

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Sixth Session
February 24, 2011**

The Committee on Legislative Operations and Elections was called to order by Chair Tick Segerblom at 1:33 p.m. on Thursday, February 24, 2011, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Tick Segerblom, Chair
Assemblyman Marcus Conklin
Assemblyman Richard (Skip) Daly
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Richard McArthur
Assemblyman John Ocegüera
Assemblywoman Debbie Smith
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Assemblywoman Lucy Flores, Vice Chair (excused)
Assemblyman James Ohrenschall (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Dan Musgrove, representing the City of North Las Vegas
Steven Hanson, representing the City of North Las Vegas
Mendy Elliott, representing the City of Fernley
Randy Robison, representing the City of Mesquite
Carole Vilardo, President, Nevada Taxpayers Association

Chair Segerblom:

[Roll was taken.] We finally received the census data today so please discuss the details with your caucuses. Our staff is inputting the data, but it will not be official for a couple of weeks. As expected, Las Vegas did grow more than the rest of the state.

We will open the hearing on Assembly Bill 71.

Assembly Bill 71: Directs the Legislative Commission to conduct an interim study concerning the equitable allocation of money distributed from the Local Government Tax Distribution Account. (BDR S-256)

Dan Musgrove, representing the City of North Las Vegas:

This is the City of North Las Vegas' bill, and it requests that the Legislative Commission authorize a study of what we know as the Consolidated Tax. The bill references the Local Government Tax Distribution Account, commonly known as the C-Tax Distribution. C-Tax has a long history of being looked at and addressed at this Legislature. It came to fruition in 1997, partially as a response to the 1981 tax shift. A group of individuals spent a lot of time—up to 18 months, I have been told—working on the C-Tax formula. One person who worked on the project is sitting next to me today—Steven Hanson. Steve was the finance director for the City of Henderson for 25 years. The group that put the tax together believes it to be a very equitable formula.

Unfortunately, Las Vegas and the state have changed dramatically since 1997, both in growth during those years and now with our new reality in terms of revenues. We have a new economy and a new reality related to this recession or depression. It was something I do not believe any of the people who crafted the original legislation ever contemplated when they worked on that formula.

I believe there is a great deal of support for this study among legislators and local governments throughout the state. There are 164 different units of government that share the C-Tax—cities, counties, unincorporated towns, general improvement districts, and special districts—and they all look at the C-Tax as an important part of their revenue stream.

I would like to introduce Mr. Hanson, let him describe what makes up the C-Tax, and show you some revenue numbers that demonstrate why we think it is a very opportune time for us to look at the C-Tax over the interim. Much of the work will be done by local governments, so I do not foresee a great deal of expense to the state. Mr. DiCianno with the Taxation Department has testified previously this week that he is in complete support of this kind of study. He believes the time is right to look again at the tax.

Steven Hanson, representing the City of North Las Vegas:

As Dan said, I was on the original technical subcommittee when the C-Tax was initially formulated. The study was directed by Senate Concurrent Resolution No. 40 of the 68th Session, as approved by the Legislature in 1995. At the time, I think we put together a really good Consolidated Tax distribution formula that has lasted over the years.

I will refer you to page 1 of my handout ([Exhibit C](#)). As most of you probably know, the Consolidated Tax is composed of sales tax, liquor tax, cigarette tax, real estate property transfer tax, and government services tax. The majority of the Consolidated Tax revenue is the sales tax component. The Consolidated Tax collection, for the most part, is redistributed back to the entities in the county where the tax is actually collected.

There were originally two components in the sales tax: the basic city-county relief tax (BCCRT), which was distributed originally on a per capita basis, and the supplemental city-county relief tax (SCCRT), which was distributed prior to the formula based upon assessed valuation. That was the genesis of the growth factor that was created in the Consolidated Tax formula.

Listed on page 2 are the two general components of the allocation formula of the Consolidated Tax. The base allocation was originally meant to be a base guarantee that all entities would have upon formation of the Consolidated Tax. Essentially, the base allocation was what the entities had been receiving the prior few years before the C-Tax was implemented. The entities were guaranteed to get that base allocation, and it is adjusted each year going forward in time by the consumer price index (CPI) factor.

All revenues collected in excess of the base allocation each year are distributed based upon a growth factor, the second component of the C-Tax distribution. The incremental revenues are essentially distributed based upon a formula that includes one-half population and one-half assessed valuation.

If you look at statewide collection and distribution of C-Tax on page 3, you will notice that in fiscal year (FY) 1999 we started out with a collection of \$737 million on a statewide basis. That increased to \$1.321 billion in fiscal year 2007. Since then, collection has eased off to \$989 million in FY2010.

Washoe County and all the entities within it are represented on page 4. The blue line on the graph indicates the total C-Tax distribution made to Washoe County entities. The Consolidated Tax began in fiscal year 1999, and \$123 million was distributed that year. That figure grew to \$197 million in fiscal year 2006 and has since decreased to \$129 million, which is projected for fiscal year 2011. The red line below the total distribution represents the amount of the base allocation. That is the unadjusted base allocation. That was the guaranteed distribution to all the entities within Washoe County as a total, and that was increased by the CPI factor over time. You will notice that all the collections above that red line were distributed in accordance with the growth factor—the second component of the distribution formula. That really jumped up until fiscal year 2007, so a tremendous amount of that distribution was growth related.

In fiscal year 2008, the Consolidated Tax distribution actually started to fall below what would have been the base allocation. At that point in time, there was no growth-related distribution available and, in fact, the unadjusted base allocation had to be reduced. You will notice that followed the total distribution downward. Essentially, all that was being distributed was the base allocation adjusted by what was available to be distributed.

On page 5 is the same model for Clark County. I showed Washoe County first because Washoe County's distribution was a little more radical and easier to see on a graph, but they are similar situations—decreasing distribution of Consolidated Tax revenue that drove the unadjusted base point down to what would become the modified base allocation.

As a result of the economic recession and the unprecedented downturn in the generation of C-Tax revenue, I think there are two anomalies in the formula that are currently occurring. The first one is the reduction of the base allocation that is being distributed to each entity. While made on a proportionate basis in each county, it does not reflect the proportionate allocation that existed in the years leading up to the establishment of the base. This may turn out to be a rather

immaterial matter, however. Of greater importance is that, as the economy recovers, the base allocation will not be reestablished as it was originally distributed. Rather, future excess revenue above the modified base will be distributed based upon future growth factors. So as growth returns and the Consolidated Tax revenue exceeds the base allocation as it is modified, that new growth allocation will be different than the original growth allocation that occurred in appreciating years.

While these future distributions are inherently neither right nor wrong, there may be a valid equity argument. One could argue that the future distribution may not reflect the original intent of the formula that was put forth by the Legislature, hence our request for an interim study of the formula.

When I worked for the City of Henderson, if the topic of changing the formula came up, I was pretty much resistant to that change, outside of a few major tweaks for the City of Henderson. However, in talking to some of the finance directors recently, I think there may be some cracks occurring as a result of the stress from the economic downturn. From that perspective, I think it might be better to have an interim committee take a look at the formula at a time when all entities can be represented, as opposed to having entities that feel there is an inequity coming forth individually in front of the Legislature with their cases. I think it would be better to have a committee where everyone could participate in that process.

Assemblywoman Kirkpatrick:

I do not disagree that we need a C-Tax study during the interim. What I disagree with is what, within the C-Tax parameters, will be studied. Mr. Stewart and I sit on the Assembly Taxation and Government Affairs Committees, and we have heard a great deal about this topic in the last three weeks. It is very familiar to us.

I assigned a task to the Nevada Association of Counties (NACO) and the Nevada League of Cities and Municipalities that involves taking a look back. With the exception of the library districts, we studied the items listed in the bills from 1997 and 2001, such as Senate Bill No. 254 of the 69th Session and Assembly Bill No. 10 of the 17th Special Session. We keep looking at the same things, but everyone seems to have much bigger problems than this. Among the 164 entities that receive this revenue, it is really about Tier 1 versus Tier 2. Who are the guaranteed parties and why are they guaranteed when everyone else is in trouble financially?

We know the structure, as put in place, works because the revenues are being distributed. Are you saying the allocation needs readjustment? Maybe that is

one piece of it. Do we need to talk about what happens when cities incorporate? Do we need to talk about the services that are provided? Do we need to talk about why we have all these entities getting a portion of the revenue if they are not providing services?

What if we consolidate some of these services or split them, as has been suggested this session? Then what happens? From what I know of the legislative intent, it is my understanding that when you became a city you provide a higher level of service, and that is why you receive C-Tax dollars.

If a committee is going to look at this during the interim, it needs to be the tax committees, and that is missing. I do not have to be a member, but for those who have to deal with this issue in the future, the tax committees should deal with it. They constantly hear the same issues and would have institutional knowledge concerning how we got to where we are today. If you look at the minutes of those meetings, the information is very fuzzy. Pieces are very, very clear, but the many hours that went into the legislation are not reflected in the minutes. As a result, it is unclear to the new city councils or to the new local government finance people who are involved. For the committee, institutional knowledge needs to be a separate part so we can understand how it works.

I support an interim study, but I think if we are going to spend \$6,000 on the study, it should be much more in depth than what is listed in this bill. I do not like to hear "without limitation" in this legislation, because during interim studies, if someone does not like what is being talked about, he could say it is a violation of what the bill says. So "without limitation" does not work for me.

Again, if we are going to do a study, it needs to be more specific; we need to really address the issues. I look into the audience and see local governments represented here today that have 144 different issues, and they are not included in this study. If we are going to study the C-Tax, then we better study it for the long term. We need to take into account the unintended consequences of going backwards when revenues fall again. Once we come out of this economic situation, we will not be immune to this happening again in 20 years, so we better talk about how that excess money will be divvied up. We should also mention what occurs as cities incorporate or de-annex.

Mr. Chairman, if we are going to look at the C-Tax issue, we need to put a lot more into it than what this study says. I do not know what the answer is, but we should give the issue to the representatives of those 164 entities that will be affected. They should get together and figure out specifically what they are going to do. We already studied the base allocation in 1999; we already

studied the further distribution in 2001 and never got anywhere. I think another study would be a waste of taxpayer money if we do not have a better roadmap of where we are trying to go.

Chair Segerblom:
Is that a question?

Assemblywoman Kirkpatrick:
What do they want to study besides what is listed?

Chair Segerblom:
Is that a proposed amendment?

Dan Musgrove:
We totally agree. Assemblywoman Kirkpatrick stated exactly why it is time for a study. The C-Tax was created in 1997; in 2001 a slight change was made. We now have a new reality none of us could have expected back in 2001 or even in 2003. We have no problem sitting down with the other entities and coming up with a more defined scope. Our idea was to perhaps look at the per capita and the assessed valuation and how the formula affects the growth factor. We agree the base adjustment needs to be looked at again.

In our handout is an addendum that shows a number of cities across Nevada, and you can see there is going to have to be a reevaluation in base adjustment. We would be willing to craft an amendment that would more narrowly define the scope of the study. When we talk about a technical committee, what we assumed and what has happened numerous times with interim studies, is that the Legislative Commission or the tax committees—whatever form it takes in the interim—would appoint a subcommittee of members from local governments and jurisdictions across the state. Those appointees would, on their own entities' dimes, work out the technical details and report back on a periodic basis to that committee for further direction, et cetera. We would like to bring a finished product that would meet with the committee's approval and could be brought to the 2013 Session. Hopefully, we would be looking at a new change in the factor or the formula—whatever we come to agreement on. That would be our intent.

Assemblyman Grady:
I appointed Mr. Hanson and the rest of the committee members who represented cities and who worked on this for that 18-month period. Mr. DiCianno was at every meeting and gave us his expertise. The current discussion is the same one we had when we started. I agree with my colleague from North Las Vegas. If we go into a study without any ground rules, we are

wasting our money and we will be no further along than we are right now. There are going to be a lot of things we will be discussing during the remaining days of this session, including consolidation. All these must be very carefully crafted. If there is a study, it must be broad enough that we truly answer the problem. We have not even addressed Tier 2, which was one of the big items when we started the tax. If you get into a study, a number of entities are not going to appreciate what comes out. My guess is that during the next session, someone is going to return to this Committee asking for another study to fix the study that was done this session, so we need to be very, very careful. The Chair of Government Affairs had a hearing the other day that involved one of my cities. They have some legitimate concerns but the history of this entire tax was not mentioned at that time. I think we must be extremely careful about what we approve for this study.

Assemblyman Stewart:

I agree with my two colleagues. As the Chair of the Taxation Committee suggested, we could have a lot done during this session. If you could get together with your colleagues from various cities and come up with suggestions, we could already be under way if this study is approved. I think you have a perfect opportunity here to come up with suggestions that we could put into this interim subcommittee, if it is approved.

Chair Segerblom:

Mr. Guinan informed me that there is no rush on this particular bill because it is exempt.

Dan Musgrove:

This Legislature has quite a task during the next 107 days—looking at revenues, looking at expenditures, and looking at consolidations. We might be spinning our wheels if we begin to work on something now when we do not know how it will look at the end of the session. There may be some legislation approved that would make changes concerning taxation or consolidation. What happened during previous sessions when entities came before this Legislature is that those proposals were always piecemeal. North Las Vegas has come before this Legislature and asked for a change to the formula to benefit them; the City of Henderson has also done it, and the City of Fernley did it this week. When you try to do it for one entity, it does not work. There is one pie. That means if you take from one, other entities must lose. We acknowledge that. We realize that will not work. We want the opportunity to look at whatever the pie is on June 7 and make a determination, using the brightest minds in the state and with the help of the Legislature, and come up with something that will stand the test of time. That is our intent. We absolutely want to keep the scope within a framework that benefits the group as a whole and works from that point on.

We appreciate your excellent comments because they are very, very true. This is exactly what entities have been going through in this legislative body for years.

Chair Segerblom:

With no further questions, we have a few other people who have indicated they would like to speak on this bill.

Mendy Elliott, representing the City of Fernley:

As you previously heard, the City of Fernley brought a bill before the Legislature. Obviously, we have some concerns with the distribution of Consolidated Tax and the fairness issue. We certainly would love to participate in any type of study that would help the citizens of Fernley.

Randy Robison, representing the City of Mesquite:

We are in favor of this bill and agree with the comments made by Assemblywoman Kirkpatrick, who chairs both the Taxation and Government Affairs Committees. Some more detail would serve us all well going forward.

Notwithstanding the benefit afforded by the institutional knowledge she referenced, we have believed for some time that, should a study of this kind move forward, a fresh set of eyes from that group of technical experts might be helpful in getting us from point A to point B, so we do support this concept.

Carole Vilardo, President, Nevada Taxpayers Association:

I, too, am familiar with the Consolidated Tax as both an observer and participant in the technical working group. It was in 1995 that this first started with legislation that became known as the C-Tax formula. I signed in as neutral on this bill. I have no problem with reviewing tax issues periodically so long as it is not an ongoing situation. As we just heard, every ten years or so situations change.

The concern I have has actually been expressed by the Chair of the Assembly Taxation Committee. In my opinion, there is not enough definition in this study if you were to go forward. For instance, in looking at page 2, line 13 of the bill, it says, "Examine whether the formula results in an equitable allocation among all those governmental entities" You can examine what the formula does over a time period. If you are looking at a suggested change in either Tier 1 or Tier 2, what would those changes represent over the same time period?

There is nothing equitable about taxation. It is not fair but that is always in the eye of the beholder. If you cannot see exactly what the changes are, how can you evaluate it and attempt to justify the equitability of it?

As far as Assemblywoman Kirkpatrick's comment about the technical committee, I would agree with her. Assemblyman Grady and Mr. Hanson both know this, and I think it will be reflected in the minutes of the Legislative Commission; either the second or third time they extended the study, it was made a statutory committee. It started out as an interim committee and ultimately became a statutory committee with a five-year life and a sunset date. A problem arose when it became a statutory committee because those committees cost money. Instead of being technical subcommittee meetings with minutes, they became working groups because the Fiscal Analysis Division could not absorb the cost due to the number of meetings that were being held. As a result, there were no formal minutes of the meetings. If you look back, there was no formal report such as one would normally expect.

I absolutely agree that you need a technical committee, but if you create one, you should be certain there is at least one person from at least one entity charged with making tapes of the meetings that can be reviewed, if not minutes. That was discussed at the Legislative Commission when the committees were being approved, and that is how they morphed into working groups that do not provide the kind of history the Chair of the Taxation Committee would like. Many of you would like to be able to look back through the minutes to see the history.

We have no problem with the study, but the study needs to be constituted with a lot more specificity and with an actual analysis of any potential formula changes and their effect on every entity. I do agree with using a technical group because these are very technical issues. The technical group at that time served with no compensation.

Listening to the comments, to have a historical record is going to require something in the bill to accommodate that request. We are happy to work on it. I keep opposing all of the proposed changes to distribution of the revenue because they are being done in isolation. That is the reason I do not have a problem with having a study, but the study has to look at the impact to every entity—not only as it is now, but what will happen if you make any changes between Tier 1 and Tier 2.

Chair Segerblom:
Are there any questions?

Assemblyman Ocegueda:
This session, the committees in the Senate and Assembly are basically aligned except for the Senate's select committee. During the interim, we think we will have the nine interim committees similarly situated. In this coming interim,

there would be a tax committee comprised of several members of the Assembly Taxation Committee and several members of the Senate Taxation Committee. This would be different from what has gone before. Language in the bill requires the Legislative Commission to appoint a subcommittee to conduct an interim study. The Legislative Commission, and I am the Chair of the Legislative Commission, would send this issue into the interim tax committee to be looked at. We would determine the number of meetings the tax committee would need. Maybe another committee that did not have as much work would be able to hold three meetings, and the tax committee would hold nine. That is the way we are headed going into the next interim and why the language is crafted that way. The way we have done interim studies in the past will not necessarily be the way we are doing interim studies in the future.

Chair Segerblom:

Are there any other questions or comments? Is there anyone else to speak in favor of the bill? Is there anyone here who is opposed or neutral to the bill? [There was no response.] It looks as though we have our work cut out for us, but hopefully everyone is willing to work together.

We will close the hearing on A.B. 71. We are adjourned [at 2:11 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman Tick Segerblom, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: February 24, 2011

Time of Meeting: 1:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 71	C	Dan Musgrove	PowerPoint