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KENNY C. GUINN
Governor

BARBARA SMITH CAMPBELL
Chair, Nevada Tax Commission

CHARLES E. CHINNOCK
Executive Director

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MEMORANDUM

Date: March 19, 2003

To: Honorable Mark Manendo, Chairman
Government Affairs Committee

From: Charles Chinnock, Executive Director

Subject: SB 229

This is to list concerns that the Department of Taxation has with SB 229. A full discussion of the concerns is as follows:

1. Section 1- The Department of Taxation provides support to four public bodies: the Nevada Tax Commission, the State Board of Equalization, the Committee on Local Government Finance, and the Appraiser Certification Board. There are two broad or general categories of items on the agendas of these commissions/boards. Items that could be considered for direct "public" involvement; and then, contested items involving a petitioner and generally the Department (please see attached agendas). This second category involves issues that are very complex and in one stage or the other of formal administrative review leading to formal legal action. For those items on the agenda that should or could involve a direct "public" interest, the commission/boards always open the meeting to public comment; not just because it is required but because the nature of the topic/subject requires that input. For the other category of the agenda items/cases the information within the file for the commission/board is so voluminous (sometimes 100's to a thousand or more pages) and complex that special procedures to permit full due process are implemented by requiring formal submission of briefings and exhibits well in advance of any public meeting so that the commission/board has time to read and be informed prior to any meeting. Also in accordance with this due process are regulatory requirements in the manner of rules of evidence that do not permit last minute testimony and in fact require formal "intervener" status before someone can take issue with one of these specific and legal agenda items/cases. The regulations require that if someone intends to intervene in one of these complex cases, then they must have permission from the parties to the contested case and the commission, and must provide a formal brief in advance stating their intervening position. In summary, the commissions/boards already allow public input on items that merit public input. To require public input on all items could delay the hearing process and could ultimately impact the due process and legal position of taxpayers or the Department.

2. An issue with Section 2 concerns the timing and scheduling of a closed meeting. Because of the personal nature of information that comes before the Nevada Tax Commission, there is statutory provision under NRS 360.247 for a petitioner on appeal to request a closed hearing. This potential for closure is noted on every agenda, but the right for a taxpayer to request the closure does not occur until the actual agenda item is called in that open meeting. At that time the issue is discussed and the decision is made. In summary, if this section is passed, the Nevada Tax Commission would consistently be unable to group closed sessions together and thereby fall under the exception provided by the words, "...if practicable."

3. The Department of Taxation requests an exception to the provision to make audio recordings for the Nevada Tax Commission meetings and for State Board of Equalization meetings. Because of the amount of material involved in these hearings, because of the complex nature of the cases brought before them, because a substantial number of cases appealed to the judicial level, and because of the need to guarantee due process to all parties, several years ago the Department moved to having formal court transcripts accomplished in accordance with NRS 656 for all meetings. Further, in accordance with NRS 239.053, these transcripts are available to the general public. These transcripts in every respect are superior for "showing" what transpired at the public meetings of the Nevada Tax Commission and the State Board of Equalization. For the Committee on Local Government Finance and the Appraiser Certification Board, we currently take minutes and make recordings, so the additional provisions for audio recordings would not have substantial additional impact upon the Department for these two other bodies. In summary, the Department requests consideration of an amendment to NRS 360.130, paragraph 1 as follows: add,

"(c) The Nevada tax commission, the state board of equalization and the department are not required to make an audio recording of a public meeting, if instead, a certified transcript in accordance with NRS 656 is taken of the entire meeting."

3. The Department administers over 750 individual regulations. These regulations are promulgated primarily by the Nevada Tax Commission, and also by the State Board of Equalization and the Committee on Local Government Finance. The purposes of the regulations are to provide guidance on a variety of complex matters and issues. Because of the necessity to update regulations either as a result of statutory changes or in the course of normal review, the workload is substantial considering that the commission/board/committee positions are "part time". It is not unusual to have multiple workshops at various locations, sometimes over a prolonged period of time in order to arrive at some level of consensus or acceptance for regulations. For this reason it is not always possible to have a commission/board/committee member present at every workshop. Therefore, the Department on behalf its commission,/board/committee asks your consideration for the following amendment to Section 8, paragraph 2 as follows:

"If the agency is a board, commission or other similar body, at least one member of the body must be present at each such workshop, if practicable."

Or, as an alternative,

"If the agency is a board, commission or other similar body, at least one member of the body must be present at least at one workshop held for each regulatory change."

Such language would then allow some flexibility for the board/commission/committee in that for the less substantial changes or regulatory action, a member may not need to attend.

Please consider the Department's comments and requests for change. Should you have questions, please call me at 687-4839.

Attachments:

NAC 360.070
Sample agenda



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NAC 360.070 Interveners. (NRS 360.090)

1. A person other than the original party to any proceeding who is directly and substantially affected by the proceeding must secure an order from the commission or the hearing officer granting leave to intervene before being allowed to participate. The granting of leave to intervene in any matter or proceeding is not a finding or determination of the commission or the hearing officer that the party will or may be a party aggrieved by any ruling, order or decision of the commission or the hearing officer for purposes of court review or appeal.

2. Petitions for leave to intervene must be in writing and must clearly identify the proceeding in which intervention is sought. The petition must set forth the name and address of the petitioner and contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceeding, stating the manner in which the petitioner will be affected by the proceeding and outlining the matters relied upon by the petitioner as a basis for his request to intervene. If affirmative relief is sought, the petition must contain a clear and concise statement of the relief sought and the basis thereof, together with a statement as to the nature and quantity of evidence the petitioner will present if his petition is granted.

3. Petitions to intervene and proof of service of copies thereof on all other parties of record must be filed not less than 2 days before the commencement of the hearing, or state a substantial reason for the delay, or it will not be considered.

4. If a petition to intervene shows a direct and substantial interest in the subject matter of the proceeding or any part thereof and does not unduly broaden the issues, the commission or the hearing officer may grant leave to intervene or otherwise appear in the proceeding with respect to the matters set out in the intervening petition, subject to such reasonable conditions as may be prescribed.

5. If it appears during the course of a proceeding that an intervener has no direct or substantial interest in the proceeding and that the public interest does not require his participation therein, the commission may dismiss him from the proceeding.

Nevada Tax Commission Meeting

LEGISLATIVE COUNSEL BUREAU
Grant Sawyer State Office Building
555 E Washington Avenue, Room 4401
Las Vegas, Nevada

VIDEO CONFERENCE
NEVADA LEGISLATIVE BUILDING
401 S Carson Street, Room 4100
Carson City, Nevada
December 6, 2002

ACTION WILL BE TAKEN ON THE ITEMS INDICATED IN BOLD

9:00 a.m. COMPLIANCE DIVISION:

Consideration of Adoption of Additions and Amendments to Regulations:

- 1) **Adding to and amending a regulation in Chapter 372 to establish the administrative procedural language concerning the leasing of property to an exempt entity, finance leases and the election contemplated in NRS 372.170 with respect to sales/use tax. More specifically, NAC 372.080. LCB File No. R058-02.**
- 2) **Adding new regulations to Chapter 360 to establish the administrative procedural language associated with SB 362 of the 1999 Session for credits and refunds, tax return filing, res judicata and collateral estoppel pursuant to Chapter's 364A, 372, 374 and 377 of the Nevada Revised Statutes. More commonly referred to as the Revenue Taxpayers Bill of Rights regulations.**

DIVISION OF ASSESSMENT STANDARDS:

Consideration of Adoption of Additions and Amendments to Regulations:

- 1) **Adding to and amending NAC 361 concerning the valuation and assessment of locally assessed properties; and repealing sections no longer consistent with the Nevada Revised Statutes; this also constitutes the ten-year review of Nevada Administrative Code Chapter 361 from NAC 361.004 through 361.085; 361.106 through 361.132; and 361.144 through 361.155.**

Locally Assessed Properties:

- 1) **Consideration of Appointment to the Appraiser Certification Board.**

Local Government Finance Section:

- 1) **Application to Increase Business License Fees by the City of North Las Vegas.**

COMPLIANCE DIVISION:

*Petition for Redetermination – Audit Appeal:

- 1) **Affordable Concepts**

*Consideration of Petition to Intervene on Chrysler Financial Appeal per NAC 360.070:

- 1) **KPMG**

*Petition for Redetermination – Revenue/Bad Debt Appeal:

- 1) **Chrysler Financial**

*Petition for Reconsideration of Department's denial of exemption status for organization created for religious, charitable or educational purposes (sales/use tax):

- 1) **Any Dream Will Do**
- 2) **Walker Lake Working Group**
- 3) **Motor Sports Safety**
- 4) **Mariah SPCA**
- 5) **Harvest Church of South Las Vegas**

*Petition for Reconsideration of Department's denial for application under tax amnesty program:

- 1) **AT&T**

Update on Tax Commission's denial for relief of penalty and interest liability:

- 1) **Icon Photography**

The Commission will review all items marked with a pound sign (#) as a consent calendar item, unless a member of the Commission, the Attorney General's Office, the Department or the public wishes to speak in regard to a certain issue.

- 1) **# Bond Waivers**
- 2) **# Interest Waivers**
- 3) **# Multilevel Marketers**

The Commission will review all items marked with a pound sign (#) as a consent calendar item, unless a member of the Commission, the Attorney General's Office, the Department or the public wishes to speak in regard to a certain issue.

- 1) **# Exemptions - Consideration of Approval - Renewal**
- 1-ADVENT UNITED METHODIST CHURCH
- 2-ADVOCATES TO END DOMESTIC VIOLENCE
- 3-AMERICAN CANCER SOCIETY, SOUTHWEST DIVISION INC
- 4-AMERINDIAN INC
- 5-BOULDER CITY MUSEUM AND HISTORICAL ASSOCIATION
- 6-BOULDER CITY WELFARE SERVICES, INC
- 7-BOY SCOUTS OF AMERICA NEVADA AREA COUNCIL
- 8-BUD BEASLEY PTA
- 9-CAHS/CONSOLIDATED AGENCIES OF HUMAN SERVICES
- 10-CALIENTE CHRISTIAN CENTER
- 11-CALVARY CHURCH OF THE NAZARENE
- 12-CANYON RIDGE CHRISTIAN CHURCH
- 13-CARSON / EAGLE VALLEY HUMANE SOCIETY
- 14-CARSON ADVOCATES FOR CANCER CARE
- 15-CARSON CITY SEVENTH DAY ADVENTIST CHURCH
- 16-CARSON CITY SYMPHONY ASSOCIATION, INC
- 17-CARSON VALLEY CHRISTIAN CENTER
- 18-CARSON VALLEY HISTORICAL SOCIETY, INC
- 19-CATHEDRAL OF DIVINE GUIDANCE INC
- 20-CATHOLIC ENGAGED ENCOUNTER
- 21-CHRIST LUTHERAN CHURCH
- 22-CHRIST THE SERVANT LUTHERAN CHURCH

23-CHURCH AT LAS VEGAS, THE
24-CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS / FALLON FACILITY
MAINT
25-CHURCH OF PENTECOST
26-CHURCH OF THE HOLY SPIRIT
27-CLASS! PUBLICATIONS INC
28-COMMUNITY PRESBYTERIAN CHURCH
29-COVENANT PRESBYTERIAN CHURCH
30-CREDIT COUNSELING CENTERS OF AMERICA
31-DESERT SOUTHWEST ANNUAL CONFERENCE
32-DISABILITY RESOURCES INC
33-DISABLED AMERICAN VETERAN CHAPTER 1 - RENO
34-DISABLED AMERICAN VETERANS, CHAPTER 12 OF NEVADA
35-ELIZABETH LENZ PTA
36-ELKO BOYS LITTLE LEAGUE
37-ELKO FRIENDS IN SERVICE HELPING
38-ELKO GRAMMAR # 2 PTA
39-ENGLISH CONGREGATION OF JEHOVAHS WITNESS
40-EPISCOPAL DIOCESE OF NEVADA
41-EPWORTH UNITED METHODIST CHURCH
42-FAITH ALIVE CHRISTIAN CENTER
43-FAITH LUTHERAN CHURCH
44-FALLON CHRISTIAN LIFE CENTER OF THE ASSEMBLIES OF GOD
45-FALLON YOUTH BASEBALL ASSOCIATION
46-FAMILY COUNSELING SERVICE OF NORTHERN NEVADA
47-FAMILY WORSHIP CENTER
48-FERNLEY PRESERVATION SOCIETY
49-FIRST BAPTIST CHURCH
50-FIRST BAPTIST CHURCH
51-FIRST BAPTIST CHURCH
52-FIRST BAPTIST CHURCH PRESCHOOL
53-FIRST CHRISTIAN CHURCH
54-FIRST CHURCH OF THE NAZARENE
55-FIRST PRESBYTERIAN CHURCH
56-FIRST PRESBYTERIAN CHURCH
57-FIRST SOUTHERN BAPTIST CHURCH
58-FIRST UNITED METHODIST CHURCH
59-FISH EMERGENCY REFERRAL SERVICES PROGRAM INC, THE
60-FOOD BANK OF NORTHERN NEVADA INC
61-FRIENDS OF THE LAS VEGAS YOUTH ORCHESTRAS
62-FRIENDS OF WASHOE COUNTY LIBRARY
63-FRIENDSHIP CHURCH OF GOD IN CHRIST - FRIENDSHIP CHILD CARE
CENTER
64-GOOD SAMARITAN LUTHERAN CHURCH
65-GRACE COMMUNITY CHURCH
66-GRACE IMMANUEL MISSIONARY BAPTIST CHURCH
67-GREATER CARVER MISSIONARY BAPTIST CHURCH
68-GREATER LAS VEGAS INNER CITY GAMES
69-GREEN VALLEY BAPTIST CHURCH
70-HALLELUJAH CHRISTIAN FELLOWSHIP
71-HEAD START OF NORTHEASTERN NEVADA

72-HEMOPHILIA FOUNDATION OF NEVADA
73-HENDERSON BASEBALL ASSOCIATION
74-HENDERSON PRESBYTERIAN CHURCH
75-HUMBOLDT HOSPITAL AUXILIARY
76-JACKS VALLEY VOLUNTEER FIRE DEPARTMENT
77-JAM ON IT BASKETBALL ACADEMY INC
78-JESUS UNLIMITED DBA MY FATHER'S HOUSE
79-KNIGHTS OF COLUMBUS COUNCIL SIERRAS MADRE COUNCIL
80-LAHONTAN ELEMENTARY SCHOOL PTO
81-LAKE TAHOE SCHOOL
82-LAKESIDE COMMUNITY CHURCH OF RELIGIOUS SCIENCE
83-LAS VEGAS NATURAL HISTORY MUSEUM
84-LDS - PM GROUP - BUENA VISTA
85-LDS - PM GROUP - GOLCONDA
86-LDS - PM GROUP - LEMMON VALLEY
87-LDS - PM GROUP - NEIL RD
88-LDS - PM GROUP - PRATER WAY
89-LDS - PM GROUP - RENO 3RD PEAVINE MTN WARDS
90-LDS - PM GROUP - RENO INSTITUTE
91-LDS - PM GROUP - RENO SEMINARY
92-LDS - PM GROUP - SPARKS 5, 8, 9TH WARDS
93-LDS - PM GROUP - SPARKS 6, 7, 10TH WARDS
94-LDS - PM GROUP - SPARKS SEMINARY
95-LDS - PM GROUP - WASHOE VALLEY
96-LDS - PM GROUP - WOOSTER SEMINARY
97-LDS - RENO INSTITUTE OF RELIGION
98-LDS - REORGANIZED CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
99-LEND A HAND INC
100-LIBERTY BAPTIST CHURCH
101-LITTLE PEOPLE'S HEAD START OF NEVADA
102-LONE MOUNTAIN MISSIONARY BAPTIST CHURCH
103-MACEDONIA MISSIONARY BAPTIST CHURCH INC
104-MADD - LYON COUNTY CHAPTER
105-MANOGUE BOOSTERS CLUB
106-MOAPA VALLEY CHURCH OF THE NAZARENE
107-MOUNTAIN VIEW CHURCH OF GOD
108-NEVADA CHILDREN'S FOUNDATION - EAGLE VALLEY CHILDREN'S HOME
109-NEVADA COMMUNITY ENRICHMENT PROGRAM
110-NEVADA DIABETES ASSOCIATION FOR CHILDREN & ADULTS
111-NEVADA LIGHTNING, INC
112-NEVADA TREATMENT CENTER
113-NEVADA WILDLIFE FEDERATION INC
114-NEW LIFE ASSEMBLY OF GOD
115-NORTHEASTERN NEVADA HISTORICAL SOCIETY & MUSEUM
116-NORTHERN NEVADA & EASTERN HIGH SIERRA AREA WOMEN'S AGLOW
117-OASIS ASSEMBLY OF GOD
118-OASIS BAPTIST CHURCH
119-OUR LADY OF WISDOM BYZANTINE CATHOLIC CHURCH
120-PAHRANAGAT VALLEY SENIOR CENTER
121-PAHRUMP VALLEY UNITED METHODIST CHURCH

122-PARADISE BIBLE BAPTIST CHURCH
123-PARKSIDE BIBLE FELLOWSHIP
124-PARTNERSHIP OF COMMUNITY RESOURCES
125-PENTECOSTAL EVANGELICAL CHURCH
126-PILGRIM CHURCH OF CHRIST HOLINESS USA
127-PIONEER CENTER FOR THE PERFORMING ARTS
128-PROJECT RESTART
129-RELIGIOUS SCIENCE CHURCH OF LAS VEGAS
130-RENO SEVENTH DAY ADVENTIST CHURCH
131-RENO TRIANGLE CLUB
132-RENO YOUNG NAK PRESBYTERIAN CHURCH
133-RIVER CHRISTIAN CENTER INC, THE
134-ROMAN CATHOLIC BISHOP OF LAS VEGAS AND HIS SUCCESSORS
135-ROTARY CLUB OF SPARKS
136-ROUND MOUNTAIN ELEMENTARY PTO
137-SAGE RIDGE SCHOOL
138-SAGEBRUSH EMPIRE POP WARNER FOOTBALL ASSOCIATION, INC
139-SALVATION ARMY, THE
140-SECRET WITNESS PROGRAM FOR RENO, SPARKS & WASHOE COUNTY
141-SEELIGER PTA
142-SHERIDAN VOLUNTEER FIRE DEPARTMENT
143-SILVER SAGE BIBLE CHURCH
144-SILVER SPRINGS SPAY-NEUTER PROJECT
145-SMITH VALLEY UNITED METHODIST CHURCH
146-SOROPTIMIST INTERNATIONAL OF TRUCKEE MEADOWS
147-SPECIAL RECREATION SERVICES INC
148-SPRING CREEK BAPTIST CHURCH
149-ST CHRISTOPHER'S EPISCOPAL CHURCH
150-ST MARK LUTHERAN CHURCH
151-ST PAUL LUTHERAN FAMILY
152-TONOPAH PTA
153-TRIED STONE MISSIONARY BAPTIST CHURCH
154-TRINITY LIFE CENTER - GENERAL COUNCIL OF THE ASSEMBLIES OF
GOD
155-ULIS NEWTON ELEMENTARY SCHOOL PTA
156-UNITED METHODIST CHURCH - NORTH DISTRICT - DESERT SOUTHWEST
CONF
157-UNITED WAY OF SOUTHERN NEVADA INC
158-UNIVERSITY UNITED METHODIST CHURCH
159-UNLV FOUNDATION
160-VINEYARD WORSHIP CENTER
161-WASHOE COUNTY LIONS SIGHT CONSERVATION COMMITTEE
162-WASHOE LEGAL SERVICES
163-WILD ANIMAL INFIRMARY FOR NEVADA
164-WILL BECKLEY PTA
165-YMCA OF THE USA

2) # Exemptions - Consideration of Approval - New
1-ACCENT PEOPLE
2-BRIGHTPATH ADULT DAY SERVICES
3-SCLERODERMA FOUNDATION

- 4-SIERRA IN LINE HOCKEY LEAGUE
- 5-STATON ELEMENTARY PTO
- 6-UNITED FAITH MAJESTIC HOUSE OF WORSHIP

- 3) # Exemptions - Consideration of Denial - Renewal
 - 1-AMERICAN COLLEGE OF OBSTETRICIANS & GYNECOLOGISTS, THE
 - 2-LDS - PM GROUP - CLEAR CREEK
 - 3-UNITED CEREBRAL PALSY ASSOCIATION OF NASSAU COUNTY

- 4) # Exemptions - Consideration of Denial - New
 - 1-ALPHA AND OMEGA MINISTRIES
 - 2-AMERICAN SOCIETY FOR DENTAL AESTHETICS
 - 3-COMMUNITY CABINET, THE
 - 4-EASTERN PARALYZED VETERANS ASSOCIATION INC
 - 5-ELDERHOSTEL INC
 - 6-MINISTERIO "MI PASTOR" INC
 - 7-NATIONAL TECHNICAL ASSOCIATION
 - 8-NEVADA DENTAL HYGIENISTS ASSOCIATION
 - 9-NEW ANTIOCH CRISTIAN FELLOWSHIP
 - 10-SAINT LUKE'S HOSPITAL
 - 11-SIERRA NEVADA ASSOCIATION OF PARALEGALS

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Consideration of Recommended Settlements - Sales and Use Tax Agreements:

- 1) # Celotex Corporation
- 2) # Blynco Mfg & Dist. Inc.
- 3) # Automotive Certified Technician
- 4) # A Hairitage
- 5) # Instant Smog
- 6) # Southwest Color Inc.
- 7) # Richardson Gallery
- 8) # Dell Financial Services LP
- 9) # Les Schwab Tire Centers for Nevada
- 10) # Continental Telephone

Briefing to/from the Commission and the Deputy Attorney General

Briefing to/from the Commission and the Executive Director

- 1) Consideration and Approval to participate in MTC Audit of Hewlett Packard/Compaq.

Next Meeting Date

****Public Comment**

Adjourn

Times are tentative; the Commission may wish to take the agenda items in a different sequence for efficiency.

*Appellants appearing before the Tax Commission may request closure of discussion to the public. If no request to close is received, discussion and Commission decision on these matters are made in public session. Appellants are advised that decisions may be rendered at any time subsequent to a hearing; that Staff or a Deputy Attorney General may be queried at the time requesting additional information or legal points on the matter; thus, appellants may wish to be in attendance for the entire meeting. Decisions of the Tax Commission and any information submitted in public session will become public and may be published.

If a transcript of any hearing held before the Commission is desired by the petitioner or appellant, he/she may obtain a copy, at the party's expense, from the reporter furnished by the Commission.

**This item is to receive public comment on any issue and any discussion of those items. However, no action will be taken on any items raised in the public comment period.

Members of the public who are disabled and require accommodations or assistance at this meeting are requested to notify the Department of Taxation in writing or call 687-4892 prior to the meeting.

Notice of this meeting has been posted at the Department of Taxation 1550 E. College Parkway; and mailed to each County Public Library for posting.

Notice of this meeting was FAXED for posting to the following locations: Department of Taxation, 555 E. Washington Street; Las Vegas, Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada State Library, Carson City, Nevada.