PRESENT: Chairman Norman Glaser
Vice-Chairman Floyd Lamb
Senator Carl Dodge
Senator James Kosinski
Senator William Raggio
Senator Don Ashworth
Senator Mike Sloan

Mr. Ed Shorr, Fiscal Analyst

GUESTS: Mr. Frank Daykin, Legal Counsel, Legislative Counsel Bureau
Assemblyman Robert Craddock, A.B. 144
Mr. Roy Nickson, Department of Taxation
Mr. Marvin Leavitt, City of Las Vegas
Mr. Robert Warren, Executive Secretary, Nevada Mining Association
Mr. William Andrews, Department of Taxation

The meeting was called to order at 2:05 p.m. on Thursday, April 5, 1979, in Room 213, with Senator Norman Glaser in the Chair.

A.B. 144

"Exempts geothermal development leases from property tax."

Chairman Glaser asked Mr. Daykin to comment on the constitutionality of this exemption.

Mr. Daykin stated that in NRS 361.157, it discusses property which is initially exempt from taxation, and then under a certain circumstance when the property is leased and used by an individual in connection with a business for profit it is subject to taxation as though the lessee were the owner. Mr. Daykin said that the statute is imposing a tax upon the leasehold which would not otherwise exist, and then provides exceptions from the tax; and therefore, Mr. Daykin felt the exemptions were valid. Mr. Daykin said that the model for this statute originated from the State of Michigan, and has been challenged a number of times in that State, and has always been sustained.

Senator Don Ashworth said that perhaps this bill is incongruous with the legislation regarding charitable exemptions already passed by the Committee, as that bill (S.B. 162) may allow for "operation" by a profit organization and still receive the tax exemption. Senator Sloan responded that the organization involved with S.B. 162 (Nevada Catholic Welfare Board), stated that in order to qualify for federal funding, the "operation" organization must be nonprofit.

A.B. 144 (Cont.)

Assemblyman Robert Craddock stated that he and Senator Gojack were members of a subcommittee to study the geothermal development in Nevada, and this bill is a result of that study. Mr. Craddock stated that they learned that the time period for development of these resources ranged from seven to fifteen years, so the research is conducive to long-range planning and expensing of funds. Therefore, Mr. Craddock said it would encourage organizations to begin this type of research if one more obstacle could be removed, and they were allowed to "enjoy" a tax exempt status.

A.B. 107 - Exhibit "A"

Chairman Glaser asked Mr. Daykin to look at Page 2, and Page 3 of the bill, and see if there was a drafting error in this bill, in regards to the penalty provided.

Mr. Daykin said that the penalty was bracketed out on Page 3, because it would be redundant to repeat the penalty measure already stated on Page 2, (see lines 16 through 18, Page 3 of A.B. 107).

Senator Dodge asked why Lines 23 through 24 were bracketed out on Page 3? Mr. Daykin said that until A.B. 107 is passed, the penalty is a lien, but if the Committee wishes to retain this as a penalty and not have it dropped, it could be included in a new section. Senator Dodge stated that Assemblyman Bob Weise had indicated in his testimony that it was not the intent of the Assembly to remove the penalty clause regarding the "perpetual lien".

> Senator Lamb moved to restore the bracketed lines, Lines 23 through 24 on Page 3 of Assembly Bill No. 107 and thus amend the bill.
>
> Senator Don Ashworth seconded the motion.
>
> The motion carried.

Senator Dodge said that on Page 2, in the section dealing with "open-space", Senator Jean Ford had commented on the Senate Floor that if the property is divided, a new application should be submitted because this division may change the character of the land termed "open-space".

> Senator Dodge moved to amend Assembly Bill No. 107 by changing the wording on Page 2, Lines 14 through 20, to indicate that in regards to "open-space" if a division is made of the property, the owner who retains the "open-space" is required to file a new application.

Senator Lamb seconded the motion.

The motion carried.

Senator Dodge asked if the language on Page 1 regarding the "agricultural" property is proper if the land is divided into areas of 5 acres or less? Mr. Daykin said that an indiviudal can retain an "agricultural" classification, whether he has 5 acres or less, but it is then a question of with whom he files the exemption. However, Mr. Daykin, stated that if the individual cannot meet the criteria for the exemption, his property will fall into the "residential" category.

Senator Sloan asked for a "point of order" stating that he wished the bill to be opened for reconsideration before any further action was taken.

Senator Sloan moved to reconsider Assembly Bill No. 107.

Senator Don Ashworth seconded the motion.

The motion carried.

Senator Sloan noted, that as requested on Tuesday, April 3, 1979, by the Committee, Mr. Andrew Grose of the Research Division of the Legislative Counsel Bureau had submitted a handout outlining "open-space" laws in other states, (see Exhibit "B").

Senator Sloan asked if this is worth worrying about if the fiscal note in the next 6 to 8 years is going to be negligible? Senator Kosinski said that he felt the issue does not revolve around the fiscal impact; the issue is whether they are going to permit farmers and developers to put their land in the "open-space" status in an equitable manner.

Senator Lamb felt that the Committee needed to know the exact fiscal impact in order to decide on this bill. Mr. Roy Nickson, Department of Taxation, said that as of this date, the amount collected from all seventeen counties in interest on this land has been $8,154.00. Mr. Nickson said that it is his understanding that if the bill in enacted, the interest in the intervening years would be collectable. Mr. Nickson also said that there might be significant impact to the individual, however the term "negligible" is used because compared to the growth and value of the property to the counties, the 6% security interest payment would be relatively small.

Senator Dodge stated that this legislation was brought about because there was a constitutional question as to assessing

A.B. 107 (Cont.)

agricultural lands on their productivity rather than on market value. Senator Dodge said that this had not become an issue until the demand and price on agricultural land began to escalate away from the productivity assessment.

Senator Raggio moved to delete the interest on the deferred tax discussed in Assembly Bill No. 107.

Senator Dodge seconded the motion.

**********

Senator Kosinski moved to amend the motion by deleting the interest on the deferred tax on "agricultural" land, and keep the interest on "open-space" land.

Discussion

The Committee questioned how this could be justified. Senator Dodge said that this could be confusing because there has never been a clear definition of "open-space" land, and in the current law this judgement is left to the county commissioners.

Chairman Glaser called for action on the original motion:

The motion carried, with Senators Kosinski, Don Ashworth and Sloan voting "No".

**********

Senator Dodge moved to amend and "Do Pass" Assembly Bill No. 107.

Senator Lamb seconded the motion.

The motion carried, with Senators Kosinski, Sloan and Don Ashworth voting "No".

S.B. 160 - Exhibit "C"

Mr. Nickson provided suggestions as an alternative to the utility franchise tax revenue. Mr. Nickson said that one alternative could be a fixed fee tax, based on the population of the cities; secondly, a millage tax based on the number of units of energy utilized in a given period in a city; and third, consider a percentage of the net profit of a utility company. Mr. Nickson said that currently the franchise tax is on the gross profits, and this allows for some growth; however, if there is a limitation placed on the type of revenue taxed, this

S.B. 160 (Cont.)

growth will be restricted. Mr. Nickson said that the City of Las Vegas collects $3.4 million; City of Sparks has $582,000 in revenue from this tax; and the concept of a fixed fee tax would stem from an average of the collections based on the populations of the cities as they now exist.

Mr. Marvin Leavitt, City of Las Vegas, said that currently the tax is not on the individual, but the utility; 1% of the 5% tax is absorbed in the rate, and 4% in the consumer's billing. Senator Glaser asked how this differs from Mr. Nickson's second suggestion of a millage tax? Mr. Nickson said that in using the millage tax, this is based on just the units utilized; however, when based on gross revenues as is currently practiced, the tax increases "dramatically" when the price of energy escalates.

Mr. Leavitt said that the franchise tax, combined with the sales tax has allowed the City of Las Vegas to grow at a reasonable basis over the years. Mr. Leavitt said if this tax was considered at the 1975 base level, with a population and C.P.I. increase to 1979-80, the allowable tax for the City of Las Vegas would be just about what is being received now, so this isn't an "unreasonable" growth.

Senator Don Ashworth moved to "Indefinitely Postpone" Senate Bill No. 160.

Senator Sloan seconded the motion.

The motion carried, with Senator Dodge voting "No". (Senator Lamb - Absent)

A.B. 144 - Exhibit "D"

Mr. Robert Warren, Executive Secretary to the Nevada Mining Association, said to Senator Sloan that the only two states that are active in geothermal research are California and Nevada. Mr. Warren referred to the last section of the bill as being a summation of why the legislation should be made into law, (See Page 2 of A.B. 144, Section 2).

Referencing the fiscal note, Senator Raggio asked someone to explain the different rate used for "competive" and "noncompetitive" research. Mr. Bill Andrews, Department of Taxation, said that in July, 1977, the Tax Commission issued a bulletin which stated that "competitive" bids on geothermal leases would be assessed at $2.90/$100 and "noncompetitive" at $1.45/$100. Mr. Andrews said that these rates are based on the fact that the Federal government when extending leases to a known geothermal resource area, provides the leases on a "competitive" basis; as opposed to a "maybe" geothermal resource area, whereby the leases

A.B. 144 (Cont.)

are given "noncompetitively."

Senator Dodge moved a "Do Pass" on Assembly Bill No. 144.

Senator Don Ashworth seconded the motion.

Discussion:

Senator Don Ashworth asked what the footnote numbers "1 and 2" meant in the fiscal note for A.B. 144. Mr. Ed Shorr said that the footnotes came from the subcommittee study on geothermal resources. Mr. Andrews from the Tax Department said that #1 read as, "Tax rates are those found in the preliminary draft of the Department of Taxation's Red Book for fiscal 1978-79. Since most geothermal resources are not located in urban areas, the general tax rural rates were used; such tax rates generally include the county rate, plus the school district rate, and also include the 25¢ state property tax assessment. The estimated distribution of these taxes would be $41,753 to local governmental units, and $3,084 to the state general fund." Footnote #2 read, "There were 427 leases outstanding as of 65-78, for an average of 1600.38 acres per lease."

Senator Sloan asked what the requirements are to prove to the county assessors that an individual's lease is for the purpose of researching geothermal resources? Mr. Roy Nickson said that the individual files with the assessor for his tax exemption, however he didn't know the specifics on obtaining the federal lease. Mr. Andrews said that the federal government limits a single leasing unit to 2,560 acres.

The motion carried.

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There being no further business, the meeting was adjourned at 3:25 p.m.

Respectfully Submitted By:
Sheba L. Frost, Secretary

Approved By: Senator Norman Glaser, Chairman

ASSEMBLY BILL NO. 107

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT **A. B. 107**

ASSEMBLY BILL NO. 107—COMMITTEE ON TAXATION

JANUARY 17, 1979

Referred to Committee on Taxation

SUMMARY—Removes interest and penalty on deferred taxes on agricultural and open-space real property. (BDR 32-887)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to taxes on agricultural and open-space real property; clarifying the requirement to file a new application for continued differential assessment; removing interest on deferred taxes; and providing other matters properly relating thereto.

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

SECTION 1. NRS 361A.110 is hereby amended to read as follows:

361A.110 1. Any application for agricultural use assessment [shall] *must* be filed on or before the 1st Monday in October of any year:

(a) With the county assessor of each county in which the property is located, if the property contains five acres or more.

(b) With the department, if the property contains less than five acres.

2. [A] *Except as provided in this subsection, a* new application to continue [such] *that* assessment is required on or before the 1st Monday in October following any change in ownership or conversion to a higher use of any portion of the property. *If the property is divided, an owner who retains a portion of the property is not required to file a new application to continue agricultural use assessment on the portion retained unless any part of that portion is converted to a higher use.*

3. The application [shall] *must* be made on forms prepared by the department and supplied by the county assessor and [shall] *must* include such information as may be required to determine the entitlement of the applicant to agricultural use assessment. Each application [shall] *must* contain an affidavit or affirmation by the applicant that the statements contained therein are true.

4. The application may be signed by:

(a) The owner of the agricultural real property, including tenants in common or joint tenants.

EXHIBIT "B"

STATE OF NEVADA

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April 4, 1979

M E M O R A N D U M

TO: Senate Committee on Taxation

FROM: Andrew P. Grose, Research Director

SUBJECT: Comparisons of Open Space Tax Laws

A.B. 107, among other things, calls for an elimination of the interest on taxes recaptured upon the sale of agriculturally assessed land. The question posed concerned the provisions in other states when agricultural land is sold.

The attached chart, called "Table 1" comes from Untaxing Open Space, a 1976 publication prepared for the Council on Environmental Quality. Our law is in the "Deferred Taxation" category on the chart. You can see that 13 plans representing 11 states call for interest on the deferred taxes due at a time of conversion. Four other states have another penalty at time of conversion such as a percentage of the deferred tax. New Hampshire's penalty is 10 percent of the value of the property at time of conversion without regard to deferral. Interest ranges from 5 percent to 10 percent.

The subsequent pages of the attachment explain all the terms on the chart. Most of the individual state laws are in our files if specific wording is needed.

APG/jld
Encl.

Table 1

# PROVISIONS OF STATE DIFFERENTIAL ASSESSMENT LAWS

| Program Characteristics | Pure Preferential Assessment | | | | | | | | | | | | | | Deferred Taxation | | | | | | | | | | | | | | | | | | | | | | | | | | Restrictive Agreements | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arizona | Arkansas | Colorado | Delaware | Florida 1 | Idaho | Indiana | Iowa | Missouri | New Mexico | North Dakota | Oklahoma | South Dakota | Wyoming | Alaska | Connecticut | Hawaii 1 | Hawaii 2 | Illinois | Kentucky | Maine | Maryland | Massachusetts | Minnesota 1 | Minnesota 2 | Montana | Nebraska | Nevada | New Hampshire 1 | New Jersey | New York 1 | New York 2 | North Carolina | Ohio | Oregon | Pennsylvania 1 | Pennsylvania 2 | Rhode Island | South Carolina | Texas | Utah | Virginia | Washington | California | Florida 2 | Michigan | New Hampshire 2 | Vermont |
| Year of Enactment | 67 | 69 | 67 | 68 | 59 | 71 | 61 | 67 | 75 | 67 | 73 | 74 | 67 | 73 | 67 | 63 | 61 | 73 | 70 | 70 | 71 | 56 | 73 | 67 | 69 | 73 | 74 | 75 | 72 | 64 | 71 | 71 | 73 | 74 | 63 | 68 | 74 | 68 | 75 | 68 | 69 | 71 | 70 | 65 | 67 | 74 | 73 | 69 |
| **Eligible Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agriculture | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | | ● | | ● | |
| Open Space, Envir. Protection | ● | | | | | | | | | | | ● | | | | ● | ● | | | | ● | | | | | | | ● | ● | | | | | | | ● | | ● | | | | | ● | | | | | |
| Timber or Forest | ● | ● | | ● | ● | | ● | ● | ● | ● | | ● | | | | ● | | | | | | ● | | | | | | | ● | ● | | ● | | | ● | ● | ● | | | | ● | | | | | |
| Recreation | ● | | | | | | | | | | | ● | | | | | ● | | | | ● | ● | | | ● | | | | ● | | | | | | | | | | | | | | ● | | | | |
| **Additional Eligibility Requirements** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Min. Farm Income Required | | | | ● | | | | | ● | | | | | | ● | | | | | | | | ● | ● | | ● | | ● | | | ● | ● | ● | | | ● | | | ● | ● | | | | | | |
| History of Eligible Use Required | | | ● | ● | | | | | | | | | ● | ● | | | ● | | ● | ● | | | ● | ● | | | | | | ● | ● | ● | ● | ● | | ● | | | ● | ● | | | | | | |
| Min. Length of Tenure w/in Family | | | | | | | | | ● | | | | | | | | | | | | | | | ● | | | | | | | | | | | | | | | | | | | | | | |
| Land Must be Planned for Eligible Use | | | | | | | | | | | | | | | | | ● | ● | | | | | | | | | | | | | ● | | ● | | | ● | | | | | ● | ● | ● | | ● | | |
| Land Must be Zoned for Eligible Use | | | | | | | | | | | | | | ● | | | | | | | | | | | | | ● | | | | ● | | | | | ● | | | | | | | ● | | | | |
| **Sanctions on Conversion** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Rollback Taxes Collected (no. of yrs.) | | | | | | | | | | | | | | | 7 | | * | 10 | 3 | 2 | 5 | 2 | 4 | 3 | 7 | 4 | 5 | 7 | | 2 | 5 | | 5 | 4 | 10 | 5 | 7 | 2 | 5 | 3 | 5 | 5 | 7 | | * | 7 | | |
| Interest on Deferred Taxes | | | | | | | | | | | | | | | ● | | ● | ● | ● | | ● | | | | | | ● | ● | | | | | ● | | ● | ● | ● | | | | | | ● | ● | | | |
| Penalty Based on Mkt. Val. in Yr. of Conversion | | | | | | | | | | | | | | | | ● | | | | | | | ● | | | | | | ● | | | ● | | | | | | | | | | | ● | | | ● | |
| Other Penalty | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ● | | | | |
| **Restrictive Agreements** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Min. Length of Term (no. of yrs.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 10 | 10 | 10 | 10 | |
| **Scope of Program** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Statewide | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | | ● | ● | ● | ● | ● | ● | ● | | | | |
| Local Option | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ● | | | | | | | ● | | ● | ● | ● | ● | ● |
| Voluntary, Requires Application | | ● | | ● | ● | | | | | ● | ● | | | | ● | ● | ● | | ● | ● | ● | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| Automatic for Eligible Lands | ● | | ● | | | ● | ● | ● | | | ● | ● | ● | ● | | | ● | | | | | ● | | | | | | | | | | ● | | | | | | | | | | | | | | | |
| **State Subvention Payments Provided to Offset Revenue Loss** | | | | | | | | | | | | | | | ● | | | | | | | | | | | | | | | | | ● | | | | | | | | | | | ● | | | | |

* indicates that there is a total roll-back of deferred taxes

Table 1 and the accompanying notes cannot replace careful consideration of each individual statute. Since there do not appear to be widely-copied model or leading statutes in this area of the law, there are numerous small but important differences in the statutes. The simplification into tabular form has undoubtedly created distortions. The table should be useful in determining such facts as how many states have rollback penalties or what the typical terms of restrictive agreements are. However, it should not be used to try to draw fine comparisions.

## 2. Notes to Table 1

### a. Program Characteristics

#### i. Eligible Uses

Agriculture: The definition of qualifying agricultural uses varies across programs, but is generally quite broad, ranging from pasture to intensive cultivation. Associated waste and wooded land usually is also eligible, but the improvements generally are not.

Open Space, Environmental Protection: The definition of these lands is broad, but eligibility is usually contingent on approval by a public body Critical natural, scenic, and historical resources are usually included in the list of eligible lands.

Timber or Forest: While 17 states include this as an eligible use, many also have forest taxation laws which provide greater benefits to landowners. (See the Washington and Oregon case studies, in Part Two).

Within the statutes listed here, there may be different intent in the preferential taxation of forest land from that behind the preferential taxation of "timber" land, with the latter implying benefits to harvesters and the former a reward for resource conservation. However, such distinctions are not apparent on the face of most statutes and the words seem to have been used interchangeably to refer to land with large numbers of trees growing on it. In several cases the eligibility of these lands hinges on the approval of a state official, such as the State Forester.

Recreation: These provisions are designed to benefit country clubs, golf courses, ski areas, hunting grounds, and other such recreational facilities.

#### ii. Additional Eligibility Requirements

Minimum Farm Income Required: This is typically worded in terms of a minimum required level of gross annual receipts, with an additional amount per acre in some cases. Two states require that the owner earn a minimum percent of his income from the land. In Minnesota, the owner must satisfy one or the other of these provisions, a requirement designed to make speculators ineligible while including low-income subsistence farmers. Two states which merely require that land must be used for profit are not included in this category.

History of Eligible Use Required: In these programs, the land must have been in the eligible use for a number of years prior to application, typically two years.

Minimum Length of Tenure within Family: Programs listed here require that the land has been owned by the applicant's family for a period of years. In North Carolina and Minnesota, this is seven years, unless, in the latter, the applicant lives on the property.

Land Must Be Planned or Zoned for the Eligible Use: These provisions, which link preferential assessment to the land use planning process, are rarely included. When included, their strictness and effectiveness vary greatly across states. In most of these programs, a use must be allowed under the zoning ordinance to be eligible, but there is no provision that other uses could not be allowed under the zoning category. Five states terminate eligibility when the owner applies for a zoning change or files a subdivision plan.

Connecticut and Washington have planning requirements for lands in the "open space" category but not for farmland.

iii. Sanctions on Conversion

While most penalties are assessed on conversion of the land to a nonqualifying use, a few states assess the penalty either then or at time of sale. Eleven programs specifically require notification of changes in use, and some provide additional penalties for failing to do so.

Roll-back Taxes Collected: These are usually calculated as the difference between the taxes that would have been due at market value assessment and the taxes actually paid under the program, summed over the number of specified years. For administrative simplicity, several states have changed this to a multiple of the difference between market and use-value taxes in the year of conversion. In a market with rising property values, this will produce a larger rollback.

Interest on Deferred Taxes: The interest rates range from 5% to 10% and are usually not compounded. Michigan has compound interest for early termination.

Penalty Based on Market Value in Year of Conversion: This is a specified percentage of sale price or market value at conversion.

Other Penalty: For withdrawal before a specified number of years, some states levy an additional penalty, such as a certain percentage of the deferred taxes.

iv. Restrictive Agreements

Minimum Length of Term: While the term is negotiable in most states, four out of the five states set a minimum length of term.

v. Scope of Program

A program is considered statewide if local assessors or governing bodies have no choice in the acceptance of applications from lands that meet the statutory eligibility requirements. In a very few cases, the laws apply only to specified parts of the state.

In the voluntary programs applications are required initially and in some cases annually. In the automatic programs assessment regulations

for all specified lands are state mandated.

EXHIBIT B

vi. State Subvention Payments

State payments to offset the revenue loss attributable to preferential assessment are provided under only three programs. In California, these are tied either to the estimated tax loss or the acres of land in the program, whichever is the lesser amount. In New York, subventions are provided only when the state initiates an agricultural district, which has not happened to date.

## b. Notes for Selected State Programs

### i. Pure Preferential Assessment

Arizona: The legislatively mandated appraisal methods specify that when market data are used as an indication of market value "the price paid for future anticipated property value increments shall be excluded." This, in conjunction with Arizona's classification system granting preferential treatment to agricultural land, led us to include the program in this category. While assessors are given wide latitude in transitional areas, use-value assessment is allowed by law.

Florida 1: Agricultural land in the path of development may be reclassified non-agricultural by the board of county commissioners. There is a presumption of non-agricultural use if the land sells for greater than three times its agricultural value.

New Mexico: A new program, outlined in the revised property tax code, is described here.

North Dakota: This limited program only applied to agricultural lands annexed by municipalities.

Oklahoma: By statute, all real property is assessed on the basis of its value in its current use. When a landowner applies for a zoning change, the assessment basis will change to the intended higher use.

### ii. Deferred Taxation

Alaska: Farm proceeds must be at least 10% of income to qualify. Rollback taxes up to the amount of the subvention paid by the state go directly to the state.

Connecticut: Open space lands must be designated on the local plan of development to be eligible. Forest land must be certified by the State Forester.

A decreasing conveyance tax is levied on participating lands which are sold or converted. It is 10% in the first year of ownership or classification, whichever is first, and declines 1% per year until it no longer applies.

Hawaii 1: Under this statute, owners can dedicate land to the qualifying use for 10 or 20 years. If the 20 year period is chosen, the assessment is cut to one-half agricultural use-value.

Hawaii 2: Land classified agricultural by the Department of Taxation and used for agriculture, whether dedicated or not, is to be assessed at agricultural use value and the taxes which otherwise would have been payable are deferred.

A rollback of up to 10 years plus a 10% per annum penalty are collected following a rezoning or subdivision upon petition of an owner or lessee. If rezoning or subdivision occur within five years of enactment of the law, the rollback and penalty are doubled. However, the owner may escape the rollback and penalty by dedicating the land within one year of rezoning.

Maine: The rollback is 10 years for agricultural land and 15 years for open space land. Only open space lands, including recreational lands, must be approved by the local planning boards. If there is no plan or the land is not classified open space, the assessor must determine eligibility in light of both statutory and Constitutional definitions.

Massachusetts: The sanction on conversion is either the four year rollback or a declining conveyance tax similar to the Connecticut provision, whichever is greater.

Minnesota 1: For eligibility a landowner must earn a minimum gross farm income of $300 plus $10 per tillable acre or one-third of total family income.

New Hampshire 1: The penalty for conversion is 10% of the assessed value at time of conversion, without regard to tax deferral.

New York 1: This applies to lands within Agricultural Districts. State subvention payments are made only when the state initiates the District.

New York 2: This applies to land outside Agricultural Districts. The penalty for conversion is twice the total taxes due in the year of conversion based on market value assessment.

North Carolina: If the owner lives on the land, no minimum length of tenure is required.

Oregon: Land zoned for farm use is automatically eligible, while land not zoned for farm use must have been devoted to agricultural use for the two previous years. For zoned land, the roll-back is the deferred taxes of the previous year times the number of years in the program, up to ten years. Unzoned land is subject to a standard roll-back up to 10 years with 6% interest. An additional penalty is levied for failure to notify the assessor of a change in use.

Pennsylvania 1: This is a local option program available only to certain classes of larger counties.

Texas: Applicant must be a "natural person" and the land must constitute his principal occupation and source of income.

Washington: If the land is converted before the initial seven years under classification, an additional penalty of 20 percent of the deferred tax is due. Only land classified as open space requires approval of a planning body.

iii. Restrictive Agreements

California: Under the Williamson Act contract, there is a 10 year "run-out period" after notification of non-renewal, during which the assessment is gradually increased to market value and the owner cannot convert the land. If early termination is granted by special exception, there is a penalty of 12.5% of market value at time of conversion or termination.

Florida 2: There is no specified roll-back term, indicating a total roll-back, with 6% interest.

Michigan: This program has two components: farmland development rights agreements and open space development rights easements. The application and review process for both is complex.

An owner who enters a farmland development rights agreement is entitled to a credit against his state income tax liability for the amount by which the property taxes on the land and structures used in the farming operation, including the homestead, exceeds 7% of household income. If an early termination is granted upon petition by the owner, the total amount of the tax credit, plus 6% per annum compounded interest, becomes a lien on the property. If termination is at the request of the state, there is no penalty or interest. Upon due course termination, the rollback is the total amount of the tax credit received by the owner in the last seven years, without interest.

Through this mechanism, the farm property tax burden is shifted to other income tax payers statewide rather than onto other classes of property within the same local taxing jurisdiction.

An owner who enters an open space development rights easement is granted a current use assessment. For early termination, a total roll-back. plus 6% per annum compounded interest, falls due. Upon due course termination, there is a seven year rollback without interest.

New Hampshire 2: Localities may negotiate "discretionary easements" with owners of open space lands. The penalty for early termination, when allowed by the local governing body, is 12% of assessed value during the first half of the agreement and 6% of assessed value during the last half.

Vermont: This statute enables the locality to negotiate with a farmer to fix either the assessment on his property, the tax rate to be applied, the actual amount of taxes to be paid, or the property's tax as a percentage of the total annual tax, for a term of years not to exceed 10 years.

Table 2

SUMMARY LIST OF PROGRAMS, BY TYPE

PURE PREFERENTIAL ASSESSMENT (14 State Programs)

Arizona
Arkansas
Colorado
Delaware
Florida 1
Idaho
Indiana
Iowa
Missouri
New Mexico
North Dakota
Oklahoma
South Dakota
Wyoming

DEFERRED TAXATION (25 States; 29 Programs)

| | Years Rollback | | Years Rollback |
|---|---|---|---|
| Alaska | 7 | New York 1 (inside district) | 5 |
| Connecticut | (conveyance tax) | New York 2 (outside district) | (2x market value taxes) |
| Hawaii 1 (dedication) | (total) | North Carolina | 5 |
| Hawaii 2 (deferral) | 10 | Ohio | 4 |
| Illinois | 3 | Oregon | 10 |
| Kentucky | 2 | Pennsylvania 1 (1966) | 5 |
| Maine | 10,15 | Pennsylvania 2 (1974) | 7 |
| Maryland | 2 | Rhode Island | 2 |
| Massachusetts | 4 | South Carolina | 5 |
| Minnesota 1 (agri.) | 3 | Texas | 3 |
| Minnesota 2 (recr.) | 7 | Utah | 5 |
| Montana | 4 | Virginia | 5 |
| Nebraska | 5 | Washington | 7 |
| Nevada | 7 | | |
| New Hampshire 1 | (10 % of assessed value) | | |
| New Jersey | 2 | | |

RESTRICTIVE AGREEMENTS (5 State Programs)

| | |
|---|---|
| California | 10 yrs. min. term; for sanctions, see notes by State. |
| Florida 2 | 10 yrs. min. term; complete rollback. |
| Michigan | 10 yrs. min. term; 7 yrs. rollback. |
| New Hampshire 2 | 10 yrs. min. term; sanction of 12% of assessed value if breached in first half of term; and 6% if breached in second half. |
| Vermont | See notes by State Program. |

NO PROGRAM

Alabama*
District of Columbia
Georgia
Kansas
Louisiana*
Mississippi
Tennessee*
West Virginia*
Wisconsin

*State with a classified property system. Arizona, Minnesota, and South Carolina also have such statutes. Louisiana and Wisconsin have amended their constitutions to permit differential assessment. Kansas is in the process of doing this.



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# S. B. 160

SENATE BILL NO. 160—COMMITTEE ON TAXATION

JANUARY 31, 1979

Referred to Committee on Taxation

SUMMARY—Prohibits counties, cities and towns from imposing certain license taxes on public utilities. (BDR 32-762)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to public utilities; prohibiting counties, cities and towns from imposing certain license taxes or similar taxes, fees or charges on public utilities; and providing other matters properly relating thereto.

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

SECTION 1. Chapter 364 of NRS is hereby amended by adding thereto a new section which shall read as follows:

*A county, city or town shall not fix, impose or collect any:*

*1. License tax or fee;*

*2. Franchise tax or fee; or*

*3. Other similar tax, fee or charge, however denominated,*

*for the transaction of the business of any public utility, which is measured as a percentage of the utility's total operating revenues from sales and services furnished to customers within its jurisdiction.*

SEC. 2. NRS 244.335 is hereby amended to read as follows:

244.335 1. Except as provided in subsection 2, the board of county commissioners may:

(a) Regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) [Fix,] *Except as provided in subsection 3, fix,* impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate the business of conducting a billiard or pool hall, dancing hall, bowling alley, theater, soft drink establishment, gambling game or device permitted by law, or other place of amusement, entertainment or recreation, outside of an incorporated city or incorporated town. The county license boards may fix, impose and collect license

EXHIBIT "D"

# A. B. 144

## ASSEMBLY BILL NO. 144—COMMITTEE ON TAXATION

JANUARY 19, 1979

Referred to Committee on Taxation

SUMMARY—Exempts geothermal development leases from property tax. (BDR 32-95)
FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to property tax; providing for the exemption from property tax of leases for geothermal development; and providing other matters properly relating thereto.

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

SECTION 1. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit, it is subject to taxation in the same amount and to the same extent as though the lessee or user were the owner of the real estate.

2. When any real estate which is exempt from taxation by reason of its public ownership is used for the generation of electric power, the value of any right to receive electric power directly from the exempt real estate by a natural person, association, partnership or corporation or by a political subdivision of any other state is taxable as though the holder of that right were the owner of the real estate in the same proportion which his right bears to the total of all rights to receive electric power generated through the use of that real estate.

3. Subsection 1 does not apply to:

(a) Property located upon or within the limits of a public airport, park, market, fairground or upon similar property which is available to the use of the general public;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution;

(d) Property leased or otherwise made available to and used by a