MINUTES OF THE JANUARY 26, 2022,
MEETING OF THE
JOINT INTERIM STANDING COMMITTEE ON REVENUE

Chair Dina Neal called a meeting of the Joint Interim Standing Committee on Revenue (created by Assembly Bill 443, 2021 Legislative Session) to order at 1:00 p.m. on January 26, 2022, via videoconference. Pursuant to *Nevada Revised Statutes* (NRS) 218A.820, there was no physical location for this meeting.

COMMITTEE MEMBERS PRESENT:
Senator Dina Neal, Chair
Assemblywoman Lesley Cohen, Vice Chair
Senator Moises Denis
Senator Don Tatro
Assemblywoman Natha Anderson
Assemblywoman Venicia Considine
Assemblyman Gregory Hafen II
Assemblywoman Heidi Kasama

COMMITTEE MEMBERS ABSENT:
None

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:
Russell Guindon, Chief Principal Deputy Fiscal Analyst, Fiscal Analysis Division
Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division
Joe Reel, Deputy Fiscal Analyst, Fiscal Analysis Division
Anna Freeman, Committee Secretary, Fiscal Analysis Division

EXHIBITS:
Exhibit A: Meeting Packet
Exhibit B: Agenda Item V - Trends in State Taxation and the Outlook for 2022
Exhibit C: Agenda Item X - Per Capita and Inflation Adjusted Per Capita Funding or Revenue Examples

I. ROLL CALL.

Joe Reel, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB) called the roll. All members were present except Assemblywoman Kasama and Senator Denis, who joined the meeting in progress.

II. OPENING REMARKS.

Chair Neal provided opening remarks regarding policies and procedures for virtual meetings. Bryan Fernley, Legislative Counsel, provided guidance for the Committee regarding the usage of the chat function in Zoom by Committee members, staff, and presenters.

Chair Neal then introduced the remainder of the Committee's staff, and allowed Committee members to provide introductory comments.

III. PUBLIC COMMENT.

There was no public comment.

IV. ADOPTION OF COMMITTEE POLICIES.

JOE REEL (Deputy Fiscal Analyst, Fiscal Analysis Division, LCB):

The committee policies are a combination of the policies that were established during the 2021 Legislative Session between the Senate Committee on Revenue and Economic Development and the Assembly Committee on Revenue. The policies have been adjusted slightly to accommodate a joint committee during the interim.

> ASSEMBLYWOMAN COHEN MOVED TO APPROVE THE COMMITTEE POLICIES.
>
> ASSEMBLYWOMAN KASAMA SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY. (Senator Denis was not present for the vote).

V. TRENDS IN STATE TAXATION AND THE OUTLOOK FOR 2022.

JACKSON BRAINERD (Program Principal, Fiscal Affairs Program, National Conference of State Legislatures):

The National Conference of State Legislatures (NCSL) is a bipartisan organization that serves legislators and legislative staff of states and territories. The NCSL provides research and analysis on all interim policy topics, lobbies on behalf of states' interests at the federal level, and promotes learning and communication between states. The NCSL does not have an official position on ideal state tax systems or tax bases.

Every state tax system is unique, but Nevada's differs significantly from most other states due to the lack of a corporate or personal state income tax. Personal income tax and sales tax are typically the two largest categories, followed by corporate income tax. In addition to Nevada, there are eight other states that do not have a personal income tax, and there are five states that do not have sales tax. There are five other states that do not have a corporate income tax, but most of them tax businesses in the form of a gross receipts tax, similar to Nevada's commerce tax.

The largest portion of state tax collection comes from personal income tax at 36.4%, which is shown in green on the pie chart, followed closely by sales tax at 31.2% (page 4, Exhibit B). These are by far the largest tax categories. The corporate income tax is approximately 5%. The selective sales tax category includes all excise taxes that are levied on specific goods and services such as motor fuel, tobacco, alcohol, marijuana, and amusements. The Other Tax category, 8.4%, includes severance taxes on oil and gas and licensing taxes. Property tax is the largest state and local tax revenue source, but it is primarily a local revenue tool, although some states levy taxes on things like utilities. Charges and fees as well as federal transfers are not pictured on the chart but are the most important supporters of state fiscal health, as they account for approximately one-third of the total state revenue.

The chart on page 5 illustrates how certain states vary in their reliance on these taxes (Exhibit B). States with extensive mineral resources or unique tourist attractions can rely on more narrowly-based systems. Alaska does not have a personal income tax or a sales tax but generates most of its revenue from severance taxes and royalties from the oil and gas industry. South Dakota and Nevada have no income tax and are therefore reliant on sales tax. Oregon has no sales tax, so it leans heavily on personal income tax. Most states rely on a balanced variety of revenue sources. It has become evident how important budget stability is for states over the last couple of years.

All taxes fluctuate with the economy but, historically speaking, sales tax is the most stable tax, followed by personal income tax, which is a bit more susceptible to fluctuations in the stock market. Severance and corporate income taxes are the most volatile. However, many states saw their sales tax revenues hit hard due to the economic impacts of COVID-19. The chart on page 6 shows state tax volatility scores over the past 20 years (Exhibit B). States that rely heavily on severance taxes, such as Alaska and North Dakota, have been more volatile. Nevada's score was slightly above the national average.

Looking at long-term challenges facing tax systems, an ever-present issue is the extent to which those tax systems have not kept pace with the changing economy. Tax policy is often an ongoing game of catch up. The need for modernization never really ends. There are many trends that are affecting the relevance of major state tax categories.

A quick tax tidbit: if you live in New Mexico and reach age 100, you can stop paying income tax. You just cannot be claimed as a dependent by anyone else.

Sales tax faces some of the most difficult barriers to modernization. It is a tax that has gradually eroded over time due to several factors. For tax policy purists, the ideal sales tax would fall on all final consumption. State sales taxes do not live up to that ideal. A growing number of consumer purchases are not subject to sales tax in most states. The chart on page 9 (Exhibit B) shows personal consumption of goods compared to services. In the 1930s, when most states adopted their sales taxes, tangible goods accounted for most personal consumption. Services were left out of tax bases because they posed administrative challenges.

Today, services account for approximately 70% of all personal consumption and many of those transactions are not subject to sales tax. The digital era has contributed to the erosion of the sales tax base. Many tangible objects are being replaced by intangible versions. Instead of people buying physical books, they are downloading digital versions. Only half of states tax digital products or streaming services. There has been a continuing shift toward electronic commerce, which accelerated through the pandemic. Online sales are now approximately 20% of total retail spending. Recently, all sales tax states have enacted laws allowing for the collection of taxes from remote vendors. There are still exemptions in every state for smaller sellers and ongoing challenges in bringing foreign sellers into compliance. There is still revenue left on the table in that regard. Legislatively enacted exemptions and sales tax holidays further impact sales tax revenues.

Corporate income tax has also gradually eroded and has declined as a source of revenue over the years. It used to be 9% to 10% of state tax collection in the early 1980s. Now it is approximately half of that. Some commonly cited reasons for this include an increase in tax planning opportunities, growth and economic development incentives, and an ongoing shift of pass-through businesses and S corporations filing through the personal income tax code, which had more favorable treatment at the federal level until recently when the Tax Cuts and Jobs Act passed. Approximately 90% of American businesses are now pass-throughs. The apportionment formulas that states use to determine tax liability for multistate corporate taxpayers have been increasingly altered in ways that benefit corporations that have a lot of payroll and property in state and a lot of sales out of state.

Most tax categories face challenges. Personal income taxes are usually based on where the individual is physically located when performing income-generating activities, so increased rates of telework are creating administrative and compliance challenges, especially in populous border regions where workers who lived in one state and commuted to another state for work are suddenly working from home. States are fighting over who gets to tax that income and are trying to answer questions on where employers should withhold for an employee.

A large part of the value created in the modern economy involves more intangible things like financial assets or bits and bytes. Real property ownership is less connected to wealth, so the tax is not closely tied to the ability to pay principal as it once was. The switch to streaming services is also challenging for local franchise fee revenues. It is old news that the gas tax is eroding with increased levels of fuel efficiency and the growth of electric vehicles.

Gambling taxes have been struggling for a while. There has been an explosion of sports betting, but there has also been ongoing concern about the lack of appeal of traditional casinos games among younger people. Many states still do not have online gaming. The pandemic was particularly difficult for the casino industry.

Severance tax is highly volatile with changes in energy prices. Tourist taxes such as lodging and meals, the rise of short-term rentals, car and ride sharing, and delivery

platforms have all presented states with many new regulatory and tax questions and have created challenges for existing tax categories.
Of course, the most recent fiscal challenge came from the COVID-19 pandemic. State revenues took a serious hit in 2020 and forecasts were exceedingly negative going into 2021. It seemed like some of these tax challenges might become even more pressing going into 2021. However, toward the end of 2020, economic conditions started to pick up more than anticipated and there was another round of federal funding for states in the form of the American Rescue Plan Act. States were suddenly in a strong fiscal position for the most part, with legislative offices reporting to the NCSL that they were experiencing positive revenue growth and had cautious optimism about their future fiscal situation.

California, Idaho, Maryland, and Minnesota have had significant budget surpluses going into 2022. A lot of that robust growth is attributable to those one-time federal transfers. While year-over-year growth from 2020 to 2021 was quite strong, consider the starting point where states were in a recession in 2020. Compared to 2020, revenue growth was great. Compared to the pre-pandemic situation, it is not quite as robust. The recession had a very uneven impact on states and localities. There is still some concern around employment participation rates, inflation, and state employment. A report from the Tax Policy Center noted that as recently as October 2021, state and local governments still employed 1 million fewer people than before the pandemic.

Historically speaking, states have been more likely to make tax changes that will result in an increase in revenue during and after recessions and they are more likely to cut taxes when times are better. This improved fiscal outlook set the stage for different types of tax relief efforts in 2021.

Another fun fact: approximately 7 million children disappeared after the passage of a 1985 tax law. However, it is not as bad as it seems. Taxpayers had not been required to submit a social security number for dependents, so they would claim fake children to get a deduction. When a new law passed requiring a social security number, approximately 7 million fewer dependents were claimed the next year.

The NCSL sends out surveys to state legislative fiscal offices to keep track of significant revenue changes that have been enacted throughout the year. The NCSL is awaiting surveys from a few states, but the NCSL has a comprehensive picture of what happened last year. It also contains some hints about what to expect this year. The most significant revenue trend is that 11 states enacted measures to reduce personal and/or corporate income tax rates (page 15, Exhibit B). Some of these reductions were modest while others were estimated to reduce revenues by hundreds of millions of dollars annually. Cutting into taxes is a continuation of a long-standing trend that was put on hold when the pandemic hit. Coming out of the Great Recession, at least 14 states cut income tax rates. That trend continued long into the recovery with 6 states cutting income tax in both 2018 and 2019. The income tax cuts in recent years have often been paired with offsetting sales tax base broadening efforts; however, that was not the case in 2021.

In addition to rate cuts, on the individual side of things, many states provided preferential treatment of COVID-19 relief payments as well as unemployment insurance benefits for a limited time. Georgia provided a $140 million tax cut in the form of an increased standard deduction. Nebraska approved a phase out of income taxes on social security income. Some states took action to increase the value of their earned income tax credits (EITC) or child tax credits, or to invent new ones, which are geared toward low-income taxpayers.

There were some notable variations to this approach. Washington—a state with no income tax—created an alternative to the EITC by enabling a sales tax remittance program using federal EITC eligibility. California enacted the Golden State Stimulus tax rebate program, which provided a $600 payment per tax return to recipients of the state EITC. Both are substantial relief programs. Idaho and New Mexico also created similar, but smaller, rebate programs for certain taxpayers. A handful of states created new sales tax holidays, like Arkansas, Florida, and Tennessee.

Relief for businesses—particularly small businesses—was also a priority for many states in 2021. A prominent issue has been whether states would conform to the tax treatment of the Paycheck Protection Program (PPP) loans that were included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The federal government determined that the loans were not taxable and that expenses funded by those loans were deductible for income tax purposes. This was more of a headache when states were more pessimistic about their budget conditions, since allowing that double tax benefit was costly. Approximately $500 billion in PPP loans would translate to billions of dollars in deductible expenses. However, in 2021, at least 13 states passed legislation conforming to the federal treatment of PPP loans.

There has also been a recent rise in new entity-level taxes for S corporations since the federal government capped the deduction for state and local income, sales, and property taxes as part of the Tax Cuts and Jobs Act. At the start of 2022, seven states had adopted these new entity-level taxes, which are fully deductible at the federal level, and then created offsetting state income tax credits. This is a way to provide relief for businesses; they can fully deduct those expenses at the federal level.

This year, 14 additional states passed legislation to create new State and Local Tax (SALT) cap workarounds for their pass-through businesses. For the most part, businesses can elect whether they want to be taxed in this manner. I believe Connecticut is the only state that made it mandatory.

Many states reported continued action surrounding other federal tax changes such as conforming to expanded deductions for net operating losses or continuing to respond to changes contained in the Tax Cuts and Jobs Act of 2017.

Regarding business relief tax credits: several states expanded or created new job creation or investment tax credit programs. There has also been a surge in expanded or new film tax incentives, which had been falling out of favor in previous years due to questions about their effectiveness, but it seems states are trying to bolster that industry after a tough period for entertainment production.

There was some question around the ability of states to provide tax relief, and it is ongoing since the American Rescue Plan Act (ARPA) funds came with requirements, including a clawback provision that restricts states' ability to use federal funds to offset reductions in tax revenue. That law and subsequent rules issued by the U.S. Treasury say that at any point between the ARPA enactment date and the end of 2024, a state that takes action to reduce net revenues by more than 1% against a baseline—which is FY 2019 tax revenue indexed for inflation—needs to specify how that revenue loss will be offset, either through spending cuts, tax increases, or economic growth, or they could be required to repay funds to the federal government. Twenty states are part of six lawsuits filed against this provision; it has not prevented them from implementing tax cuts. A few rulings have been issued, including some that clarified that lawmakers in Tennessee, Kentucky, and Ohio could enact state tax cuts while accepting ARPA funds. Some other federal district court judges have upheld the restriction on tax cuts with appeals pending. My limited understanding of this is that there is not much of a fiscal impact tied to these cases beyond protecting states from future federal encroachment, because states are generally experiencing enough revenue growth to offset whatever tax reductions they have enacted or are currently considering. It does not appear likely that they will fall below that baseline soon. The U.S. Treasury guidance does not suggest that it is looking to be aggressive in recouping any of those funds.

Excise taxes were popular in 2021, particularly cannabis and sports betting. Those were trending topics leading into the year and continue to receive attention. Five states passed legislation to legalize and tax marijuana in 2021, bringing the total number of states that have done so to 19, plus Washington D.C. Montana also passed legislation to implement an adult-use marijuana tax structure in the wake of a legalization ballot measure that voters approved the previous year. Another 9 states passed measures to implement sports betting or expand to mobile gaming offerings. Colorado and Missouri passed measures to increase gas taxes. Connecticut imposed a new per-mile highway usage excise tax on heavy commercial vehicles. California, Maryland, and Indiana created new taxes on e-cigarettes and vaping products.

Leading up to the pandemic, a significant tax trend was the implementation of laws to require internet retailers to collect sales and use taxes through economic nexus laws and laws requiring marketplace facilitators or entities that facilitate sales for third-party sellers, such as Amazon or eBay, to collect taxes on those sales. Most sales tax states had already implemented those going into 2021. Florida, Missouri, and Kansas have now passed legislation to join the fold. Now that they have these laws in place, a growing number of states are expanding the definition of a marketplace facilitator or looking to require marketplace facilitators to collect other kinds of taxes such as lodging or E911 fees.

A few states increased taxes on higher earners, including New York and Washington D.C. The Massachusetts Legislature approved a constitutional amendment that will go to voters to create a new millionaires' tax. Washington—a state without income tax—created a new capital gains tax that is estimated to generate approximately $500 million in the next fiscal year. A few states also shored up revenue from business taxes in various ways. Nevada is included for the new taxes imposed on certain mineral mining parties.

One of the hotly debated areas of tax policy this year was digital taxation. With certain technology and social media companies performing quite well through the recent economic downturn, several states proposed various types of taxes aiming to get at some of the profits generated by the data economy. These include many types of proposals such as sales taxes on digital advertising, gross receipts taxes on the revenue derived from digital advertising services, and excise taxes on data collectors based on the number of consumers on which the company collects data per month. At least nine states proposed something along these lines, but the only state to pass legislation was Maryland, which took the gross receipts tax approach. That was quickly challenged and is currently being litigated. The question is whether it is constitutional to subject digital advertising to different tax treatment than other advertising. Some of the other proposals do not come with the same legal questions. The revenue potential of these taxes is significant. Maryland estimated that its digital advertising measure would generate approximately $120 million annually by FY 2025. Some states may be waiting to see what becomes of the legal battle before taking further action. That process could take a while. This could be an area of interest in 2022 but some states may not feel the pressure to rush into anything given their current strong budget situations.

A final non sequitur: astronaut Jack Swigert, Command Module Pilot for Apollo 13, got the assignment at the last minute because of health concerns surrounding another astronaut. In the rush, he neglected to file his taxes. According to a transcript of the moment he realized his mistake, the crew on the ground thought he was joking. He was seriously asking how to file an extension.

Heading into 2021, I predicted there would be a lot of tax increases from states, considering the serious revenue concerns at that time; however, the picture changed dramatically in 2022. Given states' strong fiscal conditions, combined with this being an election year, I think tax relief will continue to be a top priority and the trend of cutting income tax will continue. There are several states, including Georgia, North Carolina, West Virginia, and Mississippi that have been talking seriously about completely scrapping personal or corporate income tax, which no state has succeeded in doing for decades. Other states have proposed a reduction in marginal income tax rates in their annual State of the State speeches. To the extent that these cuts are driven primarily by one-time revenue surpluses, some of these are dramatic reductions. Those states risk getting ahead of themselves. Many states had to tap into reserve funds in 2020. If revenue growth does not continue, those states could find themselves in a vulnerable position.

Chair Neal called a recess due to technical difficulties at 1:43 p.m. The meeting reconvened at 1:52 p.m.

The taxation of digital products is becoming an increasingly consequential topic from a fiscal standpoint. Nontaxable digital products are increasingly replacing similar taxable, tangible products or traditional communications services. People are opting for streaming services rather than cable and cloud computing over boxed software. Many states have expanded their sales tax to digital goods and streaming video in the last few years. That could be part of how states make up for income tax reductions. The chart on page 26 (Exhibit B) shows sales taxes on streaming services. States and localities have seen revenue from cable companies decline because streaming services do not use rights of way, for which localities charge providers. Some jurisdictions tax streaming service providers through another provision of the tax code. Twenty-six states currently impose sales and use tax on it. In some states, it is only taxable if the end user has a right to permanent use.

The map on page 27 (Exhibit B) shows the number of services that states tax, out of 176 included in the survey. The results of this survey show that there are only five states that tax services broadly: Hawaii, New Mexico, South Dakota, Washington, and West Virginia. Several states have extended their sales tax to specific services over the past few years—things like health clubs and laundry cleaners—but states that have attempted to expand their sales tax to services broadly have historically found it quite challenging. Several have tried and failed after major pushback in recent years.

It is likely that more states will begin legalizing adult-use marijuana, sports betting, and online gambling. Excise taxes tend to be more politically palatable, so when states need to gain revenue, excise taxes tend to be an easy option.

Several states are discussing property tax relief considering rising housing prices. There has also been talk in a few states that are struggling with affordable housing about implementing taxes on second homes or looking to nonprofits for local revenue. There may be some increased attention paid to state apportionment formulas for corporate taxpayers and more debates and attention paid toward market-based sourcing and when states can assert nexus for corporate income tax purposes.

Workarounds to the federal cap on state and local deductions will probably continue to increase in the absence of federal activity. The Internal Revenue Service (IRS) could potentially change its position; there are still discussions about the potential elimination of the SALT cap as part of the Build Back Better package. Assuming these taxes continue to grow, there may be calls for states to devote more effort to uniformity since these taxes tend to vary slightly by state. The Build Back Better proposal contains many tax provisions that would require state attention. If there is movement on that, it will be a top issue this year.

ASSEMBLYWOMAN ANDERSON:

On pages 23 and 30 (Exhibit B), you mentioned the sales tax base broadening. Are you referring to proposed sales tax increases or proposed taxes on additional services? Please expand on what you mean by “sales tax base broadening.”

MR. BRAINERD:

Sales tax base broadening is the removal of an exemption for something that is currently exempt from sales tax, not creating a new tax. Most states provide a list of exemptions whereas states that tax services broadly do the opposite; they have a list of everything that is taxable. That is why there have not been many states expanding to services; it is more difficult because of the way their statutes were initially written.

ASSEMBLYWOMAN ANDERSON:

Regarding page 28 and the excise taxes (Exhibit B), from your analysis and discussion, were these excise taxes proposed for revenue generation or to dissuade people from these products or services?

MR. BRAINERD:

There is some contradiction in that regard. The tobacco tax was imposed to dissuade tobacco use but states now rely on the revenue. In addition to the benefits of decriminalization, the revenue from marijuana is the goal. Most states are establishing new taxes on e-cigarettes, thus disincentivizing consumption is likely part of the goal. The excise taxes on e-cigarettes do not raise much revenue in the big picture. However, in general, excise taxes are for revenue, rather than for dissuasion of use.

ASSEMBLYWOMAN COHEN:

I was surprised to see transportation mixed in with marijuana and sports betting for excise taxes. Are these taxes on public transportation, commercial flights, or something else?

MR. BRAINERD:

Excise taxes related to transportation are generally related to gas taxes. It is included in Census reporting the way selective sales tax categories are used; motor fuel tends to be included with the "sin taxes." The states I mentioned had increases in their motor fuel tax rates.

CHAIR NEAL:

Regarding the federal one-time transfers: in the last recession, I thought Nevada relied heavily on federal relief rather than focusing on what the state budget should be doing and how to solidify the state's tax base for the next wave. It is better to be proactive, rather than taxing more while in a crisis. There is a cultural mindset that the most appropriate time to adjust a taxing system is in the middle of a crisis; however, I disagree. Instead, the focus should be on planning for the future to ensure there is enough revenue to sustain services as populations grow. Because Nevada received stimulus dollars, people think there are no economic problems. That is not money that Nevada generated or produced. Those funds were provided by the federal government and will ultimately be paid back by taxpayers. I want to see how the one-time transfers should be treated and how Nevada can start to plan around its tax revenue. Nevada is still planning for the future and trying to ensure there is enough money to pay for services that are continuing to grow, absent federal stimulus dollars. I would like Mr. Brainerd's perspective about that.

MR. BRAINERD:

The best time to do the work of modernization is during stable times rather than during a crisis. The historical trend is to wait until a budget crisis before acting on taxes, which makes it more difficult. That is the political nature around having a better budgeting situation—people are less inclined to take on tough, long-term issues that need to be addressed at some point. States should acknowledge the extent to which their current fiscal situation is driven by those one-time funds and how that state would function without the funds. There are many difficult fiscal issues that states have not addressed for a long time. Now would be a good time to address them if the urgency can be mustered.

There was no further discussion on this item.

VI. PRESENTATION ON THE TAX CHANGES APPROVED BY THE LEGISLATURE DURING THE 2021 SESSION, COURT DECISIONS RELATING TO ACTIONS APPROVED BY THE LEGISLATURE DURING THE 2019 SESSION, AND THE ECONOMIC FORUM MAY 4, 2021, FORECAST FOR FY 2021, FY 2022, AND FY 2023, ADJUSTED FOR LEGISLATIVE ACTIONS APPROVED DURING THE 2021 SESSION AND COURT DECISIONS.

RUSSELL GUINDON (Chief Principal Deputy Fiscal Analyst, Fiscal Analysis Division, LCB):

The Economic Forum is a statutory body required to prepare forecasts on or before December 3 of even-numbered years to be used by the Governor in developing the budget submitted to the Legislature. The Economic Forum is also required to revise the forecast, if necessary, on or before May 1 of odd-numbered years; that is the forecast used by the Legislature during the legislative session. There is another part of the General Fund revenue forecasting process that staff possibly does not go through with legislators as it does with the Economic Forum. I will discuss some of that today so that legislators understand what is occurring.

Because the revised forecast comes out during the legislative session, there can be legislative actions approved by the Legislature and signed by the Governor that can affect the General Fund revenue sources; this must be taken into account.

The tables in the packet (Exhibit A) are included in the Appropriations Report—prepared by the Fiscal Analysis Division—which documents the legislative session from a budget and fiscal perspective. Table 1 documents the tax credits (page 17, Exhibit A). As tax credit programs became effective, the Fiscal Analysis Division devised a process to handle the tax credits within the Economic Forum's General Fund revenue forecasting process and within the budget process—to document, track, and forecast the tax credits.

The top of the table on page 34 (Exhibit A) shows the Economic Forum's General Fund forecast approved at the December 3, 2020, meeting. This was the forecast that Governor Sisolak used for his budget. The middle block shows the May 1, 2021, forecast that now includes adjustments made for legislative actions approved during the 2021 Legislative Session. This also includes adjustments for the Supreme Court decision made on May 13, 2021, regarding the Modified Business Tax (MBT) and S.B. 551 (2019 Legislative Session). The Economic Forum made a significant upward revision to the forecast at the May 2021 meeting from the forecast in December 2020. Forecasting during a pandemic has been an interesting and difficult exercise. The upward net revision from the forecast process, the legislative actions, and the court decisions total approximately $235.8 million in FY 2021, $310 million in FY 2022, and $327.4 million in FY 2023. That is a total of approximately $873.4 million difference between the May 2021 forecast that was used to drive the legislatively approved General Fund budget compared to the revenue estimates for the General Fund that were available to be used by the Governor.

The court decision on the MBT resulted in refunds and interest due to taxpayers paying the MBT at a higher rate. The Supreme Court upheld the lower court's decision that the provisions of S.B. 551 relating to the MBT were unconstitutional. The tax rates for FY 2022 and FY 2023 had to be reduced in the forecast. The court decision decreased the forecast by approximately $87.7 million in FY 2021, $55.3 million in FY 2022, and $53.7 million in FY 2023 for a total of approximately $196.6 million. The downward revisions over those three years due to the court decision were larger than those from the legislatively approved changes. Table 3 shows the impact of the Supreme Court's decision on the MBT forecast for FY 2021, FY 2022, and FY 2023 (Exhibit A).

Modified Business Tax taxpayers paid at the higher rate established by S.B. 551 for all of FY 2020 and the first three quarters of FY 2021. The court ruled that they should have paid at the lower rate. The estimates of the refunds and interest that the Department of Taxation will need to provide to MBT taxpayers are listed by MBT component on Table 3 (page 35, Exhibit A). A total of approximately $75.6 million in refunds and interest are estimated for FY 2021 and $4.7 million in FY 2022 for an estimated total of $80.3 million. At a future meeting of the Committee, the Fiscal Analysis Division and the Department of Taxation could work with Chair Neal to provide information on the actual refunds and interest compared to the estimated amounts.

The Department of Taxation effectuated the tax rate reduction beginning April 1, 2021. The fourth quarter of FY 2021 was taxed at the lower rate. The Economic Forum's forecast was based on the higher rates before the court decision. The impact from the tax rate reduction is estimated to be approximately $12.1 million in FY 2021, $50.6 million in FY 2022, and $53.7 million in FY 2023 for a total of approximately $116.4 million. The bottom block of Table 3 brings together the refunds and interest and the rate reduction component. For reference, the tax note for the MBT on non-financial businesses went from 1.475% to 1.378% on any quarterly taxable wages exceeding $50,000 per quarter. The tax rate for the mining and financial businesses went from 2% to 1.853%. These lower rates came from the MBT rate reduction calculation, a provision from the 2015 Legislative Session, with the creation of the new Commerce Tax and increases in the MBT rates. The Department of Taxation, on or before September 30 of even-numbered years, must do this calculation based on the actual collections for the preceding even-numbered fiscal year to determine whether the actual collections from the Commerce Tax, the MBT, and the branch bank excise tax exceed the Economic Forum's forecast by more than 4%. If the actual collections exceed the forecast by more than 4%, there is a calculation done through the statutory provisions to proportionally reduce the MBT rates such that the amount of revenue generated would have been 4% more than the forecast for those revenue sources. The Department of Taxation determined those lower rates in September 2018 based on FY 2018, which became effective July 1, 2019, for FY 2020. Senate Bill 551 stated that the rate reduction calculation would cease. The Supreme Court's decision restored the rate. On or before September 30, 2022, the Department of Taxation will need to perform this rate reduction calculation, based on how the actual collections for FY 2022 compare to the Economic Forum's forecast, adjusted for these legislative actions and court decisions.

On page 21 (Exhibit A), Fiscal staff documents the legislative actions that could have an impact on unrestricted General Fund revenue sources. The new tax in A.B. 495 (2021 Legislative Session) was established to tax the gross revenues of businesses extracting gold and silver in Nevada. It is an annual tax with annual revenue thresholds. On or before April 1, an entity subject to this tax is required to report their gross revenue from the extraction of gold and silver for the preceding calendar year. The first $20 million is not taxed. Anything between $20 million and $150 million is taxed at 0.75%. Any gross revenue in excess of $150 million is taxed at 1.1%. Fiscal staff estimates approximately $83.8 million in revenue from this tax in FY 2022 and $80.1 million in FY 2023 for a total of $165 million for the biennium. This new tax is required to be deposited in the State General Fund for its first two years, FY 2022 and FY 2023. Beginning in FY 2024, this revenue source is required to be deposited in the State Education Fund, which is the new fund under the Pupil-Centered Funding Plan for K-12 education.

During the 2021 Legislative Session, the passage of S.B. 440 established the Nevada National Guard Sales Tax Holiday. This allows Nevada National Guard members to obtain a certificate of exemption, which they can use to be exempt from all sales taxes during the Nevada Day holiday weekend. Although this will likely have a negative impact on both state and local sales taxes, staff did not feel comfortable coming up with an estimate as a potential revenue reduction. The first sales tax holiday has occurred. It is going to be difficult for the Department of Taxation to provide actual information on that due to the way sales tax reporting works.

Nevada is a full member of the Streamlined Sales and Use Tax Agreement (SSUTA), which helps with the administration of online sales taxes and sales taxes in general across states. Since the passage of S.B. 440 (2021 Legislative Session), the Streamlined Sales and Use Tax Governing Board—of which Chair Neal is a member—found that Nevada's sales tax holiday is noncompliant with the SSUTA revisions regarding sales tax holidays in October 2021. That is something on which this Committee may wish to obtain additional information.

CHAIR NEAL:

There was hesitation on the bill creating that sales tax holiday. The Committee will discuss corrective measures in February 2022 around this bill. Senate Bill 440 will be revisited during the 2023 Legislative Session to handle those corrections.

MR. GUINDON:

Regarding the live entertainment tax (LET), there was a change made to provide an exemption for government entities. Table 2 (Exhibit A) documents the reduction to the MBT revenue forecast due to the court decision. Senate Bill 9 (2021 Legislative Session) made changes to the securities revenue source, which is administered by the Secretary of State. To provide some perspective: this was not a bill that came to the revenue committees in either house. Legislation can go through other policy committees without coming through the Senate Committee on Revenue and Economic Development or the Assembly Committee on Revenue. After the legislative session, the Fiscal Analysis Division looks for bills that could affect an unrestricted General Fund revenue source that did not go through the revenue committees. The Secretary of State submitted a fiscal note regarding the potential revenue reduction in FY 2023 of approximately $12,000.

Senate Bill 389 (2021 Legislative Session) requires short-term car lease fees to be applicable to peer-to-peer car sharing programs (page 23, Exhibit A). Charges for passenger cars shared through such programs are subject to a Short-Term Car Lease Fee identical to the fee already collected by the Department of Taxation on the rental of other passenger cars in this state, which is 10% of the rental charge. Clark and Washoe Counties add 2% to that rental charge, the same amount imposed by car rental companies. The transportation connection excise tax, which Mr. Brainerd mentioned as transportation services under the excise tax heading, does not apply to peer-to- peer sharing. It applies a 3% tax to Uber, Lyft, and taxi charges, which is deposited into the State General Fund. Peer-to-peer car sharing programs, such as Turo, have been discussed in the last few legislative sessions. This is a modernization of the tax code. This peer-to-peer sharing creates activity that is no different than what has been carried out by businesses that are required to license, register, and collect and remit taxes as car rental businesses. This bill equalizes the treatment of different entities that are renting out cars in Nevada.

The Professional Employer Organization Fee (page 23, Exhibit A) is a revenue source that is supposed to go to the State General Fund; however, it inadvertently did not. It was included in the May 2021 forecast, but it needed to be moved to a new general ledger category.

The repayments are simply where the Legislature approves a General Fund appropriation for a program or project that will be repaid (page 23, Exhibit A), typically these are for technology-related projects.

A bill was passed requiring $1 million from the Abandoned Property Trust Account (Unclaimed Property) be transferred to the new Grant Matching Account (page 24, Exhibit A). The first $7.6 million in Unclaimed Property goes to the Millennium Scholarship Trust Fund each year. Now there is an additional $1 million that goes to the Grant Matching Account. Any remaining amount in Unclaimed Property at the end of a fiscal year goes to the State General Fund as an unrestricted General Fund revenue source.
Changes were made to the Nevada Educational Choice Scholarship tax credit program by A.B. 495, which authorized an additional $4,745,000 in tax credits against the MBT. The authorization for the tax credits was available and made for FY 2022. However, Fiscal staff looked through the credits and assessed what is happening to that program during the pandemic. By the time those credits are awarded, it is likely more accurate to record it as an additional potential revenue loss in FY 2023.

CHAIR NEAL:

This is good information for the future because there is always a bill that tries to amend or address a preexisting subject.

MR. GUINDON:

On page 26 (Exhibit A), there is a list of things that could change a revenue source for the Distributive School Account in FY 2021 or the new State Education Fund in FY 2022 and FY 2023. Assembly Bill 389 establishes requirements for short-term rentals, including on peer-to-peer platforms such as Airbnb. This could have a potential impact on the State 3% Room Tax, but it will not affect General Fund revenue. It would affect the revenue going to the State Education Fund. The Fiscal Analysis Division was unable to produce an estimate due to all the potential dynamics of the bill. This is something Fiscal staff will continue to monitor.

The tax policy section from the 2021 Appropriations Report is located on page 37 (Exhibit A). The Fiscal Analysis Division tax team reviews all the bills that may change the administration of or affect the yield from a state and local tax, as well as those bills with economic development provisions, abatements, or tax credits. A brief summary of those bills is included.

ASSEMBLYWOMAN KASAMA:

After adjustments made for legislative actions and court decisions, what was the final projected General Fund revenue?

MR. GUINDON:

There were no adjustments for FY 2021 except for the court decision reducing projected revenue $87.3 million (page 27, Exhibit A). For FY 2022, the net effect of legislative actions and court decisions was $28.5 million for the positive. For FY 2023, it was $22.9 million for $51.4 million for the biennium for the unrestricted General Fund Revenue sources.

ASSEMBLYWOMAN ANDERSON:

Does the Fiscal Analysis Division also track federal legislation and its impact at the state level?

MR. GUINDON:

The division tries to monitor and be aware of federal legislation that may impact the state. The Main Street Fairness Act regarding online sales and similar types of legislation that affect the state revenue collection are examples. Nevada does not have a state income tax; however, those states that do have a state income tax must pay attention to the federal income tax changes because many of those income taxes are tied to the federal tax code. Nevada does not have to worry about those types of changes, but the state does need to watch for bills that could change the sales tax. Fiscal staff is also watching bills related to marijuana legislation and things like that. The NCSL helps to keep track of federal legislation that may impact state taxes.

ASSEMBLYWOMAN ANDERSON:

When does the language go into effect for the short-term rentals?

MICHAEL NAKAMOTO (Deputy Fiscal Analyst, Fiscal Analysis Division, LCB):

Most of the provisions for that bill take effect on July 1, 2022.

CHAIR NEAL:

Clark County is currently in the process of conducting a survey to get opinions on the ordinance.

The Committee will skip Agenda Items VII and VIII and move to Agenda Item IX.

VII. REPORT AND DISCUSSION OF FY 2021 ACTUAL COLLECTIONS COMPARED TO THE ECONOMIC FORUM DECEMBER 3, 2018, MAY 1, 2019, DECEMBER 3, 2020, AND MAY 4, 2021, FORECASTS, ADJUSTED FOR LEGISLATIVE ACTIONS APPROVED DURING THE 2021 SESSION AND COURT DECISIONS.

Due to time considerations, Chair Neal stated that she would not have the information for this agenda item presented at this meeting and deferred it to a future meeting of the Committee.

VIII. REPORT AND DISCUSSION OF FY 2022 YEAR-TO-DATE ACTUAL COLLECTIONS COMPARED TO THE ECONOMIC FORUM MAY 4, 2021, FORECAST, ADJUSTED FOR LEGISLATIVE ACTIONS APPROVED DURING THE 2021 SESSION AND COURT DECISIONS.

Due to time considerations, Chair Neal stated that she would not have the information for this agenda item presented at this meeting and deferred it to a future meeting of the Committee.

IX. PRESENTATION ON PERSONAL INCOME AND WAGES IN RELATION TO POPULATION, EMPLOYMENT, AND INFLATION ON A NATIONAL LEVEL AND IN THE STATE OF NEVADA.

JOE REEL (Deputy Fiscal Analyst, Fiscal Analysis Division, LCB):

On page 92 is a set of charts presented to the Economic Forum showing a time series of employment, personal income, and wage information (Exhibit A). At the onset of the COVID-19 pandemic, there was a sharp decline in total U.S. nonfarm employment growth and then a rebound to some extent. It is currently 2.9%, or 4.4 million, jobs below the pre-pandemic peak. Nevada is 6.5%, or 93,000 jobs, below the pre-pandemic peak. The leisure and hospitality industry is the main area of the decrease in employment in Nevada. This industry accounts for 79,400 of those jobs. Many other sectors have recovered to pre-pandemic levels.

Page 95 (Exhibit A) shows the employment growth rates for the U.S. as well as Nevada. From the decrease in employment during the second quarter of calendar year (CY) 2020 at the onset of the pandemic to the current CY 2021 third quarter, the U.S. average change is -2.7%. Nevada has -5% average job growth over that same period. However, in the last two quarters, Nevada is exceeding the national average again. Typically, Nevada's job growth has been higher than the national average apart from the Great Recession and the time it took to recover.

Page 96 (Exhibit A) summarizes population growth rates, looking at things in terms of population and inflation. Page 97 shows the index for the U.S. Consumer Price Index (CPI) and some of its components. Note the dramatic change in the energy component over the last several quarters. That is one of the major factors currently driving the price increases. The food component is also elevated at this point.

On page 98 (Exhibit A), the red line shows the CPI of all items for urban consumers. There has been a significant increase in the CPI such that, year over year, the CPI is up 6.8% in the fourth quarter. Without the food and energy components, there is still 5% year-over-year growth. There have not been inflation rates of this level since the 1990s or, in some cases, the 1980s. Nevada is not doing as well, in inflation-adjusted terms, because of the inflation rates.

The scale drops quite a bit when the energy component is added (page 99, Exhibit A). The energy component for this last quarter is up 31%. That is a major driver in the increases in transportation costs and other things that are contributing to the inflation in the food sector and other sectors.

Total personal income is comprised of wages and salaries; dividends, interest, and rent; transfer payments, supplements to wages and salaries; and proprietors' income. Wages and salaries, which are noted in red, have typically been approximately 50% of total personal income. However, the job losses at the beginning of the pandemic created a significant decrease in wages. The impact of federal stimulus payments is visible on the chart (page 100, Exhibit A). Wages and salaries were 50.9% of total personal income in the first quarter of CY 2020. They have dropped to an average of 47.7% since the beginning of the pandemic. Transfer payments are typically approximately 17% of total personal income. They increased to an average of approximately 23% over the pandemic. The spikes of over 25% show when each stimulus was released.

In Nevada, the change is even more dramatic. Wages and salaries in Nevada decreased from 47.9% prior to the pandemic to an average of 43.8% since then. Transfer payments went from approximately 17% and spiked to over 30% when each stimulus was released.

Typically, total personal income and wages and salaries are looked at on a long-term basis from peak to trough. Due to the stimulus influx, Fiscal staff started to measure what happened to these statistics prior to the pandemic to now. From that perspective, personal income is up 9.2%. However, from the stimulus peak to now, it is -4.9% from the previous peak in the first quarter of CY 2021. From the wages and salaries side, there is a peak, a trough, and growth again. From the peak in the first quarter of CY 2021 to now, wages and salaries are up 8.9% in the U.S.

In Nevada, from pre-pandemic to now, total personal income is up 10.5% but is -5% from the latest peak. The wage growth for Nevada is 9.7% above the previous peak. The growth rates for personal income are comparable for the U.S. and Nevada. They are 7.6% and 7.5%, respectively, from the period prior to the pandemic to now (page 104, Exhibit A).

Nevada is still trailing slightly in wage and salary growth rates (page 105, Exhibit A). From the onset of the pandemic, the drop, up to current: the U.S. is 4.7% and Nevada is 3.7%. Again, the past two quarters, Nevada has grown faster than the U.S. average. This goes back to the same trends prior to the pandemic economic impact and also prior to the

Great Recession. These shocks to the system are similar in terms of the impact on wage growth for the U.S. and Nevada.

Per-capita personal income growth brings in a population component (page 106, Exhibit A). From the first quarter of CY 2020, the U.S. per capita personal income is up 9.8%. From the peak in CY 2021, it is -5.1%. Although it grew 9.8% in nominal terms, with inflation adjustment, it is only up 3.9% for that same period. From the peak, it is -5.1%, but when inflation is considered, that is -8.5% at the U.S. level.

The trend is similar in Nevada: up 8.7% pre-pandemic to current but from the previous peak, it is -5.7%. In inflation-adjusted terms, it is just 2.9% growth, compared to the nominal 8.7%. The decline from the previous peak turns into -9.1% when inflation is included.

Page 108 (Exhibit A) shows a comparison of the nominal per-capita personal income for the U.S. and Nevada. Page 109 includes the inflation adjustment and page 110 shows the growth rates for the per-capita personal income for the U.S. and Nevada. Note that the U.S. growth rate in the third quarter of CY 2021 is slightly below Nevada's growth rate, similar to the trend prior to the onset of the pandemic. The growth rates are lower when adjusted for inflation (page 111).

Page 112 (Exhibit A) shows U.S. wages and salaries on a per-employee basis. This may seem counterintuitive. As jobs were lost during the pandemic, the wages per employee increased because many of the jobs lost were at below-average wages. Since the onset of the pandemic, U.S. wages and salaries per employee are up 12.2% nominally, or 6.2% with inflation adjustment. With inflation included, it has gone flat and even declined after the initial spike.

In Nevada, there is an even more dramatic change in the same trend. From just prior to the pandemic to now, wages and salaries per employee are up 17.3% nominally, or 11.0% with inflation adjustment. It has gone flat or down after the initial impact of losing all those jobs (page 113, Exhibit A). The spike is from losing a lot of jobs in the leisure and hospitality sector. Pages 114 and 115 show the U.S. and Nevada wages and salaries side by side, nominal and inflation-adjusted, respectively. Pages 116 and 117 show the growth rates for those same statistics. Again, the strong increase is due to the loss of jobs with lower wages, particularly in the leisure and hospitality sector. With inflation adjustment, Nevada is stronger than the U.S. average from the trough to now with 8.9% growth—6.4% with inflation.

The comparison of median household income for the U.S. and Nevada begins on page 118 (Exhibit A). This is a trend that was seen before the Great Recession: Nevada exceeded the national average until the recession and took a long time to get back up. In 2019, Nevada regained the position of being higher than the national average. In 2020, with the onset of the pandemic, Nevada is -14% whereas the U.S. is -1.7% in median household income. In inflation-adjusted terms, Nevada is -15.1% and the U.S. is -2.9%.

The last few charts show the Nevada General Fund revenue per thousand dollars of personal income. Nevada saw an impact of the decline in revenue in FY 2020 and a slight rebound in FY 2021. Page 123 (Exhibit A) shows both General Fund income growth rates and personal income growth rates. The last increase in FY 2021, in personal income growth, was approximately 5% while the General Fund growth rate was approximately 10%.

CHAIR NEAL:

In the U.S. and Nevada wage and salary growth rates (page 105), what triggered the change in the third quarter of FY 2021? Was this affected by retirements that created job openings?

MR. REEL:

The main factor was the loss of leisure and hospitality jobs. When a business loses a lot of employees who were working for wages below average, it causes the wages per employee to increase. Some of those jobs are being added back and the growth rate is coming back down. It looks like wage growth is great, but it is mostly the result of a large loss of jobs in leisure and hospitality at below-average wages. That caused a spike but as those jobs return, the growth rate is equalizing, and rates will fall back to more traditional growth rates.

CHAIR NEAL:

When workforce rates were down, wages were increased to incentivize workers to come back. Did that also help to increase salary growth rate within certain sectors? Some employers that previously offered $9 per hour are now offering $11 per hour. Has there been an increase in personal income for the lower tier of wages?

MR. REEL:

Those things are happening but may get lost in the impact of this shock to the system. There are labor supply issues and a great resignation occurring. There is wage pressure at the individual job seeker level. As you mentioned, there have been some wage gains regardless of employment growth or decline.

CHAIR NEAL:

It is good for us to understand what is happening in the state when discussing revenue. It is good to have a broader scope when discussing revenue policy. The state needs to consider appropriate pacing to stabilize the revenue that stabilizes Nevada's services. I am always thinking about whether there is enough revenue without federal stimulus funds. Nevada needs to plan for what could be rather than try to haphazardly move policy when people are scrambling to try to take care of the needs of the state.

There was no further discussion on this item.

X. PRESENTATION ON HISTORICAL AND FORECAST STATE GENERAL FUND REVENUE INCLUDING ON AN INFLATION ADJUSTED AND INFLATION ADJUSTED PER CAPITA BASIS.

RUSSELL GUINDON (Chief Principal Deputy Fiscal Analyst, Fiscal Analysis Division, LCB):

The inflation component of a tax is dependent on the statutory structure for the tax. As the price of things increases, the sales tax should also increase. As people come to the state and as people regain their jobs, there is more consumption; that is the demographic component of the tax. There are taxes contributing to the State General Fund that have both a demographic and inflationary component, such as sales tax. There are also taxes that do not have an inflationary component—such as the liquor tax and the cigarette tax—because they are based on the unit, not the price.

There is a set of tables showing examples of revenue sources per capita and with an inflation adjustment (Exhibit C). In scenario 1, a program or revenue source generates $100 in year 1, which provides funding for services to one person. On a per-capita basis, it is the same: 100 divided by 1. With an inflation adjustment, it is the same because this is the base reference year. In year 2, the revenue source generates the same as year 1: $100. There was no increase in the revenue, caseload, or inflation.

In scenario 2, the revenue increases by $5 in year 2 with no increase in caseload. With 5% inflation in year 2—compared to year 1—in per-capita terms, it is $105 but after adjusting for inflation, it is still $100 per person. It looks 5% better than reality. On an inflation-adjusted per-capita basis, it is no better. Indexing takes and divides the numbers by the reference year, which is year 1. It is a way to take things that do not have the same scale and put them on a comparable scale by indexing to a reference period.

In scenario 3, the revenue funding increased 100%, from $100 to $200. However, there is also a caseload increase of one. Here, there is no inflation. It is $100 per capita for each year because the funding increased at the same rate as the caseload. The indexing shows the same effect.

In scenario 4, there are also 100% increases in the funding and caseloads but there is now 5% inflation. In per-capita terms, it is like scenario 3: revenue is $100 per person. However, with inflation adjustment, the funding went down to $95.24. Even though the revenue increased to match the increased caseload, because of inflation, there is less funding per person than there was in the base reference year.

Scenario 5 shows a 110% revenue increase, 100% caseload increase, and 5% inflation. In per-capita terms, revenue increased to $105 per person but in inflation-adjusted per-capita terms, it is still in the same place as the reference year.

Inflation-adjusted per-capita terms show how a program's revenue compares to a past reference year. This was evidenced in Mr. Reel's presentation on wages and salaries with current dollars versus inflation-adjusted dollars. Inflation changes the purchasing power of that dollar. This context should be kept in mind when comparing revenue sources.

The table on page 125 of the meeting packet (Exhibit A), shows actual amounts of General Fund revenue for FY 1990 through FY 2021 and the Economic Forum's forecasted revenue—adjusted for legislative actions and court decisions—for FY 2022 and FY 2023. The statewide population shown is the State Demographer's Governor-certified estimates, except for the last three years, which are the State Demographer's projections. The data is indexed with FY 1990 as the base reference year. The combined population and inflation growth rate is in the next column. The last column shows the inflation-adjusted per-capita General Fund revenue. The horizontal lines block out the years by biennium.

The forecast for FY 2022 of -1.1% is compared to the actual collections for FY 2021. The Economic Forum projected growth, but because the actual collections for FY 2021 were much higher than predicted, the revenue can decline by 1.1% and the forecast of $4.426 billion in FY 2022 will still be met. Over the entire historical period—from FY 1990 to FY 2023—the average growth in General Fund revenue is 6.1% but population grew 3.1% and inflation grew 2.6% on average, so inflation and population grew 5.7%. In inflation-adjusted per-capita terms, revenue only grew 0.4% on average over the period from FY 1990 to FY 2023. The averages by decade are at the bottom of the table. From FY 1990 to FY 1999, the average growth was 8.7% average but only 0.1% after accounting for population and inflation. From FY 2010 to FY 2019, the average growth was 4.7%. The Great Recession affected that decade. After accounting for population and inflation, that came to 1.6% growth—much higher than the prior periods. The population and inflation growth slowed during this period. There was less average growth in revenue in the FY 2010 to FY 2019 decade, but because there was lower population and inflation growth, the average in inflation-adjusted per-capita terms was higher.

Page 126 (Exhibit A) charts the data from the table. When the growth in General Fund revenue exceeds the growth in population and inflation then the inflation-adjusted per-capita revenue has growth in that fiscal year. When the population and inflation growth is higher than the revenue growth, the opposite occurs. There are times where the population growth is less than the General Fund revenue growth and the inflation growth is less than the General Fund revenue growth, but population and inflation combined are above the revenue growth. In years where either the population growth or the inflation growth is greater than the revenue growth, there is clearly trouble maintaining the inflation-adjusted per-capita revenue.

Page 127 shows the comparison between the actual General Fund revenue growth in current dollars versus the inflation-adjusted amount. Many times, the inflation-adjusted amount may flatten out compared to the actual growth. Inflation can be a factor causing revenues to grow but when inflation is accounted for, relative to the FY 1990 reference period, the results are clear. There is nothing special about the FY 1990 reference period.

A base reference is necessary to do this type of analysis. This was just before the slight recession that occurred in FY 1991. A reference period should not be special or unique.

In the 2003 Legislative Session, there was a change to taxes estimated to generate approximately $800 million for the 2003-05 biennium. The tax change became effective in FY 2004 and FY 2005. In the 2009 Legislative Session, revenue enhancement actions were taken. A notable example is Initiative Petition 1 (IP1) 1 for the 3% room tax, which went into the General Fund for a few years and now goes to the State Education Fund. In the 2015 Legislative Session, the Commerce Tax was put in place and the Modified Business Tax rates were increased.

The chart on page 129 (Exhibit A) adds the population component. Again, the actual funding divided by population equals the per-capita funding. In FY 1990, there was approximately $650 per person. In inflation-adjusted per-capita terms, General Funds were going down until the tax changes in FY 2003 that pushed revenue above the $650 base reference. During the Great Recession, it fell back below $650. The 2009 tax changes raised revenue back above that reference point, but it fell again. Then the 2015 tax changes again raised revenue above the FY 1990 $650 per person reference in inflation-adjusted per-capita terms. The FY 2021 actual rose from FY 2020. The forecast numbers are anomalous due to the relationship between the forecast and what is going on in real time.

The chart on page 130 (Exhibit A) is missing part of a label. The current dollars and inflation-adjusted dollars are in millions of dollars, like the previous chart. The per-capita line is in dollars per person. When bringing inflation-adjusted measures and per-capita into one chart, there is a scale problem. One is in millions of dollars; one is in dollars per person. In the same charts, the reference point becomes difficult.

To index, each of these lines from each of these fiscal years are divided by the FY 1990 amounts. Then all these metrics can come together in one chart. Page 131 (Exhibit A) shows inflation-adjusted per-capita revenue indexed to FY 1990 = 1. The number 1 is the FY 1990 base reference. This can be used to compare the state's total unrestricted General Fund revenue over this relatively long period.
In FY 2003, the General Fund revenues per capita with inflation adjustment were approximately 14% below the FY 1990 reference point. After the 2015 tax changes, it was operating around 4% above the reference period. It went down during the pandemic and has gone back up to approximately 4%.

On page 132, the dark purple line shows the FY 1990 revenue adjusted for the population and inflation growth rates of each year. The light green line shows the actual revenue. If the FY 1990 General Fund revenues had increased to match the population and inflation, the dark purple line shows what would have been generated. This is another way to visualize how the revenue collection is running below the population and inflation growth but goes above with tax changes.

There have been changes in the last few years that have picked up online sales into the sales tax base through the *Wayfair v. South Dakota* court case implementation and A.B. 445 (2019 Legislative Session)—the marketplace facilitator bill. When looking at the uptick in the revenue growth prior to the Great Recession, it is evident which revenue sources in the General Fund were triggered.

ASSEMBLYWOMAN COHEN:

Knowing that the U.S. Federal Reserve will raise interest rates in March 2022, how does that play into the forecasting? In general, how do interest rates impact all of this?

MR. GUINDON:

Higher interest rates should slow the economy. People may not buy houses or other purchases that require interest payments. Businesses may not make capital investments. As the economy slows, it could possibly bring inflation back under control. It is hard to think about some of these economic concepts such as raising interest rates and what the Federal Reserve is doing to manage monetary policy in relation to inflation, interest rate targets, et cetera. It is something the Fiscal Analysis Division will monitor. The forecasters will present their preliminary forecasts in October or November 2022, and the Economic Forum will adopt a final forecast on or before December 3, 2022 for FY 2023, FY 2024, and FY 2025. Hopefully there will be information and some of the supply chain issues will get worked out so that the forecasters can start to think about what it means for an economy going forward without some of the distortions that are occurring.

CHAIR NEAL:

Please tell the Committee about the erosion of the tax base.

MR. GUINDON:

There are things that affect the tax base irrespective of the number of people consuming and buying things. Exemptions could be considered erosion of the tax base; those can be important policy debates for elected officials. Abatements can take revenue off because specific people are not paying that tax. Nevada has a sales tax on tangible personal property (TPP), and it has been that way since 1955. Other states have sales tax attached to services. People are consuming more services now rather than goods, which can create erosion. People are changing their consumption behavior. Not only are they shifting from goods to services, but they are also changing how they are consuming. Items are being purchased in electronic or digital forms. Transitioning from TPP to nontangible personal property is eroding the tax base. Nevada and other states have been partially successful in stopping some erosion as people shifted to buying things online. Now, due to *Wayfair v. South Dakota* and the Marketplace Facilitator bill, improvements have been made in the erosion that was occurring from that shift in consumption behavior.

CHAIR NEAL:

Abatements are the removal of something from the tax base but there are also things not being captured in the tax base because of the shift in consumption. Digital activity is not being captured. That has been a shift in consumption. Assembly Bill 445 (2019 Legislative Session) could be a saving grace later. The argument made in 2021 was that Nevadans were not in a position to handle a digital goods tax. The question now is: can Nevada afford not to have a digital goods tax when there is a shift in consumption behavior and the sales tax statute is not meeting that consumption to capture revenue? Citizens will still rely on state services. There will still be caseloads that need to be met. Is Nevada's revenue in a position to withstand waiting until 2025, or should this be an activity that is addressed in 2023 knowing that in 2025, it will need to be dealt with anyway? Policy could be created in a less stressful session where it can be debated and considered. Policy should not be created in a vacuum; it should be created with an understanding of all the implications of the decision: benefits and setbacks. This Committee will build upon this framework, diving deeper into analysis to help understand what policy should be created, putting aside political reasoning, and considering what is best for Nevada's future.

There was no further discussion on this item.

XI. DISCUSSION OF TOPICS TO STUDY DURING THE 2021 2022 INTERIM.

ASSEMBLYWOMAN CONSIDINE:

I am interested in discussing equitable property taxes. It is my understanding that certain businesses can apply for waivers to not pay property taxes. If that is true, it is something I would like the Committee to look into.

CHAIR NEAL:

I agree. Property taxes are inflation resistant. It is political dynamite, but the state's property tax statutes need to be modernized.

ASSEMBLYMAN HAFEN:

When looking at the sin taxes, if something is taxed near 25% there is an increase in the black market. I would like to consider ways to address that, whether it is lowering the tax to prevent the black market or targeting the black market more. Whether it is people smuggling cigarettes into the state or otherwise, it is hitting Nevada in that realm.

ASSEMBLYWOMAN ANDERSON:

The Committee could discuss loopholes that exist in revenue collection and how those schedules take place. For example: for the hotel room tax, if someone pays through a third-party provider and not directly to the hotel, is that money going where it is supposed to? Is the revenue being tracked accurately when a third party is providing a service?

ASSEMBLYWOMAN KASAMA:

Assembly Bill 363 for short-term rentals has responsibility for third parties like Airbnb. There will be random audits to check that they are sending in the revenue. There is framework for it in the bill but should be ensured that it is being handled the way it was intended.

There was no further discussion on this item.

XII. SCHEDULING OF FUTURE MEETINGS.

The next meeting of the Joint Interim Standing Committee on Revenue was not scheduled.

XIII. PUBLIC COMMENT.

There was no public comment.

XIV. ADJOURNMENT.
Chair Neal adjourned the meeting at 4:20 p.m.

Respectfully submitted,

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Anna Freeman, Committee Secretary

APPROVED:

____
Senator Dina Neal, Chair

02/23/2022__________________
Date

I:\ONGOING\Committees\Joint Interim Standing Committee on Revenue\January 26 2022 meeting of the JISC Rev\Minutes 1.26.22 JISC on Rev\Final Minutes_1.26.2022 JISC on Revenue_AF_cmu_Tax Team.docx