

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Sixth Session
May 14, 2011**

The Committee on Taxation was called to order by Chair Marilyn K. Kirkpatrick at 8:07 a.m. on Saturday, May 14, 2011, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman Harvey J. Munford, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblyman John Ellison
Assemblywoman Lucy Flores
Assemblyman Ed A. Goedhart
Assemblyman Pete Livermore
Assemblywoman Dina Neal
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Cyndie Carter, Committee Manager
Mary Garcia, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

John Farley, Vice President, UNLV Chapter, Nevada Faculty Alliance
Chris Garvey, Member, District B, Clark County School District Board of Trustees
Brenda L. Lovato, Member, Legislation Committee, Institute of Real Estate Management, Las Vegas Chapter No. 99
John Griffin, representing DIRECTV and DISH Network
Andrea Hughs-Baird, representing Parent Leaders for Education
Greta Jensen, representing Parent Leaders for Education
Yvonne Wood-Antonuccio, representing Parent Leaders for Education
Angie Sullivan, Private Citizen, Las Vegas, Nevada
Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada
Ray Bacon, Executive Director, Nevada Manufacturers Association
Ernie Adler, representing Reno-Sparks Indian Colony
Pat Sanderson, Private Citizen, Carson City, Nevada
Jon Sasser, representing Washoe Legal Services; Legal Aid Center of Southern Nevada; and Washoe County Senior Law Project
Sam McMullen, representing Snell & Wilmer, LLP
David Goldwater, Private Citizen, Las Vegas, Nevada; and representing Barrick Gold of North America

Chair Kirkpatrick:

[Roll was called.] This will be the third hearing to allow public testimony and comment on Assembly Bill 569. The first meeting was mainly technical with the second meeting allowing public testimony and questions. On Tuesday, May 17, 2011, I will bring you the answers to all of the questions raised during these hearings.

Is there anyone in Las Vegas who is interested in testifying?

Assemblyman Stewart:

We have three people here in Las Vegas who would like to testify.

Chair Kirkpatrick:

We will open the hearing on A.B. 569 with testimony from Las Vegas.

Assembly Bill 569: Imposes a Nevada transaction tax. (BDR 32-1290)

John Farley, Vice President, UNLV Chapter, Nevada Faculty Alliance:

I teach physics to future doctors, nurses, and engineers. The University of Nevada, Las Vegas (UNLV) budget has been hammered the past few years. It has been cut 20 percent. We have fired professors, laid off staff, cancelled classes, raised tuition and fees, and cut health care benefits. The teaching loads have been increased, and salaries have been cut. This was before the current budget.

We have been cut 20 percent, and the Executive Budget would cut us an additional 29 percent. That would be devastating. Faculty are leaving or looking to leave. For example, there is a distinguished professor of engineering at the University of Nevada, Reno (UNR) who has brought in \$23 million in external grants and contracts over the years. He has left for the University of Utah. A professor of education at UNLV in science education with a national reputation is leaving for Florida. Another professor moving to the University of Southern California is happy to recruit some of our best professors. Recently, I received a phone call for a reference for a UNLV faculty member who has made the short list at a university in Alabama, and three days later a faculty member told me he was moving to Georgia.

There is a trickle that is fast becoming a flood. The faculty members most likely to leave are the ones we most want to keep. The cuts in health benefits alone will make it difficult to recruit people. The university is teetering on the verge of financial collapse.

I am testifying in support of Assembly Bill 569, the transaction tax on services. The slogan that has been used by Governor Sandoval's administration is "shared sacrifice," but cuts alone are not shared sacrifice, and they are not a solution to the state's problems.

Higher education is critical to attracting new industry, to diversifying our economy, and to training our workforce. Nevada used to have a monopoly on legalized gambling, but that has been lost. If you think of higher education as an investment, Nevada's colleges and universities offer significant return on investment. There are independent studies showing that for every dollar invested in higher education, the state economy grows by over \$2.50. Higher education faculty, staff, and students are making significant sacrifices. It is time for other people to step up to the plate and make sacrifices as well.

Nevada already has the lowest rate of college attendance of any state in the country. If the Executive Budget goes through, 33 degree programs at UNLV that train thousands of students in important fields ranging from social work to computer engineering to environmental science would have to be eliminated. The time is now to save higher education and to limit the damage to higher education.

I would like to draw an analogy. In Germany in the 1930s for totally different reasons, a few hundred scholars and scientists left, and German science did not recover for about 30 years. It took until the 1960s. The time is now. It is not something that could be fixed in the next Legislature. The time has come to pass a significant tax increase to save higher education.

Thank you.

Chris Garvey, Member, District B, Clark County School District Board of Trustees, Las Vegas, Nevada:

I am here today in support of A.B. 569. I represent a district that is over 142,000 registered voters and over 340,000 men, women, and children. In speaking with my constituents, everyone is very worried. My district is an area that has some of the highest foreclosure rates in the nation and some of the highest unemployment in the nation. They are working families. Even though they are struggling right now, they are all saying the same thing: "Education is too important. It is too important to me and it is too important to my children's future to not invest in it even though we are struggling." I think we need to look at this. A lot of them are afraid to come here and testify. They have issues about who is going to watch their children. They all say they will support this bill if it will be equal sacrifice and if it will ensure a more stable future for education. They do not know the ins and outs of the budget. They are afraid to make mistakes in front of the legislators when giving testimony. They are all saying that education is too important to not do this, to not change what Nevada is doing. We need to look at a different way of doing things so that if the economy goes south again we are not in such a crisis.

I think you know the struggles that the Clark County School District is facing. One of the items that this bill helps to protect is our debt service reserves, and that is another issue that my constituents feel strongly about. They voted for that bond money to be used to support the schools in southern Nevada and to build the schools that are needed. To do anything other than that is deceiving them and taking away what they feel was their vote for something that they believed in. I think that you have done something very honorable, and I support you in this. I know this is not an easy fight. This affects everyone. One of my

constituents was not able to be here but asked me to read into the record an email she sent to me.

Her name is Sherry Grothier, and her email reads as follows:

After receiving a call asking for support for A.B. 569, I logged onto Nevada Electronic Legislative Information System (NELIS) and realized that A.B. 569 is the stand-alone tax on services. I have real questions and concerns about the way the bills are being presented piecemeal. In that, I am afraid that at the end of the day that the bill would institute a broad-based business tax and/or revisions of the structuring of the mining tax will be left to languish, and the entire burden will be left to what I see as another regressive tax on those of us who can least afford to pay, you know, like you and me. I am certainly willing to pay more in sales tax, services taxes if it will help our schools, but I want some assurance that there is a clear way forward to broaden the tax base across all sectors, including mining and business, before I advocate for a regressive tax increase. I actually was going to reach out for an explanation and further clarification on this, but had not had the opportunity to do so as I am proctoring an exam this morning and unable to testify in person.

I think a lot of our constituents feel this way too. They are not sure of all the details yet, but the basic principle of shared sacrifice and being willing to pay a little bit more is common ground. When Ms. Grothier says "like you and me," she is right. No one is safe from this. I am looking at the same problems that a lot of other people are. My husband is in construction and has been out of work for many months. Our family has had to cut back. We are also part of the uninsured now. These are things that we are all struggling with. I have to say that even with the sacrifices that we are making and the hardship that our family is feeling, I am willing to pay more taxes because I know things will get better and I am willing to do that. I am saying to you that I will vote for you if you support education by doing this and shoring up the future.

Chair Kirkpatrick:

We appreciate your coming down today to testify, and if any of your constituents would like to put public testimony on the record via email, we are happy to do that. It is important that their voices are heard regardless of which side they are on. You can direct them to our website, and our staff will put their information on NELIS.

Chris Garvey:
Thank you.

Brenda L. Lovato, Member, Legislation Committee, Institute of Real Estate Management, Las Vegas Chapter No. 99:

We represent the commercial, professional management throughout the state. This tax will continue to hurt. As you know, they have talked about the foreclosures. This is about apartments in general. We have reduced our rents from \$50 to \$200 and to add a tax would continue to chip into us.

There are many commercial properties in foreclosure in the Las Vegas area. Banks will not help modify the loans, and this is continuing to cause problems. We are against implementing this bill. This will affect every service that the commercial apartments and office buildings have. Everything we have from landscaping, plumbing, electrical, and so forth would be included in the tax. We cannot afford one more thing. Our rents are not like they used to be where we might have been agreeable to this. The mom-and-dad taxpayers are in foreclosure. Many are behind in their payments. To add this tax for services is going to hurt them to maintain their home properly.

What I think no one wants to talk about, which has already been defeated because of the big casinos, is the lottery. We need to bring the lottery back. If the hotels are so offended by it, they should help sell the lottery tickets. I can tell you there are a lot of people in my profession who do not go to the casinos but who would buy lottery tickets. That would help solve some of these problems.

The other thing you need to look at is closing the gap on the purchases people make on the Internet. There are a large number of purchases that are made through <Amazon.com> where we do not collect any taxes. Close the loophole there. Do not add another tax. Go get the taxes you can get.

Gold and silver is the highest it has ever been. Why are we not taxing them appropriately?

The real estate industry is struggling. If you tax us, there are going to be more foreclosures on the books in this industry. I ask that you please do not pass this tax. Look at the loopholes we have in the state to collect more taxes. One of them happens to be Internet sales. Close the door there.

Chair Kirkpatrick:

I do not have all of the answers but will try to get you the answers if you want to leave your name and email address. As far as the mining industry, there is

a bill that is still alive that received a waiver to look at their deductions. Otherwise, we are prohibited by *The Nevada Constitution* from doing anything at this time.

As far as the lottery, you are absolutely correct. Since I have been here that bill has floated around but never seems to pass both houses. I do not disagree with you. My family buys lottery tickets on occasion when we go through Utah, Arizona, or California. That is something we cannot take up at this time because it has already not passed. I believe it was in the Senate this session.

In section 25 of A.B. 569, it discusses the exemptions, and rent is included so that you would not pay a service tax. You talk as if you are a property manager and would have to dole out those services.

Brenda L. Lovato:

Yes, we call out plumbers, electricians, pool services, and construction companies to work on commercial property. What about the small mom-and-pop type places, the manicure services, hair services, and other businesses? There has to be another way. Close the loophole with <Amazon.com>. You are not collecting all of the taxes. I know because I buy over the Internet and I am not charged a tax. Close that off. If I am buying there are some companies that do charge me a tax, but there are several where I do not pay taxes. That would bring money into Nevada.

Chair Kirkpatrick:

If you shop online do you pay the use tax that is part of the state law?

Brenda L. Lovato:

I order several different items online and there is no sales tax. There is a delivery charge but no sales tax.

Chair Kirkpatrick:

I would be happy to get you the statute on the use tax because there is a use tax that is currently part of the state law. It is quite frustrating. We had the streamlined sales tax on the ballot last time, but it failed as well as the session before that so that we are in line to be able to do that. I believe section 69 of this bill says that we could not tax the services on the Internet until 2014, based on what the Federal government is telling us. I am happy to get you that information as well if you leave your information with Assemblyman Stewart.

Brenda L. Lovato:

You can close that loophole. If I am buying something and I am paying for it, how can I be responsible to pay that tax? You need to get to everyone that buys online.

Chair Kirkpatrick:

I will get that information for you.

Assemblyman Anderson:

Everyone that comes before us says they are for taxes but just not for them personally. It is getting very frustrating that everyone is willing to tax someone else but is not willing to pay themselves. I think we have to stop looking to others to pay taxes and start looking at ourselves. We are all in this together. It is getting frustrating that everyone is saying, "Do not tax me, tax someone else."

Chair Kirkpatrick:

Ms. Lovato, please leave your information with Assemblyman Stewart and he will bring it to me.

John Griffin, representing DIRECTV and DISH Network:

In response to Assemblyman Anderson's comment, I am here on behalf of DIRECTV and DISH Network to say "Tax me." DIRECTV and DISH Network are largely not goods-based companies. There are a small amount of goods they sell, but the vast majority of their business is service-based. Therefore, this transaction tax would capture a large chunk of their business operations in Nevada. They have a semimodest number of employees, in the hundreds between both companies, in Nevada. DIRECTV has a fulfillment center located in Las Vegas where they fulfill many orders on the West Coast. This service tax would apply to all of their transactions in the State of Nevada. Both companies are willing to pay their fair share in helping to carry the burden to support essential services for their employees and customers in the state. They support a broad tax base that is uniform and not the hodgepodge system of one-shot fixes that we often resort to that is unpredictable and only leads to fighting between industries. DIRECTV is headquartered in Los Angeles, California, and DISH Network is headquartered in Denver, Colorado, and they were unfortunately not able to make it here to testify. I am here on their behalf to say "Tax me."

Chair Kirkpatrick:

Are there any questions? We appreciate your testimony, Mr. Griffin.

Andrea Hughs-Baird, representing Parent Leaders for Education, Reno, Nevada:

My name is Andrea Hughs-Baird. I am a parent of three elementary school children. I volunteer six hours every week in my kids' classrooms. I am in a leadership position in three parent organizations, and I am one of the Parent Leaders for Education. We have three people here today to testify. [Continued to read from prepared testimony ([Exhibit C](#)).]

As a founding member of Parent Leaders for Education, I have seen our group grow from 7 last October to over 750 now on our email list and over 150 "likes" on our Facebook page. We have hosted six Stand Up for Education events in Washoe County with 150 to 300 in attendance at each; we have delivered over 1,200 constituent postcards to Washoe County legislators and the Governor; and this is the 23rd day we have had two to ten volunteers in Carson City attending meetings, giving public comment, delivering postcards, and having individual meetings with legislators and the administration.

I am here to advocate for additional revenue to fund education. The impact of the current proposed budget on Washoe County School District (WCSD) is \$61 million in cuts for each year of the biennium. When I hear the potential cuts presented by Superintendent Dr. Heath Morrison, I find them horrifying. I look at these cuts and speculate how they are going to affect my kids' school. I see class sizes of 20 to 30 in the lower grades, up to 40 or more in the higher grades, possible elimination of the music program, possible cuts to library services and computer assistance, and possible school closures.

The current proposed budget also includes sweeping all but 10 percent of WCSD's debt reserve fund. The sole purpose of this fund is to pay back bonds that voters approved to pay for school construction and renewal. The sweeping of these funds could prevent bond money from being available for years to come. The WCSD has over \$600 million in identified construction and renewal needs that will not be able to be addressed. Students will have to continue to try to learn with leaky roofs, noisy heating and air conditioning systems, and unsecure facilities for years to come.

So to paraphrase our Superintendent during his State of Education address, "What keeps us from giving up? What gives us hope that the quality of education will improve in Washoe County?" The answer is we have a new strategic plan. We see it as a model that can be used by other school districts in Nevada. We participated in the conversations Dr. Morrison had with parents, community members, business leaders, and staff. We had frank discussions about the strengths and weaknesses of our schools and challenged him to address the issues specific to all types of children. Through this yearlong, transparent process, the district and community developed our strategic plan.

We are proud of our plan—it is a Nevada plan. We want this plan implemented. It is shovel ready. In fact, the shovel is already in the ground. Last year the graduation rate went up for the first time in five years.

If there are drastic cuts equal to or greater than those of the special session, our strategic plan will have to be changed and the reform it promises delayed.

Through our Stand Up for Education events, we have watched the audience response change from one of wait and see before the Governor's budget was presented to one of shock at the impact of the proposed cuts and expectation that the Legislature and administration do what is necessary from both sides of the aisle, making the compromises and the hard decisions during this session to prevent this from happening to our children and our state. The audience members are not looking for short-term patches that will let us scrape by until the next economic upswing; they want real solutions now that will lead Nevada to a prosperous future. At every event about 90 percent of the audience has raised their hand when asked whether they want to pay taxes. Almost everyone who shows up at our events will say they want to pay more taxes.

We see A.B. 569 as a beginning to those real solutions. This bill indicates to us that the legislators from both sides of the aisle are willing to have the discussions, propose the compromises, and make the votes that are required to adequately fund education in Nevada, and we support those efforts.

Chair Kirkpatrick:

Does anyone have questions?

Greta Jensen, representing Parent Leaders for Education:

I am representing Parent Leaders for Education. We are a grassroots group of parents and business owners in the community. We are in support of funding education in Nevada in a manner that will allow our children to be competitive in the global economy. Consequently, we are in support of A.B. 569. We understand that this is a difficult decision to make in this economy but, nevertheless, the right choice.

As you know, virtually all studies show our K-12 school system is severely underfunded as compared to the rest of the country. With the proposed budget cuts, our students will be further jeopardized. In Washoe County over half of our classrooms are in disrepair. We have not had new textbooks in years, and our technology is outdated. We cannot ignore the demonstrated correlation between appropriate funding and academic success.

Washoe County alone is facing \$61 million in cuts each year for the next two years. This is on the heels of \$37 million in cuts last year. This reduction in funding translates into the classroom with an increase of up to six students per class. To illustrate what that means, my daughter at Swope Middle School currently has on average 36 students in her class. With the planned funding cuts, her class size could average 42 students. Imagine 42 thirteen-year-olds in one class.

Students, parents, and teachers will all tell you that small class size is the key to a good class, and the data backs them up. The teacher-to-pupil ratio is directly correlated with student success by any number of measures.

We need funding and reform. Without funding, reform cannot work. Ending social promotion, instituting pay for performance, and reforming tenure all make sense, but these reforms would make little or no difference with 42 students per classroom. We cannot expect our teachers and students to succeed in classrooms that are falling apart with leaky roofs and plumbing that is inadequate. We cannot expect even our best teachers to teach 42 students at a time with outdated textbooks, inadequate technology, and even more limited resources.

The real question is, "Where is the future for our children and this state?" Is it through being penny-wise and pound-foolish, or is it through investing in education to help create the environment where Nevada's future economy will flourish?

Many oppose raising taxes when the economy is struggling as it has for the last several years. You have to wonder when is it a good time to raise taxes? Is it when times are good and you do not need the money, or is it when times are tough and you have to make the tough choices to invest in the future? Although any tax increase at this time must be carefully thought through and be as small as possible, these are times when it is a necessity. This is the time. Our goal is to prevent further cuts to per pupil expenditure in Washoe County. We believe this bill will accomplish that goal.

Passage of this bill will address the immediate needs of our state in many areas and will prevent catastrophic cuts to our most important resource, the minds of our K-12 children. In addition, it will allow Nevada to begin to implement a new tax structure that will offer a more stable, sustainable source of revenue to Nevada and its educational system for years to come.

Chair Kirkpatrick:

Thank you. We appreciate your coming here on a Saturday. Are there any questions?

Yvonne Wood-Antonuccio, representing Parent Leaders for Education:

Assembly Bill 569 appears to be a very reasonable bill that taps desperately needed revenue in our largely service-based economy. It does not impose an undue burden on anyone but could make a significant difference for funding education. [Continued to read from prepared testimony ([Exhibit D](#)).]

The proposed cuts to education will have a devastating impact on Nevada's children. The level of cuts would throw Nevada's educational system backward at a time when we need to move forward. Both reform—for example to the current inappropriate tenure system—and adequate funding are required. As a parent, as a small business owner, and as a citizen concerned about Nevada's future, I urge you to pass A.B. 569.

I would also like to respond to Assemblyman Anderson's comment. I am very happy to pay this tax whenever I use services. I am in the medical business and my business would not be required to collect these taxes, but I would have been willing and happy to do that although it is complicated with insurance and not knowing what you are going to charge for your services. I am happy to pay extra tax for education. As I talked with people throughout our public meetings, every person I talked to was in favor of higher taxes for education.

Chair Kirkpatrick:

Are there any questions? I am going to get the answer to your question, Ms. Wood-Antonuccio, because I think there are some insurance premiums that are exempt from that service tax.

Yvonne Wood-Antonuccio:

Yes, I believe medical services are exempt.

Chair Kirkpatrick:

That is correct. At this time we are going to take testimony from southern Nevada.

Angie Sullivan, Private Citizen, Las Vegas, Nevada:

I am here to testify because I am worried about two things: kids and the future. From what I understand, it appears that I will need to be reformed, since I am a teacher, for us to even consider doing what is right financially for our children. I will reform, as I have done every year since I began teaching in 1990. I always seek to improve and to do what is right by my kids. I will change

because I understand that people think there must be something wrong with me and somehow I am an expense to a system that was not broken by schools or kids but most likely broken by unethical business decisions and those who have more money than a teacher ever will.

Something the last five or six years has taught me about reformation is that it is going to be hard for me to overcome two issues: poverty and racism. I believe that it is going to be difficult for our schools to advance our kids and to prepare them for the future without overcoming these two things. I will do my part as a teacher to show up every day, improve my craft, and do my job. That is the only thing I can promise the taxpayers for the money they spend on me, that I will do my best, as will my colleagues. I will say that teachers do give more than their fair share every day. I understand that we are looking at serious problems for a lot of people in our community, but I will plead a case for my kids. They were never the source of any of that financial recession. I would plead with you as I plead with all who can hear me to please, for the kids and particularly my kids who have big obstacles to overcome, be able to find a fair and balanced way to be able to approach the system and be able to fund our education in a way that we do not put a burden on those who are already most likely to be disenfranchised.

Chair Kirkpatrick:

Are there any questions? Thank you for coming out this morning to testify. We will resume testimony here in northern Nevada.

Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada:

We are in support of Assembly Bill 569. Many of you know we recently put out a report of our own and also included a services tax. I feel your version is better than ours, and I appreciate that it was so thoughtfully laid out to protect low-income people and the services that they have to access. We sat through the business community's presentation of this package, and I was affected by seeing the rise in the service industry in our state. Mr. Jeremy Aguero, Principal, Applied Analysis, did a wonderful job of showing the decline of goods which shows why our tax on goods is declining, and we need to add the tax on services. This is a logical change in our tax structure as our communities change.

The Progressive Leadership Alliance of Nevada (PLAN) has been very involved in bringing many different groups together to try to bring together a coalition to say we are not going to work against one another this session; we are going to work together, and we are going to fight for change together because we feel our tax structure is not working.

In 2013 you will all be back here, but I will not. At that time you will find the biggest hole you have ever seen. What are we going to do then? Mr. Aguero's presentation, "Reconstructing Nevada for the 21st Century," showed us that it would take a 12 percent increase to fill that hole. We have only done it twice in many years. We will never be able to fill that hole we have created if we follow this budget proposal.

We are taking money from the future. Let us solve the problem by passing some modest taxes. This is a modest tax, and I appreciate your being open in working on this tax. We are not saying the bill is perfect. The bill needs work, and we know you have been hearing proposals to make modest changes. A 1 percent tax is lower than we proposed. With a 1 percent tax I do not know of the services I go after what I would pay. Low-income people will not be affected by this bill because they do not use some of these services. We feel very strongly that this is a positive change for our state, and I urge your support. We need it in all levels of government, and I applaud you for looking at reforms, looking at taxes, and looking at different funding streams. We know there are going to be cuts, but we know we must look at revenues.

Chair Kirkpatrick:

For the Committee, Mr. Aguero's presentation is available on the Internet at <www.reconstructingnevada.com>, and you can see the slide referred to by Ms. Gilbert.

Assemblyman Livermore:

I would like to thank Ms. Gilbert for being here this morning. If you had been here last night, you would have heard that 1 percent is the beginning, and in future sessions you will see the percentage being increased.

Chair Kirkpatrick:

I believe we were talking about the sales tax.

Russell Guindon, Principal Deputy Fiscal Analyst:

I do not believe I stated the services tax would go up. I think that during the discussion what we were talking about when Mr. McMullen brought up the possibility that you could have, for example, a 4 percent common rate on goods and services, obviously that would mean the services rate would come up, but that was not what staff was recommending or proposing. I was merely going through the technical details that if that was the long-run goal of this Legislature or future Legislatures, they could certainly do that. That would mean the goods rate would be coming down to try and get a common rate on all goods and services. There would be issues going on there looking at how the revenues

would be distributed through the local governments through the Consolidated Tax Distribution (CTX) and other issues.

Chair Kirkpatrick:

Is that clearer, Assemblyman Livermore?

Assemblyman Livermore:

Yes, that is what I heard last night, and I believe the public needs to be aware of that.

Jan Gilbert:

I know that all of you will be here to make that determination. It will not happen without a vote of the Legislature. If you decide to leave it at 1 percent that is what you will do. I do not want to see it go up too high. I was approached by someone who was concerned about the sales tax going down because tribal governments could be hurt by the sales tax going down. They rely on sales tax on cigarettes. I think it is a good proposal to bring the sales tax down if you are going to raise the service tax, but there are some people here who are concerned. It is the decision of the Legislature.

My group has put out an "action alert." We are bringing a big crowd here this afternoon. We did not know about this hearing early enough and we were not able to get the word out for people to come this morning, but they will be here this afternoon in support of the tax package.

Assemblyman Munford:

I appreciate Ms. Gilbert's awareness and insight on the working poor and for noting this tax will have little effect on them.

Chair Kirkpatrick:

The public will have the opportunity to send emails to the Committee so that they can be posted on the Nevada Electronic Legislative Information System (NELIS) and become part of the discussion.

Ray Bacon, Executive Director, Nevada Manufacturers Association, Carson City, Nevada:

We have not taken a position on this bill. In 2003 we had said that a services tax probably made sense. This is much broader than the business group proposed at that time. In that light I believe there are some things that need to get on record so that everyone is clear. There are some questions from an implementation standpoint where there may be policy options that the Committee may or may not consider. One of the things is that trade associations immediately came to the conclusion that this would apply to dues

charged to members. We think because this is exclusive to federal 501(c)(3) [tax exempt] that this would also apply to the union dues. Even though the union might represent a government entity, the union is still a private sector operation and so the union itself would pay the tax on the dues they collect.

The other tax bill has apportionment language in it to apportion out businesses that wind up with an apportionment between states. We wind up with some operations that potentially have the apportionment issue in Nevada. The one that caused the demise of the service tax in Florida was advertising. Depending upon how you decide you want to do it, you may want to say that you are going to apportion it and that the tax applies for that portion of the distribution of an advertising piece, whether a mail piece or television and radio ad inside the state versus outside the state. It is probably better to clarify now than to try to figure it out later.

Chair Kirkpatrick:

Would that be on the services part or on the franchise part?

Ray Bacon:

I think you have the same issue on the services portion. We addressed the issue on the Senate side, but I am not certain you can escape addressing the issue in the Assembly.

Chair Kirkpatrick:

Section 25, subsection 3 addresses the question on the dues. In speaking with the bill sponsor on the other issue, the legislative intent was to keep it a smaller amount, and advertising was one thing he thought should be included in that.

Ray Bacon:

I agree that it should be included, but you get into the question of taxing across the borders. It is probably easier to decide that up front in the statute rather than fight it in litigation later. It needs clarification.

Chair Kirkpatrick:

I appreciate your comments. We want to discuss any unintended consequences.

Assemblywoman Pierce:

Speaking as a union member, if I have to pay this tax, I will pay it gladly.

Assemblywoman Neal:

I have looked at the section of 501(c)(3), and some of the sections that are 501(c)(4) like National Association for the Advancement of Colored People and the National Bar Association would have to pay a transaction tax.

Chair Kirkpatrick:

That is correct, and I believe that it is a policy decision that this Committee will make going forward. From the bill sponsor's perspective, the reason 501(c)(3) was the starting point was because they also have federal exemption. It was simpler to include them, but also you have to take into consideration that the monorail in Las Vegas would then be exempt, so the scale gets broader.

Mr. Bacon, it would be helpful for the Committee to know the different organizations. I believe there are about 25 different types of nonprofits, and it would be helpful to know where each falls and the purpose of each. I think that is how they determine the impact.

Ray Bacon:

As a suggestion, Mary Sonata, a local certified public accountant, does a lot of work with nonprofits and she probably understands what falls into which category. I cannot imagine a trade association that would fall into the 501(c)(3). Most of those are clearly nonprofits, such as the American Red Cross.

There may be some cases where you have a service that crosses a state line, and I do not know how that would be handled. For example, when Donner Pass gets snowed in, a car could call for a tow truck in Nevada but they are actually on the California side of the pass. I do not know whether you would want to address that sort of issue.

Another issue that could be a problem is tips. Where tips are consolidated and distributed at the end of the shift it would be easy to collect. In smaller establishments where tips are paid to the individual waitress, that is a service. The collection issue on that would be complicated.

The next issue has to do with political contributions. Does the campaign owe the services tax or not? I do not know the answer for this issue.

Cover charges and admission charges are services that should be covered. You should probably be clear how you come up with a policy on this.

Comments on section 17 and section 20 of the bill have to do with receipts. Cover charges and tips are usually cash transactions and would not have a

receipt. My estimate on what you are trying to get to in these sections is a clear audit trail which, I believe, is the critical issue. If we need a clear audit trail, perhaps you should make the accounting for the companies as well as the audit trail for the tax department easier. Then it might not matter whether it is above or below the line as long as the tax is being paid. A company report could be as simple as gross service sales less any exempt sales equals the taxable sale. That would make the reporting easier.

Chair Kirkpatrick:

I appreciate you coming to the table, Mr. Bacon. The only way we can address these issues is from testimony such as yours. I receive a copy of the recording disc after each meeting so that I can go through the daily testimony.

If the cover charges are not included in the Live Entertainment Tax (LET) they would be subject to the services tax. I do not believe tips are included, but we will have to clarify.

As far as the political campaign contributions, I believe they would be included for advertising and other services.

We will have an answer for the out-of-state situations on Tuesday, May 17, 2011, because we talked about the unintended consequences with the bill sponsor and they are working on that area.

Assemblyman Livermore:

Would the tax include entrance to movie theatres and DVD rentals?

Chair Kirkpatrick:

Yes, it would include the 1 percent services tax if they are not paying the LET. The goal of the bill's sponsor was to have it broad enough so that everyone would pay a small amount. This has been discussed since the 1960s, but I believe this is the first public conversation we have had about it. Limiting it to a certain amount of services because the economy declined and those services were the only ones included, it still would not stabilize the tax structure. I believe the 1 percent does work. On the movie tickets it works out to be about \$.10 for a \$10 ticket. For \$1,000 dues, the tax would be \$10.

Ray Bacon:

The tribal communities charge the sales tax, which goes into the tribal fund, so a reduction in sales tax would impact their income. I do not know whether you want to include that they get the option of adding a services tax. The tribal communities might need to be included in discussions because they have a

better understanding of the issue. If it is not handled uniformly in the state, you have a situation that becomes a separate jurisdiction.

Ernie Adler, representing Reno-Sparks Indian Colony, Reno, Nevada:

The issue is more complex than presented. One of the problems is that the tribal tax rate tracks the state tax rate because of the statutes and tax agreements between the state and local governments and Indian tribes. If you raise the sales tax on services and lower the regular sales tax on goods, the tribes lose millions of dollars. The problem with allowing them to raise an offsetting sales tax on services is that there are no services on the reservations. Consequently, they would not be able to collect a services tax.

I would caution you about trying to substitute a sales tax on services for a regular sales tax. For example, Reno-Sparks Indian Colony (RSIC) has a tribal health center in Reno which is funded by bonds. The bonds are paid for by a commitment of sales tax. If you lower their sales tax by lowering the sales tax on goods, they would have a difficult time paying for the bonds and the bond rating would then go down. The clinic is very important to the City of Reno because approximately three-quarters of the people who visit the clinic are nontribal members. If the people do not go to the clinic, they go to Renown Hospital without insurance which has a fiscal impact on the county. It is complicated and causes many ripple effects if people do not think carefully about the tax rate.

Chair Kirkpatrick:

Is that for their own benefit? What would go back into the state coffers?

Ernie Adler:

Some does not. For instance, there is a tax agreement with the state. Reno-Sparks Indian Colony has a land exchange in Reno where the RSIC is obligated to build a new restitution center on Kietzke Lane for the State of Nevada for women and men. The restitution center would be paid for by sales tax through a sharing agreement with the state. If the sales tax rate goes down, the RSIC would have a difficult time paying the money to the state.

Chair Kirkpatrick:

So when the sales tax went up the Reno-Sparks Indian Colony benefited?

Ernie Adler:

Yes, when it went up 0.3 percent last session they did see a benefit.

Chair Kirkpatrick:

What came back to the state?

Ernie Adler:

Part of it is going to come back on the land exchange and the building of the restitution center in Reno. Some of the things that the state is able to tax would be, for example, used car sales. If cars are leased, the county and city get the money. There are a number of agreements on these sales tax measures that if the rate is changed there would be a severe problem.

On the other hand, I spoke to the RSIC recently and they are in favor of the sales tax on services. The children go to public schools and universities and they realize there are funding needs that must be met.

Assemblywoman Pierce:

If we wanted to offset any damage, we could raise the tax on cigarettes.

Ernie Adler:

That is correct. We can furnish more technical data to the Committee.

Ray Bacon:

The tribal issues are complex. I think those are the key issues that I had. You may want to make it an option just from the standpoint of smaller sales that it could be above or below the line as long as the tax is paid. That means that a \$10 movie ticket might still be a \$10 movie ticket because the theater has decided to absorb the tax instead of raising the ticket price. The state should not care as long as it is getting the money. There are probably pros and cons for that issue as well.

Chair Kirkpatrick:

Thank you, Mr. Bacon, for coming to the table. We will get these concerns addressed. Is there additional testimony on A.B. 569? [There was none.]

We will have a short recess to allow anyone else to arrive who would like to testify. If there is no additional testimony, it would appear people are not alarmed that the Legislature is having this discussion. I will say to those at home who are listening on the Internet that we do have the ability to accept written testimony that can be added to the NELIS for public review. The more discussion we have, the better it is for everyone. [Meeting recessed at 9:17 a.m.] [Meeting reconvened at 9:33 a.m.]

Chair Kirkpatrick:

Assemblyman Stewart, is there anyone in southern Nevada who wishes to testify?

Assemblyman Stewart:

No, there is not.

Ernie Adler:

I would like to clarify my earlier comments. The RSIC position is that they do favor the sales tax on services because they believe the base in the state needs to be broadened. They do not, however, want the sales tax on goods to be lowered because it creates a number of problems. I believe it would hurt their bonding capacity. Other complications are that they do have a number of tax agreements with the counties, cities, and the state.

Something the Committee should think about would be the allocation of tax among states billed from Nevada so that we are not billed for delivering services outside the state. That would not be easy. When we pay taxes to California they have a difficult time keeping the records straight.

Chair Kirkpatrick:

We will figure it out. We were aware of that issue and are working on getting the answers.

Pat Sanderson, Private Citizen, Carson City, Nevada:

I am in support of A.B. 569. I am speaking today because I have been a working man all of my life. I got my first job when I was ten years old, and I do not believe I have ever had a time when I did not work. Through all of these years I have paid my own way. Did I mind? No. My whole life I have thought of others as much as I have thought of myself.

On this tax policy the first question is whether everyone would have to pay into taxes. No one minds paying taxes and paying your fair share. It is looking at all of the people who do not have to pay that makes you angry and makes you ask, "Why do I pay my fair share but no one else does?" Do we need the money? I do not think there is anyone here who can say that we do not need the money. Our state is self-imploding, whether it is education or public services or state employees. When you go to a state office they have one person running three departments. Are they doing it efficiently? Absolutely not. Why? Because the job load is too high.

You cannot take on more than what you can handle. Anyone can take a look and see how things are done and being run. When you go to the Nevada Department of Transportation and you see that they do not allow their inspectors to work overtime, but the construction goes on 10 to 12 hours per day. Who is taking a look at our roads to make sure they are being built safely? It is one person on a 20-mile jobsite. If you do not have good

contractors you end up with bad roads. We do not have the money for our Mine Safety and Health Administration (MSHA), we do not have money for Occupational Safety and Health Administration (OSHA), we do not have money for our building inspectors, and we do not have money for anything. We have a backload for everything. If you go to the Department of Motor Vehicles to get a driver's license, you stand in line. Do you think it will get any better? Absolutely not.

We need these services. Will I mind paying 1 percent more? Absolutely not. I am a Democrat; my wife is a Republican. We both agree on this. We want our kids to get a good education. We want the state to stay strong and get off the bottom of every bad list in America. We are asking all of you to come up with a solution to help the state and not let us self-implode. If we go on the same way that we have been going for the last 6 to 8 years, it will take us 20 years to get out of this. That means our children and probably our grandchildren are going to suffer. All of us, by paying a small amount, can afford to pay. We ask you to do what is right for the State of Nevada, what is right for the people, so we can take pride in the state again and appreciate where we come from and live as regular people. I hope you take a look at this and move it forward. It is just one of many steps. I am thankful that it is you that has to think about these problems and not me. I do not want this Legislature to destroy the State of Nevada, and that is what could happen if the parties do not come together.

Jon Sasser, representing Washoe Legal Services; Legal Aid Center of Southern Nevada; and Washoe County Senior Law Project:

Most mornings I am in the money committees, Assembly Committee on Ways and Means and Senate Committee on Finance, where we hear about the needs of our state. It is ironic the way the Legislature works because the committees that decide what the needs are and how much money we need are separate committees from those that decide how to raise that money if it is needed.

The Governor said he thinks the worst thing that he can do in this time is to raise taxes. The conclusion of the money committees is that there are worse things. It would be worse to pass the Governor's Executive Budget as recommended with all the incredible cuts to higher education, K-12 education, and health and human services. They are hearing the Medicaid budget now and there are a variety of cuts the Governor has proposed that are being rejected by the committee. As a result, there will be a hole in the budget in this area, as in others, and it is our hope that you will help fill that hole. There is a list of add-backs that would take place if you are able to raise those revenues, and I would like to talk about a couple of those and give you some examples of the types of things that will happen if you do not raise revenues.

Let us start with the Division of Mental Health and Developmental Services. Unfortunately when there are cuts there are core services that have to be maintained, such as institutional services. There are services that we have added over the last ten years that you might call optional. They are the innovative things that create the public-private partnerships to try to save money and keep people out of more expensive institutional care. For example, we have developed mental health court. Mental health court addresses people who continually run through the system and run up very large bills both in our county jails and our state prisons and in our county hospitals if they do not receive services. In response to that, seeing all of the money we are pouring down the drain for those more expensive types of services, we have come up with mental health court where people are brought in front of a judge, given treatment and services and a plan. If they do not follow that, they fall back on the criminal justice system. There is a man that Reno police officer Patrick O'Brien testified about who is called "Million Dollar Murray." In one year, this man with mental illness cost Washoe County \$1 million in hospital services and in the county jail. Now that we have mental health court we no longer engage in these penny-wise, pound-foolish practices.

The Governor proposes the state stop paying for mental health court and have the services covered by the counties. The counties do not have the money and say they cannot continue mental health court if we do not restore that state funding. There are other innovative practices in mental health such as mobile outreach units where the police and mental health social workers go around the community, find the homeless mentally ill people, and take care of them up front. We are cutting all of the things that are preventive in nature and paying for things more expensively on the back end just to save a few dimes.

Moving on to the Division of Welfare and Supportive Services, we are talking about eliminating ten positions in the Clark County District Attorney's Office who help with child support enforcement. As a result, there will be \$12 million that we will not bring in for child support collections because we are cutting those positions. Again, we are saving money on the front end but costing ourselves and those families more money on the back end.

The childcare budget will also be slashed. Women who are struggling and trying to go back to work will not have the support they need to make it and may end up falling back on our Temporary Assistance for Needy Families (TANF) program. A few years ago the state adopted the TANF loan program. The way this program worked was if you have a disabled mom with children who had applied for disability services, the TANF loan program would give her TANF services and give her a monthly grant until her application was approved. This was considered a loan. Because it was considered a loan, it

could be paid back out of the lump sum check for disability and she was not counted in the work participation rate for the federal government. The federal government says that if an individual is on TANF they have to be doing 30 hours per week in work participation activities. Everyone knew the disabled moms would fail so this was a good thing for the state and it did not hurt our work participation rate. It was a good thing for the moms because they had an income until their application was acted upon. Budget cuts would have eliminated all of that. As a result, nearly 700 moms with kids would be bounced off of the TANF program because they would have to participate with all of the able-bodied folks. In building the budget they said they think all of these moms will fail so we can reduce our caseload by 700. The Governor has now proposed to restore three-quarters of that. I still do not know how we decide which quarter of the families will get to fail.

Moving into the Medicaid budget that is being heard this morning, one of the big proposals was to shift the cost of people in nursing homes from the state to the county. Unfortunately, the counties are already spending the maximum on care. What does this mean? If we require the counties to pick up the bill for those in nursing homes on Medicaid, there will be no money left for those covered with 100 percent county dollars whose incomes are at a little higher level. These people could be out on the street as a result of pushing an additional \$34 million onto the counties, primarily Clark County.

Also, that same pot of money, which has a ceiling on how much can be spent under the property tax, pays for general assistance. This helps people who are disabled with three months worth of rent and with hospital bills at the University Medical Center of Southern Nevada (UMC). This creates a hole in the UMC budget. Last time they had a budget hole, they eliminated seven outpatient clinics, including oncology, kidney dialysis, and others.

Each of these cuts has ripple effects throughout the system. It is to avoid those types of disastrous scenarios that you are being asked to consider these tax bills. I ask you to avoid our state going down this disastrous road.

Chair Kirkpatrick:

We have been hearing some of the budget review on the floor of the Assembly. There are some devastating cuts.

Mr. McMullen, is there anyone else who would like to testify?

Sam McMullen, representing Snell & Wilmer LLP, Las Vegas, Nevada:

I thought I would help you get ahead of the issue raised by Mr. Bacon regarding the Internal Revenue Service 501(c) tax-exempt organizations. I have

distributed a handout ([Exhibit E](#)) titled "Organization Reference Chart." If you look at page 3, you will see that it is from Publication 557, *Tax-Exempt Status for Your Organization* and is available on the Internet where you can get more information about what these mean. You will see that 501(c)(5) are labor organizations; 501(c)(6) are business or trade organizations; 501(c)(7) are social recreational clubs. You will find fraternal beneficiary societies under 501(c)(8). It goes up through 501(c)(28). On page 2 you will see it goes to 501(d), 501(e), 501(f) down to 527, political organizations. This may give you a sense of who you want to include or exclude.

Assemblywoman Benitez-Thompson:

Are you advocating for the inclusion of all 501s?

Sam McMullen:

I am not advocating one way or the other. I was trying to present this as additional information to Mr. Ray Bacon's presentation. This is merely a road map to help you decide which types of organizations are also covered under 501(c) and provide resources for you. There are reasons you may want to go beyond 501(c)(3) for various associations. It will depend on how services are defined and under what cases you do or do not want that.

Chair Kirkpatrick:

This would be a policy decision to determine which would be in or out or whether the bill would stay the way it is written. Currently all but 501(c)(3) would potentially be affected by their association dues or by any services they provide to others.

David Goldwater, Private Citizen, Las Vegas, Nevada; and representing Barrick Gold of North America:

I come to you today to support A.B. 569. I chaired the Assembly Taxation Committee, called the "Non-taxation Committee," even though we passed a very significant 0.25 percent sales tax for the benefit of the water system in Las Vegas. Most everyone I know that voted for it is still alive today. I also come to you as a former member of the Spending and Government Efficiency (SAGE) Commission which was the appointed commission that former Governor Gibbons put together to find inefficiencies in state government. The reason I joined the SAGE Commission was different from the other members. Many of the members joined to ferret out this huge waste we have in state government. I joined to prove that there is not as much waste in state government as we think. We do three things: we lock up bad people, we give health care to poor people, and we educate young people. Other than that there is not that much more money in this budget.

My family goes back to taxation. The original 1960 Zubrow Report was chaired by Bert Goldwater. It was the best study we have ever done on taxes, but it does not say anything different than any other study since and that is that the structural deficits create the fiscal deficits in the down times and it is unsustainable for the state. Assembly Bill 569 seems to bring the economy back in balance with what every report and every study has said and any first year economics student knows, which is that in an economy that reflects services it is less about producing goods and the tax system should be the same.

I encourage you to give this bill serious consideration.

Chair Kirkpatrick:

I appreciate your coming. I do believe that whether something happens this session or not, we have to change our structure for the long term. I know we have been talking about it for a long time, but now we have something to work off of.

David Goldwater:

I always found when I spoke to my constituents it seemed they were confused. They were confused between passing a tax or no tax at all. That always seemed to be the quandary they were talking about. It would not take too much discussion to say that we need some sort of tax system. We can either have the one we have, which is clearly not working for our citizens in the best way, or have none at all. We cannot have none at all, so let us have the one that works best for us.

Assemblywoman Pierce:

Are you representing yourself this morning?

David Goldwater:

I am representing myself and Barrick Gold of North America who supports the concept of the service tax.

Chair Kirkpatrick:

My daughter was the only one in my district who noticed that sales tax went up last session. That was because she was in charge of the register at Little Caesars and she had to figure out how to change it. I only heard from two people regarding what we did last session. Most of them are thankful that we kept programs in place.

Thank you for coming before us, Mr. Goldwater.

The agenda for today mentioned information on Senate Bill 491 which is currently in the Senate. There is an amendment on the bill, and I thought it would be helpful to give the Committee some information; however, in light of all of the changes I think it might just muddy the waters for us. I have a handout that I can offer to you. There is a lot of miscommunication out there on the rates, and I did not want this Committee to be confused. They are discussing about 0.8 percent, and we are considering 1 percent.

If there are no additional comments or questions, we will adjourn [at 10:03 a.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Recording Secretary

Linda Blevins
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: May 14, 2011

Time of Meeting: 8:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 569	C	Andrea Hughs-Baird, representing Parent Leaders for Education	Prepared Testimony
A.B. 569	D	Yvonne Wood-Antonuccio, representing Parent Leaders for Education	Prepared Testimony
A.B. 569	E	Samuel McMullen, representing Snell & Wilmer LLP	"Organization Reference Chart"