

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLOR MORENCY; KEYSHA NEWELL;
BONNIE YBARRA; AAA SCHOLARSHIP
FOUNDATION, INC.; SKLAR WILLIAMS
PLLC; ENVIRONMENTAL DESIGN
GROUP, LLC,

Appellants,

vs.

STATE OF NEVADA ex rel. the
DEPARTMENT OF EDUCATION; JHONE
EBERT, in her official capacity as executive
head of the Department of Education; the
DEPARTMENT OF TAXATION; JAMES
DEVOLLD, in his official capacity as a
member of the Nevada Tax Commission;
SHARON RIGBY, in her official capacity as
a member of the Nevada Tax Commission;
CRAIG WITT, in his official capacity as a
member of the Nevada Tax Commission;
GEORGE KELESIS, in his official capacity
as a member of the Nevada Tax
Commission; ANN BERSI, in her official
capacity as a member of the Nevada Tax
Commission; RANDY BROWN, in his
official capacity as a member of the Nevada
Tax Commission; FRANCINE LIPMAN, in
her official capacity as a member of the
Nevada Tax Commission; ANTHONY
WREN, in his official capacity as a member
of the Nevada Tax Commission; MELANIE
YOUNG, in her official capacity as the
Executive Director and Chief Administrative
Officer of the Department of Taxation,

Respondents,

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Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 81281

On Appeal from a Final Judgment
of the District Court for Clark
County, Nevada,
Case No. A-19-800267-C
Hon. Rob Bare

**Appellants' Notice of
Supplemental Authorities**

and

THE LEGISLATURE OF THE STATE OF
NEVADA,

Respondent-Intervenors.

INSTITUTE FOR JUSTICE

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Appellants Flor Morency, *et al.*, hereby notify this Court of supplemental authorities that are pertinent and significant to the issues in this case. Those authorities are (1) *Legislature of Nevada v. Settlemeyer*, 137 Nev. Adv. Op. 21, ___ P.3d ___ (May 13, 2021) and (2) Senate Bill 367 (2021).

First, *Settlemeyer* ruled that Article 4, section 18(2) of the Nevada Constitution required a two-thirds supermajority in each legislative house to pass bills extending taxes that were set to expire, because those bills created, generated, or increased public revenue. This Court held that the plain text of Article 4, section 18(2) “encompass[es] a bill that results in the State receiving more public revenue than it would have realized without it.” *Settlemeyer*, 137 Nev. Adv. Op. 21, ___ P.3d ___, at *8. This rule, the Court reasoned, applies even to bills that create, generate, or increase *future* revenues: “[B]y using the word ‘any,’ the provision has broad application and applies to all bills that create, generate, or increase public revenue *at any time*.” *Id.* at *8–9 (emphasis in original). Further, the Court held that it does not matter whether year-on-year “revenue levels remained unchanged”; what matters is merely whether “any” revenue is generated by a bill. *Id.* at *10.

Second, Senate Bill 367 would repeal a tax exemption for a professional sports team. The bill is marked as requiring a two-thirds supermajority vote in order to repeal that tax exemption. *See* S.B. 367 (2021)—Text, NELIS, <https://>

www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/8042/Text (stating
“REQUIRES TWO-THIRDS MAJORITY VOTE (§ 1)”).

Appellants respectfully submit these authorities for consideration in this case. They accordingly request, under NRAP 31(e), that this Court supplement page 29 of Appellants’ Reply Brief.

Dated this 14th day of May, 2021.

By /s/ Joshua A. House

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Institute for Justice, and that on the 14th day of May, 2021, I caused to be served, via the Court's electronic filing service, a true and correct copy of the foregoing *Appellants' Notice of Supplemental Authorities* to the following parties:

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