

State of Nevada DEPARTMENT OF TAXATION FY 2014 – FY 2015 Biennial Budget

Brian Sandoval, Governor



Christopher Nielsen, Executive Director



**State of Nevada
Department of Taxation
FY 2014 – FY 2015 Biennial Budget**

Mission

Provide fair, efficient, and effective administration of tax programs for the State of Nevada in accordance with applicable statutes, regulations, and policies. Serve the taxpayers, state and local government entities; and enable and recognize department employees.

Philosophy

Dedicated to the highest standards of professionalism and ethical conduct; committed to consistent, impartial, and courteous service and treatment. Providing resources, training, and support to the men and women of the department, and fostering initiative, creativity, and effective performance.

Goals

1. Ensure the stable administration of tax statutes.
2. Improve compliance through education, information, and enforcement.
3. Cooperate with other agencies and entities to better serve taxpayers.
4. Provide improved and more efficient service.
5. Promote the fair and equitable treatment of taxpayers.
6. Enhance workforce proficiency through training and communication.
7. Improve tax administration through new technology.

**State of Nevada
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Please visit our Web Site at <http://www.tax.state.nv.us> or one of our offices at the following locations

Main Office:

1550 College Parkway, Suite 100
Carson City NV 89706

Mailing:

1550 College Parkway, Suite 115
Carson City NV 89706

Phone: (775) 684-2000
Fax: (775) 684-2020
Taxpayer Call Center: (866) 962-3707

Henderson District Office

2550 Paseo Verde Pkwy, Suite 180
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

Las Vegas District Office

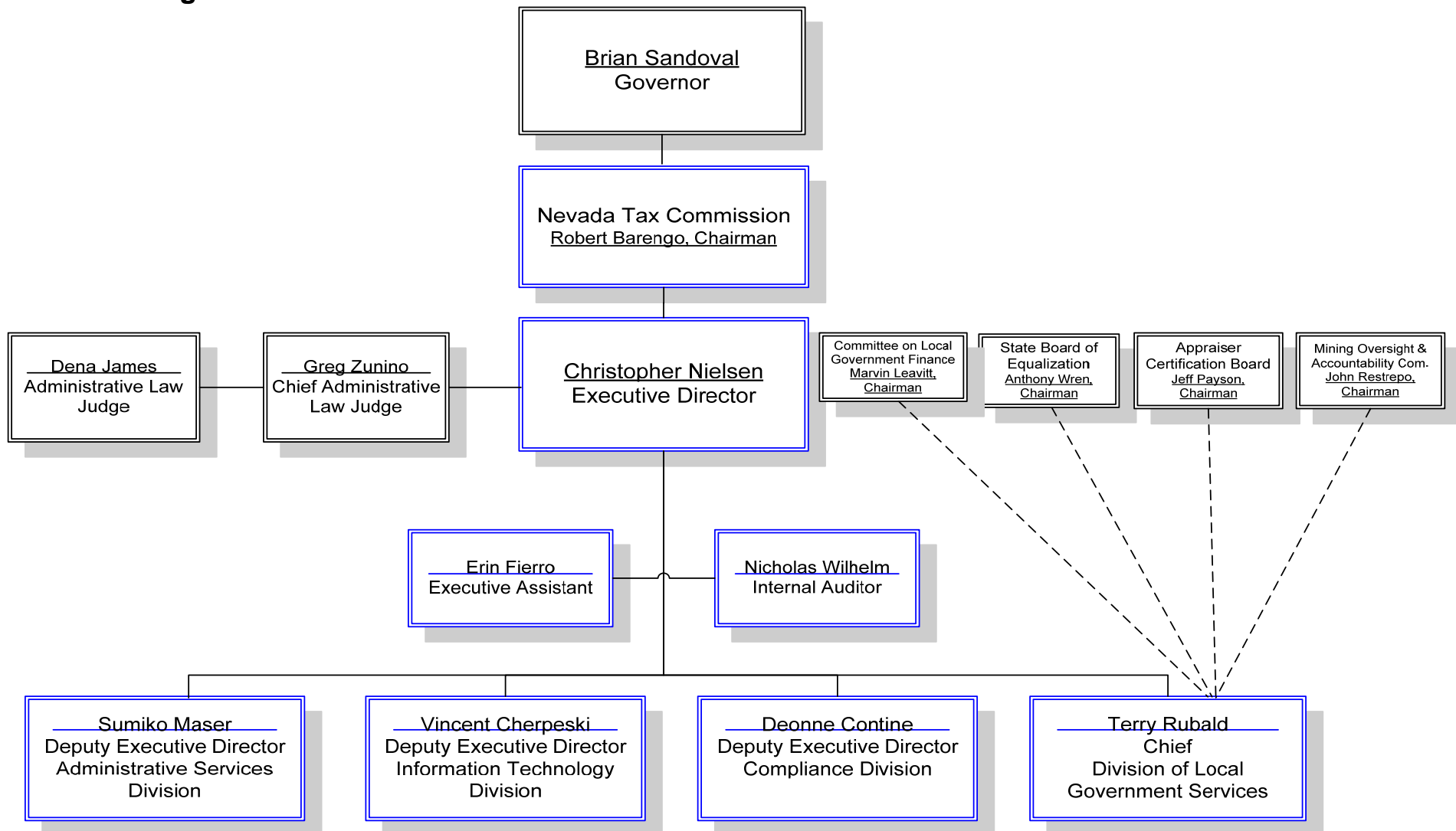
Grant Sawyer Office Building
555 E. Washington Ave, Suite 1300
Las Vegas, Nevada 89101
Phone: (702) 486-2300
Fax: (702) 486-2372

Reno District Office

Kietzke Plaza
4600 Kietzke Lane
Bldg L, Suite 235
Reno, NV 89502
Phone: (775) 687-9999
Fax: (775) 688-1303

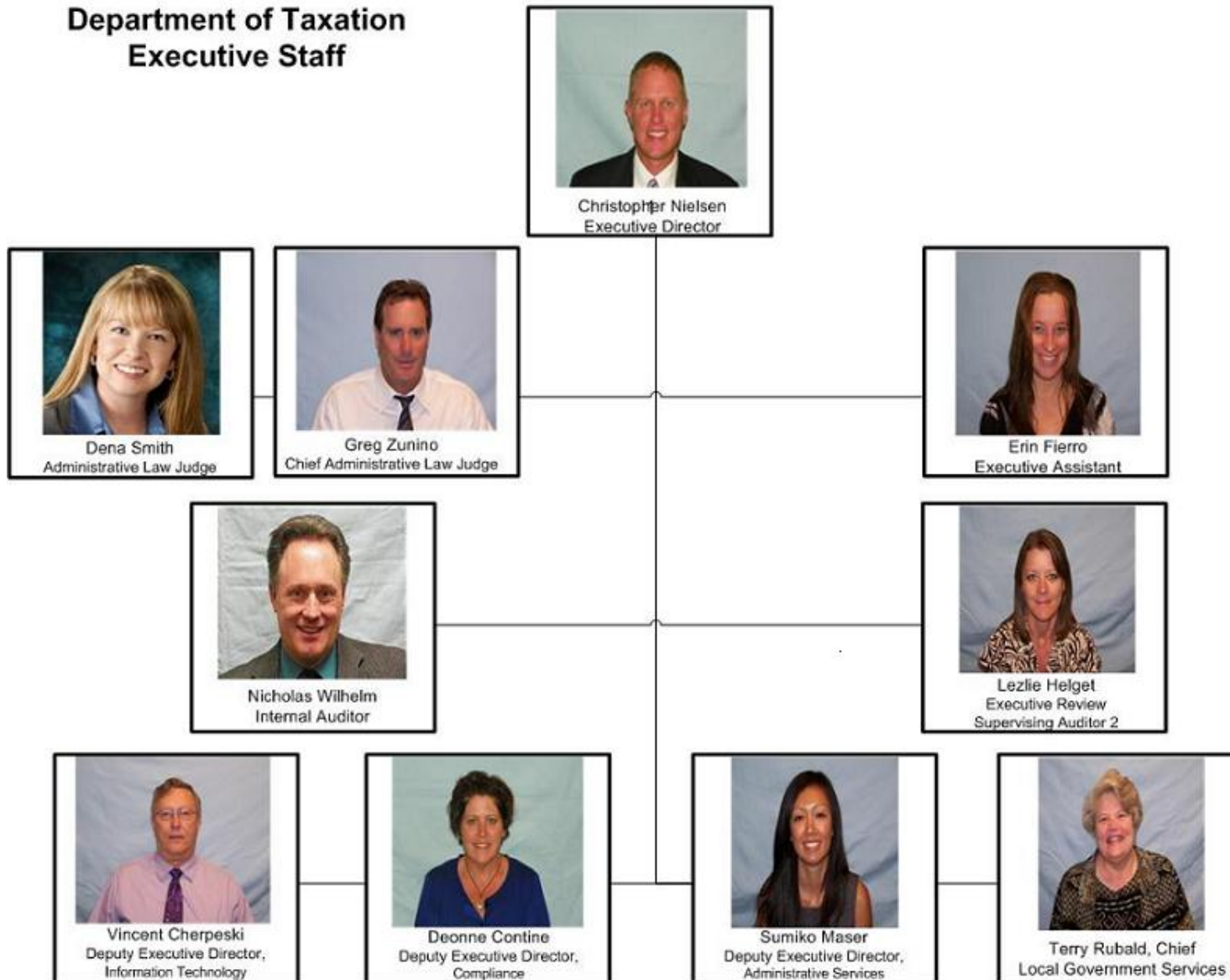
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**Department of Taxation
Executive Organizational Chart**



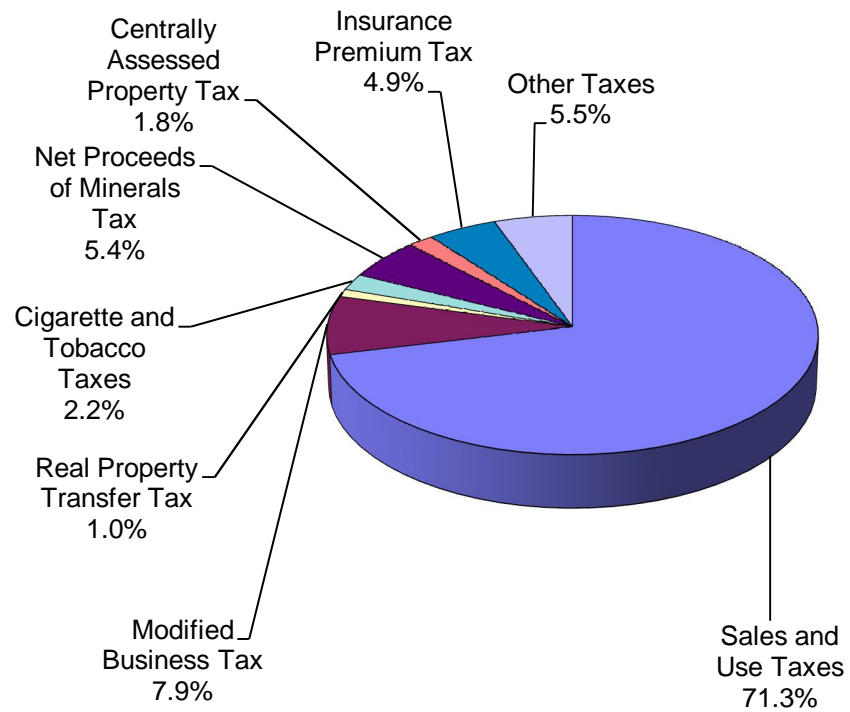
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**Department of Taxation
Executive Staff**

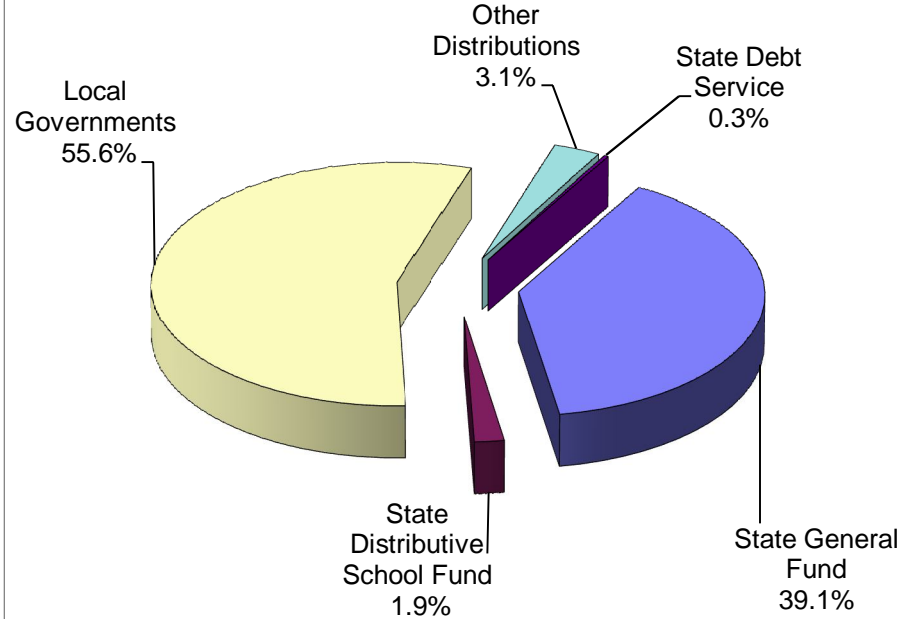


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FY 2012 TAX REVENUES

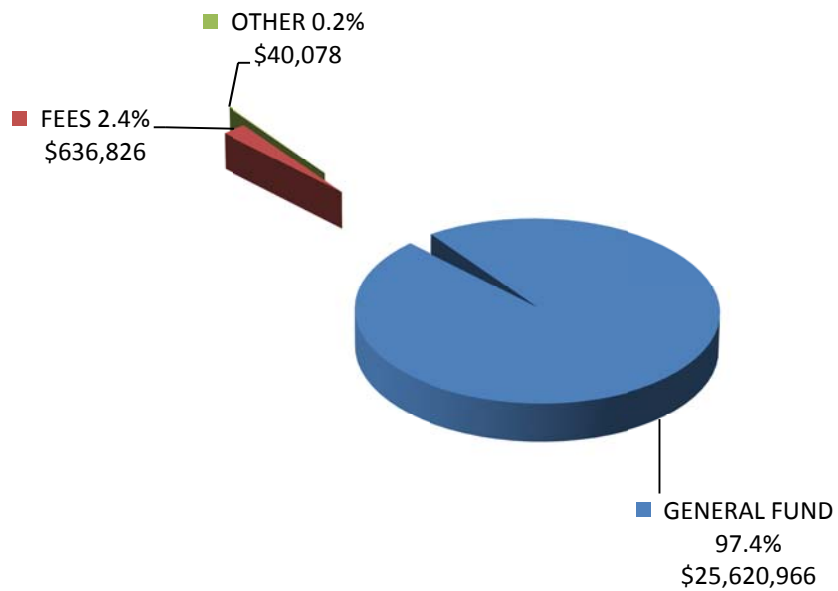


FY 2012 TAX DISTRIBUTIONS

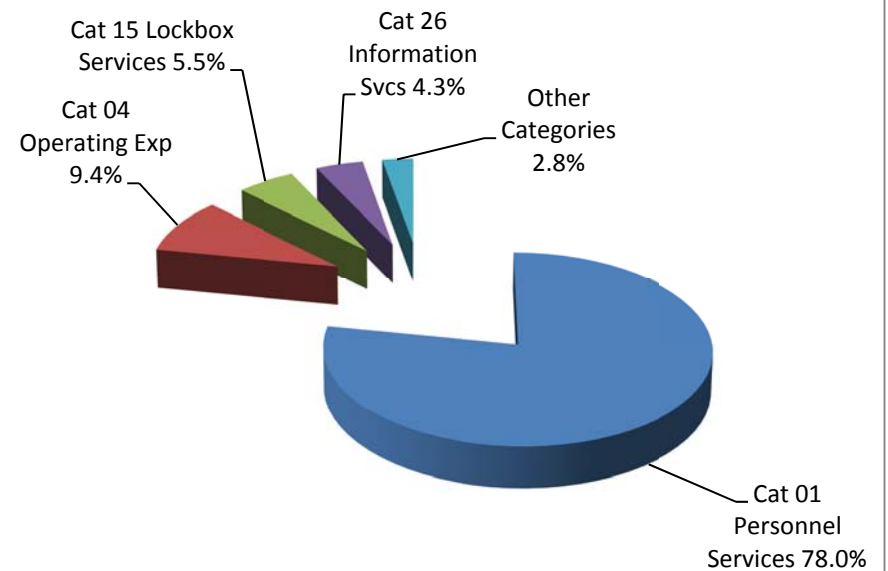


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**FY 2013 Legislature Approved
Funding**



**FY 2013 Legislature Approved
Expenditures**



**State of Nevada
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POSITION SUMMARY

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Base	329	329	329	329
E225 - Efficient and Responsive State Government Chief Deputy			1	1
E227 - Efficient and Responsive State Government Auditor 2			3	3
E228 - Efficient and Responsive State Government Revenue Officer 2			2	2
E807 - Classified Position Reclassifications Chief, Local Government Services Division			(1)	(1)
Deputy Executive Director			1	1
Total Full-Time Equivalent Positions	329	329	335	335

**State of Nevada
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Budget Account 2361:

The Department of Taxation is responsible for providing fair, efficient, and effective administration of the tax programs of the State of Nevada in accordance with applicable statutes, regulations and policies, and serves the taxpayers and state and local government entities. The department administers and collects taxes for distribution to the state General Fund, other state agencies, and local government entities. The department collects and distributes all sales and use taxes, the modified business tax, the estate tax, the net proceeds of minerals tax, and the property tax on interstate and inter-county companies. It also collects excise taxes and fees on liquor, cigarettes, other tobacco products, tire tax, short-term lessor fee, live entertainment tax, bank excise tax, lodging tax, and the insurance premium tax, and distributes the real property transfer tax received from county recorder collections to the state general fund and local governments.

In addition, the department is responsible for appraising property of an interstate or inter-county nature, as well as mining property, It also establishes guidelines for the county assessors, recorders and treasurers; monitors appraisal and assessment performance through ratio study, and performance appraisals of county officials; and ensures statewide compliance with assessment standards established by the Tax Commission. The reviews local government budgets and audits, prepares the ad valorem tax rates for certification, and advises local governments on budget act compliance and financial management matters. Additionally, the department provides annual population estimates for the state, its counties, and incorporated cities.

The department serves as staff to several State Boards and Commissions including the Nevada Tax Commission. The Tax Commission, as head of the department, adjudicates contested cases, adopts regulations and ensures the fair and equitable treatment of taxpayers across tax types. The department also serves as staff for the State Board of Equalization, which hears and determines property tax appeals and equalizes property tax values. In addition, the department serves as staff to the Committee on Local Government Finance, which provides financial accounting standards for local governments and oversight to financially troubled local government entities.

The department also serves as staff to the Mining Oversight and Accountability Commission, which ensures various state agencies maintain compliance over environmental, mine safety and training, and taxation issues related to the mining industry; and to the Appraiser Certification Board, which ensures all property tax appraisers in the state are certified and maintain continuing education requirements.

Statutory Authority: NRS 354, 360, 361, 361A and B, 362, 363A.120, 363A and B, 364.125, 364A, 368A, 369, 370, 370A, 372, 372A, 374, 374A, 375, 375A and B, 376A, 377, 377A and B, 387.332, 444A.090, 482.313, 585.497, 680B.

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AGENCY REQUEST

Base – funds 329 full-time equivalent positions, 13 board/commission members, and associated costs necessary to administer the tax programs for the State of Nevada. (Funding: FY 2014 – \$28,376,842; FY 2015 – \$28,944,124)

M100 – funds statewide general inflationary adjustments calculated by the Budget Division and authorized by the Governor. The budget includes inflationary adjustments for Enterprise Information Technology Services (EITS). (Funding: FY 2014 – \$66,331; FY 2015 – \$51,945)

M101 – adds inflationary adjustments anticipated for the cost of cigarette revenue stamps required by Nevada Revised Statutes (NRS) 370.170, based on historical increases. (Funding: FY 2014 – \$18,983; FY 2015 – \$40,119)

M150 – adjusts Base for one-time expenditures including equipment, annualizes continuous service costs that began mid-year; eliminates costs for terminated services; adjusts for required vacancy savings; and aligns costs for Tobacco Master Settlement Agreement (MSA) staff in Category 11, MSA Travel. (Funding: FY 2014 – (\$1,490,729); FY 2015 – (\$1,375,474)) **(See Attachment A for Additional Information Regarding MSA Funding)**

M300 – adjust fringe benefit rates. (Funding: FY 2014 – (\$25,358); FY 2015 – \$601,828)

E225 – adds a Chief Deputy position to promulgate regulations and assist with agency oversight. (Funding: FY 2014 – \$111,715; FY 2015 – \$139,773)

E227 – adds three Auditor 2 positions to increase audit penetration rate to one percent. (Funding: FY 2014 – \$155,528; FY 2015 – \$189,145)

E228 – adds two Revenue Officer 2 positions to more actively pursue collections on delinquent accounts. (Funding: FY 2014 – \$95,811; FY 2015 – \$117,477)

E500 – funds the department's Tobacco MSA Enforcement Unit, comprised of a Compliance/Audit Investigator 2, Tax Examiner 2, and an Information Technology Professional 3, and associated costs with MSA payments the state receives for enforcement, and reduces General Fund. (Funding: FY 2014 – \$0 [increases Tobacco Settlement Income and reduces General Fund by \$219,387]; FY 2015 – [increases Tobacco Settlement Income and reduces General Fund by \$224,649])

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E670-E672 – Salary Adjustments (Budget Division Use) including a 2.5% salary reduction, a 1.15% furlough reduction, and a suspension of Longevity Pay for the biennium; and deferring step increases for FY 2014. (Funding: FY 2014 – (\$1,043,996); FY 2015 – (\$1,269,347))

E710 – replaces equipment due to normal wear, tear, and obsolescence. Computer hardware and associated software replacement is in compliance with the Division of Enterprise Information Technology Services recommended five-year replacement schedule. (Funding: FY 2014 – \$83,916; FY 2015 – \$291,321)

E804 – allocation of costs for centralized personnel services. (Funding: FY 2014 – \$28,988; FY 2015 – \$29,886)

E807 – reclassifies the Chief, Local Government Services Division, to Deputy Executive Director to provide parity with department Deputy Executive Directors, as well as to recognize an expansion in job functions, including Net Proceeds of Minerals audits and performance audits of county officials. (Funding: FY 2014 – \$19,213; FY 2015 – \$19,250)

Biennial Budget Total - \$54,177,291

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Priorities and Performance Based Budget

Activities

1. **Revenue Collection** – The purpose of the Revenue Collection activity is to provide reliability and validity of taxes reported and paid to taxpayers, the public, state, and local governments to assure accuracy of data reported, compliance with statutes, and consistency in application of the law.

Objectives

Compliance – revenue collection efforts ensure regulated entities comply with applicable laws and regulations.

Tax Collection – revenue collection efforts ensure the accurate and timely collection of taxes and fees.

Customer Service – revenue collection efforts provide efficient, timely, and responsive service to industry and members of the public and facilitate resolution of disputes.

Performance Measures

	FY 2014	FY 2015
Percent of total collections within appropriate statutory or regulatory timeframes	98%	98%
Collections per Revenue Officer (based on 43.50 FTE in FY 2014; 44 FTE in FY 2015) <small>* (typo in FY 2015 in NEBS)</small>	\$1,167,132	\$1,167,132*
Percent of Call Center Calls answered in timeframes within agency standards	100%	100%

Additional Information

Number of delinquent accounts:

- FY 2010 average accounts per RO was 2,727
- May 2012 Internal Audit established a total of 3,481 accounts per RO, but actively worked accounts was 218

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Priorities and Performance Based Budget

Activities

1. Revenue Collection – Additional Information (continued)

- During the current biennium, the department reduced delinquent and missing tax returns by 64.86% using the following efforts:
 - Closed/wrote off old accounts through annual process reviewed and approved by the Nevada Tax Commission.
 - Sent closed accounts with delinquencies to the Controller for collection
 - Assigned accounts to non- RO to work.
 - Automated billing based on estimates of Best Information Available (BIA)

- 2. Audit** – The purpose of the Audit activity is to provide reliability and validity of taxes reported and paid to taxpayers, the public, and state and local governments to assure accuracy of data reported, compliance with statutes, and consistency in application of the law.

Objectives

Compliance – audit activity ensures regulated entities comply with applicable laws and regulations.

Consumer Education – audit activity safeguards the public interest by educating consumers about their rights, responsibilities, and opportunities.

Performance Measures

	FY 2014	FY 2015
Audit penetration rate (with 24 hours furlough)	.99%	1.01%
Percent of initiated audits resolved in favor of the agency	81%	81%

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Priorities and Performance Based Budget

Activities

2. Audit (continued)

Additional Information

- Current biennium Auditor 2 positions: 43; FY 2012 Auditor 2 positions was equivalent equal to 39.29 auditors due to low retention
- FY 2012 audit assessments
 - Sales and Use Tax – \$26.6 million
 - Excise Taxes – \$10.1 million
 - Billing assessments averaged \$934,100 per Auditor 2 position
- Retention issues
 - Low salaries – county, cities, and federal governments have higher salaries for the auditor position
 - Lack of qualifying work experience for certification – majority of the audit staff have accounting degrees, but audit work for department does not meet the requirements for a Certified Public Accountant license, so they must go elsewhere to gain that experience.
 - From February 2012 thru January 2013, the Southern District alone hired 16 new auditors. It takes three to four months for new hires to become productive.
- Audit Penetration Rate:
 - Prior to FY 2009, the department met and exceeded the 1% audit penetration rate. Several audit positions were lost that year and we haven't met (although we are close) the 1% penetration rate since.
 - Most taxing authorities, including the federal government, strive for at least a 2% penetration rate.
- FY 2012 Audit Changes
 - The Interim Finance Committee approved two new mining Auditor 2 positions in April.
 - Division of Internal Audit recommended in May that taxable sales be used as the primary risk weighting for the selection of audits based on the rationale that as taxable sales increase, so does the number of errors in dollars reported.
 - Larger accounts are more complex and are more time consuming to audit, reducing the audit penetration rate.

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Priorities and Performance Based Budget

Activities

2. Audit

Additional Information

- FY 2012 Audit Changes (continued)
 - Previous audit performance measure was four audits per month; now the objective is three audits per month.
- Net Proceeds of Minerals (NPM) Audit Statistics
 - Since April, 2011, the department has initiated audits of 20 geographically separate mine sites.
 - The department created the Net Proceeds Audit (NPA) Section within the Division of Local Government Services (DLGS) to focus attention strictly on net proceeds of minerals taxes.
 - The NPA Section operates independently of the Centrally-Assessed Section of DLGS whose staff performs desk reviews of net proceeds reports prior to certification of value in May each year. The desk reviews may also result in disallowances of claimed deductions.
 - 20 mine sites are owned by six companies: 7 are operated by Barrick, 5 by Ormat Technologies, 5 by Newmont, and one each by Jerritt Queenstake, Robinson Mining Co. and Round Mountain.
 - The audits of Barrick's mines were completed and resulted in a total payment of \$1,434,145.81, including taxes and interest, with no penalty assessed.
 - Audit issues included the allowability of deductions.
 - ❖ The department agreed with the taxpayer that group disability, group life insurance, and group short term disability, were allowable under NRS 362.120(3)(h).E
 - ❖ Deductions disallowed included certain fringe benefits, consulting-professional services, management fees, certain travel, and certain royalties.
 - The audits of Ormat Technologies' mines were completed, but are currently under appeal by the taxpayer. The total redetermination under appeal is \$3,334,497.13, including tax, interest, and penalty.

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Priorities and Performance Based Budget

Activities

2. Audit

Additional Information

- Net Proceeds of Minerals (NPM) Audit Statistics (continued)
 - The audits of Newmont's mines were initiated in mid-2012.
 - Audits of Jerritt Queenstake; Robinson Mining Company, and Round Mountain were initiated in October, 2012.
 - Audits for three mines belonging to EP Minerals, completed in April 2010, have not been resolved.
 - The taxpayer appealed the results, and the parties reached a tentative agreement on how to handle deductions for a mining-manufacturing facility in May 2012.
 - Reports submitted by the taxpayer following that meeting are still being examined, and the parties may still have disagreements over the calculations.
- Audit results are reported each year to the Mining Oversight and Accountability Commission (MOAC) at the second quarter meeting.

3. **Local Government Services** - The purpose of the Local Government Services activity is to provide appraisal, other assessment and tax administration standards, guidance and oversight to local governments to maintain financial stability of local governments; ensure tax revenues are appropriately and equitably assessed and collected by local governments in compliance with statutes, regulations and policies of this state.

Objectives

Compliance – ensures regulated entities and programs comply with applicable laws and regulations.

Tax Collection – ensures the accurate and timely collection of taxes and fees.

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Priorities and Performance Based Budget

Activities

3. Local Government Services

<u>Performance Measures</u>	FY 2014	FY 2015
Percent of recommended corrective actions fully or partially implemented by local governments	92%	92%
Percent of initiated investigations, cases, and proposed standards were successfully resolved in the favor of the regulatory agency	81%	81%
Percent of taxes/fees were collected within the appropriate statutory or regulatory timeframes	94%	94%

4. **Accounting / Processing** – The purpose of the Accounting/Processing (activity) is to produce an accurate record of transactions for taxpayers and the state to properly account for taxable sales reported and revenues collected from taxpayers.

Objectives

Safeguarding of Funds – safeguards and manages public funds

Performance Measures

Percent of accurate taxpayer processing	96%	96%
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Additional Information

- Three accounting assistant positions were requested and approved by the 2011 Legislature to improve the department's ability to reconcile and post electronic payments to taxpayers' accounts in a timely manner.

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Priorities and Performance Based Budget

Activities

4. Accounting / Processing

Additional Information (continued)

- Currently these positions are responsible for researching and balancing payments received from the Secretary of State's SilverFlume business portal and Automated Clearing House credit payments.
- These positions reconcile and balance deposits within the department internal systems, the bank, the State Integrated Financial System, the SilverFlume business portal, and the contracted payment processing vendor (Paypoint).
- In addition, these positions are responsible for researching, processing and reconciling payment exceptions such as returned checks.

5. **General Administration** – The purpose of the General Administration is to provide tax administration to taxpayers, public and state and local government to assure compliance with state tax laws, regulations and policies.

Objectives

Leadership - general administration provides executive leadership, legal counsel, and policy direction to advance strategic objectives.

Regulations - general administration creates a regulatory environment that fosters economic growth.

Consumer Education - general administration safeguards public interest by educating consumers about their rights, responsibilities, and opportunities.

Performance Measures

Percent of activity performance measures met

FY 2014
100%

FY 2015
100%

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Priorities and Performance Based Budget

Activities

5. General Administration

<u>Performance Measures</u> (continued)	FY 2014	FY 2015
Percent of regulations reviewed	100%	100%
Percent of regulations amended	20%	20%
Percent of regulations adopted	10%	10%
Percent of taxpayer written inquiries were responded to within 30 Days.	98%	98%

6. **Information Technology** – The purpose of the Information Technology activity is to provide a secure, automated framework that accepts payments and tracks Revenue Accounting/Processing, Revenue Collections, Audit, Fiscal, General Administration activities to department employees, taxpayers, and the public to ensure compliance with the statutes, regulations and policies.

Objectives

Information Systems - information technology provides reliable and secure information and communication systems to support state agencies.

Performance Measures

Percent of security issues (releases of personal information as defined by NRS 603A.220) were resolved within three working days.	100%	100%
Percent of time core systems were available for use as scheduled with customer (system uptime).	99.5%	99.5%

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Activities

7. **Fiscal** - The purpose of the fiscal activity is to provide proper distribution of tax revenues and financial management of internal operations for taxpayers, the public, state and local governments to ensure accurate accounting of funds/use of state resources.

Objectives

Safeguarding of Funds - fiscal activity safeguards and manages public funds

Performance Measures

Percent of timely distribution of collections

FY 2014

100%

FY 2015

100%

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REVENUE OFFICER COLLECTIONS BY OFFICE

Office	FY 2010	FY 2011	FY 2012
Carson City	\$9,738,139.76	\$9,404,063.12	\$8,034,376.72
Elko	\$629,715.99	\$0	\$0
Las Vegas/Henderson	\$20,701,722.77	\$24,927,204.05	\$27,560,377.43
Reno	\$6,261,534.00	\$7,716,546.75	\$8,148,252.00
Total RO Collections	\$37,331,112.52	\$47,047,813.92	\$43,743,006.15

CALLS RECEIVED BY OFFICE

Office	FY 2010	FY 2011	FY 2012
Carson City	95,722	94,449	87,144
Elko	(1) 2,891	(2) 773	0
Las Vegas/Henderson	130,370	58,307	49,733
Reno	26,538	17,281	13,125
Total Calls Received	255,521	170,810	150,002

WALK-IN COUNT BY OFFICE

Office	FY 2010	FY 2011	FY 2012
Carson City	3,890	2,655	2,657
Elko	2,143	0	0
Las Vegas/Henderson	32,114	23,599	29,203
Reno	11,187	10,064	10,520
Total Walk-In Count	49,334	36,318	42,380

FOOTNOTE:

(1) Six months of data is not available.

(2) The Elko Office closed effective 06/30/10, but the department maintained the phone line through February 2011 to redirect calls.

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**Call Center Monthly Statistics
CY 2012**

Date	Total Calls	Calls Answered	Voice Mail Calls	Abandoned Calls	Average Wait Time Abandoned Calls	Average Time on Calls	Max Wait Time	Average Wait Time	% of Voice Mails Returned w/i 5 Days	Tasking to District Offices	Referrals to Revenue Officers	Average Number of Tax Examiners Taking Calls
Jan-12	8,171	8,003	3	165	1:01	4:17	18:58	0:54	100%	19	75	8.62
Feb-12	5,942	5,817	1	124	1:10	4:18	11:27	0:50	100%	13	43	7.70
Mar-12	7,736	7,456	9	271	1:08	4:00	18:01	1:33	100%	9	68	7.90
Apr-12	7,589	7,179	11	399	1:39	4:05	21:44	2:19	100%	20	54	7.30
May-12	6,731	6,536	6	189	1:17	4:26	21:54	1:10	100%	76	152	7.90
Jun-12	6,775	6,469	11	295	1:18	4:13	28:04	1:56	100%	78	111	7.40
Jul-12	7,062	6,775	12	275	1:27	4:33	21:44	1:44	100%	75	172	7.80
Aug-12	6,276	6,160	3	113	0:41	4:24	12:46	0:41	100%	79	223	7.90
Sep-12	5,794	5,613	6	175	1:01	4:15	24:00	1:20	100%	56	290	7.90
Oct-12	6,813	6,514	12	287	1:36	4:29	24:53	1:56	100%	73	274	7.90
Nov-12	5,063	4,924	5	134	1:19	4:38	20:50	1:25	100%	69	147	7.70
Dec-12	4,879	4,752	3	124	0:59	4:23	26:23	1:09	100%	63	106	7.80
Totals	78,831	76,198	82	2,551						630	1,715	7.82
	100.00%	96.66%	0.10%	3.24%						0.83%	2.25%	
										(Of Calls Answered + Voicemails Received)		

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**Call Center Tracking By Subject
CY 2012**

Date	Business License	MBT	Sales Tax	Use Tax	On-Line Tax	General Questions	*Calls Not Completed	Other	Amnesty	Total
Jan-12	71	1,104	2,852	1,210	589	2,014	162	0	1	8,003
Feb-12	57	582	2,606	424	299	1,751	90	6	2	5,817
Mar-12	49	930	2,940	1,152	369	1,901	109	3	3	7,456
Apr-12	73	1,031	2,991	790	488	1,681	121	3	1	7,179
May-12	74	963	3,000	535	352	1,476	132	2	2	6,536
Jun-12	65	1,125	3,162	540	339	1,053	165	12	8	6,469
Jul-12	36	1,250	3,031	575	517	1,232	128	4	2	6,775
Aug-12	52	979	2,963	416	391	1,236	118	4	1	6,160
Sep-12	36	1,128	2,466	478	277	1,084	87	57	0	5,613
Oct-12	37	1,210	2,652	488	480	1,462	112	73	0	6,514
Nov-12	32	730	2,317	306	297	1,090	98	52	2	4,924
Dec-12	44	856	1,913	343	282	1,135	115	64	0	4,752
Totals	626	11,888	32,893	7,257	4,680	17,115	1,437	216	22	76,198

*Calls not completed include hang-ups, bad connections, unprepared taxpayer, disconnected calls, or computer issues.

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Call Center

Additional Information

- The Call Center, staffed with one Tax Program Supervisor 1 and 10 Tax Examiners, commenced operating during December of 2009.
- The primary goal of the Call Center is to ensure that the greatest numbers of taxpayer calls are answered by a Tax Examiner (TE). The Call Center TE's are trained to answer most questions regarding tax issues and to address most account maintenance problems.
- When a Call Center TE has identified a problem with a taxpayer's account that will require extensive research, the information is passed outside of the Call Center for research and corrective action.
- Calls from taxpayers who have compliance issues are normally referred to the appropriate Revenue Officer.
- The number of complaints regarding taxpayer's difficulty getting through on the telephone dropped from **33,089** in FY 2007 to **1,183** in FY 2012.

Performance

- The Call Center was in operation for the last 9 months of FY10 through the end of FY11. During that time, the Call Center received a total of **136,272** calls.
 - **130,718 (96%)** calls were answered by CCTE's.
 - **512** calls went to voice mail. All calls were returned by the next business day.
 - In **5,042** instances, the caller chose to abandon the call rather than to wait for the next available CCTE.
 - **5,367 (4.1%)** of the calls processed by a CCTE (calls answered plus voice mails) resulted in the referral of the issue to either the appropriate Revenue Officer or to an outside Tax Examiner
- During all of FY 12 and the first six months of FY 13, the Call Center received a total of **113,118** calls.
 - **109,986 (97%)** calls were answered by CCTE's
 - Only **89** calls went to voice mail. All calls were returned by the next business day.
 - In **3,043** instances, the caller chose to abandon the call rather than to wait for the next available CCTE.
 - **3054 (2.8%)** of the calls processed by a CCTE (calls answered plus voice mails) resulted in the referral of the issue to either the appropriate Revenue Officer or to an outside Tax Examiner.

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Attachment A

MASTER SETTLEMENT AGREEMENT ENFORCEMENT UNIT

Overview

- In 1998, The Attorney Generals of 46 States signed the Master Settlement Agreement (MSA) with the four largest tobacco companies (Participating Manufacturers or “PM”s) in the U.S. to recover costs associated with treating smoking-related illnesses. Beginning in 2003, Nevada began receiving settlement money to the tune of approximately \$40 million/year: 60% to fund state healthcare costs and 40% to fund the Millennium Scholarship Program.

MSA Litigation

- Under the terms of MSA, the PM’s are authorized to sue the states to recover monies previously paid they failed to perform “due diligence” with respect to the tracking of sales by Non-Participating Manufacturers (NPM’s) with respect to the tracking of sales by NPM’s for purposes of calculating the requisite escrow payment.
- Lawsuits against all states participating in the MSA (46 States) were initiated by the PM’s in 2006 over due diligence enforcement beginning in 2003.

Department of Taxation MSA Enforcement Unit

- The PM’s offered a proposed settlement offer in 2011 which contained many of the elements of what would constitute “due diligence” relative to enforcing the MSA.
- The Department determined that an effective MSA Enforcement Unit would require, at a minimum, one new Audit/Investigator, one new IT Programmer and one new Tax Examiner.
- The Enforcement Unit is responsible for:
 - Creating data base for manufacturer and wholesaler reports
 - Conducting desk examinations utilizing reports from data base
 - Conducting on site examinations of NPM wholesalers.

Funding

- Initial funding provided by an allocation by the Interim Finance Committee from the Contingency Fund in the amount of \$260,164 in FY 2013.
- Department asking for funding from MSA Payments going forward.

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Attachment A, MASTER SETTLEMENT AGREEMENT ENFORCEMENT UNIT (continued)

Current Status

- Settlement reached with PM's which requires due diligence going forward
- Enforcement Data Base went Live 1/2/2013 with reports for 12/2012 being entered to establish base line for future reports and analysis
- Six on site examinations conducted to date

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Streamlined Sales and Use Tax Agreement

- Under current commerce clause jurisprudence, states cannot require remote sellers to collect sales tax on behalf of purchasers unless the seller has a physical presence in that state, i.e. Barnes & Noble, Walmart, etc.
 - Note: Use tax is still legally due by in-state the purchaser, not the seller.
- Nevada is one of member 26 states participating in the Streamlined Sales and Use Tax Agreement (SSUTA) – Legislatively authorized pursuant to Chapter 360B of the NRS.
 - SSUTA provides common definitions, administrative procedures and exemptions in addition to providing a nationalized payment process.
- Unless Congress acts (and reverses U.S. Supreme Court precedent pursuant to Congress' authority to regulate "commerce"), remote seller participation is voluntary.
 - Currently, the Department receives about \$10 million in sales tax annually through SSUTA.
 - Unverified studies estimate that if Congress acts and makes SSUTA mandatory the State of Nevada will receive anywhere from \$25 million to \$150 million annually in additional sales tax revenue.
 - Note: This is a total amount, including the 2% General Fund portion, the Local School Support Tax component and the local government taxes.
- For the last several years, Congress has considered legislation that would make SSUTA mandatory – Congress has failed to act every year, however.
 - Last year, Congress considered three bills, the most notable one called the Marketplace Fairness Act.
- If this Congress considers and approves this type legislation in the future, the Department will need a significant amount of additional resources to make IT changes to process the increased number of registered businesses, payments, etc.

The Information Technology Strategic Planning Committee ranked this TIR as the number one priority, although we have never moved forward with it because Congress has never even taken a vote on SSUTA legislation.