The second meeting of the Legislative Commission’s Subcommittee to Study the Taxation of Real Property (Assembly Bill 489, 2005 Legislative Session) was held on February 1, 2006 in room 4401 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. Exhibit A is the Agenda and Meeting Packet.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:
Chairman David Parks
Senator Joseph Heck
Senator Michael Schneider
Assemblyman Joseph Hardy
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS PRESENT IN CARSON CITY:
Senator Mike McGinness

COMMITTEE MEMBERS ABSENT:
None

STAFF MEMBERS PRESENT IN LAS VEGAS:
Russell Guindon, Senior Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Sherie Silva, Secretary, LCB Fiscal Analysis Division

STAFF MEMBERS PRESENT IN CARSON CITY:
Gary Ghiggeri, Senate Fiscal Analyst
Tina Calilung, Deputy Fiscal Analyst
Brenda Erdoes, Chief Legislative Counsel
Steve Coburn, Legislative Counsel

EXHIBITS:
Exhibit A - Agenda and Meeting Packet
Exhibit B - Abatement/Recapture Data – Nevada Department of Taxation
I. CALL TO ORDER.
Chairman Parks called the meeting of the Subcommittee to Study the Taxation of Real Property to order at 9:43 a.m. He explained that the meeting was being video-conferenced to room 3137 in the Legislative Building, as well as broadcast over the Internet.

II. ROLL CALL.
At the request of the Chairman, the secretary called roll. All members were present in Las Vegas, with the exception of Senator McGinness, who was in Carson City.

*III. APPROVAL OF MINUTES OF THE NOVEMBER 29, 2005 MEETING.
Senator McGinness moved for approval of the November meeting minutes; the motion was seconded by Assemblyman Hardy and approved unanimously.

IV. OPENING REMARKS BY CHAIRMAN.
Chairman Parks remarked the meeting was the second for the subcommittee and that current activities involved collection of data and information for future use by the members.

Chuck Chinnock, Executive Director, Department of Taxation
Testifying from Carson City, Chuck Chinnock, Executive Director of the Department of Taxation, introduced Terry Rubald, Chief of the Division of Assessment Standards. Mr. Chinnock explained that the Division of Assessment Standards was responsible for oversight of locally assessed property and the administration of A.B. 489 and S.B. 509. He noted that John Sherman, Finance Director for Washoe County and a member of the Committee on Local Government Finance, was in the audience and would be testifying before the subcommittee later in the meeting. Mr. Sherman chaired the subcommittee of the Committee on Local Government with respect to oversight of A.B. 489 and S.B. 509.

Mr. Chinnock referred to a four-page document which had been distributed (Exhibit B), and explained that he would be referring to the document in his testimony. He had been in communication throughout the committee process with Mr. Guindon regarding the prior meeting and today’s meeting, and the plan was to go through tab 5 beginning at page 1 (page 25 of Exhibit A), which provided highlights of how the department, the Committee on Local Government Finance, the assessors, and the Nevada Tax Commission had addressed items outlined under tab 5. Mr. Chinnock explained that the items listed had been addressed since the 2005 Legislative Session in order to better define and understand A.B. 489 and S.B. 509. He reminded subcommittee members that S.B. 509 was passed at the end of the 2005 Session, and it provided an opportunity to clean up the language with respect to questions that arose in A.B. 489. At the end of the material in tab 5, he would discuss certain issues still being worked on from the standpoint of additional guidance.
Continuing, Mr. Chinnock wanted to expand on the process of the regulatory guidance that the department had gone through. There currently was no permanent regulation regarding A.B. 489 and S.B. 509, and from the department’s standpoint, that was intended. He believed the department was on schedule with respect to adopting permanent guidelines and regulations. A.B. 489 was passed at the beginning of the 2005 Session and then S.B. 509 passed at the end of the Session. As a result, the department had very little time to implement the provisions by July of 2005. Therefore, an emergency regulation was developed, which lasted 120 days. Because of the timeframe, the emergency regulation had since expired, but the 120-day period allowed the department to have critical guidance with respect to last year’s assessment process. In other words, the emergency regulation addressed what was known and what could be done within the timeframe. More than anything else, Mr. Chinnock stated, the emergency regulation adopted was a collaborative effort on the part of the assessors, the department, the Nevada Tax Commission, the Legislative Counsel Bureau, the public, the Nevada Taxpayer’s Association, and others. He pointed out that the latest draft version of the regulation was located at the end of tab 5. The emergency regulation was used as a template when writing the proposed draft of the permanent regulation. Since the expiration of the emergency regulation, two other permanent regulatory workshops had been held, and another workshop was scheduled on March 1. The department believed that all issues would be resolved for that workshop. After the workshop, the regulation would be submitted to the Nevada Tax Commission for formal adoption, which would occur in April or May.

Again referring to tab 5 of Exhibit A, Mr. Chinnock explained that the purpose of his presentation was to cover the statutory and regulatory provisions from A.B. 489 and S.B. 509. The areas he would be addressing were not necessarily problematic; they were just certain statutory provisions that the department had handled. He asked that the members feel free to ask questions as they arose.

1. Roles of the assessor, tax receiver, and the department in the administration of the abatement. Mr. Chinnock said the primary issue was that the assessor was the custodian with respect to the abatements and had the secured roll and the unsecured roll. The assessor retained the unsecured roll and turned over the secured roll to the tax receiver, typically the treasurer. Through the regulatory provisions of A.B. 489 and S.B. 509, the treasurer could make adjustments as necessary with respect to whether the property was a single-family residence owner-occupied, whether it was other property, or whether it was new property. Exhibit B included a chart of the actual factors. He asked Terry Rubald to discuss the chart.

Terry Rubald, Chief of the Division of Assessment Standards, Department of Taxation, said she would explain how abatement levels were developed. Calculating the appropriate level for the general abatement was the function of the Consumer Price Index and Moving Average Growth Rate of assessed value over 10 years in each county. Citing Carson City as an example, she explained that the 2006-07 10-year Moving Average Growth Rate had declined by 0.75 percent from 2005-06. The abatement level was calculated by first comparing the 10-year Moving Average, 3.95 percent, to the Maximum Level of 8 percent, and taking the lesser of the two. That number, 3.95 percent, was then compared to twice the CPI rate, 6.8 percent, and
the greater of the two would be twice the CPI rate, so the level of abatement in Carson City would be 1.068 in 2006-07, compared to the 2005-06 level of 1.054.

Ms. Rubald then moved to Clark County, explaining that the Moving Average Growth Rate for 2006-07 was 11.08 percent, and when compared to the 8 percent level, the lesser of the two (8 percent) would then be compared to twice the CPI rate of 6.8 percent; the greater of the two resulted in an 8 percent abatement in Clark County, which was the same level of abatement as the county had in 2005-06.

Ms. Rubald pointed out that three counties stayed at the same level of abatement in 2006-07 as in 2005-06; 11 were increasing over last year, principally because the CPI rate was at 3.39 percent in 2005 compared to 2.7 percent in 2004. Three counties were decreasing over the prior year, four counties were at the maximum level of abatement, and 13 counties were at the minimal level of abatement because the actual 10-year averages for the 13 counties were all less than twice the CPI.

Mr. Chinnock reiterated that the assessor was the custodian over the abatement process, which included mailing out cards to update whether homeowners qualified as a single-family residence owner-occupied, which would be a 3 percent abatement, or other type of property, which Ms. Rubald had just mentioned, and also to identify new construction.

2. Process for qualifying eligible primary single-family residences; filing form, contents and execution of claims. Mr. Chinnock referred members to Section 2 of the proposed regulation (page 42 of Exhibit A). He noted that a rebuttal presumption was provided under Section 2, item 1(a) that if the legal owner of a single-family residence was not a natural person, the property would be presumed to be ineligible for a partial abatement. The responsibility would be put back on the owner of the property to show why the 3 percent abatement should be granted.

Assemblyman Hardy asked if a trust would be considered a natural person. Mr. Chinnock replied that a family trust would be considered as qualifying as an owner of a single-family residence and would qualify for the 3 percent abatement.

Continuing, Mr. Chinnock said Section 2, item 3(a) of the proposed regulation stated that if the claimant was the owner of a primary single-family residence, exclusive of any other residence in Nevada, the individual did not have to be a Nevada resident to claim the abatement, and if he owned several residences in the state, he may declare any one of those residences as a single-family owner-occupied residence qualifying for the 3 percent.

Senator Schneider asked if an individual owned a home in Reno or Las Vegas and a second home in another Nevada location, would that residence be classified as his personal residence, or would it be subject to the 8 percent increase as opposed to the 3 percent?

Mr. Chinnock replied it would be up to the property owner to declare one of the homes as his single-family primary residence to receive the 3 percent abatement.
Senator Schneider asked if the second home, the vacation home, would be taxed at 8 percent and the main residence at 3 percent. Mr. Chinnock explained there was no restriction requiring the property owner to live in the primary residence 51 percent of the time or more; either home could be declared at the 3 percent rate.

Assemblyman Hardy asked if a family trust owned the primary residence, but a family member owned the second home in his name only, who would actually own the family trust home? He wondered if the manner in which family was defined would determine how a second family home would be taxed.

Mr. Chinnock replied that it would not be possible to claim both homes as a single-family residence; one home or the other would have to be designated for the 3 percent abatement.

Then, Mr. Hardy surmised, family would be defined as anyone in the family. Would a whole new regulation have to be written to define family, or was it in statute somewhere?

Mr. Chinnock replied it was not in statute and the department did not propose it in any of the regulations. He added that based upon Assemblyman Hardy’s question, the department would take a look at that particular issue to ensure the correct information was being provided.

3. Eligibility of properties with multiple buildings, multiple parcels, and farmsteads for the single-family residence abatement. Mr. Chinnock went on to say that regulation Section 3(1) provided further definition for primary residences and whether they involved multiple buildings and multiple parcels. The regulation also dealt with estates with mother-in-law quarters and multiple parcels, and the intent was to provide that overall the property could be considered for the 3 percent abatement. Mr. Chinnock noted that subparagraph (3) referred to a farmstead. It was clear in the process of adopting the legislation, and also through the proceedings of the regulatory workshop, that an agriculture or ranching business was indeed a business. However, with respect to the residence located on a ranch, when valuing the property, an assessor usually allocated a portion of ground to the residence, and that portion was called the farmstead. Mr. Chinnock clarified that the farmstead itself would be eligible for the 3 percent abatement as a single-family residence.

Assemblyman Parks asked if the assessors throughout the state had any problems with implementing the regulation. Mr. Chinnock replied there was an issue with mixed-use parcels, which he would discuss later in his presentation. He was not aware of any problems with the issue currently being discussed.

4. Methodology for applying the primary single-family residence abatement for taxable units with a mixed use. Mr. Chinnock said that at one point in drafting the regulations, the department was very specific on how to treat this issue, but it was decided instead to make a very general statement. Section 4 simply provided that a single-family residential use in mixed-use properties would be considered. The department was not sure what problems would be encountered, so it was decided to allow the assessors to go ahead and take their best shot at mixed use properties, but
the intent of the regulation was that it was possible to have more than one single-family residence located on one parcel, e.g., a duplex or maybe an apartment complex with one owner-occupied apartment. Mr. Chinnock explained there had been discussion concerning allocations with respect to square footage of different types of uses and valuation of different types of uses, but because of the variety of uses, the department wrote a general regulation and decided to let the assessors work it out. During the ensuing permanent regulatory workshops, the department could see if there were any issues and then, if need be, provide further guidance. Mr. Chinnock suspected there would be more issues at the next workshop in March and that more specific language might be required with respect to mixed-use parcels.

5. Process for qualifying eligible rental properties. Mr. Chinnock asked Terry Rubald to address issue 5.

Ms. Rubald explained that under Section 3.5 of A.B. 489, a 3 percent abatement was allowed when the amount of rent collected from each of the tenants of a residential dwelling did not exceed the fair market rents published for each county. The proposed regulations reinforced the statute in Section 6, part 7, which stated that the county assessor would disallow claims for the 3 percent abatement if any unit in the complex exceeded the final fair market rents published by HUD.

Ms. Rubald explained that the overall process involved a charitable exemption provided in the form of a partial abatement; it was similar to a homeowners’ tax liability if it exceeded more than 3 percent of the previous year’s tax liability, but it was based on whether the rents were the same as low-income housing as established by HUD. The assessors sent out a notice of right to claim the 3 percent abatement to potential taxpayers who might be eligible. If the taxpayer returned the claim form indicating that his rent was equal to or less than the HUD fair market rents, then the assessor would ask for additional information. The proposed regulations clarified that the claim must be filed no later than June 15 of each year, and the claim must be accompanied by an affidavit certifying that the rents were equal to or less than the fair market rents published by HUD.

Continuing, Ms. Rubald said that some of the information sought by the assessors was whether all of the units in the complex were rented for an amount at or below the HUD fair market rents; they also looked for the highest rent charged without utilities during the year. Under the emergency regulations and now under the proposed regulations, the basis for comparison to the HUD fair market rents would be the highest rent charged by the taxpayer during the year.

Ms. Rubald explained that HUD published its fair market rents by state and county and also by the number of bedrooms in a rental unit, up to four bedrooms. It was important for the taxpayer to report the number of bedrooms in the unit. In Clark County, the 2006 fair market rent for a two-bedroom apartment was about $635 a month. If the taxpayer reported the rent charged was $767, and that included utilities, the information that the department provided the assessors would indicate that the apartment might still qualify if the rents were adjusted for the utilities.
During the workshops for the proposed regulations, a couple of issues were raised, including the question of what was to be considered a rental. If a taxpayer owned a property and allowed a family member to reside in that property for no rent, the proposed regulations clarified that a rental was one for which consideration was paid for the use or occupation of the property, and property occupied by a family member for zero consideration would also be considered to be rental property.

Ms. Rubald said that A.B. 489 also provided that the 3 percent abatement could not be applied to hotels, motels, or other forms of transient lodging. The proposed regulations clarified what transient lodging was and what it was not. The key language was that transient lodging was held out for use by transient guests.

Ms. Rubald asked for questions from the subcommittee members; there were none.

6. Identifying the unit of real or personal centrally-assessed property eligible for abatement. Continuing, Ms. Rubald explained the application of the abatement to centrally-assessed properties. The department valued the property of companies, such as airlines, railroads and power plants, on a unitary basis without regard to particular pieces of property or where specifically they were located. This was called unit valuation and included both real and personal property operating as a unit. For example, the Union Pacific Railroad operated in about 36 states and included the railways, the administrative buildings, the right-of-ways, locomotives, and a host of personal property. The value of the entire company was established by the commission, and then part of that value was allocated to Nevada, based on a variety of statistics that measured the presence of the company in Nevada compared to the other states. Once the allocated number was known, the allocation was then apportioned among all of the jurisdictions in Nevada in which the railroad had a presence, and that was measured by the number of rail miles in each tax district. All entities received a piece of unit valuation by a system of allocation and apportionment, and the value of a crossing gate and light at an intersection with a road really could not be identified. In order to apply the abatement, the proposed regulations specified that the measure would be a change in tax liability in each tax district rather than the tax liability generated by a specific piece of property. In addition, Ms. Rubald continued, the proposed regulations specified what would be considered to be new property for purposes of the abatement, which would include property for which there was no prior allocation or apportionment in the prior year in Nevada, and also construction work in progress. Ms. Rubald asked if the subcommittee members had any questions on item 6; there were none.

7. Calculation of the abatement. Moving to the next item, Mr. Chinnock remarked there were two points he wished to address. There was a provision for property escaping taxation, which typically occurred when property had been built and the assessor was not aware of it. In those cases, typically what would happen was that a property might be in existence one or more years before it was actually discovered, and the provisions of the regulation were that when the property was finally placed on the roll, the first year could be treated as a new property as far as valuation, and then the abatements would be applied from that point forward with respect to the taxes.
In regard to the second issue, application of exemptions and/or additional abatements, Mr. Chinnock referred subcommittee members to page 2 of Exhibit B, Order of Priority for Application of Abatement and Exemptions, which reflected a simplified example of how the assessors were treating the other exemptions and abatements outside of the abatement provided under A.B. 489 and S.B. 509. Mr. Chinnock explained the example involved a property with $100,000 assessed valuation; assuming a $3.00 tax rate, typically the taxes during the base year would have been $3,000. With a single-family residential abatement cap of 3 percent, the maximum taxes the next year would have been $3,090. Making the assumption there was a reappraisal of the property and the value was increased by 30 percent to $130,000, there was a potential tax liability of $3,900. However, Mr. Chinnock further explained, because of the provisions of A.B. 489 and S.B. 509, the taxes would not exceed $3,090.

Continuing, Mr. Chinnock said there were two treatments that could have occurred with respect to application of the exemption. The prior traditional application of an exemption would have been a $1,000 exemption off the value of the property ($130,000 less $1,000 exemption). With the application of the $3.00 tax rate, then the proposed tax would have been $3,870, but because of the abatement, it would not exceed $3,090, and therefore there really was not an opportunity to apply the exemption or take advantage of the exemption. Based upon the statutory language that was provided both in S.B. 509 and A.B. 489, as well as in regulation, if the procedure were followed to independently look at what the abatement was and what the capped taxes would be, which was the $3,090, and the exemption amount in tax dollars would be $30, and subtract that, the property owner would be able to take advantage of the exemption, which was the idea of the regulations and the statutory provisions of A.B. 489 and S.B. 509.

8. Application of recapture. Mr. Chinnock explained that the provisions of the bill provided that if a property were to go down in valuation as a result of economic obsolescence, by 15 percent in a year and then a year later increased by at least 15 percent, a process and a formula had been provided in statute. That provision was expanded upon in the regulation (Section 10). The regulation was quite complex and lengthy, and the department worked hard to develop a formula to match legislative intent. Mr. Chinnock said it was not atypical for the value of properties to go down; substantial decreases could be a result of obsolescence in such things as the mining industry and the gaming industry, particularly in northern Nevada where properties had decreased 15 percent a year and increased in the following year by that amount. This regulation allowed the counties to recapture a portion of the amount that had been reduced after it had gone back up.

9. Summary of report of tax billings. Mr. Chinnock said that Section 11 of the regulation, under paragraphs 1 and 2, contained a long list from each of the counties, particularly the tax receiver, and the purpose of receiving the information was one of performance and also to assist with projections and estimates for the future.

10. Issues to be addressed in future workshops. Mr. Chinnock said one issue to be addressed would be the definition of change in actual or authorized use, a two-pronged issue with respect to what was considered new property and also with
respect to the definition seen in A.B. 489 under section 4 for remainder parcels. Mr. Chinnock cited examples of the issues:

- If someone built a new improvement on a property, such as a detached garage, it would be new property and considered outside the cap. A typical example might be if the owners of a vacant lot built a new residence, the property would then be considered a new property and outside the cap. Maybe less clear would be the situation where a person owned 10 acres, and within that 10 acres, a residence was located on 5 acres. If the owner decided to split out the 5 acres into two 2-1/2 acre parcels, the remaining 5-acre parcel would be the remainder parcel and the issue would become how the two 2-1/2 acre parcels would be treated with respect to ownership.

- Another issue would be zoning. A typical example would be the individual living at the end of a major thoroughfare and the property was rezoned from residential to commercial in one of two ways: 1) If the person who owned the property requested the zoning change or 2) the zoning change occurred because other owners in the area had requested the change. The issue would be if the rezoning would require it to be treated as new property, depending on whether it was requested by the owner or the non-owner of the rezoned property. Mr. Chinnock said the issue had been discussed often, although it was not addressed specifically in the emergency regulations. However, he added, the matter needed to be addressed in the final workshop, and further input would be requested from the assessors.

Mr. Chinnock remarked he was unsure whether there was absolute concurrence or uniformity on how to treat the issues he had just discussed.

Mr. Chinnock recalled that the issue of clarification on how to treat mixed-use properties had already been discussed. He then moved to the final issue, adoption by the Nevada Tax Commission of regulations to provide a form to be used for application of the Income Approach to determine whether there was obsolescence. He explained this was a provision that came up in S.B. 509 under section 32. A workshop had been conducted, and it was proposed that a form be put on the website. Mr. Chinnock said this was a process the department wanted to develop over time. It was hard to specify special information needed to conduct the Income Approach. The department proposed providing a template on how to apply the Income Approach. However, he said that testimony at the workshops indicated that was perhaps too complex and all that was needed was a simplified pamphlet and form to be posted on the website for interested taxpayers. Mr. Chinnock speculated there would be both a form on the website explaining how to conduct an Income Approach and a simplified pamphlet which could be disseminated to the taxpayers. Information would be added to the website as it was obtained from the county assessors, e.g., what typical expense ratios might be, typical capitalization rates for capitalizing income into value, typical rents for particular counties, etc.
Mr. Chinnock pointed out that Exhibit A contained guidelines for implementation for use by assessors and treasurers (pages 29-34) and 2006-07 property tax revenue projection guidelines (pages 35-40).

In summary, Mr. Chinnock said his presentation had been a quick overview of where the Department of Taxation was with regard to work with the various groups and organizations in implementing the provisions of A.B. 489 and S.B. 509. He would be happy to answer any questions.

Chairman Parks thanked Mr. Chinnock for his presentation. He asked if the department had received requests from commercial establishments for forms for determining obsolescence or the Income Approach methodology. Had there been any interest?

Mr. Chinnock replied the department had not received any requests for the forms. However, the department often had appeals to the Board of Equalization, and possibly the reason there had not been a substantial number of requests was that many of the people who were appealing their values were sophisticated enough to know how to apply the Income Approach, or they had hired appraisers and attorneys who were familiar with the issues. Mr. Chinnock said that during the legislative process, it was thought that perhaps businesses that were renting their commercial property would be able to take advantage of the information, and during the S.B. 509 process, the department was able to clarify and specify how the application should be designed and to whom it should be addressed - not necessarily to the renters, but more so to the owners of the commercial properties.

Chairman Parks asked for questions from the subcommittee members. There being no questions, Chairman Parks again thanked Mr. Chinnock for his presentation and moved on to Agenda Item 6.

*VI. REPORT FROM THE COMMITTEE ON LOCAL GOVERNMENT FINANCE’S SUBCOMMITTEE ON TECHNICAL ISSUES REGARDING THE PROPERTY TAX ABATEMENTS PROVIDED IN A.B. 489 AND S.B. 509 OF THE 2005 LEGISLATIVE SESSION.

John Sherman, Washoe County Finance Director

John Sherman, Washoe County Finance Director, stated he was representing the Committee on Local Government Finance and the Tax Cap Subcommittee. He explained that pursuant to the tax cap legislation, the Committee on Local Government Finance was assigned certain areas of responsibility, and in response, a subcommittee (CLGF Subcommittee) was formed to deal with various technical issues related to the implementation of the property tax relief legislation. It was Mr. Sherman’s opinion, and his fellow committee members agreed, that the tax cap legislation worked; it did in fact dampen the increases in property tax bills to the property owners. Notwithstanding that fact, the legislation and its implementation generated a number of technical issues that the CLGF Subcommittee was attempting to address. Mr. Sherman said meetings were held to discuss not only non-technical issues, but potential future technical issues; the result was the list found on page 49 of Exhibit A.

1. Second year problem. Mr. Sherman explained that the “second year problem” involved how the abatement was allocated based on a tax rate increase. There were
two ways abatements could be generated, i.e., one by a tax rate increase and the other by an assessed valuation increase. The legislation provided that a tax-rate generated abatement was to be computed by taking the current year overlapping rate minus the prior year overlapping rate, and if the result was an increase, the amount was to be multiplied by the assessed valuation, and that value was assumed to be the amount of abatement created by the tax rate increase. Although the language in the legislation was very clear, i.e., current year and prior year, the second year problem in essence was if the taxing entity increased its tax rate, for example by 7 percent, that clearly would create an abatement, and the allocation of that abatement would be calculated according to the formula. In the year after, if the entity did not increase its tax rate any more, then with no tax rate increase from that year to the prior year, no abatement would be allocated due to that factor.

The other part of the equation was that an abatement would be allocated across all of the overlapping entities. A methodology needed to be devised to capture any tax rate increase that had a multiple-year effect. Mr. Sherman said the subcommittee was exploring a number of different options to do that math; however, the process was ongoing and it was getting more complicated, and those complications might produce additional unintended consequences. However, it was recognized that there was a need to develop a resolution to the problem.

2. Distribution of abatement with taxing entities. The second issue was the distribution of an abatement within a taxing entity. Mr. Sherman explained that typically taxing entities in Nevada had multiple tax rates, i.e., component rates. There might be an operating rate, some legislative overrides to be imposed, use facilities, voter-approved rates for either payment of debt or for operating purposes, etc. The question then would become if there was an abatement due to a tax rate increase that had to be allocated to an entity, how then would that allocation to those component rates be determined? The tax relief legislation was silent to that point. From practical experience, it was known that the allocation was done in at least two ways; the subcommittee was looking for a uniform procedure to be applied throughout the state.

3. Property tax revenue projections. Mr. Sherman said the subcommittee had determined early on that property tax revenue projections were the highest priority task that it needed to work on and produce recommendations. The results of the subcommittee’s efforts were found on page 35 of Exhibit A. There were requirements in the property tax relief legislation that the Department of Taxation provide property tax revenue estimates, including the effect of abatements to taxing entities around the state. The department did the best it could with the information available at the time in providing forecasts to the taxing entities. Mr. Sherman believed everyone agreed, including the Department of Taxation, that it was a challenge to produce the forecasts, particularly since the abatement was on a parcel basis. In the past, forecasts could be produced relatively simply by using aggregate statistics, i.e., assessed valuation times tax rate essentially equaled revenue. But now there was an abatement based on a parcel basis, and the question was how to develop forecasts based on aggregate statistics versus on a parcel basis. At the time, the department did not have the technical where-with-all to forecast on a parcel basis, so the department used some aggregate statistics it had on property types and developed some mathematical
calculations. In some cases, the method was quite successful and in other cases it missed the mark because of the issue of abatement on a parcel basis.

Mr. Sherman said the next attempt at forecasting property taxes for taxing entities around the state essentially would have treasurers around the state produce an estimate of the partial tax abatement and net tax on property on a secured roll. i.e., property that was already in existence. The Department of Taxation would also do a similar analysis for centrally assessed property. As to new property coming on the rolls, it was known that an abatement would not be generated, so the projection could be developed based on aggregate statistics and simple math. Since personal property depreciated so rapidly, aggregate statistics could also be used.

Continuing, Mr. Sherman said a number of hearings had been held with the parties involved in the implementation, and it was felt that reliable numbers could be produced. One of the challenges was that the two largest counties. Washoe and Clark, due to the sheer volume of the number of parcels and the time involved in taking data on a parcel basis from the assessor to the treasurer via their computer program, would most likely only be able to do one revenue forecast. It was his understanding that the service provider that served the computer programs for the other counties in the state would be able to do multiple runs. Part of the challenge would be what tax rates to use and whether or not the tax rates would be increased or maintained, all of which would have an impact on the other entities.

In addition, some of the other problems, such as the second-year problem, would come into play, and those issues would have to be solved so that they could be incorporated into the forecasts. Mr. Sherman noted that had not yet been accomplished.

4. Property tax rates. Mr. Sherman remarked that property tax rates on the surface might seem rather straightforward, but a couple of areas were a challenge. What property tax rates would be put into the budgets or be submitted to treasurers for use in forecasting? He cited two examples: State law allowed the taxing entity, except for school districts, to grow its property tax revenue by 6 percent for property that was on the rolls the prior year, i.e., the allowed rate. Some entities were taxing at the allowed rate and others were below the allowed rate. However, the allowed rate, by definition, was computed off a revenue number, and not knowing what revenue number was generated by the rate created a problem.

Mr. Sherman went on to say that there were additional rates based on revenue – a supplemental city/county relief tax (SCCRT) make-up revenue rate in the tax shift of 1981, and subsequent legislation. There was an assumption About how much property tax revenue should grow for each taxing entity, primarily cities and counties, but if the sales tax revenue from the SCCRT did not grow by a certain amount, then a property tax rate could be imposed to make up for that revenue, i.e., sales tax revenue gap that could be made up with the property tax rate. Mr. Sherman said some other rates fell into that category; the calculations were extremely complicated, and attempts were being made to develop a simplified methodology to deal with them. It was Mr. Sherman’s opinion that at this point in time, it would be necessary to revert to the old method of computation using the revenue and assessed valuation figures.
5. **Budget versus actual.** Budgeting practices around the state were another issue; every entity that had property taxation authority had to budget for that revenue. Mr. Sherman explained that the entities submitted the proposed figures in their budgets; their governing body approved them; and the tax receivers determined how much money would actually be billed on their behalf. The CLGF Subcommittee was concerned there might be material variances between what an entity budgeted and what it would actually get because of the change in how tax revenue was computed; it was not as easy as it used to be. The subcommittee had concluded that consideration should be given to revising the Department of Taxation’s quarterly report form to require the taxing entities to report material variances, particularly a negative variance, and describe what corrective action would be taken to address the variance.

6. **New government problem.** Another issue that had arisen for the 2006-07 year was the “new government problem.” There was no provision in the tax cap legislation on how to deal with a new government. Mr. Sherman explained that when a new government was created, whether it was a city or a special district that had taxation ability, and a new tax was levied that had the potential of creating an abatement, it was unknown how that abatement would be treated. Would it be allocated to the overlapping taxing entities? There was no clear way to do that in law. The other issue was that this could be a disincentive to create a new government. A provision was included in the tax cap legislation that when a city annexed land, the act of annexation could not by itself create an abatement. Mr. Sherman noted that if a property were annexed and the city assessed its tax rate on it, the new tax rate could potentially generate a significant amount of abatement, jeopardizing the financial viability of that new entity. He added that the Committee on Local Government Finance did not believe it had statutory authority to correct the problem, so along with the Department of Taxation, the subcommittee was pursuing whether the Nevada Tax Commission could address the matter. He suggested the Subcommittee to Study Taxation of Real Property might need to address the issue if in fact neither the Nevada Tax Commission nor the Committee on Local Government Financing had regulatory authority.

7. **Appeal process.** Mr. Sherman said there were certain appeal processes currently in place before and after the property tax relief legislation, but the CLGF Subcommittee could not identify authority or where it said there had to be a regulatory process for a taxing entity to appeal an abatement that was being allocated to it that was believed to be inappropriate. If an abatement was calculated wrong or the allocation of an abatement was done incorrectly, there currently was no process for appeal beyond the county treasurer. The CLGF Subcommittee felt one should be developed.

8. **Ballot template.** Section 7 of A.B. 489 called for a ballot template to be created; certain language had to be included on the ballot if the voters were to vote on an exemption from the tax cap. Mr. Sherman noted that the Committee on Local Government Finance had done ballot templates for a number of years, and the issue should not be a problem.

9. **Redevelopment.** Mr. Sherman said it appeared that the redevelopment issue was unique to Washoe County. Information early on indicated that the application of the provisions of A.B. 489 and S.B. 509 could result in a lower amount of property tax revenue increment in a given fiscal year being distributed to the redevelopment districts.
in Washoe County. The CLGF Subcommittee looked into the issue and related information included in section 14 of S.B. 509. Allocation to redevelopment districts was unique and different as opposed to any other taxing entity such as a city, county or school district. Mr. Sherman said other contributing factors were considered, and further investigation had led him to the conclusion that the particular problem may be not only with the property tax relief legislation, but also with how revenue forecasting was done. The revenue numbers budgeted for Reno redevelopment were substantially higher than what was thought they would be, and it was Mr. Sherman’s opinion that a combination of an under-estimate of abatement and an over-estimate of assessed valuation and tax rates had caused this particular problem. He recommended that the issue continue to be pursued, not only at the local level, but to the extent to which it had implications statewide, some resolution needed to be pursued by the Committee on Local Government Finance or this subcommittee.

Mr. Sherman observed that in working through the problem, the issue of redevelopment was unique when dealing with tax cap legislation. When S.B. 509 and its mechanics on how to deal with redevelopment and revenue allocations were juxtaposed with Chapter 279 and its mechanics on how to deal with revenue allocations, there appeared to be a contradiction in the policies between the two. He observed that tax increment districts lived and died on their increment, i.e., how much assessed value was increased over the base year in which they were created. Thus, they were incentivized to grow the increment assessed valuation in order to generate more revenue in order to do more projects, with the whole idea being to revitalize blighted areas. However, the property tax relief legislation was in essence dampening the revenues available from the increment. Mr. Sherman remarked that he was not insinuating anyone was at fault, but it appeared there was now tension between the two.

Mr. Sherman concluded his remarks and asked for questions from the subcommittee members.

Chairman Parks asked who served on the Committee on Local Government Finance Subcommittee.

Mr. Sherman replied that Marty Johnson, Mary Walker, and Mike Alastuey were the other members.

Chairman Parks expressed appreciation for the work of the CLGF Subcommittee. He asked if additional items would surface or if the list presented was comprehensive; were there other potential items?

Mr. Sherman suspected there would be more issues. As solutions to particular issues were arrived at, they could produce additional unintended consequences. He said the subcommittee was cognizant of that fact, but some of the issues were so pronounced, it was important to resolve them even though additional issues could be generated. On the technical side, Mr. Sherman believed future problems could be anticipated when working through different classifications of property, how property was classified and valued, how the application of different kinds of tax rates would generate different types of abatements and how those would be allocated. The list was fairly comprehensive.
based on current information available, but additional issues were not precluded from coming forward in the future.

Chairman Parks asked for questions; there were none. He wondered if the items identified by Mr. Sherman would fall under one category that could be resolved through a regulation or possibly through a statutory change in the 2007 Session.

Mr. Sherman concurred. The CLGF Subcommittee would be willing to report required statutory changes to the Subcommittee to Study Taxation of Real Property if directed to do so.

Chairman Parks thanked Mr. Sherman and the Department of Taxation for their informative presentations.

VII. PUBLIC COMMENT.
James Makada, a resident of Incline Village, Nevada, testified from Carson City. He said that most of his questions and concerns had been resolved, but he wanted to reiterate that when a tax assessor did an evaluation and came to a conclusion, it should be based on fact and not his opinion. The assessor had said that Mr. Makada had added a porch to the front of his house in the year 2000, when in fact the porch had been constructed in 1977. The assessor had also indicated that Mr. Makada's lot was level, but there was actually a difference of eight feet in elevation. Mr. Makada maintained there were a number of other inaccuracies in the assessor's report, and he questioned whether it was proper for a tax appraiser to give false information and the county or state to make decisions based on that information. He said the State Board had agreed that it was not appropriate; all information had to be factual and correct. The tax assessor was in the process of lowering the valuation on his home. Mr. Makada added that real estate appraisers in his community had indicated his house was a tear-down and that it did not represent a really good house; if that was the case, he did not understand the high appraised value assessed. In summary, Mr. Makada said he simply wanted to report the questions he had raised and the process he had gone through.

Chairman Parks thanked Mr. Makada for sharing his comments with the subcommittee.

Senator McGinness asked Mr. Makada if he had appealed to the Board of Equalization or if he had dealt with the assessor directly to resolve his problems.

Mr. Makada replied he had made many of the same comments to the Board of Equalization. The chairman of the board had agreed with most of Mr. Makada's statements. The appraisers re-evaluated his property, and they came to the conclusion that they had not been given accurate information; they were now in the process of reassessing his property.

Senator McGinness remarked that, at least in Mr. Makada's case, the process was working; Mr. Makada agreed.

Chairman Parks asked for further public comment from Carson City; there was none. He then asked for testimony from Las Vegas.
Isaac Henderson, Las Vegas, asked if in case of disaster in any county, city or the state, would there be a trust fund for hardship individuals for tax relief?

Chairman Parks responded there was no fund at this time; there were several programs within the state separate from the purview of the subcommittee’s study that would deal with funding should a disaster occur. However, that issue was not part of the purview of the study on property taxes.

Mr. Henderson suggested that a statutory proposal be submitted. It would be good to have something in place in the event of disaster to assist individuals with tax relief.

Chairman Parks thanked Mr. Henderson for his comments.

Senator McGinness announced that the February 8 meeting of the Legislative Committee on Taxation, Public Revenue and Tax Policy had been canceled and would be rescheduled in mid-March.

Chairman Parks said that staff would be working on the schedule for the next meeting, and he asked if members had any particular days that would be difficult for them. He added that since five of the six members were located in Las Vegas, it would be more economical to have the meetings in Las Vegas.

VIII. ADJOURNMENT.
Stating that there was nothing further to come before the subcommittee, Chairman Parks adjourned the meeting at 11:00.

Respectfully submitted,

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Sherie Silva, Committee Secretary

APPROVED:

_________________________________
Assemblyman David Parks, Chairman

Date: ______________________________

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