

**MINUTES OF THE MEETING OF THE  
GOVERNOR'S TASK FORCE ON TAX POLICY IN NEVADA  
(ACR 1 of the 17<sup>th</sup> Special Session)**

**October 9, 2002**

The Governor's Task Force on Tax Policy in Nevada was reconvened at 9:18 a.m. on Wednesday, October 9, 2002. This meeting was a continuation of the recessed meeting of Wednesday, October 2, 2002. Chairman Guy Hobbs presided in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was simultaneously videoconferenced to Room 2135 of the Legislative Building, Carson City, Nevada.

**COMMITTEE MEMBERS PRESENT IN LAS VEGAS:**

Mr. Guy Hobbs, Chairman  
Mr. Russ Fields  
Ms. Eva Garcia-Mendoza  
Mr. Brian Greenspun  
Mr. Kenneth Lange  
Dr. Luther Mack  
Mr. Mike Sloan  
Ms. Nancy Wong

**OTHER LEGISLATORS PRESENT:**

Assemblyman David Parks

**EXHIBITS:**

Exhibit A:	Meeting Agenda
Exhibit B:	Attendance Records
Exhibit C:	Business Tax Comparison Matrix presented by Jeremy Aguero
Exhibit D:	Overview of State Activity Tax presented by Chairman Guy Hobbs
Exhibit E:	Stabilizing Nevada's Rural Economy report from Stephanie Licht
Exhibit F:	Admission Tax-Review of Definition presented by Chairman Guy Hobbs
Exhibit G:	Letter from Knight Allen regarding Profit Margins
Exhibit H:	Letter from Ted Mendalski, submitted but not read into the record

Chairman Hobbs called the meeting to order and stated this meeting was a continuation of the meeting recessed last week on Wednesday, October 2, 2002. The chairman pointed out that agenda items I, II, III, and IV had been essentially covered during the last meeting; however, there was some work remaining on item IId, the transaction tax on services and IIg, corporate filing fees, as part of a potential mix of solutions. Chairman Hobbs indicated he would like to cover the outstanding parts of those two agenda items under the discussion on item V regarding business-related taxes.

Chairman Hobbs noted that several items that had been discussed at the last meeting, including the lottery, government services tax, value added tax, gaming tax, property tax, etc., were not the first discussions on any of these tax sources. Substantial amounts of discussion, information and analysis had been presented on every revenue source the Task Force had addressed, and every source that would be discussed today. These issues were first identified as topics nearly a year ago, and substantial amounts of research and evaluation had transpired.

Regarding the lottery, the chairman said the Task Force recognized that it clearly was not something that could be part of a near-term solution by virtue of the timetable involved in implementing such a revenue source. However, the

committee recognized a lottery could be part of a longer-term strategy for the state and elected to continue evaluation of the lottery, although it would not be included in the near-term recommendations.

The government services tax, formerly known as the motor vehicle privilege tax, and probably more honestly known as a property tax on vehicles, was a tax that the Task Force was continuing to evaluate for possible adjustment as an offset to other revenues that may be created as part of the process. Chairman Hobbs indicated the adjustment would potentially be a slight decrease in the rate.

The gaming tax was covered at nearly every meeting; however, it had been largely covered under the discussion on the extension of the gross receipts tax. Some additional clarity had been provided at the last meeting, any gross receipts tax or a form of business tax, would also apply to the gaming industry, on both the gaming and non-gaming side of their ledgers.

With reference to property tax, Chairman Hobbs pointed out the Task Force had allowed the use of a range of rates for final recommendation purposes. A little bit of variability and flexibility was needed in some of the sources under consideration in order to make the cash flows balance out at the end of the day. The Task Force had given the Technical Working Group some latitude in putting those figures together.

Chairman Hobbs explained the Task Force was at a point in the process where a considerable number of hours had been invested in meetings, and a considerable number of hours had been invested in the analytical and data-gathering process, which the chairman candidly pointed out was the most absurd understatement he could possibly make. The time accumulated by those involved in the process had exceeded 3,000 volunteer hours of analytical research and data gathering up to this point. The number of hours spent in these meetings was also considerable, into the hundreds, and a significant number of those hours had been spent hearing public testimony from the very first meeting. Chairman Hobbs felt there had been a misinterpretation at the last meeting when he had asked that public testimony be confined to the public comment portion of the agenda. His intent was to make the meeting more of a workshop discussion than the types of discussions that had been held in the past. The chairman wanted to make sure that his comment did not infer that the Task Force would not be interested in hearing public comment; he reiterated that was absolutely not the case.

The Task Force was at a point where there were approximately 36 or 37 days remaining to complete the report. Fortunately, Chairman Hobbs said, they had started compilation of the report some time ago. The Task Force would be asked today to give additional conceptual direction so that after this meeting, the balance of the draft report could be prepared. Inherently, it was obvious that a number of details would need to be worked out. He proposed that the conceptual direction already in hand by virtue of actions previously taken by the Task Force and from discussions today, would allow the Technical Working Group to put recommendations to paper, and submit it to the Task Force for review. Thereafter, any semantics issues or details could be worked out at a subsequent meeting. The chairman hoped the next meeting or two would be focused on review of a draft report and finalization of the report through one or two additional meetings. When asked for endorsement by the chairman, the Task Force members nodded their approval.

Chairman Hobbs recognized the Task Force was eager to start putting the rest of the report together because many people were anxious to review the recommendations. One of the things the committee had suffered from, which had been amplified by a number of telephone calls the chairman had received, was that although the members had thought their points had been made very clear during the meetings, apparently they were not always clarified outside the meetings. For example, some people did not realize the Task Force had discussed some form of exemptions on a business-related tax or that the application of a gross receipts tax deviated from other states. Chairman Hobbs stated emphatically that the discussions in this Task Force could not be compared as a concept to something that may exist in the state of Washington, New Mexico, Hawaii, or any state of choosing, and would not resemble in structure any of those sources or forms of taxation. The chairman indicated he had a number of telephone calls suggesting that a wise course of action would be to contact colleagues in the state of Washington and inquire about the mechanics of the tax there or to actually hire consultants to evaluate how the taxation system worked in Washington for application in Nevada. Chairman Hobbs advised the details should be collected in Nevada and the work product based on those details, not on something that was done in another state. He hoped he had been very clear on this point. Nevada was unique, and whatever tax sources were derived or constructed in Nevada should be as unique as the state itself. The Task Force was working under Nevada's constructs at this point, not any other state's constructs. However, the

chairman said there were lessons to be learned through the historical application of some of these taxes in other areas or states. That had been time very well spent learning from the mistakes of others and the history of other tax structures so the same mistakes would not be repeated in Nevada.

The Task Force had been discussing a gross receipts form of business tax for the state, which the chairman felt was clear to everyone. It should be noted the Task Force had also considered various other forms of business taxes. Chairman Hobbs advised he had received a number of calls from people who suggested that as an alternative to a gross receipts tax, there was a preference for another form of business tax. Surprisingly enough, some had expressed a preference for a tax they had been very scornful of two years ago – a net profits tax. The chairman had also received a call suggesting a tax based on margin or gross receipts, less cost of goods sold. That was an interesting middle ground form of tax between gross receipts and net profits, but it did not come without its own significant issues.

Chairman Hobbs believed it was patently unfair to talk about one form of taxation in substantial detail and talk about other forms simply in conceptual terms. That was an unfair comparison unless the goal was to simply obfuscate the issue and avoid dealing with it head on, which was not something the state of Nevada or the Task Force could afford to do at this point.

### ***Discussion and Possible Action Regarding Business-Related Taxes***

The chairman pointed out he would like to concentrate on additional discussion to reaffirm that the Task Force should concentrate on a gross receipts tax or another form of business-related tax by raising all of those issues again for discussion and evaluation. Chairman Hobbs called attention to Exhibit C, a business tax comparison matrix prepared by Jeremy Aguero, which would enable the members to walk through the various forms of business taxes that had been identified and allow for a conceptual decision and direction to the Working Group so they could begin working on the details.

The chairman commented there would be a significant difference between the level of details described in a report to the Governor and the Legislature and what would eventually be in the drafting of a bill draft request (BDR). Although ACR 1 allowed the Task Force to request five BDRs, the committee was really dealing with one issue; i.e., the identification of funding alternatives for the baseline and potentially beyond the baseline. It was Chairman Hobbs' strong suggestion that all of the elements of the recommendation could be made in a single BDR. He asked members who had different feelings to express them. However, since all the issues were interlinked as part of an integrated solution, the chairman felt they should be included in a single BDR.

Between the time the report was drafted, which would provide a conceptual description of what the Task Force was recommending and why, and the time a BDR was drafted, a substantial number of other details would arise for resolution during the drafting of the actual BDR. Chairman Hobbs said one of the questions he had posed to the Legislative Counsel Bureau was that after November 15, how the Task Force members could ensure that all of the things that had been discussed during these meetings were accurately reflected in the BDR. The chairman reminded the committee that after November 15, technically the Task Force did not exist any more as a committee. The members could obviously continue to meet as a group of interested citizens, and he was sure that one or more would be involved in the actual drafting of the BDR. Chairman Hobbs intended to share that information as it was being developed, and even query the members regarding particular points that had not been addressed or identified during the meetings, but might arise during the bill drafting phase. He hoped that everyone would continue to be involved in that part of the process.

Chairman Hobbs explained how the matrix on Exhibit C was laid out. The top line identified the various forms of business taxes under consideration. The columns were entitled as follows, with a short explanation from the chairman in parentheses:

- Gross Receipts (a comparison of the application of a gross receipts tax without the benefit of any additional exemptions);
- Gross Receipts With Base Exemption Only (a tax with just a threshold exemption);
- Business-related Tax With Base Exemption and One-for-One Credit (the gross receipts tax with a threshold

- exemption plus a one-for-one credit on the business license tax);
- Business-related Tax With Base Exemption – Higher of the Two Taxes Paid (an issue the chairman explained would be discussed further, but was being used for comparative purposes);
- Margin Tax (gross receipts less the cost of goods sold, and similar in some circumstances to a value added tax);
- Net Profits Tax (a corporate income tax); and
- Expansion of Retail Sales and Use Tax (beyond the amusement/entertainment/transaction tax that had been previously discussed).

Chairman Hobbs asked the members to advise him if there were any other variations reviewed by the Task Force that should be included in this matrix.

For ease in referring to the following discussion, listed below are the considerations for each tax in the order presented by Mr. Aguero and described in the minutes as line items:

- Description
- Estimated Tax Base
- Rate Required to Generate \$250 Million New Revenue
- Rate and Application
- Distribution
- Allocations
- Total Revenue
- Revenue Offsets
- Elasticity
- Legal Reference
- Determinates
- Dependence on Growth
- Exemptions
- Deductions
- Credits
- Procedure
- Legislative Issues
- Erosion/Adjustments
- Predictability
- Transparency
- Stability
- Uniformity
- Vertical Equity
- Horizontal Equity
- Ease of Administration
- Ease of Compliance
- Intrastate
- Interstate
- Economic Neutrality
- Flexibility
- Integration
- Exportability

Jeremy Aguero disclosed that the matrix set forth the taxes discussed by the Task Force based on the qualitative and quantitative criterion generally accepted during the May and June meetings of the committee. The first cell in the column on the left was a description of the taxes on a continuum, with gross receipts being on one end and net profits on the other end. As the chairman had mentioned during his overview of the matrix, the expansion of the retail sales and use tax was somewhat outside of the income profits tax continuum, but was a consideration that would generate the same amount of revenue.

The next line was the estimated tax base for each of the forms and was based on the number currently used for gross receipts of \$110 billion, a 2001 figure for the base year. In the center of the matrix were the business-related taxes; the estimated tax included the taxable employment base, i.e., all public sector employees who were subject to the business license tax. Mr. Aguero said the margin tax was set forth based on the state's gross state product, which essentially exempted out all cost of goods sold; the net profits tax was based on a profit margin of 5 percent, which was derived from information received from the federal government office of statistics. The expansion of the retail sales and use tax was an arbitrary figure that was put into place and at 2 percent, would generate \$250 million, the baseline figure for analysis purposes.

Mr. Aguero called attention to the next line, the rates required to generate \$250 million in new revenue. Essentially, the rates varied from .23 percent for a pure gross receipts tax without exemption to 4.5 percent for a net profits tax, and as the continuum was followed, the rates tended to vary. In order to generate \$250 million of net new revenue, the rates varied somewhat from what had been previously discussed by the Task Force, because oftentimes information had to be backed out from the business license tax in order to show what the new revenues would be.

Chairman Hobbs commented the \$250 million figure was selected because it was an amount roughly equal to what would be needed in addition to those sources of revenue that had been previously identified to achieve a balanced baseline solution. Additionally, referring to the gross receipts tax of .25 percent, it was not far off of what might be needed to produce the level of revenue necessary for a balanced baseline solution. Mr. Aguero added that no variations had been made with regard to the gross receipts base rate. In the early years, the lower rates were fine, but in the later years when deterioration of existing sources of revenue was experienced, the gap would continue further. The rate Chairman Hobbs had mentioned was the one overall base average for the entire projection period.

Rate and application was the next line item, continued Mr. Aguero, which essentially discussed how the rate would be applied. The gross receipts tax would, of course, be applied merely to the gross receipts of all businesses, while the business related tax would be applied to the gross receipts of all businesses in excess of \$350,000. Where the BLT was greater than gross receipts, the BLT would be paid and there would be a one-for-one credit for the BLT. Regarding the business related tax with base exemptions - higher of the two taxes paid, was a new alternative that had not been brought before the Task Force before, but had been requested by a few members. Essentially, Mr. Aguero explained if there was a \$350,000 standard exemption, without a one-for-one exemption, either the gross receipts tax was paid or the BLT was paid. The rate dropped because businesses that were above the BLT level would not get credit for the fact the business would have otherwise paid the tax.

Mr. Aguero pointed out both the margin tax and the net profits tax had not been discussed at the same level as the gross receipts tax and the business license/business-related tax combination, so all the numbers were somewhat in flux. Nevertheless, the margin tax and net profits tax were brought in for analysis purposes. The rate and application on the margin tax was .37 percent applied to the adjusted gross receipts of all businesses. Adjusted gross receipts in this case meant removing the cost of goods sold. Continuing, Mr. Aguero said the net profits tax was applied to the income of all businesses without exemptions or credits. The final column related to the expansion of retail sales and use tax rate, which essentially required \$12.5 billion in total taxable sales in order to generate \$250 million at the state level.

Chairman Hobbs referred back to the business-related tax with base exemption and one-for-one credit, which was basically the last working model the Task Force had discussed. He reminded the members the one-for-one exemption had not been fully explored and at certain levels of employment, the credit should be capped. If that were to occur, and using a descending percentage schedule based on levels of employment, the revenue would go up as an obvious consequence because there would be a reduced amount of total exemption, and this would be a fairly material amount. The rate shown in the matrix of .34 percent would naturally be reduced toward the levels as previously discussed.

Mr. Aguero called attention to the next two line items, distribution and allocation, and noted that for each one of these categories, the Nevada Department of Taxation would be the collecting entity, and all of the revenue would go into the state General Fund. The total revenue in all these scenarios was roughly \$250 million, with the exception of the two scenarios that were combinations of the business license tax. The next line, revenue offsets, looked at the revenue that would otherwise have been collected from the business license tax, by subtracting the total revenue line from the revenue offset line, would then equate to \$250 million.

The elasticity or the amount of change that did or did not occur with price variations approached “one” for almost all of the gross receipts taxes. Mr. Aguero referred to the net profits tax column and said the elasticity should not read, “approaches one” as this was an error. Price elasticity was not measured for net profits tax, as it was known to be quite variable. The price elasticity for the expansion of the retail sales and use tax was .932 percent, which somewhat approached one. This meant that for every one percent increase in gross state product, there was a 93.2 percent increase in that level of taxation.

There were no legal references for the taxes that did not currently exist, said Mr. Aguero; however, expansion of the retail sales and use tax was in statute, and the legal references were provided in the matrix. The references included not only the state tax portion, but also the basic city-county relief tax (BCCRT) and local school support tax (LSST) portions. The primary determinates for all of them were the same – population, employment, income, and visitation, the primary predictor variables for almost every source of revenue under review. Mr. Aguero noted the dependence on growth for the majority of taxes was relatively low because sales activity would tend to continue with or without growth activity. Of course, the expansion of the retail sales and use tax and net profits tax was more dependent on growth than those taxes that were dependent merely on sales.

With reference to the exemptions line, the gross receipts tax had essentially no exemptions except public revenues and charitable organizations. Gross receipts with base exemptions only had a \$350,000 exemption, in addition to the public revenues and charitable organizations, which was the same for the business tax with the one-for-one credit and higher of two taxes paid business-related tax. Because there was more than \$12.5 billion worth of potential services that could be taxed under the expansion of the retail sales and use tax, the exemptions only applied to a selected subset of services that were not currently defined.

With regard to the deductions line, and Chairman Hobbs noted that under the construct of gross receipts and the business tax with the one-for-one credit, which was the working model, some key additional deductions had been discussed for bad debts, which was a question that had come up quite often. It was clear that bad debts should not be included and should be a deduction. Also, the definition of pass-through revenue would constitute a deduction. There may be others, but the chairman felt these two deductions were key based on questions that he had received. Pass-through revenue was defined as revenue that passed through a business entity, over which the entity had no proprietary interest in or control. Examples would be travel agents; the amount paid to them and paid by them to a third party provider would be pass-through revenue. This would also encompass commissions, not necessarily the entire amount remitted for services. It was key to note that pass-through revenue would be a deduction and the chairman asked Mr. Aguero to ensure that correction was made. Mr. Aguero continued that the margin tax and net profits tax were the only two that had deductions. Again, the margin tax was the cost of intermediate goods and services and the net profits tax was the cost of all business expenses, depreciation, bad debts, repairs, rents, interest, and other items generally identified by the federal government as deductions from gross income.

With reference to credits, Mr. Aguero said the business-related tax with base exemption was currently the only one with a credit, which was \$100 per annual full-time employee. The \$100 was an estimated figure, and what was actually collected based on total employment was slightly less because not every business had a full-time equivalent (FTE) employee all year long.

Mr. Aguero informed the Task Force members that the balance of the information in Exhibit C dealt more with procedural issues and the qualitative issues, i.e., transparency, predictability, stability, exportability, and all those types of issues. Chairman Hobbs recommended it would be worthwhile for Mr. Aguero to walk through the matrix for the benefit of the Task Force members as well as those in the audience. The committee was at a point where it was necessary to reaffirm a position on a business-related tax, and going through some of the points presented in Exhibit C would be helpful.

Mr. Aguero explained the procedural issues were relatively the same. For the gross receipts type of tax, essentially what had been discussed thus far was that the tax would be remitted quarterly, on or before the 30<sup>th</sup> day following the close of each calendar quarter, based upon the prior quarter’s revenue. The fourth quarter report shall include all “true-ups,”

including the fourth quarter's tax payments. The variations from that procedure would be the net profits tax, which would likely be remitted annually in conjunction with federal income tax payments made by businesses. With reference to the expansion of the retail sales and use tax, the procedural language, which was currently applied to that tax, was included in the matrix. Essentially, retailers must report and remit collections for each month on or before the last day of the succeeding month. Accounts with taxable sales of less than \$10,000 per month may report quarterly, and a collection allowance of 1.25 percent was allowed to reimburse retailers for collections and timely filings.

Legislative issues were essentially the same for almost every tax, continued Mr. Aguero. Assuming no constitutional challenges, the Legislature had the authority to implement a gross receipts tax and any levy would require a two-thirds majority in both houses of the Legislature. This was required for any tax to be implemented, but Mr. Aguero pointed out that requirement was under review by the Legislative Counsel Bureau and others. The only tax that differed from these legislative issues would be the expansion of the retail sales and use tax. Any substantive changes to the tax would require a vote of the people because of an initiative placed on the ballot in 1955, which required a vote to change the state portion of the sales and use tax. The remaining portion of the sales tax, including the LSST, BCCRT, and the county options may be adjusted based on the same legislative process as any other revenue.

Mr. Aguero called attention to the next line item, erosion/adjustments, and said this item added to the stability of the tax and was the same for every tax under consideration. These were all percentage fees and would all reflect changes in market activity, including change in prices. Therefore, the adjustments would be expected to progress with inflation or be automatically adjusted and would not require any indexing.

With regard to the predictability line item, Mr. Aguero said the gross receipts tax was the most highly predictable of all the taxes reviewed by the Task Force, less property taxes, and both these taxes were very close to one another. Business activity trends were generally consistent from period to period, and as such, a tax based on gross receipts was likely to be highly predictable. The gross receipts tax with base exemption was still considered highly predicable, however, because approximately 50 percent of the businesses would be exempt, and variation would increase somewhat with the peaks and valleys of the business cycle. This tax would be slightly less predicable than the pure gross receipts tax.

Column three, the business-related tax with base exemption and one-for-one credit, was the primary model discussed by the Task Force, advised Mr. Aguero. This tax was also considered very highly predictable. The one-for-one credit would make the tax somewhat more difficult to predict, but both were relatively stable sources of revenue. The business-related tax with base exemption-higher of the two taxes paid was even more highly predicable because there were no offsets. The margin tax was moderately predictable; the cost of goods sold would change over time, so it was slightly less predictable than the gross receipts tax. However, the margin tax was slightly more predicable than the net profits tax, which had been shown nationally to be one of the most difficult taxes to predict. According to one report, the net profits tax could vary by as much as ten percent per year, which Mr. Aguero stated was quite a challenge. Mr. Aguero said the predictability as a whole of the expansion of retail sales and use tax, including services, would likely be easier to predict given the broader nature of total economic activity being reported.

Chairman Hobbs called attention to the predictability line item for all the taxes, and said all of the criteria explained by Mr. Aguero were very important. Part of the mandate of ACR 1 was to broaden the tax base, to make the tax structure resemble the economic diversity of the state, but also to improve stability. The predictability line item should be placed at somewhat of a premium, observed the chairman. The Task Force generally understood, and Mr. Aguero clearly verified, the predictability of the net profits tax was extremely weak. Mr. Aguero agreed and stated the net profits tax would be among the most difficult taxes to predict in Nevada. Chairman Hobbs summarized that from a stability standpoint, the net profits tax was not a good candidate.

Transparency, the next line item, showed how easy it was for an individual taxpayer to estimate his or her own tax liability, explained Mr. Aguero. Gross receipts tax was generally imbedded in the price of goods and services rendered, and therefore, considered non-transparent. The margin taxes were somewhat less transparent, with net profits tax being more transparent because it was calculated based on profit. The most transparent of the taxes in this categorization was the expansion of the retail sales and use tax, which showed on a purchaser's invoice.

Mr. Aguero called attention to the next line item, stability. This was very similar to predictability because the more

stable the tax, the easier it was to predict. The gross receipts tax alternatives were considered relatively to very highly stable, while the net profits tax was considered very unstable. Expansion of the retail sales and use tax would be expected to increase the stability of the tax and the overall tax system. The broader base would lead to less relative variation from year to year, as well as less erosion to the overall base upon which the tax was levied.

With reference to the uniformity of the tax, the gross receipts tax applied to everyone and was as uniform as a tax could get. The gross receipts tax with only a base exemption was slightly less uniform because it exempted out a certain amount of revenue, particularly those who had less than or equal to the base exemption. Regarding the business-related tax with a base exemption and one-for-one credit, and the business-related tax with base exemption-higher of the two taxes paid, Mr. Aguero advised the former tax tended to be slightly more progressive because it offset some of the revenue. The latter tended to be slightly less uniform because those with higher revenues would not receive the offset. Chairman Hobbs observed an important concept to understand was in structuring certain types of taxes and progressivity was another laudable goal. For instance, under a gross receipts structure, the trade-off was uniformity for a bit of progressivity.

Mr. Aguero indicated the margin tax was very similar to a broad based gross receipts tax, the tendency of whether it was uniform would now differ in other areas, leaving it in the middle of this uniformity continuum. The net profits tax, assuming a flat rate, would be highly uniform, and be somewhat similar to the gross receipts tax in that it was applied to everyone uniformly. The expansion of the retail sales and use tax would increase the uniformity of its application to a broader subset of economic transactions that occurred in the state. It could be argued, Mr. Aguero stated, that someone who provided a service did not have a transaction tax similar to someone who provided a good. Therefore, the tax may be seen as less uniform than it could be.

Calling attention to the vertical equity line item, Mr. Aguero explained that a person in a better economic position would bear a higher tax liability. A gross receipts tax was not reflective of profitability in this case, nor the economic positions of the entities being taxed. Two companies with very dissimilar economic levels may bear very equal tax burdens. This was the classic flaw with a gross receipts tax. The number of exemptions and one-for-one credit had looked to offset the vertical equity problem that was inherent in a pure gross receipts regime. Regarding a gross receipts tax with a base exemption, the base exemption itself would tend to increase the vertical equity within industries, effectively exempting out a number of very small businesses.

Mr. Aguero noted the business-related tax with a base exemption and one-for-one credit, and said the base exemption would lead to an increase in the vertical equity as noted in the previous example; however, this would be somewhat recentered based on the BLT payment. The relatively small businesses would still bear some level of taxation. The BLT itself suffered from some of the same problems as the gross receipts tax, Mr. Aguero explained, in that the tax was paid regardless whether the business had income or not, based on the number of employees. Chairman Hobbs added that if the BLT was doubled or tripled as opposed to using an integration of gross receipts with BLT, the problem would be amplified. Mr. Aguero agreed and said the tax would be more aggressive.

Mr. Aguero said the margin tax was moderately equitable, and would tend to eliminate many of the inequities cited as weaknesses in the previous alternatives, particularly, the gross receipts tax. This was because the cost of goods sold was eliminated from a large portion of the ultimate gross receipts that retailers and manufacturing firms bore. Non-retail service industries would tend to bear a much higher tax burden because their cost of goods sold tended to be materially lower. An analysis was done based on information provided by the Internal Revenue Service. The costs of goods sold tended to vary based on what was reported to the IRS and there were many nuances in that situation. Some service industries paid 20 percent to as high as 75 percent in some construction-related industries.

Mr. Sloan pointed out the margin tax in some ways exacerbated the inequities of the gross receipts tax by making some things deductible and other things not. For example, if someone built five apartment buildings, or had a large commercial shopping center, it was his understanding that the business would not be able to deduct the cost of their employees or the cost of their building. In order to give one segment of the economy a deduction for cost of goods sold, the rate would be increased substantially on other people who were not allowed the same deduction. Mr. Sloan wondered if there was any state that had a tax structure similar to this proposal, such as an income tax that only allowed deductions for cost of goods sold and no other business deductions. Mr. Aguero responded he was not aware of any



such situation in another state. Mr. Sloan felt this type of tax increased the inequity. Mr. Aguero stated he would make an adjustment to the matrix.

Mr. Aguero stated the net profits tax tended to be more highly vertically equitable as a result that it was based purely on profit. For example, if there were two firms, one with \$100,000 in revenues and the other with \$100 million in revenues, they would pay similar taxes depending on their ultimate profitability. However, there was a stability issue as well as the vertical equity issue where some firms had the ability to work around the tax system and others did not. There was some research that indicated smaller businesses tended to be hurt more by a net profits tax as a result of the fact they did not have the resources to hire the caliber of accountants who understood ways to manipulate the tax system to their greatest advantage.

Expansion of the retail sales and use tax to include services was the next item referred to by Mr. Aguero. He said depending on the specific services cited, an expansion of the retail sales and use tax to include services may increase the regressiveness of the state's overall tax system. This would totally bear on what services were selected; some services tended to be more regressive and other services tended to be more progressive. Mr. Aguero pointed out that retail sales and use taxes were generally consumer oriented and expenditures on most services did not increase with wealth. However, there were a number of services that were more progressive in nature, limiting the expansion to these services and still generating a significant enough base appeared possible. Some analysis had been done based on business-to-business transactions as well as discretionary expenditures. Mr. Aguero mentioned some of that analysis had included discussion of amusements, which may have some overlap that would need further discussion. A retail sales and use tax, by its very nature, was considered a regressive tax.

Chairman Hobbs commented the existing sales and use tax, with all its implicit and explicit exemptions, notwithstanding the fact that people described sales tax as being regressive in general; the form of existing taxation in Nevada had done much to reduce any regressivity in sales tax. This had not made sales tax progressive, but through all the eliminations, both explicit and implicit, Nevada comparatively had one of the least regressive sales tax systems. Starting from the point of being less regressive to becoming more regressive, the chairman wanted the members to understand the starting point for these comparisons.

Mr. Aguero called attention to the horizontal equity line item and explained that it was essentially the analysis that stated where two people, equally situated from a profitability standpoint, should be equally treated under the tax system. The gross receipts tax favored low-volume, high-profit business activities. A corporation with higher sales volume but lower profit margins would pay a considerably higher share of its income than a low-revenue, high-margin industry. This was one of the inherent weaknesses of this tax, seen even in the gross tax applied to gaming. One gaming operation could have a profit, and one did not, but the tax would apply equally to both operations. While there was increased stability and predictability, Mr. Aguero said the gross receipts tax had some horizontal equity concerns.

Regarding the gross receipts tax with base exemption only, Mr. Aguero advised the base exemption would tend to protect a number of small businesses, which was one of the shortfalls cited previously with the gross receipts tax. For example, if two firms, both with \$1 million in revenue, would both pay \$1,900 in total gross receipts taxes under this regime, even though one of the businesses may have profited nothing and the other profited \$500,000. The business-related tax with base exemption and one-for-one credit was relatively similar to the previous tax. However, the horizontal inequities that were inherent in the gross receipts tax regime were somewhat leveled off by the offset from the BLT.

The margin tax and net profits tax tended to be more horizontally equitable than the gross receipts tax. Removal of items such as cost of goods sold from businesses would tend to narrow the inter-industry inequities. Mr. Aguero called attention to the comment by Mr. Sloan regarding two industries, one that had a cost of goods sold, and the other one with the same investment, but the industry made their investment in their employees. One business would be treated differently than the other based on the concept of cost of goods sold, such as materials and services purchased by the firm but not employed by the firm. Mr. Aguero stated the net profits tax was highly horizontally equitable. Two businesses equally situated would tend to bear very similar tax burdens. With reference to the expansion of the retail sales and use tax, the impact of this tax on two equally situated taxpayers would likely show very similar impacts. The difference would be based on the tastes and choices of consumers. If a consumer chose to go on a number of

sightseeing tours, he might bear a higher tax burden, as opposed to someone who was required to spend more of their annual income on such things as medical services.

Referring to page 4 of Exhibit C, Mr. Aguero said the ease of administration line item as it related to gross receipts would tend to be among the simplest to administer. However, the vast number of businesses that would be required to submit tax returns to the state would be substantially large in this case. Both the gross receipts tax with the base exemption and the business-related tax with base exemption and one-for-one credit, would tend to limit the administrative burden required by the state; i.e., the “running” cost of administration. The margin tax and net profits tax would be very different from anything currently in the tax regime and were generally accepted to be among the most expensive taxes to administer over time. Concerning the expansion of the retail sales and use tax, Mr. Aguero noted the current problems with administration of the tax would pose no additional burdens other than the number of firms now being included and their trying to understand when a tax must be paid or not.

The ease of compliance for the gross receipts tax was among the most simple to comply with. The jurisdictions that had a gross receipts tax have cited this ease of compliance, and Mr. Aguero felt there was no reason to dispute the fact, as this was a top-line tax. The gross receipts tax with base exemption was slightly more difficult to comply with because one mathematical calculation would have to be made, but the tax was still considered easy to comply with. The next two taxes, base exemption with the one-for-one credit and base exemption – higher of the two taxes paid, were also relatively easy to comply with. Mr. Aguero pointed out businesses today currently paid the BLT, and calculation of that tax was certainly not difficult, especially when compared with a net profits tax or a margin tax, which required individuals be able to assess the costs that may be exempted to derive total tax liability. The net profits tax had some advantages in that the federal government levied a federal income tax for businesses and individuals, so the ability to “piggyback” off the net profits tax may decrease the ease of compliance compared to a margin tax. With reference to the expansion of the retail sales and use tax, Mr. Aguero said there were no new problems with compliance; it entailed the same difficulties resultant under the existing regime of retail sales and use tax.

The next line item, intrastate competition, or within the state, was considered limited in all the taxes under consideration. There was no way to escape the state tax burden by moving a business from Clark County to Washoe County or from Washoe County to a rural county in the state.

Mr. Aguero referred to the next item, interstate competition. Where the gross receipts tax was particularly burdensome; for example, low-margin, high volume industries, Nevada may lose some of its ability to remain competitive with other states. Nonetheless, the relatively low rates under discussion would continue to place Nevada among the lowest taxed states in the union, and was consistent in the western United States. The gross receipts tax with base exemption would tend to level this playing field. Referring to the third column, which Mr. Aguero reminded the Task Force members had been the tax most discussed, the business-related tax with base exemption and one-for-one credit, would further level this playing field. However, the next tax, base exemption with higher of two taxes paid, would move in the opposite direction and make Nevada less competitive than surrounding states. Concerning the margin tax, it was very difficult to suggest where Nevada would fall with interstate competition because no one currently used the tax and it was somewhat difficult to assess. Forty-three states currently imposed some type of a net profits tax; however, at a 4.55 percent proposed tax rate, Nevada would still be in the low to middle range of overall tax liability. Regarding the expansion of the retail sales and use tax, Oregon currently did not have a sales tax. Colorado, Montana and Idaho all taxed a relatively few number of services, approximately 20 services or less, and the balance of the western states taxed a significant number of services.

The last four considerations on the business tax comparison matrix (Exhibit C, page 5) consisted of economic neutrality, flexibility, integration, and exportability. Mr. Aguero explained the gross receipts tax in its pure form would impose a heavy burden on new and small businesses. These businesses may not have reached their maximum level of operating efficiency, or may have yet to fully develop within their markets and may be operating at a loss. Mr. Aguero reminded the Task Force members of an earlier discussion about new firms operating at a loss and at any given time may tend to discourage development or may increase the marginal propensity for business failures. Gross receipts tax with base exemption moved in the direction of eliminating a great number of those problems. The third column, base exemption with a one-for-one credit, was the most economically neutral of the gross receipts alternatives as it tended to level the playing field. Mr. Aguero explained that to the extent the margin tax would impact economic decision-making was

currently unclear. The impact would depend on how the tax was applied; the margin tax could take any of a number of forms, and could create any level of difficulty in application. The reason being there were not many models to derive conclusions or to ask questions. It was somewhat difficult to explain how a net profits tax may impact how businesses made decisions.

Mr. Aguero continued that while the net profits tax would undoubtedly impact the decision-making of businesses, it would likely have less of an overall impact than would a gross receipts tax regime. The tax would be based on profits instead of gross receipts, which was a more equitable playing field. Noting the expansion of retail sales and use tax, Mr. Aguero indicated these taxes were generally economically neutral. To the extent that a retail sales and use tax becomes burdensome, the purchasing behavior of consumers may tend to shift. Where substitute goods were not available for consumers, purchases may be decreased. Currently, there was an argument that because goods and services were somewhat interchangeable in the eyes of some consumers, goods were being favored over services.

With regard to the flexibility element, Mr. Aguero observed that essentially in all the tax regimes, they were designed to allow the state to use the tax for whatever it deemed necessary. No limitations had been placed on any of the taxes and there were plentiful elements of the tax that could be adjusted by the state in order to deal with situations as they arose. Therefore, flexibility ratings would all be high for these seven taxes.

Integration of the gross receipts tax in its purest form into the existing tax system would be challenging given the large increase in the number of taxpayers. The gross receipts tax with a base exemption would tend to limit integration by the number of taxpayers effectively removed from the overall regime. The third, and most thoroughly discussed, business-related tax with base exemption and one-for-one credit would tend to be even with regard to integration as a result of the current existence of the business-related tax, it would merely add the tax to a part of the existing regime. This situation was also consistent with the business-related tax with base exemption – higher of two taxes paid. Mr. Aguero indicated a margin tax and a net profits tax would result in a philosophical shift of taxation within the state and would come with considerably more challenging integration issues. An expansion of the retail sales and use tax would include notification to all those who would be subject to tax on services. Mr. Aguero believed there would be a learning curve with regard to that notification process, but the long run integration issues would tend to be relatively small.

The last line item was exportability and Mr. Aguero remarked that generally gross receipts taxes were not exportable. However, to the extent that a company's profit was removed from Nevada once distributed, as in the case of a publicly held company, the tax was theoretically exported. This argument, while particularly pertinent to the broad business taxes, could be made of any tax paid by a company largely held by non-Nevada companies; e.g., property taxes, business license taxes, etc., which were all paid by companies, whether held in Nevada or held outside Nevada and doing business in Nevada. These taxes were all exported to the extent they were held outside the state.

Mr. Sloan asked for clarification of the exportability issue. For example, if businesses located outside Nevada sold goods in Nevada, and they were required to pay a tax on transactions occurring in this state, the business was in effect exporting part of the tax burden. Mr. Aguero indicated that was correct. Continuing, Mr. Sloan asked if there was a tax imposed, would not the state then be exporting a portion of the tax in the sense that Nevada would be getting a source of revenue that was presently leaving the state in conjunction with the transaction that occurred within the state. In some instances, this was referred to as "nowhere" income, which escaped taxation. Mr. Aguero responded that a matter of debate was taxing Internet sales, or companies that theoretically existed nowhere. He said Mr. Sloan's point was absolutely on target with regard to Nevada's ability to collect taxes, which would be expanded by the gross receipts tax. It would enable Nevada to reach a broader set of transactions occurring within the state, including those that would otherwise profit individuals located outside the state. Mr. Sloan submitted all these taxes would broaden the base because they would target people who were participating in the economy, but not paying a tax.

Mr. Aguero noted that all the business-related taxes had relatively similar levels of exportability. The margin tax and net profits tax had relatively similar levels of exportability, as Mr. Sloan alluded to in his comments. Regarding the expansion of the retail sales and use tax, spending by visitors generated a significant share of taxable retail sales. To that extent, the tax was comparatively more exportable, depending upon the services cited as part of the expansion of the tax.

Mr. Aguero told the chairman and members of the Task Force this completed his presentation of the business-related taxes and he would be happy to answer any questions or provide further information. Chairman Hobbs appreciated both the preparation of the information as well as the overview provided by Mr. Aguero, and thanked him.

Chairman Hobbs initiated discussion of the various taxes by stating the line that separated the expansion of a sales and use tax base and a more direct form of business taxation could at times be blurry. Both taxes were transaction driven; one viewed in the aggregate, one viewed on a transaction-by-transaction basis. The differences in transparency, as showed in Exhibit C, was very clear. At the back end of the transaction, part of the total cost could be itemized and specifically noted. In a gross receipts-type of environment, the transaction would likely include a price adjustment to reflect the added cost of bearing the burden of a gross receipts tax, so there was a significant transparency difference. Thus, when the mandate of the Task Force was reviewed, which was to create a broadened and more diverse tax system, he pondered the differences between the two forms of taxation. The chairman had a preference for a tax that was more directly related to business. Under a sales and use tax rate, if the rate was 7 percent, the payer of the tax would actually pay 7 percent at the end of the transaction. However, if a particular rate was imbedded within a gross receipts tax, there was an assumption that pricing dynamics would allow absorption of the tax, but not necessarily on a one-for-one basis. With all things held constant, the net amount paid by the end consumer may be less than one-for-one under a gross receipts tax versus a sales tax structure.

Mr. Aguero added the pricing dynamics or elasticity alluded to by Chairman Hobbs would result in either tax regime. If a business paid a gross receipts tax, the business would adjust their pricing structure to allow for the tax. If a business was required to levy a retail sales and use tax, the pricing structure would be adjusted to the extent the tax could or could not be passed on to the consumer.

Chairman Hobbs submitted the total recovery under pricing dynamics with gross receipts was probably less, with all things considered, due to differences in cost structures and relative efficiencies of different companies competing in like industries. Mr. Aguero added that competition was the operative word. Chairman Hobbs said there might be a slight reduction in relative costs associated with gross receipts, although it would be likely be immaterial. There was good reason to consider both a business tax and an expansion of the sales tax base. That issue was fundamental to the derivation of the transaction tax that had been previously discussed at length by the Task Force. The existing sales tax base in Nevada had some inherent problems and weaknesses, and if not addressed at some point, would begin to manifest itself in the near future. The transaction tax would mitigate some of that imbalance, not all, but the tax would help to improve the overall stability by increasing the blend, which was a positive.

Nevertheless, as a side note for local governments who depended on sales tax and school districts, which were used as an offset to the state budget, the transaction tax would do very little because no benefit was inured except to the state budget, remarked Chairman Hobbs. Therefore, there were substantial reasons for giving additional consideration to stabilizing the sales tax base in the future. The chairman characterized the discussion surrounding the business tax as being more of benefit to the state budget as an immediate revenue item in the near term and the expansion of the retail sales and use tax base as being equally valid, but somewhat different in character than the discussion of a business tax. Chairman Hobbs reiterated his concern about the future stability of the sales tax base, as it related to both state and local government, because both entities relied upon the sales tax. If one of those governmental entities became weak, the other would obviously need to step in, as there were competitive and common reliance issues that had to be addressed.

To summarize, Chairman Hobbs said a business-related tax and expansion of the retail sales and use tax base should receive additional consideration by the Task Force. This would not necessarily mean the taxes should be competitors for the same purpose, but because both taxes had very valid reasons for being discussed further. Chairman Hobbs asked for questions or discussion from the Task Force members based on the information provided by Mr. Aguero.

Before soliciting comments from the Task Force members, Mr. Aguero asked to make one additional statement. At the last meeting, Mr. Aguero said Chairman Hobbs had identified a number of industries that may be subject to special treatment, including utilities, health care services, and others. The chairman had requested a review of other states and how they had dealt with these issues. Mr. Aguero indicated that responses had been received from other states, and the review was nearly complete. Information had also been received on insurance companies and whether these companies were subject to franchise, income or gross receipts taxes in different states, as well as whether insurance companies

were subject to premium taxes. Mr. Aguero said that information had been provided to the Technical Working Group from all 50 states. He had reviewed the information and believed it to be accurate and credible. Briefly, there were a select number of states that subjected insurance companies to a franchise, income or gross receipts tax; however, the vast majority of states did not assess such a tax.

Additionally, Mr. Aguero said information had been provided to the Technical Working Group with regard to utilities and telecommunications. There was some concern about leveling the playing field between different types of paid television service providers, such as direct television and digital providers. In response to a question posed by Mr. Sloan, Mr. Aguero stated that information suggested if the playing field were leveled within the industry, they would raise between \$2.5 and \$3.5 million annually in tax revenue generated from the franchise tax.

Mr. Greenspun called attention to the business-related tax with base exemption and one-for-one credit. At a previous meeting, the Task Force had discussed the impact on the state of Nevada and health care for employees who were not covered under any insurance plan. In the concept of giving this one-for-one credit against the BLT, there had been discussion about giving that credit to businesses that provided at least a minimum level of health care services. Mr. Greenspun felt this was a good policy decision, although he was aware that policy decisions were not in the scope of ACR 1. At the end of the day, however, this type of credit would reduce the impact of health care requirements by the state or local governments. Mr. Greenspun added that the business tax with a one-for-one credit was his choice of all the taxes presented in Exhibit C, because it seemed to be the fairest tax.

Chairman Hobbs noted that as the Task Force was getting to the point where recommendations would be made for the report to the Governor, it was his intention to suggest additional policy decisions needed to be made whether the one-for-one exemption should be further constrained by offering credit for employee health care or present this issue to the Governor and Legislature as an alternative for their consideration. Obviously, there would be some compliance questions and reporting issues that needed to be thought through, such as, what kind of reporting, auditing and enforcement procedures would insure that good corporate citizenship was being rewarded. The chairman said if it met with the approval of the Task Force, he would like to include that as a recommendation for consideration as a policy matter rather than specifically identified in the mechanics of the report.

Mr. Lange agreed with Mr. Greenspun's comments and felt the recommendation of credit for employee health coverage could be considered; however, he felt that such a recommendation would exceed the mandate of ACR 1. Nevertheless, there should be a group of things that had been discussed by the Task Force, which could be passed on to the Governor and Legislature for consideration. Chairman Hobbs added it was his intent to identify these types of exemptions. The end result might be a recommendation of a one-for-one exemption, with some type of descending scale of applicability. The more constraints added to the exemption, the greater the revenue. If an exemption were made for health care, for instance, there would be a corresponding increase in revenue due to the constraint on the exemption side. All the working parts must be identified to allow the legislators an opportunity to have those policy deliberations.

Chairman Hobbs also indicated his agreement with Mr. Greenspun. The Task Force had discussed the information presented by Mr. Aguero in Exhibit C on many occasions, comparing and contrasting the various tax options. This was why the committee had focused on a gross receipts-type of tax with the exemptions as previously described. The chairman referred to the net profits tax issue; the lack of predictability was a huge issue. The greater challenge of this tax and integration with the existing tax system was a significant issue as well. The tax appeared to be more prone to different types of challenges, depending on how it was applied to different kinds of businesses. The relatively high cost of administration in comparison to other taxes was also of concern to the chairman.

Regarding the margin tax, Chairman Hobbs commented it was a great theoretical idea, but the fact there was no practical application was of great concern to him. In effect, the tax system would be constructed without any template and there was the same lack of qualities as the net profits tax. Therefore, Chairman Hobbs explained these were the reasons why he preferred a modified application of a gross receipts tax, or an adjusted gross receipts version that offered the types of exemptions that protected the startup businesses and smaller businesses, while still providing a substantial and stable source of revenue. This type of a tax also fit within the mandate of ACR 1.

Mr. Lange pointed out that from a political perspective, many people understood that if a business was making money,

it could afford to pay some additional taxes. The public appeared to understand that point and responded favorably when the teachers association attempted to pass their net profits tax a couple of sessions ago. He recently attended a presentation by fiscal officers where they said some states were experiencing a constriction, as businesses got better at structuring to avoid paying taxes. At the time, the teachers association believed their modeling was sound and they had control over that variable. Mr. Lange said it was important to note the experiences learned by the teachers association and the fact that businesses had the ability over time to adjust their business structures to accommodate increased taxes. He emphasized that he had not heard from one business thus far who had come forward to say they could not deal with a .25 percent gross receipts tax, or that it would place the business at a competitive disadvantage. The only person who testified that he would be somewhat adversely affected was John Haycock, President of Haycock Petroleum, a gasoline retail business. Even though Mr. Haycock did not like the tax, he did not say he could not make that adjustment nor did he say that comparable businesses in other states were having trouble accommodating their own version of some type of business tax. Mr. Lange felt the Task Force had gone full circle and now it was appropriate to determine the simplest or most stable way to increase taxes, which he felt to be a gross receipts tax.

Mr. Sloan noted the difficulty of having a business income tax, particularly on private businesses that were not required to show a profit, but could reinvest their revenues in order to avoid paying taxes. As Mr. Lange indicated, there was a growing tax avoidance industry that structured transactions to take advantage of states that provided tax havens, such as Nevada and Delaware. However, there must be assurances that both corporate and individual businesses paid taxes; otherwise, some of the merits of a business income tax would be lost. It was certainly far more complex and costly to administer a business income tax. One of the reasons for the interest in a gross receipts tax was probably because it was simple to administer and the most cost effective, if the rate could be kept low enough that all businesses could pay the tax, absorb it, or pass it on.

Mr. Sloan remarked he had been interested in the comments of Mr. Haycock as well, given the difficulties of the small profit margin in his business. A suggestion had been made to simply add a 7-cent sales tax on the price of gasoline; however, as the chairman had stated, it was more equitable for the citizens of Nevada to pay 7 percent or the business to pay .25 percent. For those reasons, Mr. Sloan felt the gross receipts tax compared most favorably of all the taxes listed in the matrix.

Chairman Hobbs called attention to the efforts of the teachers association and Mr. Lange regarding the net profits tax. He felt that those prior efforts had been of great importance in helping this Task Force in its deliberations. The differences now were the ability to look at the taxes side-by-side to make the necessary comparisons. When businesses compared the BLT, which was the only tax they currently paid, to a gross receipts tax, the chairman was sure there was a lack of enthusiasm on the part of most businesses to pay a tax they had not previously been required to pay. However, when there was an opportunity to compare the various taxes side-by-side, it provided a different vantage point for making decisions. It was unrealistic to believe that every business could pick their favorite tax and still have a system that would work; it was ludicrous to believe that such a system would work. Therefore, a determination must be made on a tax that would satisfy most of the criteria and objectives, given the constraints faced by the Task Force.

Mr. Greenspun reiterated the charge of the Task Force was to expand the tax base in Nevada. If there was a choice of imposing a 2 percent or 7 percent tax on the consumer at the retail sales level, or a .25 percent tax on the business owner, who had realistically yet to pay any tax, it appeared to fit far more appropriately into the mandate of the Task Force that the tax burden be expanded to businesses in the state and to those who did business in the state, as opposed to imposing something else on the consumer. Mr. Greenspun realized that at the end of the day, everyone knew who actually paid the taxes, and the lack of transparency made much more sense because the tax would apply to everyone who did business in Nevada.

Chairman Hobbs asked if the Task Force would be willing, especially after the previous dialogue between the members, to concentrate on the business-related tax with some form of base exemption and some form of credit for the BLT, as the working model. Mr. Lange advised he would agree with the caveat that half the businesses in Nevada would be exempted, which might necessarily force a change in the rate from .23 percent to .34 percent; but he was not in favor of an exemption of \$350,000 and the BLT as well as a .23 percent tax.

Chairman Hobbs explained the rates as set forth in Exhibit C were more illustrative of what the effect would be of

moving from point A to B to C, than they were reflective of the rate that may be in the recommendation. To clarify, Chairman Hobbs said that if the Task Force recommended .25 percent tax with some modification to the exemptions, the objective was to construct a baseline solution with a deterministic amount. The members clearly understood the rate of tax became a variable; the level of exemptions became variables, not only for the gross receipts tax, but also for each of the other sources of revenue discussed by the committee. Property tax was a variable; latitude had been left in the cigarette tax for additional discussion of expansion as well as the liquor and amusement taxes. Under each of these tax regimes, room had been left with the knowledge the Legislature may well go further. Chairman Hobbs wanted to ensure the recommendations of the Task Force provided enough variables for the Legislature and the report would be constructed in that fashion.

Mr. Sloan suggested the committee should be mindful that the figures in the matrix showed the estimated tax base at \$110 billion, to which Mr. Aguero agreed and added the figures were based on numbers from 2001. Mr. Sloan said a previous estimate stated the tax base might be as high as \$128 billion, and this tax would probably apply to 2004 revenue, so it was fairly safe to assume the \$110 billion was significantly underestimating the gross business activity that would be in place three years from now. He knew the business activity currently in place was higher than \$110 billion. Chairman Hobbs commented Mr. Sloan had made an excellent point. There was somewhat of a chronological disconnect between this value, which was a conservative number, and a strategy which the committee had adhered to in most of its projections. The chairman remarked the Task Force had used conservative numbers in revenue production in all cases because the committee wanted to guarantee those levels could be met. Extrapolating this figure forward to the numbers in the model, which were forward values, would obviously help close the gap.

Mr. Greenspun wanted to ensure that his position was clear in his support of the one-for-one credit with a base exemption. He had no issues with the exemption, which had been discussed by the Task Force and a recommendation made for \$350,000. With regard to the one-for-one credit, Mr. Greenspun maintained it should only apply to those businesses that displayed good corporate citizenship, however that issue was defined. For instance, he felt businesses that provided health care for employees should be given credit, and there may be other suggestions from members of the Task Force. If there was no evidence of good corporate citizenship, Mr. Greenspun insisted he would not be in favor of a credit, but would favor the exemption.

Recalling Mr. Lange's comments concerning rate differentials, Mr. Aguero pointed out the Technical Working Group was now focused on model number 51. In nearly every model that had been run since model 30, the rate had remained at .25 percent. It was shown as a different percentage in Exhibit C for illustrative purposes given the number of other revenue sources and the times they might become effective; however, the .25 percent tax rate had been maintained throughout the last 25 models. Mr. Lange remarked that explanation helped make his point. He supported the exemption, and it had been one of the recommendations made by the teachers union for the net profits tax, only at a rate of \$50,000. The concept expressed strong support for smaller businesses. Mr. Lange was concerned that when the report was issued, he could understand the focus on the variability of rates and trying to create a construct for the Legislature. However, the Task Force would be making a proposal to the Legislature, which on the one hand it was unknown what the Legislature would do with the proposal, but on the other hand, it was desirable to send a solid report. With all due respect to the Legislature, Mr. Lange pointed out they tended to work down to a lower common denominator, which was part of the process. In reviewing model 25, the growth in numbers over time was not reflected. It appeared the growth in taxes did not keep up with the growth in other revenue sources. If a lower figure was used in the initial recommendation from the Task Force, it would exacerbate the problem, and Mr. Lange felt in that case, the committee was not meeting the mandate of ARC 1.

Mr. Sloan understood the Task Force had been requested to provide a recommendation for a structure to broaden the tax base. He was unsure if the committee had the ability to say with any absolute certainty what the numerical amount of an exemption should be or what the precise percentage would be to fill the gap based on policy decisions made by elected officials. Things may be substantially different in a year from now from an economic standpoint and from the decisions made by the Legislature. Mr. Sloan agreed with the chairman in recommending a proposal to broaden the tax base, which reflected the diversity of the economy, while recognizing that throughout the process, the Task Force had identified and discussed both the structural and additional needs of the state. Depending on what the economic situation might be in 2004, it may well be the rate should be raised or lowered. One of the duties of elected officials was to make those policy decisions in advance, which was not the responsibility of private citizens.

Chairman Hobbs remarked that he hoped the members understood that beyond filing the report on November 15, 2002, the Task Force would be supporting the recommended model throughout the legislative process. Upon the development of this model, there was an expectation that these types of issues would arise, and after the deliberations of the Task Force, the Legislature would have their own discussions. They may choose to follow the same path or a different path, but the Task Force members should be fully prepared to respond to any questions legislators may have regarding alterations to the recommendations, and was one of the advantages to having a model to work from.

Chairman Hobbs said one of the initial quandaries he experienced was how show the legislators the relationship between the elements of the solution and to focus on a value that could end up being a moving target. The only evident way to accomplish that goal was to expend six months modeling current services and current revenues forward. There was no argument about current services or current revenues. With that being said, there were those who argued that what the government ought to do was reduce spending. There were people who felt that the entire problem could be resolved in that fashion. Others felt the problem could be resolved by instituting a lottery or by increasing the tax on gaming, an opinion that had recently appeared in the newspaper. These people did not have the benefit of the work product and the process that the Task Force had gone through when they formed their opinions. There must be a focal point to initiate dialogue and was what the Task Force had attempted to do. The committee had not tried to substitute their judgment for that of anyone else, but to provide a focal point to begin making adjustments, one way or the other. The chairman had heard from people from both ends of the spectrum, concerned that the value was too low compared to the needs of the state and others who believed the value was too high. Obviously, those issues would be debated at the Legislature, and Chairman Hobbs said he and the Task Force intended to support that part of the process by standing behind the numbers projected in the report to the Governor. The chairman concluded he and the members of the committee would do so with enthusiasm because they believed in the work product produced by the Task Force. Additionally, they would support the legislative process, through as many iterations as the legislators chose to go through to reach a final decision.

Mr. Lange pointed out there were different ways the Task Force could make its recommendations to the Legislature. The Task Force could present one idea, such as a gross receipts tax at .25 percent, with a \$350,000 exemption, less credit for the business license tax, and with a credit for good corporate citizenship, thereafter, the legislators could debate and expand on it as they wished. One bill draft request would be drafted to include the piece that would set the tone of the report. Alternatively, the BDR could outline the range of variability in the rate and policy options. Chairman Hobbs understood the point Mr. Lange was making, and the chairman said he personally believed that a mix of choices would have to be determined so that a BDR could be drafted without leaving blank spaces. The report should sufficiently discuss the process the Task Force went through, the variation of consideration on alternatives, and other options. He had been asked about submitting three different BDRs with three different variations of the business tax, but Chairman Hobbs felt that would make the Task Force appear indecisive. Naturally, the process the Legislature went through was a process of variation anyway. If the options considered by the Task Force were fairly presented in the report and available to the legislators as well having the members of the Task Force available to further expand on those options, it would be helpful.

Mr. Lange asked how a bill draft could be submitted without some kind of variability, if the Task Force specified a certain rate. Chairman Hobbs responded that at some time, the numbers would have to be locked down and recommended in the report with the understanding that as time went on, there might be variations in other values. The chairman believed that with the gross receipts tax, as it had been defined to date, the addition of the increase in filing fees, and a possible minor adjustment in the property tax rate, there should be a balanced solution. Mr. Aguero agreed and added the solution could be balanced in a number of different ways.

Chairman Hobbs disclosed there could be multiple iterations and tradeoffs between components, but a balance between them must be determined as a starting point for the legislators. With the understanding there were caveats and alternates for each of the pieces to the solution and multiple moving parts, the legislators would have to understand that each piece represented a policy decision they would have to make. The Task Force was fully prepared to deal with those issues and make adjustments as the process unfolded.

Mr. Lange believed the BLT exemption carried as much weight as an adjustment in the property tax rate, from a policy



standpoint. He could support a decision on the rate for the gross receipts tax; however, he would like to see how the other pieces of the solution would move relative to that rate. Chairman Hobbs suggested that at some point the Working Group needed general direction from the Task Force to go back and put all the pieces together. He asked the Task Force members to provide direction today that would authorize the Technical Working Group some latitude in establishing rates and variables. One of the variables was the level of threshold exemption. Regarding the BLT exemption, the manner in which that was stepped down also needed to be left somewhat variable so the Working Group could achieve a balanced solution. The report must prove a balanced solution could be achieved through the recommendations in the blended scenario. The chairman understood there would be a fair amount of verbiage in the report dedicated to informing the reader that all the recommendations were variables for consideration to either increase the revenue output, or if there was to be a step down in revenue, how that could be accomplished based on relative priorities incorporated into the report. Chairman Hobbs maintained the focus should be that the legislators fully understood the mechanics of the different variables and features that were included for use in policy-making. The more tools provided the legislators to vary the total revenue production from this blended solution, the better. The Task Force did not need to be locked into a certain recommendation, but there was a need for a beginning point in order to describe the work product of the Task Force.

MS. GARCIA-MENDOZA MOVED TO GO FORWARD WITH THE BUSINESS-RELATED TAX WITH BASE EXEMPTION AND ONE-FOR-ONE CREDIT, WHICH COULD BE TAKEN TO THE TECHNICAL WORKING GROUP FOR FINALIZATION.

Dr. Mack inquired if that would include the expansion of the retail sales and use tax. Chairman Hobbs responded that issue could be handled under a separate discussion. It was possible to link the two tax issues now; however, the chairman suggested the sales tax issue be discussed separately, which was a discourse he intended to have after a decision was made on the business-related tax.

MR. GREENSPUN SECONDED THE MOTION.

Mr. Lange referred to a sentence in Exhibit C under the description of this business tax, which said, “Where BLT is greater than gross receipts, BLT is paid,” and asked if that would include the businesses who fell under the exemption cap. For instance, if a business had five employees, would it continue to pay \$500 as it was now paying? Chairman Hobbs responded affirmatively.

THE MOTION PASSED, WITH MR. LANGE VOTING NO.

Chairman Hobbs stated the committee had not yet finished discussion on agenda item V and he noted he would like to further discuss the concept just voted on by the Task Force. Before doing so, the committee took a brief recess at 11:09 a.m.

Upon reconvening the meeting at 11:29 a.m., Chairman Hobbs pointed out the Task Force had several other things to accomplish during today’s meeting. One would be to discuss a description of a business or state activity tax and obtain concurrence from the committee, which would allow the language to be drafted and to provide the members with additional material for their review. The next item would be discussion of the expansion of the retail sales and use tax base. Additionally, Chairman Hobbs noted there were a few minor “clean up” items that needed concurrence from the members before being included in the report.

Mr. Lange asked to return to the discussion on the vote, taken by the Task Force prior to the break. He explained he had two primary concerns that influenced his “nay” vote. One was the remaining ability to discuss indexing of the BLT; the other concern was Mr. Lange felt the committee had not thoroughly clarified that a cap was being considered for the exemption. He also had concerns about mixing the fixed and variable natures of the taxes. However, in talking with other members of the committee, he had those questions answered to his satisfaction. It was very important for the Task Force to present a united front in each step of the process, and he would like to have his vote reconsidered. With the two caveats he had just explained, Mr. Lange said he was comfortable with the direction of the Task Force.

Mr. Greenspun disclosed that he would be willing to second a motion for reconsideration as he seconded the original

motion.

MR. SLOAN MOVED TO RECONSIDER THE PREVIOUS VOTE.

MR. GREENSPUN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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MS. GARCIA-MENDOZA MOVED TO GO FORWARD WITH THE BUSINESS-RELATED TAX WITH BASE EXEMPTION AND ONE-FOR-ONE CREDIT, WHICH COULD BE TAKEN TO THE TECHNICAL WORKING GROUP FOR FINALIZATION.

MR. GREENSPUN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Hobbs asked Mr. Aguero to come forward for a discussion on indexing the BLT and the cap so the record would correctly reflect the intent of the Task Force. At the present time, the BLT was set at a fixed amount per quarter – \$100 for FTE. An analysis had been done on the effect of indexing the BLT forward and what influence that would have on revenue production. Mr. Aguero observed that if the BLT was indexed forward, it would have a negative effect on overall revenue production, because the companies paying the gross receipts tax would effectively give greater offset to their total gross receipts tax liability based on the fact the business license tax was a larger figure. By doing so would lower the overall revenue generating capacity of the business-related tax in that alternative form. Chairman Hobbs reiterated that indexing the BLT would over time actually have a negative impact on revenue production.

In response to Mr. Greenspun's request for clarification, Mr. Aguero explained as the tax was currently laid out, an individual company would subtract \$350,000 from its total gross receipts. The company would then determine what the tax liability would be and from that figure, a credit for what was paid for the BLT would be subtracted. If the cost the company would have paid for BLT went up, the credit theoretically increased, and the ultimate tax liability declined.

Mr. Greenspun asked when the BLT was enacted, whereby Mr. Aguero responded the BLT was passed by the Legislature in 1989 and enacted in 1991. Mr. Greenspun referred to indexing and commented the intention was to increase the tax to the rate of inflation, not necessarily increasing the BLT, but just bringing the tax up to date. Mr. Aguero acknowledged he would model the BLT with an increase, but the problem remained that the ultimate gross receipts tax liability, or the business-related tax revenue generated, would go down.

Mr. Sloan inquired if the two taxes were combined; for instance, assuming the gross receipts tax declined somewhat and the BLT went up to a 20 percent increase, would those two taxes added together produce the same result? No, responded Mr. Aguero, the result would be less revenue, not more.

Mr. Sloan, Mr. Aguero and Chairman Hobbs proceeded with a complicated and detailed mathematical discussion concerning the potential rates required to produce a desired tax result.

Mr. Fields suggested that although it was very constructive to review the detailed mathematics surrounding the variables, he felt the Task Force should keep in mind that ordinary people would have to comply with whatever tax was ultimately recommended. They would have to submit their tax forms on a quarterly basis, the complexity surrounding the descending deductions, etc., was an issue that might make this tax very complicated and difficult to comply with. Chairman Hobbs remarked he would query the Department of Taxation to obtain their thoughts about compliance. He appreciated the point made by Mr. Fields, adding that any time a new feature was added to the mix, there would be similar issues needing resolution.

Mr. Sloan agreed with Mr. Fields that simplicity was a goal to work toward; nevertheless, the gross receipts tax was

substantially less complex than a state corporate business income tax. Chairman Hobbs reiterated that the \$100 BLT paid in 1991 was not a \$100 value today, and it was logical to increase the level up to current earning levels today. The revenue production between the two would need to be reviewed, because intuitively, it appeared to work in one way, when in actuality, it worked in quite another way. An example would be indexing the BLT – one would think that indexing would have a positive effect, but it did not.

Chairman Hobbs called attention to Exhibit D, which was a statement he had prepared concerning the “State Activity Tax.” This document provided a basic superstructure for the discussion around the business-related tax, and the chairman recognized there would be some additional details to be worked out. He asked the members for latitude to prepare an overview for circulation and to obtain comments as the product was developed. To begin, Chairman Hobbs offered the following:

The title of the tax would be known as the “State Activity Tax.” The basis of the tax would be revenue derived from the activity of a business in the state of Nevada. The beginning rate of the tax, for purposes of modeling, would be .25 percent levied against adjusted gross receipts of a business. Adjusted gross receipts was defined as the total consideration, in any form, received by a business for any business activity conducted in the state of Nevada, less allowable deductions. A business would be defined as any person, sole proprietorship, partnership and/or corporation of any form engaged in activities within the state that involved the sale of any goods or services rendered.

Chairman Hobbs noted the tax would be remitted quarterly on or before the 30<sup>th</sup> day following the close of each calendar quarter, based upon the actual prior quarter revenue, and there would be no exemptions to the tax. With reference to deductions, the chairman said a deduction of between \$50,000 and \$87,500 from adjusted gross receipts was allowed each quarter. That would equate to the \$200,000-\$350,000 as had been previously discussed by the Task Force and Chairman Hobbs requested some flexibility in the modeling. Additional deductions would be allowed as follows:

- Income represented by federal, state, and local motor vehicle fuel taxes, which comprised a substantial amount of the cost per gallon of gasoline;
- Government bond interest;
- Income which the state may constitutionally not tax;
- Cash discounts taken by purchasers;
- Pass-through revenue;
- Bad debts;
- Receipt of counterfeit bills;
- Investment income and dividends of subsidiary firms;
- Health insurance claims paid by insurance companies;
- Income from governmental sources received by public or private hospitals;
- Operating income of public, electric, gas sewer or water utilities;
- Income from the sale of improved real estate. Chairman Hobbs noted there was a question about this deduction, which was not now in final form, and he intended to resolve the issue with at least one or more members of the Task Force;
- Fundraising activities and dues of non-profit organizations;
- Credit unions; and
- Production of agricultural products at wholesale.

With reference to pass-through revenue, Chairman Hobbs remarked this deduction was defined as revenue for which the recipient business exercised no control or discretion or maintained no proprietary interest. An example would be revenue received in third-party transactions; trust accounts held by attorneys or accountants; fees required to be collected by a business on behalf of a governmental entity; revenue (other than commissions) received by travel agents, real estate brokers, insurance brokers, mortgage brokers, etc.

Chairman Hobbs advised a credit against the tax of \$25 per full-time qualified Nevada employee would be allowed per quarter. He recognized the amount of this credit would be altered based upon the recommendation for the increase in

the BLT. While the actual BLT may be increased by the consumer price index (CPI), a hypothetical figure of 20 percent had been used for modeling purposes; therefore, the final figure would have to be computed to establish the actual amount. A qualified Nevada employee was an employee for whom the state business license tax was paid by an individual, sole proprietor, partnership or corporation in any form for the quarter immediately preceding the quarter for which the state activity tax was due. In recognition of the comments of Mr. Greenspun, Chairman Hobbs indicated the credit might also include participation in a health care plan for each qualified employee; however, a minimum threshold of coverage would have to be established.

Another detail to be developed would be consideration for credit for investment in certain research and development equipment and facilities by certain high technology firms, to be administered by the Nevada Commission on Economic Development. Chairman Hobbs explained the concept for this credit was to recognize the economic development component of certain businesses, as it was important to encourage development and diversification. If a credit could be administered wisely, rationally and could provide some assistance to the economic development efforts of high tech firms, it would seem worthy of consideration. The details would be worked out and the concept returned to the Task Force for review.

Chairman Hobbs concluded the state General Fund would receive distribution of the proceeds of this tax and the program would be administered under the Nevada Department of Taxation.

Mr. Lange pointed out there were a number of items that would bear discussion, but he initially would like to discuss the economic diversification credit. To focus exclusively on high tech companies was rather limiting, and Mr. Lange would like to see emphasis directed to employers who provided a strong, solid economic base of employment with benefits and wages at a standard that had been established by the Commission on Economic Development. Chairman Hobbs commented the effect would be to broaden the credit, and admitted that in crafting this credit, he was unsure what wording to use, but wanted the idea to be considered. Mr. Lange observed it was desirable to have good businesses attracted to the state; however, there was a whole range of businesses that could be considered.

Mr. Sloan concurred with the concept of the credit; but he pointed out that some businesses provided with tax concessions were somewhat questionable. He felt that diversification was a legitimate objective, and high quality, high paying businesses should be attracted to the state. Concerning the exemption for investment income, Mr. Sloan said he had serious concerns about exemptions for revenue from the sale of real estate. That was one of the engines that drove growth and he questioned the exemption.

Chairman Hobbs suggested that he would read through the deductions again, and comments could be made on each item individually.

- Income represented by federal, state, and local motor vehicle fuel taxes, which comprised a substantial amount of the cost per gallon of gasoline. No comment was made by the members on this deduction.
- Government bond interest. Chairman Hobbs explained this deduction was tax-exempt by definition.

Mr. Sloan pointed out if the federal government issued the bond; it was exempt from federal taxation. If a bond was issued by the state of Nevada, it would be exempt from Nevada tax; however, he inquired whether a Nevada bond was exempt from California income tax. Chairman Hobbs believed there was a double exemption from state tax if it was a California bond. If it was a non-California bond, state tax would apply, but federal tax would not.

- Income which the state may constitutionally not tax. Chairman Hobbs said this was an item that may be unnecessary to include.
- Cash discounts taken by purchasers;
- Pass through revenue;
- Bad debts;
- Receipt of counterfeit bills.

There were no comments from the members on the preceding five deduction items.

- Investment income and dividends of subsidiary firms.

Responding to a query from Mr. Sloan, Chairman Hobbs said this deduction applied to investment income *of* subsidiary firms; the reason was to avoid a double tax.

- Health insurance claims paid by insurance companies.

Ms. Garcia-Mendoza mentioned a reimbursement benefit from a claim for life insurance, and Mr. Sloan asked about reimbursement by an insurance company for any business loss. Clearly, he said, if a business had a claim that compensated it for lost income, the income would have been subject to tax. Chairman Hobbs felt the question should be deferred to the federal definition, and he would provide the Task Force with appropriate clarification.

- Income from governmental sources received by public or private hospitals. Chairman Hobbs noted this deduction referred to Medicaid/Medicare programs.
- Operating income of public, electric, gas sewer or water utilities.
- Income from the sale of improved real estate, which would be discussed further, stated the chairman.
- Fundraising activities and dues of non-profit organizations;
- Credit unions.

Chairman Hobbs advised that the fundraising activities did not seem to generate any question; however, the issue of dues would be of concern and he wanted to bring this forward for discussion among the members.

Mr. Greenspun requested Chairman Hobbs provide an example of his reasoning on this issue. Responding, the chairman noted that fundraising activities was a fairly clear issue. With regard to dues, this deduction would apply to membership in particular non-profit organizations. The chairman assumed those groups would include trade organizations, but he was unsure about labor groups. The classic viewpoint was an association who raised funds for a particular charitable purpose; nevertheless, non-profit organizations existed beyond charitable purposes.

Mr. Sloan called attention to the presentation by former Senator Richard Bryan, former Attorney General Brian McKay and Dick Morgan, Dean of the Boyd School of Law, where they referred to Article X, Section IX of the Nevada Constitution, which limited the ability to impose a tax on for-profit organizations. There had been some question about an explicit exclusion of non-profit, but the ability to impose a tax under that section of the constitution was limited to for-profit activities. By definition, Mr. Sloan said his goal was to leave all the non-profit organizations out, including labor unions, chambers of commerce, etc. Mr. Greenspun added some hospitals operated not-for-profit; therefore, some hospitals would pay the tax and some would not.

Chairman Hobbs indicated the reason for inclusion of this deduction was when there was a competitive issue between a for-profit and a not-for-profit organization, which was partly answered by what the Constitution would allow. Clearly, there was no desire to impose a tax on non-profits as they were classically understood, but if it created a competitive imbalance, it should be identified.

Mr. Lange said there were business activities that did compete, and there was an active ongoing debate on that issue. On the other end of the spectrum were the dues and fundraising revenues from an organization. Mr. Lange suggested reviewing the federal regulations on unrelated business income.

Chairman Hobbs suggested that Ms. Garcia-Mendoza might review this issue and provide some guidance to the Task Force members. Ms. Garcia-Mendoza responded she agreed with Mr. Sloan, the Nevada Constitution stated that all for-profit businesses could be taxed, therefore, impliedly; tax could not be imposed at all on any non-profit venture. The chairman inquired if that was the conclusion made by Senator Bryan and the others. Mr. Sloan interjected that Dean Morgan said there was no explicit prohibition against taxing non-profit activities. Under the inherent powers of the state, it was arguable that the Legislature could. In those states that taxed gross receipts, it appeared that most non-profit activities were exempted, even if they were competitive; for example credit unions, public utilities, etc. Mr. Sloan offered to look into the issue and report back to the Task Force.

- Production of agricultural products at wholesale.

Ms. Garcia-Mendoza asked the chairman to define “production,” whereupon he replied it was largely in response to testimony presented by some ranchers that the value of the commodity they were raising was constrained by the economy. As an example, a steer was only worth the value of a steer by virtue of the commodity price; the rancher did

not have the latitude to increase the price. Ms. Garcia-Mendoza understood the chairman's explanation, but wondered if the proper word was "production."

Mr. Sloan asserted that everyone should be required to pay a tax. It was no more unfair to require a rancher or a farmer with \$390,000 worth of gross income to pay the tax, even though it hurt, than it would be for a small businessperson who was selling into a competitive market, it was not practicable to just raise prices. If there were too many deductions, everyone would be able to make a case as to why they should not have to pay a gross receipts tax. In the 1930s during the depression when this tax was enacted in some states, a court in one state justified exempting agriculture because it was not a business, it was a way of life. That concept was more than 70 years old, and that kind of thinking may or may not be relevant. Mr. Sloan stated it did not matter if a person was raising cattle or growing cotton, it had to do with the fact the person was in business, they consumed services, and every business person was being asked to pay one-quarter of one percent above a threshold.

Chairman Hobbs asked if there was consensus among the Task Force members supporting Mr. Sloan's opinion. Members indicated their agreement with Mr. Sloan by a nodding of heads.

Referring to the deduction regarding income from the sale of real estate, Chairman Hobbs requested input from Mr. Sloan. Mr. Sloan declared he knew of no state that exempted the sale of real estate from taxation under an income tax. During 1933, a depression-era state adopted a tax, but a court decision was handed down which said the state could not tax income from the sale of real estate. It did not make sense to say the sale of real estate was exempt and the sale of something else was not exempt.

Chairman Hobbs explained this item had been included in the list of deductions, and understood the amount of money under consideration, but he also was aware of the number of other fees, taxes and charges imposed and the percentage of the total cost of a home. The issue before the Task Force was whether adding to the cost of a home should be avoided or was it construed to be part of the business activity that should be subjected to tax.

Mr. Sloan said one of the valid criticisms the Task Force had received was that having growth pay for growth was not such a bad thing. If new construction and new homes were driving growth, along with increased enrollment and demand for services, having them participate in paying for new facilities and new employees would appear consistent with the other recommendations of the Task Force. It was very difficult for Mr. Sloan to believe that .25 percent was going to be that substantial an amount of money. However, this proposal went far beyond residential homes, to unimproved land, commercial development, sales of a commercial shopping center, hotels, etc., and appeared to be heavy-handed. Personally, Mr. Sloan felt that residential housing should be subject to the tax because that was one of the things that was driving growth. Many people were coming to Nevada because it was far more attractive economically to live here than in other places and helped account for the population explosion of 66 percent in a decade, compared to other states in the west which experienced no higher than a 20 percent increase. This new population should pay incrementally a little more because they were driving the demand for nearly every service or the enhancement of such services.

Ms. Garcia-Mendoza noted she was somewhat confused, and asked if the tax would be charged on the income from the sale of real estate by non-businesses. Mr. Sloan said the tax would only apply to business sales. Therefore, Ms. Garcia-Mendoza submitted the tax would in essence be a split role, which the Task Force had tried avoid all along. Mr. Sloan said there was a split because there was no tax on receipts of individuals; the tax was on the receipts of businesses. Therefore, if an individual sold his home, the sales price would be exempt. Splitting the role of property tax was a different item, and was based on the revenues derived from the sale. If the state had an income tax, it would be the same situation, if a corporation sold real estate, it would pay a corporate income tax, and if there was no personal income tax, the individual would not pay. Mr. Sloan did not feel there was an anomaly, and he did not want to tax an individual on the sale of their home, but he did want to tax the real estate broker who got a commission from the sale of a home. He did want to tax the developer who was in the business of developing land and the income of a real estate speculator.

Mr. Greenspun acknowledged that he had a conflict but wished to comment on a couple of issues. He indicated he did not have a philosophical issue with imposing the same gross receipts tax on his development company, although he compared the company to a grocery store, with low profit margins. He felt the problem resulted when the economy

encouraged lower income, service oriented, people to move into the state, it was imperative that home buying be kept as reasonable as possible. Otherwise, the state would be inviting people to come without the ability to buy a home. Mr. Greenspun suggested that gaming and other industries that encouraged service employees to move to Nevada should increase wages so the employees could afford to purchase a home. He commented he did not have an issue with the cost of living going up, and over time, that was what would happen. Philosophically, however, Mr. Greenspun agreed with Mr. Sloan that businesses should be taxed, but this was more of a policy consideration in a state that derived the vast majority of its growth from the service industry, which encouraged lower wages.

Mr. Sloan remarked that with all due respect, he did not believe Mr. Greenspun's opinion was borne out when looking at communities such as Anthem, Summerlin, Green Valley and others. Mr. Greenspun interjected that property taxes would be the most efficient way to obtain revenue from those communities. Mr. Sloan responded he understood the point Mr. Greenspun was making, but the people selling those houses, whether it was Del Webb, Kaufman & Broad, or others, their quarterly financial reports showed substantial profits. These companies were not building entry-level housing. If there was a desire to help entry-level housing, some form of property tax credit should be created. Property tax was not necessarily generated on ability to pay, and it was not necessarily income producing. However, if someone built 4,000 homes and sold them at a nice profit, the builder would have the ability to pay. The person who bought the home and saw their property taxes increase, may not have the same ability to pay as the developer.

Mr. Greenspun submitted he agreed with the concept of having everyone in the development business pay a gross receipts tax, just as every other business. Nevertheless, the nature of the state's economy required at least the consideration for lower income people being priced out of a home.

Chairman Hobbs pointed out that was why this issue had been raised in the state activity tax. In hindsight, the chairman said he should have focused on certain fees and charges that were already charged on the homebuilding industry as a form of deduction from the overall price, as opposed to the full amount of the value of the property. In light of the previous discussion, that approach would have been the better way to address the issue. The impact would have been offset somewhat and still create equity with reference to application of the tax to the development community. On an average, approximately 20-22 percent of the total price of a home was comprised of various taxes, fees, charges, and exactions on development, not the actual bricks and mortar, land and labor. This was a fairly high amount, which was imbedded in the price, and any proposed tax would compound off that amount.

Chairman Hobbs pointed out not all of those fees and charges would fit that classification, but some may fit a definition of fees collected by a business on behalf of a governmental entity, and were more of a pass-through type of charge. He would attempt to identify all those fees and charges, and submit the result back to the committee for review, to determine if any could qualify as a pass-through and thus mitigate the impact on the affordability of housing. He asked the members if they felt this was a rational middle ground, and requested some latitude from the Task Force to redefine the issue.

Mr. Sloan asked where the chairman stood on commercial development. The chairman responded that commercial development had largely a similar set of fees and charges associated with it. Mr. Sloan indicated that was true of most businesses, and there was no business that did not pay some kind of fees and charges. However, those charges were added to the cost of rent or the sales price of a commercial development. Mr. Sloan felt this would create an open invitation for every person who had a special circumstance. The Task Force had heard from people who stated they paid Medicare, social security, and even one person who described every bill he paid, including his water bill.

Chairman Hobbs understood what the members were saying and he was not taking issue with the comments made by Mr. Sloan. However, this was a topic that was raised and the chairman felt it was worthy of discussion. Mr. Sloan felt this issue was a bit of a slippery slope. The Task Force had originally discussed no industry-specific exemptions to the business-related tax, now it appeared exemptions were being suggested.

Mr. Lange agreed with Mr. Sloan, however, he felt one of the key elements was the assumption that .25 percent gross receipts tax was going to materially affect the cost of housing or commercial property. He would like to see the numbers that reflected the issue. Mr. Lange agreed the slope was very slippery in terms of isolating one particular industry and he could see most any other low-margin business, especially related to personal health, security, food,

lodging, and all the basic necessities, making the same claim, and that was not something he would like to see happen. Again, Mr. Lange opined that upon imposition of this tax, he wondered how it affected the industry and was that particular industry capable of dealing with the impact of the tax, and what was the end result to the consumer. If this tax would drive housing prices up to where people could not make their monthly payments, there should be further discussion.

Chairman Hobbs interjected that as the person who created this problem; he would like to refer to a comment previously made by Mr. Greenspun. This was one of those issues that was more of a policy issue than the Task Force was authorized to address. It was recognized that the impact may be there, and a notation could be made for the Legislature so they, in their wisdom, could speak to the issue. That having been said, Chairman Hobbs stated this deduction would be eliminated from the state activity tax and a side notation made, and asked if there was any other comment. Several members indicated that was agreeable.

Ms. Garcia-Mendoza called attention to Exhibit D, the section entitled “procedure,” the definition of a “business . . . engaged in activities within the state that involve the sale of any goods and/or services.” She asked if that involved transactions in and out of the state of Nevada, and if so, how that would be defined. Chairman Hobbs acknowledged that was an important definition. He asked Mr. Aguero what types of definitions he had seen in his research – would they be transactions originating in the state of Nevada? Mr. Aguero replied that was correct; generally the philosophy was that this would be made an origin-based tax, so the competitive nature of businesses operating in the state would not be decreased compared to the businesses operating outside the state. The chairman asked what wording should be used in the “procedure” part of the tax description. Mr. Aguero advised the wording should be “. . . that involve the sale of any goods or provision of services *rendered in the state of Nevada.*” Ms. Garcia-Mendoza added that business would be defined as an individual.

Mr. Sloan indicated there were a variety of definitions, and it appeared the language was becoming tighter than many of the definitions provided earlier in the sense of trying to make apportionment decisions of the definition. He felt the Task Force would be better leaving the absolute details to the Legislature. The goal was to tax as many activities as constitutionally available that had a legitimate nexus with the state of Nevada. For example, Mr. Sloan noted that if he was in the practice of law, or providing any other service headquartered in Nevada, and if through this business, he traveled out of state, would he be exempt from paying taxes for the fees engaged through that travel? Mr. Sloan pointed out he did not know the answer to that question, but he felt that was not necessarily an issue which must be settled by the committee today. That definition was something that should be decided by the Legislature.

Ms. Garcia-Mendoza said she was not concerned with that issue; she called attention to a company who printed Christmas catalogues and sold \$2 million worth of Christmas goods to the people of Nevada. She asked if that \$2 million would be subject to tax if that company was not a Nevada corporation. Mr. Aguero responded affirmatively.

In answer to Mr. Greenspun’s question about how that tax would be applied, Mr. Sloan explained Nevada would be an origin state. For example, Amazon.com was located in the state of Washington. If that company sold something out of state, they would be exempt from tax in Washington, but if the sale was in Washington, the goods were taxed in Washington, unless it was governed by that public law which had a limitation on certain kinds of sales being taxed.

Chairman Hobbs commented that Mr. Sloan had brought up an interesting point because Amazon.com was also located in Fernley, Nevada, and shipped within this state, but the company did not charge sales tax on intrastate shipments. Mr. Greenspun contended the discussion was not about sales tax on sales by Amazon.com, the discussion was paying a gross receipts tax on the business being done from the Fernley location, to which the chairman agreed. Mr. Sloan submitted that as an example, in Washington, the Boeing company was not taxed on the sale of airplanes outside the state of Washington, but were taxed on the manufacture of planes inside the state of Washington. Amazon.com was not taxed on their gross receipts on revenue derived from the sale of merchandise outside the state, but conversely, Washington and other destination states taxed items sold in their states to the extent they were able to under public law.

Mr. Greenspun asked if it was the intention of the Task Force that if Boeing were located in Nevada, every plane they sold anywhere would be covered under the gross receipts calculation. In other words, if Boeing sold two planes in Nevada and 200 airplanes in Europe, the entire gross amount of those sales would be used to determine the tax liability.



Chairman Hobbs agreed the discussion was how to apportion those sales to Nevada and then to other areas.

Mr. Sloan remarked these were very complicated apportionment issues and they had not been resolved in Washington. There were general rules that the states followed in terms of apportionment – where the sale occurred, where the personnel were located, how many employees, etc. He suggested the Legislature, the Legislative Counsel Bureau, and others who were experts in this area, would have to review the apportionment decisions. He suggested the committee start with the philosophy, and to the extent they were constitutionally able, to tax as many transactions that either originated or affected the state of Nevada. Responding to a query by Ms. Garcia-Mendoza, Mr. Sloan, he said his personal opinion was that that tax should apply to goods that were sold or bought.

Chairman Hobbs agreed with Mr. Sloan that it was a substantial journey from the construction concept of the report and actually putting the decisions into BDR form. He suggested that when the report was written, the Technical Working Group could come back to the Task Force with recommended definitions including credit for economic development as discussed earlier. A recommendation would need to be made on a method of apportionment without getting too specific, but generally to identify what was believed to be appropriate after detailed review. Obviously, added to this list would be reimbursement of business loss and exclusion of income from the sale of real estate, while making a side note there may be a policy issue to be undertaken by the Legislature. In addition, the deduction for the production of agricultural products at wholesale would be deleted. Based on the discussions of the Task Force this morning, the chairman apprised that would be his summary of the committee's recommendations. When he asked for concurrence from the members, everyone indicated their agreement.

Chairman Hobbs pointed out there were a few other things that required some direction from the Task Force and from the Technical Working Group. ACR 1 directed a review of the various fees and charges by state agencies. This issue was not only beyond the scope of the Task Force, but beyond the availability of time based on the materiality of other things. There had been no time to evaluate all fees charged by the state, or to make appropriate modifications or suggestions to the fees. The chairman felt the report should include a notation that if the fee had not been adjusted for a substantial period of time, and it could be demonstrated that the fee or charge was not sufficient to cover the cost of the service being provided, it should be reevaluated by the state. This method would be preferable than reviewing each fee or charge individually. Testimony had been presented by the Department of Wildlife and others, and the chairman felt the Task Force should be respectful of the fact testimony had been presented and a comment should be made to reflect that testimony. He asked the members if this type of general comment would suffice as opposed to drafting a list of specific fees and charges. All the members indicated their approval.

Chairman Hobbs called attention to the proposal (Exhibit E) that had been provided today to the Task Force members from Stephanie Licht. The proposal referred to public lands and grazing issues facing rural Nevada. The chairman stated that if Ms. Licht was present in the audience in Carson City, she could make any statement concerning Exhibit E during the public comment portion of the meeting. He said Ms. Licht had made a couple of presentations to the Task Force and he asked for guidance from the members, either now or later, as to the disposition of the information presented by Ms. Licht. A member suggested the issue be discussed later.

The issue of the expansion of the sales and use tax base was something the Task Force had discussed earlier, commented the chairman. A fairly blurry line could sometimes exist between transaction-oriented taxes of that nature versus aggregated transaction taxes associated with gross receipts. More so, there was an issue of the sales tax base in this state, and Chairman Hobbs said he would not reiterate all of the things that put the tax base at peril. He believed that if this issue went unattended for a significant amount of time, a group like this Task Force, or even this very committee, would be required to return later to discuss the issue. The chairman was certain there would be further degradation of the sales tax base and there was a substantial amount of cost in lost revenues that were not being collected under the existing sales and use tax laws.

One of the other goals of the Task Force was to broaden the tax base, which an extension of the sales and use tax would effectively do, and to provide added stability. Chairman Hobbs declared that as narrow as the sales tax base was in its present form, it was heavily dependent on certain areas of trade that were subject to economic volatility. By not addressing this issue, the chairman opined, would be a mistake. Whether the sales tax would become part of the baseline solution was almost irrelevant; however, it was extremely important that some discussion, analysis and

recommendation be made to the Legislature that would strongly indicate that additional evaluation should be undertaken of areas of trade beyond those currently taxed or suggested to be taxed under the expansion to the amusement/entertainment/transaction tax.

Chairman Hobbs reminded the members that Ms. Wong had been asked to review some additional areas of trade. He asked her to comment on her discoveries. Ms. Wong explained that she and a couple members of the Task Force had the opportunity to review a list of services not currently subject to retail sales and use tax. Mr. Aguero had been very helpful in defining various groups of services on a continuum, starting from those that were perceived to be purchased with discretionary dollars, or business-to-business services, to those on the other end of the scale, which were perceived to be part of the necessities of life. Although the study had not been completed, Ms. Wong advised it could be generally said that various categories of services were being considered, i.e., personal services, which could include gift wrapping services to garment alterations, business services such as photo finishing or armored car services, etc. These were examples of a myriad of things, Ms. Wong explained, and there were thousands of categories under each of these subcategories. It was also her intention to review installation and repair services, automotive services, including washing and waxing vehicles, etc. She agreed with the chairman that a recommendation should be included in the report that the Legislature should review the expansion of the retail sales and use tax as an important revenue source for the state. Ms. Wong asked for any additional comment from the other members who had worked on this issue with her.

Mr. Lange said he had the experience of trying to sort out some of the codes and categories of sales tax. It was not an easy task, and looking at the list, there was clearly room for discussion on many of them. There were two pieces that made sense to Mr. Lange. One, there was clearly a continuum of services that related to more regressive types of tax that were considered necessities of life, all the way to things that were clearly discretionary, e.g., pool cleaning services, snow plowing services, etc. Mr. Lange opined the sales and use tax increase must take a seat directly behind the gross receipts tax in terms of the level of inspection and information provided to the Legislature. The transparency, the ease of administration, and other features of this tax were very attractive. It was important that the proposed increase not be featured as a way to fill the gap if the gross receipts tax was insufficient. He agreed with the chairman that Nevada had one of the narrowest retail sales tax bases in the country and that was reflected in many different ways. He appreciated the chairman's efforts to continue to keep this issue in front of the Task Force.

Chairman Hobbs thanked Mr. Lange for his comments and stated that attendant to this issue was what should be done about the overall sales tax rate. The base was very narrow, but some had commented the tax was comparatively high relative to the other western states. The chairman submitted that the effective burden of the sales and use tax and comparative regressivity, was relatively low compared to other states. An extension of this issue would be an evaluation of the existing rates of sales tax; i.e., basic rates for state and local government. Special purpose option taxes that had been specifically voted on by the people and heavily securitized should not be made part of this discussion. Examples of these taxes would be the Basic City-County Relief Tax (BCCRT), Supplemental City-County Relief Tax (SCCRT), Local School Support Tax (LSST), and the state's component, which comprised 6.5 percent of the totals in any particular county, exclusive of the option taxes. As Ms. Wong had suggested, Chairman Hobbs stated he would also like to make the sales and use tax issues a part of the recommendations to the Legislature.

Mr. Sloan commented that if the sales tax rate could be reduced by broadening the base, and if the motor vehicle privilege tax could be reduced, in one form or another, those would be laudable and commendable goals. His concern was that even though the members of the Task Force were recommending a substantial increase in taxes, he hoped the report would reflect the need to broaden the sales tax base and the careful analysis of that issue by the Task Force. However, this would need to be done in such a way that the people of the state could see benefit to themselves. If these recommendations were enacted, a lot of new money would be generated, but at a certain point, people will say that enough is enough. In Mr. Sloan's personal view, the increase in taxes should initially be revenue neutral, or in a way that produced a tangible benefit by the elimination of a tax that most people did not like, such as the motor vehicle privilege tax. Chairman Hobbs agreed with Mr. Sloan and felt they were both on the same track.

Mr. Greenspun indicated he had no disagreement with including a recommendation to review the sales and use tax in the report. In reviewing the issue, he liked the sales tax in Nevada today, and did not mind the rate at 7.25 percent, because he understood that while it was a very narrow base, the tourists were paying a substantial portion of it. However, regarding a tax on services, such as linen suppliers, apartment locating services, shoe repair shops or

plumbing services, everyone would be paying the tax because everyone used those types of services. He was unsure if the tax was progressive, and felt those were all regressive types of taxes. Mr. Greenspun pointed out that taking into consideration where sales taxes were going over the next 10-20 years, in light of the Internet, and other opportunities for people to avoid paying sales taxes on goods and services, there was a much bigger issue than just recommending to the Legislature that taxes be imposed on services. First, the whole population of the state would come to the Legislature to oppose one or more of these taxes. Secondly, nothing was being done to export taxes; more was being done to import taxes. The recommendation was to tax the plumber on his gross receipts, as well as the person who called the plumber who would have to pay a tax on the services provided by the plumber. Mr. Greenspun remarked this seemed to be overkill. Additionally, he did not feel he was in a position to look at these thousands of different services to recommend which ones should be included for tax purposes and which ones should not be, in the very short period of time before the report was due.

Mr. Lange recalled the previous comments about revenue neutrality and the offset of the government services tax. Over time, it was an absolute necessity to broaden the tax base, and the issue would have to be faced one way or the other. Although it was difficult given the different components of the various taxes, and with many details to work out, Mr. Lange wanted to ensure revenue neutrality and the possible phase-out of the government services tax were included in the report.

Chairman Hobbs explained he was trying to suggest a way to make a middle-of-the-road recommendation. It was recognized in ACR 1 that a broadening of the tax base and a rate reduction could be considered, and he felt the Task Force had some obligation to have that discussion. The chairman would like to present all the trade-off opportunities that existed; you could broaden it and create additional revenue; you could broaden it and have revenue neutrality and reduce the rate in accordance with that. The chairman hoped this solution did not go further than Mr. Greenspun preferred and at the same time, went far enough to include those items mentioned by Mr. Lange.

Mr. Greenspun responded he did not have a problem discussing these issues, his difficulty revolved around recommending a solution. This was a huge task and to just recommend the taxation of services without giving much more attention to the issue was not satisfactory. The committee could be empanelled for another year in order to recommend the right answer. He did not have an issue with expanding sales taxes; he would just like to recommend the right answer.

Dr. Mack agreed the sales tax should remain at its present rate, but the list of services under consideration would take a very long time to review. Nevertheless, some of the services should be taxed. Chairman Hobbs summarized that included in the report should be a discussion of the issue without necessarily making a recommendation as to the finite areas that should be reviewed or any level of taxation. That obviously came short of making a recommendation as to whether to tax a service or not, but it did suggest a recognition that there was an area of concern that was worthy of additional study.

Mr. Greenspun suggested going a little further and recommend that the Legislature empanel another group to report the next year as to how, if at all, to expand the sales tax. He felt another year would be required to adequately study the issue and all the impacts. Chairman Hobbs said he absolutely agreed and he understood the workings of sales tax. This was a very rational way to go forward, and Chairman Hobbs asked Ms. Wong if she was in agreement. Ms. Wong responded that this was obviously a lot of work to go through several thousand categories and the point she was trying to make was that it should be included as something that needed to be looked at. If the Task Force agreed that a separate panel should be formed to review these issues, she would like to be sure that it was included as something that needed to be done.

Mr. Lange indicated he would like to reflect the amount of work done here in terms of developing a continuum and suggested that there were different categories to review – business to business, necessities versus discretionary, and regressive versus really regressive.

Chairman Hobbs suggested the report would be very thick once all the appendixes were included, and how they were referred to. In this particular case, it was referred to as a beginning point of discussion and then as a sorting out of various issues, not as a final document. However, the entire work product should be included – this was very valuable

work product. Someone beginning this process over again should have the benefit of what had been initiated by Ms. Wong, Mr. Lange, Mr. Aguero, and others who had worked on this particular part. There should be an appropriate type of reference that was consistent with the discussions held by the Task Force. The chairman felt the direction on this issue was clearly understood and a motion would not be necessary.

Chairman Hobbs referred to the report from Ms. Licht and commented it appeared that the one thing she had requested was support from the Task Force for the creation of a statewide group to review some of the issues in rural Nevada. This request was not a specific revenue item, but Ms. Licht was very passionate about it, and he would find it hard to disagree with having someone look at the issue. Chairman Hobbs indicated he was unsure how this fit into the overall form of recommendations made by the Task Force, but he would be open to comments from the members.

Ms. Garcia-Mendoza recalled at an earlier meeting, one of the items under discussion was the inability of some of the rural counties to support themselves. However, she felt these concerns were beyond the purview of this Task Force. If the Legislature chose to establish a committee to review and investigate these issues, and how to fund those counties who could not support themselves, then that action was the right of the Legislature, but she felt such a recommendation was not a mandate under ACR 1.

Chairman Hobbs stated a notation could be included in the report to reflect the Task Force had received this information and the situation in the rural areas should be brought to the attention of the Legislature in order for them to determine what needed to be done. He asked if that would be sufficient for the other members of the Task Force. Several members indicated their agreement, and the chairman stated that issue would be so addressed in the report.

At this time, Chairman Hobbs wished to return to a discussion from the beginning of today's meeting. The Task Force was at a point where given the direction from the members on certain forms of mitigation and the discussions held today, that the members' concurrence and agreement was needed so the remainder of the report could be written, based on the principles which had been discussed. Clearly in doing so, there were a lot of issues that would be encountered that would require some judgment calls. Because these judgments would be made outside the meeting, the information would need to be submitted back to the members as rapidly as possible for comment. Changes could be made as the members made their comments and the chairman anticipated bringing the draft report back to the Task Force at the next meeting for review and discussion. Subsequent to that, he envisioned one more meeting to finalize the report. Chairman Hobbs asked if this procedure met with the approval of the committee.

Dr. Mack commented he felt there was enough information for the draft report to be prepared and brought back to the Task Force for review. Mr. Sloan asked that when the draft report was available, it be transmitted to the members of the Task Force before it was released to the public in order for the members to review the contents. Chairman Hobbs stated he absolutely agreed with that procedure.

The chairman asked Mr. Aguero for his input. There were an additional four sections of the report that had yet to be finalized in addition to all the other moving parts that needed to be included. He pondered if it would be possible to have the draft report completed in two or two and a half weeks. Mr. Aguero responded he would do his absolute best to have it done in the shortest time as was humanly possible. Chairman Hobbs commented that two weeks would be great, three weeks would also be very impressive; however, enough time must be allowed for two additional meetings of the Task Force. One meeting would be to air any potential issues and another meeting to finalize the report. Mr. Sloan suggested that as the sections were finalized, they could be presented to the members for review sequentially in order to save time. Mr. Aguero agreed and advised that as soon as a specific section or chapter was complete, it would be forwarded to the members for review and comment.

Mr. Sloan called attention to the filing fees issue, which had been discussed briefly. He said Carole Vilardo of the Nevada Taxpayers Association pointed out that when the Legislature looked at corporate filing fees during the last session, the one-time filing fees had been raised 100 percent, but the reoccurring fees had not been raised at all. The Task Force had previously discussed the imposition of a business registration fee for all businesses, whether limited partnerships, corporations, sole proprietors, etc. Through the increase in those fees, Mr. Aguero had estimated the state would be able to generate several tens of millions of dollars. The model now included a 30 percent increase of all fees charged by the Secretary of State. Mr. Sloan commented that many of the fees were very small and he recommended all

the existing fees could be increased by another 20 percent, for an overall increase of 50 percent. In addition, a \$100 filing fee could be imposed generally for businesses, and as part of the data gathering for the gross receipts tax, the businesses would provide their gross income in the prior year and the number of employees in the business. Given there were approximately 129,000-179,000 businesses in the state, that filing fee could produce something close to \$12-\$15 million in revenue. Mr. Sloan suggested that idea could be left with the chairman and Mr. Aguero to place into the report, if it was acceptable to the other members of the Task Force.

Dr. Mack concurred with Mr. Sloan; by increasing some of the filing fees by 50 percent would not be a major expense and would raise extra tax dollars. Chairman Hobbs stated he appreciated Mr. Sloan's efforts.

One other question had been raised, mentioned the chairman. At the last meeting, the Task Force reviewed the various definitions under the admissions and amusement tax (Exhibit F). While in some ways it would be easier to get into the body of the report before returning to these issues, Chairman Hobbs recognized there was sufficient concern under this definition, that the issue should be discussed before the meeting adjourned today. At the last meeting, the instruction for music, dance and voice lessons, sports and martial arts had been effectively excluded. There had also been discussion about excluding cage and coin operated boxes, and those categories that were subject to the casino entertainment tax. The items that had been left in included scuba, sailing, skydiving, massage, yoga, arts and crafts and culinary arts.

Chairman Hobbs reiterated that the definition of the admissions/amusement tax had less to do with particular areas of recreational endeavor than it did with professional sporting events, motor sports, adult cabarets, concerts, theatrical productions and other for-profit ventures where admission was charged. Some folks who did not understand the tax had dubbed that concept the "bowling tax." Those events, which fit the description of events that were exempt from the casino entertainment tax and occurred within hotel/casino properties, were clearly the main focus of this tax. In response to Dr. Mack's query, the chairman explained it had been agreed the tax should be extended to those areas that were currently exempt; the current casino entertainment tax was 10 percent.

Ms. Garcia-Mendoza inquired if the tax would include memberships to fitness centers, along with golf, tennis, country club and other memberships. Chairman Hobbs responded that item had not been specifically listed in Exhibit F; however, fitness instruction was listed as a taxable item. When the list of definitions had been prepared, the chairman had not included memberships to fitness facilities such a 24-hour membership clubs. Ms. Garcia-Mendoza recalled a comment by Mr. Greenspun wherein he inquired the difference between someone who worked out at a fitness center and someone who chose his workout on the golf course.

Mr. Greenspun explained that his viewpoint had been created long ago when a decision had been made to eliminate sports and music out of the lower schools. He felt it had been too easy to make a decision that these events were not to be important parts of the holistic family operation. He maintained that music, sports and academic endeavors were all part of what comprised a human being, and to separate these away from children did not make sense. Carrying this concept forward, Mr. Greenspun observed this tax appeared to do the same thing. There was no issue with expanding the definition of the entertainment tax to casinos nor was he concerned about someone attending a racetrack or a professional sporting event and paying an admission tax. However, Mr. Greenspun declared he had an issue with when a parent or a child chose to take tennis or golf lessons, a recreational decision that was part of being human and part of being a family, and being taxed on that decision. As Ms. Garcia-Mendoza had pointed out, Mr. Greenspun did not understand why tennis would be taxed, but a membership to a fitness club would not. Although he played golf, Mr. Greenspun indicated he would not be opposed to paying a tax on his membership, but it would be troublesome to other people who had only one form of recreation or choice of athletics. He suggested the tax remain with just those events such as boxing, wrestling, racing, football, or any event where admission was paid for a ticket for entertainment, not recreation. A line must be drawn somewhere, because if some forms of recreation were included in the tax and some not, there would be problems.

Chairman Hobbs responded the reason for this list of amusements was that these items were matters of discretion. He understood the point made by Mr. Greenspun, and for that reason, items had been excluded such as fees for little league, flag football, softball or other such events. Instruction having to do with sports, including martial arts, dance, music, etc. had been removed from consideration. There had been an attempt to limit the tax to those things that were truly matters of individual discretion. The chairman acknowledged he did not object to any of the items listed in Exhibit F.

but the committee must resolve this issue. If substantial portions were excluded from this extension of the sales tax base to a transaction tax, then one of the other goals of the Task Force would be undermined, e.g., to provide stability to the existing sales tax base. The chairman felt this would elevate the importance of having to consider other extensions of the sales tax base to provide that stability, because this was what the tax was largely intended to do, in conjunction with being a more progressive rather than regressive form of tax.

Mr. Sloan agreed with the chairman. Any one of the events could be isolated and a case made why it should be included or excluded. However, generally, the items tended to be discretionary and discretionary for people proportionate to their income. There would be difficulties if many items were excluded and how to replace the revenue that would have been generated. Mr. Sloan opined that the tourist should not always bear the bulk of the tax; people who lived in the state consumed services in the state and should pay for them. He agreed with Ms. Garcia-Mendoza and rather than excluding more events, possibly more should be added to ensure the package was fair. Trying to replace that amount of money with a new tax or a higher rate on business would be equally difficult.

Chairman Hobbs pointed out that all these issues would come back before the Task Force in the form of a draft report. If it met with Mr. Greenspun's approval, the chairman would discuss the issue with him and possibly identify a target area that could be kept out of harm's way, as there was room for that discussion. Mr. Greenspun noted that would be fine; however, he pointed out he did not want to cause an issue on this panel because he agreed with nearly everything the Task Force had decided. His dilemma was how to distinguish between one person's idea of recreation and another person's idea. If recreation was to be taxed, then it all should be taxed with no exemptions, which would make the tax completely unpalatable. Nevertheless, how to distinguish was the real problem.

Chairman Hobbs acknowledged that it was very difficult to obtain agreement from everyone on this panel, and certainly among everyone else involved. Frankly, the chairman pointed out, he complimented the entire group for seeing fit to agree, either generally or fully, with the direction taken in an extraordinarily hard topic. He hoped the Task Force could arrive at an agreement on this issue as well. The idea to raise revenue and to do so fairly seemed at times to come in direct conflict with other social values held by the members. The idea was not to step in the way of social values, but to try to derive some revenue to enhance the quality of life, and he believed there was a way to work out some of the concerns. Mr. Greenspun suggested that it might be helpful to find out how adjoining states dealt with this issue relative to each category. Chairman Hobbs inquired of Mr. Aguero if that analysis had been done. Mr. Aguero responded it had not been done, but it was doable. The chairman stated this analysis would be done.

### *Public Comment*

Chairman Hobbs asked if there was any public comment from Carson City, and as there was none, the chairman acknowledged Knight Allen in Las Vegas.

Knight Allen, private citizen, provided the Task Force with Exhibit G, concerning profit margins. He pointed out the column listing net profits, and said the inherent inequities that exist in a gross receipts tax should be obvious, and was a point the business community had been trying to make throughout this process. The proposed tax was at a rate of .25 percent, which represented a 16.6 percent tax rate on the food wholesalers and their 1.5 percent net profit margin. The same rate represented only a 4.62 percent tax rate on the hotel/gaming net profit margin of 5.4 percent. The difference in the tax burden between the two was over 259 percent.

Mr. Sloan inquired about Mr. Allen's 5.4 percent net profit margin and said that unlike any other place in America, grocery stores in Nevada tended to have between 25 and 100 slot machines and they did not pay a gross tax on those machines. Mr. Sloan asked if Mr. Allen's margin numbers reflected that. Mr. Allen responded the margin numbers reflected the value line as he presented in Exhibit G. Therefore, Mr. Sloan pointed out, that did not reflect gaming revenues. He asked what would be the comparison between businesses that had a higher net profit margin rate than gaming, as several were listed at 7-8 percent or higher. Mr. Knight replied those numbers could be run after he finished with his testimony.

Mr. Allen commented the only way to eliminate this obvious gross injustice was to create a progressive tax rate based on profitability. In this example, the base rate of .25 percent would be applied to the lowest net profit margin of 1.5

percent, and the rate would be raised according to profitability. In the case of hotel gaming, where the profitability was over 3.5 times higher than food wholesalers, the figure of .25 percent would be multiplied by 359 (that would be the 259 percent), which would equal .89 percent. That figure would then be applied to the gross gaming tax, 6.25 percent, plus .89 percent, would raise the gross gaming tax to 7.14 percent. Therefore, hotel gaming would be carrying the same tax burden as the food wholesalers.

Mr. Allen suggested those who had consistently supported the concept of a progressive income tax, whereby those who made more should pay more, this was a good idea. However, the problem arose when all the exemptions, deductions, credits, competitive imbalances between profit and non-profit, apportionment and a myriad of problems inherent in an income tax, were added into the formula. It was clear this was a road that should not be traveled. The history of complexity and political distortions that always came with an income tax spoke volumes about why such a tax should not be considered in Nevada. Mr. Allen admitted his proposal would not meet with the approval of the Task Force, but he sincerely believed that proposing an income tax in Nevada was similar to opening a vein in the body politic and injecting it with a cancer virus – this was a crazy thing to do. To paraphrase the commercial, “just don’t do it.” Mr. Allen thanked the Task Force for their time.

Mr. Sloan apprised Mr. Allen that the members of this Task Force did not come to these meetings just for the fun of it. The members were asked, and indeed instructed, by the Governor and Legislature to propose a broadening of the tax base to reflect the diversity of the economy. For ten months, Mr. Allen had testified before the Task Force about his unhappiness with the instructions given by the Legislature, but never even once acknowledging what the Task Force had been asked or told to do. Never once had Mr. Allen offered a suggestion to broaden the tax base to reflect the diversity of the economy, which was what the members had agreed to do when they accepted this appointment. Mr. Allen could have complained at the Legislature, and he still could complain to the Legislature when the Task Force had finished its obligation, but he ignored the fact that the Task Force was trying to be consistent with the mandate given by ACR 1, and doing so as volunteers. Mr. Sloan appreciated what Mr. Allen had to say. Taking a value line national average was about like taking a national average on any other spending. However, he believed Mr. Allen did a disservice to the Task Force members and the people who listened to these meetings by not at least acknowledging that the committee was trying to do what the Legislature, the people who were elected by the people of Nevada, directed that the Task Force do.

Mr. Allen responded that he respectfully disagreed with Mr. Sloan to a certain degree. He stated he had been present at the meetings of the Task Force on numerous occasions offering support and encouragement to pursue the chairman’s direction of expanding the sales tax base. He noted he had supported the entertainment tax on numerous occasions and had been on the record as having done so. Mr. Allen contested Mr. Sloan’s comment that he had consistently complained and had not offered any alternatives, and felt the statement had been inaccurate. Regarding today’s discussion about expanding the sales tax base, he had conferred with Mr. Aguero who said using the most conservative number, which eliminated nearly everything which could be considered a necessity of life and included strictly discretionary economic decisions, expanding the sales tax to those services could generate \$240 million per year. This Task Force, according to Mr. Allen, had in effect said that just a footnote would be made of that issue. Mr. Allen felt there was a genuine alternative and said if the Task Force had exercised just one half of its considerable intellectual capacity going in that direction, which the chairman had consistently indicated would have to be done, the problem could be solved in conformance with the mandates of ACR 1. This resolution was not a law and the Task Force was not obligated to do terrible things to the citizens of Nevada.

Mr. Allen digressed for a moment and told a story of Napoleon Bonaparte. He was faced with an impossible military situation and he was asked what a good general would do in this situation. He quickly responded a good general would not get into that situation. Mr. Allen said the Task Force was putting the Legislature in a “no win” situation when there were alternatives. He had supported this panel when it had gone down the road of choice and discretion and maintained the people’s economic empowerment. It was when the committee moved away from these principles and the income tax was clearly an example, where grocery stores and other necessities of life would be taxed, that was where Mr. Allen disagreed.

Chairman Hobbs thanked Mr. Allen asked if there was further public comment from the audience in Las Vegas. Mr. Fields, located in Carson City, indicated there was someone who wished to address the Task Force from Carson City.

Chairman Hobbs acknowledged Jan Gilbert, representing the Progressive Leadership Alliance of Nevada. Ms. Gilbert pointed out that Nevada had the most regressive tax structure in the country, and Nevada rated 51<sup>st</sup>, including the District of Columbia. The amusement tax would place Nevada in a more regressive state. Unfortunately, Ms. Gilbert said, she did not have a copy of Exhibit F, which listed the categories being considered for the amusement tax; therefore, she apologized for any inconsistencies. It appeared that some of the items that had not been exempted from the amusement tax included medicinal categories, e.g., there were many cancer patients who used massage as part of their therapy, and the implication was that massage would be subject to tax, as would yoga. Ms. Gilbert commented she did not understand the definition of the amusement tax, although she understood the need to raise revenues. Nevertheless, she suggested that real discretionary items should be considered, such as large events only.

Agreeing with Mr. Greenspun, Ms. Gilbert said she was concerned that poor and middle-income families and children would be affected by this tax. It was necessary that children have access to alternative activities so they did not get involved with negative gangs and other unhealthy situations. Movies, video rentals, and any type of sporting events were better for children than being on the street doing nothing. Ms. Gilbert opined if these types of events were taxed, it would be a real shame and she was very sorry to see this type of recommendation because the state needed the money. If it meant the gross receipts tax would have to be increased from .25 percent to .36 percent, she would rather pay that tax than to tax entertainment and amusements. Ms. Gilbert concluded she would share all the information provided by the Task Force with her organization for examination. However, it had been very difficult during this process because public input was reserved for the very end of the meeting and many people left before they had an opportunity to comment on the process.

Chairman Hobbs thanks Ms. Gilbert and indicated he had a couple of comments to make before adjourning the meeting. First, as an example, Ms. Gilbert's portrayal of massage was a bit of an embellishment. The issue under consideration was "instruction," not the receipt of massage, but the instruction of massage as a vocation. Secondly, what the Task Force did purposely, and as the Progressive Leadership Alliance would recognize, was to pick areas of trade that were progressive rather than regressive, which had been done in order to broaden the tax base. Chairman Hobbs stated he clearly understood the points made by Ms. Gilbert, but he wanted to clarify those particular parts. However, that did not mean there were not details that needed some work, and those were under discussion. Nevertheless, in general, the chairman wholly disagreed with the comments made by Ms. Gilbert.

Ms. Gilbert reiterated that she did not have access to the list of items under consideration by the Task Force for the amusement tax (Exhibit F). She apologized for the misunderstanding about instruction for massage, but she did not have a document to work from. Oftentimes the document under discussion was not available until after the meeting was over, and it was very difficult to track the conversations accurately. It had been very difficult as a member of the audience to understand what the recommendations were and what should or should not be taxed. Chairman Hobbs said he would ensure Ms. Gilbert received a copy of Exhibit F, and for those other times when documents had not been adequately transmitted, the chairman was aware of the situation and was an admonishment he would be willing to accept. He apologized for the deficiencies.

Chairman Hobbs said he would inform the members when the next meeting would be scheduled to review a draft of the final report. There being no further business before the Task Force, the chairman adjourned the meeting at 1:26 p.m.

Respectfully submitted,

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Reba Coombs  
Secretary

APPROVED BY



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Guy Hobbs, Chairman

Date: \_\_\_\_\_

Copies of the exhibits mentioned in these minutes are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the library at (775) 684-6827.