigarettes possessed by an Indian retailer which do not bear a Nevada tax stamp are subject to be confiscated by Nevada and sold. See § 30 of Assembly Bill No. 100.

We submit that the foregoing economic penalties are impermissible burdens upon the Indian retailer under the Moe decision. You should note that in the instance of the Montana tax construed in Moe the penalty for non-payment of the tax is a misdemeanor as to the consumer, not the Indian retailer. See Moe, supra at 111.

Moreover, there are criminal penalties imposed upon Indian retailers who violate the provisions of the Act ranging from misdemeanors to gross misdemeanors. We submit that such penalties are in direct conflict with the right of Indian tribes in Nevada to be self-governing on their reservations. It is also in conflict with the principle behind the recent retrocession by Nevada of jurisdiction over Indian reservations in Nevada under P.L. 280.

Finally, the requirement that Indian retailers obtain licenses in order to engage in retail cigarette sales on reservations we submit frustrates the right of the Tribe to be self-governing within its reservation as to who may operate a tribal business within those boundaries.

Third, apart from the question of whether Assembly Bill No. 100 is invalid as applied as to individual Indian retailers, clearly, the Act is invalid as applied to tribes who own and operate retail businesses selling cigarettes within the reservation where the Tribe has imposed its own tax for the purpose of

Native American Rights Fund

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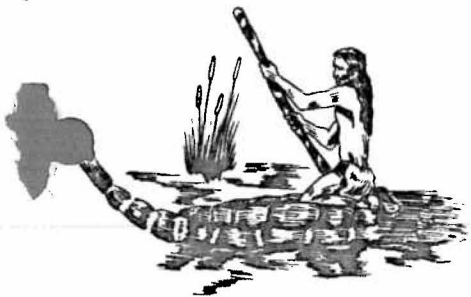
obtaining revenues for governmental services to its members. It is established in federal Indian law that tribes are not subject to suit except where the sovereignty immunity of tribes has been expressly waived by congressional act. See, e.g., Turner v. United States, 248 U.S. 354 (1919), United States v. United States Fidelity and Guaranty Co., 309 U.S. 506 (1940). Thus any penalties provided for in Assembly Bill No. 100 are clearly invalid as applied to tribes. Moreover, the principle of sovereign immunity is designed especially to prevent raids of the tribal treasury which would result from the application of the economic penalties of Assembly Bill No. 100 to tribes engaged in the retail cigarette business or reservation. See, e.g., Larson v. Domestic and Foreign Commerce Corp., 337 U.S. 682 (1949); Land v. Dollar, 330 U.S. 731 (1947).

Finally, the license requirements of Assembly Bill No. 100 if applied to tribes engaged in the retail cigarette business would directly conflict with the right of tribes to be self-governing and to regulate their own activities within the reservation. See, e.g., McClanahan, supra.

The Yerington Paiute Tribe would first recommend that the Committee not pass Assembly Bill No. 100 in its present form, but rather consult more extensively with the various tribes in Nevada in an attempt to reach a resolution of the issue of collection of cigarette taxes from non-Indian consumers on reservations. Such a resolution should take into account the interests of Nevada tribes in establishing a revenue base in their reservations sufficient to support ongoing and anticipated tribal governmental services, and also the interests of Nevada in collecting taxes from non-Indian consumers on reservations. We submit that, where proper, tax sharing agreements between tribes and the state might be explored, wherein the state would agree to share cigarette taxes collected from non-Indians on reservations with those tribes who would agree to assume the burden of collecting and reporting.

In the alternative, we think that at the minimum, Assembly Bill No. 100 should be amended to clarify that the provisions of the Bill do not apply to tribally-owned and operated cigarette businesses on reservations, where the Tribe has imposed its own tax on consumers comparable to that of Nevada for the purpose of obtaining revenues to support the costs of tribal government, both administrative and program.

X3



TOI - TICUTTA

Fallon

PAIUTE - SHOSHONE TRIBES

8955 MISSION ROAD

FALLON, NEVADA 89406

TELEPHONE 702-423-4626

TO: STATE SENATE TAX COMMITTEE

FROM: FALLON PAIUTE AND SHOSHONE TRIBES

SUBJECT: AB-100

Mr. Sheen of the Taxation Department is misleading the Tax Committee and Public on the issue of the tax revenue because, he says the State loses 10¢ a pack or \$1.00 a carton in tax revenue. Like the supposed revenue completely disappears.

THAT 10¢ A PACK OR \$1.00 A CARTON IS STILL IN THE STATE'S ECONOMY AND IT'S STILL ALIVE AND WORKING, SUCH AS:

1. Creating employment
2. Consumer buys other products connected with tax revenue for the State
3. Recreation for the Youth
4. We can go on forever.

Now does Mr. Sheen still contend we lose One Million Dollars a year in tax revenue or does he contend the State loses a small amount in tax revenue. Or does he contend we don't lose any revenue because, of Smoke Shops on the Reservations and Colonies.

The Indian Reservations and Colonies isn't going to move anyplace. Therefore, the revenue received from the Smoke Shops is going to stay here in the State of Nevada.

Fallon Paiute-Shoshone Tribe
Dell Steve, Council Member

CH/vas

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 241

SENATE BILL NO. 241—COMMITTEE ON TAXATION

FEBRUARY 17, 1977

Referred to Committee on Taxation

SUMMARY—Lowers threshold for collection of delinquent property taxes by legal action. (BDR 32-925)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to property taxes; revising procedures for collection of delinquent taxes by legal action; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 361.635 is hereby amended to read as follows:
2 361.635 1. Within 3 days after making the delinquent list in March
3 of each year, the county treasurer: [shall make out]
4 (a) *Shall prepare* and deliver to the district attorney of his county a
5 list certified to by him of all *accumulated* delinquent taxes, exclusive of
6 penalties and assessments of benefits of irrigation districts, of the sum
7 of \$3,000 or more. [, charging him therewith.]
8 (b) *May prepare and deliver to the district attorney of his county, a*
9 *list certified to by him of all accumulated delinquent taxes, exclusive of*
10 *penalties and assessments of benefits of irrigation districts, of the sum*
11 *of \$1,000 or more but less than \$3,000.*
12 2. If the delinquent taxes specified in the certified list and penalties
13 and costs are not paid to the county treasurer as ex officio tax receiver
14 within 20 days from the date of delivery of the certified list to the district
15 attorney, the district attorney may, and shall when directed by the board
16 of county commissioners, immediately commence an action for the collec-
17 tion of the delinquent taxes, penalties and costs.
18 3. *The remedy prescribed by this section is in addition to any other*
19 *remedies provided by law for the collection of delinquent taxes.*

60

Original bill is on file at
the Research Library.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. J. R. 12

ASSEMBLY JOINT RESOLUTION NO. 12—COMMITTEE
ON TAXATION

JANUARY 20, 1977

Referred to Committee on Taxation

SUMMARY—Proposes to amend Nevada constitution by authorizing legislature to impose tax upon motorboats in lieu of property tax. (BDR C-194)

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Proposing to amend section 1 of article 10 of the constitution of the State of Nevada, relating to taxation, by authorizing the legislature to provide for tax upon watercraft in lieu of the property tax.

1 *Resolved by the Assembly and Senate of the State of Nevada, jointly,*
2 That section 1 of article 10 of the constitution of the State of Nevada
3 be amended to read as follows:
4 Section 1. The legislature shall provide by law for a uniform and
5 equal rate of assessment and taxation, and shall prescribe such regula-
6 tions as shall secure a just valuation for taxation of all property, real,
7 personal and possessory, except mines and mining claims, when not
8 patented, the proceeds alone of which shall be assessed and taxed, and
9 when patented, each patented mine shall be assessed at not less than
10 five hundred dollars (\$500), except when one hundred dollars (\$100)
11 in labor has been actually performed on such patented mine during the
12 year, in addition to the tax upon the net proceeds; shares of stock (except
13 shares of stock in banking corporations), bonds, mortgages, notes, bank
14 deposits, book accounts and credits, and securities and choses in action
15 of like character are deemed to represent interest in property already
16 assessed and taxed, either in Nevada or elsewhere, and shall be exempt.
17 Notwithstanding the provisions of this section, the legislature may con-
18 stitute agricultural and open-space real property having a greater value
19 for another use than that for which it is being used, as a separate class
20 for taxation purposes and may provide a separate uniform plan for
21 appraisal and valuation of such property for assessment purposes. If
22 such plan is provided, the legislature shall also provide for retroactive
23 assessment for a period of not less than 7 years when agricultural and
24 open-space real property is converted to a higher use conforming to the
25 use for which other nearby property is used. Personal property which
26 is moving in interstate commerce through or over the territory of the

Original bill is 2 pages long.
Contact the Research Library for
a copy of the complete bill.

A. B. 463

ASSEMBLY BILL NO. 463—COMMITTEE ON TAXATION

MARCH 15, 1977

Referred to Committee on Taxation

SUMMARY—Modifies requirement to report value of transferred real property and increases penalty for false declarations. (BDR 32-1122)

FISCAL NOTE: Local Government Impact: No. State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the real property transfer tax; modifying the requirement to report the value of transferred property; increasing the penalty for false declarations; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 375.020 is hereby amended to read as follows:
- 2 375.020 1. A tax, at the rate of 55 cents for each \$500 of value or
- 3 fraction thereof, is ~~hereby~~ imposed on each deed by which any lands,
- 4 tenements or other realty is granted, assigned, transferred or otherwise
- 5 conveyed to, or vested in, another person, when the consideration or value
- 6 of the interest or property conveyed, exclusive of the value of any lien or
- 7 encumbrance remaining thereon at the time of sale, exceeds \$100.
- 8 2. The amount of tax shall be computed on the basis of the value of
- 9 the transferred real property as determined by the information supplied
- 10 ~~as in the affidavit~~ required by ~~NRS 375.050~~ or as declared by the
- 11 escrow holder pursuant to NRS 375.060. ~~this chapter.~~
- 12 SEC. 2. NRS 375.050 is hereby amended to read as follows:
- 13 375.050 1. If any deed evidencing a transfer of title subject to the
- 14 tax imposed by ~~NRS 375.020~~ *this chapter* is offered for recordation,
- 15 the county recorder shall compute the amount of the tax due thereon and,
- 16 except as provided in subsection 3, shall collect ~~such~~ the amount before
- 17 ~~acceptance of~~ *accepting* the deed for recordation.
- 18 2. Upon receipt of the tax due, the county recorder shall show on the
- 19 face of the document the amount of tax paid.
- 20 3. An escrow holder may tender a deed for recordation without pay-
- 21 ing the tax at that time, but ~~must~~ *shall attach the affidavit required by*
- 22 *this chapter* and pay the tax due ~~thereon~~ within 3 months after ~~such~~
- 23 *the recording.*
- 24 SEC. 3. NRS 375.050 is hereby amended to read as follows:

restore original language

submit

10
Restore
Original
language
& make it
H 1.0
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L

1 375.050 Each deed evidencing a transfer of title which does not go
2 through escrow shall have appended thereon the information as follows in
3 substantially the following form, using a rubber stamp or otherwise:
4 Documentary Transfer Tax \$.....
5 Computed on full value of property conveyed; or
6 Computed on full value less liens and encumbrances remaining
7 thereon at time of transfer.

Under penalty of perjury:

Signature of declarant or agent
determining tax—firm name.

12 1. Each deed offered for recordation shall have attached to it on a
13 form prescribed by the department an affidavit of the parties to the trans-
14 action or their legal representatives declaring:

15 (a) In the case of any deed not a gift:

16 (1) The amount of the full consideration paid or to be paid, includ-
17 ing any lien assumed; and

18 (2) Separately, the full amount of any lien assumed.

19 (b) In the case of a gift or any deed with nominal consideration or
20 without stated consideration, the value of the transferred property as
21 defined in paragraph (b) of subsection 4 of NRS 375.010.

22 ~~2. If the transfer is not subject to the tax imposed by this chapter,
23 the affidavit shall specify the reason for the exemption. The county
24 recorder may require any reasonable information or documentation
25 necessary to determine an entitlement to any exemption from this tax.~~

26 3. The department shall supply forms of the affidavit to each county
27 recorder.

28 ~~4. The county recorder shall forward one copy of the affidavit to the
29 county assessor and one copy to the department.~~

30 SEC. 4. NRS 375.110 is hereby amended to read as follows:

31 375.110 Any [grantee] person who willfully [falsifies the value of
32 transferred real property declared pursuant to NRS 375.050 or any
33 escrow holder who willfully falsely declares the value of transferred real
34 property pursuant to NRS 375.060] makes a false declaration in the affi-
35 davit required by this chapter is guilty of a misdemeanor and shall pay
36 double the amount of any additional tax required [on account of such]
37 because of the falsification.

38 ~~SEC. 5. NRS 375.060 is hereby repealed.~~

submitted
with

4. The County recorder need not record the affidavit but shall forward it to the county assessor who shall retain one copy and forward one copy to the Department