MEMBERS PRESENT:

CHAIRMAN PRICE
VICE CHAIRMAN CRADDOCK
ASSEMBLYMAN CHANEY
ASSEMBLYMAN COULTER
ASSEMBLYMAN DINI
ASSEMBLYMAN MANN
ASSEMBLYMAN BERGEVIN
ASSEMBLYMAN MARVEL
ASSEMBLYMAN RUSK
ASSEMBLYMAN TANNER

MEMBERS ABSENT:

ASSEMBLYMAN WEISE (excused)

GUESTS PRESENT:

SENATOR DON ASHWORTH
JOHN GIANOTTI, Harrahs
JOHN COCKLE, Nevada Bankers Trust Division
LLOYD R. LEE, E. Lee Ford Mercury - Ely

A quorum being present, Chairman Price called the meeting to order. He stated the purpose of the meeting to be SJR 6 and AJR 10, both of which deal with estate tax. Because these bills would have to be passed by two sessions of the legislature, Chairman Price stated that some parts of these minutes would be done verbatim.

SJR 6 and AJR 10

Senator Ashworth: I am Senator Don W. Ashworth. I might just give you a little background in regard to my feeling of SJR 6 and I think, I haven't done it line by line, SJR 6 and your bill are identical. I might just explain for the benefit of the committee, my expertise basically is in the area of estate planning. I am a tax attorney. We do a lot of estate planning and a lot of corporate work. When I was in law school, I remember the dean of the law school explaining to me that we were actually the only state in the union that didn't have a pick up tax, an estate tax. I remember when I came into the state after graduating law school and began to practice, that I went to several of the people that were in the legislature at that time and called this to their attention which they said they were aware of and that it had been brought up years and years and years and never passed. I never really could understand why and so I got into the working of it for my own profession. Let me tell you some of the problems that came up and some of the questions that I had.

One of the big problems that I was confronted with was that we were working with people that basically had joint tenancy check and savings accounts not only in this state but in California, Utah, Arizona, Colorado and all of the basic western states that were contiguous with Nevada. The problem that was happening, especially in California, was in order to receive any of the money from a joint checking or savings account at that time, you had to get an inheritance tax waiver from that state, which you still do. In another words,

that account is taken over by the state and closed. You can't open it until you have a waiver from that state. Oregon has the same type of statute. This concerned me because a lot of my clients had their property in joint tenancy for one reason or another, although I guess parenthetical that is not the best way to hold property by any stretch of the imagination. Nevertheless, most people hold their property as joint tenancy, I can tell you that as a fact, in this state. So I had some concern about that, about the state stepping in. Keep in mind it is the state that steps in and closes these accounts; not the federal government. The federal government does not come in and close any joint tenancy accounts - it is the state. Another thing that concerned me was that as I was doing an estate for one lady that basically had taken out residency here in the State of Nevada, had moved here from Colorado, for a short period of time had moved into California and while there died there. I ran into this anomaly, she had executed a will in Colorado, she had lived in Colorado within the last 24 months. They have a statute in Colorado that if you have executed a will in that state within the last 24 months and have lived in the state within the last 24 months, you are presumed to be a resident of Colorado for inheritance tax and estate tax purposes. It is rebuttal presumption, I agree, that is the prima facie evidence that you have before you in Colorado. She moved into Nevada and that was to be her domicile and residence. She went into California where she died. In California she had some joint checking accounts and when she died there all of sudden we had a situation of where Colorado said they wanted their money. We said that she wasn't a resident of Colorado and they said that yes she was, because of this statute. "You are going to have to come into this state and show us that you can rebut that presumption." We couldn't afford it. The estate wasn't that big. California took exactly the same position. They said that she died in this state and because of her death in the state and because we had a joint checking account in that state, they stated we want an inheritance tax waiver from California. What we did for all intents and purposes, we ended up paying the inheritance tax or the estate tax - inheritance tax in Colorado and estate tax in California - both of them; but you only get one credit for federal estate tax purposes. So basically the estate did pay more money then it normally would have on a pick up tax.

1977, to bring you up to date, I came up here and testified in opposition to bills in this area. Since being here in the Senate this time, I have done tremendous amount of work in this area, I campaigned against the pick up tax in Las Vegas; but I want to go on record and I want you understand I have changed my position. I think there is a bonafide reason for it. The reason I have changed my position are threefold. One is if you look at the statute and I realize it is a technical statute, but if you look at it closely, you'll see that basically the lien provision that we have in here does not attach until the tax becomes due. So that means that when the individual dies, the state no longer has the authority to go out and to attach those joint accounts and say "listen we don't care if you're a suriving joint tenant". Let me just explain it, joint tenancy account means simply that you do not have to have it probated, you don't have to do anything with it. It means that

when you die, the first to die, everything goes to the survivor. That is by definition, that is what joint tenancy means. So what we are saying here is, that if you have a joint tenancy checking account, savings account, or whatever it is, the state cannot step in when the first joint tenant dies and say "okay, you can't touch the joint checking account until we get an inheritance waiver from you". This statute, in my estimation, professional estimation, does away with that problem. We cannot do that in this state, under this statute.

The second situation is that we have also provided in here that in the event another state, such as California or any other state in the United States, imposes an inheritance tax or an estate tax - for educational purposes, there is a difference between an inheritance tax and an estate tax. The inheritance tax is a tax against the beneficiary that is receiving the inheritance. The estate tax is a tax upon the estate itself and is paid by the estate. All we are talking about here is an estate tax that is taken from the estate itself and it is limited by two factors. One factor is that it is limited by the amount - we receive a credit on our federal estate tax return; the 706 estate tax return you are allowed a certain credit by the state if they want it. If you don't take it; you don't get it. And where do the dollars go? They do back to Uncle Sam. And that basically is all we are talking about here. We are just talking about the pick up tax and that is it. If a state that is contiguous to Nevada or anywhere, has an inheritance tax on an individual that dies here, what our statute provides is that you first take that credit that they have in that other state. Then if there is anything left over on the pick up, we'll take it; but if there is nothing left over, we don't get anything. So the estate would never be subject to more tax because the way this bill has been drafted, in my interpretation of that.

The third situation, and I feel in this regard, is that people say we just don't need to impose another tax upon people in this state. This is not the climate to do it. The people are fed up with tax. Let me say in all seriousness and I realize it is going to be an educational nightmare to be able to overcome this problem, there is no increase in tax because of this act. Not one cent in tax increase. What you are talking about here is a circumstance of where all you are saying is that instead of the whole pie now going to Uncle Sam in Washington, D.C. on the estate tax, we are going basically take 10% of that pie and that is going to stay right here in Nevada. That is all we are saying. We haven't increased the dollars, all we are saying that is instead of all of them going back there, a portion of them are going to stay right here. Whether this passes or not, the individual estates are going to be subject to the identical same tax. There will not be one cent increase because of this statute. I don't see Chris Zimmerman here. Chris is the head of Audit Division for 706 for Internal Revenue Service out of Reno. He testified before our committee and let me just give you a brief synopsis of what he said has transpired in the State of Nevada over the last two years - 1977 and 1978. In 1977, he said, that we lost a little over $7,000,000 because of estates

that were taxed in Nevada, with no other tax in any other state, that we sent back to Uncle Sam, that would have been right here in our coffers and we could have kept them right here. In 1978 the figure was a little over $2,000,000. He also pointed out that these estates that we were talking about were only 10. 10 in number is what created that much revenue. So it is not a situation that goes clear across the board and effects everybody.

Under the 1976 tax reform act which became effective in 1977, basically in a community property state such as Nevada, unless your estate is over $300,000 now you are not subject to either tax right now anyway. So there is a exemption right now for $300,000 worth of estate if you are married and have community property exemption. This actually goes up and by 1981 for an individual it will be up to about $175,000 per individual. Your estate value can be that much and of course then you have a husband and wife combination. This basically would effect very few people for all intents and purposes.

The question that I realize is raised by various individuals that speak out in opposition to this bill, which I have done in the past. The reason I have changed is because I think we have safeguards in the law right now the way this is drafted, that overcome the problems that I foresaw and that I experienced in my own practice.

I have here a copy which Andy Grose made available to me of the estate tax return for Arkansas. That is it. That is the full estate tax return for the State of Arkansas. One page. Here is the full estate tax return for Alaska. One page. That is all you are talking about. That is a one page document. (Copies of these are attached as Exhibits A and B.) Those of you that have seen a 706 know its not one page. A 706 is about 30 pages. These figures are pulled right off the 706. Now you say, the question that I had, what about audit. What about when you have an auditing procedure, are we going to have any auditing procedure in that state. The statute provides no. We will let the federal government do all the work. The seemy question that came to my mind was this, what about the possibility of the federal government then coming and saying "listen if you are going to take advantage of this pick up tax we are going to require you to do something". I asked Zimmerman that. I have tried to have Andy Grose contact the Internal Revenue in regard to that. There is nothing ever been said by the Treasury Department or by the Internal Revenue Service that in order to take that pick up tax you have to do something. In other words you have to enforce something, you have to audit, you have to take part of the burden. So that is not a corollary, it is not there. I am not saying that it couldn't be; but in my estimation it is not there and probably will never be there. That pick up tax has been there a long time and they allow the states to do it if they want to and then if they don't, they don't have to.

Throwing all those things aside, the greatest plus in my estimation of this bill right here is, is that it is not a normal statute. It is an amendment to the constitution. That means that it cannot be changed by us. We cannot sit here and change this statute. We cannot add to it next year and say "well let's take a little more than the pick up, let's take 2%". You know when the Internal Revenue

Code was enacted in 1916, they thought someday it might get as high as 10% and look what it is today -70%. We do not have that problem with this kind of legislation. The people are the only ones that can say they want it increased. We can't say that, we have no power. These bills have to be passed by the people and they become a part of the Constitution of the State of Nevada, and then they can only be changed by the people, not by the legislature.

Mr. Mann: I have been on this committee for three terms and for three terms we have heard the same arguments about this bill and you, Senator Ashworth, have presented the best argument in favor of this bill since I have been on this committee. You have covered all the bases except one and because of your qualifications I would like you to address it. The bankers are going to come up after you and say that the greatest reason that we should kill this is that we are going to scare all these rich people that don't understand taxes out of our state if we have this tax. Now as a person who makes his living on dealing with these kinds of people, planning their estates, I was wondering if you would mind commenting on this scare tactic that I know is going to follow?

Senator D. Ashworth: I should have brought that up because I was thinking about that and did have that in the back of my mind. Let me just say that one of the things that really bothers me about the whole area of taxation and is something that we are fighting right now, you are and we over on the Senate Taxation Committee, is what the people are saying by Question 6. I get so tired of people coming up and saying "well this is what it meant" and "that is what it meant" when this is something that I deal in every day. I basically think that the people do not understand all of the ramifications of what was going to happen with act. That is the way the taxing laws are. The taxing laws are so complicated, especially the federal taxing laws, that all you have to do is wait for a year and they have changed 180°. It is an amazing situation. In direct response to what Assemblyman Mann has said in regards to scaring people off, I don't believe that is so. I just can't believe that is really a cogent argument. Let me explain to you why. One of the greatest states for retirement right now is Florida. Florida does have a pick up tax. We can still advertise and we can still state without any qualification, we don't have an inheritance tax. With the passing of this act, we would still not have an inheritance tax. We can still state that we have a pick up tax but that does not increase your estate tax whatsoever. You can't tell me that somebody that comes into this state with a sizeable estate does not have adequate counsel and adequate representation, when he can go out to any type of tax attorney or CPA and find out that the bottom line, when he gets through is really 0. It has no adverse affects as far as the estate is concerned. For people to come in and say "listen, the only reason I came into this state was because you had no estate tax," that in my estimation is a bunch of baloney.

Mr. Craddock: Senator Ashworth, I like Mr. Mann have dealt with this thing for a number of times. Two years ago when this came up I was diverted by another action and was not in a position to express my opinions in the Tax Committee. Everytime that I have had an opportunity, I have voted in favor of this thing and I have probably

been voting in favor of it longer then your mind has been changed, so I can appreciate the things that you are saying. One of the things that has always amazed me is how we operate prostitution and gaming in the State of Nevada with nothing to high behind. It is open and above board. If the banking institution has to have something to hide behind in order to get people to invest their money in the State of Nevada, I think we have some problems somewhere else.

Senator D. Ashworth: One of the things that you have to realize is the great buffer that we have in this state and lets face it, the great buffer that we have here is no income tax either corporate or individual. That is the bottom line and that is why in my estimation in the next ten years you are going to see a great influx of people moving into this state and corporation moving into this state, for the simple reason that they are fed up with the basic taxing that we have in all the other 49 states. They are going to say that they are going to set up right here and that is what you are going to see. I do not think, in my professional opinion, that the passing of this bill is going to be of determint to that one iota. In fact, I think it is going to help us because now we have more dollars in our own coffers right here in the state, that we are not sending back to Uncle Sam and we don't have any strings attached when they finally bring it back here. You know every dollar. we send to Uncle Sam and we get back - we get back 50¢. Not only the 50¢ comes back but we get back all the strings attached besides. The greatest example of that, in my estimation, is the 55 mile per hour speed limit. Its like we talk over in the Senate, we have three bills over there that keeping going around and around. You know and I know, if we all had the intestinal fortitude we wouldn't care if our roads go belly up, we're willing to take care of them individually, we would all do away with the 55 mph. We are not willing to do that.

Mr. Craddock: My mind is made up on what I am going to do but I would like to make one more comment. I concur with you. The opposition we had two years ago is not here today but what we need to do is re-enforce our position for two years down the road.

Mr. Tanner: I agree with the comments that the Senator has made. People with large estates don't make the decision to come to Nevada based on whether we have an estate tax or don't have an estate tax. People with large estates are usually pretty astute people to begin with and they either have a pretty good depth in tax knowledge or have some very tough tax consultant sitting at their right arm. They know exactly their position in terms of tax problems statewise.

Senator D. Ashworth: Let me just voice one other statement on this. This is the year of tax as far as this state is concerned. How can we as representatives of this state, go back to our people and state "listen, we didn't pass the estate tax and therefore over the last two years we took $10,000,000 out of the coffers that would have been in there for you to spend in this state and we have sent it back to Washington, D.C., that wouldn't have cost anybody another cent." How can you justify that. I say that you can't justify that. There is no way you can go back to your people

and look them in the eye and say that from a tax vantage point we did every thing possible. You didn't. If we have dollars that are not going to cost them one cent and we are sending them to Washington, D.C., and they could stay right here, we are not doing our job in my estimation.

Mr. Mann: I am glad that Senator Ashworth is going to be back here in two years to fight this fight, because you don't see anybody here now but two years from now they are going to come out of the rafters. The bankers are. I am glad that Mr. Ashworth is going to be here to present the truth and take away the emotionalism.

Mr. Dini: Will it be simple to administrate this thing through the Tax Department.

Senator D. Ashworth: Andy Grose has done quite a bit of work in that area and from the information that he has given me and from the information that I have received from Chris Zimmerman of Internal Revenue, if the expenditure was $50,000 I would think it would be way on the top side of what we are talking about. I cannot see a year go by were we are not at least pulling a million or two million dollars for a $50,000 expenditure. Once again you have to understand my feeling, I have been around IRS and Treasury Department enough to know that we do not want to create another monster in this state. That is the last think that I want to do. That is why I feel comfortable with the bill because it is in the constitution. If this was not in the constitution I can guarantee you that I wouldn't be in here talking about it. I know that once we got the floodgate open, then we know what we do. We just keep etching it away and in 10 years we look at the bill that you and I enacted now and we're no longer here and all of a sudden we are talking about a 20% tax going to the state and that is not what we want. I am not talking about that. I am talking about just diverting funds that are going to Uncle Sam now and leaving them right here in this state. Of the five pick up states, all but one administer this tax with the equivalent of one person or less. I am sure that we wouldn't need anymore then that. Florida does auditing, not for an amount but for a decidist of the estate. Even their collection costs is a ratio of 344:1. The cost is minimal.

Mr. Dini: I have run a poll on this the last three elections in my district and about 82% are opposed to it.

Senator D. Ashworth: Let explain why. The reason why is that people become confused and they can't understand what the pick up tax is. It is just that simple. They don't understand that we are not imposing an inheritance tax and all they have experienced in another state, like California or one of the other 49 states, is that that they didn't like what happened and they don't want anything set. They don't know that we have safeguard that it is in the constitution. They don't know that it doesn't increase their tax burden one dollar and so all they can see is what the State of Nevada is doing is starting small like we did with the Treasury and the Internal Revenue Service back in 1916 with the 13th Amendment and look what we have now. The biggest bureaucracy in the world.

Mr. Mann: I had the same problem. I made the mistake of putting in on a questionnaire that I had. Everyone that answered the question against it, I went to their house and after I explained to them the difference and the fact that in my district not one person qualified to get it anyway they were in support of it. It is like throwing money outside and letting it blow away. That money is going for foreign aid and all this other garbage out of this country. We are giving it to Uncle Sam to play with. Once the people understand, I think they are going to go for it. If they don't, at least we have met our obligations by explaining or trying to, that here is some free money that we have been giving to the feds and we shouldn't be.

Senator D. Ashworth: To point that out, I have changed. I have done a 180° and the reason I have done it because I can see now that we have got the safeguards. If we didn't have it in the constitution first of all I wouldn't even touch it and also have the joint tenancy that we talked about and we have the situation that if another state does, I don't want the individual in this state to pay one dollar more on estate tax then he would anywhere else.

John Gianotti, Harrah's: Reluctantly appearing before this committee because I appeared when I first came into the legislature in 1969 as a lobbyist. That was the first time that I had heard about the pick up tax. In 1971 I appeared, 1973, 1975, and 1979 and since that time we haven't had it passed. Senator Ashworth got me so steamed up I had to come forward. If you haven't had an opportunity to read this little periodical from Professor Dahl of the University of Nevada, I think you ought to take a look at this. (A copy of The Truth about Death and Taxes in Nevada, by Albin J. Dahl, is attached to these minutes as Exhibit C.) This will allay some of the suspicions that you have in regards to the people coming into this state. I am in favor of the passage of this measure and I am going to read to you my March 1971 notes that I presented before the Taxation Committee. It is one of the first presentations that I made. What I said then holds true today.

It seems to me to be very clear that passage of this measure will simply allow Nevadans to take advantage of a substantial credit allowed by the federal government that is rightfully Nevadans without taking one dollar out of our pockets. We all have an obligation in this legislature to do all we can to explore sources of revenues that place no more burdens on the people of Nevada. You should look to this kind of action. I went on to say that it would be my desire and it only makes good sense that this credit be returned to the Nevadans for use by Nevadans. Loss of revenues of this magnitude cannot be continued to be over looked. These were just notes that I made in 1971 and I have carried them with me and I have supported it every session and I will submit to you that you will not see any of the bankers here because the finals are not up for grabs right now, but you will see them next session. I will be here then I hope.

Mr. Mann: For the record, I would like to have the fact that Mr. Harrah's estate would have fallen under this kind of thing, a very wealthy man, and I think his affection for Nevada is renowned.

John Cockle, Nevada Bankers Association, Trust Committee: I would like to affirm the truth of everything that Mr. Ashworth told you today. That isn't the point of which we have opposed this. That isn't the point on which we have attempted, as Mr. Craddock or Mr. Mann has said, to defeat this legislation in prior session. At least, I have not subscribed to those thoughts. I have never told anyone that this would create a big bureaucracy nor that it would increase their estate taxes nor that it would lead to freezing of joint accounts. I don't believe it and they're absolutely correct in telling you that. What I think and what I have told people before and I tell you gentlemen, is that rather then being a non negative, this adamant position of Nevada against any death taxes of any sort is a weapon that has brought people into our state. In talking to practioners such as Mr. Ashworth, concerning this, they have cited to me, one at lunch a week or ten days ago, a gentlemen who is coming in from California who is building a 20,000 sq. foot plant in the Carson or Gardernville area and he said to this attorney, who was advising him, what taxes do you have. Well, says the attorney, I can explain that better by saying what taxes we don't have and he started down the list. And it is an impressive list, as you all know.

Finally, I won't prolong this because you have heard it many many times and I think you understand it well, this position is subscribed by all of the bank trust departments. We aren't idiots, we know what attracts people to this state and what might concern them. The fact that Nevada will not, to date at least, accept any death taxes means that Nevada is less likely in the future then other states to impose an inheritance tax even by the will of the people.

One of the my collegues closes his letter to me, authorizing me to speak before representing all of the banks not just Nevada National Bank, by saying:

> "I am opposed to estate taxes, inheritance taxes and other forms of death taxation, because they unfairly punish those who have had the ability to manage their affairs and accumulate what government terms 'excess wealth'. Abusives may exist, but the majority of the so called wealth have been paying their fair share and more for a long time. If legislators are worried about redistribution, they shouldn't be, there are more then enough improvident spouses, sons and daughters among the survivors to assure equalization of wealth eventually. I simply prefer to let it happen in that manner then having the government tell me what is good and bad."

I think that represents the point of view of many of the people who move to Nevada and many of the people who pay this sort of tax.

Mr. Craddock: You said that Nevada has no death taxes of any sort. We have a death tax of a sort that is imposed upon us by federal law. All we seek to do is to recover that tax which is imposed by federal.

Mr. Cockle: I have associated myself with those comments previously and I agree with you.

Mr. Craddock: Do you still insist upon saying that the State of Nevada has no death tax of any sort.

Mr. Cockle: I do sir and it is the only state in the union that imposes no death tax of any sort.

Mr. Craddock: How can we agree with that, how can we say that we have no death tax of any sort and immediately prior to that say that we do have death tax of sorts that is imposed by federal law.

Mr. Cockle: We are all citizens of the United States as well and they do impose a death tax. There is no question of that.

Mr. Mann: I am so thrilled that you read that letter. Because that letter points out that you guys may not be idiots, but you don't understand what this is all about. With that very letter you just said, his objections was not that it was going to the federal government but he thinks its an additional tax, by his own words.

Mr. Cockle: Oh, no sir.

Mr. Mann: Read the letter again and read it very closely because that is what he is indicating. There is a banker that doesn't understand what the thing does.

Mr. Cockle: Read the letter again.

Mr. Mann: Okay, now you explain to me how this estate tax meets that condition.

Mr. Cockle: That's not what he is saying.

Mr. Mann: But that is what he is saying.

Mr. Cockle: I know the gentleman very well and I know that you are incorrect in assuming that he thinks this is going to increase anyone's tax. As matter of fact

Mr. Mann: If that is you best argument and you said that that paraphrases the whole banking industry's argument, then I think that it is about time the banking industry start looking out after the needs of Nevada and stop being self serving, because that is exactly what you are being. I don't buy and never have brought the idea that we are keeping people out of this state if we have a death tax. Florida, as pointed out by Senator Ashworth, is the leading retirement state in this nation and it is not costing them money. If you guys are doing your job when they bring it up then

you ought to explain it to them.

Mr. Cockle: We do sir.

Mr. Price: I have been sitting here going through some fiscal notes. Do you disagree the $9,000,000 figure.

Mr. Cockle: There is no way that we know whether it is correct or incorrect because it comes from records of the IRS to which we have no access.

Mr. Price: Do you have any reason to doubt it.

Mr. Cockle: No sir, I have no reason to doubt it.

Mr. Price: I would like to point out that we are sitting on 5 tax bills that would give breaks to people for eyeglasses, for prosthetic devises, widowers, additional benefits to senior citizens and veterans. The fiscal notes on all of these only comes for a two-year period to roughly $5,200,000 and yet we are sitting on them because we are trying to figure how to cut property taxes and you are saying that you would like to bet that $9,000,000 on the fact that there may be some people that wouldn't come here. I am not sure where else there is that they are suppose to go because I understand that all the other states already have at least this pick up tax.

Mr. Cockle: Yes sir that is correct.

Mr. Price: I have to tell I don't understand what the logic of what you just said is then. The bankers seem anxious to hold off these kinds of things but they don't seem to anxious to raise the interest rates every chance they get - no relation. There is no answer required, that is just my personal opinion.

Mr. Cockle: I would like to make one final comment. I said at the beginning that I do not deny anything that you have said that Don Ashworth has said, and I have respect for him, nor that has been said by any member of the committee. What I am saying is and I say it again, that by being the sole state that does not have a pick up tax we gain a degree of notoriety that those people moving in believe we are more adamant against death taxes then any other state. They are inclined to take that into consideration in choosing their domicile.

Mr. Tanner: I really cannot understand that at all. People who are in that financial position are just not that naive.

Mr. Cockle: I didn't say that they thought it was an advantage.

Mr. Tanner: It does seem naive if they think coming to Nevada with a pick up tax is this kind of a problem.

Mr. Cockle: I don't think that they do. I agree that the income tax is far more important to them. What I do think is that they

say here is state which I can rely on. They are not going to die next year. Here is a state that is not going to take advantage of me once I am a member of the state.

Mr. Tanner: People in that financial status aren't going to ask that question. They are in a position to know that coming into Nevada with a pick up tax will not effect 30¢.

Mr. Cockle: That is true but they are also in a position to know that laborious as it may be, the Nevada constitution can be amended, witness the present attempt. Therefore, they look down the road and say what state is it more likely will be free of death taxes when I die, which may be 20 years from then.

Mr. Tanner: I really think that that is awful weak position to take.

Mr. Cockle: Maybe it is the only we have.

Mr. Rusk: I have given this a lot of thought and like Mr. Ashworth I came to quite a different take after I had a chance to study it. The recent issue, March 15, of FORBES Magazine has a little one page item entitled "The Sunny Money Game" and it has to do with Florida and I would like to read a few paragraphs of it. (This article is attached to these minutes as Exhibit D.)

This article just puts it into a nutshell as to what could possibly stem the tide of wealthy that have been come and will be coming into Nevada if we implement this law. I agree and the only part that I have any emphathy for from the banker's point of view is that it can be changed to include an additional tax in the future. There is no question that that is true. You also have pointed out that it is extremely difficult to do it particularly when it requires an constitutional amendment. If there ever was a time that we are duty bound to pick up any taxes that we can and this is a freebie, now is the time.

Mr. Bergevin: I really have to take exception to the remarks that we are going to take advantage of these people.

Mr. Cockle: I didn't say that. I had no such intention to say that there was any such motive but people are suspicious of that kind of motive.

Mr. Bergevin: When you say that people come in here because there isn't any tax is that a supposition or is that a fact.

Mr. Cockle: No Nevada imposed death tax - They ask us that before they move here.

Mr. Bergevin: Do you believe in Mr. Ashworth's statement that you could still advertise that this state has no estate or inheritance tax, because we effectively do not.

Mr. Cockle: I would not so advertise. I would say we have no increased death taxes. Because people don't really - how many people

here understand really and truly, before our discussion today, the difference between inheritance and estate tax. I am sure that some of you do. You have heard these discussions before, but ask your friends - they don't. They don't know the difference and they lump them all into death taxes and if you were to say that Nevada has no increase in federal death tax that would be a perfectly true statement.

Mr. Marvel: Perhaps you are working it from the wrong end. I am sure that most of us feel that paying death taxes, inheritance tax or estate tax is repugnant. You should be working from Washington on down instead of from this end.

Mr. Cockle: I just sent a wire before coming down here to our two Senators concerning federal legislation on carry over basis. We are doing exactly what you suggest.

Mr. Mann: What I would like to see you do and what would show a great deal of responsibility on the bankers' part, is exactly what Mr. Rusk read. The Florida bankers I have respect for. Look at what they have done. They are saying that we still have no estate tax, what we have is a sponge tax. Why can't Nevada bankers do the same thing, because I know that two years from now you're going to come back but we have your staunchest supported. You are going to spend $200,000 - $300,000 trying to kill this thing based on the peoples lack of understanding. What should be happening is that you should be out there fighting with us to get this on and then do what Florida has done and use it to their advantage. They still say that there is no estate tax because there isn't. It is a word game. If you bankers will stop fighting this thing and help us do the reasonable thing and pick up these $2,000,000 or $3,000,000 a year, so we can use this money for other things, we wouldn't have a problem, because you guys have within your power to get this thing on. It is a simple matter of fact that every argument that you use is wrong and you know wrong, but being a conservative banking group you don't want to change it. All I am saying is to take the lead from your collegues in Florida, because they handle it well and let Nevada handle it well. I don't buy the logic that we need to have this as a selling point. You guys can still say that there is no estate tax.

Mr. Craddock: This is my fourth session. Mr. Gianotti has indicated to me over and over that Mr. Harrah said that he would rather the people of the State of Nevada would have his money then any other group in existence simply because they helped him make it.

Mr. Dini: I want to go into mechanics. According to Senator Ashworth's testimony they have plugged up most of his misconceptions and loop-holes that may have existed in previous resolutions. What is you sentiment on that.

Mr. Cockle: I agree entirely with what Senator Ashworth said.

Mr. Dini: Is there anything else that you feel needs to be added in here.

Mr. Cockle: I can't think of any that totally refers to this bill. There was a bill presented in the Senate which was not successful, SJR 4, which coupled it with a constitutional prohibition against a income tax. There are people believe that that would be preferable; but there are also people who think that it would not be preferable. I think as a straight estate tax measure, that this is, as Senator Ashworth has said, has no negatives - none.

Mr. Tanner: If I had any problems at all with this bill, I would be fighting it tooth and nail.

Mr. Price: Would you like to lobby your collegues and see if they would like to change their position.

Mr. Cockle: We have discussed it many times.

Dr. Atkinson, University of Nevada, Reno: I am in favor of this. Some of my thoughts come out of what we did on the Local Government Finance Study Committee over the last two years, working for Don Mello. We recommended to that committee that Nevada should join Alabama, Alaska, Arkansas and Georgia in providing for a estate tax not to exceed the credit allowed by the federal government. The question is not whether you will impose the estate tax but who will receive the revenues. We can argue the rationale for an estate tax if you would care, but I will skip that. Basically, I would like to make two points. One is that the thing that we noticed in our study is that local taxes and state taxes in this state really have a cap on them. They have not grown any faster then inflation or population in the State of Nevada for local governments particularly. What is happening is that the needs of these governments has increased and the shortfall has been made up by federal revenue. One of the things that we find out in talking to local governments that this federal revenue has many strings attached to it that cause a lot of problems for local government. Here is a revenue source that we recommended to the committee that has no strings at all attached to it. We can only take the figures provided by IRS, roughly $3,000,000 a year that would be coming in. This is a place that you could help make up for some of the tax reform that is going on now without having to turn to the federal government with strings attached money.

One other quick point is that in the article by Professor Dahl, he notes that the administration is very inexpensive for this kind of a tax. Everybody has made that point already. The final point is that the tax image point is misleading. My point is that tax advisor should be providing the correct information to the people that they are advising. Of all people, trust departments and tax attorneys should be telling the people what the true facts are. If you were to pass this tax, you will not be passing a state tax so there would be no increase.

For those reasons, we did recommend to our Local Government Finance Committee that this pick up tax be imposed as it goes through the constitutional process.

Mr. Marvel moved for "do pass" recommendation of SJR 6 and Mr. Tanner seconded the motion. The motion passed unanimously with Mr. Wesie and Mr. Chaney absent.

AB 454

Mr. Mann stated that a constituent of his had requested this bill. He stated what the bill was talking about is when you go and buy a new car and have a trade in. Under the present law you are paying sales tax on the full price without the trade-in price deducted. You have already paid sales tax on the trade-in when you purchased it. This is double taxation. In this bill the trade-in portion would not be taxed.

Lloyd R. Lee, E. Lee Ford Mercury, stated that Utah does give the credit on the trade-in. He cited a situation that they had where he had a customer trade in several cars within a few month period and had to pay sales tax on the full price of the new car each time.

Mr. Lee stated that he had talked with a member of the Assembly when this act was enacted and that he had stated that it had not been their intention to have this double taxation. When they enacted the law they had not foreseen this kind of a problem.

Mr. Tanner inquired if this bill were to be passed, did Mr. Lee see any chance for abuse. Mr. Lee stated that they presently have to itemize everything about the sale so that he did not believe there was much chance for abuse. This would help in that it would lower the payments on the new car.

Mr. Craddock inquired whether he would be willing to guarantee the sales tax on the trade-in value of the car. Mr. Lee stated that he would not because if the trade-in car did not sell well, they may have to really discount it to get rid of it.

Mr. Mann stated that he did not really see any problem with this in that they are not going to give a large trade-in allowance unless the other car is marked way up so that the sales tax would still be received. He added that he felt this really was an unfair taxation method and that when it was enacted nobody realized that it would mean this. He also pointed out that he knew of many people who are going to Utah and buying their car for this very reason.

Mr. Nickson pointed out that if the people pay the 5% Utah tax we would give them credit. If they took the car on a drive away permit they would have to pay the 3 1/2% Nevada tax but if they license it in Utah they would not. He added that the problem they are having in this area is that people are going to Oregon where they have no sales tax and keeping the Oregon plates.

Mr. Marvel stated that this was true for farm equipment in Idaho where all farm equipment is exempt.

Mr. Price stated that Mr. Marvel, Mr. Bergevin, Mr. Weise and Mr. Rusk and himself had met with Frank Daykin and had gone through the whole AB 616, tax bill. Based on the work of Mr. Miles and Mr. Bergevin, they were able to cut the bill down to about 1/3 the size it presently was. One of the things that they wanted to make sure was that the Fair and Recreation Boards were excluded from it. A question came during their discussion regarding introducing a constitution amendment to reduce the $5.00 limit to $3.64 to show that there is a real intent on the part of the legislature to reduce the possible tax load on the taxpayer. This is one of the things that the proponents of Question 6 will be using against the tax bill.

Mr. Dini stated that he would have difficulty with this in that this would lock in the rate. He stated that they do not know what is coming "down the road" and what would happen to the state if this changed drastically.

Mr. Rusk stated that that is a very responsible position but when it is faced off against Question 6 that all the work will do no good unless it is plugged into a constitutional amendment in order to give the work credibility.

Mr. Mann stated that Question 6 people would use the argument of credibility against the bill no matter what the committee does. He added that he felt that it was not possible to have to wait 7-8 years in the case of emergencies to change this kind of thing. The people are going to have to do their job and elect the kind of legislators that they want and can trust.

Mr. Rusk stated that at the present time he felt it was too much to ask the people to trust their elected officials.

Mr. Bergevin stated that he felt at this point and time it was important to keep some options open and that putting this in the constitution could do more damage then good. He added that they are depending an awful lot on exchange of state dollars for property tax relief and two years from now it is possible that those dollars won't be there.

Mr. Tanner stated that he felt that they should perhaps include the sales tax on food proposal in the bill as a marketing tool against Question 6.

It was discussed that perhaps they should reconsider and that perhaps this should be included in the main tax package. It was pointed out that perhaps there was some misunderstanding as to why this part is not included in the tax bill.

Mr. Craddock stated that he felt that there may be some problems and situations down the road where they may need a rate higher then the $3.64 and that he felt they should not get carried away with that.

Mr. Dini stated that he felt that the committee had credibility and the legislature is trying to solve the problem of taxes. He added that if this is not credible to the voters then they should be the ones to vote in Question 6 and have to live with it.

It was decided that the majority of the committee was not in favor of a constitutional amendment on this issue.

Chairman Price stated that he would hope that the re-write of the bill would be back in a few days and that he would schedule a work session for the next day to discuss some the issues in the bill.

As there was no further business for this meeting, Chairman Price adjourned the meeting.

Respectfully submitted,

Sandra Gagnier

Sandra Gagnier
Assembly Attache

60TH NEVADA LEGISLATURE

ASSEMBLY TAXATION COMMITTEE
LEGISLATIVE ACTION

Date: March 26, 1979

SUBJECT: SJR 6, Proposes to amend Nevada Constitution to allow imposition of estate tax not greater than credit allowable under federal law.

MOTION:

Do Pass XX Amend ____ Indefinitely Postpone ____ Reconsider ____

Moved By: Mr. Marvel Seconded by: Mr. Tanner

AMENDMENT: ____

Moved by: ____ Seconded by: ____

AMENDMENT: ____

Moved by: ____ Seconded by: ____

	MOTION		AMEND		AMEND	
VOTE:	Yes	No	Yes	No	Yes	No
Price	X					
Bergevin	X					
Chaney	ABSENT					
Coulter	X					
Craddock	X					
Dini	X					
Mann	X					
Marvel	X					
Rusk	X					
Tanner	X					
Weise	ABSENT					

TALLY:

ORIGINAL MOTION: Passed XX Defeated ____ Withdrawn ____

AMENDED & PASSED ____ AMENDED & DEFEATED ____

AMENDED & PASSED ____ AMENDED & DEFEATED ____

Attached to Minutes March 26, 1979

ARKANSAS

Arkansas imposes an estate tax on estates of resident and nonresident decedents. Nonresident decedents are taxed on real, tangible and intangible property located in the State of Arkansas. Estates of resident decedents include all real and tangible property located in the State of Arkansas and all intangible property, wherever situated.

Arkansas first enacted an inheritance tax in 1901. The law can be found in Arkansas Statutes of 1947: Title 63, Chapter 1; Title 67, Chapter 5, and Title 84, Chapter 40.

The tax imposed on decedents' estates is equal to the maximum credit allowable under the Federal estate tax law. The maximum credit will be payable to Arkansas in the proportion that the decedent's property within the jurisdiction of the state bears to his entire estate. Any portion of the maximum credit not picked up by other states in which the decedent has property will also be payable on the Arkansas estate tax.

Arkansas follows the Federal law for the determination of a decedent's gross estate and allowable deductions and exemptions.

Arkansas does not have a gift tax or inheritance tax.

EXHIBIT A

ARKANSAS ESTATE TAX

INSTRUCTIONS

1. Under the provisions of Act 294 of the Acts of 1945 and Act 388 of the Acts of the 1947 General Assembly of Arkansas, no estate tax is due this state unless and until the taxable estate exceeds in value the sum of $100,000.00. The amount of tax due the State of Arkansas on such estates is equal to the Federal Credit Allowable for State Death Taxes as determined by Table C of the United States Estate Tax Return. The amount thus determined is the Arkansas Estate Tax. This tax is Item 8 on the Arkansas Estate Tax Return form.

2. In the case of the estate of a non-resident or a resident who dies having real property and/or tangible personal property located in a state other than Arkansas, the Arkansas tax due shall be a proportionate part of the Federal Credit Allowable for State Death Taxes in the same proportion which the amount of Arkansas property bears to the Total Estate.

3. However, in all instances of estates required to file a Federal Return with assets, totally or in part in Arkansas, an Arkansas Estate Tax Return shall be filed with the Director of the Department of Finance and Administration, at the same time a Federal Estate Tax Return is filed with the Commissioner of Internal Revenue of the United States. A copy of the Federal Return may be filed in lieu of the State return herein specified.

4. No Estate Tax Return need be filed with the Director of the Department of Finance and Administration of this State unless a Federal Estate Tax Return is required to be filed under the Federal Law. If a request is made for a release for real estate, an Arkansas Estate Tax Return will be required.

5. Upon payment to the Director by the taxpayer (executor or administrator of the estate) the amount due this state, there shall be issued to said taxpayer a Certificate of such payment in accordance with the requirements of the Federal Agents for obtaining the proper credit on said Federal tax.

6. Interest accrues at the rate of 6% per annum (½ of 1% per month or fraction thereof) for Arkansas unpaid Estate Tax beginning nine (9) months from date of death.

7. Arkansas has no inheritance or gift tax.

Form AY-321

STATE OF ARKANSAS

Estate Tax Return

EXHIBIT A

Act No. 388 of 1947, the Arkansas Estate Tax Act, levies an Estate Tax in Arkansas equal to the amount of the Federal Credit for State Death Taxes. When a Federal Estate Tax return is required to be filed an Arkansas Estate Tax Return should be filed, giving the values thereof as given in the Federal Estate Tax Return. A copy of the Federal Return will be acceptable in lieu of this return, and should be filed with the Department of Finance and Administration, State of Arkansas, at the same time a return is filed with the Federal Authorities.

Decedent's first name and middle initial	Decedent's last name	Date of death

Residence (domicile) at time of death	Decedent's social security number

Executors, administrators (including ancillary executors and administrators), or persons in possession of property

Name	Designation	Address (Number and street, city, State, and ZIP code)

4. Total value of real estate in Arkansas as valued in Federal Report ..... $_____

5. Total value of real estate in other states ..... $_____

(a) Give name of State and value in each state: _____

(Give same value as in Federal Return) _____

_____

_____

6. Total value of personal property of every kind in Arkansas as valued in Federal Report ..... $_____

7. Total value of personalty in other states ..... $_____

(a) Give name of State and value in each state: _____

(Give same value as in Federal Return) _____

_____

_____

8. Credit Allowable for State Death Tax as per Federal Return ..... $_____

I herby represent the above information as true and correct to the best of my knowledge and belief, this the _____ day of _____, 19_____.

_____

Administrator ( ) Executor ( ) Legal Representative ( )

MAIL TO:

Department of Finance & Administration
Estate Tax
P. O. Box 3628
Little Rock, Arkansas 72203

ADC-CDC-77

EXHIBIT B

PRELIMINARY NOTICE AND REPORT

TO: ESTATE TAX, DEPARTMENT OF REVENUE, JUNEAU, ALASKA 99801

IN COMPLIANCE WITH THE PROVISIONS OF THE ESTATE TAX LAW OF THE STATE OF ALASKA, CHAPTER 31, ALASKA STATUTES, NOTICE IS HEREBY GIVEN OF THE DEATH OF

Decedent's first name and middle initial	Decedent's last name	Date of death

Residence (domicile) at time of death

Decedent owned real property in Alaska

Name, Title, and address of executor, administrator, or person in possession of decedent's property

Name and address of attorney for estate

If estate is being administered give title and location of court and date of appointment as representative

Is this estate subject to a Federal Estate Tax Return? If "Yes," fill in the following information regarding assets.
The decedent left an Estate both within and without the State of Alaska consisting of the following mentioned items of property, the amount set opposite each being the estimated value thereof (show gross rather than net value. Deductions for debts, liens, ets., will be reported only in a complete return in the event one is required to be filed.)

Real Estate in Alaska (Give legal description of all real property in which decedent owned an interest)	
(Continue on separate schedule if necessary)	$
Tangible personal property in Alaska (Copy Inventory attached)	
All other Property Wherver Situate:	
Real Estate not in Alaska	
Stock, bonds, Mortgages, notes, and cash	
Insurance on decedent's life and Annuities	
All other property including, but not limited to, jointly owned property (other than real estate) and Powers of Appointment	
Transfers during decedent's life	
TOTAL	$

I, _____ hereby acknowledge under oath that I have
(name of Executor as defined on the reverse side)

read the foregoing report and that the statements therein contained are true and that the same correctly disclose all of the assets of the decedent named therein wherever located to the best of my knowledge and belief.

(Date) (Signature) (Title)

State of

Sworn to and subscribed before me this the ..... day of ..... 19 ..... in this State the aforesaid.

Notary Public

WARNING! Failure to complete all blank spaces in the above form will result in delaying the issuance of the proper certificate. If inapplicable or none show "NONE."

TWO DOLLAR AND FIFTY CENTS ($2.50) fee required for the issuance of a non-taxable certificate.

04-724
(12/70)

MAIL TO: Estate Tax, Department of Revenue
Alaska Office Building
Pouch SA
Juneau, Alaska 99801
with a fee of TWO DOLLARS AND FIFTY CENTS ($2.50)

EXHIBIT B

INSTRUCTIONS

THIS FORM TO BE FILED:

For All Resident Estates for the Purpose of Determining Estate Tax Liability.

For All Non-Resident Estates Owning Real Estate and Tangible Personal Property in Alaska.

To be Filed by Domiciliary Executors or Administrators and Acknowledged Before a Notary Public.

If the Estate is Returnable to the Federal Government COPY OF FEDERAL RETURN, FORM 706 Should Be Filed with This Office on or Before Fifteen Months After Date of Death.

If the Estate is Returnable to the Federal Government and a Federal Estate Tax Return, Form 706, is to be filed the Federal Form 704 will be accepted in lieu of this form.

1. Any person required to file notice and who fails to do so is liable to a fine of not more than $10,000.00, and one who knowingly makes any false statements in any notice is liable to a fine of not more than $5,000.00 or imprisonment not exceeding one year, or both.

2. This notice should be made within two months after appointment of the executor or administrator of the estate of every resident and non-resident of Alaska whose estate included real estate regardless of the value of the estate. If no executor or administrator is appointed the person in actual or constructive possession of the decedent's property should make this report within two months after the death of the decedent.

3. In case the estate of either a resident or non-resident within and without the State of Alaska is subject to a Federal Return the Executor or Administrator is required to make and file in addition to this notice a complete return which will describe the property of the decedent item by item and show various deductions for debts, etc.

4. Copy of Federal Return, Form 706, to be filed on or before FIFTEEN MONTHS AFTER DATE OF DEATH.

5. In every case where this notice is required to be made, a receipt for the amount of the tax paid (if tax is found due the State of Alaska) or a non-taxable certificate (if it is found no tax is due the State of Alaska) is required to be filed with the Superior Court in the State of Alaska in which a domiciliary or ancillary administration or probate proceedings is pending before he is authorized to grant a discharge in the estate, and may be filed for record in the office of the Clerk of the Superior Court.

6. A fee of $2.50 is charged for a non-taxable certificate.

7. In case decedent was a resident of Alaska and left an estate not subject to Federal return and it is found necessary or desirable to show the estate not liable to Alaska for estate tax, the executor or administrator may obtain a non-tax certificate by filing this notice and paying the fee of $2.50.

8. Every estate should secure non-tax certificate where there is real estate, to clear title, regardless of gross value of estate.

9. In the case of a resident of the State of Alaska, the amount of the tax to be paid, if any, is the amount of credit allowed by the Federal Government on Account of taxes paid to a State, or the balance of such credit amount which is not used in payment of constitutionally valid estate, inheritance legacy and succession taxes of another State on account of property of the decedent located there. The total tax to be paid Alaska and other States and the Federal Government is the same now as it would have been had Alaska not imposed this tax.

10. In case of a non-resident of Alaska, the amount of tax to be paid, if any, is the proportion of the allowable credit from Federal Tax that the gross value of the Alaska property bears to the entire gross estate wherever situate.

Gross estate, — The gross estate of decedents dying on or after July 1, 1964, as defined in section 2031 (a) of the Internal Revenue Code, comprises property of the decedent wherever situated. The gross estate includes —

1. Property in which the decedent at the time of his death had any beneficial interest.

2. Interest of surviving spouse, as dower, curtesy, or estate in lieu thereof.

3. Property transferred by the decedent during his life by trust or otherwise (other than by bona fide sale for an adequate and full consideration in money or money's worth) as follows: (1) Transfers made in contemplation of death if made within 3 years prior to death; (2) transfers intended to take effect in possession or enjoyment at or after the decedent's death; (3) transfers under which the decedent reserved or retained (in whole or in part) the use, possession, rents, or other income, or enjoyment of the transferred property, for his life, or for a period not ascertainable without reference to his death, or for a period of such duration as to evidence an intention that it should extend to his death; including also the reservation or retention of the use, possession, rents, or other income, the actual enjoyment of which was to await the termination of a transferred precedent interest or estate; (4) transfers under which the decedent retained the right either alone or in conjunction with another person or persons, to designate who should possess or enjoy the property or the income thereform; and (5) transfers under which the enjoyment of the transferred property was subject at decedent's death to a change through the exercise, either by the decedent alone or in conjunction with another person or persons, of a power to alter, amend, revoke, or terminate, or where such a power was relinquished in contemplation of decedent's death.

4. Annuities received by any beneficiary by reason of surviving the decedent.

5. Property owned jointly or in tenancy by the entirety, with right of survivorship.

6. Property subject to a general power of appointment, including property with respect to which the decedent exercised or released the power during his lifetime.

7. Insurance upon the life of the decedent, including insurance receivable by beneficiaries other than the estate.

NON-RESIDENT ALIENS include only property having a tax situs in the United States.

Section 43.31.420. — Executor — means the executor, administrator or curator of the decedent or if there is no executor administrator or curator appointed, qualified and acting, then any person who is in the actual or constructive possession of any property included in the gross estate of the decedent.

EXHIBIT C

The Truth About Death and Taxes in Nevada

*by Albin J. Dahl**

> The gospel of wealth . . . calls upon the millionaire to sell all that he hath and give it in the highest and best form to the poor by administering his estate himself for the good of his fellows before he is called upon to lie down and rest upon the bosom of Mother Earth. So doing, he will approach his end no longer the ignoble hoarder of useless millions; poor, very poor indeed, in money, but rich, very rich, twenty times a millionaire still, in the affection, gratitude, and admiration of his fellow-men . . . because he has lived, perhaps one small part of the great world has been bettered just a little.[1]

Scope and Purpose

After reviewing the rationale and history of death taxes and the opportunity for sharing Federal estate tax revenue, the author considers the proposed amendment to the Nevada Constitution to permit the Legislature to impose a "pick up Federal revenue" estate tax. The purpose is to show that provision for this kind of a limited scope estate tax would be prudent fiscal management and in no way a deterrent to Nevada residency of wealthy persons.

Characteristics and Rationale of Death Taxes

An estate tax is levied on the net asset value of the estate of a decedent. Funds and value of property available for distribution to heirs are reduced by the amount of the estate tax liability. Inheritance taxes are assessed to heirs of a decedent's estate and the schedule of rates varies directly with the remoteness of the relationship (if any) of the heir to the decedent. Thus the schedule of inheritance tax rates payable by a son or daughter is below that payable by a nephew or neice of the decedent. The highest rates are payable by beneficiaries ("strangers") having no blood relationship to the decedent. The distinction between an *estate* and an *inheritance* tax becomes blurred if the code provides for estate tax exemptions which vary according to the relationship of the heirs to whom net proceeds or title to property is to be transferred. For example, the Federal estate tax code and that of several states grant a sizeable exemption from tax liability applicable to property to be transferred to a surviving spouse. By contrast, at their discretion, lawmakers may provide for full taxation (without any exclusion) of estate property destined for transfer to a stranger or to a distant relative. Because there is no hard line separating *estate* from inheritance taxes, the broader term *death taxes* is often an appropriate substitute phrase.

Generations ago scholars rationalized death taxes as a substitute for the decedent's obligation for helping needy people, inasmuch as provision for social welfare is essentially a responsibility of the state.[2] This rationale implies that the decedent's charitable contributions during his or her lifetime were inadequate, measured by some imaginary standard, and that wealth was accumulated. Death taxes make the state one of the beneficiaries of decedents who leave tangible wealth and this was entirely just and proper, according to this "social welfare" rationale.

In modern literature on "death and taxes", scholars have noted that the estate tax has a light incidence. Along this line of thought, it is pointed out that death taxes impose less disincentive to work than is imposed by the income tax and that the adverse effect of death taxes on risk-bearing and allocation of economic resources is minimal.[3]

Death and gift tax rates, like those applicable to income, are "progressive", i.e., rates increase with dollar value subject to taxation. The Federal estate tax rates are steeply progressive, reaching 70 percent on estates of taxable value of over $15 million; "it is only the uninformed, the ill-advised, or the altruistic individual who would not subject an estate [of this value size category] to . . . high [death taxes] as it passes from one generation to the next."[4]

By contrast, taxation at flat rates is regressive on low wealth/income individuals. The sales tax and property taxes are regressive, i.e., the same rates apply irrespective of financial status of taxpayers. But the incidence of the flat rate tax bill falls heavier on the poor than on the rich. The dollar amount of a tax bill at a flat rate is a small percentage of wealth and income of a rich person, but for a poor person, the comparable percentage is much higher.

Apparently some investors retain ownership of assets which have appreciated in value until time of death in order to avoid liability for the capital gains tax. The overall effect of this tendency is to impede the mobility of capital. By taxing transferred assets at market values as of date of death, inheritance and/or estate taxes have the effect of reaching capital gains which otherwise might never be reached. Death taxes also reach the market value of bonds which are exempt from the tax on interest earned.

*Albin J. Dahl is Professor of Economics in the College of Business Administration, University of Nevada, Reno.

Estate Tax Revenue Sharing

Financial exigencies of the Civil War led Congress to impose death taxes but they were repealed in 1870. Subsequently states began to levy death taxes and by 1916 they yielded 8.2 percent of treasury revenue in 42 states. Then fiscal needs of the Federal government during World War I prompted Congress to levy death taxes again, and this time they became firmly embedded in Federal tax structure.

Death and gift taxes are *indirect* because technically they apply to transfer of property rather than to property *per se*. Therefore, unlike taxes on income, estate and gift taxes levied by the Federal government could not be challenged at law as offending the Constitutional ban on the imposition of direct taxes.[5] But the Federal estate tax did arouse some controversy. It was argued that making rules and regulations relating to transfer of ownership of property is entirely within the province of states and therefore the levy of death taxes should be the exclusive preserve of states. However, the consensus at law was that the observed legislative power of the states did not preclude Federal taxation of transfer of property.

In 1924 Congress decided to compromise the issues of who (Federal or state government) shall levy death taxes by providing for sharing Federal estate tax revenue with states. Therefore, in tax revision legislation of that year, Congress allowed states which also levy an estate tax a credit equal to 25 percent of the effective Federal estate tax rate multiplied by the total Federal estate tax liability. In 1926 this revenue sharing rate was increased to 80 percent. In 1932, Congress raised estate tax rates but provided that the 80 percent credit of states should continue to be based on 1926 Federal estate tax effective rates. Subsequently Congress increased estate tax rates again in 1935, 1940, and 1941. The Federal estate tax exemption, $100,000 in 1926, was reduced to $50,000 in 1932 and to $40,000 in 1935. The $40,000 exemption was raised to $60,000 in 1942 only because a special life insurance exclusion of $40,000 was eliminated.

The Tax Reform Act of 1976 substituted a uniform credit for the $60,000 exemption. For estates of decedents dying in 1977, the credit is $30,000. Stepped increases are scheduled in each of the succeeding years through 1981 for estates of decedents dying in those years. The credit is phased in as follows:

Year	Credit	"Equivalent" Exemption
1977	$30,000	$120,666
1978	34,000	134,000
1979	38,000	147,333
1980	42,500	161,563
1981	47,000	175,625

An "equivalent" exemption of $120,666 indicates that a Federal estate tax return must be filed for a gross estate exceeding $120,000. As indicated by the tabulation, the equivalent exemption rises in steps to 1981. Although the Act of 1976 provides for a substantially higher exemption, it also raised estate tax rates at the lower end of the scale and lowered them for the very high value estates. The new rates are in the range of 18 percent to 70 percent compared with a previous spread of 3 percent to 77 percent.

The method of calculating the maximum credit allowable to states is illustrated below.

TABLE FOR COMPUTATION OF MAXIMUM CREDIT FOR STATE DEATH TAXES

(A) Taxable estate equal to or more than -	(B) Taxable estate less than -	(C) Credit on amount in column (A)	(D) Rates of credit on excess over amount in column (A) Percent
$ 40,000	$ 90,000	.....	0.8
90,000	140,000	400	1.6
140,000	240,000	1,200	2.4
240,000	440,000	3,600	3.2
440,000	640,000	10,000	4.0
640,000	840,000	18,000	4.8
840,000	1,040,000	27,600	5.6
1,040,000	1,540,000	38,800	6.4
1,540,000	2,040,000	70,800	7.2
2,040,000	2,540,000	106,800	8.0
2,540,000	3,040,000	146,800	8.8
3,040,000	3,540,000	190,800	9.6
3,540,000	4,040,000	238,800	10.4
4,040,000	5,040,000	290,800	11.2
5,040,000	6,040,000	402,800	12.0
6,040,000	7,040,000	522,800	12.8
7,040,000	8,040,000	650,800	13.6
8,040,000	9,040,000	786,800	14.4
9,040,000	10,040,000	930,800	15.2
10,040,000	.....	1,082,800	16.0

As indicated by the tabulation, if the taxable estate does not exceed $40,000, the credit for state death taxes is zero.

Assume a taxable estate of $150,000. The nearest applicable figure in column (A) of the table is $140,000, for which the tentative credit to the state is $1,200, as shown in column (C). But the taxable estate ($150,000) exceeds $140,000 of column (A) by $10,000. Therefore, 2.4 percent (column D) of $10,000, or $240, is added to the tentative credit of $1,200 to arrive at a total credit of $1,440.

Originally, under provisions of the 1926 legislation of Congress, states received about 80 percent of the estate tax revenue collected by the U.S. Treasury. The rebate currently allowable to states is approximately 10 percent of Federal estate tax revenue. Forty-four states have qualified for sharing Federal estate tax revenue by imposing death taxes which add in varying degrees to the Federal tax burden associated with transfer of title to assets in names of decedents.

But a state legislature *can* provide for an estate tax without imposing any additional tax liability on estates within its jurisdiction. To qualify for revenue sharing, a state must levy an estate tax but may limit its amount to 80 percent of the percentage of the Federal estate tax collected in 1926. Five states, viz., Alabama, Alaska, Arkansas, Florida, and Georgia, have enacted qualifying innocuous "pick up the federal rebate" estate tax legislation. If Nevada were to follow suit, estates subject to this state's jurisdiction would pay no additional tax. But the state treasury would qualify for Federal estate tax revenue sharing, estimated in the range

of $2.5 to $3 million per year.

Death Tax in Nevada: Historical Background

In the early decades of this century when all of Nevada was sparsely populated and ownership of corporate assets was concentrated in relatively few nonresident wealthy persons, it was recognized that an inheritance tax would yield substantial revenues per resident of the state. Therefore, in 1913 the Legislature provided for an inheritance tax with rates varying directly with the value of the property to be inherited and the remoteness of the relationship between the beneficiary and the testator. Twenty percent of the tax dollars collected was allocated to counties in which inherited property was situated and the remaining 80 percent was retained by the state treasury. But there were large yearly swings in inheritance tax revenue collected. In 1914 revenue from this source was $123; this compared with $57,594 in 1921, and a yearly average of $7.002. These sharp fluctuations were viewed with apprehension by lawmakers because handsome budgets in anticipation of income from the inheritance taxes which failed to materialize might lead to increases in other taxes in years of lean revenue from the former.

In 1925 the 32nd session of the Nevada Legislature repealed the Act of 1913 which had established an inheritance tax. As we have already seen, in the following year Congress raised the estate tax credit for states to 80 percent of the percentage of the 1926 tax rates. Nevertheless, after the elapse of many years, a resolution prohibiting enactment of an inheritance or estate tax was approved by the 39th session of the Nevada Legislature, 1939. The first step in the process of writing the ban on death taxes into the Constitution by the amendment process had been taken. At the next session of the Legislature, 1941, the anti-death tax resolution was affirmed. In 1942 the proposed amendment was approved by the electorate. Thus Article 10, Section 1 of the Nevada Constitution provides that "no inheritance or estate tax shall ever be levied . . ."

Providing for an estate tax to permit Nevada to follow in the footsteps of Alabama, Alaska, Arkansas, Florida, and Georgia and pick up Federal money without imposing any additional death tax has been discussed at every regular session of the Nevada Legislature since 1961. In 1971 and 1973 a resolution to amend Article 10, Section 1 of the State Constitution to allow the "pick up" estate tax passed the Senate but died in committee in the Assembly.

At the 1975 session of the Legislature, Senate Joint Resolution No. 5 providing for picking up Federal estate tax revenues was approved by an overwhelming majority in the Senate; the vote was 18 in favor and 2 opposed. This resolution barely made it to the Assembly floor, for it was reported out of the taxation committee "without recommendation" on a 5-4 vote. However the Assembly as a whole gave Joint Resolution No. 5 strong support; the vote was 36 in favor, 3 opposed, and one member not voting.

Senate Joint Resolution No. 5 amending Article 10, Section 1 of the Constitution was carefully phrased to authorize the "imposition of an estate tax not to exceed the credit allowable for such a tax against the Federal estate tax, reduced by the amount paid to any other state." The ban on imposition of an *inheritance tax* would remain in Article 10, Section 1: "No inheritance tax shall ever be levied."

The full text of the 1975 Resolution is reproduced below:

> The legislature may provide by law for the taxation of estates taxed by the United States, but only to the extent of any credit allowed by federal law for the payment of such a state tax. The combined amount of such federal and state taxes shall not exceed the estate tax which would be imposed by federal law alone. If another state of the United States imposes and collects death taxes against an estate which is taxable by the State of Nevada under this section, the amount of estate tax to be collected by the State of Nevada shall be reduced by the amount of death taxes collected by such other state. Any lien for such estate tax shall attach no sooner than the time when the tax is due and payable, and no restriction on possession or use of a decendent's property shall be imposed by law prior to the time when the tax is due and payable. The State of Nevada shall accept the determination by the United States of the taxable estate without further audit.[6]

However, the 1977 session of the Legislature took no action on Senate Joint Resolution No. 5. Therefore, the process of amending the State Constitution to permit the "pick up" tax will have to begin all over again in 1979.[7]

Death Tax Debate

Pro:

1. Nevada should join Alabama, Alaska, Arkansas, Florida, and Georgia in providing for an estate tax not to exceed the credit allowed by the Federal government. The effect would be to take a cut of the Federal estate tax without adding anything to the death tax on the estate of a Nevada resident. In the absence of a "pick up" tax, the Federal government retains the credit which would otherwise go to Nevada.

IRS will not allow the state tax credit on the Federal estate tax until a receipt is forthcoming to indicate that the state tax has been paid. If this receipt is not issued within 6 months, IRS will assess the estate for the amount of the state "pick up" tax.

For example, assume that the Federal estate tax liability is $9,900. IRS will determine a $900 *potential* rebate to the state having jurisdiction over the estate. If the state assesses and collects the $900 "pick up" tax, IRS will bill the estate for only $9,000. But if the state does not collect its $900 share of the tax, IRS will bill the estate for a total tax of $9,900. Therefore, the estate tax liability is the same whether or not the state imposes a "pick up" tax.

"By not having a "pick up" tax, Nevada denies itself revenue and does not decrease the total amount of tax which must be paid."[8]

2. The cost of administering a "pick up" tax is negligible. "In 1975 . . . based on IRS estimates, [Nevada] would have received [revenue in the range of] $2.5 to $3.0 million through a "pick up" tax. Based on [the experience in other] "pick up" states, the cost of administration would [have been less than] $20,000 per year."[9] This suggests a minimum ratio of revenue to cost of administration of 125:1. IRS does all the work.

3. Popularity of the *Proposition 13 idea* is likely to force a reduction in property and sales taxes, the principal sources of revenue for city and county treasuries. Therefore, it is highly probable that in the near future the Nevada State

Treasury will be called upon to share some of its revenue with local governments. "Pick up" estate tax money of $3 million per year is one percent of the state's revenue. Prudent [redacted]al management suggests a need to qualify for "free" [redacted]k up" revenue from the U.S. Treasury at long last!

[redacted]on:

The State's well-advertised *no-tax image* would be tarnished if Nevada were to provide for an estate tax. Wealthy people would be discouraged from becoming Nevada residents. Trust departments of banks, attorneys and accountants (who prepare Federal income tax returns and Federal estate tax returns) and members of other professions will have fewer wealthy clients.[10]

Rebuttal:

Be truthful in advertising: the estate of a Nevada resident is liable for the Federal estate tax plus any unclaimed "pick up" revenue. Nevada and five other states (Alabama, Alaska, Arkansas, Florida, and Georgia) impose no additional tax on the estates of residents. A Nevada "pick up" tax will not add one penny to the estate tax of a Nevada resident. *Wealthy persons and/or their tax consultants are already familiar with the facts on death and taxes in Nevada and in other states.* Advertising that Nevada is the only state which imposes no estate tax is misleading for it implies that the estate tax liability in Nevada is lower than that incurred in the five states which have enacted "pick up" taxes. Nevada and the five states already enumerated are on equal "death tax terms" in attracting wealthy residents. Nevada has the added [redacted]vantage of imposing no personal or corporate income tax.

[redacted]

★ ★ ★ ★ ★

A careful analysis of "death and taxes" compels the conclusion that the Nevada Legislature should begin the process of amending Article 10, Section 1 again and follow through this time. The true meaning of the "pick up" tax should be given adequate publicity so that in the final step of the amendment process, informed voters can decide the issue.[11]

Amending Article 10, Section 1 to permit the "pick up" tax will require five years to accomplish. Every year of delay costs the State Treasury an estimated $3 million or $15 million every five years, based on estimates for the years 1971-1975. The 1976 schedules of Federal estate tax rates and uniform credits are not expected to change materially the revenue potential allowable to Nevada. As we have seen, Federal estate tax rates were increased several fold at the lower end of the scale, but the exemption was raised. The "inflation effect" on market values of estates and the increasing number of Nevada residents suggest that the allowable "pick up revenue" from the U.S. Treasury will continue at its present level as a minimum expectation.

> The wild duck has dived down to the bottom—as deep as she can get—and bitten fast hold of the weed and tangle and all the rubbish that is down there, and it would need an extraordinarily clever dog to dive after and fish her up again.[12]

Footnotes:

[1]Andrew Carnegie, *The Gospel of Wealth,* Kirkland, Editor, Harvard University Press, Cambridge, Mass., 1962, p. 49.

[2]Adolph Wagner, "Three Extracts on Public Finance", *Classics in the Theory of Public Finance,* R. A. Musgrave and Alan T. Peacock, editors, pp. 16-28.

[3]Joseph R. Seifers, "Nevada and the Death Tax", unpublished master's thesis, Department of Economics, University of Nevada, Reno, 1975, pp. 16-57, reviews the literature on theory of inheritance and estate taxes.

[4]Jerome Kurtz, "Hearings on the Tax Reform Act of 1969", before House Ways and Means Committee, 91st Congress, 1st Session, pt. 2, cited in E. A. Sanders and D. Westfall, *Readings in Federal Taxation,* p. 594.

[5]The 16th Amendment authorizes Congress to "lay and collect taxes on income . . . without apportionment among the several states . . ."

[6]As an added precaution, it may be advisable to add the following sentence to the resolution next time: "if provision for sharing Federal estate tax revenue is ever repealed, Nevada's estate tax shall be deemed to have expired."

[7]Amending the Nevada Constitution is a time-consuming process. A resolution to amend must be approved at two consecutive sessions of the Legislature and then the proposed change must be submitted to voters for approval or rejection.

[8]*Death Taxation in the American States,* Business Research Bureau, University of South Dakota, Vermillion, SD, 1974.

[9]*Estate Taxes,* Nevada Legislative Counsel Bureau, Office of Research, Background Paper, 1977, No. 7, p. 3.

[10]In 1973, the Nevada Bankers' Association suggested that the proposed resolution "prohibit any attachment of or restriction on an estate as a result of a state 'pick up' tax". The essence of this prohibition is contained in SJR No. 5 (1975) and it is notable that "there was no opposition from the bankers in 1975 committee hearings". *Ibid.*

[11]Cf. "Proposed Estate Tax Has Dollars and Sense", Editorial, *Nevada State Journal,* March 9, 1975.

[12]J. M. Keynes, *The General Theory of Employment Interest and Money,* MacMillan & Co., Ltd., London, 1960, p. 183.

"One of our $30 million common stock funds recently came out in the top 10% of an A.G. Becker survey," says Hastings. "We're good pickers." Good, but most observers would add not sensational. That's appropriate too—among the very rich, preservation of capital is the big thing, not profits.

Bessemer looks for stocks of companies that have a high return on equity plus a high current yield. Accordingly it maintains a large commitment to IBM, and Hastings says he has gotten a lot of mileage out of regional banks like United Bank of Colorado and First Alabama Bank Corp., as well as from insurance agencies such as Frank B. Hall, Inc. and Rollins Burdick Hunter Co. Says Page, "Recently we have been buying Mesabi Trust because the price of the iron ore pellets it produces is closely related to the wholesale price index."

"About 80% of our security portfolio is invested in 40 companies," says Hastings. "We make sure our analysts go out and see every one for themselves before we buy. Before our recent purchase of Pacific Petroleum shares you can bet that we had somebody trudging over the Canadian tundra looking over their drilling operations."

Bessemer also has an analyst to advise clients on real estate deals or private partnerships they may be intent upon. Says John Whitmore, "We don't originate any of these ideas. But if a client insists on getting involved in an oil exploration program, for example, we see to it that he gets the best geological advice available."

One tall, fashionable Palm Beach businessman says he maintains four accounts with Bessemer—two trusts for his children, one for him and his second wife and another "free" account into which he funnels any extra income. Says he, "It's like having a family doctor. They even make house calls."

The sunny money game

From Boca Raton to Del Ray Beach, that stretch of Florida's Atlantic shoreline known as the Gold Coast has been more popular than ever in the last five years—thanks to inflation and Florida's hospitable tax laws. The Sunshine State has no personal income tax save a $1 on $1,000 tax on most intangible assets, and no estate tax except a "sponge" tax; it absorbs any portion of an estate's federal death tax that is deductible for state taxes. Combined with the impact of inflation on substantial estates which may represent a lifetime of work for retired executives and bought-out small businessmen, the Florida tax break has lately been attracting a staggering number of middle-aged Americans who might be characterized as "millionaires."

Superrich Palm Beach County, for example, which includes Palm Beach, Boca Raton and Lake Worth, has almost doubled in population since 1970 to an estimated 550,000. As one resident put it, "Children are reminding their parents that Florida laws can save $5 million or $6 million in taxes on a $100 million estate."

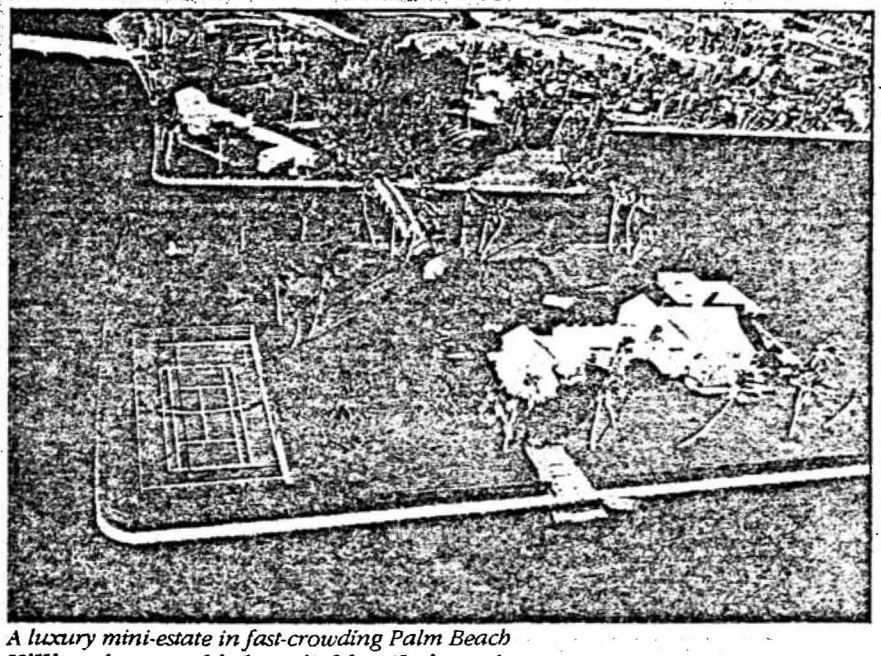
In Palm Beach, unbecoming five- and six-story apartment houses containing $150,000-to-$500,000 condominiums are straining the zoning laws between Lake Worth and South Ocean Boulevard. Says one local estate lawyer, "There are an incredible number of retirement residents coming in here with $1 million or $2 million. Then you have people with estates of eight or ten figures with vacation homes here who are switching their domiciles here also."

It adds up to an atmosphere of intense competition among Florida lawyers, banks and trust companies for the management fees on a growing pot of fat portfolios and trusts. Northern banks and law firms are challenging Florida laws to retain portfolio management for clients moving south. Says one urbane Washington lawyer, who has been estate-minding in Palm Beach for the last two years, "An out-of-state law firm can set up a small office here staffed with a Florida-resident associate and make $200,000 a year for five years on a $100 million estate."

Until recently state banking laws kept northern banks and trust companies from doing trust business among Florida's wealthy "snowbirds." There were two exceptions: Northern Trust Co., by buying Miami-based Securities Trust Co. in 1971, and Bessemer Trust Co. *(see story)* because it incorporated in Florida in 1929 to tend to the needs of Phipps family members then "domiciling" there.

In 1974 the Florida legislature passed an amendment banning out-of-state banks from buying Florida subsidiaries or setting up investment advisory offices for their emigrating clients. But a recent federal district court ruling in favor of a Bankers Trust Co. challenge to the Florida laws appears to have opened the floodgates. Already Bankers Trust, Chemical Bank and U.S. Trust are running "advisory" offices in Palm Beach. And although the court's ruling may be appealed by the state banking commission, the competition should get even more intense. Says one local bank official, "There were 10 or 20 northern banks lined up waiting for that Bankers Trust decision."

Of course, the big northern banks may have a thing or two to learn about doing business in Florida. In places like Palm Beach, where trust officers may have the manners of 18th century courtiers, managing money isn't for every chart-reader with a tweedy suit and a stubby pencil behind his ear. —J. O'H.



A luxury mini-estate in fast-crowding Palm Beach
Millionaire snowbirds switching their nests.