

**LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY
THE ALLOCATION OF MONEY DISTRIBUTED FROM THE
LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT
(ASSEMBLY BILL 71, 2011 LEGISLATURE)**



Thursday, July 26, 2012, 10:30 a.m.

**Grant Sawyer State Office Building
555 East Washington Avenue
Las Vegas, Nevada
Room 4412**

Videoconference to:

**Legislative Building
Room 3137
401 South Carson Street
Carson City, Nevada**

**Great Basin College
High Tech Center, Room 123
1500 College Parkway
Elko, Nevada**

**Great Basin College
Room 108
5490 Kluncy Canyon Rd
Winnemucca, Nevada**

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE COMMISSION (775) 684-6800
STEVEN A. HORSFORD, *Senator, Chairman*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
DEBBIE SMITH, *Assemblywoman, Chair*
Mike Chapman, *Acting Fiscal Analyst*
Mark Krmpotic, *Fiscal Analyst*



CARSON CITY OFFICE:
Legislative Building, 401 S. Carson Street
Carson City, Nevada 89701-4747
Fax No.: (775) 684-6600
RICK COMBS, *Director* (775) 684-6800
BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD O. WILLIAMS, *Research Director* (775) 684-6825

LAS VEGAS OFFICE:
555 E. Washington Avenue, Room 4400
Las Vegas, Nevada 89101-1049
Fax No.: (702) 486-2810
BRIAN L. DAVIE, *Legislative Services Officer* (702) 486-2800

MEETING NOTICE AND AGENDA

Name of Organization: LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY THE ALLOCATION OF MONEY DISTRIBUTED FROM THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT (ASSEMBLY BILL 71, 2011 LEGISLATURE)

Date and Time of Meeting: Thursday, July 26, 2012 – 10:30 a.m.

Place of Meeting: Grant Sawyer State Office Building
Room 4412
555 East Washington Avenue
Las Vegas, Nevada

Note: Some members of the committee may be attending the meeting and other persons may observe the meeting and provide testimony through a simultaneous videoconference conducted at the following locations:

Great Basin College Room 108 5490 Kluncky Canyon Rd Winnemucca, NV	Legislative Building Room 3137 401 South Carson Street Carson City, Nevada	Great Basin College High Tech Center, Room 123 1500 College Parkway Elko, NV
---	---	---

If you cannot attend the meeting, you can listen to or view it live over the Internet. The address for the Nevada Legislature website is <http://www.leg.state.nv.us>. Click on the link "Live Meetings – Listen or View."

Note: Please provide the secretary with electronic or written copies of testimony and visual presentations if you wish to have complete versions included as exhibits with the minutes.

AGENDA

Note: Items on this agenda may be taken in a different order than listed. Two or more agenda items may be combined for consideration. An item may be removed from this agenda or discussion relating to an item on this agenda may be delayed at any time.

I. ROLL CALL.

II. PUBLIC COMMENT.

(Because of time considerations, the period for public comment by each speaker may be limited, and speakers are urged to avoid repetition of comments made by previous speakers.)

**For
Possible
Action**

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

**For
Possible
Action**

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

Jeremy Aguero, Principal, Applied Analysis.

- a) BASE ALLOCATION
- b) EXCESS DISTRIBUTION
- c) ADDITIONAL ISSUES FOR CONSIDERATION

**For
Possible
Action**

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

**For
Possible
Action**

VI. WORK SESSION – DISCUSSION AND POSSIBLE ACTION ON CTX ISSUES RELATING TO:

- a) BASE AMOUNT
- b) CONSUMER PRICE INDEX ADJUSTMENT TO THE BASE AMOUNT
- c) LOCAL GOVERNMENT INTERLOCAL AGREEMENT DATE DEADLINE
- d) CERTIFIED POPULATION ESTIMATE USED FOR PER-CAPITA DISTRIBUTION OF CERTAIN FIRST-TIER CTX REVENUES

**For
Possible
Action**

VII. SCHEDULING OF FUTURE MEETINGS.

VIII. PUBLIC COMMENT.

(Because of time considerations, the period for public comment by each speaker may be limited, and speakers are urged to avoid repetition of comments made by previous speakers.)

IX. ADJOURNMENT.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Fiscal Analysis Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call the Fiscal Analysis Division at (775) 684-6821 as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Government Center, 500 South Grand Central Parkway; and Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was posted on the Internet through the Nevada Legislature's website at www.leg.state.nv.us.

MINUTES OF THE APRIL 30, 2012, MEETING

**MINUTES OF THE
LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO
STUDY THE ALLOCATION OF MONEY DISTRIBUTED FROM
THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT
(Assembly Bill 71, 2011 Legislative Session)
April 30, 2012**

The Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account (A.B. 71, 2011 Legislative Session) held its third meeting of the 2011-12 Interim on April 30, 2012, in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada, the Chilton Circle Modular Conference Room, Great Basin College, 1500 College Parkway, Elko, Nevada; and the University of Nevada, Reno, Cooperative Extension, 1085 Fairgrounds Road, Winnemucca, Nevada.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblywoman Marilyn Kirkpatrick, Chairwoman
Senator John Lee
Senator David Parks
Assemblyman John Ellison

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Mike McGinness
Assemblyman Richard Daly

COMMITTEE MEMBERS PRESENT IN ELKO:

None

COMMITTEE MEMBERS PRESENT IN WINNEMUCCA:

None

COMMITTEE MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT IN LAS VEGAS:

Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division
Dan Yu, Principal Deputy Legislative Counsel, Legal Division

STAFF MEMBERS PRESENT IN CARSON CITY:

Joe Reel, Deputy Fiscal Analyst, Fiscal Analysis Division
Cheryl Harvey, Committee Secretary, Fiscal Analysis Division

EXHIBITS:

- Exhibit A - Agenda and Meeting Packet
- Exhibit B - Terry Yurick, written testimony
- Exhibit C - Applied Analysis CTX Presentation

I. ROLL CALL.

Chairwoman Kirkpatrick called the meeting of the Committee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account to order at 9:00 a.m. and the secretary called roll. All members were present at the meeting, with attendance in both Las Vegas and Carson City.

II. PUBLIC COMMENT.

Terry Yurick disclosed that he was running for Mayor of the City of Laughlin, Nevada. He read his prepared testimony, LEDC Response to Nevada Legislative Commission, Fiscal Analysis Division, March 30, 2012, Survey to Local Governmental Entities, General Policy Issue 7 as follows (Exhibit B):

General Policy Issue 7

Does your organization support maintaining the current statutory provisions allowing newly established local governments and special districts to request an allocation of CTX revenue at the second tier, pursuant to NRS 360.740? If not, please provide specific suggestions for the Subcommittee's consideration on the method and criteria that should be used for allocating CTX revenue to newly established local governments and special districts.

(Source: Responses Received From Local Government Entities to Proposals and General Policy Issues Included In Survey)

Entity – LEDC for the proposed City of Laughlin
April 30, 2012

Response

In anticipation of a newly formed City of Laughlin and on behalf of other future newly created cities, we support and propose allowing newly established local governments and special districts to request an additional allocation of CTX revenue at the second tier if they take over functions or provide services previously performed by another local government ("Transferred Services"), pursuant to NRS 360.740 amended to clarify and specify the basis, amounts and procedures for allocating additional CTX, on a "Fair Share" basis, generally as follows:

- The statutory intent would be to provide proposed new local governments a timely and statutory basis for reasonably anticipating, estimating and budgeting additional CTX during pre-incorporation fiscal feasibility determinations and, if successful, during actual initial city budgeting.
- The Fair Share amount of additional CTX revenue would be equal to the prior entity's total cost of performing the functions or providing the Transferred Services, regardless of whether currently funded from CTX or other sources, and based on the prior entity's 5-year average costs prior to transfer (the "Transferred Costs"). NRS 354.59874 is an example of the intent, but only uses first year costs. Predictable methods for allocating these elements between new and remaining entities, if only part of a local government wants to incorporate, would be established.
- The Transferred Costs would be transferred totally from the prior entity to the newly created entity, and would be extended for a 5-year "Transition Period" with fiscal oversight by the Committee on Local Government Finance. Cost savings for the new entity during the Transition Period would be deposited in a "Rainy Day Fund" reserve account. Such a clear policy would assure CTX allocation of funds within a county, without any outside allocations or funding, assuring that every entity is kept whole and without other local governments being negatively impacted.
- Specific procedures would be established and defined for determining the applicable Transferred Services "menu" and the basis for related Transferred Costs. Specific methods would be outlined for incorporating additional CTX allocations into the CTX Base Year for ongoing applications of future annual CTX adjustments and allocations.

Mr. Yurick believed this appeared to be fair and equitable, and he thought it would be a win-win situation for the city, county and state.

III. APPROVAL OF MINUTES OF THE FEBRUARY 1, 2012, MEETING.

SENATOR LEE MOVED TO APPROVE THE MINUTES OF THE FEBRUARY 1, 2012, MEETING OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY THE ALLOCATION OF MONEY DISTRIBUTED FROM THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT. THE MOTION WAS SECONDED BY ASSEMBLYMAN ELLISON.

THE MOTION PASSED UNANIMOUSLY.

Chairwoman Kirkpatrick stated that the discussion of the committee, as in the past, was a general discussion and not about one entity or another, and there was some pending litigation, which the committee would not get involved in. The issue of the CTX distribution was discussed during the 2011 Session and the Legislature agreed to have

a committee to discuss the issue further. She reminded the committee that she would not let any member speak about one entity over another, and asked them to keep their discussions in general terms. In addition, she noted that after reviewing the agenda she wanted to change the agenda order, and Agenda Item IX would be taken after Agenda Item VI. After those items were heard the committee would review the responses from the local governments and special districts to the CTX issues response form. She added it was the third meeting of the committee and they needed to get as much dialogue on the table as possible so the meeting would continue until the discussion was complete.

IV. OVERVIEW OF THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT AND THE CONSOLIDATED TAX DISTRIBUTION (CTX).

a. Base Calculation With and Without Excess Revenue Included.

Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, stated that the material for Agenda Item IV began on page 45 of the meeting packet (Exhibit A). He said that staff listened to the questions and comments from the previous meetings and had conversations with people involved in the issue to determine the understanding of the terminology and issues regarding the CTX distribution. Mr. Guindon said that staff wanted to take an unusual approach trying to represent and discuss the CTX so everybody was able to absorb and retain the information on the CTX distribution. In addition, the whole concept of base revenues versus excess revenues were easy terms to talk about, but staff would go through what they were, how they worked, and the Consumer Price Index (CPI) adjustment, and put it in a mathematical representation, because what the committee was seeing in the examples was what Jeremy Aguero, Applied Analysis, and Fiscal staff were doing in the formulas to analyze the CTX or simulate the changes to the CTX. Directing the committee to Table 1, page 45, Exhibit A, Mr. Guindon stated that the page showed the mathematical expression of base with and without excess revenue. He explained that the T represented the total amount of actual CTX revenue to be distributed to an entity at the second tier. He noted that of the six revenue sources that were distributed at the first tier, the T represented the actual amount that was available every month that was distributed to the entities within a county under the base or the excess rule.

Continuing, Mr. Guindon noted that BE represented the base estimate amount determined under NRS 360.680, which was the amount that was actually the base estimate for each year that was determined under NRS. He said that BA represented the base actual amount distributed to an entity under NRS 360.690, subsections 2, 3, and 8. The CPI represented the growth rate in Consumer Price Index, and the E represented the excess revenue above the base amount distributed under NRS 360.690, subsections 4,5, 6, and 7, which was the amount that actually comes in above the base that was available to be distributed under the excess rules. Mr. Guindon indicated that the mathematical identity was that the total amount that was actually distributed to each entity every month was the base actual plus any excess that would be available to be distributed, and every dollar that was there was going to be

distributed, either as base actual or as excess. He stated that the other rule was that the base actual amount received by an entity must be less than or equal to an entity's base estimate amount. Under the provision, entities would take their annual base estimate amount and divide it by 12 to get the base estimate for every month. He noted that every month each entity would look at how much was actually able to be distributed and if it was greater or less than their base estimate amount, so obviously it could be no greater than that because if the actual amount to be distributed was greater than the base estimate amount, there may be excess available. He said that later in the meeting he would review the concept that an entity could have more money than their base estimate in a month, but it might not actually end up being excess. Under current statute, the annual base estimate amount for each fiscal year was equal to the base actual amount from the prior fiscal year adjusted for the growth in the CPI. The base estimate for the fiscal year was divided by 12, which was the base estimate amount that the Department of Taxation looked at every month in terms of how much was actually generated and available for distribution compared to that base estimate, which was one-twelfth of the fiscal year.

Mr. Guindon said that if the base excess amount was put back in to determine the base estimate amount, which meant taking the total amount distributed to an entity and multiplying it by the CPI, this would be under the mathematical rules equal to the base actual amount plus any excess amount the entity received times the CPI to determine the base estimate amount, which was the original CTX legislation that was in place from FY 1999 through FY 2001. Based on the 2001 law change, the excess came out and the CPI adjustment stayed in place.

Moving to page 46, Exhibit A, Mr. Guindon wanted the committee and others following the meeting to see the mathematical expressions being used for the CTX base distribution shares. Looking at example 5a. and 5b. on page 46 – the mathematical expression – an entity's base share, under statute, was each entity's base estimate divided by the sum of all the base estimates for all local government entities within that county. For example, Clark County had counties, cities, towns and many special districts and the bottom below the line was the sum of many entities to get the base estimate, which calculated each entity's share. Mr. Guindon noted that one of the interesting things was when adjusting by the CPI, because it was a proportional adjustment, the CPI does not play any role in terms of affecting local government entities' base shares. He noted that one could rewrite the mathematical expression and the CPI could drop out, which the committee would see as he went through the example. Putting the excess back into the base amount, the committee could see what the equation started to look like. He added when the excess was put back into the base amount distribution it could affect the base share, but as it was carried forward and used to calculate the excess shares under no-1 plus, 1-plus or an alternative plus, it would change the excess shares when the excess went into the base estimate.

Mr. Guindon stated that was the pure mathematics of representing the base estimate and how the excess played in the base estimate with regard to current statute or some

of the things that have been discussed and proposed for consideration by the committee.

Senator Lee asked if the base estimate was a number that the local governments hoped or expect to receive. Mr. Guindon replied that the base estimate was an estimate of what the local government could get if there was enough revenue. For example, if the base estimate was \$8.00 and the actual amount generated for that month was \$10.00, then there was enough to give the entity the base estimate of \$8.00 and there was \$2.00 above that, which some entities believed was excess revenue. However, as they go through the presentations in the meeting the committee could see that may not be excess distributed under the excess rules. Therefore, if the base estimate was still \$8.00, but the economy only generated \$7.00 worth of actual CTX revenue for distribution, the entity would only receive \$7.00, and there was not enough revenue to actually give the entity their base estimate and the base actual would be \$7.00.

Senator Lee stated the excess had a different formula, and if a local government got an estimate and did not hit the base estimate, the local government had an actual of what they could expect. He asked if the excess also gets distributed every month and could it be added to get to the actual, which might match the estimate. Mr. Guindon replied that the excess was only distributed if there was enough actual money available for distribution above the base estimate, and the excess rules would kick in. To respond to Senator Lee's concerns about the excess being added to the actual, Mr. Guindon thought it would be helpful to finish reviewing the charts in the meeting packet, which would cover some of Senator Lee's questions.

Mr. Guindon said he would go through the next set of tables because the presentation would help the members of the committee understand the Local Government Tax Distribution Account and the CTX distribution, and understand the process and the concept and terms of base, base estimate, and excess.

Chairwoman Kirkpatrick explained that as staff reviewed the charts they would see specific examples, which would provide clarity for the members.

- b. Excess Distribution Shares Under No 1-Plus, 1-Plus, and Combinations of No 1-Plus and 1-Plus.

Mr. Guindon directed the committee to Table 2A, page 47, Exhibit A, the base and excess distributions, including and excluding excess in the base with and without CPI adjustment. He noted that there were three simple hypothetical scenarios that manipulate the numbers to get the base estimate. Table 2A showed the actual base and excess amounts distributed in the prior fiscal year to help see the base, base estimate and if there was excess for the next year. He noted the example was simple and showed the money distributed every month over the 12 months of the prior fiscal year. The chart showed the base actual amount and the base share received for four entities, and in the prior fiscal year, Entity 1 received 2.8%, Entity 2 received 13.9%, Entity 3 received 27.8%, and Entity 4 received 55.6% of the base actual. He noted the

excess amount did not have too many moving pieces, because if the example had too many things that varied to make it more like the real world, they would start to get lost. Assuming the excess amount was equal among all four entities and there was \$200,000 of excess and each entity received 25% of the excess, which was \$50,000, the total amount of revenue that the four entities received, which was listed under the total base plus excess column, and their shares were shown once the excess was added, which was the amount received in the prior year. Moving to the middle of page 47, looking at the current fiscal year, Scenario 1 assumed CPI increased by 3.0% to calculate the base estimate when the CPI was used, and assumed for the current year there was \$3.8 million available for distribution of total CTX revenue, which had no growth. There was \$3.8 million that was actually distributed in the prior year and it was a no-growth scenario, so there was \$3.8 million available of CTX revenue to be distributed in the current fiscal year. Scenario 1 took the previous year's base actual without CPI adjustment, and using that rule, the local government would be like an enterprise district which received the same amount as the previous year with no adjustment for CPI. Assuming that this was not anything used in statute, they did not adjust for CPI, and took the previous year's base actual, which was the current year's base estimate. The numbers match up to the base actual, which was the base estimate, and base shares were the same as the previous year's actuals. Mr. Guindon stated that he wondered how much would be available to their base actual to distribute, remembering the base actual could not be more than the base estimate, so there was \$3.6 million in base actual to distribute, and \$200,000 to be distributed as excess. He noted for simplicity, he assumed the excess shares for Scenario 1 were the same, 25%, so each local government would get 25% of the \$200 in excess, and there was actually excess being distributed under the excess provisions in statute, but the entity in the scenario received the same amount as last year. He noted that many people believed there was excess revenue, which was excess in relative to some perceived number, but the example showed that there was excess that was distributed under the excess rule (NRS 366.90) but the entity did not get any more money than the previous year because the economy did not generate more money than the previous year. Mr. Guindon explained that the excess was because in the scenario they chose the base estimate to be equal to the previous year's base with no adjustment.

Moving to Scenario 2, Mr. Guindon stated that the base estimate was determined using prior year base excluding excess with CPI adjustment, which was current NRS. The \$3,600,000 was adjusted for the 3.0% CPI to come up with a base amount of \$3.8 million to be distributed, so the entity gets their base actual of \$3.7 million, and there was \$92,000 available to be distributed as excess under the excess rules. Therefore, assuming the 25% allocation of excess, each entity received \$23,000 of the \$92,000 in excess. He noted the total amount Scenario 2 received in CTX revenue was \$3.8 million because the economy did not generate any more than that to be distributed. Mr. Guindon explained that going from Scenario 1 to Scenario 2 and adjusting for CPI, when the base estimate was made larger, it reduced the amount of excess revenue. Moving through the scenarios, page 47, Exhibit A, the committee could see that amount to be distributed was either going to be distributed under the base rule or an excess rule, and the excess rule only kicks in if the base rule left money over to be distributed.

Chairwoman Kirkpatrick asked the committee members if they had any questions for Mr. Guindon regarding the first two scenarios on page 47.

Continuing, Mr. Guindon stated that the base share for an entity was the total amount of each entity's base estimate divided into the total among all entities, which was their share. He noted that as he goes through examples later in the meeting that if there was not enough money to hit the base estimate, then it would be distributed in proportion to the base share. He noted that a base estimate share was the base estimate for a local government entity divided by the sum of all the base estimates for all local governments (counties, cities and towns) and special districts, not including enterprise districts.

Moving to page 47, Scenario 3, base estimate determined using prior year base including excess without CPI adjustment, the base estimate was the prior year's total – base estimate plus excess which was \$3.8 million. The base estimate in the scenario was \$3.8 million and the economy only generated \$3.8 million, so the entity received the exact base estimate as base actual and there was no excess. Scenario 4 – base estimate determined using prior year base including excess with CPI adjustment. This was the original CTX, in which the excess was allowed to be part of the base estimate plus adjusting for CPI. The base estimate with excess was \$3,914,000, but the economy only generated \$3,800,000, so the money was distributed to entities based on their shares, and Entity 1 received 3.9%; Entity 2 received 14.5%; Entity 3 received 27.6%; and Entity 4 received 53.9%, which equals the \$3.8 million, with no excess. He noted they could see the relationship between what to use as the rule for determining their base estimate and the role it could play in the amount of excess that may be available for distribution, depending on the actual amount of money that was going to be distributed for a period. Mr. Guindon added that the tables he was referencing were also available on the Legislative Counsel Bureau website, under the April 30, 2012, meeting, so the public listening had easy access to the information.

Mr. Guindon stated that on Table 2B, page 48, the top box displayed the same numbers for the actual base and excess amounts distributed in the prior fiscal year. Looking at the four scenarios below the box, the CPI was 3.0%, but now there was \$3,914,000 available to be distributed, which was 3.0% growth. Therefore, the growth in actual CTX revenue to be distributed this period compared to the prior period was exactly equal to the growth in the CPI. Under Scenario 1, the base estimate was the still the same – it was the prior fiscal year's base actual with no adjustments for CPI. However, instead of having the \$200,000 in excess, there was \$314,000 in excess to be distributed proportionally among the four entities, but then the total amount the entity received, the base plus excess, was the actual amount available for distribution – \$3,914,000. Mr. Guindon noted that there was more money available for distribution in the current year in the scenario than the prior year, but only \$114,000 was above the \$3.8 million. Therefore, although there was \$314,000 that was deemed to be excess and distributed under the excess rules in statute – \$200,000 of it was excess that got the entity back to the prior year's \$3.8 million. Mr. Guindon explained that base estimate determined using prior year base excluding excess with CPI adjustment,

Scenario 2, reduced the amount of excess down to only \$206,000. In Scenario 3, the base estimate determined using prior year base including excess without CPI adjustment, as the base estimate was increased, the amount of excess to be distributed was reduced. Scenario 4 took the prior year's base including excess with CPI adjustment, which was the original CTX rule, and since the growth in the economy was the same as the growth in CPI, the base actual would be equal to the base estimate and there was no excess to be distributed under that scenario. Mr. Guindon thought those scenarios would show the committee the relationship between what rule an entity was going to use to determine the base estimate and the amount of excess that could be available, but also the idea that there could be CTX revenue distributed under the excess rule in statute, but all of the revenue was not excess in the sense that it was money above the amount the entity received the prior year.

Mr. Guindon provided another example on page 49, stating that the top box on the page was the same amount of actual base and excess amounts distributed in the prior fiscal year, and that the CPI assumption of 3.0% was the same. He assumed the CTX revenues grew 5.3%, 2.3% faster than the CPI, which resulted in \$4.0 million available to be distributed as CTX revenue. Scenario 1 showed \$3.6 million was the base estimate and there was enough to get to the base actual, so the excess amount was \$400,000. However, he noted that \$200,000 of that excess got the entity back to the \$3.8 million, so there was \$200,000 that was the amount above the \$3.8 million that because of the growth in the economy was available to be distributed above what the entity received the prior fiscal year. Scenario 2 adjusted for the CPI, which was current NRS, and made the base estimate higher by adjusting for CPI, which reduced the excess. Scenario 3 showed the base estimate determined using prior year base including excess without the CPI adjustment, and the excess was exactly the \$200,000 because the base estimate for the entity was \$3.8 million – last year's actual amount. Under Scenario 4; the original CTX distribution, which was the prior year base including excess with CPI adjustment, the entities ended up with \$3.914 million that was seen in Table 2A and 2B, and there was only \$86,000 in excess to be distributed to the entities to the \$4.0 million in terms of the actual amount that was available for distribution that period. Mr. Guindon stated that a more detailed example will be provided later in the meeting to show how the CTX distribution worked month-to-month. The example would show there could be a month where the actual amount to be distributed was greater than the base estimate, but it does not end up being distributed as excess revenue, because under the statutory rule, the base was given priority. Therefore, if there was revenue above the base estimate, they had to go back to see if there were months that were short. For example, if the entity's base estimate was \$8.00 but there was only \$7.00 to be distributed in the month, the entity's base estimate was short \$1.00, and the entity had to keep the \$1.00 on the books so if there was a \$1.00 of actual revenue above the estimate in the future months, the entity had to go back and backfill the \$1.00. Mr. Guindon said that the base and excess distribution terms could have certain connotations attached to them, so staff wanted to go through the terms to make sure the committee understood that there could be money that was above the base actual that was actually distributed as excess revenue, but it did not mean it was excess above the actual amount of revenue that the entity received in the prior year. He said the

excess could be relative to any preconceived notion, it was just taking the actual amount of CTX revenue generated by the economy that was available for distribution and distributing it to the counties based under the first tier rules, and to the local governments under the statutory base or excess rule.

Assemblyman Ellison asked if the CPI adjustment formula took precedence over the excess. Mr. Guindon replied that under current statute, the CPI adjustment was only used to determine the base estimate, so the prior year's base actual amount was adjusted for CPI growth. Under current statute, Mr. Guindon said that any excess that would have been distributed in the prior period did not get used in calculating the base estimate – it was just the base actual amount.

Senator Lee asked why the CPI was put into the formula when they were talking about actual dollars and events. He asked who the CPI benefited, and why did that particular mathematical equation need to be in the formula.

Mr. Guindon replied that he was not sure he could answer Senator Lee's question regarding the actual thinking of the local governments when they were meeting in 1995 and 1996 to develop the CTX statute. However, as an economist, he was aware that if the base does not grow at all, then as the economy grows, more excess was generated. When the excess was taken out of the base, the excess started to get bigger as the economy grew. Therefore, they wanted the base to grow, but by adjusting for CPI, the CPI was almost like a cost-of-living adjustment to the base. For example, if he had \$10.00 in the base this year, and the CPI grew 3.0%, then he would need \$10.00 plus the 3.0% to be able to hold that base harmless against inflation. He said the inflation seen in the local governments and state budgets may not tie out exactly to the CPI, but it was probably the best CPI measure they had. As an economist, he believed the local governments wanted the base to at least grow for inflation because they were trying to hold the base amount harmless from inflation. In addition, mathematically it did not let the excess just get base, because if an entity did not adjust the base for CPI, the base would be like an enterprise district and every year the entity would get \$10.00, and as the economy started growing and generated \$15.00 or more, the \$10.00 stayed and everything above that was excess. He said it was the balance between how much was going to base and protecting the base for CPI, and then any amount over that would get distributed under the excess rule. Mr. Guindon stated that he looked at the formula as purely a mathematical point of view in terms of why the CPI was used to adjust things.

Continuing, Mr. Guindon directed the committee to Table 3, page 51 (Exhibit A), which displayed the mathematical expression of no-1 plus, 1-plus and combination of no 1-plus and 1-plus to determine excess CTX distribution. He stated that under current statute the default formula was no 1-plus, and if certain conditions were met the entity was put into 1-plus. He explained that B represented the base amount determined under NRS 360.680, and G represented the sum of the 5-year average growth in population and assessed value, because under statute, the sum of the 5-year average growth in population and assessed value for counties, cities and towns were added. The special districts just added assessed value because there was not a population

estimate for the special districts. Mr. Guindon stated that P represented the no 1-plus percentage weight, which would make more sense as he gets further in his presentation. Mr. Guindon stated that the Number 1 displayed on the page was the mathematical representation of the no 1-plus factor formula and the growth rate times the base estimate that was used to determine an entity's dollar amount, and then they would get their excess share by taking the number and adding it across all local government entities. Number 2 on page 51 represented the 1-plus formula, which was adding 1-plus to the growth rate times the base estimate to get the factor used to determine their excess share. Providing an example, Mr. Guindon said to assume all committee members had single period loans and paid 10% interest on their loans, so they would take 10% times their principal and at the end of the period they would know how much interest was paid, which was what G would be, the principal by taking G times B to get the interest on the loan. The interest would be added up across all entities and each entity would take their interest and divide it by the total interest to determine the share. He said the 1-plus took the principal plus the interest, because it was 1-plus – so if there was a 10% interest rate on a \$100,000 loan – it would be 1.10 times the \$100,000 loan to get the total principal and interest paid at the end of the year. They were using the interest increment as a share of the total increment and interest to determine the share, versus 1-plus which was taking the principal and interest as a share of the total principal and interest. As the state migrated from the 1-plus factor into the no 1-plus, there was a point where they were having one weight on the no 1-plus and another weight on the 1-plus, which could be mathematically represented. He noted that P was the weight that entities chose for the no 1-plus and 1-minus P was going to be the weight on the 1-plus factor because it had to add to 1. Looking at the examples on page 51, if it was 100% no 1-plus, such that P was 1, then they were back to G times B, which was the no 1-plus factor. Example 2 showed that the weight on no 1-plus was zero, so they were 100% 1-plus. Putting that into the formula and working out the math, they were back to the 1-plus (1 plus G times B). Therefore, as they migrated across this, at one point there was a 50/50 split – 50% no 1-plus and 50% 1-plus, and when that was put into the formula and work out the mathematics it was .5 plus G times the base estimate to determine an entity's excess share.

Moving to Example 4, page 51, Mr. Guindon stated that there was a point when there was 75% no 1-plus and 25% 1-plus, and when that was put into the example, it came out as .25 plus the growth and assessed value in population and growth in assessed value times the base estimate. He noted that whatever the plus was, then that was the weight that would be on the 1-plus and 1 minus that was the weight that was on the no 1-plus. Mr. Guindon noted that one of things happening under the no 1-plus was that if the assessed value or population was going negative, entities could get zero weights, because they ended up with a negative and get a zero weight. He noted that there was a rule that if all entities were negative, the 1-plus factor would kick in. However, if there were circumstances where one of the entities was positive, they could end up with a predominant share of the revenue because the other ones were going to end up with zero weights. Looking at Example 4 – .25 plus – to generate a zero weight, G would have to be greater than or equal to .25, which was 25%. Mr. Guindon said when

thinking about convex combinations or alternative plusses that would be added to the growth, it was whatever they told you the plus factor was, if the assessed valuation plus population growth or the assessed value growth was a bigger negative than the plus, then it was still going to have issues and could generate zero weights. For instance, in Example 3, it would be .5 plus the G, and the 5-year average growth and population in assessed value had to be equal to or greater than 50% to generate a zero weight for an entity. Example 4 showed how the no 1-plus and 1-plus combination factor formula could be expressed $(1 \text{ minus } P) \text{ plus } G \text{ times } B$. Therefore, whatever weight was chosen for the no 1-plus, then the 1-plus weight was added to the sum of the 5-year average growth in population and assessed value to get the factor to be multiplied by the base amount. Mr. Guindon noted that as the proposals were brought forward to the committee, he hoped his overview of the CTX distribution would help the members think about what was going on, because there was a point in law over three years they phased in from 75/25 to 50/50 to 25/75, which could be expressed in a simpler term – the growth of whatever the weight was on the no 1-plus was what the plus was.

Moving to page 52, Exhibit A, Mr. Guindon stated that Table 3 showed an example of excess distribution shares with two local governments. Taking the common representation, which was Example 4 on page 51 – $1 \text{ minus } P \text{ plus } G \text{ times } B$, for a simple two-entity example – under local government entity Number 1, their excess distribution share was the plus factor times the growth rate, times their base estimate, divided by the sum of all the entities. He noted they could imagine what it looked like for Clark County because there were counties, cities, towns and special districts that had to be put below the number line to get the total that an entity was going to divide their number into to determine their share. He noted it was rare for that to happen, but if two governmental entities' assessed valuation and population growth were equal across the entities, it would not matter whether it was the 1-plus or no 1-plus factor, their excess share was their base share and would be their base share whether the excess was included or not. Therefore, Mr. Guindon stated that the closer the growth rates were to each other, they could see that the 1-plus and no 1-plus had less influence on the shares. He stated that it was an interesting mathematical result, but was also the assumption used, which would be seen in the next example.

Senator Lee asked when and how the mathematical change would take place on the growth rate when one community grew in population and another community grew in assessed value. In addition, he asked who determined when the mathematical change would take place on the growth rate.

Mr. Guindon replied that under the statute it required it to be the sum of the 5-year moving average in assessed valuation growth plus the sum of the 5-year average growth in population for a local government, which was a county, city or town. He added it was only the 5-year average growth in assessed value for a special district. To address the question of Senator Lee, Mr. Guindon said that the population numbers were actually determined by the State Demographer and there was a process to develop the estimates, then the local governments reviewed the numbers, and eventually the numbers were certified by the Governor. He noted that in February 2012,

the Governor certified the Demographer's estimates for July 1, 2011. The population and assessed value numbers were used to calculate growth rate for population for the preceding five years. The estimate was not determined by local governments, other than the role the local governments played when participating and interacting with the Demographer in developing the estimates. Mr. Guindon explained that the assessed value was determined by the county assessor, which was determined under statutory constructs and the regulations for determining assessed value, then the estimate for the assessed value from the preceding four years were used to get the 5-year average. Mr. Guindon said if a proposal that used other metrics or statistics to determine the mathematical change was brought forward, staff would have to really think about who would determine it because by assessed value and population, a local government does not get to submit their estimate of assessed value in population to the Department of Taxation. It was determined through a statutorily independent process and then that number was used in the rule. If there was a proposal where it was going to be based on some other metric, he believed that the committee members would have to ask who determined what that value was with regard to the calculation, because if it was not done through some independent or other statutory construct, then he believed it could get very wicked with regard to local governments providing their estimates of the metric chosen to determine the amount of money that would be distributed under the excess. In addition, Mr. Guindon stated that the metric or statistic would have to be something that was measureable by somebody, in some fashion, in a consistent way across all entities in all 17 counties.

Senator Lee asked if the Demographer determined the amount of people and assessed value on a certain date every year, so the estimate was current to the best it could be based on the 5-year average, and an adjustment was made once a year.

Mr. Guindon replied that every year when the Department of Taxation was implementing and applying the statute with regard to the CTX, it was a rolling 5-year average. Every year the Department of Taxation added a new year on the front and dropped a year off the back to calculate the 5-year average for the new population estimate that was certified by the Governor. He added that it was the same for the assessed value – when the assessor and the Department of Taxation does their work with assessed values and determined an assessment number, then the growth rate was calculated and one year was added and one year was dropped.

Chairwoman Kirkpatrick asked if there was an appeal process for the local governments if they disagreed with the specific numbers from the State Demographer. She believed that Senate Bill 34 extended the memorandum of understanding (MOU) process last year so that the local governments could address the numbers that came out.

Mr. Guindon replied there was an appeals process, although he was unfamiliar with how the process was done. He noted that the State Demographer sent the estimates to the local governments for review and comments. He added if the chair needed a technical explanation of the ebbs and flows of the process, she could request to hear from the local governments. He noted that staff was trying to think through the alternatives and

had a limited set of statistics that could be used for consideration and it was hard if they wanted to get something that was measureable in a consistent and independent sense. He noted that the local governments worked through the CTX and considered alternative proposals in terms of the formula and/or metrics that could be used.

Senator Lee stated that if he were city manager for a community that could access land from the Bureau of Land Management (BLM), and there was a lot of opportunity for growth, whether land annexed from the BLM would then bring value to the local community, which would adjust the value of the community as far assessed value. For example, the City of Mesquite had a lot of surrounding land and it would benefit the city if they annexed 10,000 acres from that land. Likewise, if land was taken out of the Mesquite township and put into a Federal Land Act, then that would be a detriment to Mesquite. Senator Lee stated that if he lived in a community that had no opportunity to amass any land, then the city was restricted to the Federal Land Act.

Mr. Guindon responded that he thought the general response to Senator Lee's question was things that could be done, either through market forces or political decisions by an elected body to annex land that would affect population or assessed value, would potentially affect the growth rates and the 5-year average, and affect the excess shares that were calculated from all the entities in that county.

Chairwoman Kirkpatrick believed that the committee needed to work with the Department of Taxation on this concern because she thought there were more variables to it. She said the BLM did not pay property tax so she thought the entity would have to use the land in order to get the property tax. She noted the issue would be addressed further at the next meeting.

Mr. Guindon noted that the information provided was very technical and concise and believed it would be good for the members of the committee and others to actually see some simple hypothetical examples. He asked the committee to not get too caught up in the actual specifics of the hypothetical examples because they were trying to manipulate the numbers and entities to demonstrate results of how the CTX actually worked on a month-to-month basis across the fiscal year.

c. Hypothetical Examples of Base and Excess Distributions on a Monthly and Fiscal Year Basis.

Joe Reel, Deputy Fiscal Analyst, Fiscal Analysis Division, referred to Table 4A, page 53, Exhibit A, which showed a two-entity example used to determine a base amount and base and excess shares and how that would work on a monthly basis. He noted the example on the page displayed the monthly amounts for the two-entity example that were available for distribution the prior fiscal year. Looking at the far right of the page, Mr. Reel said Entity 1 received \$10.0 million and Entity 2 received \$5.0 million for a total of \$15.0 million. The amounts each month distributed were based on the shares of the first-tier revenue on a statewide basis for all CTX. The amounts in September, December, March and June were slightly higher because real property transfer tax

(RPTT) was reported on a quarterly basis by most counties, which would come into play later in the meeting. He noted that the first step was that the Department of Taxation would establish the base amount for the next fiscal year. The Department of Taxation would take the \$10.0 million for Entity 1 and multiply it times the example of 3.0% CPI adjustment, for a fiscal year total of \$10,300,000, then divide that among 12 equal payments for each month, which was \$858,333 each month for Entity 1 as a base amount. Similarly, the \$5.0 million for Entity 2 becomes \$5,150,000 for their base amount, which was also allocated across 12 equal monthly payments. Mr. Reel stated that to determine the base share the total amount for Entity 1 was divided by the total for both entities – 67.7% of a base for Entity 1, and likewise for Entity 2, the 429,167 divided by the total would give that entity 33%, and that share stayed constant throughout each month of the fiscal year for a total of 100%, which determined the base. Each month if an entity received this amount of revenue, then this would be the amount distributed to each entity for that month. The excess share was determined by multiplying the base amount for each entity times the growth rate, which in the example was 8.0%, and was the combined growth for assessed value and population and was the same for both entities. Taking the monthly shares that were established for the base, for example in July - \$858,333 times the 8.0% growth rate, which for Entity 1 was \$68,667, was the first calculation for the excess. Similarly, the share for Entity 2 – \$429,167 times 8.0% was \$34,333 – the two numbers were added to \$103,000. When the base shares were divided for the excess shares in Entity 1 and Entity 2, the excess distribution was the same – 66.7% versus 33.3%. Mr. Reel stated that if two entities had the same growth rates in terms of population and assessed value, their excess shares would be the same as their base shares, which in the example was the same 66.7% and 33.3%. Looking at the example carried forward on a month-to-month basis, taking the total amount, and in this case there was no excess distributed in the example, so it was the total base amount that the entities received, which was adjusted for the 3.0%.

Moving to page 54, Mr. Reel stated that Table 4B showed growth in actual CTX second-tier revenue over the prior fiscal year amount comparison of base and excess distributions under the no 1-plus, based on current statute. He explained that the top row displayed in yellow provided the monthly and annual amount that was going to be distributed in the example for the current year. He noted that in the real world they were unsure it played out like the example, but for the example they could look at the right side of the chart to see that total revenue was going to grow by 4.9%, and since the CPI adjustment for the base was only 3.0%, the entity would end up with excess revenue. Looking to the left of the page for July, Entity 1 had \$834,564 in total revenue for the month that was available for distribution and ultimately they only know the total amount – \$1,251,845, but it was allocated based on their base shares from the prior page – 67% to Entity 1 and 33% to Entity 2, representing a 5.0% growth rate. Mr. Reel said below that section in the example, the first line showed that \$858,333 was brought forward and represented the monthly base amount for Entity 1 – the gray shaded row was the total amount of money available to be distributed. Looking at the total that came in for the month – \$834,564 compared to \$858,333, which was the base, they were short by \$23,770, so there was not enough money to distribute the base amount

for that month. That amount was carried forward on a cumulative basis to keep track of the total amount that the entity may be short, the blue row showed the actual amount that was distributed for that month, and since the example only had \$834,564, that amount was distributed because there was not enough to make the base. The orange row showed the actual amount distributed to backfill base amount shortfalls from prior periods. Since this was the first month, that column did not come into play yet, so the amount distributed was carried down to the green row and \$834,564 represented any actual monthly excess amount distributed after prior period shortfall backfills according to the excess provisions for that month, and since they were short the \$23,770, there was no excess, so just the \$834,564 was distributed. Mr. Reel noted that the purpose of showing the two entities was that the same types of calculations for Entity 1 would also happen for Entity 2, but he was only going to focus on Entity 1. Moving forward to August and looking at the 3.0% growth rate and moving down to Entity 1, \$858,333 was what was needed and the actual revenue was short – \$839,887, so for that month Entity 1 was short \$18,447 and now had a cumulative shortfall of \$42,216. So based on that they could only distribute the amount received of \$837,887, and there was not enough money to backfill prior months because they were still short. Bringing that down to the purple row, actual total base amount distributed plus shortfall backfill amount distributed, as a subtotal and there was not excess to be distributed this month. Continuing, Mr. Reel explained there was a 6.0% growth rate in September for Entity 1 and the actual money to be distributed shown in the gray, page 54, \$905,415 was greater than the base amount for the month, so there was finally enough revenue. This showed that their monthly amount was above the estimate by the \$47,082, and the shortfall was able to be wiped out because it was greater than the shortfall on a cumulative basis the month before – \$42,216. He noted that the blue row showed that they were able to distribute the amount intended for the base amount for that month – \$858,333. The orange row showed the actual amount distributed to backfill the base amount shortfalls from prior periods, and the \$42,216 could be paid to make the prior months whole for their base amount. The purple row showed the total base amount plus any backfill amount that was distributed. The green row showed the monthly excess that could be distributed for the month, and \$4,866 was distributed as excess for the month of September. The total of \$905,415 was distributed for Entity 1, so now they were caught up completely in terms of distributing the base amount and there was some excess that was distributed.

Moving to October, page 54, Exhibit A, Mr. Reel stated that the chart showed a 4.0% growth rate and Entity 1 needed \$858,333, but actual revenue only came in at \$799,231, and the entity had a shortfall. The entity kept track of the shortfall and the \$799,231 was distributed, and there was no amount in the orange row to backfill anything. The purple row showed no excess because the entity was running a shortfall for the month and the \$799,231 was distributed. Moving to November, there was a 6.0% growth rate, and the entity needed the \$858,333 and had another shortfall. The deficit was carried forward and by December there was 7.0% growth, and the entity was able to make the base monthly amount and clear the deficit and distribute the excess, Mr. Reel stated that looking forward, the orange row showed the amounts that had excess revenue that was above the base amount for that month. Looking at the green

row, not every month was available to actually distribute that as excess and many times it was going to backfill prior months that had had a shortfall. Looking at the last three boxes on the right side of the chart, the purple line showed that Entity 1 was able to distribute the total that they intended to as base amount – \$10,300,000. There was \$187,669 in excess, and the total distribution for Entity 1 was \$10,487,669. Entity 1 was aware they would have the excess, were able to make their base, and had the \$187,669 in excess for the total amount, but it showed that excess was really only distributed in September, December and June. He noted that until June, Entity 1 was actually carrying a deficit looking at the cumulative shortfall in the white row, and through May, the entity was still carrying that \$43,946 as a deficit. Then, the final month, came in strong and they were able to clear the deficit and generate enough excess to finish the fiscal year with excess revenue.

Mr. Reel noted that the chart showed the same types of calculations for Entity 2 and when there was excess for Entity 1 there would be excess for Entity 2 and everything was proportional because of what was established – the base amount was the same shares as the excess amount. Thus, in this case, it was the total amount.

Chairwoman Kirkpatrick asked if she was correct that they always wanted to make the base whole before any revenue could be distributed as excess. Mr. Reel responded that the chair was correct. He noted that the orange row, page 54, basically kept track of the row above the blue in terms of a shortfall, when there was additional revenue for a month above the base amount, that they would look back at the orange row to make sure they could keep the base whole before anything gets distributed as excess in the green row, and the point was always to make the base whole before any revenue could be distributed as excess.

Senator McGinness asked Mr. Reel if the backfill reset itself at the end of every year, and two or three years were not backfilled at the same time. Mr. Reel replied that Senator McGinness was correct and the excess shares and base share were reset at the beginning of the each fiscal year when the new calculations take place from the Department of Taxation that established the base and excess share for the fiscal year and they moved forward with a new set of calculations.

Moving to Table 4C, page 55, Mr. Reel stated that the example showed 3.0% growth in actual CTX second-tier revenue over the prior fiscal year amount, in a comparison of base and excess distributions under no 1-plus based on current statute. The yellow line on the top of the page changed from the prior example with 3.0% growth for the fiscal year, The entity ended up distributing the same amount as their adjusted total base for the current fiscal year that has been adjusted for the 3.0% CPI, and there was exactly enough revenue to handle that, so they were matching the 3.0% CPI growth with the actual 3.0% growth in revenue that would occur for the fiscal year. Reviewing the chart, Mr. Reel said that starting with July there was 4.0% growth rate for total revenue, and in this case the prior July was a weak month and the entity grew by 4.0%, but was still short of the amount needed for the monthly base amount. The blue line showed that total amount of money received, which was all that could be distributed. The orange

line showed that there was no backfill amount and there was no excess to be distributed. He noted that the month of August had 2.0% growth rate, and again, even though the prior month was growing 2.0%, the entity was still short, and \$26,601 was carried forward. The cumulative amount was \$58,319, there was no backfill amount and the amount was carried and there was no excess shown on the green line, so the full \$831,733 was distributed. September had a 5.0% growth rate, and in that case there was enough revenue to make the base amount and the entity was ahead by \$38,540, but for the month-to-month cumulative shortfall the entity was still short \$19,778, so the base amount of \$858,333 was distributed and \$38,540 was carried forward. Some of the prior months' shortfall could be backfilled, but there was still not enough to actually distribute anything as excess, as shown on the green line for September. Mr. Reel stated that there was a 2.0% growth rate for October and walking through each month on page 54 there were several months – September, December, March, April, and June – with revenue above the base amount, but most of that had to fill prior shortfall periods. He said that December was the only month in which there was excess revenue, but looking at the right hand side of the page they were just still making their 3.0% CPI adjustment, so the \$10,253,570 in the purple was distributed under the base rule and the \$46,430 was distributed under the excess rule, but the entity still only got back to the \$10.3 million, which was their amount after the CPI adjustment. Mr. Reel noted that even though the entity had excess that was distributed under the excess rule, they still just made their base amount, which was the point of where excess was not always excess. In this case it was distributed as excess, but the entity just got back to where they should have been for their CPI adjustment.

Mr. Reel directed the committee to Table 4D, page 56, Exhibit A, and stated the yellow line reflected the actual monthly amount of revenue available for distribution based on assumed growth rate over the actual prior fiscal year amount. Actual revenue would grow by 1.0%, but they had to keep in mind the entity made the 3.0% adjustment in CPI for their base, so the entity would end up short. July showed a 1.0% growth rate and compared to the total amount that the entity should receive for their base, the entity was short in the first month by \$55,563. Moving to the green line, there was no excess distributed so all revenue received was distributed. Looking at each month, Mr. Reel stated the yellow line showed the growth rates and they could look at the green line to see that no excess was distributed. He said the orange line showed that September, December, March and June had more money in the month than needed for the base amount, but it had to be used to backfill the prior months to make the base whole. He noted that in the end, the purple line showed that the entity did not make it back to their base amount and the economy only generated \$10,101,540, because the base was adjusted by 3.0% the economy only grew by 1.0%, which was all that could be distributed. Therefore, the next year's base would be \$10,101,540 times whatever the CPI would be. He noted that they did not expect to have any excess revenue because they economy was only growing by 1.0%.

Moving to the last example, page 57, 4E, Mr. Reel indicated keeping a 1.0% growth rate in actual CTX second-tier revenue over the prior fiscal year amount comparison of base and excess distributions under no 1-plus based on current statute, but how the process

was different. He explained that the left side of the page showed the entity stated out growing strong and then hit the tank and ended up back at 1.0%. He noted the first month of July, when there was a 9.0% growth rate (gray line) and the actual money to be distributed was \$866,357. There was enough to make their base amount so there was extra revenue above the base of \$8,023, and there was no cumulative shortfall because the entity started out ahead of schedule, so they could distribute \$858,333 as their base, and it was the first month so there was nothing to backfill at this point and the \$8,023 could be distributed as excess. Similarly, August had 6.0% growth and were ahead in the month by the \$6,016, and ultimately that could be distributed as excess. In September, the additional money was distributed as excess. However, in October the economy had the downturn and the entity ended up with a minus 1.0%, and each month after that they were short the monthly amount needed to make their base estimate. Mr. Reel noted that there were a few months displayed in the orange line that made the base estimate, but the entity was using that amount to backfill prior periods and there was no excess to be distributed after the month of September. In this case, looking at the right side of the page on the purple line, Entity 1 received \$10,083,127 as their base amount, and \$18,413 was their monthly excess, but did not make their base amount and was short, but received excess because they started out the year with a higher growth rates, which allowed them to distribute excess. However, once the excess was distributed, the entity could not get it back. When the economy turned down, the entity might end up at a point when they could not get their base amount, but happen to get some excess. He noted it was a weird situation where the entity could have some excess, but not make their base.

Concluding, Mr. Reel stated the examples showed how to understand how the base and excess distribution worked on a month-to-month basis and how the base was made whole before any excess amount would be distributed.

Chairwoman Kirkpatrick thanked staff for trying to find ways to make the base and excess distribution formula as simplistic as possible for the committee members. She stated that information from the meeting would provide some historical value for future committees.

Mr. Guindon realized staff provided a lot of information, which he hoped helped the members understand the base and excess distribution and base and excess rule. Although staff manipulated the numbers to get the results in the hypothetical examples, he stated that situations like that could happen in a real world. He noted that in the real world there are an infinite number of combinations that the economy could generate and the shares could distribute revenue, so there could be a situation like the example where an entity did not get their base estimate, but there was actually excess distributed under the excess statutory rules. Since the entity did not in fact get their base estimate amount, that new base actual less the excess becomes the new number an entity would multiply times the CPI. This, so an entity could actually have the base step down below the prior year's base because the economy did not generate enough revenue to get their base estimate, even though there was excess. He stated that it was critical for the members of the committee to understand the terms because these were the things that

Jeremy Aguero, Applied Analysis and the local governments were meeting and working through the base and the excess, and they could see that they were probably looking more at the excess, because the local governments did not want to make changes to the first tier revenues, but it was all within the second tier of how the local governments were determining their base estimate in terms of whether the excess was going to be included, and if there was revenue to be distributed under the excess rule, what that excess rule would be. He noted that currently the rules were that last year's base actual are adjusted for the CPI, that there is no excess included in the base, and that the growth factor is multiplied by the base estimate to determine their excess. He noted that the relationship was there and if the excess was put in the base, that would determine the base estimate and shares for the entity, but also they would take that times their growth factor to create a bigger link between the base rule and the excess rule. Mr. Guindon noted that these were the concepts that the local governments were working through, but also the examples helped the committee understand the month-to-month situations that could happen when the Department of Taxation was taking the actual amount of money distributed and allocating it across entities within the 17 counties, either under the 1-plus or the no 1-plus rule, or an interlocal agreement for the distribution of revenues.

Senator Lee asked Mr. Guindon if he was familiar with a previous situation when a community believed they qualified for a one-time base adjustment because they thought something in the formula was incorrect. Senator Lee believed the entity felt that there was justification for the adjustment and wondered if once the formula was fixed if the Legislature the only place to have the discussions.

Mr. Guindon stated that as staff to the Taxation committees, he has seen bill draft requests regarding the CTX distribution. He believed it was some of the same ones that he was seeing here with regard to the proposals that have been brought forward before the committee. He noted as staff he did not have the ability to say what the issue was and whether it had justification or not. He believed there were many players in place when it comes to the CTX, and what the issue was and whether there was issue that needed to be addressed, in terms of all the local government entities that exist within a county receiving CTX revenues, had different meanings for people. Mr. Guindon stated that statutory changes would require action of the Legislature and signature by the Governor; however, one avenue that was available which some local governments have undergone was that the creators of the CTX and their wisdom allowed for interlocal agreements. Therefore, if it was necessary to make changes and there was an agreement amongst the local governments within that county, they could enter into a interlocal agreement to have the revenues distributed. He noted that White Pine County has had an interlocal agreement since 2001, and currently Clark County had an interlocal agreement in place for 2012 and 2013.

Senator Lee asked whether the court system and the Legislature were the only two places for discussions on the CTX distribution. Chairwoman Kirkpatrick said that there has always been an memorandum of understanding (MOU) process so that the local governments could collaborate to try to figure out a different situation that worked. She

believed there were more than two options to have the discussions. She recalled that during the 2011 Legislative Session, Senate Bill 34 was amended to extend the MOU deadline to so that the City of Mesquite MOU could collaborate to determine a different situation that worked for the city and Clark County. She noted that the goal was to work together and it was unfortunate that people think there were only two choices. Chairwoman Kirkpatrick did know what the justification was in 2001, but she was sure they could read the minutes to see the scenario and there was always an opportunity to do things through a MOU.

V. OVERVIEW OF THE CTX PROVISIONS REGARDING THE CREATION OF A NEW LOCAL GOVERNMENT ENTITY.

Terry Rubald, Chief, Division of Local Government Services, Department of Taxation

Chairwoman Kirkpatrick said there would be a general discussion on the requirements for the creation of a new local government entity, and how the Department of Taxation (Taxation) is involved.

Terry Rubald, Chief, Division of Local Government Services, Department of Taxation, said she was asked to talk about how the CTX distribution is determined for new entities. She said some of the guiding principles of the 1997 CTX legislation included maintaining revenue neutrality to prevent big increases or decreases in revenue between local governments that might trigger additional tax increases. Another goal was to establish criteria for sharing in the revenue for new entities. When a new entity is formed, the objective is to distribute CTX revenue based upon the service level needs of the new entity's citizens, and not facilitate competition for tax dollars among governments. At the time the CTX was created, the testimony indicated the creation of a new city should not place a great deal of stress on the system of distribution of revenues. The originators of the CTX wanted to remove the incentive to decentralize, as well as the potential to create divisive governmental entities.

Ms. Rubald said that if prior to incorporation the new city was a town that received a portion of the second tier distribution of CTX, the new city council would decide whether to provide certain services to the city's citizens. Those services could require a higher level of revenue than the entity had received previously as an unincorporated town. One of the first things that the new city council must decide is what services it intends to deliver. If it intends to deliver police services, and at least two of three other types of services, it could be eligible for a revised distribution of CTX. In addition to police, the new city would have to provide at least two of the following services: fire protection; construction, maintenance and repair of roads; or parks and recreation.

Ms. Rubald said that, assuming that this new city intended to provide police and fire protection, as well as repair of roads, this new city would qualify for a revised distribution. She noted that the new entity does not have to provide those services itself. She said NRS 360.740, subsection 7, provides the opportunity for the new local government to enter into an interlocal agreement with another local government to

provide the services necessary if the new city compensates the other local government for the value of the service. It does not matter whether the new city provides the service itself, or whether it pays some other local government to provide the service. Either way, the new city would qualify for a revised distribution.

Ms. Rubald said the next step was to request the Nevada Tax Commission to direct Taxation to allocate a revised distribution to the new entity. The request would likely be a resolution from the city council to the Executive Director of the Department of Taxation, along with documentation supporting the request. Copies must be sent to each local government that would be affected by the revised distribution.

Ms. Rubald said that according to NRS 360.740, this request must be received by December 31 of the year preceding the first fiscal year in which the revised distribution would be made. Taxation takes this to mean that the opportunity to request a revised distribution must be the year prior to the year it actually first receives monies from the account as a new entity. Taxation reviews the request for revised distribution under NRS 360.740, subsection 3, paragraph (a), which provides that in the initial year of distribution, the amount of CTX to be allocated must be based on the formulas and requirements of NRS 360.680 and NRS 360.690. She said that NRS 360.680 specifies that the allocation must be equal to the amount allocated to the local government in the preceding fiscal year, less the excess calculation. In other words, the amount of allocation is equal to the base amount received in the prior year. This base amount can be adjusted from the prior year. The statute says that if the new government will provide a service formerly provided by another local government, whatever amount is allocated to the new local government must be deducted from the allocation of the other local government. It does not say that 100% of the new service will be paid for from CTX. It just says that whatever amount of CTX is allocated to the new city comes out of the CTX distribution of the entity that formerly provided the services.

Ms. Rubald posed the question, "How much CTX should be allocated for the cost of assuming services formerly provided by other governments?" She said that subsection 3, paragraph (b) says Taxation is to consider the effects of the revised distribution on the other local governments, and compare the amount allocated to the new city to the amounts allocated to other local governments in the same county. These two requirements are meant to ensure that the new government is not enriched to the detriment of the other governments. She said this concept is consistent with one of the goals of the 1997 Legislature, which was to not create a competitive environment among jurisdictions.

Ms. Rubald asked, if police service had formerly been provided by another government, how much CTX revenue was used to fund that police service function? She said it was unfortunate that costs cannot be equated directly to a single revenue stream. If so, it could be called a special revenue fund. For most local governments the revenues were dumped into a common pot – the general fund. The revenue comes from CTX as well as property taxes, licenses and fees, intergovernmental transfers, and a host of other sources. The local government then makes expenditures from the general fund. When

considering the cost of absorbing a new service by a new city without harming the other local governments, one of Taxation's considerations is how much CTX revenue the other government spent on the function being transferred. Since there is not a direct relationship, it is assumed that each revenue stream going into the general fund contributes to the cost of the function in a proportionate amount. For example, the new city had a base distribution of \$3 million when it was an unincorporated town. The county sheriff's office provided police services to the unincorporated town at a total cost of \$5 million, which was paid from the general fund. Of the total revenues coming into the county's general fund, 40% came from property tax, 40% came from CTX, and 20% came from all of the other revenue sources. The \$5 million expenditure for police services for the formerly unincorporated town was paid for 40%, or \$2 million, from property taxes; 40%, or \$2 million, from CTX; and 20%, or \$1 million from all other sources. Taxation would do a similar analysis for each function that was taken over by the new city. She said, for simplicity, she would assume that the cost for fire protection services was \$5 million, and the cost for roads was also \$5 million, and those functions would also be taken over by the new city, for a total of \$15 million. Based on the percentages of the general fund of the county that paid for those services, the base CTX revenue of the former town would be adjusted upward by \$6 million. When added to the \$3 million distribution to the town prior to incorporation, the adjusted base was \$9 million.

Ms. Rubald explained that the \$6 million would be deducted from the CTX distribution to the county. This adjusted base, plus any distribution to be made from the excess calculation, would become the recommendation of Taxation. That recommendation would be submitted to the Committee on Local Government Finance (CLGF), at which time the new city, county, or any other entity affected by the new distribution could comment on the findings. If the CLGF was in agreement with Taxation's recommendation it submits the request to the Nevada Tax Commission. The Nevada Tax Commission schedules a hearing within 30 days of receiving the committee's recommendation and provides public notice of the hearing. In the meantime, Taxation sends copies of all of the documentation to all of the local governments and special districts within the county, whether or not they would be affected by the redistribution. The Nevada Tax Commission considers the CLGF recommendation, and if it finds the recommendation to be appropriate, directs Taxation to make the distribution.

Ms. Rubald said the process could stop if the CLGF does not agree with Taxation's findings. If the CLGF finds that the distribution is not appropriate, that decision cannot be appealed to the Nevada Tax Commission. She said the process provides the public with an opportunity to comment, and it also allows entities to come forward to object, or to bring forward alternatives for consideration, at both the committee and commission level.

Senator Lee asked whether the county in the scenario determined how much it was spending on the services that had been provided to the township. He asked what would happen if the new city decided that it did not need as many supervisory positions, because its police department was smaller. He said the new city must identify its

needs, and the county has to agree with that. If the county does not agree, then everything shuts down.

Ms. Rubald replied that if the new city thought the costs of services would be lower, that information would be developed and presented to Taxation. In the example that she presented, the county expenditures were used to estimate the base, but if the city thought it could provide the services at a lower cost than what the county had spent, that would be taken into consideration.

Senator Lee said that if the city says expenses will be lower, but the county disagrees, the city is held hostage to the county's information. He asked whether the city could get an opinion that would allow the county to realize that the city does not need the level of police services the county was providing.

Ms. Rubald replied that the process of presenting the request to the CLGF, as well as the Nevada Tax Commission, allowed for two levels of appeal to bring forward more information. She said Taxation would weigh the information from the entity that formerly provided the service. The new entity would have to be persuasive in showing exactly the appropriate level of services.

Senator Lee said that there were sometimes contracts in place during the transfer of services. That seemed to be a disincentive to anyone creating a new little community. He suggested an independent party tell them what will happen with the fire and police services if they become a city. He said that the new community would be at a disadvantage due to the heavy contractual requirements of the county.

Chairwoman Kirkpatrick asked what would happen in the process if there was no agreement. She asked whether the state would be responsible for taking it over. She asked, if it is determined that the three services required cannot be provided by the new entity, whether there is an opportunity to review the situation.

Ms. Rubald said that Taxation was establishing a new base, based on the information that was presented at the time. The adjustment to the CTX is to establish how much was formerly provided, or if there is another adjustment that needs to be made based on other information. If the service costs more than expected, the new entity's governing body would have to find the resources to cover the costs of the services from all of the revenues available. She explained that if the new entity cannot make up revenue shortfalls, there are 26 criteria in the severe financial emergency statute that Taxation uses to determine whether the finances are there. She said that involved another long process, and she was not suggesting that would happen. She said there have been lots of distressed governments over time, and they usually worked out the problem for themselves by finding the revenues or adjusting their budgets. She said the process for a new entity was very much like the process that happened in 1997 when everyone presented information to determine the most appropriate distribution of the revenue pie. She said over time, things changed, and that was why the Subcommittee was reviewing the process.

Senator McGinness asked about the history of the process, and how it has worked so far. Ms. Rubald responded that since 1997, there have only been two new entities, and that a third applied, but did not finish the process.

Senator McGinness said that Pahrump has discussed incorporation several times. He asked about whether the entity approaches Taxation with a plan for incorporation. Ms. Rubald said the incorporation process was separate, and usually involved a study of financial feasibility, among other things. In the example that she gave, she assumed that all of the steps necessary for incorporation were already successful. She said that if the entity provides police services and two of three other services, it is qualified to receive CTX distribution.

Assemblyman Ellison asked whether the term “police” included all public safety, including fire protection services. Ms. Rubald explained that the statute requires the entity to provide police and at least two of the following services: fire, roads, or parks and recreation.

VI. RESPONSE TO QUESTIONS FROM COMMITTEE MEMBERS AT THE MARCH 15, 2012, MEETING.

Chairwoman Kirkpatrick asked for an update on the pending litigation initiated by the City of Fernley.

Dan Yu, Principal Deputy Legislative Counsel, Legal Division, said that the lawsuit has been filed in federal district court in Nevada. As of April 27, 2012, it has not yet been served on the parties. He said that the Nevada Legislature has not been named as a party.

Mr. Yu noted that the staff of the Legislative Counsel Bureau are nonpartisan, so any of the interpretations of law that he will convey during the meeting are purely objective.

a) Provision of Police Services By Out-Of-State Entity to a Nevada Local Government Entity

Mr. Yu said that the question from the previous meeting was whether a city can contract with an out-of-state police force in order to meet the criteria to receive additional CTX revenue under NRS 360.740. After reviewing the applicable statutes, he did not believe that was possible. He recalled that Ms. Rubald referenced NRS 360.740, which states that local government or special district may enter into an interlocal agreement with another governmental entity for the provision of the services set forth in subsection 1. However, Chapter 277 of NRS, which actually governs interlocal agreements, provides that two or more political subdivisions of this state may enter into such an interlocal agreement for the exchange or furnishing of such services. The limitation is “of this state,” meaning that it has to be a local governmental entity within the State of Nevada.

b) Prerequisite for the Provision of Services Prior to Determining the Allocation of CTX Revenue

Mr. Yu said that the prerequisite for the provision of services prior to determining the allocation of CTX revenue was framed as the “chicken or egg” scenario. He said that the short answer was that the service did not have to be provided first. This is governed by NRS 360.740, which simply provides in subsection 1 that the newly created governing body of a new local government may request the Nevada Tax Commission to direct the Executive Director of the Department of Taxation to allocate money from the account to the local government. There is simply no requirement that says the provision of services must already have been established.

c) Appeal Process for the Determination of Additional CTX Revenue

Mr. Yu said that in reviewing the applicable statutes, there does not seem to be an “appeal process” for an administrative hearing procedure, aside from what was already mentioned in regard to the Bureau of the Census. With respect to administrative appeals, there is a process where a local government entity would be able to file an appeal with the Bureau of the Census concerning the population determination made by that bureau. Aside from that, and more specifically with regard to CTX distribution, there is simply no appeal process set forth in statute at this time.

d) Impact of the Consolidation of Services By Local Governments and Special Districts on the Distribution of CTX Revenues

Mr. Yu said that the consolidation of services is governed by NRS 360.730, which sets forth the process of entering into a cooperative agreement and provides that the Executive Director of Taxation must review such interlocal agreements and that the agreements themselves set forth the alternative formulas for the distribution of taxes from the account. Mr. Yu elaborated that it is only the local governments themselves that are party to such cooperative agreements. The formulas would be adjusted pursuant to what the local governments have agreed to do. Of course, other local governments that are not a party to those agreements would not have their CTX distributions affected in any manner whatsoever.

IX. CONCEPTS AND ISSUES RELATED TO THE DISTRIBUTION OF CTX REVENUE AT THE SECOND TIER.

This agenda item was taken out of order.

Chairwoman Kirkpatrick said that the local governments have been asked about the discussions among the local governments regarding the distribution of the CTX revenue at the second tier. She said that these discussions should be made part of the record so that legislators can use the information to make their decision. She also received a response from Jeremy Aguero, Principal, Applied Analysis, who had been working with

some of the local governments in Northern and Southern Nevada, and would give the Subcommittee a basic idea of what was being discussed.

Chairwoman Kirkpatrick pointed out that this was not the only solution being proposed, and the local governments were still discussing solutions. She said the local governments were told that this meeting would be the prime opportunity for them to share their thoughts with the legislature.

Mr. Aguero said that Applied Analysis was requested to analyze the CTX, its alternatives, impacts, and trends, by the City of Henderson and the City of Las Vegas independently. That effort has progressed, and he would give a general overview. Referring to the Applied Analysis CTX Presentation (Exhibit C), Mr. Aguero said that it was important to note that the City of Las Vegas and the City of Henderson had very different views on the CTX. Things that may be beneficial to the City of Henderson may be detrimental to the City of Las Vegas, and vice versa. He said it was interesting that both cities provided the same instructions for the process, which was to create a model to show the impact of changes to the CTX distribution to the city, and to all of the other local governments.

Mr. Aguero said that his firm constructed such a model. He noted that the spreadsheets provided by the Fiscal Analysis Division staff clearly reflected the level of detail involved in the CTX distribution. More important than the details of the mathematics was the fact that the purpose had been to understand the CTX and to understand how any change at any level impacted the entities throughout the state. He noted that the state had lots of different jurisdictions, and a one-size-fits-all distribution formula was tricky. He said that the working group expanded greatly, and every time the group meets, more folks join in the discussion. He said that the working group has a tool to analyze the alternatives and a process to vet the alternatives, and would then discuss the benefits and the drawbacks. He said that process has been relatively effective thus far.

Mr. Aguero said that the analysis that he would present to the Subcommittee would show the weakness in the formula and some ideas on how to address some of those weaknesses. He did not want to leave the impression that anything was definitive or that the plan was perfect. He said that it was a work in progress, and he would show both preliminary observations, as well as where the working group was in the process as a whole.

Mr. Aguero said that his group was retained in September 2011, and that was when the effort began. During the fourth quarter of 2011, his firm did two things. First, it researched the CTX, much as the Subcommittee did in its early meetings, to find out how the CTX distribution got to where it is. Second, the CTX model was created. He said that the model was very difficult to read, particularly on a screen. He explained that to go back to when the CTX was created, and to project the results over 10 or 15 years, would produce a spreadsheet 400 columns wide, and 8,000 rows tall. That was because there were 170 different entities, and changes occurred over time. It was a month-by-month process that started with 1999 data and projected out to 2032. That

process allowed a view of the different growth rates, and showed what happened during a period of recession or expansion, and when the CPI or inflation increased or decreased. The model provided a starting point for some of those discussions. He said that in December 2011 and January 2012, alternative scenarios were looked at. For example, they considered viewing the data on a per capita basis, changing the mix of assessed value (AV) versus population, or considering just AV. They considered starting all over with a new formula. They wondered what would happen if the entities kept whatever they collected. There were expert round tables with the people that worked on the formula when it was first created in attendance. He was not suggesting that the working group's purpose was to build agreement; rather, the purpose was to ask whether the issue is being thought about correctly. Sometimes the answer to that question was yes, and sometimes it was no. He also wanted to vet the model. He said that the LCB staff and Taxation have been wonderful to work with. His group was sharing the models with them. He said that nuances in the model were found, and there was an effort to reach out and ask how the problem should be solved. His firm and the working group were trying to work together to create a tool that would give a sense about what some of the changes will mean for each of the jurisdictions.

Mr. Aguero said that the working group started to take its form in February and March. The working group discussed what some of the strategies might look like, and in April, the working group began to include entities from north, south, rural and urban. He emphasized that the process was ongoing, and the solutions were not final; rather, they were an approach being used to vet some alternatives.

Mr. Aguero presented the alternatives that were discussed by the working group. He said that per capita distribution based on population seemed like a simple method. However, the mathematics became complicated because there were many populations. The counties have all of the population, and cities and towns have part of the population. He noted that special districts were not always coterminous with jurisdictions that have population. He said that for the Las Vegas Strip in unincorporated Clark County, somewhere between 16% and 18% of the full-time equivalency population is made up from visitors who are not counted in the population set.

Mr. Aguero said that the same problem occurred with AV. Although AV is informative, overlapping AV can be difficult. Another alternative was point-of-origin distribution, where the revenue remained in the jurisdiction in which it was collected. He said that in unincorporated Clark County, visitors accounted for about 24% of all retail sales and use tax collections, and it was uncertain how that would be distributed for demand for service, versus the location in which it was generated. He said another method would be to take all of the AV and all of the population and turn it into shares of the total. Again, the overlapping nature of the special districts, cities, towns and counties make that kind of distribution very difficult.

Mr. Aguero said that the working group considered novel formulas based on anything else than what the formula was currently based on; again, trying to find some factor that was uniform for all jurisdictions was difficult. The working group came to the realization that there was lots of thought put into the how the CTX formula was constructed. It was not perfect by any means, but the process of determining how the CTX should be formed, created and distributed took almost two years. Consideration was given to reverting to the original CTX structure, but the working group ultimately settled on the idea of modification to the current formula. The current formula has strengths and weaknesses; the strengths can be built upon, and the weaknesses can be minimized.

Mr. Aguero said that there were four major issues with the current formula identified by the working group. The first issue was the base calculations. He referred to an example on page 7 of Exhibit C of a simple distribution between two jurisdictions. After the first year distribution, there was a decision to be made as to what would serve as the base for the second year. There were two choices: adjusted base or total distribution. He said it would be customary to budget upon what was received in the previous year, but rather than doing that, the CTX formula reverted to the adjusted base concept. The adjusted base comes back into year two, and the calculations are done again. Because the base is adjusted by 3% each year, or the rate of inflation, the excess continues to grow larger and larger each year. He said that at the peak of the market in 2006, the portion of CTX that was distributed as excess represented roughly one out of every three dollars. That was a huge amount of the total CTX distribution that was being distributed as "excess." That created a great deal of risk within the CTX distribution.

Referring to an example on page 19 (Exhibit C), that compared three jurisdictions, Mr. Aguero said that the first entity, which was large and slow growing, received 63% of the base allocation in this particular county and only 55% of the excess. It received less excess, and more base. The second entity received 10.7% of the base but 15.4% of the excess, because it was smaller, but growing quickly. The third entity received only 2.4% of the base, and only 1.2% of the excess, because it was growing very slowly over that particular time. He said that the entities that were able to take advantage on the way up were in a perilous position on the way back down. If an entity was dependent upon excess, and that excess was distributed differently than the base, a larger and larger share of the allocation would be removed.

Mr. Aguero said that the base cannot continue to grow bigger and bigger. The way the CTX was originally constructed, the excess did not carry forward each year. Whatever an entity got became the base for the next year, adjusted for inflation. If there was not enough revenue to meet the base, every entity was reduced proportionally. There was no race to get the excess, because the excess did not grow.

As a potential solution, Mr. Aguero said that the CTX distribution formula would be modified such that the prior year's actual allocation becomes the tax base for the subsequent year. Essentially, whatever the entity received in the previous year becomes the amount of money that you start with for the calculation this year. That

means the faster growing jurisdiction's excess will be added to the base, so they are not at risk when things go in reverse.

Mr. Aguero said that the second issue involves the excess allocation. He said it was unfortunate that the term "excess" was used to identify this allocation. It was just another piece of the actual equation, but those distribution growth factors are pretty important to how the whole thing works. Referring to page 22 ([Exhibit C](#)), he said that the excess calculation can be reduced to a few simple elements: Average change in population over the past five years plus average change in AV over the past five years, times the tax base, results in the excess allocation share. If the population or AV increases, the entity gets a bigger share of the total, as long as it is more than somebody else in the same jurisdiction. That is multiplied toward your tax base, such that there is some distribution based on relative size of entities.

Mr. Aguero explained that, under the no 1-plus scenario, the average change in population and average change in AV over the last five years cannot be less than zero. He said that over the past 20 or 30 years, the high points in the state's economy and the low points are within five years of each other. That is a very unusual circumstance. Hyper growth was followed by a period in which Nevada was the fastest declining state in the nation. The tax formula, based on population and AV, somehow must deal with that, which is very difficult. He said that the population shrunk in some areas, and in other areas continued to grow. If the population was growing by 1%, but the AV shrunk by 49.1%, as in Clark County, it would not matter how much the population increased. There was no reasonable rate of population growth that would offset that reduction in AV. He added that whether a house is valued at \$300,000 or \$150,000, the cost to provide services was the same. This incredibly unexpected sequence of events, where there is huge growth in AV followed by a huge decline, has led to a situation where many of the entities' share is negative and will be negative for some time to come. He noted that there are provisions within the existing CTX formula to adapt to this, but it does create some pretty serious problems in terms of weighing the formula down.

Mr. Aguero said that the current formula can result in some very odd outcomes. For example, one entity experienced a year of tremendously positive growth at the same time all of the other entities' growth was declining. Because there was excess to be distributed, the CTX allocation for that entity increased from \$7.1 million to nearly \$20.0 million under the baseline scenario (page 25, [Exhibit C](#)). He said that this was built into the transition from the 1-plus formula to the no 1-plus formula. There were real problems with 1-plus, and there are real problems with the no 1-plus formula as well. The working group is looking for something in the middle.

Mr. Aguero said that a potential solution would be, instead of adding population to AV so that the AV has the potential to drag the percentage of distribution down, to make them independent. This would be a "hold harmless." If the AV is -22%, it cannot go below zero. If population is -2%, it cannot go below zero. If an entity is negative in both AV and population it would get nothing. However, if AV was -20%, but population was

growing by 1%, there would still be a 1% portion of the allocation. He said that this approach would stop the anomalies that were happening as a result of the recession.

Chairwoman Kirkpatrick asked what would happen if the assessed valuation increased greatly and the population declined. Mr. Aguero said that this happened between 2003 and 2007 when population growth was in the 3% to 3.5% range in many jurisdictions, but AV increased by double digits. In this case, those positive growth rates would be added into the formula. If the population was negative 1%, but the AV was 10%, the growth factor would be 8%.

Chairwoman Kirkpatrick noted that when mining is active, the AV in those jurisdictions increases, but the population does not necessarily grow. Mr. Aguero said that two things would happen: 1) the five-year smoothing would remain in effect; and 2) the model is looking at activity over time, from 1999 to date, to make sure what is being proposed would not result in upward or downward spikes over that period.

Senator Lee noted that except for City Hall, there were not many buildings over two stories in North Las Vegas. However, on Las Vegas Boulevard, there are timeshares and other buildings that would garner a lot more money than the amount that could be raised by North Las Vegas. He said that if the city was not going to be building homes for a while, we are stuck. The same would be true for Boulder City. He said that in the whole state, there were probably three regions with any real AV outside of the population base. He thought that population should be the criteria, because that was what created a need for infrastructure and services. He understood that a tall building needed some sort of services, but there was a larger responsibility to policing a population that was spread out among a number of miles in North Las Vegas.

Mr. Aguero said that in the structure of the distribution formula itself, it was important to recognize that both population and AV were included. He said that it appeared that the people who devised the original formula recognized that the residential element of any community was of greater value. He noted that the formula not only included population, but also AV, which includes both commercial portions and residential portions. He said that they may have been trying to emphasize the nature of how services are demanded. He said that because population made up 50% of the formula and 50% of the AV was based on residential properties, the residential element of each community was essentially double counted. On the other side, there are areas of the state with lots of commercial investment, without a big population. He thought that worked fairly well, but that was not to say those factors could not be modified.

Senator Lee said that there were three security officers for every Metro police officer on the Las Vegas Strip. He noted that the casinos had their own police forces. However, the other communities had a greater number of people with much less police support. At the end of the day, these communities needed these services. He was adamant that the local governments that are providing these services get the money that they need.

Chairwoman Kirkpatrick said that some of the entities made a business decision as to how they wanted to police their community and annexed with other jurisdictions for those services. She noted that there were always lots of people on the Las Vegas Strip. She wondered whether there should be consideration of the number of visitors that come into the state on a daily basis. She noted that was not figured into the population count. She said that was one piece of the discussion, but it would be a mistake to only consider population. She said that some of the enterprise districts did not know they would grow into a community. She said that maybe the Paradise town board should be brought up to par, because their population was nothing compared to what they put in place in 1999.

Mr. Aguero said that the third element of the CTX formula was the plus factor, which played an important role. Referring to page 28 (Exhibit C), he showed a scenario where two entities had the same base. One entity was growing much faster than the other, but received only slightly more of the excess due to the application of the 1-plus factor. He said that the founding principle of the formula was stability. The formula was designed not to favor growth, but rather, to be as stable and straightforward as possible. The problem was that the community grew fairly rapidly. The communities that were growing faster were splitting the new revenue that was generated equally with the entities growing at a slower rate. The communities that were growing faster were adding houses, buildings, populations, new hotel-casinos, and new visitors, but were only getting half of the excess revenue. This is the underlying reason the major jurisdictions went from 1-plus to no 1-plus.

Mr. Aguero said that page 35 (Exhibit C) showed the effect of the no 1-plus using the same scenario. He noted the entity that was growing faster received 75% of the excess. He said that those numbers are the focus of the debate, because as that excess grew larger, there was more competition for how the revenues were distributed. He noted that if the base did not continue to grow larger, this would become a lesser issue. There is a general belief that new revenues should be directed toward areas that are adding service demands.

Mr. Aguero said that the dilemma is that the no 1-plus looks good on paper: if an entity grows, it gets a greater share of the revenue. That was fine when all of the entities were growing. However, if there was \$1 million of excess to be distributed among five entities that were all declining in population and AV, that excess could not be distributed. He said statute requires that the formula default to 1-plus. In multiple cases, there was no 1-plus, with only one entity with growth (page 41, Exhibit C). That entity would receive 100% of the excess. This was not the intention as a matter of policy. He said that while the math may work, the outcomes were pretty bad.

Mr. Aguero said that there was a plus factor spectrum (page 43, Exhibit C) ranging from zero plus, which directs more revenue to growing entities, to 1-plus, meaning entities grow at nearly identical rates. He said that instead of thinking about the formula in terms of 1-plus or zero plus, he suggested the Subcommittee think in terms of growth rates. For example, if one entity was growing by 9%, and another entity was growing

by 3%, in terms of the calculation, one entity is actually growing by 109%, or 1-plus 9%, and the other by 103%, or 1-plus 3%. These are merely additions to those growth rates. He said that zero plus does not work, because it creates a dilemma. The 1-plus works, but some of the outcomes are not optimal. He said that the working group looked for a solution in between the two to find what types of plus factors work best. He said that the working group was looking for the benefits of the 1-plus, in terms of its stability, and the distribution benefits of the zero plus, where a greater share of new revenues are being directed to where growth is occurring.

Mr. Aguero said that the immediate idea was to use half-plus, or 50%. He referred to page 49 (Exhibit C) to the original scenario where two entities had the same base, but one entity was growing at a much faster rate, 52.7% of the excess was distributed to one entity, and 47.6% was distributed to the second entity. He noted that was not much different than the result of the 1-plus formula.

Senator Lee noted that one year, the City of West Wendover had more population base than the City of Elko. However, the City of Elko could reason that a Home Depot and Wal-Mart had been constructed. He asked for an explanation of the half-plus calculation.

Mr. Aguero said that both entities had the same base, but the population and AV was growing faster in one entity. He said that using the example on page 50 (Exhibit C), population plus AV would be 9% for the first entity, and 3% for the other entity. One is added to increase stability, making the first entity 109% and the second 103%. If there is \$1 million of excess to be distributed, the first entity will get \$510,000 and the second entity would receive about \$490,000. That was based on the ratio between 109% and 103%. However, if a factor of half-plus is used, 59% and 53% are used to compare the entities. The half-plus did not really change much in terms of the total share of excess distribution. He said that was because no entity would grow by 50% or 100%, and those huge percentages essentially muted the differences between the two entities. In trying to find a plus factor that has most of the stability benefits associated with 1-plus, but also allowed for the distribution benefits associated with the zero plus, the discussion gravitated toward the lower end of the spectrum.

Referring to the graph on page 51 (Exhibit C), he said that the 0.01 point on the spectrum assumes that all of the entities would grow by 1%, and the 0.02 point assumes that all of the entities would grow by 2%, which was again at the lower end of the spectrum, and avoids the no 1-plus dilemma. Page 52 showed an example of the 0.01-plus and 0.03-plus calculation. He noted that the scenarios were the same as in the previous examples; however, the entity with higher growth in population and AV received a more proportionate share. He noted that the distribution for the 0.01-plus calculation was closer to the zero plus formula. For the 0.03-plus excess calculation, the distribution was not perfect, but more proportionate. It avoided the aberrations that led to the dilemma, and the distributions were starting to go where growth was taking place.

Chairwoman Kirkpatrick said that the reason these discussions keep coming up is because of the change in legislation in 2001. She said that the example was essentially the same result as the no 1-plus example on page 19 (Exhibit C).

Mr. Aguero agreed that it was very similar, but it was not exactly the same. It functioned much in the same way, but the difference in choosing 1-plus, 0.05-plus, 0.025-plus, 0.01-plus, or 0.03-plus was finding that area in the formula that addresses the changes that were made in 2001. At the same time, the reason the jurisdictions brought forth the issues was because of the 50/50 split of the excess. The jurisdictions knew that zero plus was not the right answer, and 1-plus is not the correct answer either, although it creates a great deal of stability. The answer could be somewhere in between to get the benefits associated with the 1-plus, and the equity of the zero plus. He said that there will always be disagreement relative to which factor is the right one. Having run through about 150 scenarios at this point, he knew that these factors would begin to have the effect of not leading us down the path where one entity has all of the revenue and slower growing entities get absolutely nothing. He was trying to find a balance.

Chairwoman Kirkpatrick agreed, but said that in 2001, the entities that benefited were the fast growing entities. Mr. Aguero said that as long as there is zero plus, faster growing jurisdictions would benefit significantly. Chairwoman Kirkpatrick said that now that none of the entities are growing and most of the infrastructure was in place, it seems that this could be done through an MOU. She was not sure why tax dollars were spent to have this study if this can already be done. She thought the point was that folks felt slighted because they were not getting more income, even though they were growing. She said that the 0.03% would not change the current legislation that is in place.

Mr. Aguero had two points: 1) The difference between 1-plus, zero plus and 0.03-plus have very significant implications in terms of how revenues are distributed, or would have been distributed, among entities; and 2) The discussion was not just about the competition over how the excess is distributed, but it would always be added back to the base. The idea is that over time the equity that is created by this alteration would mean that some of the inequities would begin to get smaller and smaller. He noted that there must be some conversation about how to calculate the base year so that a starting point can be found. An element of that conversation would undoubtedly be about whether there was equity.

Mr. Aguero said that page 55 (Exhibit C) showed the historical growth factors for 160 entities. He said that the graph on page 56 showed Summerlin had a 500% growth rate year-over-year, but its base was so small that it did not make a lot of difference. He said that the vast majority of the growth occurred in a relatively small spectrum. Page 57 displayed a different view of the growth from -10% to 25%. He said that it showed that the average growth rate was not 100% like 1-plus, or 50% like 0.05-plus, or even 10% like 0.01-plus. The average growth rate in terms of AV and population was about 80.2% from 1999 to date. The lowest percentile grew at about 1.7%; the 50% percentile grew at about 6.7%; and the fastest growing entities topped 25%. To find a factor that

can provide stability, while at the same time creating some equity, looking for something that simulates a very modest rate of growth somewhere in the 1.7% range seems reasonable in terms of the plus factor spectrum. He noted that 1-plus and zero plus both have distribution issues. He was trying to find a middle that got the benefits of both, while limiting the drawbacks.

Mr. Aguero said that for the rural communities, a 1-plus would be worthy of some discussion. Many rural communities were very comfortable with the 1-plus formula. That created a question of whether or not one size fits all. He recalled that Chairwoman Kirkpatrick brought up the question of handling the second-tier distribution through a memorandum of understanding (MOU), and every entity could be a little different. He said that he tried to structure something to handle all that, and that would work with the rural communities to see whether or not the impacts of, for example, 0.03-plus are very similar to 1-plus. A potential solution to this problem to prevent the inequities associated with 1-plus, or the distribution problems associated with zero-plus, would be to simply adjust the CTX excess calculation to include a plus factor that approximates modest growth in population and AV, which would balance the need for system stability, while increasing the nexus between revenue growth and community growth.

Mr. Aguero said the final piece was a circuit breaker. As complicated as the formula must be to address all aspects of the CTX, the working group and the Subcommittee cannot think of everything. Circumstances will arise that can be neither contemplated, nor modeled. A method to address the formula, when and if it breaks down, is something that the working group will continue to work through.

Mr. Aguero said that the impacts on slower growing jurisdictions is that the base adjustments would reflect inflation, and they would share modestly in incremental growth revenues. A slower growing jurisdiction would essentially get very little under zero plus, but would get more under this scenario. For faster growing jurisdictions, there are two benefits: 1) They will default to 1-plus and get a proportionate share in terms of excess; and 2) Those allocations would be added to their base. He said that one of the biggest problems was that faster growing jurisdictions have benefited tremendously by the huge growth in the state and then were disproportionately destroyed on the way back down.

Mr. Aguero said that special districts would benefit by eliminating their sole dependence on AV growth to participate in excess distributions. They would also start with a modest amount so that they would also benefit from excess. In terms of hold harmless, it was pretty tough on the special districts, which did not have any population distribution. He said that the rural and urban areas were treated similarly, respecting the ability for individual counties to modify their particular distribution through an MOU.

Mr. Aguero said that there was much more work to be done. He said that some of the outstanding issues were as follows:

1. Vetting of alternatives among a wider range of local governments. He said there was now a process and a tool to measure the differences and adjust everything from CPI, to base, to growth factors, to other formulas.
2. What happens in the event a local government enters a long-run period of decline? He said that the mining communities' economies peak and drop consistently. He asked what would happen if an entity had a long-term period of decreased population and AV. One of the problems is how those entities should be treated. Right now the working group is trying to insulate everyone from these ups and downs.
3. When does the circuit-breaker kick in? How long does it last? In the event that something unusual happens in a community, for whatever reason, as part of the circuit breaker, should the formula revert back to the percentages that happened last year in order to protect against an aberration, and not put it on the shoulders of the Legislature? Also, how long would it last, and how do we get out of it?
4. What happens in the event a new local government is formed? We do not know what will happen when a new government is formed, because we do not know how the formula functions.
5. Should the hold harmless factor be applied to both AV and population growth rates? In some of the discussions it was considered that AV should not be able to go below zero, but population growth would be allowed to go below zero. He said that the population was a pretty important factor overall, and this might help in the event the AV is negative and the population is negative.
6. Does the formula create administrative challenges for Taxation? The formula must be something that Taxation can work through.
7. What becomes the new base year (start year) for the revised CTX calculation? He said that this is related to the question asked by Chairwoman Kirkpatrick about how to start, and whether there would be adjustments.
8. What are the specific implications for libraries and library districts?
9. Where does the final plus factor land? He said that this could fall anywhere on the spectrum.
10. Is the CPI the right index for annual base adjustments? What happens in the event of hyper-inflation? The inflation rate is added the base. Some local governments might say that if inflation is going up, then their expenses are going up as well.

Mr. Aguero thanked the Subcommittee for the opportunity to speak, and the local governments for allowing him the opportunity to work on the project. He appreciated the cooperation of the parties involved.

Chairwoman Kirkpatrick noted that the state has no money to pay for any new implementation by Taxation. She said that either the local governments would pay Taxation to implement the plan, or find something different. She said it could be a pretty big fiscal note on an already shortened budget.

VII. OVERVIEW AND DISCUSSION OF RESPONSES BY LOCAL GOVERNMENTS AND SPECIAL DISTRICTS TO THE CTX ISSUES RESPONSE FORM.

This agenda item was taken out of order.

Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, thanked the local governments for responding quickly to requests for information from staff. He said page 59 of the meeting packet ([Exhibit A](#)), showed the responses from the local governments to a survey regarding the CTX. He noted that LCB staff did not summarize or paraphrase the responses. The intent of the survey was to ensure the local governments had a chance to stay engaged in the process, and to let them know what was proposed at the prior meetings.

Mr. Guindon noted that Lander County's response was not included in the meeting packet ([Exhibit A](#)), but it was posted to the Subcommittee website with the other responses on the [website](#). In addition, some of the local governments included cover letters with additional information in their responses. Those cover letters were included in the meeting packet behind tab X (page 123).

Chairwoman Kirkpatrick thanked staff for collecting and compiling the responses. She said that it was important to have this information on the record.

VIII. ISSUES FROM LOCAL GOVERNMENTS REGARDING THE FIRST-TIER DISTRIBUTION OF CTX REVENUE.

This agenda item was taken out of order.

Chairwoman Kirkpatrick said that she understood that some of the local governments were working together; however, she wanted to make sure that everyone was heard on these issues, because she did not know how closely the north and south were working together. She thought there was probably one specific proposal for change that people were trying to work from as a basic map. She said that the Subcommittee was trying to figure out what was agreeable and what was not agreeable. She wanted to make sure that all of the local government opinions were on the record. She asked for comments on the first-tier distribution.

LeRoy Goodman, Mayor, City of Fernley, thanked the Subcommittee for the opportunity to address the members. He said today's meeting was very interesting with lots of good information on the CTX and its problems. He said that Fernley is unique because its problem was with the base amount, rather than the 1-plus or zero plus. Fernley was the only municipality to incorporate in the state since 1997. One entity changed from incorporated to unincorporated, and even though the population in that entity decreased to less than half of what it had been, it receives more CTX than it did in 2001. He said that the Subcommittee members had heard about these problems before. He was hopeful that the legislative process can result in increased base CTX distribution to

Fernley. The City of Fernley appeared before the 2011 Legislature and the Department of Taxation to request a change to the CTX distribution. The two requests by the City of Fernley to receive some of Lyon County's tier one distribution were denied. The City of Fernley has chosen to file a lawsuit to seek relief through the judicial system. He said that the City of Fernley was simply asking for an equitable base amount and to be treated like the other entities in the state, whether they are cities, unincorporated towns or counties. He said that Fernley is also unique because it is the largest city in Lyon County, yet it is 50 miles from the county seat. He said that Fernley is much closer to four other county seats in western Nevada than to its own county seat. He said that Fernley is also different in the fact that it generates 35% to 45% of the assessed value, and has 36% of the population of the county, yet its base distribution is less than 1% of the revenue that comes into the county. He said that the base is the factor that needs to be changed. He said that the additional revenue would be used for roads, which are a tremendous problem in Fernley; a water treatment plant; and parks. He noted that the population of the City of Fernley decreased by only 300, to 19,000, over the recession. There was lots of industry coming into Fernley. He noted Amazon was in the process of increasing their staffing level, and hired 160 new full-time, permanent employees in March 2012. Amazon planned to add another 1,100 employees before November 1, 2012. He said that the City of Fernley had a viable economic development organization, and was working with the Economic Development Authority of Western Nevada (EDAWN) and the Northern Nevada Development Authority (NNDA). In conclusion, Mayor Goodman said that the City of Fernley needed an equitable distribution of the CTX.

Senator Lee asked if the current base had been assigned to the City of Fernley, and how many years ago that occurred. Mayor Goodman replied that in 1997 when the CTX was formulated, under the "six-pack" of taxes the City of Fernley received about \$84,000 as an unincorporated town. In 2001, the City of Fernley received \$100,000, and in 2011, the City of Fernley received a base of \$120,000. With the excess, it amounted to about \$136,000 for the year.

Senator Lee noted that Mayor Goodman was previously a county commissioner. He was now the mayor of a smaller, more intense group of people. This base adjustment would come from the county, which would have to share some of its first-tier money with the City of Fernley. He asked about the relationship between the county and the city.

Mayor Goodman said that when the City of Fernley incorporated in 2001 it entered into an agreement with the Lyon County Sheriff's Department to continue to provide services. The Lyon County Sheriff was named Chief of Police of the City of Fernley. He noted that the City of Fernley residents pay \$0.64 property tax to Lyon County. He said that in 2007, the Lyon County Sheriff said that the agreement was no longer needed, because the county needed to have a presence in the city. Today, Lyon County has 13 deputies and one administrative assistant within the City of Fernley. He noted those deputies cover Stagecoach, Silver Springs, and travel to wherever they are needed, because they are Lyon County deputies. He noted that the fire district was a separate district, which received some CTX. The City of Fernley residents also pay

\$0.265 property tax to the North Lyon County Fire District. He explained that when the City of Fernley incorporated in 2001, because the North Lyon County Fire Department and the Fernley volunteers owned all of the firefighting equipment, Assemblyman Joe Dini, who was Speaker at the time, proposed a bill to keep the North Lyon County Fire District as is.

Senator Lee asked whether there was a procedure to change the base. He noted that many cities were not happy with the base, and wanted to negotiate with the counties.

Mayor Goodman said that the remedy could be addressed by allowing Taxation to review unusual circumstances, such as the situation in which Fernley became a city. He noted that there was a procedure for that input for a limited time, but according to Ms. Rubald's testimony, Fernley would not have access to that remedy, because it required a request to Taxation one year before the action took place. He explained that Fernley voted to incorporate in November of 2000, and became a city on July 1, 2001. There was no city council in place to pass a resolution to ask for this money at the time it was required. He said that there has to be a procedure whereby a city, unincorporated town or county can make a case to Taxation, and involve the other entities that may be affected. This would prevent litigation and involvement by the Legislature. He believed that one of the speakers mentioned putting an appeals process in place, and allowing the Nevada Tax Commission to make the final ruling.

Assemblyman Ellison noted that in order for a jurisdiction to be eligible for CTX distribution, it must be committed to providing police services and parks. He asked if that was done, or was in the process. Mayor Goodman said those services were in place. He noted that both the City of Fernley and the City of Yerington received funds from the county for police services. The City of Fernley has taken over all of the other services, and was taking over the Lyon County cemetery, which will become the City of Fernley cemetery on July 1, 2012. He said zoning, planning, community development, municipal judges, city treasurer, city clerk, animal control, and vector control were the responsibility of the City of Fernley effective July 1, 2001. He explained that the former town of Fernley had owned the waste water system since 1972. He noted that in 2001 there was a 7.7777 cent road tax in Lyon County. In 2004 that tax was absolved and put under the general fund, and the revenue was no longer shared with the City of Fernley. That revenue amounted to about \$450,000 in 2004, and that had a devastating effect on the City of Fernley. He said the current road funds for the City of Fernley consist of the 9-cent RTC tax and the 2.35-cent gasoline tax, which generates close to \$1.1 million for roads, which is woefully short.

Assemblyman Ellison asked about the City of Fernley's police and jail services.

Josh Hicks of Brownstein Hyatt Farber Schreck, which was representing the City of Fernley, replied that the statute that references police service is not applicable to the situation in the City of Fernley. He said the statute lets a newly formed government apply before the end of the calendar year. That statute was not available to the City of Fernley. He said that these plans are not pertinent to that particular statutes. He said if

the City of Fernley had more CTX funds, it would be appropriate for Mayor Goodman to discuss those issues, but he wanted to make sure that the Subcommittee understood that the statute itself was not an available remedy to the City of Fernley, or to any city that is already incorporated.

Mayor Goodman noted that the jail was located in Yerington. He said that there was a new \$26.5 million public safety complex being built. He explained that the county was using cash for the project, rather than bonds. He said that the residents of the City of Fernley and the city council felt strongly that, should they prevail in getting and increase in the distribution of the CTX, the City of Fernley would augment the Lyon County Sheriff's Office with City of Fernley staff. He was very happy with the Lyon County Sheriff and the services it provided to the City of Fernley. He said that the substation had a lieutenant and a captain because it is on Interstate 80, which is very busy. He would augment that staff with four to six deputies to be permanently stationed in the City of Fernley. He said that there were times when there was something happening outside of Fernley – for example, in Silver Springs – leaving only one Sheriff's Deputy in Fernley for up to 8 hours, for a population of 19,000.

Senator Lee asked Mr. Hicks about the lawsuit on behalf of the City of Fernley. Mr. Hicks said that Mr. Yu of the LCB Legal Division provided a succinct description of the lawsuit. Mr. Hicks said that the lawsuit was pending in federal court. It was filed, but not served. The parties in the case are the City of Fernley and the defendants in the case are the state Department of Taxation and the State Treasurer. Those are the parties that administer the CTX system for the state. He said the lawsuit was in a preliminary phase.

Senator McGinness noted that one of the impact assessment topics brought up by Mr. Aguero was that rural and urban areas would be treated similarly, respecting the ability for individual counties to modify their particular distribution through a memorandum of understanding (MOU). He asked if the City of Fernley has requested a specific amount of funding from Lyon County.

Mayor Goodman said that in 2011, the City of Fernley asked for 10% of Lyon County's \$13.2 million share of the CTX, and that request was denied. He said that in 2012, the City of Fernley simply asked for the opportunity to discuss the development of a MOU for a portion of the CTX. He said that the request was denied on April 5, 2012. He said that the biggest concern for the City of Fernley was funding for roads.

Chairwoman Kirkpatrick noted that the 2011 Legislature agreed to perform a study to review the CTX. She said the CTX distribution was a complicated issue that affected 175 entities. Of those 175 entities, 6 had issues with the current CTX distribution formula. She said it was unfair to expect the legislature would digest the problem in the 120 days of a legislative session. She said that the interim study has been productive, because there were discussions about a potential solution for all entities. She warned that changes could be made to the formula that would result in 100 entities disagreeing with the distribution. She did not want for the legislators to be pitted against each other.

She said that the legislators all represented different entities, and had to do what was best for the state.

Chairwoman Kirkpatrick understood that the City of Fernley incorporated after 1998, and asked why the statute requiring that the entity provide police protection would not apply. Mr. Hicks said that he was referencing the process in the statute. He said that the statute was applicable, but because the application must be made within 12 months and was not made for whatever reason, it is not applicable today. The City of Fernley cannot currently ask for an adjustment under that statute.

Chairwoman Kirkpatrick asked Mayor Goodman what the residents expected for the City of Fernley when it was incorporated. Mayor Goodman explained that Fernley had been an unincorporated town. A committee of five people started a petition process to ask that Fernley be incorporated. The city was required to encompass all of north Lyon County under the statute at the time. The committee presented the petition to the Lyon County Board of Commissioners, and the county clerk verified there was a sufficient number of signatures. The Lyon County commissioners voted unanimously to allow Fernley to move forward with the process and put the item on the ballot for a vote by the residents of Fernley. It was placed on the ballot in November of 2000, and it passed almost 3 to 1 for incorporation. The committee then testified before the Committee on Local Government Finance (CLGF), and provided a tour of Fernley to the CLGF members, which made the determination that Fernley was big enough to incorporate. The committee submitted a preliminary budget using the CTX distribution the town of Fernley was receiving at the time. The Lyon County Sheriff's Department agreed to continue to provide police services to Fernley. There was an election, at which time five council members and a mayor were elected, which took effect July 1, 2001. He said there was much to learn in the process of changing from an unincorporated town to a city. For an unincorporated town, decisions on budgeting, planning and zoning are approved by the county.

Chairwoman Kirkpatrick asked whether the residents who were involved in the process of incorporation thought they would be provided police services and road services. Mayor Goodman said the Lyon County Sheriff indicated that the county would continue to have a presence in the city and would provide those services, and had agreed to serve as the chief of police effective July 1, 2001. The residents understood that their property taxes would probably increase. Because Fernley is a distance from the county seat, the residents liked the idea of a local government based in Fernley.

Chairwoman Kirkpatrick said that Lyon County and the City of Fernley had provided testimony that they would meet in April to discuss the issues. She asked if that meeting took place. Mayor Goodman said that the City of Fernley met with the Lyon County Commission in early April 2012 to request an MOU to enter into an agreement for a portion of the CTX received by the county for the City of Fernley. There was discussion in an open meeting, and the Lyon County commission denied the request.

Jeff Page, Lyon County Manager, said that representatives from Lyon County have advised the Subcommittee on more than one occasion that it is opposed to any change to the first-tier distribution. However, they would be willing to discuss changes to the second-tier distribution. He noted that the Board of County Commissioners has twice rejected the City of Fernley's request for an MOU regarding the CTX funding due to advice from legal counsel that the City of Fernley would have to take on additional services, noting that Fernley has yet to provide information as to what services they would take on, other than to improve the road system. He said that the Board of County Commissioners has dealt with budget deficits over the past few years. This year Lyon County cut \$3.3 million from its budget, and the City of Fernley has not taken on any additional services that would reduce the budget concerns of the county. He said that the county had the same problem with lack of funds for road improvements as the City of Fernley. He said that if the county brought the roads up to standard, it would have a deficit of \$30.2 million. He noted that the county was building a justice complex, including a new jail facility. He said that 100 inmates were housed in a jail that was designed to house 50 inmates. The county did not want to address the overcrowding issue in the federal court system. He said that the Lyon County Board of County Commissioners want to work with the City of Fernley to on the road issue. He noted that the City of Yerington also has issues with road funding. The Lyon County Board of County Commissioners is considering developing a general improvement district to address the road situation.

Mr. Page said that the Lyon County Board of County Commissioners is reluctant to enter into an MOU regarding the CTX, because there are a number of services that the county must provide statutorily that the cities are not required to provide. That includes human and social services, as well as senior services. For example, the Nevada State Legislature and Lyon County, with the cooperation of all of the Nevada counties, discussed taking on services and paying for services. He said that any further cuts to the CTX distribution to Lyon County would greatly reduce its ability to provide services that are mandated by the State of Nevada. He said that the county has reduced its non-mandated services drastically. For example, although the libraries remained open, the work was performed by volunteers, with very limited paid staff. Funding for the senior centers has been reduced. Funding for mandatory services, such as the Sheriff's Office, was reduced by 3% to 4%. Other elected officials' budgets were also reduced. He said that if Lyon County had the funding, it would be happy to discuss changes to the CTX formula. He did not anticipate any major changes to the county's economy for the next three to five years.

Josh Foli, Lyon County Finance Director and Comptroller, said Fernley had been an unincorporated town that levied a tax for parks and had a fee-generated utility operation. Fernley originally received CTX distribution for maintaining the parks within its limits. He said that the CTX for the maintenance of the parks has continued, and that is where the current distribution of consolidated tax originated. Fernley had the opportunity when it incorporated to take additional CTX under the statute. In his professional opinion, the statute allowed Fernley to take CTX if it provide the services that the CTX funds. That statute requires that the entity take over police services and

some additional functions, such as parks, roads and firefighting. The city would then receive an agreed upon amount of the CTX that had formerly been distributed to the county. He said that the City of Fernley chose not to take over the responsibility of police services. They left that to Lyon County, because it would be more cost efficient for the citizens. He agreed with that decision. However, he noted that the if the statute was no longer applicable to the City of Fernley, that did not mean the city cannot take over the services if they wished to. He noted that NRS 354.598747 allows an entity to receive CTX from another entity if it takes over services that had been previously provided by that entity. He did not want the Subcommittee to be misled that the statute that requires an entity to take over the services to receive CTX is a one-time opportunity. He said that the entity can negotiate to take over the services and receive the CTX at any time.

Mr. Foli said the public safety services for the City of Fernley are being provided by other entities. That is why it appears the City of Fernley is not receiving its fair share of the CTX revenue: the CTX revenue is being distributed to the entities that are providing those services. He said that, excluding the cities in the mining counties, the other cities in the state, which includes Carson City, Henderson, Las Vegas, Mesquite, North Las Vegas, Reno, and Sparks, are spending more for firefighting and law enforcement services than they receive in CTX revenue. He said that if the City of Fernley were to receive the CTX revenue, they would spend all of that money providing the services that are currently being provided by other entities, so that skews the numbers. He thought it was more cost effective to leave the responsibility for the services with the other entities, but if the City of Fernley were to take over those responsibilities, they would spend all of the CTX revenue that they received just to provide those services.

X. ISSUES FROM LOCAL GOVERNMENTS REGARDING THE SECOND-TIER DISTRIBUTION OF CTX REVENUE.

Chairwoman Kirkpatrick noted that some of the response from the local government entities regarding the second-tier distribution were fairly vague. She noted that some of the entities expressed that they wanted to continue working together. She did not know whether there were entities that were not part of that working group that wanted to become part of the working group. She asked to keep the discussion general in order not to hamper the good work that is being done.

Mark Vincent, Chief Financial Officer, City of Las Vegas, said that he was very supportive of the efforts of the de facto working group. He said that the working group collaboration was not planned – it started with the City of Henderson and has grown. There were 11 entities at one of the meetings and more participating via the Internet, and that was very encouraging to him. From the City of Las Vegas' perspective, he would work hard to resolve whatever issues could be resolved. He believed that the group was pretty close to agreement on some issues. There was a list of 10 or 11 issues that have not be addressed.

Mr. Vincent said that the working group has been discussing specific formula issues. Some of the issues were dealt with changes made as a result of Assembly Bill 10 of the Special Session (2001), with the idea of reverting back to the base. There seemed to be some warming to that idea amongst the working group. There was some discussion of the plus factor, and Mr. Aguero previously explained how the working group arrived at that range of plus factors and why that was important. He said this would not help the City of Las Vegas, which would benefit by a return to a 1-plus factor, but that was how A.B. 10 came to be, because the 1-plus factor was not responsive enough to faster growing communities. He felt that no-plus or zero-plus was not stable enough.

Mr. Vincent said that with respect to the idea of the AV and population being separately held harmless, if the formula was left as is, where the population and AV together could not be less than zero, he did not know what would happen with communities that have a sustained long-term decline. He said that someone mentioned earlier that an entity had no growth, but was getting more in CTX distribution than it had received originally. He said that there has been discussion that population should be allowed to go negative, particularly when a 5-year rolling average and a modest plus factor in the range of 0.01 to 0.03 was applied. He said that the working group would include anyone who was interested and would continue to meet as often as needed to resolve the issues.

Assemblyman Ellison asked whether all of Nevada was invited to participate in these hearings, particularly rural Nevada. Mr. Vincent said that any entity was invited. He said that it was not in the best interest of the working group to exclude anybody. He said Mary Walker attended a recent meeting representing some of the rural areas, and she brought up some important issues. He said that there were some special rules with respect to the rural counties and mining tax. He was concerned about how the topics of the working group, and the three specific formula issues, would work in concert with the special rules.

Mr. Vincent explained that Mr. Aguero set up a "Go to Meeting" site where people could dial in to converse with the group, and also see the presentation. He was not sure that would reach all 170 entities throughout the state, but they were doing the best that they could.

Assemblyman Ellison said that the state was made up of entities with different concerns. He said that it was important that all counties were represented. If not, there could be an issue with one or two counties. He said that the Nevada League of Cities and the Nevada Association of Counties (NACO) should be involved, because they represented a large number of these groups.

Mr. Vincent said that NACO was represented at a recent meeting. He said that as interest in the working group grows, the meetings would be conducted more formally.

Senator Lee asked Mr. Vincent whether the formula could be fixed if the 1997 bases were recalculated, or if there was a structural challenge to the current formula.

Mr. Vincent said that he did not know the impacts to the entire state. There were a handful of entities that did not think the formula served them well over the last 15 years, and that was on Mr. Aguero's list of issues. One issue is how to set the new base, and over what period of time. There could very well be a base adjustment as a result.

Chairwoman Kirkpatrick said that this was truly a local government issue. She thought there were folks from the public that would like to participate in the process. She wanted all voices to be heard. As the process moves forward, and the work of the Subcommittee winds down, there are other options for discussion - for example, the county base level through an MOU. She asked how the entities were invited to participate in the process. She asked for a list of the entities that have participated, and the entities that were invited that did not want to participate. In the past there were complaints that the process was not open. She promised to make the process open, and gave all of the entities the opportunity to send questions to the Subcommittee members by e-mail, or ask questions on the record during the meetings. She noted that the state has to take into consideration all 175 entities. She asked how interested parties could find out about the meetings of the working group.

Mr. Vincent said that the working group was formed at the grass roots. He said that there was no intention of the working group to exclude or include any entity. He would like to give some thought to the public meeting aspect. He said that the working group would reach out to every entity as best we can. He would think about how to announce the meeting so that people who have an interest could participate.

Chairwoman Kirkpatrick said that NACO and the Nevada League of Cities would be resources for contact information. She noted that the City of Sparks was not part of either organization, but she would like for them to be included in the process. She said that before the next meeting, she would like to know specifically how the different solutions came about and were agreed upon. She said that in the past, local governments have offered their buildings to host meetings. She would refer people who wanted to be part of the process to Mr. Vincent.

Mr. Vincent said that the most recent meeting was in Reno, and some of the working group traveled to the meeting site to make sure they were more inclusive.

Cadence Matijevich, City of Reno, noted that there have been a number of questions with respect to individual entities requesting base adjustments. She noted that the City of Reno is one of those entities. When requested to bring forth specific issues with the CTX, the base allocation adjustment was identified as one of the issues by the City of Reno. She said that the request does not specifically speak to the current allocation formula, but rather goes back to the formula that was used to develop the original base allocations. Those issues date back to the 1998 original base allocations, and some issues went back to the 1981 tax shift. There was a letter from Taxation included in the original commentary from the City of Reno. Reading from the letter, Ms. Matijevich said that during the review of the assessed valuation for the years preceding FY 1981-82, it was apparent that the initial year under the new appraisal basis resulted in tremendous

increases in valuation for some local governments. For FY 1981-82, an adjusted cash value was used as factors were being developed for converting from the full cash value to the new taxable value, and they believe this transitional process had a negative impact on the newly established property tax rates. Essentially, there was an inequity created in the beginning that goes all the way back to the 1981 tax shift. That inequity has been carried forward through the formula due to the original base allocation.

Ms. Matijevich said that to further validate Taxation's position, when the 17th Special Session of the Nevada Legislature adopted A.B. 10, a one-time base allocation adjustment was made for one of the 12 entities for which Taxation made a recommendation. The City of Reno believes that was an indication by the Legislature that they found validity in the recommendation from Taxation. She said that the City of Reno was very pleased to be part of the working group, and was grateful to the cities of Las Vegas and Henderson for engaging Applied Analysis, which has done a tremendous amount of work.

Ms. Matijevich noted that some of the other jurisdictions responded that the base allocation was a Washoe County issue, or that the City of Reno was looking to make up for shortfalls due to the economic downturn, but that was not the case. She said that the issue went back to when the formula was originally established. She appreciated the opportunity to put those comments on the record.

Chairwoman Kirkpatrick noted that this has been an issue for 30 years, and asked whether the City of Reno has ever submitted a bill draft on the topic. In addition, she asked whether Washoe County was performing annual appraisals.

Ms. Matijevich said that she was relatively new to the City of Reno, which has had significant turnover in its management in the last couple of years. She said that in 1998, the City of Reno followed the process that was allowed, whereby it requested an adjustment to its base allocation. That was not upheld. She did not know why the City of Reno did not come forward in 2001. She said that when the economy improved, the City of Reno's budget grew, but now that revenue was declining, the situation was exacerbated. She noted that Chairwoman Kirkpatrick asked all of the local governments to come forward and identify any issues, so that new issues that were not discussed in the Subcommittee meetings were not brought before the 2013 Legislature. That is why the issue was brought forward. She said that the City of Reno is committed to working through it, and were not convinced it was the only fix.

Chairwoman Kirkpatrick said that she did not have a problem with issues being brought forward to the Subcommittee, but she did have a problem when the entities did not try to fix the issues themselves. It was unfortunate that when times are tough, everyone wants everything fixed. She did not want the entities that responded in writing to not do that in the future, because there needs to be a dialog. She asked how this issue was addressed, or whether it was even brought up. She did not recall seeing a bill draft on this topic when the entities began making budget cuts in 2009. She said that it was

hard to go back to where the problem started. She could claim that 30 years ago she should have gotten this too, but she would have at least tried to fix it more than once.

Ms. Matijevich said that was fair enough, and she did not mean to demean the comments of the other presenters. She hoped to clarify that this has been an issue, and it has been addressed. She reported a presentation was made to the Senate Committee on Taxation on April 1, 2007, showing that the issue has been raised over time. The City of Reno has a limited number of bill drafts, and must use them judiciously. She did not know why that decision was made, and the management that made the decision is no longer there to ask. She expressed her appreciation for the consideration of the Subcommittee.

Chairwoman Kirkpatrick asked that Ms. Matijevich provide a copy of the 2007 presentation to LCB staff to be distributed to the Subcommittee.

Senator McGinness said that he was the chairman of the Senate Committee on Taxation for five legislative sessions. Although there was no bill draft, the City of Reno was involved in a couple of those discussions, and the lobbyist that presented to the Senate Committee on Taxation was no longer with the City of Reno. During one of those sessions, the issue was very politically charged, and the City of Henderson was the only entity to have its base adjusted. He said that he has never represented Washoe County, but he wanted to come to their defense.

Chairwoman Kirkpatrick said that she appreciated the history on the issue. She asked if William Chisel, Executive Director, Department of Taxation wanted to speak on the issue. Ms. Matijevich said that Mr. Chisel had been in attendance to answer any questions about the formula that created the base adjustment that is used to determine the distribution.

Chairwoman Kirkpatrick said that some of that may be addressed through participation in the working group.

Dan Musgrove, City of North Las Vegas, said that the City of North Las Vegas was in the same position as the City of Reno, to a degree. He said that North Las Vegas had the benefit of the Committee on Local Government Finance (CLGF) process, and has brought to the attention of others the concern of how the formula was affecting them as an entity. He said that there were multiple bill drafts over the years, as well as multiple presentations to the CLGF for relief. He said that the City of North Las Vegas was still in the same position, because the changes were never made to their satisfaction. He called the Subcommittee's attention to the letter from North Las Vegas on page 131 of the meeting packet (Exhibit A). He wanted the Subcommittee to know that the City of North Las Vegas had put its position on the record so that it has an opportunity to stay at the table throughout the entire process. His biggest concern was the base. That was brought up during the working group meetings. He applauded Applied Analysis, the City of Henderson and the City of Las Vegas for being open and inclusive. He said that Applied Analysis was obviously working for those two entities, but he guaranteed that

they are willing to listen to any entity and run scenarios through the model to determine the statewide impact. He said that they wanted to understand how their suggestions affected the state as a whole. One thing that North Las Vegas has learned through this process, is that a change has an effect on every other entity. The pie was a certain size, and the only way to increase the amount given to one entity was to take away from another. He said that the elected officials of North Las Vegas would not try to do that. That was why North Las Vegas asked for the study, to figure out what was in the best interest of every entity that has a dependence on CTX. All of the entities have a tremendous need for the CTX to continue as a part of the budgets.

Mr. Musgrove said that the working group was coming up with some very promising ideas. They have agreed that the North Las Vegas base is something that the Clark County jurisdictions are going to have to figure out within the county.

Mr. Musgrove was not sure what North Las Vegas would do about its library district. For the North Las Vegas Library District to get money, others would have to give it up. While they could show that other library districts probably have a much greater share of dollars than they should, based on their population, that is not necessarily a good way to look at things. They did not want to tell the Subcommittee that their position is to take away from others, but they believe that the library district should be a part of the conversation. How the City of North Las Vegas deals with the base is their determiner going forward. He said that the issues presented by Mr. Aguero are the issues that North Las Vegas believes need to be addressed. He agreed with the Chairwoman that the issue cannot be resolved in 120 days. He thanked Chairwoman Kirkpatrick and Senator Lee for making sure that the bill was processed and that the study was taking place. He believed that it was an excellent use of taxpayer dollars.

Senator Lee recognized that North Las Vegas Councilwoman Anita Woods was in attendance in support of her community. He understood that this issue was not just about North Las Vegas, but was about the communities that felt they were discriminated against in 1997. He asked, if the formula was fair across the board to everyone, what effect would that have on North Las Vegas.

Allan Zochowski, Finance Director, City of North Las Vegas, responded that he had done some preliminary estimates on the distribution that might happen with the City of North Las Vegas, and it appears that it might be as much as \$30 million under-distributed, depending on what the rule end up being. The minimum that he had been able to calculate was that the City of North Las Vegas was being underfunded in the vicinity of about \$20 million per year-again - depending upon the rules.

Chairwoman Kirkpatrick asked how that amount was estimated. Mr. Zochowski said that he considered a couple of scenarios. For example, what would happen if the CTX distribution was distributed strictly on population? Or what would happen if a portion of the CTX was set aside for distribution just on assessed values, and the remainder was distributed just on population? He said that on a per capita basis, which may not be the most equitable way to distribute the CTX, North Las Vegas was in the vicinity of the

\$38 million difference. If the SCCRT portion was distributed based on assessed value, and the other five revenue sources are distributed on population, the City of North Las Vegas would be underfunded by about \$20 million. He said that the question was what the proper base should be.

Chairwoman Kirkpatrick said that as a resident of North Las Vegas for 19 years, and as a representative for North Las Vegas, she became nervous when numbers like that were thrown out. She said that every day someone is telling us that we have to fix the CTX so that it can solve the problems of North Las Vegas. She said that there is no amount of money that can come out of CTX that can fix the long-term problems. She believed that everyone has a little bit of inequity, but when a number like \$30 million is quoted, the residents think that if that money was given by the Legislature, North Las Vegas would be whole again. She said that 175 entities would feel the effect of any change to the CTX distribution. She asked Mr. Zochowski to give those numbers to LCB staff with an explanation of how they were calculated. She asked Ms. Matijevich to provide her calculations to LCB staff as well. Chairwoman Kirkpatrick said that she would review the numbers with her staff.

Chairwoman Kirkpatrick noted that CTX was not distributed to the North Las Vegas Library District in the past, because the district was created after it had been part of a department. She did not know if that was ever clarified. She recalled there had been a property tax override for the library tax district, and she asked whether that was still in effect.

Mr. Zochowski said the library district for North Las Vegas was formed in 1993 by legislative action. At that time, Senator Raggio made a point that the library district would not receive SCCRT revenue. Because the North Las Vegas Library District was not receiving SCCRT revenue when the CTX went into effect in 1997, the library district did not qualify, because it was not receiving one of the six revenues.

Mr. Musgrove said that this discussion was not about the City of North Las Vegas and its elected officials putting blame on anybody, especially the Legislature. It was a process that has gone on over the years that we have all been a part of. Decisions were made that were in the best interest of all parties at the time, and nobody understood what would happen as a result. The City of North Las Vegas had expected to become the same type of bedroom community that Henderson was becoming. The City of North Las Vegas has a different perspective with its industrial land, and because of the economy, things have not happened as they had hoped or expected. He said that they all must take responsibility for decisions that were made, but that they do not want to blame anyone. The city just wants to work collaboratively going forward and appreciates the work of the Chair, the Subcommittee and staff.

Assemblyman Ellison asked whether there was a pie chart showing the CTX distribution to the entities in the State of Nevada. He said that would give the idea that some of the smaller counties are struggling just as much as Clark County. Chairwoman Kirkpatrick said she would ask staff if they can generate a chart.

John Sherman said that, as the former finance director of Washoe County, he has been dealing with the CTX issue for over 15 years. He said that Washoe County provided information in its response to the survey. There were a number of entities that appealed the base that was initially set for the CTX. Taxation did an analysis which was fairly represented here today. The process continued on, and the recommendations were reviewed by the CLGF, which ultimately decided not to approve most of the base adjustments, including the City of Reno's request. Washoe County also applied for a base adjustment and was denied. The final results were reviewed by the Nevada Tax Commission. Over the course of the years, this issue has raised its head and certainly, in front of various legislative hearings. He recalled that in 2005, there was an attempt to amend a bill to increase the base for the City of North Las Vegas, the City of Sparks, and the City of Reno. That amendment failed to make it into legislation. He also recalled that Washoe County provided information to the Senate Committee on Taxation during the 2007 Legislative Session when this issue was raised. He said that a lot of statistical information was provided by the City of Reno and Washoe County. Lastly, Washoe County has been participating with the working group, and he has met on a number of occasions with Mr. Aguero. He appreciated Mr. Vincent's willingness to allow others to participate. He thought that the working group has been very fruitful. Lots of ideas were brought up, and some of those were presented to the Subcommittee. He thought those ideas would make for a more complete and thorough analysis of the issue.

XI. SCHEDULING OF FUTURE MEETINGS.

Chairwoman Kirkpatrick said that she would ask the Legislative Commission at its May 22, 2012, meeting, for a waiver from the June 30, 2012, deadline. In addition, she would request funds for additional meetings to ensure there was plenty of time to complete the process. She thought the working group was trying to do what was best for everybody. There are some good discussions going on, and she would like to see it expanded so that more people were invited to participate. She said she would rather have no BDRs than to have a BDR that pits legislators against each other. She said that was not fair to the legislators, and she thought it would be beneficial for all of the entities to work together.

Chairwoman Kirkpatrick recalled that Senator Lee had talked about a BDR to create legislation that allows the appointment of a committee to review CTX distribution review process. She said that this was a reasonable idea, but rather than the Legislature performing the review, she proposed the review be performed by the CLGF. She did not want for this review to become an annual legislative process as it has been for the past four sessions. She thought that there should be a different way of reviewing the CTX distribution. She said that there was consensus on extending the MOU date. She said that it was amazing how well the group was working together on a deadline.

Chairwoman Kirkpatrick said that Senator McGinness was the legislator who was most knowledgeable on CTX. She said that there was lots to learn, but the Subcommittee

must explain the complex issue to 57 other legislators. She asked the Subcommittee members about their thoughts on allowing the local governments more time to work. She thought it would be reasonable to allow time to continue the conversations.

Senator Lee said that he could not take credit for the Subcommittee, and credited Chairwoman Kirkpatrick for taking on a huge task. He supported an extension of the deadline. He wanted to be prepared for the 2013 Legislative Session.

Senator Parks supported allowing more time and was in favor of a late summer meeting.

Assemblyman Ellison said that Chairwoman Kirkpatrick did a great job of keeping the Subcommittee together, and that he would like to see the work finished. He said that it was important to get this project done, and he would like to present the 2013 Legislature with information.

Senator McGinness said that the month of June was open for him.

Assemblyman Daly agreed that the Subcommittee has made some good progress, and was on the verge of making a breakthrough. He would be available for a meeting the first or third week in June.

Chairwoman Kirkpatrick said that the Subcommittee would meet at 9:00 a.m. on either June 18 or June 20. That would allow the working group about six weeks to make some progress. That also allows time for the Subcommittee members to send their recommendations for BDRs, so that staff can start preparing those sooner rather than later. She would ask the Legislative Commission for an extended deadline as well as additional dollars for more meetings.

Mr. Guindon said that the idea of allowing the local governments to continue to meet would work well. He said the Economic Forum would meet June 11 or June 12. He noted that the date for the interlocal agreements was moved last session. He asked the local governments to be aware of that date. He would contact Terry Rubald and her staff at Taxation to make sure that the date will work for both Taxation and the local governments. The date would need to work within the existing Taxation deadlines.

In addition, Mr. Guindon said that if there were some agreement among the working group that the excess would return to the base, to let LCB staff know, because that would help staff prepare the agenda for the next meeting.

Chairwoman Kirkpatrick asked the working group to give LCB staff an update about the meeting date and the topics discussed. She said that the Legislative Commission would want to know when the BDRs would be done. She said that September 1 is the deadline for all agencies, and the Subcommittee cannot go past that point. Also, she hoped that the 2013 Legislative Session begins with agreement about a solution among the majority of the affected entities.

Senator Lee mentioned that he would like the agenda to include a discussion of the recalculation of the base as of 1997. He said that was one of the sticking points of the second tier was the base, and he would like to have that on the agenda for discussion.

Chairwoman Kirkpatrick asked Senator Lee if he wanted to know how the base was calculated from day one.

Senator Lee wanted to know that, and he asked whether it was a good idea to do that now for the second-tier numbers.

Chairwoman Kirkpatrick said that the formulas were time-consuming for staff to put together, so she wanted to be clear about what he was requesting. She said she would ask staff to determine 1) How the base was calculated for different entities for the original formula in 1997; and 2) Why the base cannot be reset at this time.

Senator Lee asked how the process would be handled if an entity wanted to recalculate its base at some time.

Chairwoman Kirkpatrick did not want for the Legislature to put in a process that allowed the formula to be recalculated every session because an entity did not like the results of the distribution. She said that there has to be stability for the other entities that would be affected on the base recalculation.

Senator Lee was concerned that there would be bill drafts every session from entities that wanted to make changes. He thought that if an entity was able to appeal the distribution every 5 to 10 years, it would prevent lawsuits.

Chairwoman Kirkpatrick noted that there has been one lawsuit in 30 years. The Legislature has tried to reach out to the entities. In the 2011 Legislative Session, the interim study was created, and it was one of the last bills to pass during session.

Senator Lee was concerned that there would be a lot of new legislators in the 2013 Session, who would be as demanding as the new legislators were during the 2011 Legislative Session. He asked if there was something in place that prevented the Legislature from reviewing the formula for a period of time.

Chairwoman Kirkpatrick said that she would hate to reward the entities that did not want to be part of the legislative process. She had received agreement from city councils and county commissions to stop bickering about this every session. Too much time had been put into this for someone to put forth a BDR or a lawsuit because they were not happy with the interim study. She thought that was disrespectful to the legislative process. She thought that everyone agreed that there would be some stability, at least for the next ten years.

XII. PUBLIC COMMENT.

Carole Vilardo, Nevada Taxpayers Association, thanked Chairwoman Kirkpatrick for providing lunch to the members and public. She recalled that she attended every meeting when the CTX was originally developed. She said that the discussion about the inclusiveness and the local governments being willing to work together was reminiscent of that. She recalled that over the last meetings the elected officials of the local governments signed off on the bill. She said that there were very good reasons to do it, and she did not remember any negative votes from the Legislature. She recalled that it passed unanimously in both houses.

Ms. Vilardo agreed with Chairwoman Kirkpatrick that any substantive changes that required major computer reconfigurations or new software programs would put a burden on the legislative money committees. She thought that it needed to be on the record it has come on the shoulders of the local governments to provide a certain amount of surplus to the General Fund. The cities and the counties, before they receive their distribution of sales tax, used to have 0.75% withheld as a collection allowance. In 2003, that collection allowance that had to be remitted, or was taken from the distribution, increased to 1%. It did not go to 1% because of the cost increased with tax; rather, it went to 1% to generate that excess money to go to the state General Fund to support general government services. The actual cost of collection was identified as 0.64%, and that should be reflected in the minutes of the Subcommittee.

Ms. Vilardo said that to take care of this current shortfall, the local governments are paying 1.75% for a collection allowance. To be fair, the local governments do not charge the state for collecting property tax. She said either Taxation should be enhanced, or the collection allowance to the locals should be reduced.

There was no further public comment.

XIII. ADJOURNMENT.

Chairwoman Kirkpatrick thanked the local governments for the historical data. She believed it would help future legislatures understand the history of the CTX.

The meeting was adjourned at 2:42 p.m.

Respectfully submitted,

Cheryl Harvey, Committee Secretary

APPROVED:

Marilyn Kirkpatrick, Chairman

Date: _____

**WORK SESSION – DISCUSSION AND POSSIBLE ACTION ON
CTX ISSUES RELATING TO:**

- a) BASE AMOUNT
- b) CONSUMER PRICE INDEX ADJUSTMENT TO THE BASE AMOUNT
- c) LOCAL GOVERNMENT INTERLOCAL AGREEMENT DATE DEADLINE
- d) CERTIFIED POPULATION ESTIMATE USED FOR PER-CAPITA
DISTRIBUTION OF CERTAIN FIRST-TIER CTX REVENUES

Legislative Commission's Subcommittee to Study the
Allocation of Money Distributed from the Local Government Tax Distribution Account
Work Session Document
July 26, 2012

Calculation of the base amount and Consumer Price Index adjustment to the base amount to be distributed to local governments and special districts each fiscal year (NRS 360.680, subsection 2)

Current Law

Pursuant to subsection 2 of NRS 360.680, each local government and special district eligible to receive revenue from the Local Government Tax Distribution Account receives a base allocation equal to the actual base revenue distributed in the prior fiscal year, adjusted by the percentage change in the Consumer Price Index for the year immediately preceding the fiscal year for which the distribution is made.

This calculation of base revenue was approved as a result of Assembly Bill 10 of the 17th Special Session (2001). Prior to passage of this legislation, each local government and special district's annual base allocation was determined by taking the total amount of revenue distributed to the entity (base plus excess) in the preceding fiscal year, adjusted for the percentage change in the Consumer Price Index for the year immediately preceding the fiscal year for which the distribution is made.

Subsection 1 of NRS 360.680 requires that each enterprise district that receives an allocation from the Local Government Tax Distribution Account receive a base allocation equal to the base allocation in the prior year, with no adjustments.

Current Statute

NRS 360.680 Annual allocations from Account.

1. On or before July 1 of each year, the Executive Director shall allocate to each enterprise district an amount equal to the amount that the enterprise district received from the Account in the immediately preceding fiscal year.
2. Except as otherwise provided in [NRS 360.690](#) and [360.730](#), the Executive Director, after subtracting the amount allocated to each enterprise district pursuant to subsection 1, shall allocate to each local government or special district which is eligible for an allocation from the Account pursuant to [NRS 360.670](#) an amount from the Account that is equal to the amount allocated to the local government or special district for the preceding fiscal year, minus any excess amount allocated pursuant to subsection 4, 5, 6 or 7 of [NRS 360.690](#), multiplied by 1 plus the percentage change in the Consumer Price Index (All Items) for the year ending on December 31 immediately preceding the year in which the allocation is made.

Proposed Changes

The changes proposed on the following pages in Change Number 1, Change Number 2, and Change Number 3 do not affect subsection 1 of NRS 360.680; enterprise districts would continue to receive a base allocation equal to the base allocation in the prior year with no adjustment.

Change Number 1

Subsection 2 of NRS 360.680 would be amended to require that the annual base allocation made to each local government and special district would be based on the total amount of CTX revenue (base plus excess) distributed to that entity in the prior fiscal year, adjusted for the percentage change in the Consumer Price Index. This change would restore the language originally approved under Senate Bill 254 of the 1997 Session.

Proposed Language for Change Number 1

NRS 360.680 Annual allocations from Account.

1. On or before July 1 of each year, the Executive Director shall allocate to each enterprise district an amount equal to the amount that the enterprise district received from the Account in the immediately preceding fiscal year.
2. Except as otherwise provided in [NRS 360.690](#) and [360.730](#), the Executive Director, after subtracting the amount allocated to each enterprise district pursuant to subsection 1, shall allocate to each local government or special district which is eligible for an allocation from the Account pursuant to [NRS 360.670](#) an amount from the Account that is equal to the amount allocated to the local government or special district for the preceding fiscal year ~~[, minus any excess amount allocated pursuant to subsection 4, 5, 6 or 7 of NRS 360.690,]~~ multiplied by 1 plus the percentage change in the Consumer Price Index (All Items) for the year ending on December 31 immediately preceding the year in which the allocation is made.

Change Number 2

Subsection 2 of NRS 360.680 would be amended to require that the adjustment to the annual base amount for the percentage change in the Consumer Price Index be based on the average percentage change in the Consumer Price Index over the 5 calendar years immediately preceding the fiscal year for which the CTX allocations will be made.

Under current statute, the percentage change in the Consumer Price Index is based on the calendar year immediately preceding the fiscal year for which the CTX allocations will be made.

Proposed Language for Change Number 2

NRS 360.680 Annual allocations from Account.

1. On or before July 1 of each year, the Executive Director shall allocate to each enterprise district an amount equal to the amount that the enterprise district received from the Account in the immediately preceding fiscal year.
2. Except as otherwise provided in [NRS 360.690](#) and [360.730](#), the Executive Director, after subtracting the amount allocated to each enterprise district pursuant to subsection 1, shall allocate to each local government or special district which is eligible for an allocation from the Account pursuant to [NRS 360.670](#) an amount from the Account that is equal to the amount allocated to the local government or special district for the preceding fiscal year, minus any excess amount allocated pursuant to subsection 4, 5, 6 or 7 of [NRS 360.690](#), multiplied by 1 plus the **average** percentage change in the Consumer Price Index (All Items) ~~[for]~~ **over** the **5 calendar** years ~~[ending on December 31]~~ immediately preceding the year in which the allocation is made.

Change Number 3

The proposed change would be the changes proposed in Change Number 1 and Change Number 2. Subsection 2 of NRS 360.680 would be amended to require that the annual base allocation made to each local government and special district would be based on the total amount of CTX revenue (base plus excess) distributed to that entity in the prior fiscal year, adjusted for the average percentage change in the Consumer Price Index over the 5 calendar years immediately preceding the fiscal year for which the CTX allocations will be made.

Proposed Language for Change Number 3

NRS 360.680 Annual allocations from Account.

1. On or before July 1 of each year, the Executive Director shall allocate to each enterprise district an amount equal to the amount that the enterprise district received from the Account in the immediately preceding fiscal year.
2. Except as otherwise provided in [NRS 360.690](#) and [360.730](#), the Executive Director, after subtracting the amount allocated to each enterprise district pursuant to subsection 1, shall allocate to each local government or special district which is eligible for an allocation from the Account pursuant to [NRS 360.670](#) an amount from the Account that is equal to the amount allocated to the local government or special district for the preceding fiscal year ~~[, minus any excess amount allocated pursuant to subsection 4, 5, 6 or 7 of NRS 360.690,]~~ multiplied by 1 plus the *average* percentage change in the Consumer Price Index (All Items) ~~[for]~~ *over* the *5 calendar* years ~~[ending on December 31]~~ immediately preceding the year in which the allocation is made.

Examples of Proposed Changes 1, 2 and 3

Based on a single local government or special district and the following information:

FY 2012 CTX Distribution					
Base Amount					\$10,000,000
Excess Amount					\$500,000
Total CTX Distribution					\$10,500,000
Consumer Price Index (CPI)	2011	2010	2009	2008	2007
Annual % Change	3.2%	1.6%	-0.4%	3.8%	2.8%
5-Year Average % Change	2.2%				

Note: The CPI data shown above is based on the actual calendar year index numbers published by the Bureau of Labor Statistics. The Annual % Change for 2011 is the annual CPI for calendar year 2011 compared to the annual CPI for calendar year 2010. The 5-Year Average % Change for 2011 is the average of the Annual % Change values for 2007 to 2011.

Example - Proposed Change Number 1:

The FY 2013 base allocation made to each local government and special district would be based on the total amount of CTX revenue (base plus excess) distributed to that entity in FY 2012, adjusted for the percentage change in the Consumer Price Index.

Base Calculation	FY 2012 CTX Distribution	X	1 + CPI Percentage Change	=	FY 2013 Base Allocation
Current Law	Base Only		Annual % Change		
Example	\$10,000,000	X	1.032	=	\$10,320,000
Proposed Change Number 1	Base + Excess		Annual % Change		
Example	\$10,500,000	X	1.032	=	\$10,836,000

Example - Proposed Change Number 2:

The adjustment to the FY 2012 base amount for the percentage change in the Consumer Price Index would be based on the average percentage change in the Consumer Price Index over the 5 calendar years immediately preceding the FY 2013 CTX allocation.

Base Calculation	FY 2012 CTX Distribution	X	1 + CPI Percentage Change	=	FY 2013 Base Allocation
Current Law	Base Only		Annual % Change		
Example	\$10,000,000	X	1.032	=	\$10,320,000
Proposed Change Number 2	Base Only		5-Year Average % Change		
Example	\$10,000,000	X	1.022	=	\$10,220,000

Example - Proposed Change Number 3:

The proposed change would be the changes proposed in Change Number 1 and Change Number 2. The FY 2013 base allocation made to each local government and special district would be based on the total amount of CTX revenue (base plus excess) distributed to that entity in FY 2012, adjusted for the average percentage change in the Consumer Price Index over the 5 calendar years immediately preceding the FY 2013 CTX allocation.

Base Calculation	FY 2012 CTX Distribution	X	1 + CPI Percentage Change	=	FY 2013 Base Allocation
Current Law	Base Only		Annual % Change		
Example	\$10,000,000	X	1.032	=	\$10,320,000
Proposed Change Number 2	Base + Excess		5-Year Average % Change		
Example	\$10,500,000	X	1.022	=	\$10,731,000

Legislative Commission's Subcommittee to Study the
Allocation of Money Distributed from the Local Government Tax Distribution Account
Work Session Document
July 26, 2012

<p style="text-align: center;">Deadline for local governments to provide the Department of Taxation with a cooperative agreement for an alternative distribution of revenues at the second tier of the CTX (NRS 360.730, subsection 2)</p>

Current Law

Pursuant to subsection 2 of NRS 360.730, if the governing bodies of two or more local governments or special districts within a county have entered into a cooperative agreement for an alternative distribution of revenue at the second tier of the CTX, the county clerk of such a county must transmit a copy of the cooperative agreement to the Executive Director of the Department of Taxation:

- (a) Within 10 days after the agreement is approved by each of the governing bodies of the local governments or special districts that are parties to the agreement; and
- (b) Not later than December 31 of the year immediately preceding the initial year of distribution that will be governed by the cooperative agreement.

Current Statute

NRS 360.730 Establishment of alternative formula for distribution of taxes in Account by cooperative agreement.

1. The governing bodies of two or more local governments or special districts, or any combination thereof, may, pursuant to the provisions of [NRS 277.045](#), enter into a cooperative agreement that sets forth an alternative formula for the distribution of the taxes included in the Account to the local governments or special districts which are parties to the agreement. The governing bodies of each local government or special district that is a party to the agreement must approve the alternative formula by majority vote.
2. The county clerk of a county in which a local government or special district that is a party to a cooperative agreement pursuant to subsection 1 is located shall transmit a copy of the cooperative agreement to the Executive Director:
 - (a) Within 10 days after the agreement is approved by each of the governing bodies of the local governments or special districts that are parties to the agreement; and
 - (b) Not later than December 31 of the year immediately preceding the initial year of distribution that will be governed by the cooperative agreement.
3. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts.
4. If at least two cooperative agreements exist among the local governments and special districts that are located in the same county, the Executive Director shall ensure that the terms of those cooperative agreements do not conflict.
5. Any local government or special district that is not a party to a cooperative agreement pursuant to subsection 1 must continue to receive money from the Account pursuant to the provisions of [NRS 360.680](#) and [360.690](#).
6. The governing bodies of the local governments and special districts that have entered into a cooperative agreement pursuant to subsection 1 may, by majority vote, amend the terms of the agreement. The governing bodies shall not amend the terms of a cooperative agreement more than once during the first 2 years after the cooperative agreement is effective and once every year thereafter, unless the Committee on Local Government Finance approves the amendment. The provisions of this subsection do not apply to any interlocal agreements for the consolidation of governmental services

entered into by local governments or special districts pursuant to the provisions of [NRS 277.080](#) to [277.180](#), inclusive, that do not relate to the distribution of taxes included in the Account.

7. A cooperative agreement executed pursuant to this section may not be terminated unless the governing body of each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 agrees to terminate the agreement.

8. For each fiscal year the cooperative agreement is in effect, the Executive Director shall continue to calculate the amount each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 would receive pursuant to the provisions of [NRS 360.680](#) and [360.690](#).

9. If the governing bodies of the local governments or special districts that are parties to a cooperative agreement terminate the agreement pursuant to subsection 7, the Executive Director must distribute to those local governments or special districts an amount equal to the amount the local government or special district would have received pursuant to the provisions of [NRS 360.680](#) and [360.690](#) according to the calculations performed pursuant to subsection 8.

Proposed Change

Subparagraph (b) of subsection 2 of NRS 360.730 would be amended to change the deadline for transmitting a copy of the cooperative agreement to the Department of Taxation from December 31 to a later date that would still meet the needs of the Department of Taxation but would also allow additional time for local governments to establish a cooperative agreement prior to the start of a fiscal year.

The following includes important dates regarding the preparation of budgets by local governments.

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

Fiscal staff received correspondence from the Department of Taxation which stated that a date of March 1 for the new deadline would allow the Department to include the provisions of the interlocal agreement in their March 15 revenue estimates required pursuant to subsection 11 of NRS 360.690.

During the June 18, 2012, CTX committee meeting, Jeremy Aguero of Applied Analysis testified that the local governments have discussed the possibility of changing the deadline to the last Friday in April.

Proposed Language

NRS 360.730 Establishment of alternative formula for distribution of taxes in Account by cooperative agreement.

1. The governing bodies of two or more local governments or special districts, or any combination thereof, may, pursuant to the provisions of [NRS 277.045](#), enter into a cooperative agreement that sets forth an alternative formula for the distribution of the taxes included in the Account to the local governments or special districts which are parties to the agreement. The governing bodies of each local government or special district that is a party to the agreement must approve the alternative formula by majority vote.
2. The county clerk of a county in which a local government or special district that is a party to a cooperative agreement pursuant to subsection 1 is located shall transmit a copy of the cooperative agreement to the Executive Director:
 - (a) Within 10 days after the agreement is approved by each of the governing bodies of the local governments or special districts that are parties to the agreement; and
 - (b) Not later than ~~{December 31 of the year}~~ **DATE TO BE DETERMINED BY COMMITTEE** immediately preceding the initial year of distribution that will be governed by the cooperative agreement.
3. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts.
4. If at least two cooperative agreements exist among the local governments and special districts that are located in the same county, the Executive Director shall ensure that the terms of those cooperative agreements do not conflict.
5. Any local government or special district that is not a party to a cooperative agreement pursuant to subsection 1 must continue to receive money from the Account pursuant to the provisions of [NRS 360.680](#) and [360.690](#).
6. The governing bodies of the local governments and special districts that have entered into a cooperative agreement pursuant to subsection 1 may, by majority vote, amend the terms of the agreement. The governing bodies shall not amend the terms of a cooperative agreement more than once during the first 2 years after the cooperative agreement is effective and once every year thereafter, unless the Committee on Local Government Finance approves the amendment. The provisions of this subsection do not apply to any interlocal agreements for the consolidation of governmental services entered into by local governments or special districts pursuant to the provisions of [NRS 277.080](#) to [277.180](#), inclusive, that do not relate to the distribution of taxes included in the Account.
7. A cooperative agreement executed pursuant to this section may not be terminated unless the governing body of each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 agrees to terminate the agreement.
8. For each fiscal year the cooperative agreement is in effect, the Executive Director shall continue to calculate the amount each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 would receive pursuant to the provisions of [NRS 360.680](#) and [360.690](#).
9. If the governing bodies of the local governments or special districts that are parties to a cooperative agreement terminate the agreement pursuant to subsection 7, the Executive Director must distribute to those local governments or special districts an amount equal to the amount the local government or special district would have received pursuant to the provisions of [NRS 360.680](#) and [360.690](#) according to the calculations performed pursuant to subsection 8.

Legislative Commission's Subcommittee to Study the
Allocation of Money Distributed from the Local Government Tax Distribution Account
Work Session Document
July 26, 2012

**Certified population estimates used for per-capita distribution of certain revenues
at the first tier of the CTX (NRS 360.285, subsection 2)**

Current Law

Pursuant to subsection 2 of NRS 360.285, the Department of Taxation is required to use the population estimates certified by the Governor on or before March 1 of each year for the purpose of calculating the distribution of revenues among political subdivisions in the state. For the purposes of distribution of Consolidated Tax revenues, these population estimates are used by the Department to allocate revenue to the seventeen counties at the first tier for the Cigarette Tax, the Liquor Tax, and any out-of-state revenues generated from the Basic City-County Relief Tax (BCCRT).

Based on current law, the Department of Taxation changes the population percentages used to distribute these revenues at the first tier on July 1 of each year. Due to the Governmental Accounting Standards Board (GASB) rules used by the Department for these revenue sources, revenue generated in May and June (the last two months of each fiscal year) is not distributed to the Local Government Tax Distribution Account until after July 1 of each year. Since these distributions occur after July 1, the Department uses the new population percentages based on the latest March 1 estimates in making the first-tier distributions of these revenue sources.

Thus, based upon current law, the Department of Taxation, for each fiscal year, distributes ten months of revenue under one set of population numbers, and distributes two months of revenue under another set of numbers. (This results in twelve months of revenue being distributed under each population calculation; however, this twelve-month period does not correspond with the twelve months of the fiscal year.)

Subsection 1 of NRS 360.285 requires the Governor, on or before March 1 of each year, to certify the population of each town, township, city and county in the state as of the immediately preceding July 1. These estimates must be certified based on the determination prepared by the State Demographer and submitted to the Governor by the Department of Taxation.

Current Statute

NRS 360.285 Certification of population by Governor.

1. For the purposes of this title, the Governor shall, on or before March 1 of each year, certify the population of each town, township, city and county in this state as of the immediately preceding July 1 from the determination submitted to the Governor by the Department pursuant to subsection 4 of [NRS 360.283](#).

2. Where any tax is collected by the Department for apportionment in whole or in part to any political subdivision and the basis of the apportionment is the population of the political subdivision, the Department shall use the populations certified by the Governor. The transition from one such certification to the next must be made on July 1 following the certification for use in the fiscal year beginning then. Every payment before that date must be based upon the earlier certification and every payment on or after that date must be based upon the later certification.

Proposed Change

Subsection 2 of NRS 360.285 would be amended to clarify that the population estimates used by the Department for the distribution of these revenues must remain the same for each fiscal year, and that the change made based on each annual certification must be used beginning for the first distribution of revenue in each new fiscal year.

This proposed change would not affect subsection 1 of NRS 360.285; the Governor would still be required to certify population estimates submitted by the Department on or before March 1 of each year.

Proposed Language

NRS 360.285 Certification of population by Governor.

1. For the purposes of this title, the Governor shall, on or before March 1 of each year, certify the population of each town, township, city and county in this state as of the immediately preceding July 1 from the determination submitted to the Governor by the Department pursuant to subsection 4 of [NRS 360.283](#).

2. Where any tax is collected by the Department for apportionment in whole or in part to any political subdivision and the basis of the apportionment is the population of the political subdivision, the Department shall use the populations certified by the Governor. The transition from one such certification to the next must be made on July 1 following the certification for use in the fiscal year beginning then. ***Every payment attributable to a fiscal year must be based on the population estimate certified by the Governor on or before March 1 immediately preceding the fiscal year for which the payment will be made.*** ~~*Every payment before that date must be based upon the earlier certification and every payment on or after that date must be based upon the later certification.*~~