

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Seventh Session
April 18, 2013**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 8:02 a.m. on Thursday, April 18, 2013, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Mark A. Manendo, Vice Chair
Senator Kelvin Atkinson
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Senator Donald G. Gustavson, Senatorial District No. 14

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Policy Analyst
Melissa Mundy, Counsel
Patrick Guinan, Research Analyst
Mary Moak, Committee Secretary

OTHERS PRESENT:

Alex Ortiz, Clark County
Lisa Ruiz-Lee, Director, Department of Family Services, Clark County
Joseph R. Haas, Ph.D., Psychologist/Administrator, Department of Juvenile Services, Washoe County
Barbara deCastro, President, Nevada Youth Care Providers
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities
Jeremy Aguero, Applied Analysis

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Carole Vilardo, President, Nevada Taxpayers Association
Bryan Wachter, Retail Association of Nevada
Geoffrey Lawrence, Nevada Policy Research Institute
Jeff Fontaine, Executive Director, Nevada Association of Counties
Dan Musgrove, City of North Las Vegas
Mike Cathcart, City of Henderson
Ernie Adler, Reno-Sparks Indian Colony
Lynn Chapman, Nevada Families
John Wagner, Independent American Party
Jason King, P.E., State Engineer, Division of Water Resources, Department of
Conservation and Natural Resources
Scott Leedom, Southern Nevada Water Authority

Chair Spearman:

First on our agenda is Senate Bill (S.B.) 451.

SENATE BILL 451: Directs the Legislative Committee on Child Welfare and Juvenile Justice to conduct an interim study concerning standards of care for specialized foster homes. (BDR S-1084)

Alex Ortiz (Clark County):

I have with me our Director of the Department of Family Services for Clark County who will be presenting this bill on behalf of Clark County and the Senate Committee on Health and Human Services. She will be going through the amendment ([Exhibit C](#)) we submitted.

Lisa Ruiz-Lee (Director, Department of Family Services, Clark County):

Before you is S.B. 451, a bill that directs an interim study that would be conducted through the Legislative Committee on Child Welfare and Juvenile Justice. It sets up how a subcommittee would be structured and what appointments would be made to the subcommittee.

Senate Bill 451 establishes the subcommittee to study the standards of care for specialized foster homes. Specialized foster homes are used in the foster care system to care for children and youths who have emotional or behavioral issues. These should be some of the best-qualified foster homes we have to manage the children in the system who are the hardest to place and maintain.

Many standards of foster care have been discussed both within the child welfare jurisdictions and across the Country. We have spent the last 3 years with child welfare agencies studying programmatically what we need to do to ensure children are receiving appropriate specialized foster care.

Senate Bill 451 allows agencies that contribute to the funding of therapeutic foster care to come to the table and discuss what those standards should be. It would allow us to come back during the next Session to have legislative conversation about what we need programmatically for therapeutic foster care and what the funding models could look like.

Clark County Department of Family Services has a proposed amendment, [Exhibit C](#), for S.B. 451.

Over the last couple of years, each of the child welfare agencies has run a pilot program on therapeutic foster care. We have had the opportunity to evaluate different models of therapeutic foster care. Senate Bill 451 will give us an opportunity to look at the data we have collected and what other jurisdictions are doing, then review what works best nationally and come back to the Legislature next Session to make recommendations about the next steps for how we operate therapeutic foster care in Nevada.

Senator Settlemeyer:

The bill states two members of the Legislature will be on the Committee. In the past, bills have indicated one legislative member from each House, appointed by the Majority Leader of each. Would that be acceptable?

Ms. Ruiz-Lee:

That would be acceptable.

Chair Spearman:

Does therapeutic care include children who have been abused mentally, psychologically, sexually and/or physically?

Ms. Ruiz-Lee:

Yes. The children who are placed with therapeutic foster care agencies are the children who come through the child welfare system. They would have been victims of some sort of physical, emotional and/or sexual abuse prior to having been placed in these homes. That is why it is really important to understand

what the standards of care are in these homes. The foster parents who are providing care for these children need to have exceptional levels of training in order to care for and manage some of the behaviors which may be demonstrated by these children.

Chair Spearman:

Is there a check and balance in the bill to make sure the people who say they are trained are continuing to do what the training suggests they do?

Ms. Ruiz-Lee:

The training is a huge component of the bill. As you start to evaluate standards of care in these foster homes, you have to look at what are the best training models to utilize for foster parents. Training is what will help them be successful at providing the care for these children.

Senator Manendo:

Why is S.B. 451 only refereeing the therapeutic foster care homes and not the foster care system as a whole?

Ms. Ruiz-Lee:

The focus of this bill draft was to allow the agencies to hone in on specialized foster care homes. These seem to be the area of care in the system where we all are struggling with the funding mechanism, the outcomes and the operations.

Senator Manendo:

You are not struggling in the other areas?

Ms. Ruiz-Lee:

We do not struggle to the same degree in the regular foster care homes. The children who are placed in the therapeutic foster care homes are our children with the highest needs. They are the children who have emotional and behavioral issues that require therapeutic services to manage. We do not have the same issues in the regular foster care homes.

We have set pretty good standards across the child welfare agencies in the State for the training and management for the regular foster care homes. One point of clarification may be helpful; regular foster care homes fall under each of the child welfare agencies. I license my own regular foster care homes. I manage and support them as a child welfare agency.

The homes that fall in the therapeutic foster care area fall under the therapeutic foster care agencies. There are individual agencies throughout each of our communities that we as child welfare agencies contract. The agencies recruit their own homes and have a contractual relationship with those homes. We license the homes, but we do not pay the homes directly. We do not provide the same level of oversight or supervision because that falls to the therapeutic foster care agencies.

It is a different relationship and a different dynamic than exists with the child welfare agencies, the therapeutic foster homes and the regular foster homes. It is a good conversation to have about how you improve foster care as a whole. Since we knew this was a topic of conversation related publicly to funding during the next Session, we figured this would be a good opportunity to get that on the table.

Senator Manendo:

We do not have a funding issue in the regular foster care facilities?

Ms. Ruiz-Lee:

No, we do not. Those homes are funded through the child welfare agencies, and I pay them directly. There are no ancillary mental health or Medicaid-billable services provided to the children within the regular foster care homes. It is a different dynamic in terms of the funding structure for those homes compared to the therapeutic foster care homes.

Senator Manendo:

They might be in a different area, but does it mean you might not hear the issues? I cannot imagine they do not overlap to some degree and say, well, come back with your own bill another time.

Ms. Ruiz-Lee:

A uniqueness to specialized foster care requires a concerted evaluation of the standards of care. I would never say you should not always evaluate what is happening in your regular foster homes and what you can do to provide support to them. If there is a desire of the Legislature to look at the components of both, we would be happy to do that. Our focus of energy and effort has been spent in the therapeutic foster care arena.

Senator Cegavske:

I know you have been working really hard. Beth Ann Nelson with Fostering in Faith has been working with the foster care program. I am happy that has taken off and done so well.

As for training that is provided—is this generalized training, or are there specifics for the specialized aspects in what we have been doing in collaboration with the faith-based programs and Clark County?

Ms. Ruiz-Lee:

There are definitely overlaps in our regular foster parent training and the work Ms. Nelson does with the faith-based communities and our partners in that area. A lot of what she offers would still be offered to the therapeutic foster care agencies as a whole.

One primary difference between those agencies and the training for regular foster parents is that therapeutic foster care agencies are largely responsible for the training in their homes. Part of the conversation could be whether we want to mandate certain standards of training that must be offered from those agencies to those homes. We spent time over the last 2 years doing research and evaluation of evidence-based training programs used at therapeutic foster homes. We could bring information to this Committee and support a recommendation for implementation.

Senator Cegavske:

I have seen the growth of Clark County and have heard nothing but good from the people that I worked with. Your agency has it together and works well. Do you really need us involved? Honestly, sometimes we are in the way of progress. We are slower than we need to be. Both entities have done a fantastic job. Is there a way to collaborate and work together? Could you not bring these entities together on your own? Would we be a hindrance instead of a help?

Ms. Ruiz-Lee:

Thank you. We feel we have done a pretty good job over the last 2 years to make a difference in the lives of children who are in foster care—and really focus on creating those partnerships.

The focus of this bill is on specialized/therapeutic foster care. At some point we need a legislative conversation about how we fund that system. That is where we are experiencing some hiccups.

The therapeutic foster care rates were unbundled several years ago, with the child welfare agencies paying for part and Medicaid paying for part. During the last Legislative Session, the Legislature was gracious enough to allow us flexibility in moving Medicaid monies from the Medicaid budget to the child welfare budget to see how we could fund therapeutic foster care differently.

Each of the child welfare agencies has been running a pilot program. We are running one down south with our regular foster homes, but we are wrapping mental health services for the children and the families who are placed in those homes. Preliminarily, we have seen good outcomes. In Clark County alone, for the 30 children we have in our pilot, we have seen a reduction in the use of psychotropic medication by 40 percent. We have seen a reduction of hospitalization by 90 percent. We have seen a reduction in placement disruption by 90 percent. We have been able to close 15 percent of all the cases. We could not have done this without funding flexibility and moving some of those monies. We have to come back with a package saying, this is what we want, and this is how it needs to be funded.

Senator Cegavske:

That helps clarify it for me. It is not just about the specialized training in the homes. It is about how do we proceed and go on. So you do need us, this is just wonderful news. I have seen the growth of partnerships within the communities. You have helped the families and the children. Thank you for all you have been doing.

Senator Manendo:

How many children are in the specialized foster care system?

Ms. Ruiz-Lee:

In Clark County, we have about 400 children in therapeutic foster care. Statewide, the numbers are 600 to 700 children. We have the bulk of children in Clark County.

Senator Manendo:

There are around 3,000 children in the regular foster care?

Ms. Ruiz-Lee:

We have about 2,700 children who are placed in out-of-home foster care. That would include the 400 children in specialized homes.

Chair Spearman:

What is the caseload for the social worker?

Ms. Ruiz-Lee:

In Clark County, our caseload ratio is higher than I would like, which we are trying very hard to address. We are about a 1-to-32, 1-to-35 ratio of children to caseworkers or 1-to-15, 1-to-17 ratio for families. I would like to get the caseload down into the mid-20s range. I am hoping we have a mechanism to do that over the next 6 months.

Ten weeks ago before the Board of Clark County Commissioners, I requested and received permission to fill an additional 49 case manager positions. Over the next several weeks, I have 49 new staff members to be split up among our child protective services units and permanency services units. My hope is to get the caseload ratio down by the end of the year by deploying those staff into the field.

Chair Spearman:

With the 49 new staff members, you should get the caseload down to about a 1-to-20 or 1-to-25 ratio?

Ms. Ruiz-Lee:

I am hoping to hit the 1-to-26 to 1-to-28 range with those additional staff.

Chair Spearman:

Is there a different recommended ratio for those are in foster care with special needs?

Ms. Ruiz-Lee:

Yes. Nationally, best practices for therapeutic foster care include lower caseload ratios. You could see anywhere from 1-to-12 to 1-to-15 caseload ratios. That has to be part of our next conversation for Clark County.

It is not only about the training for the foster homes and the services you put in place for these children but about the caseload ratio for the workers who are

managing the cases. My hope is we may see a caseload reduction over the next year. That would allow me to free up some staff to service these particular children so that I have the lower caseload ratio we need. We just have not been able to do that in Clark County. We have not seen a caseload reduction over the years.

Chair Spearman:

Is there anyone here from Washoe County? I want to know how the two counties are alike or not alike. I want to get a sense of how we are statewide. With a caseload ratio of 1 to 30, 1 to 40, I am not sure you can do much more than say hi.

Joseph R. Haas, Ph.D. (Psychologist/Administrator, Department of Juvenile Services, Washoe County):

I manage clinical services under a cooperative agreement with Washoe County Department of Social Services. I am the clinical guy; I can answer questions about the care. Our issues are similar in addressing the needs of foster youths in the system. Our caseloads, to my understanding, are a little lower, but I am not in the child welfare end of things. I can get that information for you.

Chair Spearman:

Are those children who are in specialized therapeutic care in a transition period where the justice system is looking at termination of parental rights (TPR)?

Dr. Haas:

Yes. The kids in our therapeutic foster area are challenging and come from incredibly challenging families. A higher percentage of those children are in foster care for long time periods and are a challenge to address from a permanency perspective.

In our pilot program, we brought great efforts to find placements and return the children home or to find specialized home or adoption settings for them. The children comprise a challenging population in Washoe County. We have about 130 children who are in those homes. Some do go back to their families, but there is a cadre of youths who progress into independent living or move out.

Ms. Ruiz-Lee:

We see the same dynamics. A higher number of the young people will experience a TPR during placement or they arrive in placement and we already

have a TPR on them. These young people are challenging to maintain in placement and to find adoptive resources. That is not to say it cannot be done, it just means it is harder than normal.

As part of our pilot program, we have invested in achieving permanency for those children because we know they need stable placement in order to get well. We have worked diligently to do that. In Clark County, one of the reasons we have seen an increase in case closures by 15 percent is because we have looked at where those children are placed; we look at their biological families and have wrapped the entire family in services. It is not just about providing mental health services to these youths, it is about providing mental health services to the entire family and making sure they have a stable support system. Once you have that in place, you can see some of those kids return home and stay home, and you can see case closure. One of the greatest successes has been about wrapping the entire family unit in services.

Senator Cegavske:

You have children up until what age, 18 or 21?

Ms. Ruiz-Lee:

The majority of the kids in therapeutic foster care will hit the age of 18 or 19. Once they have completed high school, they can exit out. Some of them will remain in the homes, under what we refer to as the A.B. 350 program, which came from A.B. No. 350 of the 76th Session. That measure passed last Session and allows those youths to remain in the homes until the age of 21, and we transition the payments to them.

Senator Cegavske:

We made sure we did not have to disengage the family who had taken them and was willing to keep them. That has worked out well. I just wanted to reconfirm that.

Ms. Ruiz-Lee:

The program has worked well in Clark County in terms of building that bridge and making that connection. We have 164 youths who are engaged in the A.B. 350 program. In the next year and half, we will see the program cap out at about 300 youths. It has been helpful for them and has allowed for stability past the age of 18 or 19.

Senator Cegavske:

It is a good thing. The other problem we had is the caretaker not living as long as the foster child or they could adopt. They could do either.

Ms. Ruiz-Lee:

Yes, the youths are still available for adoption. They have to choose to participate in an adoption. Many of them do. Over the last year in Clark County, we have had a surprising number of 15-, 16- and 17-year-olds who were adopted because they made the choice. Some will make the choice not to, simply because they do not feel it is necessary for them emotionally. Many feel like they have made that permanent connection with the caregiver, and they have become part of that family whether it is legal or not.

Dr. Haas:

Part of what will be the focus of this proposed committee is the transition of mental health services as kids turn 18. In Washoe County, we started monthly meetings with staff from Sierra Regional Center, the Northern Nevada Adult Mental Health Services and with our Independent Living Program Unit to ensure the mental health services transition from children mental health services to adult services.

Senator Cegavske:

Is it working?

Dr. Haas:

It is working very well. We have unprecedented cooperation and collaboration with the adult mental health services in the north. The other State agencies are doing well for us in that regard, and we appreciate it.

It is not to say these kids are not thorny and do not present thorny dilemmas. A challenge we run into is they may decide they are more mature and grown-up than they may actually be to face the challenges of adulthood. We introduce them to the services so if they leave our care and custody under their signed agreements, they know where the services are and can get assistance.

Senator Cegavske:

My tenure here has been pretty much with all of this. I have watched the growth and the challenges. Thank you for what you doing.

Chair Spearman:

I am listening to you talk about wraparound services. The image I have is three or four circles in orbit. At what point do they become concentric?

Dr. Haas:

When looking at the needs of these families, we put the child and the family in the middle and then draw circles around the outside of all the agencies involved. Sometimes the white board gets crowded out with circles. The Division of Child and Family Services of the Department of Health and Human Services (DCFS) wraparound program works with our social workers in Washoe County to bring them into concentric, to get lines between all of the circles so the child service agencies and the adult service agencies that surround a family can begin to talk.

While it is difficult to get one paperwork plan shared by the agencies, the wraparound approach is a nice evidence-based practice. It tracks, in practice, what everyone is doing and who is working on what, and it can get as simple as who is scheduling how many meetings. You can have a challenged family with a frequent number of meetings and a calendar that would challenge the most seasoned of executives. The DCFS wraparound has been a very good program for our agency and Washoe County. It tries to bring those circles together to figure out who is doing what. It sends a clear message of priority to the families so they do not miss appointments or not go to court—those sorts of dilemmas that they often face.

Chair Spearman:

Thank you for what you do. One of the things we have to do better is to make sure we are taking care of our most vulnerable at both ends of the life spectrum, the very young as well as our seasoned citizens.

Barbara deCastro (President, Nevada Youth Care Providers):

The Nevada Youth Care Providers (NYCP) is a group of agencies that provides foster care services to children in the State as well as mental health providers who provide additional services to those children. I signed in as opposed to S.B. 451, although we are neutral to the bill.

I have submitted a prepared statement ([Exhibit D](#)) and amendments ([Exhibit E](#)) NYCP would like added to the bill. We would like this study to go a bit further than what is indicated in the bill.

The system of funding is a serious issue for therapeutic foster care and specialized foster care. When the rate was unbundled, we ran into difficulties in regard to how to adequately fund. We ask that this study look at the funding mechanisms of specialized foster care.

The other thing we are asking is that we look at different approaches to therapeutic or specialized foster care. We hope Nevada could come into alignment with common practices in other states. Texas, Washington, Iowa, Virginia and Florida, among others, have created systems of care that provide for case management through child-placing agencies. Once in place, the service structure gives quality assurance and regulatory oversight to the State and counties responsible for managing outcomes of the children in the foster care agencies. We believe this type of system has potential for increasing the quality of care and may result in cost savings. Assembly Bill 348 provides for the system of licensure for foster care agencies.

ASSEMBLY BILL 348: Revises provisions relating to foster care. (BDR 38-457)

However, child-placing agencies' licensure requires a higher intensity of accountability and engagement between foster care agencies, the State and county child welfare agencies. Senate Bill 451 will help us explore the potential and practical implications of moving in that direction.

For those reasons, we ask for your consideration of the amendments we submitted to you. We are very happy that we are named as participants in this study and will come to the table prepared and engaged.

Chair Spearman:

Are you all okay with the amendments?

Ms. DeCastro:

We had a conversation with the Director of Clark County Family Services and were aware of most of those amendments. Unfortunately, we did not see them. We will look at those. As they were testified to, yes, we are in support of the amendments. We ask ours be included as well.

Ms. Ruiz-Lee:

We are open to having a conversation about the amendments. Before I could agree, I would need to go back and have that conversation with Kevin Schiller,

Division Director for Washoe County Social Services, and with the State to see if they are open to having that dialogue.

Chair Spearman:

We were to move S.B. 451 forward, but we need to come to agreement.

Ms. Ruiz-Lee:

I think I can have that conversation very quickly with Washoe County and State people and see if they are open to that.

Chair Spearman:

We will close the hearing on S.B. 451 and open the hearing on Senate Concurrent Resolution (S.C.R.) 1.

SENATE CONCURRENT RESOLUTION 1: Requires the Legislative Commission to conduct an interim study regarding the taxation of services. (BDR R-260)

Chair Spearman:

Sometimes when individuals see something that looks like a bill, they immediately think it is engraved in stone. However, what this resolution does is authorize an interim study on taxation of services. It is a study.

Wes Henderson (Executive Director, Nevada League of Cities and Municipalities):

I have presented a prepared statement for the Committee ([Exhibit F](#)) regarding S.C.R. 1 and the creation of a subcommittee to study taxation of services.

Jeremy Aguero (Applied Analysis):

I have a presentation relative to Nevada's sales tax and how S.C.R. 1 might impact revenue-generating capacity from the State's core transaction tax ([Exhibit G](#)).

A few facts: Nevada's sales tax was designed in the mid-1950s, a time when our economy looked very different than it does today. This tax was established in 1955 at 2 percent; today, Clark County has reached a high rate of 8.1 percent.

Our sales tax is layered. We have the Basic City-County Relief Tax, the Supplemental City-County Relief Tax and the Local School Support Tax. All of

these combined to provide our retail sales and use tax. The Sales and Use Tax Act of 1955 was confirmed by a vote of the people, which means it can only be changed by a vote of the people.

We have layered new taxes on top of that in order to make it work the way it does today. The idea here is to transition this existing levy in a manner that would be consistent throughout the State but also reflect the diversity of our economy that exists today.

I like to put this slide up whenever we talk about the sales tax and when it was created. This is Cassius Clay, now known as Muhammad Ali, [Exhibit G](#), page 2, bottom slide. In 1960, our State had a total population of 280,000 people about the time our sales tax was created. State government employed 3,200 people. The State General Fund was \$25 million. The order of magnitude between where we are as a State today and where we were as a State when we created the sales tax underscores how different we are today and why adaptation or some degree of change is necessary and appropriate.

The combined sales tax rate in 1960 was 2 percent; today, it is as high as the Clark County combined rate of 8.1 percent. The tax is much higher than it was. The reason for those increases are multifold, partly because the sales tax has eroded to some degree over time. Another is the government has taken on additional responsibilities during that same period.

There tends to be a misunderstanding relative to the sales tax. The State General Fund receives 2 percent of the tax. The other pieces—the combined Local School Support Tax, which is the monies deposited into the State's Distributive School Account—work as an offset to the General Fund in terms of funding education. Of the maximum 8.1 percent, the State either directly or indirectly receives 4.6 percent of the tax.

Cities and counties are also in the retail sales and use tax business. They receive both the Supplemental City-County Relief Tax and the Basic City-County Relief Tax, which adds up to 2.25 percent. There are a number of option taxes, some of which I have provided here, [Exhibit G](#), page 5, bottom slide and page 6, top slide. Option taxes are layered on top of the minimum rate. These added together make up the maximum sales tax of 8.1 percent.

Nevada's State and local governments remain dependent on this one source of revenue. [Exhibit G](#), page 7, top slide, shows the percentage of the revenues we receive for State and local governments from each one of those sources as compared to the national average. We are dependent on this revenue source. Individual income and corporate income taxes, which do not exist in Nevada, overall represent 14 percent and 2.3 percent of State and local revenue of all states across the United States.

The most important source of revenue for local government is the Consolidated Tax (CTX) Distribution. Tracked as an intergovernmental transfer, it includes a number of taxes: liquor tax, cigarette tax, Real Property Transfer Tax, Governmental Services Tax or car registration fees, but it also includes the sales tax. That sales tax represents about 86 percent of the Consolidated Tax, which funds 150 local government entities. Of the State General Fund, [Exhibit G](#), page 8, bottom slide, sales tax represents about 36 percent. Whether we look at it on a comparative basis to other states or in the terms of the monies allocated every year by local government or every other year by the State government, this revenue source is the most important source we have as a State.

Nevada's sales tax base is likely to erode over time and has been doing so. In [Exhibit G](#), page 10, the top slide reflects changes in Nevada's tax base. In 1982, our taxable retail sales base was \$7 billion a year. That escalated to more than \$50 billion a year. We also see the effect of the recession and the rebound we have had resulting in a \$43 billion tax base in 2012. Comparing just the peak of sales tax to today, we are off 13 percent from peak to present.

Our tax base has escalated dramatically, but so have our population and inflation. The \$7 billion in 1982 does not get you quite as far in 2013. Taking out the effects of both population and inflation, [Exhibit G](#), pages 11 through page 13, top slide, the revenue increases are not as steep as they were before. Adjusting for inflation, revenues drop not 13 percent, but 21 percent from peak to present. Adjusting for population growth, it is flat over time. Since 1982, Nevada has generated \$14,300 per person in inflation-adjusted taxable retail sales. If we look at the inflation adjustment, it is not 13 percent; it is not 21 percent, but 28 percent. Twenty-eight cents out of every dollar has been lost from the peak to present.

The No. 1 reason for this change is that we spend our money differently today than we did in 1955 or 1960 or 2000 or 2010. [Exhibit G](#), page 14, bottom slide and page 15, top slide reflect how our personal expenditures by individual households across the United States have changed. In 1947, we spent 61.2 percent of all dollars on goods, or tangible personal property, the only things to which our retail sales and use taxes apply. Today, that number is at 32.4 percent. Reviewing the expenditures on services, you will notice it is almost a one-for-one shift the other way.

When our sales tax was created, it was 40 percent of our expenditures; today, it is about 66 percent of expenditures. Our retail sales and use tax base is unchanged between 1955 and today. We are spending our money differently, and we see it everywhere. When I was a kid, I loved to go down to Warehouse Records and buy a tape, a record or a CD, but we do not do that anymore; we download music. When I was younger, my grandmother and I use to play games. We played Scrabble, and she never let me win. She passed away a couple of years ago, and I think I beat her twice. I tried to pass that on to my kids. We do not play on a board game; we play on our iPhone or iPad. This transition of how we do things has permeated almost every aspect of our lives. It has meant that we shift so much more over from goods to services.

The second change in our spending is the Internet, [Exhibit G](#), page 16, top slide. The Internet is capturing a greater share of total retail sales. Whether we bring up *Quill Corp. v. North Dakota*, 504 U.S. 298, 112 S.Ct. 1904 (1992) decision on the limitations in the terms of how we can tax Internet transactions, or whether we simply understand that people are purchasing things in a very different way, we find that our sales tax simply does not capture it. If we look at the growth in sales tax and the growth in e-commerce sales, there is no argument that consumers are spending more of their money differently, which is eroding our ability to raise revenue from a primary revenue source.

Our economy is diversifying away from tourism, [Exhibit G](#), page 17, top slide. Visitors account for 26 percent of all taxable retail sales. They spend money on eating, drinking and shopping. This substantial amount of money is great because it comes from folks who do not have their kids in our schools and demand relatively fewer services. They continue to generate huge amounts of taxable retail sales.

In 2000, there were roughly 24.5 visitors for every man, woman and child who lived in Nevada. Today, that number is down to 19. With expenditures of \$600 to \$700 per visitor, per year, we will generate less sales tax. As our economy diversifies away from tourism, we will see that subsidy, which was provided by our robust tourism economy, spread thin over more people and more businesses. In terms of order of magnitude, that 19.8 visitors per capita ranks second only to Orlando, Florida. Relative to the total number of visitors per capita, roughly 15 percent to 17 percent of the people who have a head in a bed on any given night are not permanent residents in the State. That is nowhere else in the Country you can point to.

We have less construction-related activity, [Exhibit G](#), page 18, bottom slide. At its peak, construction represented between 15 percent to 17 percent of all taxable retail sales. That worked great when 12.5 percent of our workforce was in construction and when we had construction workers whose jobs were to build houses for other construction workers. But our economy does not look like that anymore. While we have seen some ramping up of our construction sector, it now represents 4 percent of our economy. That is close to the national average. We do expect it to improve, but not nearly at the levels during the peak.

Nevada has a comparatively narrow sales tax base. Our sales tax base applies only to tangible goods. [Exhibit G](#), page 19, bottom slide, takes a look at all the services tax by every state. What is important is we are on the far left-hand side of the spectrum. I would not suggest that we want to transition to be something like Hawaii, which never met a service it did not want to tax. I suggest being on the far left-hand side means our economy is likely diversifying away from our tax base.

As a result of having a narrow tax base, we have selected few things to tax and we have taxed them at a very high rate. Contrary to good tax policy, which would suggest you want a wide base and a low rate, Nevada is on the right-hand side of the spectrum when we compare sales tax rates, [Exhibit G](#), page 20, bottom slide. In the Western United States, California's tax rate is 8.4 percent and Arizona is 9.2 percent. Nevada's tax rate is 9.7 percent overall average.

What is the alternative? There have been a number of studies since 1960. I have put a few of them here, [Exhibit G](#), page 22, bottom slide. Every one of

these studies has alluded to the fact that our sales tax base is overly narrow. Economic diversification and absence of fiscal diversification is a very dangerous tax policy. We need to constantly be rethinking our sale tax base, particularly as our economy evolves.

Chair Spearman:

You are on a roll and I hate to interrupt. Senator Manendo has to attend another committee meeting and has a question. Can you pause and then we will continue the symphony?

Senator Manendo:

I appreciate the amendments because we need to have the business community involved in this as well. Representatives of our labor unions and seniors should also be included in the appointments for the proposed subcommittee to study Nevada taxation of services. We have the Nevada Silver Haired Legislative Forum; maybe someone from that entity who is already engaged in the legislative process could be a part of the subcommittee. What are your thoughts on that?

Mr. Henderson:

Absolutely. I think the more inclusive the subcommittee is, a better result will come out of the study. We are open to an amendment to add people you feel should be a part of the process.

Senator Settelmeyer:

I believe Congress will pass the online sales tax and that potential is about \$300 million to the State economy. One concern with these studies is that we have done far more studies on taxation. They have provided excellent data and information to the State Legislature. What will make this one any different? We have not gone with the suggestions from a lot of these studies. We have not done what they have recommended. I am worried that we are just doing another study that might sit on the shelf.

Mr. Aguero:

What makes S.C.R. 1 different from everything else? The first thing is it presupposes the concept of neutrality as a part of the study, [Exhibit G](#), page 23, bottom slide. The idea that we keep revenues relatively where they are, expand the base and lower the tax rates has been an idea that

has been fostered here. These studies merely identify the need to consider that. This resolution will actually make it happen.

This study is action-based. It suggests a need to not just study the idea or the concept behind restructuring but to identify the revenue, the tax base to be expanded. The main problem we have had in these discussions is when it comes down to the question of okaying what is to be subject to tax, it is very difficult to accomplish in a 120-day Legislative Session. This resolution also asks for technical assistance. Since 2001, one of the biggest problems is the burden imposed on the Department of Taxation to make the transition we are talking about, which is impossible to address in 120 days.

Underlying S.C.R. 1 is the idea of laying the foundation from a technical standpoint, to allow the Department of Taxation and the fiscal folks to have a plan in place, to effectuate this as a strategy at the point where the Legislature comes in as opposed to during the Legislative Session. These things make this effort very different than the efforts of the previous studies.

Senator Settlemeyer:

In [Exhibit G](#), the study shows that every state that has a service tax has had exemptions of things not taxed, whether it is a hairdresser, agriculture, whatever it may be or a monetary limit or something of that nature. Would this proposed subcommittee be making that determination or recommendations, or would the determination be made by the Legislature? How do you see that happening?

Mr. Aguero:

I imagine it going through something like the process Assembly Speaker Marilyn Kirkpatrick took as chair of the interim Subcommittee to Study the Allocation of Money Distributed From the Local Government Tax Distribution Account as it related to the Consolidated Tax. She spearheaded a cooperative effort among local governments to work toward a consensus solution to the CTX issue. The way to accomplish this is to build a model that allows all the participants in this working group to test every one of those alternatives—to say what needs to be in, what needs to be out, and then bring a recommendation in bill format back to the State Legislature for consideration and revision as necessary and appropriate. The CTX Subcommittee, for example, requested BDR 32-247, later introduced as Assembly Bill 68.

ASSEMBLY BILL 68: Revises various provisions relating to the distribution of certain taxes to local governments. (BDR 32-247)

There are two ways to handle the question of what is in or out. You are absolutely right. No state has a sales tax where there are not implicit or explicit exemptions. I recommend the study begin by including everything—and then take the things out that do not make sense. Good tax policy is having the broadest tax base that looks like your economy and the lowest tax rate possible. The only way to do that is to look at all 500 of the sales categories; goods, services and otherwise. We do not want things that are regressive in nature or that are, frankly, bad tax policy.

To echo Senator Settelmeyer's question, these are all things to think about when making good tax policy: ease of compliance, predictability, administrative cost and competitiveness. These are things to consider as the subcommittee goes through the process of evaluating a companion tax or sales tax base that will look at services. The most important part of this discussion is the question of neutrality. Reasonable minds can differ relative to tax efficiency. This is not what a S.C.R. 1 discussion is about. It is about better tax policy from a tax-neutral standpoint.

There are two major component parts to S.C.R. 1. The first is expanding the tax base by creating a Nevada services tax. The second is lowering the existing retail sales and use tax. This bill is not about generating additional revenue; it is about changing our tax base to make it more stable, more predictable and look more like our economy.

Today, our sales tax base is \$40 billion. It includes auto sales, eating and drinking establishments and general merchandise sales. What about the things that are not subject to our retail sales and use tax? Everything subject to retail sales is \$40 billion worth of economic activity. There is \$87 billion worth of economic activity not subject to our retail sales and use tax base. Some of the things subject to tax in other states but not subject to the retail sales and use tax in the State of Nevada are shown on Exhibit G, page 25, top slide.

It would be terrible tax policy to create a blanket retail sales and use tax that would tax everything. We can think about tiers—one tier could be services to buildings, repair and maintenance, and other discretionary services. There are \$17 billion worth of categories of expenditures not subject to our tax today.

Another \$40 billion in expenditures are in a gray area, a second tier. These include personal services, construction and development services, commercial leasing services, professional and financial services. Then the third tier, which I imagine would not be subject to the tax, include educational services, health care services, child care services and home leasing or rent.

Reform requires time and preparation. Senate Concurrent Resolution 1 means we are not just studying an issue but we are preparing to have legislation that can implement it. This is at the heart of Senator Settlemeyer's question about what makes S.C.R. 1 different. What is going to be subject to this new levy so that it looks like our economy? How are we prepared as a State to collect, monitor, audit and ensure compliance?

Here are some areas of concern that would need to be contemplated by this body and by any study that takes place. The first is the distribution of incremental revenue. State or local government would love to take all of the revenues coming in to solve one of those two levels of government's problems. This would be dangerous. Both local and State government are vulnerable to the erosion of the tax base and are dependent on this revenue source.

The second item is determining what services to be taxed, which is politically challenging. Having the study subcommittee vet that process before it has to be done at the State Legislature is important. Some will want to use the strategy to generate additional resources for programs. I cannot impress upon you enough my opinion that ensuring this process is separate from any discussion of revenue sufficiency is important. If this process devolves into generating additional revenue for education or prisons or health care or family services or anything along those lines, it will be remarkably problematic. It will be divisive, and we will lose better tax policy because of arguments surrounding tax efficiency.

This will be tax-neutral but will still require a two-thirds vote, which will make it difficult. Even if a revenue source does not generate additional revenue but we bring a new revenue on, it requires a two-thirds vote. While S.C.R. 1 is an important step forward, particularly with the amendments offered today, it needs to be part of a broader revenue reform strategy, whether we look at our property tax, sales tax or our tax on business. Some of those get away from us over time. This is a step in the right direction and could be a model for others.

Senator Cegavske:

I am looking at the chart in [Exhibit G](#), page 7, top slide, which shows the comparative state and local tax revenue. The thing that I notice is how many significant higher percentages we have. The chart shows Nevada having two lower percentages because we do not have individual or corporate taxes. We are higher in some of those areas. To me, it looks like a wash.

Mr. Aguero:

You are accurate. It is a wash. If we think about this as revenue generated per capita, we are right in the middle of the pack. We just do it a little differently than other states.

Senator Cegavske:

So it is not a bad thing.

Mr. Aguero:

No, I am not here to suggest that it is a bad thing.

Senator Cegavske:

Before I go any further, I just have to disclose that I am not in any shape, way or form endorsing this or not endorsing it. And the last time that this issue was brought up, I had a mailer dropped on every household in my district saying that I was for a service tax. So I just want to put that on the record that this is in no way an endorsement or not, but any time this issue is brought up, it is used politically. You are absolutely right, and so I did want to make that, that disclaimer. It is actually kind of a tongue in cheek thing.

My colleague brought up the issue of exemptions. When we look at who fought the hardest the last time to be exempt from anything, it was the golf courses. They did not want to be taxed. [Exhibit G](#), page 25, the top slide lists the most common services subject to sales tax in other states that are exempt here. I cannot think of one we do not already tax. It would be a double tax.

Mr. Aguero:

The question would be whether you would have some type of reform one way or the other. Would we fold some of these services under an existing services tax or have a levy that would create a level playing field. Some other state

categories are taxed at a higher rate, some of them at a lower rate. Like you said, they are just handled differently than otherwise. I would suggest some of these categories are not currently subject to a service tax in Nevada.

Senator Cegavske:

I am looking at all of them. Some type of tax on every single one of these is paid in some fashion or another. I had to laugh at the diaper service, because I thought you are going to tax babies.

Mr. Aguero:

The ones that jump out at me are things like the commercial linen supply. There are soft door categories, such as art and commercial services, marketing, and graphic design and advertising. We can certainly have a conversation about every major category out there. Your point is an excellent one that I do not mean to argue.

Senator Cegavske:

I am bringing up the issues that come to mind for me when looking at all of this. I agree with your statement; anytime we earmark a funding source, when that funding dries up or goes away, it is a big concern. If something was done, it would be General Fund only.

The other big question for me is the fragile economy, especially in the south. When I look at my district, I feel like I am in a ghost town. The new commercial properties are either empty or one or two businesses that are trying to hold on. We have not dealt with the foreclosures on those yet. I am concerned about this area being taxed any more. I do not know how they are going to make it. The biggest concern is the Internet and what has happened to the brick-and-mortar businesses. They are going away because they cannot compete. Who do we tax for services if these brick-and-mortars are gone? I do not know that you can do your dry cleaning online, but I am sure somebody will think of that. I just do not know how we are to sustain it and how that may work. You can tax the services now, if that is what is brought forward, but, how long does that stay? We have become so dependent on whomever or whatever we tax.

Mr. Aguero:

When we think about the economy, it is a wildly complicated question.

Senator Cegavske:

But I only give it to you.

Mr. Aguero:

I appreciate it and enjoy the question. When we think about the economy overall, your point relative to the fragile nature of our State's economy is well taken. While we are undoubtedly in recovery, we are far from recovered. When people look at our economy they need to recognize that, and we should take all steps to be as cautious as possible to preserve what modest economic recovery we are having. That said, when we look at the core economic indicators that we see today, our State is now the sixth-fastest growing State in the U.S. Population growth, particularly in the south is ticking upward and we are now

Senator Cegavske:

That is because we have the Californians coming over after their last tax policy was enacted.

Mr. Aguero:

That is right, because no matter what we do, California does something worse.

Senator Cegavske:

Californians come here for refuge.

Mr. Aguero:

You are right. We are seeing employment and income growth again. Are we back to where we were? No, but we are seeing improvement.

The reason I suggest tax neutrality has to be at the basis of this because people moving in have kids in our schools. They want to make sure when they dial 911 that someone shows up. They want to make sure that people who should be in prison will stay in prison. If our existing tax base erodes, it means we have less revenue to educate the next child who moves in; we have less revenue to make sure the next prisoners stay in as long as they should.

The goal here is not to increase taxes on businesses or residents, it is to make sure the revenue we are generating looks like our economy. If it is \$100 million when this effort begins, it should be \$100 million when this effort ends. Our economy does not look like it did in 1955, and our economy continues to erode

either because we are diversifying away from tourism, or because more people are spending on the Internet. It is not becoming less expensive to provide education, to build roads or prisons or those types of things. Therefore, ensuring our revenue base remains as stable as possible over the next 20 years is what this bill is all about.

Chair Spearman:

We are talking about a study looking at service taxes. Is this the only form of revenue generating or restructuring of our tax system that S.C.R. 1 will look at? Whenever you do research, you have an hypothesis. In order to have good research, that hypothesis includes a no hypothesis. If we find that this is not the best way, if the no hypothesis is not proven, are there other alternatives we might look at? At the conclusion of this study, I would like to see a rehabilitated tax policy or revenue-generating policy that not only looks like us today, but a model that will facilitate however we grow in the future. I agree with Senator Cegavske, if we rely on one particular resource, then we wind up like we are today or when the bottom fell out of the real estate market in 2007.

Mr. Aguero:

I have a brief answer to your question. Senate Concurrent Resolution 1 focuses on a services tax.

The longer answer to your question is any time you want to get together and have a long conversation about the other areas we need to discuss regarding our State's tax policy, I would be more than happy to do that. There are many areas to be reviewed.

Using the Consolidated Tax study as an example, we ran 102 models with the local government working group over a 6-month period just to bring back what we discussed earlier this Session. That will happen here. I would be cautious about tossing a net that is too wide. If the answer to this question is no because the hypothesis proved wrong, then we need to come back to this Senate Committee and say there is no answer to this and the subcommittee could not come to a consensus; this is not the right way, but maybe we need to study this. But without taking a step in this direction, I fear that would never happen.

Relative to the final portion to your question in terms of the falling out of our real estate market, I do not know that a service tax stops that from happening

again. The tax may provide some degree of increased stability to our State and local government revenue sources. We have 66,000 housing units in the State that are 30 days or more delinquent. We have a record low in the number of housing units available for sale today. The combination of those two things cannot continue to happen. Irrespective of what happens here, we are likely to deal with some continued instability as we try to find solid footing relative to the real estate market.

Carole Vilardo (President, Nevada Taxpayers Association):

This study is extremely important. We have had seven studies on taxes. One of the issues that has occurred is the studies are all-inclusive and the technical parts are not identified. We get no place.

Senate Concurrent Resolution 1 is a technical study. The Nevada Taxpayers Association asks for an amendment ([Exhibit H](#)) to put business people who are familiar with the taxes and representatives of our local government on the subcommittee.

There are two aspects that Mr. Aguero and Mr. Henderson identified for the study. One is the expansion of the tax base. The expansion of the base will come with looking at various services that might be taxed, services that are taxed independent of and not part of a services tax. Senator Cegavske said that possibly should be rolled into the services tax and the separate tax eliminated. That is something that would be determined. The technical part for the local governments is how you would effectuate a good distribution on this transaction tax between the State and local governments so the needs were satisfied of both for stabilizing revenue.

The reason for business people to be on the subcommittee is that as those services are discussed and whittled down for various sundry reasons—regressivity, difficulty with compliance, no way to audit—the people who deal with and have to collect this tax can identify the mechanics and procedures.

I disagree with Mr. Henderson who said that it should be all-inclusive and include unions, seniors and everything else. This resolution is about a mechanism that works both from distribution and implementation of those services you would tax. You would want to be as inclusive as possible when having hearings. But you are looking for technical expertise on both ends.

The importance of this study cannot be stressed enough. If we do not get a handle on stabilizing this particular revenue source, which means the expansion of services whether limited or expansive, then we will continue having problems with the major revenue source.

Robert D. Ebel, director of the Price Waterhouse/Urban Institute study approved by the 1987 Legislature, reported Nevada was the first State in the U.S. Census Bureau, 1985 Service Census Report where the gross state product exceeded 50 percent based on services, not tangible goods.

This discussion about expanding the base has come up a number of times. The Nevada Taxpayers Association has recommended Nevada expand its tax base. We even hired a sales tax project director to look at how to expand the base in a logical fashion and what could be done for a corresponding rate reduction on the tangible goods side.

There is a general agreement that a good tax structure has to reflect the sales economy and the way business is done. Unfortunately, the State has never taken the step to look at the technical aspects of what you would do, how you would expand and how you would implement the expanded tax base. The reason for our amendment is so there would be that expertise. We asked the Retail Association of Nevada to have a representative because a number of the services might be services in conjunction with tangible goods. The retailers would know if there are associated problems with compliance, with audits, etc.

I did err in not recommending an additional person from the Department of Taxation to provide technical expertise. A representative of the Department of Taxation would be critical in identifying what is needed by the Department to effectuate whatever technical recommendations the legislative subcommittee agrees should be done.

There are a million reasons, but Mr. Aguero gave you the best example. The CTX study subcommittee had a technical advisory subcommittee. The advisory subcommittee proposed in S.C.R. 1 should be amended to say technical advisory subcommittee. What the group would be working on—the distribution and mechanics of the services tax—needs the technical aspect to it.

I encourage the Committee to support and approve this study. The other interim studies that you have to review are all important, but ultimately they all require revenue, and this gives us the opportunity to stabilize the revenue source.

Senator Settlemeyer:

We have discussed that the way people are spending their money is changing. Do you believe the reason is primarily due to the technological age and online sales tax issues or because we have switched to service-based spending? It seems to me it is more that the technology has changed.

Ms. Vilardo:

Robert D. Ebel said the Service Census of 1985 indicated that we were losing revenue because of services. This study predated the Internet. Internet sales have exacerbated the loss of revenue we are seeing, but it did not start there. The 1995 study reported to the Legislature we were losing revenue because of services. The study also spoke of the need to have a revenue structure that reflected the economy.

Senator Settlemeyer:

Pertaining to the allocation of the service tax revenue, I know you are very good looking at what other states have done. When it comes to service taxes, is it usually 100 percent going to the state, or 50 percent going to the county or 25 percent ... what is the commonality?

Ms. Vilardo:

It varies. The advent of the Streamlined Sales and Use Tax Agreement has changed the way a lot of the states impose sales tax. A number of states allow local governments to specifically set their own sales taxes and even collect them. With the advent of the streamlined tax, states have to have a centralized collection point. There is no state that I am aware of—except for Hawaii—where the sales tax, and most states encompass services, is not split in some fashion, either by specific levels as we do with percentages to local school support and the local options or in other ways. I have not seen reports that can break out the percentage that goes to the local governments and the percentage that goes to the state. To the best of my knowledge, with the exception of Hawaii, directly or indirectly, the state gets the tax, then distributes some of the tax on a local portion formula. Or as we do, increments have been distributed based on who is allowed to receive the tax.

Senator Settlemeyer:

Is this a way to reestablish a CTX? How does that affect it? Does it lower one and raise one? There is no reason to answer; that is something the study committee will need to look at.

Ms. Vilardo:

You raise a very good point. It goes back to the reason for my opinion that this needs a technical advisory subcommittee. The CTX would have to be part of the discussion as part of that distribution. That is why it is so important that you are defining it and for those purposes have local governments involved. I would expect the appointments made by the local governments would be finance people—they were involved with the CTX study—because you have to address issues like that that come up.

Chair Spearman:

This is a technical study. For those who may not understand, there is a differentiation between technical and policy. Senate Concurrent Resolution 1 is a technical study talking about structure as opposed to policy development and implementation.

Ms. Vilardo:

You are correct. These have been what our general stack studies have been, looking at the policy of taxation. This resolution is saying we are finally acknowledging this particular segment of our tax structure no longer works as originally implemented. The State needs to get our tax structure to the point where it is effectively doing what it should.

Yes, this is very much a technical study. For the purpose of my amendment, I would ask that you include a representative of the Department of Taxation. The Department will be critical to the technical part of the resolution.

Bryan Wachter (Retail Association of Nevada):

The Retail Association of Nevada appreciates the study. This is how taxes should be discussed, in a learned environment that is not emotionally charged, that is technical and not thrown together and attempted to pass in an ambiguous manner.

We also appreciate Ms. Vilardo's amendment. If you have a technical study on how taxes should be implemented, collected and audited, the subcommittee

should include those who end up having to collect it, audit it and be accountable for the tax policy. It is not just the users who should be involved but those the tax affects.

In the next year, \$1 trillion is to be spent on purchasing retail goods either on computers, phones or tablets and not in a store. We have a tremendous evolution on how retail is done and how retail is moving. Senator Cegavske's comment about dry cleaning by mail is not far off. Grocery stores are offering mail service. There is a store that will allow you to have a hand-tailored suit mailed to you within a week. We are moving in that direction. The Legislature has to be charged with the ability to begin looking at taxes and other policies that represent that evolution. I agree with everything Mr. Aguero said.

As we move forward, we believe this is a good technical study. It should not be about revenue, how we use the money or about what programs could suddenly be funded because of this. It should be about what is good tax policy for Nevada and how Nevada needs to transform its policies into the future.

Geoffrey Lawrence (Nevada Policy Research Institute):

I would like to echo everything said before me. A couple of years ago, the Nevada Policy Research Institute published a proposal for a revenue-neutral expansion of the sales tax base. The study cited much of the evidence presented earlier by Mr. Aguero about how our economy has changed and the tax base structure has not. Another aspect in the report was about volatility levels. Sales taxes on tangible goods in Nevada tend to be more volatile from year to year based on the level of disposable income found around the world and around the Country because they are closely tied to the level of tourism. Services are less volatile in this respect because they are likely to be consumed by in-State residents. As a result, that recreates a more stable and predictable tax base with which to plan as public officials.

Jeff Fontaine (Executive Director, Nevada Association of Counties):

The concept of a revenue-neutral services tax is not new. It is something the Nevada Association of Counties (NACO) Board of Directors was briefed on by Mr. Aguero last year. While the Board members did not take a position on a services tax, they do support S.C.R. 1, which would study the desirability and feasibility of a neutral services tax as a mechanism for providing stable revenues for local governments. The NACO has offered an amendment ([Exhibit I](#)) which would increase the number of NACO members to the advisory subcommittee

from two to three. This would give our two largest counties and our rural counties representation. We are in support of S.C.R. 1.

Senator Cegavske:

I have this vision of all these governmental entities coming together in one room to make a decision. That is perplexing to me. With all these amendments, how many people are supposed to be on the subcommittee? I am seeing 11 from Ms. Vilardo.

Mr. Fontaine:

During the discussions on the CTX distribution, we had that many and more local government representatives. It was a lot of work, but it was successful.

Dan Musgrove (City of North Las Vegas):

It is important to echo what Mr. Fontaine stated in terms of the number of people represented on the proposed advisory subcommittee. As Ms. Vilardo characterized, it is to serve as a technical group. The more people you have bringing varied experiences of perspective, outlooks and impacts make that technical recommendation more beneficial to this body when you start thinking about policy.

To Senator Cegavske's concern about the partisanship that she has been accused of for even supporting this kind of thing: that is exactly what this is not. When you have people from the Policy Institute tell you what a good idea it is, it tells you that this is so important to just look at the ramifications.

In 1981 when we shifted from property taxes to sales taxes and vice versa, there were huge impacts. This last interim we showed the work of the CTX technical advisory subcommittee and the computer modeling used to develop a recommendation on the impacts is what this body needs to make the decision. This group was certainly not partisan or nonpartisan. You can take it from the City of North Las Vegas—we were kind of the lone wolf on some issues. We certainly were treated fairly every step of the way because every scenario we put forward was looked at with objectivity. We appreciated that. This is such a good move for the Legislature to go forward with.

Mike Cathcart (The City of Henderson):

We think this is a very worthwhile study, and using a technical subcommittee as we did with the Consolidated Tax study is a great idea. By partnering local

governments with our friends from the private sector, we think we can really take a look at this issue.

Ernie Adler (Reno-Sparks Indian Colony):

The Reno-Sparks Indian Colony has a number of problems with the way the resolution is worded. The Reno-Sparks Indian Colony does not oppose a study on sales tax on services but would like to make you aware of a few things. The idea of making it completely revenue-neutral in reducing the sales tax on goods could have catastrophic impact on the tribe. *Nevada Revised Statute 372.805* provides that if a tribe imposes a sales tax equal to or greater than the sales tax of the State, the State will not impose the same tax on the sale of those goods. That system has worked in this State for decades.

The Reno-Sparks Indian Colony imposes a sales tax on goods, which it uses to fund many services. A few years back, a \$16 million health care clinic was built which is supported by sales tax on goods. The clinic provides health care for low to moderate income people within the Reno–Sparks area. It also serves nontribal people and persons on Medicaid. It is anticipated the primary care clinic's numbers are going to accelerate rapidly in the next year.

If the sales tax on goods is cut, it would be extremely difficult for the tribe to continue to make payments on the bonds that support the clinic and other construction projects. The problem with switching to a sales tax on services is the tribe does not have service providers within its territory; there would be no one to tax. If the sales tax on goods is reduced, the tribe will not have the revenue necessary to support many of its current programs.

This needs to be carefully weighted in terms of the entire study. I know there are concerns about the number of people who could be placed on this subcommittee, but a representative of the tribes would be helpful. The Reno-Sparks Indian Colony has members of the Retail Association that are both retailers and work with the Colony. They could provide valuable information on the interaction of tribal taxes and tax rates within the State of Nevada.

The State Legislature sets the tax policy for all the tribes in Nevada. If you raise the State tax, their tax has to go up and if the State tax goes down, their tax has to go down. They need to have some input as to this entire study. Perhaps the sales tax on services can be adjusted so it does not have a negative impact upon all the made-in-America retailers within the State of Nevada.

Senator Settlemeyer:

I understand the concept of taxes going up. Basically, the tribe wants to ensure if taxes are paid, they are used in the tribal community. I appreciate that. Could the tribe pass something to say the taxes remain constant?

Mr. Adler:

The problem is if the tribe retailers have a higher sales tax rate than the retailer across the street who is on City land, the tribal retailers will be unable to sell their products.

The way the Nevada law reads now, it tries to achieve parity between tribal sales and sales within the tribal community so the sales tax is identical. If we end up with a split sales tax between the tribes and the City of Reno, everyone would shop the City of Reno.

As Mr. Aguero said, the tribes have also experienced a falloff in sales tax revenues. If the rate on goods is reduced, that causes a further falloff in terms of revenue generated. I am sure this problem can be addressed. I would urge you to have a tribal representative on this technical advisory committee.

Lynn Chapman (Nevada Families):

We understand this is just a study, but it lays the groundwork for looking at a tax on services. Whether it is a technical or policy study does not matter to the taxpayer, because the taxpayers are the ones who are stuck with the bill at the end of the day.

Nevada Families has a number of concerns. Services are many times considered essential. We are worried that people are to be taxed in their poverty. We have elderly and poor who will be taxed on things that are essential to their lives. Getting a haircut might be a small matter, but if we are taxed on things like that, it can impact the elderly and the poor.

The February 26 issue of *The Detroit News* had an article stating Michigan lawmakers are considering bringing back the controversial idea of tax on services, which the state had before but nixed because it was such a bad idea. The article states: "Lawmakers repealed the tax before it could be levied after a public backlash when the Legislature carved out exemptions for attorneys, professional sports, accountants and other service sector professions with political clout."

I know there have been problems down that line, and that concerns us. Nevada has one of the highest bankruptcy, foreclosure and unemployment rates in the Country. We are having problems, and if you tax services, I am afraid people will not go to doctors or dentists or get other essential things they need to because they cannot afford them. People are really hurting out there, and taxing essential services is not a good idea.

John Wagner (Independent American Party):

The way I see S.C.R. 1, you are talking about the desirability, which means they are already in favor of pushing it. Referring to page 2, line 19, the advisory subcommittee would be made up of five members right now, and you keep adding as you go along. Out of these five members, is there one who would not be in favor of the service tax? I think not. When you add some of the business people, I think some of them would say: okay, reduce the tax on me and let someone pay it, and they will go along with this. This is a stacked committee no matter how you look at it unless you go out to the general public and find someone, such as myself, who is not allied with anybody, or anybody else off the street. As far as the tax rates going down, we had a saying when I was at Sony: fat chance of that happening. This study is supposed to be revenue-neutral. If it is neutral, we should just leave it alone because we are not going to be generating any more money than we are now. Once the tax is lowered, it is easier to raise it back up again—after all, that is what it used to be. We are defiantly opposed to this piece of legislation.

Chair Spearman:

Does S.C.R. 1 show a fiscal note? Are the subcommittee members volunteering? Will a consultant be part of the study body?

Mr. Henderson:

I believe the appointment will be part of the subcommittee members' duties. There will not be added compensation. I cannot speak to the legislative portion.

Chair Spearman:

We do not anticipate a fiscal note, but we have not considered one.

Mr. Henderson:

No, we have not considered a fiscal note. If S.C.R. 1 is one of the interim studies funded, there is an allocation for the Legislative Commission to fund the legislative portion.

Chair Spearman:

I have heard a couple of concerns with respect to the actual mission of the study group. It appears the major mission is prescriptive, and what I hear is that it is diagnostic. The difference is looking at where we are and why it is not working as opposed to saying this is the direction we need to go in. The study itself is diagnostic, correct?

Mr. Aguero:

I could not have said it any better. That is exactly the intent. I would submit to you the idea is to vet all of the alternatives that fall under this particular category and bring forward one that has consensus of the members of the group who are studying the issues. Period.

Chair Spearman:

We will close the hearing for S.C.R. 1 and open the hearing on S.B. 499.

SENATE BILL 499: Creates the Legislative Committee on Water Issues.
(BDR 17-144)

Senator Donald G. Gustavson (Senatorial District No. 14):

Senate Bill 499 was requested by the Legislative Committee to Oversee the Western Regional Water Commission, which sunsets on July 1. I have presented the Committee with a prepared statement ([Exhibit J](#)). The bill authorizes the Legislative Commission to create a Legislative Committee on Water Issues that would study water during the interim.

Jason King, P.E. (State Engineer, Division of Water Resources, Department of Conservation and Natural Resources):

The Division of Water Resources is neutral on S.B. 499.

Scott Leedom (Southern Nevada Water Authority):

I am here to speak neutrally on S.B. 499. The Southern Nevada Water Authority (SNWA) realizes water is an important issue in this State and one that warrants study during each interim. Since 2003, the Legislative Committee on Public Lands has studied these issues every interim and, from our perspective, has been successful. We believe there is continuity with the Public Lands Committee and existing expertise. We have been working on Assembly Bill 301 for the upcoming interim that creates more of a water focus for the Public Lands Committee.

ASSEMBLY BILL 301: Requires the Legislative Committee on Public Lands to conduct a study concerning water conservation and alternative sources of water for Nevada communities. (BDR S-807)

The SNWA is neutral on S.B. 499 but thinks this is already being addressed by the Public Lands Committee each interim.

Senator Settlemeyer:

I am concerned with the idea of taking the topic away from the Public Lands Committee without the potential of moving out the sunset date in order to let Public Lands deal with it.

I think it is wise to have individuals looking at all aspects of dealing with water. A large amount of water comes from land, the relation thereof, public land, private land and things of that situation. I tend to be concerned if one person is looking at only one thing: water, and not at the interrelationship of how that water is used above and below ground—and everything in between. Why do we not extend the sunset date and let the Public Lands Committee continue to handle the water issue as a subcommittee?

Senator Gustavson:

I would not have a problem with that. I like S.B. 499 the way it is written. The Legislative Commission would be picking people who have expertise in water questions to be on the Committee on Water Issues. Water is such a rare commodity in Nevada, and having one committee specifically to deal with water issues would be better overall. I sat on the Public Lands Committee too. I felt separating the two might be a better idea than having it all in one committee. I am open to the idea of extending the Committee to Oversee the Western Regional Water Commission which sunsets July 1 if the Committee would like to do that too.

Chair Spearman:

Based on Senator Settlemeyer's question and Senator Gustavson's response, what are the differences between the two committees?

Patrick Guinan (Research Analyst):

The difference between the two committees, as they exist right now, is the Committee to Oversee the Western Regional Water Commission has the very specific focus of looking at water consolidation and water quality questions

within the northern Nevada, Washoe County area. The Committee was created in 2007 and was built around a set of new committees at the local government level. They were designed to help streamline and create a more effective water supply system in that area.

The Public Lands Committee, in addition to looking at water statewide, also addresses a whole range of issues dealing with public lands across the State. The Public Lands Committee deals with water rights, grazing rights, soil conservation, you name it, all kinds of things. At the end of last interim, the Public Lands Committee made 25 recommendations out of its interim study; 6 of those addressed water. The rest were dealing with other issues.

The Committee to Oversee the Western Regional Water Commission is set to sunset in July of this year. One of the primary jobs of the members was to oversee the consolidation of water purveyors in Washoe County, and that process has run into a roadblock. There is some discussion between the County and Truckee Meadows Water Authority and the South Truckee Meadows General Improvement District about how to consolidate, and they are at an impasse right now. That process has not been completed. That is the reference the Senator made to maybe push out the sunset date on the Committee to Oversee the Western Regional Water Commission so it can continue to keep an eye on that process and make sure that it goes well.

Chair Spearman:

Based on what you have just said, roughly 24 percent of the recommendations made by the Public Land Commission dealt with water issues.

Mr. Guinan:

For the last interim, that is correct.

Senator Gustavson:

Just for the record, I was not a member of the Public Lands Committee, but I was an alternate member. I went to every meeting, except for the first one, because one of the members was not able to attend, so that is why I did.

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Chair Spearman:

We will close the hearing on S.B. 499. This meeting is adjourned at 10:19 a.m.

RESPECTFULLY SUBMITTED:

Mary Moak,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	7		Attendance Roster
S.B. 451	C	3	Alex Ortiz	Clark County Proposed Amendment
S.B. 451	D	2	Barbara deCastro	Prepared Statement
S.B. 451	E	1	Barbara deCastro	Proposed Amendments
S.C.R. 1	F	1	Wes Henderson	Prepared Statement
S.C.R. 1	G	28	Jeremy Aguero	Nevada Sales Tax Presentation
S.C.R. 1	H	2	Carole Vilaro	Proposed Amendment
S.C.R. 1	I	1	Jeff Fontaine	Proposed Amendment
S.B. 499	J	3	Senator Donald G. Gustavson	Prepared Statement