**MINUTES OF THE
LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO
STUDY THE ALLOCATION OF MONEY DISTRIBUTED FROM
THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT
(Assembly Bill 71, 2011 Legislative Session)
July 26, 2012**

The Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account (A.B. 71, 2011 Legislative Session) held its fifth meeting of the 2011-12 Interim on July 26, 2012, in Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was video conferenced to Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada; the High Tech Center, Room 123, Great Basin College, 1500 College Parkway, Elko, Nevada; and Room 108, Great Basin College, 5490 Kluncy Canyon Road, Winnemucca, Nevada.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:
Assemblywoman Marilyn Kirkpatrick, Chairwoman
Senator David Parks
Assemblyman John Ellison

COMMITTEE MEMBERS PRESENT IN CARSON CITY:
Senator Mike McGinness
Assemblyman Richard Daly

COMMITTEE MEMBERS PRESENT IN ELKO:
None

COMMITTEE MEMBERS PRESENT IN WINNEMUCCA:
None

COMMITTEE MEMBERS ABSENT:
Senator John Lee

STAFF MEMBERS PRESENT IN LAS VEGAS:
Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division
Dan Yu, Principal Deputy Legislative Counsel, Legal Division

STAFF MEMBERS PRESENT IN CARSON CITY:
Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division
Cheryl Harvey, Committee Secretary, Fiscal Analysis Division

EXHIBITS:
Exhibit A - Agenda and Meeting Packet
Exhibit B - Applied Analysis CTX Presentation "A Review and Analysis of Alternatives"

I. ROLL CALL.

Chairwoman Kirkpatrick called the meeting of the Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account to order at 10:37 a.m. and the secretary called roll. All members were present at the meeting except for Senator Lee, who was excused, and Senator Parks, who would join the meeting in progress.

II. PUBLIC COMMENT.

Terry Yurick, Board Member, Laughlin Economic Development Corporation (LEDC), thanked Mark Vincent, Chief Financial Officer, City of Las Vegas, for allowing him to join the working group at its July 12, 2012, meeting. He said Jeremy Aguero, Principal, Applied Analysis, permitted time for Mr. Yurick to present to the working group the information that had been presented to the Committee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account at its June 18, 2012, meeting. He said the history of NRS 360.740 showed a need for modification. Only one city has been incorporated since the statute was in force, and that city did not elect to take over police or fire services. He noted that Laughlin attempted to incorporate through a ballot question due to the determination made by the Legislative Commission on March 29, 2012. Mr. Yurick thought the vote was necessary because NRS 360.740 was unclear.

Mr. Yurick said his proposal would allow a newly incorporated city to use the funds that had been used for police, fire, and other services. He said the recommendation was revenue neutral. In addition, a new city would be challenged to reduce its total expenditures by at least 10%, and put at least half of that savings away for inevitable unanticipated contingencies. His proposal also included a five-year period of state oversight. He thought that period might be too long, because the state could probably determine within six months to one year whether a new city was viable.

Mr. Yurick said the Subcommittee had lots of work to complete, and he commended Mr. Aguero and the working group for what they were trying to accomplish. He hoped the issue of NRS 360.740 was not lost in the discussion, and that the Subcommittee would recommend to the 2013 Legislature a modification of NRS 360.740 to make it clearer.

Chairwoman Kirkpatrick asked if Mr. Yurick would continue to participate in the working group. He said he was learning much from the working group, and would continue to attending the meetings.

Chairwoman Kirkpatrick said the Subcommittee would hear a presentation from Mr. Aguero. She announced that the presentation would be posted to the Subcommittee webpage on the Nevada Legislature website (http://www.leg.state.nv.us). She noted that the Subcommittee work session documents were included in the meeting packet (Exhibit A), starting on page 57. She explained that there may be some issues with which the Subcommittee could move forward today, rather than waiting for the last meeting. She anticipated the final meeting of the Subcommittee would take place toward the end of August 2012.

III. APPROVAL OF MINUTES OF THE APRIL 30, 2012, MEETING.

ASSEMBLYMAN ELLISON MOVED TO APPROVE THE MINUTES OF THE APRIL 30, 2012, MEETING OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY THE ALLOCATION OF MONEY DISTRIBUTED FROM THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT. THE MOTION WAS SECONDED BY ASSEMBLYMAN DALY.

THE MOTION PASSED UNANIMOUSLY.

VII. SCHEDULING OF FUTURE MEETINGS.

*This agenda item was taken out of order***.**

Senator Parks joined the meeting at 10:46 a.m.

The Subcommittee agreed to schedule its final meeting for Thursday, August 30, 2012, at 2:00 p.m. She noted that the Subcommittee must submit its bill draft requests by September 1, 2012, and the Subcommittee members and staff must have two weeks to review the material provided by the local governments.

IV. PROGRESS REPORT FROM LOCAL GOVERNMENTS ON ISSUES RELATED TO THE CONSOLIDATED TAX DISTRIBUTION (CTX).

*This agenda item was taken out of order***.**

Jeremy Aguero, Principal, Applied Analysis, said his presentation would not restate the prior discussions of the current CTX distribution formula, rather, he would focus on the working group's discussions of the CTX distribution formula in the future. He noted that his firm was hired by the cities of Las Vegas and Henderson jointly to review the CTX. He said at the April 30, 2012, meeting of the Subcommittee, they were directed to expand the scope of the working group. There have been 20 meetings over the past four months, both in person and online, in the north, south, urban and rural areas of the state. There were approximately 27 attendees at each of those meetings, both experts and interested parties, who participated to various degrees and in many different ways.

Mr. Aguero said his presentation would provide a status update and a summary of the working group's tentative recommendations.

Mr. Aguero said the process began in September of 2011 with research on the CTX distribution and development of a model. The working group consulted with technical experts to vet the model, and began testing alternatives. He said there was an update to the Subcommittee on April 30, 2012.

Mr. Aguero described the working group meetings as follows:

- May 10, 2012, the expanded working group met for the first time at the Las Vegas City Hall.
- May 15 and 16 the working group met with the City of Mesquite, the Henderson Library District, the City of North Las Vegas and Clark County.
- May 24 the working group again met at the Las Vegas City Hall.
- May 29 the working group met with the Nevada Association of Counties (NACO) and other entities regarding rural CTX issues.
- May 30 the working group met with the library districts on the topic of excess formula distribution issues.
- May 31 there was another broad working group meeting at the Applied Analysis office.
- June 6 the working group met with the City of Fernley and had another subsequent meeting with the City of North Las Vegas.
- June 7 there was a working group meeting at the Reno City Hall.
- June 14 there was another working group meeting at the Las Vegas City Hall.
- June 18 there was a Subcommittee meeting at which time a progress update of the working group was provided.
- June 20 the working group met with the City of Reno.
- June 27 the working group met at the Las Vegas City Hall, and there was a subsequent meeting with the City of Fernley
- July 12 the working group met at the Las Vegas City Hall to discuss Laughlin issues.
- July 19 the working group met at the Reno City Hall, and there was also a Washoe County sub-group meeting.
- July 25 the working met with the Henderson Library District.

Mr. Aguero said he would outline the future expectations of the working group, respecting the fact that the Subcommittee would ultimately determine the final direction. He said between July and August 2012, the working group intended to wrap up some of the final issues and perform a technical review with the LCB and Taxation staff. He hoped that the framework and the key elements of the bill would be completed in late August so that the information would be available to for the local governments to review. Between September and October of 2012, the managers and elected officials of the local government jurisdictions would review the elements and come to a general agreement.

Mr. Aguero said he would speak on the CTX formula, and some of the issues that required attention. The first issue was the first tier CTX distributions, which were distributions from the state to the counties and Carson City. Currently there is a guarantee county/point-of-origin county distribution, and the working group recommended that the status quo be maintained. There is no recommended change to the first tier distribution, because the distribution has worked well historically, and has helped to preserve stability in rural areas. He mentioned, as an additional consideration, that the City of Fernley offered alternatives that required alterations to the first tier distribution. One recommendation brought before the working group and the Subcommittee was the redistribution of all funds, that would effectively make the City of Fernley whole in their perception. The general consensus of the working group was that the formation of a new entity, in that case, the incorporation of a new city, should not increase the cost of providing current government services unless the residents of that entity elect to tax themselves, or somehow increase revenue to do that.

Mr. Aguero said the second issue was the treatment of the CTX base. He noted that some of the items would be discussed as part of the work session that would follow. He would go over the issues briefly. He said the current CTX annual base calculation was the prior year's CTX allocation, minus any excess allocation, times one plus the percent change in CPI. It is recommended that the annual base calculation be changed to the prior-year's CTX allocation, times one plus the average percent change in CPI during the preceding five years. He explained that the excess carry-forward created distribution inequities, particularly when the economy declined. If one entity was hugely dependent on the excess, and another community was not, when the economy declines, and the available revenue shrinks, the entity that was more dependent on that excess would be disparately impacted. This change would allow the CTX to evolve over time, and the bases will adjust as communities grow and change. The bases would reflect where growth and change was occurring. This approach would limit the misconception that the excess was "extra" revenue. He said the excess has been perceived as windfall, but it is not. Finally, adopting the use of a five-year average CPI would smooth any sharp ups and downs in inflation. He recalled that during the April 30, 2012, meeting of the Subcommittee, there was discussion about the potential for hyper-inflation, or even deflation; this method would insulate against that.

Chairwoman Kirkpatrick asked if these changes were discussed with a long-term view of ten years, so that it did not have to be revisited every legislative session. Mr. Aguero said that there were no illusions that the recommendations would create a solution that would work in perpetuity, but the recommendations would resolve the current problems for a significant period into the future. He said the working group participants understood that the topic cannot be revisited every legislative session, and the working group process was intended to avoid that.

Mr. Aguero referred to page 14 of "A Review and Analysis of Alternatives" (Exhibit B) to graphs illustrating the dependence on excess CTX revenue statewide, in North Las Vegas, and in Boulder City. He noted that in FY 2006 Boulder City was half as reliant on the excess distribution as North Las Vegas, and North Las Vegas was more reliant on excess than the rest of the state by 13%. This created long lasting and significant disparities in the distribution of CTX revenue.

Mr. Aguero said the next issue was timing for memoranda of understanding (MOU) for alternative second tier distributions. He said the current period is December 31 of the preceding fiscal year, and the recommendation is the last Friday in April of the preceding fiscal year. He said the change was recommended due to budget and timing flexibility; the practical reality of getting consensus among a potentially large group of entities; and by challenges created by the holiday season. He said additional considerations were that local governments understood and accepted that Taxation's projections would not reflect alternative distributions resulting from an MOU. Mr. Aguero said he spoke with LCB and Taxation staff about the MOU date. He said the local governments would prefer a later date to allow more time to deal with the interlocal agreement, even if it meant that the revenue projections from Taxation did not reflect some of the information.

Chairwoman Kirkpatrick asked what would stop local governments from having Taxation recalculate the CTX revenue distribution time and time again. Mr. Aguero suggested something should be created to not allow that to happen. The intent of the recommendations was to not add any administrative burden for Taxation. The intent was to balance the desire for local governments to have time to go through the process when necessary, and for Taxation to provide the revenue estimates, as is required by statute. He thought there should be a broader discussion on the limits on what the local government could request from Taxation. He said the local governments understood that Taxation would like to have perfect information on which to base its revenue projections, and the local governments would have to deal with the fact that the projections would not include full information.

Chairwoman Kirkpatrick asked Mr. Aguero to explain when the budgets were due, and why the date mattered. Mr. Aguero explained that the end of the calendar year was the deadline for the local governments. He said some of the local government budget staff were on vacation at that time. He deferred to the local government finance experts to talk about the specific timelines. Chairwoman Kirkpatrick said she would ask Taxation to speak about the timeline during the work session.

Mr. Aguero said the treatment of enterprise districts in second tier distributions was an issue. He said the following types of entities received CTX distribution: enterprise districts, special districts and traditional multi-purpose governments. Currently, the enterprise districts received a static annual distribution with no inflation adjustment and no excess allocation. The recommendation would be to maintain the status quo. He explained that the CTX was designed to discourage the formation of new special purpose districts. The CTX also intentionally treated single-purpose entities different than multi-purpose entities. The underlying principles of the CTX distribution formula were the same today as in 1997 and 1998 when it originated.

Mr. Aguero said excess distribution factors and weighting were big issues that came up often. Currently, the factors were trailing five-year population growth and the trailing five-year assessed value growth. The two growth rates were weighted equally within the formula. The recommendation was to maintain the status quo.

Mr. Aguero explained that the reasons no change was suggested are as follows:

- The factors reflect growth and change in communities. As communities grow, the additional property and people demand additional services.
- The factors intentionally double weight for population growth. There was concern that assessed value may or may not be reflective of residential population, or the demand for services created by incremental growth in population. The majority of assessed value was attributable to residential property values. By including both population and assessed value, population was being double counted, which was the intention when the consolidated tax was originally created, and remains a favorable feature of the formula.
- The factors reflect that not all jurisdictions are created equally. For example, the unincorporated town of Paradise, which includes the Las Vegas Strip, cannot be compared to Boulder City. The two areas could not be more different in terms of physical makeup. The Las Vegas Strip had low population, but there was a high demand for services due to the volume of visitor traffic. He said the CTX excess distribution formula was designed specifically to deal with this factor.
- The five-year averages would smooth sharp annual variations. There were periods of huge growth and other periods of huge decline. Using one single year could create real aberrations in the CTX formula.
- No factors were identified that proved to be a superior alternative.

Mr. Aguero said the next issue was the treatment of negative excess factor growth rates in population or assessed value, otherwise known as the "hold harmless" provisions. He recalled previous discussions on the topic that throughout the state there were huge declines in assessed valuations that have overshadowed increases in population growth. In the current CTX formula, the population factor was added to the assessed value factor, and the sum cannot be less than zero for purposes of the distribution. He said the recommended change is that the population factor can be less than zero, the assessed value factor cannot be less than zero, and the sum of the two cannot be less than zero. He said the idea was that if an entity had a negative population factor, that negative would continue to be negative, because there was a general belief that the formula needed to adapt in the event that an entity had a long period of decline. He noted that the factors would be averaged over five years, so in order to have a negative result, the average growth rate would have to be negative over a five-year period. Alternatively, the assessed value factor cannot be less than zero. If there were huge declines in assessed value, those would be set to zero, summed together, and the total could not be less than zero.

Mr. Aguero explained the reasons for the recommendations as follows:

- The factors were intended to reflect changing growth patterns.
- Sharp declines in assessed value did not necessarily reflect sharp declines in service demand. If a house was currently worth 50% of its assessed value of three years ago, and if that house was occupied, the people were probably still demanding the same services.

- Declines recorded during the past four years have overshadowed changes in population. The incredible increases and decreases in assessed value have made it very difficult to craft a formula that would address any potential outcome.
- Declining population bases need to be factored into CTX distributions and will require monitoring. If an entity has a decline over a long period, there was some desire that the entity should not continue to receive the same level of CTX distribution going forward. He reported that some of the original designers of the CTX said they had the same problem with the original one plus formula – a declining entity's CTX distribution would never reflect that decline. As a result, they had to monitor those entities and be prepared to step in and make any necessary changes.

Chairwoman Kirkpatrick asked for clarification. Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, understood that the population factor can be less than zero, but the assessed value factor cannot be less than zero. He asked what would happen if the five-year average growth in population was -2%, and the five-year average growth in assessed value was -5%.

Mr. Aguero said that the working group wanted to avoid the scenario where all of the entities had negative results. To do that, the negative amounts would be set to zero. He explained that a negative value in the excess calculation would create a spurious result.

Mr. Guindon said population could be negative, unless the sum of that and the assessed value was negative, in which case it would be set to zero. Referring to his previous example, he said if the five-year average growth in population was -2%, and the five-year average growth in assessed value was -5%, under current law, those would be added together, resulting in -7%. The recommendation does not allow a negative result, so the factor would revert to zero.

Mr. Aguero agreed and explained that some entities currently had a zero plus factor that cannot go below zero. An entity cannot have a negative growth factor for the calculation of excess distribution, because an entity cannot get a negative amount of excess distribution. He explained that if assessed value and population growth were -10% and -20% respectively, those factors would be added together and multiplied by the base, to arrive at a negative growth factor for the percentage distribution. That was the situation that the working group was trying to prevent.

Mr. Guindon said if an entity's combined growth factors equaled zero percent, then the excess weight would be zero. Mr. Aguero said there would be a plus factor, which would also be discussed.

Mr. Guindon said under the "no one plus," if an entity's growth resulted in a negative number, or a zero weight, then the excess distribution weight for that local government entity would be zero. The issue with no one plus was that some entities' growth could be zero, resulting in other entities receiving 98% of the excess distribution for the second tier. He asked if he was stating the situation correctly, and Mr. Aguero agreed, but said there was a nuance.

Chairwoman Kirkpatrick said she understood that the percentage would be zero rather than negative, so the entity would get nothing, as opposed to losing something.

Mr. Aguero said that was correct; an entity cannot lose revenue in this portion of the formula. The worst that would happen was zero excess distribution. In response to Mr. Guindon's question, he said there would be a difference in the result depending on whether the plus factor was applied after the equation, which meant everyone would share in the distribution, even if growth was negative, or within the equation. He noted the recommendation was for the plus factor to be applied within the equation. If there was zero growth in assessed value, -2% growth in population, and a 2% plus factor is used, the result would be zero. That calculation cannot go below zero, thus, if an entity had negative growth rates averaged over five years, for a period of time, that entity would not share in the excess distribution.

Chairwoman Kirkpatrick expressed concern that some of the entities would be harmed by this method of calculation. She had further questions, but would hold them until the end of the presentation.

Mr. Aguero said he would try to answer all of the questions. He said if there questions or examples that need to be shown algebraically, he would do so.

Mr. Guindon noted that, because the presentation was compartmentalized, it might be best to wait until the end of the presentation to ask questions. He would need to see all the pieces of the recommendations to get a complete picture.

Continuing with his presentation, Mr. Aguero said there was an issue with the official population estimates. The current formula uses the official estimates produced by the Nevada State Demographer. The recommendation was to maintain the status quo. He explained that the Nevada State Demographer's estimates were the official estimates of the state, and was the best available information. He noted there was an additional consideration: local governments indicated a need to revisit the process by which the official population estimates are finalized and certified. Estimates, particularly during a census year, can result in significant one-year adjustments and current methodologies do not fully account for part-time populations (e.g., snowbirds). That creates some weird aberrations, and because the CTX is so dependent upon those factors, this can have real impacts on how those distributions occur. Referring to page 25 (Exhibit B) he noted the census estimates for the City of Mesquite, Lincoln County and Esmeralda County could not be absorbed in a single year. He was sure that the City of Mesquite's population did not actually grow by 8%, 6% and 5% in consecutive years, then experience a 26% decline followed by a year of 12% growth. He said the impact of these assumptions can be very far reaching.

Mr. Aguero said growth factors for special districts in the second tier excess distribution was an issue. He said special districts received assessed value growth factor, but no population growth factor. Although this issues was a point of contention, the recommendation was to maintain the status quo. He explained that the CTX intentionally discouraged the formation of new special purpose districts. The CTX distribution formula included both population and assessed value for a reason. First, the CTX was clearly designed to treat entities that only served a single purpose, very differently than those that served multiple purposes. Second, it would be very difficult to treat special districts all the same, because not every district has a population estimate. This was very important in places like Clark County where there were library districts that were coterminous with jurisdictions, and thus population estimates could be used. After a long discussion and debate on the issues the tentative resolution was to keep the formula as it is today. However, there is a long history of special district formation in Nevada, particularly library districts. The working group felt that it was important to clarify the record in this regard. He would like a memoranda to clarify the history, so that in the future, when these questions arise again, there would be an explanation as to why the working group came to its conclusions.

Mr. Aguero said the plus factor in the second tier had been a long-time issue. In the existing formula, the factor was zero plus in some counties and one-plus in others. The recommendation was for 0.02-plus for urban counties (Washoe and Clark), and one-plus for all rural counties.

Mr. Aguero cited the following reasons for the plus factor recommendation:

- The recommended plus factor would balance system stability and the nexus between revenue growth and community growth
- The recommended plus factor addresses the difference between rural communities and urban communities
- The recommended plus factor would approximate a modest rate of growth for all entities.

Mr. Aguero pointed out that the original CTX formula was designed incredibly well. He said stability was at the forefront of the principles underlying the methods and the elements of the formula. He said the formula was not intended to be responsive to growth, but there was a desire among local governments that the formula be more responsive to growth, and therefore the formula was altered. Today, objectives have changed somewhat, and there was a desire for CTX allocations to adapt to growth patterns within counties. He said the recommendation would address the issue between urban and rural communities. He recalled a comment in an early meeting of the working group by Ms. Walker that the entities have tried very hard to find a “one size fits all” formula for a state in which the entities are not one size. He said there are three elements: the south, the north and the rural areas. There was no one formula that could work for Clark County as a whole, and Kingston, which has a population of 100. Balance between stability and growth can be had when there is a critical mass of entities and population in certain areas. We cannot do it in the rural areas, because very small changes result in a dramatic percentage increase in growth. The idea is to be responsive to growth and stability in urban areas, and to the differences in our state between rural areas and urban areas.

Mr. Aguero said the 0.02-plus element approximates a rate of growth for all entities. He would love to be able to tell the Subcommittee that the plus factor was the best formula that could be developed, and that no entity would ever have an issue with that plus factor in the future, but that would not be true. However, he could tell the Subcommittee that there have been a large number of discussions, and the underlying math has been studied. He said the working group modeled a slow-growing entity, looked at it from every angle, and this was the factor that the working group could tentatively agree upon. He would like to have mathematical precision, but if the ultimate goal was to balance the good the one-plus provided in terms of stability, the 0.02-plus was as close as any factor that the working group could come up with. He said that recommendation, in combination with the fact that the excess will not grow bigger, instead, it will be added to each entity's base, the working group has gone a long way toward resolving the conflicts that have long plagued our state relative to the CTX distribution and its plus factors.

Chairwoman Kirkpatrick noted that was already allowed under statue with an MOU. She asked why that would have to go into statute when it is already allowed. She noted that the formula was changed once before. Some entities won, but there were lots of losers. She asked what would happen to the entities that had very low or negative growth, what would prevent requests to change the formula, and how would we ensure the recommendations will be in place for the long term.

Mr. Aguero said he would first address what would happen with the entities that were disadvantaged by the formula as it existed. He explained that the model has been updated 98 times, and 40% of the models encompassed various "plus factors," or other methods to address the problem. The model showed, for every entity, but more so in Northern Nevada, under the current formula there would be a tremendous problem for the urban areas about three years out. One of the catalyst that motivated discussion during the 2011 Legislative Session was that growth rates were negative for most entities, but there were a couple of entities with positive growth. The amount of excess was between $20 and $30 million. If only one entity had growth, that entity would receive 100% of the excess, which doubled or tripled the amount of CTX revenue it received. While the mathematics worked in the formula, that was clearly not what was intended. That problem would probably recur by 2016, but the amount of excess would be closer to $150 million. He asked the Subcommittee members to envision the factors of population and assessed value that went toward the distribution. He said there were entities that had declines of -30%, -50%, -60% in assessed value. Over the next five years those entities could grow 3% or 4% per year, but because the previous declines in assessed value were so large, the rate would be zero for at least the next five years. During that same period, the CTX was likely to grow, however, not at the rates that it had grown before. In Southern Nevada, there would be a race to see which entity would be the first to have positive growth, because that entity, under the current formula, would be entitled to 100% of that revenue.

Mr. Aguero said according to the model, the entity that would have the first period of positive growth would be the town of Summerlin within Clark County. Its revenue would increase from $150,000 in one year to $115 million the next. He agreed that the creation of an MOU was a viable option that was put into the law intentionally. However, he said, letting stand a formula with flaws that would result in such an aberration was simply bad tax policy. There was agreement that the formula was broken, and not working in the way it was intended. He said during the 2011 Legislative Session the entities came together to develop the MOU, but he did not know if that would happen again. A formula with an outcome that shifted $115 million to an entity that had previously been receiving $150,000 was problematic.

Responding to the second part of Chairwoman Kirkpatrick's question about the discussions around the plus factors, Mr. Aguero said there were many discussions about one-plus and zero-plus factors, and models were run for the scenarios. He said the model was a spreadsheet that considered all of the different factors, and showed the outcome. The model demonstrated that everyone grows by the same amount, essentially, when the factor was closer to one plus. The closer the factor was to zero, the more likely it was to have issues with negative factors creating the potential for a single entity to receive all of the excess revenue to be distributed.

Mr. Aguero said the working group discussed the difference in a faster rate of growth versus a slower rate of growth. He said his group used the model to see what would have happened had the recommendations from the working group been used from the inception of the CTX formula. The model showed that some of the inequities that resulted from the decline in the market disappeared, and inequities arose in the rural communities. That was why a bifurcated formula that treats rural communities differently was recommended.

Mr. Aguero said in response to Chairwoman Kirkpatrick's third question, nothing would prohibit the entities from claiming in the future that the percentages should be different, but there were limiting factors. For example, there was general consensus relative to this factor for urban communities. The recommendation was drawn up and agreed to by the participants of the working group. Also, the point of argument about that factor – that the excess kept growing bigger and bigger – was removed. He explained that the excess for North Las Vegas made up 43% of the CTX revenue it received in any single year, which made it a "hill to die for." However, if the excess only made up 5%, 6% or 7% of the CTX revenue, it would be a lesser issue. He said if this formula had been in place in 2001, the CTX distribution would have been in a better position today. There was an expectation among the working group that with this change, in ten years, the entities would be in a better position than they would have been otherwise. All of the entities would be better off if a distribution of $115 million to a single entity could be avoided. Otherwise, unless all of the entities came to an agreement about an MOU, those losses would be measured in the $20 million to $50 million range for the major jurisdictions.

Regarding the issue of base adjustments, Mr. Aguero said great progress has been made among the working group, but there was no consensus. He summarized the situation as follows:

Clark County: A number of scenarios have been considered, many at the request of the City of North Las Vegas, the outcomes of which have been reviewed and discussed in several working group meetings. No agreements have been reached with respect to the City of North Las Vegas' request, although the scope of the discussion has been significantly narrowed. The working group has continued to work to find alternative strategies and to build consensus around those strategies. If any agreements are reached, he expected that the agreements would likely come to the Department of Taxation in the form of MOUs outside the proposed formula. He said, given the progress that has been made, he thought a base adjustment would not be formulaic, but would come as a result of entities agreeing that some adjustment was necessary, and determining how that would take place, independent of the formula.

Chairwoman Kirkpatrick noted that the study was performed at the request of the City of North Las Vegas during the 2011 Legislative Session. She asked if the MOU would occur before or after the legislative process. Also, she wondered what would happen if there was not agreement between local governments.

Mr. Aguero said representatives from all of the entities were in attendance at the meeting, and he asked those representatives to provide context or corrections to the following statement. He said, North Las Vegas has been unambiguous from day one that the CTX, currently and historically, has serious inequities. They believed that an immediate base adjustment was necessary and appropriate. That having been said, most of the models that have been talked about among the working group have had base adjustments essentially being diverted out of the excess distribution. He said North Las Vegas certainly was not the only entity that needed or deserved a base adjustment.

Chairwoman Kirkpatrick said at a North Las Vegas town hall meeting she was confronted with the statement that the city had lost $100 million in CTX distribution over a five-year period. She and LCB staff have asked how that calculation was performed, but have yet to receive an answer. She asked how a specific number would be determined to put the entities on a level playing field going forward.

Mr. Aguero said all of the numbers in the process have been something of a moving target. He said, over the past month, the City of North Las Vegas has come up with some options to narrow the scope in terms of the value. He said, until there is some kind of settlement on the issue of the base adjustment, the timeline of the MOU, and exactly how the distribution is calculated, when or where that happens cannot be decided.

Chairwoman Kirkpatrick said the residents of North Las Vegas requested a discussion of the CTX formula and a base adjustment. She would like to be able to report to the citizens of North Las Vegas on those discussions. Mr. Aguero assured Chairwoman Kirkpatrick that there have been extensive discussions on that topic within the working group. He could not assure an outcome, but those discussions were taking place.

Mr. Aguero said there was no further adjustment recommended for Washoe County. Although Washoe County entities disagreed relative to the presence of an inequity within the CTX formula as originally designed, nuances within the current formula have resulted in some outcomes that were more favorable to the City of Reno during the past few years. This, combined with adjustments to the formula that allow excess allocations to be added to an entity's base as opposed to being carried into perpetuity, resulted in an outcome that is tentatively acceptable to all parties, effectively eliminating and/or satisfying the need for a base adjustment for the City of Reno.

Mr. Aguero said there is no further adjustment recommended for the rural counties. The only rural community that expressed concern about its current base allocation was the City of Fernley. There was general agreement that additional clarity and transparency may be warranted relative to what funds would inure to a newly formed city, and that there is a need for a clear path allowing a newly formed city to petition its host county for additional CTX funds where it intends to provide additional services. There is also general agreement that the formation of a new entity should not increase the cost of existing services unless the residents of that entity opt to tax themselves. Nor should the formation of a new entity result in a redistribution of CTX funds among all Nevada entities currently receiving CTX. Because Fernley's proposed base adjustment would violate these principles, the working group did not recommend any action at this time.

On the topic of new formula implementation (page 33, Exhibit B), Mr. Aguero said a FY 2014 implementation base was recommended. The base carry-forward would be calculated at the end of FY 2014, and while that might seem to be a minor nuance, it was relatively important. He explained that if it were calculated at the end of the year, the new formula would be memorialized, but if it were calculated at the beginning of the year, the old formula would be memorialized. He said the new formula implementation year would need to be revised once the base adjustment discussions are concluded. He noted that was a condition of the tentative resolution in Washoe County. He said while there was a tentative agreement, important pieces of the base discussion remained open for reconsideration.

Mr. Aguero said the circuit breaker issue would need to be discussed last. He explained, if the formula breaks down, we do not want for the challenge to be something that cannot be handled.

Mr. Aguero said the last issue was incorporation of a new city. He said the recommendation was for enhanced statutory requirements increasing both transparency and clarity. He said that NACO and the aspiring city of Laughlin provided some language requiring that the general procedure for determining the cost of services should be provided. Right now, the ability to settle differences in the opinion of the cost of services is difficult. The amount of the consolidated tax anticipated to be redirected to an incorporating city should be available as early as practicable in the incorporation process. The situation in which an aspiring city does not have full information of its revenue stream until further in the incorporation process should be prevented for clarity and transparency. He said the estimated amount of CTX, as determined by the Department of Taxation, should be disclosed in the ballot question description, if a ballot question is required, along with a statement as to whether there was adequate revenue to operate the new city when combined with other city revenue sources, or whether some form of revenue enhancement would be required. The citizens of that incorporating city should know the amount of revenue, and whether it would be sufficient to provide the required services.

Mr. Aguero recalled that at the April 30, 2012, meeting of the Committee, he presented a list of outstanding issues. The following outstanding issues have been addressed:

- Vetting of alternatives among a wider range of local governments.
- What happens in the event a local government enters a longer-run period of decline?
- What happens in the event a new local government is formed?
- Should the hold harmless factor be applied to both assessed value and population growth rates?
- Are there administrative challenges created for the Department of Taxation?
- What becomes the new base year (start year) for the revised CTX calculation?
- What are the implications for libraries?
- Where does the final plus factor land?
- Is the CPI the right index for annual base adjustments? What happens in the event of hyper-inflation?

Mr. Aguero said as of the July 26, 2012, meeting, the outstanding issues below have not yet been resolved:

- Clark County base adjustment discussion.
- Circuit breaker.
- Library district legislative history clarification.
- Technical review with LCB and Department of Taxation.
- Local government vetting with managers and elected officials.

Mr. Aguero concluded by thanking the Subcommittee and offered to answer any questions.

Assemblyman Ellison said the working group has made an incredible amount of progress. On the topic of determining the costs and revenue stream for a new city, he thought the current formula worked. He understood that there were cases in which a new city should not be incorporated, but he worried that if there were too many requirements, no new cities would be incorporated.

Mr. Aguero clarified that the working group was not saying the process itself needed to change. The recommendations from the working group were intended to clarify how much revenue would be available to the new entity. The recommendations would provide additional structure to the process to narrow the gap between what a county asserts that it costs to provide services, and what an aspiring city might think it costs. He said there was no recommendation as to the process from the working group, and he agreed that the current process worked.

Assemblyman Daly asked what would happen if an entity had a negative CTX distribution.

Mr. Aguero explained that if a combination of assessed value and population led to a -2% combined factor, with a 2% plus factor the result would be zero. The combined factors of assessed value and population would have to be greater than the plus factor in order for them to be set at zero. The sum of the total, inclusive of the plus factor, cannot be less than zero.

Assemblyman Daly understood that if Washoe County's growth in population and assessed value were both -4%, resulting in -8% combined, adding the plus factor of 2% would still result in -6%, so the excess distribution factor would revert to zero. Mr. Aguero said that was exactly right.

V. COMMENTS FROM LOCAL GOVERNMENTS REGARDING THE PROGRESS REPORT AND OTHER ISSUES RELATED TO THE CTX.

Chairwoman Kirkpatrick asked the local governments to come forward with their comments.

Dan Musgrove, representing the City of North Las Vegas, commented that he was amazed at the work that has been accomplished, and added that it has been a tremendous learning experience for him, and for the City of North Las Vegas. He said many of the comments and questions by Chairwoman Kirkpatrick, the Subcommittee members, and Mr. Aguero have transformed the thinking of the City of North Las Vegas. He believed the current leadership in North Las Vegas was ready to be part of the solution.

Mr. Musgrove said the mission of the originators of the CTX formula intended for the formula to provide stability and balance. Even though there may be arguments over the years as to the property tax rates when the CTX formula was first applied, causing some entities to not get as much from the formula as others, the formula was stable and balanced.

Mr. Musgrove said there had been much discussion as to the reversion date for the new base, because there was no date that would be equitable for all of the entities. He recalled a statement at a previous meeting by Guy Hobbs, one of the originators of the formula, about whether the formula was being changed simply to provide more CTX distribution to the City of North Las Vegas. Mr. Musgrove said that was not in the best interest of the state as a whole, or what the policy of the Legislature has been.

Mr. Musgrove said the City of North Las Vegas wanted to propose an idea to the Subcommittee that he believed was good policy and in the best interest of everybody. He said the current formula did not react to the recession after 2006, which created disparate impacts to the entities. He believed that the new formula proposed by Mr. Aguero would correct those failures. He said a 2014 start would perform fairly going forward, but there would still be "haves" and "have nots" because of the impacts of the recession, and the effect of the existing CTX distribution formula on those entities. He clarified that he was not opposed to adding the excess to the base. The issue was when the new formula would go into effect. Mr. Musgrove said that the City of North Las Vegas would bring this new idea to the working group. Specifically, he would ask the working group to consider how the entities would have been affected if the recommended formula changes had been in effect from 2007 to 2013. The results of this change to the formula starting from 2007 to 2013 in FY 2014 would then serve as the base year amount when the new formula changes would actually go into effect.

Chairwoman Kirkpatrick said there was still about 12 days for the local governments to work on different scenarios. She asked Mr. Musgrove to provide a specific request to Mr. Aguero so that the scenario can be modeled.

Mr. Musgrove added that the City of North Las Vegas had concerns about the MOU, and those concerns would be addressed before the next meeting of the Subcommittee as well. In addition, the City of North Las Vegas did not think it was in the best interest of the state to pursue CTX distribution for its library district, and the Subcommittee no longer need to consider that request.

Cadence Matijevich, Assistant City Manager, City of Reno, said nobody has had an opportunity to think about what was presented by Mr. Musgrove. She would review the scenario when the information was available. Her initial reaction was that the approach would not fit with the tentative resolution that has been reached in Washoe County, and may result in the need to revisit the base adjustment.

Lisa Gianoli, representing Washoe County, agreed with Ms. Matijevich. She said, given that the results of that scenario are unknown, Washoe County would reserve judgment at this point.

VI. WORK SESSION – DISCUSSION AND POSSIBLE ACTION ON CTX ISSUES RELATING TO: a) Base Amount; b) Consumer Price Index Adjustment to the Base Amount; c) Local Government Interlocal Agreement Date Deadline; d) Certified Population Estimate Used for Per-Capita Distribution of Certain First-Tier CTX Revenues.

Chairwoman Kirkpatrick said she would like bipartisan, unanimous support. She did not necessarily expect that agreement to occur at this meeting, and she said further discussion would take place on issues that were not unanimously agreed upon.

Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, noted the presentation by Mr. Aguero, Applied Analysis CTX Presentation "A Review and Analysis of Alternatives" (Exhibit B) was available on the committee webpage on the Nevada Legislature website.

Mr. Guindon said he believed the work session document contained only those items for which there was consensus among the working group. He said one issue may need additional discussion between the local governments and the Department of Taxation.

Mr. Guindon noted that the Subcommittee had several bill draft requests (BDRs) for its use. He said that the intent of the discussion was not to determine the content of the BDRs, rather it was an attempt to take action on items on which there was consensus so that they would not have to be revisited at the next meeting of the Subcommittee in August.

Mr. Guindon noted there was nothing in the work session document about the effective date of the measures, because there were outstanding issues among the local governments.

Referring to page 57 of the meeting packet (Exhibit A), Mr. Guindon noted there were three proposed changes.

Mr. Guindon said, under current law (A.B. 10, 17th Special Session [2001]), the base for the next fiscal year is the amount of the current base, excluding the excess. He said there was a question as to how to adjust the base for CPI. He noted that these were second tier issues. In addition, this issue would only impact local governments and special districts, and would not affect the amount of CTX distribution to enterprise districts.

Mr. Guindon said the first change would set the base as the total amount of CTX revenue (base plus excess) distributed to that entity in the prior fiscal year (page 58, Exhibit A). The second change would lessen large increases or decreases in the CTX distribution by using the average CPI over the five preceding calendar years, rather than just the preceding calendar year, to calculate the base adjustment. He explained that the third proposed change was a combination of the first and second changes.

Referring to page 60 of the meeting packet (Exhibit A), Mr. Guindon presented examples of the outcomes of the three proposed changes. He said that the examples used actual percentages from the CPI all items, all urban consumers, calendar year index published by the Bureau of Labor Statistics, for 2007 through 2011. Calendar year CPI growth for 2008 was 3.8%, and for 2009 -0.4%. By averaging over five years, the negative year did not affect the CTX distribution.

Mr. Guindon said based on Mr. Aguero's presentation, the consensus among the working group was for a combination of the first two proposed changes. Referring to page 61 (Exhibit A), Mr. Guindon explained that the base and excess were combined to become the new base, which would then be adjusted for the five-year average percentage change in CPI.

Chairwoman Kirkpatrick clarified that the Subcommittee has been presented with three proposed changes, and that the working group has reached consensus on the third proposed change.

In response to a question from Assemblyman Ellison, Mr. Guindon made it clear that if the working group presented the Subcommittee with a different agreement at the next meeting, this action could be revisited. At present, there was consensus among the working group, and he would be surprised if that changed.

Chairwoman Kirkpatrick said she did not see any reason not to move forward on this decision.

> ASSEMBLYMAN DALY MOVED TO ADOPT PROPOSAL THREE AS OUTLINED ON PAGE 59 OF THE MEETING PACKET (EXHIBIT A). SENATOR PARKS SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

The discussion moved to the topic of the local government interlocal agreement deadline, also known as the memorandum of understanding (MOU). Turning to page 62 of the meeting packet (Exhibit A), Mr. Guindon recalled there had been quite a bit of discussion among the working group on the MOU deadline. The current date was December 31 in the fiscal year preceding the fiscal year for which the agreement would be effective. That date was difficult for the local governments. He noted the date was changed to allow Clark County to enter into its current interlocal agreement for FY 2012 and FY 2013.

Mr. Guindon said the working group proposed that the MOU deadline be set for the last Friday in April, but the Department of Taxation would prefer a March 1 date. Referring to page 63 (Exhibit A), he said the following dates were important to the local government budget process:

- On or before February 15, subsection 10 of NRS 360.690 requires the Department of Taxation to provide each local government with a preliminary estimate of the CTX revenue it would receive from the account for that fiscal year.
- On or before March 15, subsection 11 of NRS 360.690 requires the Department of Taxation to provide each local government with an estimate of the CTX revenue it would receive in the next fiscal year. Under subsection 12 of NRS 360.690, local governments may use this estimate in the preparation of its budget.
- On or before April 15, subsection 2 of NRS 354.596 requires local governments to submit a copy of its tentative budget to the Department of Taxation.
- On or before June 1, subsection 2 of NRS 354.598 requires local governments to adopt their final budgets.

Mr. Guindon pointed out that the Department of Taxation would need to know whether there was an interlocal agreement by March 1 in order to provide an estimate of CTX revenue on or before March 15. He noted that the last Friday in April was after April 15, when the local governments must submit the tentative budgets to the Department of Taxation.

Chairwoman Kirkpatrick noted that based on S.B. 31 from the 2011 Session, the MOU date would revert to December 31. One option would be to select a date in between the dates that were proposed by the working group and the Department of Taxation.

Terry Rubald, Chief, Division of Local Government Services, Department of Taxation, expressed concern about the MOU information being provided after the revenue projections and tentative local government budgets are delivered. She noted that the Nevada Tax Commission finalizes the property tax rates on June 25. She was concerned about changes to the revenue stream estimates because that information was included in the local government budgets. She said a local government would expect a certain amount of revenue from one source, and another amount from the property tax. She noted potential problems if the property tax rate was locked in, and the amount of revenue from CTX was not adequately addressed. She said the Department of Taxation reviewed and approved the tentative budgets so that the budgets can be adopted in June. She would like for the Subcommittee to consider an earlier date than the last Friday in April.

Ms. Rubald requested that the Subcommittee consider March 1 for the MOU date. She noted that Taxation received projections from net proceeds of minerals on March 1 from the taxpayers. She said all of these things are combined into the final revenue projection. She cautioned that an interlocal agreement or an MOU that is entered after the revenue projections are made would lessen the viability of those projections.

Chairwoman Kirkpatrick said it was up to the entities that are affected to come up with a date that everyone can agree upon. She said that the legislative intent was that the revenue estimate, property tax rate setting and budgeting work should not be done twice. She asked the parties to work on an agreement before the next meeting of the Subcommittee. The Subcommittee members indicated they were in agreement with that approach.

Mr. Aguero said that the working group would cooperate with LCB staff and Department of Taxation staff to determine a date that would work for everyone.

Mr. Guindon asked the local governments and the Department of Taxation to review the dates in the meeting packet (page 63, Exhibit A) and to contact him if there was a discrepancy.

Moving on to the final work session issue, Mr. Guindon said there was a technical issue as to the population estimates prepared by the State Demographer, and certified by the Governor on or before March 1 for the preceding July 1. The period of a fiscal year is from July 1 to June 30. The current law is structured such that the Department of Taxation distributes the revenues using the population estimates for the July 1 that preceded that fiscal year for 10 months. An updated population estimate is used for the remaining two months of the fiscal year. Mr. Guindon said the recommendation was to use one population estimate to distribute the revenue for the full 12 months of the fiscal year.

Mr. Guindon said a Governmental Accounting Standards Board (GASB) accounting rule applied to the cigarette tax, the liquor tax, and the basic city-county relief tax which requires May and June business activity – the last two months of the fiscal year – to be collected and distributed to local governments in July and August, the first two months of the following fiscal year.

Chairwoman Kirkpatrick asked if there were any local governments that had concerns about this recommendation as an accounting issue. There was no objection from the local government representatives in attendance. Ms. Rubald said the Department of Taxation agreed with the proposal.

> SENATOR PARKS MOVED TO ADOPT THE PROPOSED CHANGE AS OUTLINED ON PAGE 66 OF THE MEETING PACKET (EXHIBIT A). SENATOR MCGINNESS SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

VII. PUBLIC COMMENT.

There was no further public comment

IX. ADJOURNMENT.

The meeting was adjourned at 1:00 p.m.

Respectfully submitted,

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Cheryl Harvey, Committee Secretary

APPROVED:

____
Marilyn Kirkpatrick, Chairman

Date:____________________________