

**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)
March 15, 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 second meeting of the 2011-12 Interim on March 15, 2012, in room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to room 3137 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 Nevada Department of Transportation, Conference Room, 725 W. Fourth St., 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

OTHER LEGISLATORS PRESENT:

Assemblywoman Irene Bustamante Adams
Assemblywoman Dina Neal

STAFF MEMBERS PRESENT IN LAS VEGAS:

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

STAFF MEMBERS PRESENT IN CARSON CITY:

Brenda Erdoes, Legal Counsel

Joe Reel, Deputy Fiscal Analyst, Fiscal Analysis Division

Cheryl Harvey, Committee Secretary, Fiscal Analysis Division

EXHIBITS:

[Exhibit A](#) - Agenda and Meeting Packet

[Exhibit B](#) - Actual Revenues Distributed and Other Statistics Related to the CTX - Packet

[Exhibit C](#) - Letter regarding CTX Allocations for Newly Created Local Governments or Special Districts provided by the Laughlin Economic Development Corporation

[Exhibit D](#) - Churchill County Material

[Exhibit E](#) - Lyon County Response to Fernley CTX Issues

[Exhibit F](#) - Washoe County Material

[Exhibit G](#) - Summary of CTX Issues Provided to the Subcommittee by the Local Government Entities

I. ROLL CALL.

Chairwoman Kirkpatrick called the meeting of the Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account to order at 3:15 p.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.

This agenda item was taken out of order.

Chairwoman Kirkpatrick expressed concern about the small number of local governments that wished to put their thoughts on the record during public comment. She may ask for comments from some of the local governments that provided information to the Subcommittee.

Chairwoman Kirkpatrick noted that Assemblywoman Irene Bustamante Adams and Assemblywoman Dina Neal, both freshman, were in attendance. Also, Subcommittee members Assemblyman Ellison and Assemblyman Daly were both freshmen. She said those individuals could be members of the Nevada Legislature for another ten years, and they would be able to carry this knowledge to future legislative sessions.

Terry Yurick, Board Member of Laughlin Economic Development Corporation, said the purpose of his presentation was to request the Subcommittee to consider and clarify the process and basis for determining the amounts of consolidated tax that may be allocated when a local government was created. He said feasibility was a major issue when a new city was being incorporated. The CTX has two components: the base,

which was allocated by statutory formula, and an additional CTX revenue which was transferred in conjunction with certain services being transferred to the new city from the county.

Mr. Yurick said the existing statutes were clear on the base CTX allocation process, but were somewhat complicated. The existing statutes were not clear and specific as to the basis of the amount of additional CTX allocations under NRS 360.740, as substantiated by the Legislative Counsel Bureau's favorable opinion dated October 14, 2011, which he provided to the Subcommittee members as an attachment to a letter regarding CTX Allocations for Newly Created Local Governments or Special Districts provided by the Laughlin Economic Development Corporation ([Exhibit C](#)). He said the statute provides the opportunity for new governments to request additional CTX. It does not specify the scope of transferred services, a menu of the transferred services, and how to determine the actual cost of the transferred services.

Mr. Yurick said amending NRS 360.740 may be the best and easiest process to clarify the matter and address the following issues:

- What are the applicable transferred services?
- What are the actual transferred costs in conjunction with the transferred services?
- What was the appropriate amount of additional CTX allocation in conjunction with the offsetting transferred costs of the transferred services?
- Are general fund or other revenue transfers appropriate to offset transferred costs?
- How should splitting of local revenues and services be determined if only a part of the local government or special districts want to incorporate?
- What procedural changes and simplifications are appropriate in conjunction with the above clarifications?

Mr. Yurick said amending NRS 360.740 offers the best opportunity to clarify the additional CTX issues.

Chairwoman Kirkpatrick said those were good questions, which would be at the top of the agenda for the next meeting of the Subcommittee. She said if he was not able to attend the meeting, she would provide him with a copy of the meeting minutes.

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

- a) First-Tier CTX Revenue Sources and Distribution
- b) Second-Tier Distribution of First-Tier CTX Revenue
- c) Other Issues Related to Distribution and Use of Second-Tier CTX Revenue

This agenda item was taken out of order.

Chairwoman Kirkpatrick thanked the local governments for providing their information. She noted that the meeting was being videoconference to Carson City, Winnemucca, and Elko.

Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division made reference to two bound packets: the Agenda and Meeting Packet ([Exhibit A](#)), and the Actual Revenues Distributed and Other Statistics Related to the CTX Packet ([Exhibit B](#)), which contains data tables. He said that information was provided to the Elko and Winnemucca locations, but information received from local governments after the packets were printed was not included. That material can be accessed on the Subcommittee webpage of the Legislative Counsel Bureau website (www.leg.state.nv.us).

Mr. Guindon said the Subcommittee would review the CTX revenue summary tables on page 3 of the meeting packet ([Exhibit A](#)). In addition, Fiscal staff would present several hypothetical examples of the effect of the “one-plus” and “no one-plus” scenarios. Finally, the Subcommittee would review slides from the February 1, 2012, meeting that are relevant to the issues of today’s meeting.

Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, referred to page 3 of the meeting packet ([Exhibit A](#)) to Summary Table 1 – First Tier. The table showed the six revenue sources that make up the first-tier distribution of the CTX: The Supplemental City-County Relief Tax (SCCRT); the Basic City-County Relief Tax (BCCRT); the Governmental Services Tax (GST); the Real Property Transfer Tax (RPTT); the Cigarette Tax; and, the Liquor Tax. He said the table explained the taxes and the footnotes explained the rates and the distribution of the revenue at the first tier. He said the first column on the table shows the distribution prior to the creation of the CTX, and the second column shows the distribution under CTX. He noted that in all six of the examples, the distribution at the first tier did not change. He said there was no distribution of revenue to any local government special district or enterprise district under the first tier. The first-tier distribution was simply the allocation of the six revenue sources from the statewide aggregate to the counties.

Mr. Nakamoto said page 5 ([Exhibit A](#)) was Summary Table 1 – Second Tier. For all of the six revenue sources, the table explains, after the money was distributed to the counties, how the revenue was distributed to the cities, towns, the county itself, any special districts or enterprise districts that may have been receiving the revenue before the creation of the CTX. Again, a separate column showed how it was distributed under CTX. He noted that for all of those revenue sources except for the GST, the distribution was under CTX formula using either one-plus or no one-plus.

Mr. Nakamoto said before the creation of the CTX, if a county had one or more cities, or in the case of smaller counties, whether there were towns, it took into account property tax values. There were different distribution formulas for all of the revenue sources. As was discussed by Marvin Leavitt and Guy Hobbs at the February 1, 2012, meeting, the CTX worked to address the distribution issues at the second tier to get a common

formula. In conclusion, Mr. Nakamoto said the tables on pages 5 and 6 ([Exhibit A](#)) showed the distribution at the second tier before CTX, and under CTX.

Joe Reel, Deputy Fiscal Analyst, Fiscal Analysis Division, referred to page 7 ([Exhibit A](#)) to Summary Table 2 – Second Tier, which illustrates the difference between the default of no one-plus, and the circumstances in which the one-plus formula would become active. He explained that the yellow section of the table identified criteria under subsection 5 of NRS 360.690 in which a county's population growth was negative, and the Net Proceeds of Minerals five-year average was greater than \$50 million, or both. Similarly, under the green columns subsection 6 criteria was identified as negative population and assessed value for all local governments. The orange column shows the criteria for subsection 7.

Mr. Reel highlighted examples of the difference between the three subsections, and the circumstance that would cause the one-plus formula to become active again. He said the no one-plus was the default. In every case, the Department of Taxation (Taxation) would use the no one-plus formula unless certain conditions applied. Example 1 on page 8 ([Exhibit A](#)) showed a scenario where the no one-plus was the default. He said in that example, the five-year average population growth, and the five-year growth in assessed value are added together and expressed as a decimal. That figure was then multiplied by the base amount in column E to determine the factor in column G. Column H determines the share for no one-plus that each factor from column G makes up of the total for column G. Column H shows the no one-plus share that would come out of this calculation for no one-plus.

Mr. Reel explained for the one-plus calculation, the number one was added to the no one-plus factor, and similarly, the orange column H shows the resulting distribution share. Those shares are applied to the actual amount of excess available in column I, resulting in the actual amount distributed represented in columns J1 and J2. He explained that the blue column confirms that the amount of excess received matches the orange column distribution shares. He explained that the one-plus and no one-plus differed based on the population growth average and assessed value growth average shown in columns A and B.

Mr. Reel said Example 2 on page 9 ([Exhibit A](#)) demonstrates the provisions of subsection 5, which states that the one-plus must be used if these conditions are met: the five-year growth in population in the county was negative, or the five-year average Net Proceeds of Minerals was greater than \$50 million, or both. He clarified that if both happened, then the same rule would apply.

Mr. Reel said the only change between Example 1 and Example 2 was that the county population growth was -1.5% in Example 2. The resulting no one-plus factor was still a positive value. Because the county's population growth was -1.5%, the share was reduced to 10% versus 29.1% under the one-plus formula. He compared the distribution share columns in Example 1 and Example 2 and noted that the decline in population resulted in the county's share of distribution for excess going from 25% to

10% of the total. Under the one-plus formula, the county share would be 29.1%. If the population growth was negative, or if the county had \$50 million in Net Proceeds of Minerals over 5-years, it was allowed to use the one-plus formula.

Moving to Example 3 on page 10 ([Exhibit A](#)), Mr. Reel said the provisions of subsection 6 state that the one-plus must be used if both the population and the assessed value was negative for all local governments, and the five-year growth in assessed value was negative for all special districts. Mr. Reel said the positive values from Example 1 were made negative in Example 3 to show that every entity was experiencing declines in population and assessed value. There was no consideration in this example for Net Proceeds of Minerals. He said under the no one-plus, because the values were negative, the factor was zero. Zero multiplied by the base amount results in a value of zero in column G. Therefore, the no one-plus distribution share in column H would also be zero. Ultimately, the no one-plus distribution would be zero. Because of circumstances where average growth for every entity could be negative, if the no one-plus were in place, there would be no method to distribute the excess. That was the reason provisions were put in during the 2003 Legislative Session to allow the one-plus formula to be applied under certain circumstances.

Mr. Reel said Example 4A (page 11, [Exhibit A](#)) showed a case where both five-year population growth and assessed value growth were negative for all local governments, but the five-year assessed value growth for a special district was positive. Compared to Example 3, the only change was to assign a positive assessed value growth to Special District 2. He noted if the no one-plus had been in place, all of the other entities would still have the same zero weight as shown in Example 3; however, by having a positive assessed value, Special District 2's no one-plus factor resulted in a positive amount. Therefore, the formula results in a distribution share of 100% of any excess generated.

Mr. Reel said the provisions of subsection 7 allow the "modified" one-plus shown in Example 4B on page 12 ([Exhibit A](#)). The table compares the modified one-plus to the straight one-plus. He noted the five-year average population growth for the county was -1.5%. Subsection 7 requires that the negative population growth in the county be applied to the special districts. He explained that population was not usually considered with regard to special districts, but under these provisions, the negative population was applied to the assessed value, resulting in the amount in column C. Column C displayed the sum of population growth and assessed value growth, including the negative population growth of the county, resulting in -3.5% for Special District 1, which would have been -2% under the provisions of the regular one-plus. For Special District 2, the combined growth rate was 0.5% under the modified one-plus, versus 2% under the one-plus. He said adding the negative population growth to the special districts evens out the actual distribution share. The differences were not significant, but the example demonstrated that, in the case of Special District 1, the negative population growth was applied to a negative assessed value amount, driving the factor down further to a -3.5%, whereas under straight one-plus it would have been a -2%. Similarly, for Special District 2, instead of 2% under one-plus, the rate was reduced to 0.5%.

Mr. Guindon said CTX was created in FY 1999, before the tenure of the current Fiscal staff. Therefore, staff studied the history of the legislation. He said the CTX should be approached from a purely mathematical aspect, because it was a formula. There was no debating the results. He said testimony from the local governments identified the one-plus as an issue. However, he noted that the one-plus can handle negative average five-year growth in assessed value and negative average five-year growth in population, because it was not going to break down. Taxation can calculate the equation, but some of the results would be a zero weight for some local governments, which was an unintended consequence. In the 2001 Session, there was a decision to change to no one-plus. If negative events occurred, such as the downturn in the economy, there would be an undesirable result of zero weights. He recalled that as early as the 2003 Legislative Session, the Legislature passed bills to deal with the no one-plus issues. He said in 2001, the shift from one-plus to no one-plus was phased in annually from 75% / 25%, to 50% / 50%, to 25% / 75%. The no one-plus was not fully in place when the legislature began to make changes. He explained that there were issues due to the economies of the rural counties being more volatile than some of the urban counties. In 2005, additional sections were added to the law to deal with the no one-plus generating undesired results. He noted that in Example 4B, a special district actually had positive assessed valuation growth, but was required under the formula to add the negative county population growth to their positive assessed value, resulting in a reduction in their share of the excess. These unexpected and undesirable results prompted the Legislature to request changes to the formula.

Mr. Guindon said the original CTX legislation was in NRS 360.690, subsection 4, which was one-plus. In 2001, the Legislature changed subsection 4 to no one-plus. Since then, subsections 5, 6 and 7 were added to deal with the undesirable results generated by the no one-plus. He noted that under subsection 7 a special district had positive assessed value, but was required to add the negative growth. He said it was the mathematical result of applying the modified one-plus.

Mr. Guindon noted that the original CTX legislation stated that any excess would be returned to the base, and then adjusted by the consumer price index (CPI). The base would have grown in addition to the CPI adjustment. In 2001, that excess was taken out, and not put back into the base. The base was then adjusted by CPI. When the economy slowed, and there was no excess, the base would have grown.

Senator Lee asked, if the CTX formula from 1999 was still in use, would that solve the current problem? Chairwoman Kirkpatrick noted that there were several issues.

Mr. Guindon agreed that there were several issues, and the problems were “in the eye of the beholder.” He said changes could not be made to the CTX formula without moving money from one entity to another, potentially making winners and losers. He said if the original legislation had been left in place, some issues would have been avoided. For example, in FY 2012, Clark County entered in to an interlocal agreement because the no one-plus generated zero weight. Clark County did not meet any of the

criteria for the one-plus. The Legislature could have added a section 8 to indicate if certain criteria were met, the county would be one-plus.

Mr. Guindon said each local government that was receiving second tier money may or may not have a problem with the amount of money that was being distributed to the county, and then redistributed within the county.

Senator Lee asked if the ups and downs, and peaks and valleys in the base were due to the changes to the formula since 1999. Mr. Guindon said the simulation for Clark County indicated that, had the original formula been left in place, the amount of excess in the second-tier distribution under the one-plus versus the no one-plus would have been reduced significantly. The formula was being applied to all 17 counties, and may affect other counties differently. That was somewhat driven by what was occurring in the economy, and the amount of revenue coming into the first tier.

Chairwoman Kirkpatrick commented that the original formula may have reduced the amount of excess, which was not typically the largest portion of the distribution, compared to the base. Mr. Guindon said the original formula would have moved money around amongst the entities within each county. It would not have been revenue neutral, because the formula was different. He said the base would have grown and the excess would have been reduced, and there could be years with no excess to distribute depending upon the economy. He asked the local government experts to correct him if he misunderstood the mechanics of the CTX.

Referring to page 13 ([Exhibit A](#)), Mr. Guindon said there were provisions in the law that dealt with the CTX in terms of bonding, the creation of new local governments and the establishment of the original base. He said that NRS 360.695 provides that if the population and the assessed value of a local government entity, which was a county, city, town or special district, decreased in each of the three fiscal years, Taxation was required to review the base allocation amount and determine whether an adjustment should be made. Taxation would submit that adjustment to the Committee on Local Government Finance (CLGF), and the CLGF must determine whether the adjustment was appropriate. The CLGF would then present the adjustment to the Nevada Tax Commission. If the CLGF found that the recommended adjustment was not appropriate, there was no appeal to the Nevada Tax Commission. He did not know whether that section of the law had been implemented by Taxation.

Mr. Guindon said page 14 ([Exhibit A](#)) outlined the provisions in statute pertaining to CTX revenues for the payment of bonds. Because the CTX revenues become part of the local governments' general funds, they were allowed to pledge that revenue for the payment of bonds. He said NRS 360.700 recognized that the entities could have pledged one of the six revenue sources for the payment of bonds before the CTX. In addition, the local governments can pledge up to 15% of the CTX revenues for bonds, and if SCCRT revenue had been pledged for the payment of bonds prior to the CTX, the pledge can be increased. Finally, under NRS 360.720, an enterprise district was not allowed to pledge CTX revenue for the payment of bonds.

Mr. Reel asked the Subcommittee to turn to page 15 of the meeting packet ([Exhibit A](#)), which addresses interlocal agreements. He said the provisions of NRS 360.730 allow two or more local governments or special districts, or any combination, to enter into an interlocal agreement to agree how the funds would be distributed to the entities within the county. There was no interlocal agreement for the first-tier distribution, rather, it related only to the second-tier distribution. He said termination of the interlocal agreement must be approved by all parties. There are provisions to allow the interlocal agreement to be amended by a majority vote, and provisions that restrict the number of times the interlocal agreement can be amended.

Mr. Reel reported that White Pine County had been under an interlocal agreement from FY 2001 through FY 2012. The only other interlocal agreement was Clark County for FY 2012. Referring to page 16 ([Exhibit A](#)), Mr. Reel said the interlocal agreement must be transmitted to Taxation within ten days after agreement was met by the parties. More importantly, it must be transmitted to Taxation not later than December 31 of the fiscal year preceding the year of the distribution. He noted that there would be testimony from the local governments on that requirement later in the meeting. He said Taxation was required to calculate the amount that would have been distributed in the absence of the interlocal agreement; if the interlocal agreement were terminated, Taxation would be able to continue the actual distributions.

Mr. Guindon said page 39 of the Actual Revenues Distributed and Other Statistics Related to the CTX packet ([Exhibit B](#)) lists the counties, indicates one-plus, no one-plus status, and whether there was an interlocal agreement. He told the Subcommittee members that some local governments had requested to change the December 31 submittal date referenced on page 16 of the meeting packet ([Exhibit A](#)) to make better use of interlocal agreements.

Mr. Guindon referred to page 17 of the meeting packet ([Exhibit A](#)) to NRS 360.720 regarding governmental entities that were created between July 1, 1996, and July 1, 1998. He noted that July 1, 1998, was the beginning of FY 1999 – the first year that CTX was in place. The statute provided that a local government entity that was created in that two-year window could not receive CTX revenue unless it provided police protection, and two of the following services: fire protection; construction, maintenance and repair of roads; or, parks and recreation. Prior to the CTX implementation, the Legislature set a standard to be met to be eligible to be considered for CTX revenue.

Mr. Guindon said NRS 360.740 addresses whether a new local government or special district created after July 1, 1998, would be eligible to be considered for CTX revenue. He said, by a majority vote, the local government or special district could ask the CLGF to request that Nevada Tax Commission consider them for CTX revenue distribution. To be eligible to make that request, they must be providing police protection, and two of the following services: fire protection; construction, maintenance and repair of roads; or, parks and recreation. The new entity can enter into an interlocal agreement with

another local government entity for police and fire services, if it compensates the local government for providing those services.

Chairwoman Kirkpatrick asked about cities that were incorporated after CTX, and whether they had the ability to return to the previous status. In addition, she asked how Taxation was involved in the process.

Mr. Guindon said it was unclear whether the local government would have a right to return to petition for distribution of the revenue after the two-year period. Chairwoman Kirkpatrick said she would pose the question to staff from Taxation. She said the question arose often, and although she has read the statute, she was not clear on how it worked.

Senator Lee observed that a city could move its police protection to another entity via an interlocal agreement. He asked if it was possible for a city to utilize police services from another state. Mr. Guindon said that question should be addressed by the LCB Legal Division. Senator Lee said he would wait for the answer.

Assemblyman Daly described the situation as a “chicken and egg” scenario in that the CTX distribution was used to provide services, but the local government must be providing those services before it can be eligible to receive the CTX distribution.

Chairwoman Kirkpatrick said she would attempt to speak with LCB Legal Division staff before the end of the meeting, and if that was not possible, the topic would be on the agenda for the next meeting of the Subcommittee.

Mr. Guindon thought that as the new government entity was phased-in, it would provide certain services. He asked for time to think about the question before answering.

Assemblyman Ellison asked if a petition for an incorporated city for CTX distribution was denied by a county, based on services provided by that city, whether the city had a right to appeal the decision of the county.

Chairwoman Kirkpatrick said that was another topic for the agenda for the next meeting of the Subcommittee. She would meet with Taxation staff, and asked the Subcommittee members to submit their questions to her about the process of incorporation as it related to CTX. She said there may be something in statute that would need to be clarified by the Subcommittee.

Resuming his presentation of the CTX distribution at the second tier, Mr. Reel referred to page 19 ([Exhibit A](#)) which addressed the initial calculation. He reminded the Subcommittee that in order to be eligible to receive CTX distribution, an entity had to have already been receiving one of the six revenue sources. He noted that Table 8 (page 245, [Exhibit B](#)) showed the initial base amounts for the counties. He said, in 1997, Taxation calculated an initial base amount for CTX distribution in 1999. He said the enterprise districts’ 1999 base was determined by the average amount received

from each of the taxes during FY 1996 and 1997. That amount was not adjusted for CPI. Local governments and special districts received the average amount of the six revenue sources that were received during FY 1996 and 1997, multiplied by a growth factor of one, plus the percentage change between the average amounts received by the local government during FY 1997, and the average amounts received from FY 1996 and 1997. The product of that calculation was adjusted for CPI between July and December 1997 to determine the base amount for FY 1999. Mr. Reel noted the base amount for the unincorporated towns took into account the inclusion of any debt rates.

Referring to page 20 ([Exhibit A](#)), Mr. Reel said the local governments and special districts were given until December 31, 1997, to appeal the base amounts that were determined by the Taxation. Taxation was required to consider several factors:

- The revenues available to the local government or special district in FY 1981;
- The property tax levied by the local government or special district in FY 1981;
- The change in the property tax rate for the five years immediately preceding FY 1981;
- The change in assessed valuation for the five years immediately preceding FY 1981, excluding the net proceeds of minerals;
- The effect that an adjustment would have on other local governments or special districts in the county; and
- The factors, if any, that caused the local government or special district to experience growth or other effects not properly accounted for in the SCCRT distribution factors used before July 1, 1998.

Mr. Reel said the CLGF reviewed the findings from Taxation to determine whether an adjustment was appropriate. If the adjustment was found to be appropriate, it was submitted to the Nevada Tax Commission to specify the amount of the adjustment. If the CLGF determined that an adjustment was not appropriate, no action would be taken and that decision was not subject to review by the Nevada Tax Commission. If the recommendation was accepted, then it would be applied by Taxation.

Referring to Table 8, page 247 of the data packet ([Exhibit B](#)), Mr. Guindon explained that Fiscal staff obtained from Taxation the actual amounts that were distributed to the entities within each county in FY 1996 and 1997, which are the two years that were used to determine the initial base for the CTX under a mathematical formula that was applied to all of the entities equally. He said there was a desire for the CTX to be revenue-neutral.

Mr. Nakamoto said that page 21 of the meeting packet ([Exhibit A](#)) addresses the distribution of CTX revenue at the second tier to library districts. There were eight library districts in the state that received a portion of the CTX revenue at the second tier. All of those libraries are located either in Clark County (Boulder City Library District, Henderson Library District, Las Vegas/Clark County Library District) or Nye County (Amargosa Library District, Beatty Library District, Pahrump Library District, Smoky

Valley Library District, Tonopah Library District). These libraries are receiving CTX revenue, because at the time the CTX was created, prior to 1999, the libraries were receiving SCCRT and GST revenue. He said A.B. 441 of the 1993 Legislative Session created the North Las Vegas Library District. The provisions of the bill amended the charter of the City of North Las Vegas by adding Section 2.310, in which subsection 3 states, "The district is not entitled to receive any distribution of supplemental city-county relief tax." Because A.B. 441 did not allow distribution of SCCRT revenue to the North Las Vegas Library District, when the CTX was initialized under S.B. 254 of the 1997 Legislative Session, the North Las Vegas Library District was not receiving any of the six revenue sources. That was the reason the North Las Vegas Library District did not receive CTX revenue, while the other eight libraries listed for Clark County did.

Mr. Guindon noted that A.B. 71 required a review of the library districts with regard to CTX distribution. He reiterated that to be eligible to CTX revenue, the entity must have been receiving one or more of the six revenue sources before the CTX. Therefore, the North Las Vegas Library District was excluded from CTX revenue distribution. He did not know why the decision was made to include that language in the bill when the library district was created.

Chairwoman Kirkpatrick believed there was a property tax assessed by the North Las Vegas Library District. She asked whether anyone could comment on why that language was included.

Mr. Nakamoto said to his knowledge, the North Las Vegas Library District had its own property tax that was billed to North Las Vegas residents. Because the library district was created subsequent to 1981, the presence of that property tax rate did not entitle the district to any GST revenue, because, under the old formula, GST was based on the property tax rate for FY 1981. Also, the SCCRT revenue was not distributed to the North Las Vegas Library District. The North Las Vegas Library District property tax revenue was independent of any CTX distribution.

Chairwoman Kirkpatrick asked how the CTX distribution rules would apply if the North Las Vegas Library District consolidated. Mr. Guindon said the LCB Legal staff and Fiscal staff would look into that question. He would need information from the North Las Vegas Library District.

Mr. Nakamoto said that page 22 ([Exhibit A](#)) summarized legislation enacted subsequent to the creation of CTX that affected the second-tier distribution among local governments and special districts. He noted that page 101 of the packet for the February 1, 2012, meeting contained a detailed write-up of the history of the CTX, including detailed summaries of each piece of legislation.

Mr. Nakamoto said S.B. 534 of the 1999 Legislative Session implemented the provisions of NRS 360.695, which allow Taxation to review base allocations for local governments or special districts for adjustment when there are declines in population and assessed value.

Mr. Nakamoto said there were three major changes to the CTX pursuant to A.B. 10 of the 17th Special Session (2001). The first change removed the excess from the calculation of the base for each year. Under A.B. 10, the base from the previous year was adjusted for the change in CPI. Second, the one-plus formula was phased out in 25% increments over a four-year period in favor of no one-plus starting in FY 2002, with the formula being fully at no one-plus beginning in FY 2005. He noted that page 39 of the data packet ([Exhibit B](#)) showed the phase-in of all 17 counties from no one-plus to one-plus. By FY 2005, all the counties should have been at no one-plus, except for counties with issues that were addressed in subsequent legislation. The last major component was a one-time base allocation adjustment for the City of Henderson of \$4 million, beginning in FY 2002. He noted that there was background information on the legislation on the Subcommittee's [webpage](#). He said the minutes for A.B. 10 would primarily be in A.B. 563 of the 2001 Legislative Session, which was considered, but not approved before the 120-day restriction. The issue was addressed during the special session and eventually enacted as A.B. 10.

Mr. Nakamoto said S.B. 469 (2003 Legislative Session) which required the use of the one-plus formula in counties where the sum of the average population growth and average assessed valuation growth for all local governments was negative, and the average change in assessed valuation for all special districts was also negative. He said that was codified in Section 6 of NRS 360.690. The second change required the use of a modified one-plus formula in counties where the sum of the average population growth and average assessed valuation growth for all local governments was negative, but the average change in assessed valuation for any special district was positive. He said that was the modified one-plus formula currently in place as subsection 7 of NRS 360.690.

Mr. Nakamoto said S.B. 38 (2005 Legislative Session) requires the use of the one-plus formula in counties where one of the following criteria are met:

- The average net proceeds of minerals for the county for the five immediately preceding fiscal years was \$50 million or more;
- The county's average population growth for the five immediately preceding years was negative;
- The average Net Proceeds of Minerals for the county for the five immediately preceding fiscal years was \$50 million or more and the county's average population growth for the five immediately preceding fiscal years was negative.

Mr. Nakamoto said this was subsection 5 of NRS 360.690.

Mr. Guindon interjected that the term "modified one-plus" would not be found in *Nevada Revised Statutes* or Department of Taxation reports. He said that term was used by Fiscal staff to discuss the formula. In addition, Mr. Guindon noted that Table 1 on page 39 ([Exhibit B](#)) showed that there were five counties that have never been in one-plus

status. The closest was 75% no one-plus and 25% one-plus in the third year of the phase-in.

Mr. Nakamoto referred to page 24 ([Exhibit A](#)) which listed the various interim committees or studies related to the CTX that have occurred. He said the Subcommittee that was created as a result of Senate Concurrent Resolution 40 (1995 Legislative Session) required the Legislative Commission to appoint a Subcommittee consisting of three members of the Senate Government Affairs Committee and two members of the Assembly Government Affairs Committee to look at the allocation of services and revenues among the state, counties and cities. He said an advisory committee was required to be appointed by the chair of the subcommittee. The members of the advisory committee were to consist of one member involved in the government of the City of Las Vegas; one member involved in the government of a city organized under general law; one member involved in the government of a city organized by charter; one member involved in the government of Clark County; one member involved in the government of Washoe County; one member involved in the government of a rural county; and two members of the general public. He observed that several members of the advisory committee were in attendance.

Mr. Nakamoto noted that the recommendations from the Subcommittee to the 1997 Legislative Session resulted in S.B. 254, which created the CTX in its initial form.

Mr. Nakamoto said S.B. 253 (1997 Legislative Session) was a companion piece of legislation to the CTX bill. The bill created a statutory legislative committee for the 1997-98 and 1999-00 Interims to study the distribution among local governments of revenue from state and local taxes of various revenues (page 26, [Exhibit A](#)), as well as any other state or local taxes. The membership of the committee consisted of two members of the Senate Government Affairs Committee; two members of the Senate Taxation Committee; two members of the Assembly Government Affairs Committee; and two members of the Assembly Taxation Committee. The committee was required to consult with an advisory committee consisting of the Executive Director of the Department of Taxation and eight additional members appointed by the Legislative Commission comprised of two members of the Committee on Local Government Finance; three members involved in the government of a county; and, three members involved in the government of an incorporated city. He noted that the provisions creating the committee expired on June 30, 2001.

Mr. Nakamoto said page 27 ([Exhibit A](#)) included information on the meetings held during the 1997-98 Interim, and the findings of that particular interim committee that were recommended to the 1999 Session of the Legislature, and enacted as part of S.B. 534 and S.B. 535 of the 1999 Legislative Session. He noted the legislation was summarized on page 101 of the meeting packet for the February 1, 2002, meeting.

Mr. Nakamoto said S.B. 557 of the 2001 Legislative Session (page 28, [Exhibit A](#)) extended the deadline of the S.B. 253 committee from the 1997 Legislative Session for another four years. He said the committee met again during the 2001-02 Interim and the

recommendations from the study were eventually enacted as part of S.B. 469 of the 2003 Legislative Session.

Mr. Guindon noted that a Summary of CTX Issues Provided to the Subcommittee by the Local Government Entities ([Exhibit G](#)), was provided to the Subcommittee members and the public.

Chairwoman Kirkpatrick noted that the topic of fiscal home rule would not be discussed. She recalled that the topic arose during the CTX discussion, but it was not within the Subcommittee's purview. She said the Subcommittee members could discuss the issues with the Chair of the Senate Committee on Government Affairs.

ITEMS IV AND V WERE HEARD AT THE SAME TIME.

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

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

Timothy Hacker, City Manager, North Las Vegas, thanked Chairwoman Kirkpatrick and the members of the Subcommittee for taking the time to study the allocation of money distributed from the local government tax distribution account. He stressed that the local governments appreciated the Subcommittee's approach of fact-finding, information gathering, and providing a clear history of the CTX revenue distribution, which was very beneficial. He echoed Senator Lee's comments that the local governments were learning along with the Subcommittee because of the many new faces in North Las Vegas. He introduced Al Zochowski, Finance Director, City of North Las Vegas, who could provide additional detail to the Subcommittee.

Mr. Hacker began by stating that understanding the history was to acknowledge what has been done, why it has been done, and to build upon that, not repeat it, specifically if there have been challenges with that history. He stated that North Las Vegas and the City Council held a meeting to discuss and provide direction regarding the Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account. He noted a detailed letter was located on page 133, [Exhibit A](#), which addressed the issues that were important to the City of North Las Vegas, as well as Clark County and Nevada. Mr. Hacker stated that the first concern, and the more emphasized elements, was the focus that stability had within the formula as it currently existed, which was definitely applaudable. However, the focus on stability has come at a cost of not being responsive to adjusting to real world conditions seen in a rapidly growing community. In addition, the City of North Las Vegas Library District issue needed to be addressed, and how new entities were incorporated into the distributions of revenues, which was a focus of the Subcommittee. He stated that new staff in North Las Vegas did not understand why a library that has been in the community for many years did

not form a district until 1993. He believed that the speculation that has been made as far as the ability then to do a property tax override was probably the driving issue, but it definitely needed further review.

Continuing, Mr. Hacker stated that in addition there were concerns that there was not adequate and ongoing review of the CTX distributions. He applauded the Subcommittee for the work being done and for trying to build a historic track record so there was a good base to start upon if further reviews were needed. He believed it would be nice to have an ongoing plan to review the distributions every five to ten years to look at the real world impacts and experiences to allow adjustments to be made more rapidly.

Mr. Hacker noted that there were concerns expressed about the original distribution base and when it was established. He noted that there was a point when the distribution base was disadvantageous for the local governments. The City of North Las Vegas was not expecting major and dramatic changes as it relates to history as they moved forward in trying not to see any city or county harmed in any process. However, as they moved forward the city would like to see something similar to what has been suggested by other entities. He noted that it appeared that there was a desire among other entities to have some adjustments made to make the distributions more responsive moving forward.

Concluding, Mr. Hacker indicated there was a real concern about the impact and emphasis on assessed valuations of the CTX distribution. The documents provided from North Las Vegas showed a fast rapidly-growing community in the last decade, which was not reflected in the rapidly growing share of the CTX distribution. The citizens and shared constituents that he worked with on daily basis demanded services and have not seen a responsive distribution as far as being able to pay for the much needed and desired services. He noted that he saw a lot of commonality in the issues that were raised among the urban communities and he wanted to emphasize their appreciation for the Subcommittee taking on the issue of the CTX distribution. As they moved forward, Mr. Hacker wanted to ensure things were going to be more reflective of the actual experiences of the constituents of North Las Vegas. Mr. Hacker said that Mr. Zochowski, Finance Director, was available to answer any detailed questions about the specific dollars that were provided or address the presentation material provided.

Senator Lee stated that he appreciated the testimony of Mr. Hacker. He asked about the excess CTX distribution – the rapid growing population of North Las Vegas versus the assessed value and the services that were needed. He noted that if he had his way he would give the CTX to the local governments and then pass it on to the community college system to try and help out education, which he was aware was extreme. However, it seemed that sometimes people did not like to say they lived in Las Vegas or North Las Vegas, because of the Las Vegas moniker, and Las Vegas was deprived of opportunities because of the name of the community. He asked about the excess CTX distribution and if the percent of assessed valuation could be

changed and moved more towards population and what would that mean to a growing community for the services provided.

Al Zochowski, Finance Director, City of North Las Vegas replied that he believed the question could be answered by looking at the change in the percent of assessed valuation and percent of population for the cities within Clark County. He noted that what was seen in the City of North Las Vegas since 2000 – the percent of assessed values has grown by 40% of what the percentages were in 2000. The City of North Las Vegas population percentage increased by 30% from the percent of the total population of the cities of Clark County since 2000, yet the distribution received was almost exactly equal to the percent of distribution received in 2000. Mr. Zochowski understood that the formula was complicated and was unsure it provided the outcome that was important to react to changes in assessed value and population.

Senator Lee asked Mr. Zochowski what he would do with that dilemma in a perfect world for a typical community with the same numbers, such as North Las Vegas.

Chairwoman Kirkpatrick stated that she did not want the local governments to provide solutions at this meeting. She said that there will be discussion of population at the next meeting, because that issue always comes up and she wanted to call on the people that were instrumental in the change in the distribution to go over the population portion. She believed that Nevada was unique in many ways because of the hotels where people may reside, in addition to the border cities that had an influx of “snowbirds” at certain times, such as Laughlin, Lake Tahoe or Mesquite. She wanted to have a full discussion on the issue so the Subcommittee could work toward finding the common issues of the local governments and move toward fixing those issues and then look at the harder issues once there was more dialogue.

Senator Lee agreed with Chairwoman Kirkpatrick and would wait to have his concerns addressed at a future meeting.

Chairwoman Kirkpatrick informed the Subcommittee that the meeting was an opportunity for local governments to express their concerns of the first-tier and second-tier distribution of the CTX revenue. She wanted to discuss the City of North Las Vegas Library District issue because she thought that building was several decades old. She would like to know the history of the North Las Vegas Library District and why it became a library district 15 or 20 years after the fact. In addition, she asked the local governments where they received their data because she has reviewed some of the Power Point presentations provided by the local governments and the cities came up with different numbers. She believed it was fair to everyone if the local governments provided their source of numbers and information so the Subcommittee could evaluate the information provided.

Mr. Hacker thanked Chairwoman Kirkpatrick on behalf of himself and Mr. Zochowski for the opportunity to testify at the meeting for the City of North Las Vegas.

Chairwoman Kirkpatrick stated that if there were changes that were discussed everybody would have the opportunity to repost their concerns.

Assemblyman Ellison stated that Dawn Stout, Elko County was supposed to testify, although he did not think she was present. In addition, he indicated that Cash Minor, Elko County was in attendance.

Josh Foli, Comptroller, Lyon County, stated that the County Commission Chair was present at the meeting, along with the County Manager, but both had to leave to attend a board meeting. Mr. Foli referred to the handout Churchill County Agenda Report ([Exhibit D](#)), and stated that the first-tier distribution was working properly for Lyon County, and the second-tier distribution did not have any issues like many other counties. He noted that Fernley believed the city was not receiving their fair share of CTX within Lyon County, which he believed was a second-tier issue not a first-tier issue, although Fernley thought it was possibly both a first-tier and second-tier issue. He noted that Lyon County did not have any opposition as a county with providing additional CTX funding to the City of Fernley and City of Yerington. However, it was his understanding that CTX was like water – it flowed to where services were being provided. Although he has seen representations that maybe the City of Fernley provided 100 percent of the services for the residents, Lyon County currently provided law enforcement, 911 Dispatch and jail services to the City of Fernley at no charge. Also, Lyon County provided library services in addition to social services, senior services, Assessor's services, County Clerk-Treasurer services, Recorder's services, Public Administrator services, Public Guardian services, Justice Court, Juvenile Probation, District Attorney services, Search and Rescue services, Coroner services, and pays the State of Nevada for Health and Human Services and Pre-Sentence investigation services for the City of Fernley. Mr. Foli indicated that if the City of Fernley or City of Yerington wished to provide some of those services, and were allowed to statutorily, Lyon County was willing to discuss their CTX distribution and have it changed appropriately to fund that, under the provisions of NRS 354.598747, where a city or another local government could assume functions currently being provided by another local government. Mr. Foli noted that Lyon County was not opposed to the City of Fernley taking over any or all of their law enforcement services, and a board meeting was scheduled in April with Fernley and Yerington to discuss the second-tier CTX distribution.

Mr. Foli directed the Subcommittee to the chart on page 2, [Exhibit E](#), which showed a comparison of most of the cities in Nevada they could easily obtain data for, on the CTX distribution currently received and how much the cities paid for public safety services. He noted the data was from the Department of Taxation final figures for CTX distribution as of June 2011. The public safety portion was obtained from the Comprehensive Annual Financial Reports (CAFR) found online for each of the entities for FY 2011. He noted the only exception were the mining counties that generated substantial pieces of sales tax or Supplemental City County Relief Tax (SCCRT), and cities such as Carlin, Winnemucca, and Elko, actually received more CTX than they spent on public safety services. Public safety services in the rest of the state actually

cost more than the CTX they received. Mr. Foli indicated that the City of Fernley had absolutely no public safety costs and if similar to the rest of the state, the CTX would be spent on public safety services, since the county provided 100% of those services, along with North Lyon County Fire, a separate fire district outside of the city's jurisdiction or legal authority.

Concluding his presentation, Mr. Foli noted that Lyon County did not have any issues with the first-tier CTX distribution and the second-tier distribution was currently working well; however, Lyon County was willing to negotiate the second-tier distribution and was willing to shift services between entities.

Chairwoman Kirkpatrick asked Mr. Foli what kind of services Lyon County provided and was it because the county was so large and spanned over such a large area. She asked the reasoning behind the county still providing services because she thought the Subcommittee heard earlier that in order to incorporate, they had to provide services.

Mr. Foli stated that the City of Fernley had the option to take over public safety services when they incorporated in 2001. For example, Lyon County provided Sheriff's deputies in Fernley, along with a jail and dispatch services, which were all public safety services. He added that North Lyon County Fire Protection District provided fire protection services for the City of Fernley. He noted that if Fernley had chosen to take any service or combination of services, and had the discussions at the point, Fernley would have received an allocation from Lyon County to go to the city coffers to pay for those services. Since Fernley chose not to provide law enforcement services, they did not receive additional CTX under statute. In fact the only reason the City of Fernley had CTX was because the city was receiving distributions when they were an unincorporated town providing park services previously.

Mr. Foli said to address the question of Chairwoman Kirkpatrick, the City of Fernley chose not to take those services when the city incorporated. The city had every chance since incorporation in 2001 to discuss the issue with Lyon County and take over services and modify the CTX so that they received what they needed to fund any services, which at this time has not occurred.

Chairwoman Kirkpatrick asked if Lyon County had an interlocal agreement between the entities on some of the services and if the services were separate. Mr. Foli replied that at this point in time there was no interlocal agreement in place with the City of Fernley. He noted that there was an interlocal agreement in place for a couple years when Fernley originally incorporated and the county agreed to provide law enforcement services, but it was vague to where the funding was going to come from. The process continued indefinitely and Lyon County continued to provide law enforcement services to Fernley for no additional charge because Lyon County received CTX for that service.

Ted Olivas, Director of Administrative Services, City of Las Vegas introduced Mark Vincent, Chief Financial Officer, and thanked the Subcommittee for the opportunity to testify. In addition, he thanked the Fiscal Analysis Division for putting the information together, which was clearly a monumental task. Mr. Olivas directed the Subcommittee to page 112, [Exhibit A](#), which was the response from the City of Las Vegas to the CTX distribution formula issues that were important to Las Vegas and the state. He noted the information provided by the City of Las Vegas included a letter from Elizabeth Fretwell, City Manager, on six issues for the committee's consideration – five of the issues he would discuss briefly at the meeting. He noted that Mr. Vincent would provide a brief overview of the concerns of the City of Las Vegas, which was provided in the letter.

Chairwoman Kirkpatrick asked Mr. Olivas to remind Ms. Fretwell that item six noted in the letter on page 115 was not within the purview of the Subcommittee.

Mark Vincent, Chief Financial Officer, City of Las Vegas stated that the city engaged Applied Analysis to assist in some of the modeling of the CTX formula so they could understand the current dynamics and common problems with the formula. He believed that information has been shared through Applied Analysis to both the Department of Taxation and the Fiscal Analysis Division of the Legislative Counsel Bureau. He noted that in the course of creating the model they discovered that the City of Henderson was doing the same thing so the cities partnered and collaborated to see the types of common issues. In addition, a meeting had been scheduled for March 26, 2012, to explore the issues further, and they were hopeful that they could work through some solutions locally, at least in Clark County.

Mr. Vincent referenced page 122, [Exhibit A](#), and stated that one of the big issues the City of Las Vegas has seen in the data was when A.B. 10 (2001 Special Session) changed how the base could grow, which had an interesting impact. The effect was as the economy was growing exponentially, a lot of CTX revenue was at play as part of the excess pool. Unfortunately, no one thought at the top of this apex of growth there would be huge recession that wiped it all out. Therefore, the impact of the change was that local government entities like Henderson and North Las Vegas, that grew quickly on the way up, with CTX growth pushing 30%, was lost on the way down because so much was at play. Although the Subcommittee was not going to discuss solutions at the meeting, he thought the solution was to go back to the previous formula and allow the base to grow based on the prior year distribution. Mr. Vincent pointed out that the solution does not help Las Vegas, although he believed it was the right thing to do and was a fair solution. The other issue that would have helped some of the one-plus issues were driven by the fact that they were looking at population and assessed value separately – they looked at the five-year average growth rate for assessed value and the five-year average growth rate for population and added them together, and if the sum was negative, the local government does not participate in the excess CTX distribution for that year. Mr. Vincent stated that may have seemed logical when the city was growing, but when the recession hit and assessed value dropped to the floor, it dragged down population growth. So there

could be a 2.0% to 3.0% population growth in the valley and not participate in the excess distribution because the assessed value tanked, and the city lost 30% to 50% of assessed value. Mr. Vincent believed that the obvious solution was to evaluate the assessed value and population separately, since assessed value does not have a lot of driving on services and when there was negative assessed value, you are still providing the same services for growing population, in fact there might be more services because there was more vacant property to deal with as well. Mr. Vincent believed that separating assessed valuation and population and looking at them individually was a good solution, which would benefit all entities. In fact, if the City of Las Vegas had those two things, there probably would have not been such a drive to enter into interlocal agreements in Clark County in FY 2012 and FY 2013.

Continuing, Mr. Vincent stated that another issue discussed, now that everyone understood the complicated formula and how difficult it was to predict anomalies or unusual situations, was the need for a fail-safe mechanism to deal with those anomalies. He noted that North Las Vegas stated that there should a periodic review but he was unsure that would be responsive enough. He believed a default plan was needed in the formula that allowed for any anomaly or unprecedented spike or drop, which in some respects was what the one-plus language does and why many entities were deferring back to the one-plus language. Ironically, if the first two issues were considered in their modeling they were able to drop the one-plus factor down to as low as .03 as long as they let the base grow with prior distribution and separated the assessed value and population growths so neither could be less than zero, which had a damping effect on faster growing communities.

Concluding his presentation, Mr. Vincent said that obviously the local governments within a county could come to a solution, which was great, but they needed to have time and a reasonable deadline to do that.

Senator Lee stated that there was some communities that were not growing at all, some with moderate growth, and some with fast growth. There were population caps in NRS and there were counties with a population of 600,000. He wondered if one formula would respect each of those different groups or was it more complex on the top end and very simple on the bottom end of what the excess was. In addition, he was aware the base seemed to be an issue too.

Mr. Vincent was unsure he had a great answer but he worked for an employer whose cost allocation formula was a partial differential calculus formula that seemed to be fair for all entities. He noted that part of the answer was that obviously there were cities that felt that the CTX distribution was not fair and objectively he could look at the data and understand why they felt that way. However, he thought it was physically impossible to have a formula that was going to make all entities happy all the time. In his opinion, Mr. Vincent said a formula had to be fair most of the time to most entities, which he thought was the best they could strive for.

Chairwoman Kirkpatrick stated that she had concerns with any changes that were made because the Department of Taxation was stretched thin, and would have to try and sort through the programs. She noted that the one-plus formula seemed to be relatively simple to put into a tax formula. She questioned the thinking of the .03 factor and why not a .04 factor or a different factor. She had to think about tax and the costs – one formula seemed simple and she was concerned when they started to add all the numbers.

Mr. Vincent replied that whether it was 1 or a fraction of 1, it was not a complicated change and the Department of Taxation could make the change easily. The reason why they say less than one, was Henderson and Las Vegas were considered odd partners because over this period of time Henderson has grown faster than Las Vegas. He noted when the first two suggestions were implemented in the model, the idea that the base allocation should be equal to the prior distribution and not so much of the excess at play so that the faster growing communities do not get harmed when the recession hits, and the idea of keeping the assessed value and population separate, when that was done the question he was struggling with was there were some larger entities that were providing significant services to large communities that were never going to grow as fast as a smaller community and was mathematically impossible. Theoretically, they would all get to that place where they would grow slower. However, the slower growth does not mean the cities would not have demands and services, or for homeless service that an urban city went through. Mr. Vincent said he was looking for something that if the plus factor was added into the formula, would be reasonably responsive to faster growing cities, but would not leave the larger urban cities or counties in the dust unfairly. He noted the City of Las Vegas has been playing with that and looked at the percentage of growth with or without that factor and compared that to the growth in population or the growth in assessed value to see if it was being too responsive. He noted that the reason they had the adjustments over the years was because there were complaints that growth was growing too fast or not growing fast enough, so he did not have an answer for that but was aware that one-plus had a dampening effect when the first two suggestions were implemented, and everyone grew at the same rate, which he did not think was fair for the faster growing communities.

Chairwoman Kirkpatrick believed that the reason they were here today was because the entire State of Nevada had seen negative growth and the local governments were worried about their budgets. However, all the local governments received something when the one-plus factor was put in the formula. She believed Mr. Vincent was saying that the .03 factor made a level playing field because there was going to be a point with some entities across the state where there was no growth at all because they were landlocked or built out, but they still needed those cities to get their fair share.

Mr. Vincent explained if the base was not growing at the consumer price index (CPI) it was whatever the entity received the previous year and base plus excess was the base for the following year. Now they were talking about what was the growth in the

CTX pool, how much did it grow year-over-year and how it was distributed. He explained if an entity had zero growth they did not participate in the distribution even though they had growing contract costs, services to provide, and roads and facilities to maintain. Therefore, when adding the one-plus factor the effect was that they were taking 100% versus an entity that was growing at 110% and multiplying that by their base to get a new number and using that as a mathematical way of distributing the excess, which resulted in everyone getting fairly close to the same growth rate year-over-year. It was not as responsive and when they allowed the base to grow, a city that maybe had negative growth rate would get zero, if they added .03 essentially they were saying that they get a 3.0% growth rate because they were going to grow the base by 3.0% and then the entity was able to participate in the distribution based on that growth rate. He noted it was a way of making sure that if a small or large city, for whatever reason, did not grow for that five-year average, and one year could make a difference as was seen in Las Vegas, there is a stabilizing effect that does not penalize the entity, but they still would not grow near as fast as the faster growing communities, which he believed was a fair approach.

Chairwoman Kirkpatrick asked Mr. Vincent if some local governments might get a windfall when their budgets were basically flat. She said if there was no growth the local government was not adding any new services as much as they were maintaining the services they already had. So hypothetically, would the .03 factor be a windfall because the local government did not grow or add anything new?

Mr. Vincent clarified that the way it currently worked was that the CPI factor was applied only on the base, not on the total distribution factor, which was the problem. For example, he said it would be equivalent to taking the prior year distribution, inflating it by a cost of living increase, which would then become the new base and had the same effect. He noted the issue was still that base growth had to grow faster than it was currently, which without a doubt penalized the faster growing cities. The adding of the factor was just another mathematical mechanism – equivalent to giving a cost of living increase on everything received the previous year, including their excess distribution, which was essentially doing the same thing and allowing the base to grow at a modest rate and allowing the local government to participate in the excess CTX distribution to grow their base, but it was much more moderate than the one-plus factor.

Chairwoman Kirkpatrick thanked Mr. Vincent for his testimony on behalf of North Las Vegas.

Dawn Stout, Administrative Services, City of Elko, referred to page 75, [Exhibit A](#), and stated that during the 2005 Legislative Session, Senator Dean Rhoads sponsored Senate Bill 38 on behalf of the City of Elko, which resulted in the one-plus factor being put back into the CTX formula. Therefore, based upon the City of Elko's experience with Senate Bill 38, the Elko City Council cautioned the Subcommittee to avoid suggesting any changes to the CTX distribution formula that had the potential to create unintended consequences. In addition, the second concern was that the

City of Elko have good accurate annual population estimates, which were very important. She noted that what happened in the City of Elko's situation, when they went to the Legislature, was that one of the smaller communities grew by 10 to 15 people putting them in a high growth situation and the city's population estimates declined in the same period resulting in the city receiving none of the excess CTX distribution. The City of Elko believed most of those sale taxes were being generated in the community; however, Elko was not participating in any of the excess revenue. Therefore, the city had basically very little revenue coming in to provide the services and they were a full service city and provided all the law enforcement and fire protection services within the city, as well as to some of the outlying areas beyond their city limits. Ms. Stout indicated that it was very important for the City of Elko to be able to keep the revenue in the city and to provide those services to the city and to the outlying areas.

Concluding, Ms. Stout said that the City of Elko liked the current first-tier and second-tier CTX distribution formula, and hoped to avoid any changes to the CTX distribution formula.

Assemblyman Ellison asked Ms. Stout what she thought about the previous testimony and applying the CPI factor to the base. Ms. Stout replied that the City of Elko was happy with the current CTX distribution formula – the one-plus formula, which she believed was fair to everyone in the community and county. She reiterated that the City of Elko did not want to see the formula change at this point.

Chairwoman Kirkpatrick asked Ms. Stout about the rural areas of Elko and the data for population. She wondered if the timing worked considering there was a large influx of population during certain times of the year.

Ms. Stout stated that the City of Elko did see an influx in the population during certain times of the year and in the past year there was a large increase in the population due to the Ruby Pipeline project across the northern part of the state. She noted that many of the people working on the project stayed in the community for nine months or more, so it did skew the City of Elko's population estimates. Currently, Ms. Stout stated that there was another situation where the two largest mining companies were significantly increasing their staff and expected to add 200 to 300 additional positions over and above any attrition that may happen within the company year-over-year. She stated that many of the people employed by the mines would be living in motels because Elko did not have the housing available at this time. She believed the current CTX formula was good the way it was currently progressing, and Elko has faced this situation in the past where people come and go, but she believed it worked well for the rural communities.

Terri Barber, Director of Intergovernmental Relations, City of Henderson, introduced Richard Derrick, Finance Director, City of Henderson, who stated their presentation to the Subcommittee began on page 87, [Exhibit A](#).

Mr. Derrick, stated that he appreciated Mr. Vincent's comments and as he stated, the City of Henderson and the City of Las Vegas have been working closely since the end of the 2011 Legislative Session to build a working model of the CTX distribution method that included all entities that share in this revenue source. He noted the City of Henderson engaged Jeremy Aguero, Applied Analysis, to create a comprehensive database for the entire state, all entities and counties. This model had been shared with the Legislative Counsel Bureau and the Department of Taxation for review and used as a tool for all involved in the discussions to avoid unintended consequences. He noted there was discussion at the meeting about changes made during 2001, which resulted in some changes that were positive and some that were not so positive. He noted the idea was to take a comprehensive look with the Subcommittee to ensure they tried to avoid as many mistakes as possible for the future. Mr. Derrick wanted to ensure they reached out to all jurisdictions and worked together on common ground. They have met with the City of Las Vegas, Clark County, City of North Las Vegas, Mesquite, Boulder City and the Henderson Library District. He said the issues outlined in the City of Henderson presentation were really hand-in-hand with City of Las Vegas. He noted that Mr. Vincent had mentioned the dynamic base adjustments, which was rolling the entire base forward and not just the base excluding excess but the base plus excess year after year. He stated that the City of Henderson was in the same situation as North Las Vegas and the valley as a whole during the economic downturn and contracted 21%, the City of Henderson went down 28%, and the City of North Las Vegas went down 31% because so much of their revenue was contained in the excess. He directed the Subcommittee to the graphs on pages 102 and 103, [Exhibit A](#), and explained that the bar chart showed the base collection in blue and the excess CTX distribution in yellow for the City of Henderson. He noted that looking at the high growth times, revenue was given to the city temporarily, but when the recession hit the revenue dried up as fast as it came in. The chart on page 103 displayed from the high point of 2006, collections for Clark County of \$965 million had dropped to \$755 million, a 21% decrease; the City of Henderson dropped 28%; and North Las Vegas dropped 31%. He stated from a structural standpoint this was a defect of the formula and the changes made in 2001 with an unintended consequence that needed to be reviewed.

Mr. Derrick stated that page 104 displayed the base amount example for a high growing city (City 1) and low growing city (City 2) – both starting with the exact population, exact assessed valuation and the exact consolidated tax base. Fast forward to year ten, the chart showed that City 1 grew dramatically and City 2 remained exactly the same perhaps because it did not want to grow, but on the consolidated tax base, the cities were identical. City 1 with a dramatically different community had to provide far more superior services to a much larger community than City 2, but had the exact consolidated tax base, which from their standpoint was a structural defect of the formula.

Concluding, Mr. Derrick stated that page 106 showed the negative assessed valuation and excess distribution factors. He said the phenomenon was strictly market-driven and had nothing to do with service delivery, and because those

parameters went negative, the formula showed jurisdictions as if they were not growing. Mr. Vincent mentioned hold-harmless was in statute for other areas, but perhaps just preventing entities from going below zero would have prevented this phenomenon. He added he was not talking about solutions but it was the type of thing that could be considered other than just putting back the one-plus factor. He noted that the one-plus factor was mathematically an easy solution, but when they looked at the actual performance of the formula, it does not perform very well at the one-plus. Mr. Derrick said he appreciated Chairwoman Kirkpatrick and the work of the committee during the 2011 Legislature. He noted that because of the way the statute was written, the requirement of having the December interlocal agreement in place made no sense when they do not get projections out until February. The city was in a uncomfortable situation, realizing there was a problem with the formula. He said the city would not have been able to correct the formula through an interlocal agreement for 2012 if the date was not moved from December to May.

Hypothetically, Senator Lee asked what would it mean to the City of Henderson if the state shifted from sales tax to property tax.

Mr. Derrick replied that the tax shift in 1981 was due to pressure on property tax being so high and there was a time where there was a \$5.00 cap that was later reduced to \$3.64 because of Proposition 13. In the City of Henderson's case, he believed that sales tax was a fairer way of allocation because the city was participating in what was being generated on the Strip, not just on a residence. Residents were allowed to work on the Strip, so a lot of the revenue comes back and they were pushing some of requirements on services to the tourism industry, not just simply on their community. Therefore, the advantage of having the tax shift to sales tax was that now tourism was helping compensate and pay for services that were provided to the children and community. Mr. Derrick stated from a community standpoint sales tax was a much better solution than having that complete burden on the property taxpayers. In addition, Mr. Derrick stated that the factor he threw out for the City of Henderson of .001, and the factor of .03 from Mr. Vincent acknowledged the fact that there were issues for more mature communities, such as aging, and infrastructure that needed to participate in the excess generated. Unfortunately, that did not produce the right formula that they were comfortable with as well. He thought a good formula would probably be somewhere between .001 and .03, but acknowledged the fact that even mature areas that were not seeing any growth in population or assessed valuation had infrastructure needs. There were issues with older communities that sometimes would need to participate in the excess generated, but not so much to take away from the faster growing entities, which was what the one-plus factor does. He referenced the chart on page 8 ([Exhibit A](#)) which illustrated the problem with the one-plus factor which was why in 2001 the City of Henderson was part of the discussion around why the one-plus factor needed to be adjusted or come out of the formula. Looking at the hypothetical example of excess revenue distributed under the one-plus factor – the County and City 1 with different growth rates, population and assessed valuation, and for total growth rate the County was going up 4.5% and City 1 was growing at 7.5%. However, looking across the page to

the one-plus factor in the blue column, the one-plus growth rates were almost the exact same. One was growing 3.0% faster than the other community, but because the one-plus factor was heavily weighting the factor, now the County was growing at 29% in the excess, and City 1 growing at 30.6%, and there was very little difference in growth rate. He understood that mathematically that worked very well, but from a service providing prospective, it did not work well. In addition, he has heard that there were jurisdictions fighting over growth or trying to annex to grow faster to receive more resources. From his experience, many times if cities were reacting to growth, for example, if there was vacant land in the city that developers chose to develop on, which created the need to provide services, so often they were not proactively seeking but reacting to what was happening to the city. Many times when a city annexed the city was trying to plan their community, and in the case of the City of Henderson, there was a large church across the street from an adult bookstore, which was not something the city would have planned for, but happened because they were in opposing jurisdictions. Consequently, when a city annexed and tried to control their destiny and the community in the way they were planning their community, it was more about that than it was about trying to aggressively seek resources, because the city was simply looking for ways to provide services as a result of developers.

Chairwoman Kirkpatrick stated because annexation was a problem and cities were trying to get resources, she wondered how governments would react if they could not get additional CTX revenue for annexing.

Mr. Derrick replied that local governments would not want to annex if they had to take on the additional requirements for service. But taking a step back from that, there were a lot of efficiencies that come from connecting to existing services in the communities. For example, if a certain jurisdiction had the waterline connected and a neighboring jurisdiction several miles away did not have a waterline, it made sense to include that into the jurisdiction because they were avoiding inefficient use of resources by having another jurisdiction drawing those services in. He was aware that there was framework in statute in order for a city to annex to make sure local governments were not doing crazy things just trying to grow for no reason, but there were many illustrations of where having an entity plan and have continuity within neighboring jurisdictions has been a benefit versus having different planning.

Senator McGinness said an example was given of the aberration between two cities, and one city was growing a lot faster, but the city still received the same amount of CTX revenue. He asked if there was coalition between the cities and counties to try to find some solutions, or were they just looking to the Chairman for a solution.

Mr. Derrick replied that in the past the City of Henderson actually received feedback from Chairwoman Kirkpatrick, as well as the Subcommittee members, about trying to work together on commonalities. As mentioned earlier in the meeting, the City of Las Vegas was very different from the City of Henderson, and was a more mature city but growing slower, so they were looking for areas of common ground. The City of Henderson has reached out to the City of North Las Vegas, the county, Henderson

Library District, and other jurisdictions within Mesquite, and Boulder City to collaborate and find a common solution to bring forward to the Subcommittee and not lay a problem down without at least having something they have vetted through that all entities could live with.

Chairwoman Kirkpatrick was aware, as well as Senator McGinness, that the mayors across the State of Nevada have met a few times and were trying to work together. She shared their concerns because there were 17 counties and she realized that Clark County and Washoe County were the two largest counties, but they had to take into consideration all the counties because what was done to one entity would be felt by all local governments across the state.

Mr. Derrick appreciated the comments of Chairwoman Kirkpatrick, which was why it was important to have a comprehensive model that could look at all counties and entities to ensure, if anything was proposed, the unintended consequences that happened in 2001 were avoided. They had to have a strategic approach during the interim and the time to actually deliberate versus during a legislative session where there was not enough time to actually have that thought.

Chairwoman Kirkpatrick said that she realized the local governments counted on the excess CTX revenue and it should not be something that the local governments were counting on. She believed that counting on so much of the CTX excess was problematic for the local governments. She wondered how to get local governments off the mindset of excess revenue and on a more stable base.

Mr. Derrick said that the idea that the base from the prior year, which would be the entities base plus the excess would roll forward to the future, would recognize the fact that there may be 10,000 more residents that have become part of the community, which CPI alone would not cover. Therefore, it was recognizing the fact that structurally the community was now larger with more sophisticated services. So that piece needed to happen because again when they were just increasing the base by the CPI, there was no recognition in the base that they would become a completely different community. The piece that was responsible government, which he was aware from the City of Henderson's perspective, when they budget during high growth years or 20% growth years, the city did not spend all of that 20% growth revenue. The City of Henderson would always keep their growth rate down to population plus CPI, which was an internal compliance from a financial policy standpoint and allowed the city not to rely on one-time money too fast and get into a situation where the city overcommitted themselves, which was one of the reasons they have not laid off people during the economic downturn. The City of Henderson has been able to shrink their workforce by 220 employees or 17% of non-public safety employees because the city has not overcommitted the revenue. Mr. Derrick recognized that Chairwoman Kirkpatrick was saying there would always be cycles of ups and downs, and he believed it was incumbent upon local governments to live within its means and to control that growth so it was not overcommitting for the long run.

Chairwoman Kirkpatrick asked Mr. Derrick if he was saying the CTX excess from 2011 was not within the City of Henderson's budget. Mr. Derrick replied that because the city contracted, all the excess was gone from their standpoint and the city had very little excess left. He directed the Subcommittee to page 102, [Exhibit A](#), which showed that the CTX collections coming back in 2011 (yellow bar), but for the most part that excess revenue had dried up when the economic downturn happened and the city had to make cuts and were currently below base. He understood that Chairwoman Kirkpatrick stated that during the high growth years (2004 through 2006), one year showed a 20% increase and expenditures only grew 9%, which was CPI plus population, which went back to the financial responsibilities of being good stewards and not overcoming those resources.

Chairwoman Kirkpatrick stated that in reality local governments had to quit counting on the excess revenue. She expressed that excess revenue was not meant to be the windfall every budget cycle and now entities were crying because they counted on the excess CTX revenue. There had to be a frank discussion about the excess revenue because she did not believe that 54% of the excess was ever intended to be part of the local governments budgets. She said that Mr. Derrick could say that the City of Henderson was doing a great job holding on to the money, but she did not think that was true for the 174 other entities across the State of Nevada. Chairwoman Kirkpatrick stated that if she had her way she would make all entities put the excess CTX revenue in a rainy day fund for the bad times and not rely on the excess. Chairwoman Kirkpatrick stated that she went back and evaluated every local governments budget and excess revenue has been 50% of entities budget for some time and now it was zero percent and they were not happy.

Assemblyman Ellison ascertained that he would rather see a strong base budget for the whole city then wait for highs and lows because the entities were banking on that for infrastructure. He believed that Chairwoman Kirkpatrick had some great ideas.

Mr. Derrick stated that one of the proposed changes that the City of Henderson agreed with Las Vegas on was that the excess would never have grown so large and it would have been part of the base over time and structurally part of what was given, so when the economic downturn happened, page 103, [Exhibit A](#), all entities would have fell 21%, which was fine because they expected contraction, but the disproportionate reductions was what hurt many communities because it was not structurally part of the base over time.

Katy Simon, Washoe County Manager, introduced Lisa Gianoli, former Budget Consultant and Financial and Legislative Affairs Consultant, Washoe County. Ms. Simon complimented Legislative Counsel Bureau and the Fiscal Analysis Division for the great work done in putting all the information together for the local governments, which was appreciated. Ms. Simon stated that Washoe County agreed with making no changes to the first-tier CTX distribution and generally agreed with the excellent observations shared by the representatives of the City of Las Vegas and

City of Henderson. She referenced [Exhibit F](#), Consolidated Tax Distribution, Washoe County Overview and Position Statement and had four points that she wanted to bring to the attention of the Subcommittee. Ms. Simon noted that 84% of Washoe County's revenues were spent to serve all 417,000 people in Washoe County, including those people living in the cities of Reno and Sparks. Washoe County offered full services, which included Child Welfare, Social Services, District Health Department, Libraries, and a wide variety of other regional services. Ms. Simon stated that Washoe County believed that revenues needed to be tied to service delivery requirements, which were the same concerns of some of the previous presenters. Referencing page 12, [Exhibit F](#), Change in Growth Rates and CTX Distribution for 1999 through 2011, the chart displayed average annual assessed value growth rate, average annual population growth rate, combined average growth rate and percentage change in CTX distribution for the City of Reno, City of Sparks and Washoe County, showed that the CTX formula worked the way it was intended to until 2011. However, in 2012 Washoe County went from 51% of the excess CTX revenue to 36%, which was highly destabilizing. She agreed that Washoe County needed to have stable revenues and a flattening of those peaks and valleys. For 13 years prior, Washoe County had been within 1.0% to 2.0%, and in one year the county had a 15% drop in their portion of the excess revenue.

Concluding, Ms. Simon noted that Washoe County would strongly oppose setting an arbitrary single-year of 2012 as defining what revenue neutrality should be as has been proposed. She believed that a much longer view had to be taken when looking at revenue neutrality. Ms. Simon directed the Subcommittee to page 11, [Exhibit E](#), a snapshot of consolidated tax revenue per capita for the City of Reno, City of Sparks and Washoe County. She noted a base adjustment for any entity in Washoe County would negatively impact their ability to provide the mandated and regional services that were provided to all residents.

Chairwoman Kirkpatrick understood that Ms. Simon agreed with many of the issues presented by the previous presenters. She asked Ms. Simon if there was anything different that really stood out in Washoe County. Ms. Simon replied that nothing seriously stood out except that Washoe County had a serious anomaly in 2012, which was shown in the detailed data provided by staff. From 1999 through 2011, the excess distribution worked great; however, in 2012 there was a 15% drop in their excess share of the revenue. She noted that she agreed with things that have been presented by the City of Las Vegas that a smoothing factor was needed. Washoe County certainly did better on the one-plus factor and she understood in other communities the one-plus factor created too great a discrepancy to have the one-plus factor. However, the one-plus factor was very stabilizing for Washoe County for a period of 13 years and then the one-plus factor has been very destabilizing for them.

Alex Ortiz, Principal Financial Analyst, Clark County, directed the Subcommittee to page 30 of the meeting packet, which was information provided by the Board of County Commissioners, Clark County, that outlined essentially three issues regarding the CTX distribution. Page 33 displayed a presentation that was given to the Clark

County Board of Commissioners on February 21, 2012, regarding the CTX distribution. He introduced Yolanda King, Director, Budget and Financial Planning, Clark County, who could provide additional detail and a brief summary of some the issues of Clark County.

Yolanda King, Director, Budget and Financial Planning, Clark County noted for the record that the three issues submitted by Clark County regarding the CTX distribution were located on page 30, [Exhibit E](#).

Chairwoman Kirkpatrick stated that she was struggling with how Clark County got their numbers, because she watched the presentation by the Clark County Board of Commissioners and was shocked by the numbers.

Ms. King stated that as the Subcommittee went through the presentation from Clark County to note that Clark County looked at the CTX revenues that were collected back to 1999 for the cities as well as the county, which were also on the Department of Taxation's website. Also, the population numbers were used that were certified by the Governor, which was how they came up with the calculations for the per capita numbers.

Chairwoman Kirkpatrick asked Ms. King if they included the enterprise districts in the Clark County data. Ms. King replied that the data was strictly for the unincorporated Clark County, as well as the town and the Fire District Services.

Chairwoman Kirkpatrick stated that Clark County provided services to the enterprise districts, which were part of Clark County's overall revenue.

Ms. King asked for clarification, and if Chairwoman Kirkpatrick was speaking of enterprise districts in the form of their Constable's Office. She noted that the Constable's Office was not part of the CTX formula and were in an enterprise fund, but the definition was different from what Clark County was using in the CTX formula.

Chairwoman Kirkpatrick asked if Paradise, Spring Valley, and Winchester were included in Clark Counties CTX figures. Ms. King replied that those districts were included in the figures. She said that page 44, [Exhibit A](#), Per Capita Towns/Fire Districts vs. Cities Average, were the urban towns included in the numbers, such as Paradise, Winchester, Sunrise, Enterprise, and Summerlin. Ms. King noted that what they were trying to do was compare the urban towns, which were much like the cities in the services that they provide. The towns provided municipal services, so they were trying to make a comparison between what their towns provided in the form of municipal services compared to the cities because they provided the same type of services.

Chairwoman Kirkpatrick said that she understood the town versus the cities providing the same services, but those towns also generated other additional revenue. Mr. King stated that the towns were collecting the same type of dollars as the

municipal and other cities and there were property taxes associated, CTX, and business license revenue that was collected among many miscellaneous fees and charges.

Chairwoman Kirkpatrick stated that the Subcommittee would have the per capita discussion at the next meeting, but what she did not see were the individual cities, for example, Spring Valley and wondered if the city just survived on the CTX revenue generated. She noted that Spring Valley has a very high assessed valuation in portions of that, so did their dollars provide enough for their services. She wondered if Spring Valley made up the difference with Paradise or Winchester and how that worked within the county budget.

Ms. King replied that certainly in some areas it would generate enough to provide services in those particular towns. In some towns there would not be enough revenue to cover the services. In addition, there were issues with the rural towns because they do not collect enough taxes or revenues to be able to provide for the services. Therefore, there were instances where the urban towns were in a sense subsidizing the rural areas and within the urban area there were some towns that were subsidizing other towns.

Senator Lee said that page 37, [Exhibit A](#), showed that the Regional Flood Control District was not included in the CTX distribution for special districts. He asked about the regional disparities in the CTX distribution and if Clark County was having to take on the responsibilities, while other districts get to share from the success of Clark County.

Ms. King clarified that the Regional Flood Control District was a separate entity and did not participate in the CTX distribution. When speaking of regional services that were provided by Clark County, they were specifically talking about Social Services, University Medical Center, District Court, or District Attorney's Office. Ms. King stated that if it was the desire of the Subcommittee she could provide the list of departments that supplied regional services that were not provided at the city levels. She stated in terms of regional services as far as flood control, or transportation, those services were not included in what was provided as a service for Clark County.

Senator Lee said that he would like to understand the other regional tasks that Clark County had.

Mr. Guindon requested that staff receive a copy of all information sent by the local governments to the Chairwoman. He said that staff has been asked to go through the Power Point slides to ensure they understood the numbers for the local governments and it was easier if the source documents with the calculations for the per capita data were sent to staff. He stated that data tables contained a lot of numbers and staff wanted to ensure they had the correct numbers in their tables and they were all using the same numbers, because nothing good comes out of having different numbers moving forward.

Cadence Matijevich, Assistant City Manager, City of Reno, introduced Robert Chisel, Finance Director, City of Reno. Ms. Matijevich thanked the Subcommittee for the opportunity to testify and directed the Subcommittee to page 185 ([Exhibit A](#)). She said her presentation would be brief and at the Chairwoman's request one area was identified where they City of Reno believed there was an inequity within the CTX distribution in Washoe County. She said the inequity was not necessarily attributed to the formula as much as the initial year second-tier base allocation established for the City of Reno. She pointed out that the letter on page 185 from Robert Cashell, Mayor, City of Reno, indicated that the City of Reno was well aware that the issue identified could potentially have a negative impact on the other local government entities in Washoe County. The intent was not to cause harm to their fellow local governments but at the Chairwoman's request they identified the issue. She heard some things during the previous testimony that she was intrigued by and certainly the City of Reno remained open to other resolutions that would resolve the inequity without such a negative impact to other local governments in the community. Ms. Matijevich looked forward to participating in the conversations and would be pleased to answer any questions of the Subcommittee about the issues identified.

Chairwoman Kirkpatrick asked Ms. Matijevich if the issue of the base allocation established that resulted in an inequitable CTX distribution within Washoe County was the only issue for the City of Reno.

Ms. Matijevich replied that what the City of Reno identified as being as issue was that the base year allocations have factored into all of the subsequent year allocations. Each year the city builds their base allocation from the prior so what the city felt was a shortfall in their initial year base allocation has continued as being an inequity, and if an adjustment was not made, that inequity would continue. Assuming the Subcommittee was making recommendations, Ms. Matijevich said the City of Reno would request that the base year adjustment be implemented for FY 2014 and be carried forward for any future distributions.

Assemblyman Daly asked Ms. Matijevich if the City of Reno wanted to just implement the base year adjustment for FY 2014 or did they want an average adjustment over a period of time as the county suggested. He said if FY 2014 was not a good year it would seem a smoothing effect would make sense.

Ms. Matijevich replied that the City of Reno had initially suggested that the adjustment be made in FY 2014, but the city would certainly be open to discussing a smoothing factor if that would help minimize the impact to their fellow local governments. She did not want to say that the City of Reno was not sincere in this effort, but after hearing the Chairwoman say "speak now or forever hold your peace", she believed all the local government staff lived in fear of sitting in front of the Subcommittee and have the Chairwoman blow them up as she said she would. Therefore, the local governments wanted to be engaged in the conversation and brought this issue

forward and remained open to other solutions that may be identified recognizing that this request would result in a significant impact to their fellow local governments.

Chairwoman Kirkpatrick asked if an adjustment could be made through an interlocal agreement within the local governments. Ms. Matijevich replied that counsel for the City of Reno had not contemplated that when they were asked to bring forward the issues with the CTX formula. She noted that the legislation allowed the City of Reno to enter into an interlocal agreement and she did not want to speculate on the probability of the City of Reno having success with that, but certainly that would be a way for the city to approach the adjustment.

Adam Mayberry, Government Relations Manager, City of Sparks, introduced Shaun Carey, City Manager, and Jeff Cronk, Director of Finance. He directed the Subcommittee to page 192, [Exhibit A](#), which contained a letter from the City of Sparks City Council signed by Mayor Geno Martini. Mr. Mayberry indicated that some of the primary focuses for the City of Sparks were revenue neutrality and changes should not take away existing revenue from one agency to give it to another, thereby creating “winners” and “losers.” Another focus was that the City of Sparks supported the notion of a simplified process and a review of the formula every few years to ensure the formula was reflecting the current economic climate. The last area of focus were suggestions with respect to the excess CTX distribution and they wanted to contribute to that discussion as well.

Jeff Cronk, Director of Finance, City of Sparks, agreed with the previous testimony and wanted to piggyback on that testimony. He noted that the original base distribution formula was developed in the mid-1990s, and as everyone was aware, a lot has happened since then. He noted that there was heavy growth in every agency in the mid-1990s, but subsequently the city has seen the economic crash. He said the original formula has resulted in some interesting dynamics, in particular, the base distribution has not really followed the growth. Mr. Cronk thanked staff for the hours it took to put together the data in the charts because it was nice to have a quick reference tool to review the material. He directed the Subcommittee to Table 4, page 120, ([Exhibit B](#)), which graphically showed how actual revenues distributed did not follow growth, specifically the 12.4% for City of Sparks which was consistent for FY 1999 and FY 2000. The city then encountered some growth and topped out at 13.0% of the total distribution within Washoe County, which indicated that the growth was occurring in the City of Sparks and obviously there were some factors in the formula that allow for that growth. The problems occurred when the growth did not stick, so what they saw in the table for the out years – 2008 through 2010, subsequently fell, although only small percentages which added up over time. He indicated that the base distribution did not grow with the excess revenue and did not stick, so when the excess went away the distribution went down and created a lot of volatility, especially when there were extreme declines, similar to what was seen in the City of Sparks. Mr. Cronk stated that the excess number came back up in FY 2013, because Washoe County was going to implement the one-plus formula. Therefore, they were seeing some built-in volatility in the formula that has created a

lot of havoc on the finances, especially on a smaller agency like the City of Sparks when compared to some of the larger cities. Mr. Cronk stated that he learned a lot from the previous testimony and continued to learn through the valuable process of the Subcommittee and listening to the comments from the local governments. Currently, Mr. Cronk said the excess distribution percentage for the City of Sparks in FY 2012 was 20.5%, and would drop to 12.3% in FY 2013 based on the formulation from the state preliminary revenue projections. Mr. Cronk reiterated that there was a built-in volatility in addition to the built-in fact that it allowed for growth but does not follow and stick with the growth.

Chairwoman Kirkpatrick stated that she had issue with the City of Sparks saying that the formula was not simple. She was unsure how the Department of Taxation was supposed to figure out 35% of the excess in the City of Sparks' proposal to be allocated among county, city, and special district agencies according to the base year distribution percentages, and 65% of the excess to be allocated among cities according to each city's portion of annual determined population and assessed valuation, and 2.0% percent of something else because they did not have the programming to do that. She asked Washoe County if they considered the Star Bonds revenue that was lost, which were sales tax dollars and absolutely part of the formula.

Shaun Carey, Sparks City Manager, replied that he would address the Star Bonds on the facts from the last three years since Washoe County has been using that tool and include it in the Subcommittee's ability to discuss the distribution of CTX revenue in Washoe County and the state. He noted it was a tool that was entered into as an opportunity to grow the overall sales occurring in Washoe County by shoring up a very lagging tourism industry. He noted that two million out of five million visitors were lost in a year in Washoe County and a significant effort was made to place investments in sales tax to stabilize those numbers, because a lot of what they did was based upon tourism. He noted that 52% of the economy in Washoe County was in construction and in the casino industry, which were the two industries that were really affected. Mr. Carey stated that as the city looked at solutions to the CTX distribution they hoped to get some guidance from the Subcommittee on what numbers to use in the future. He noted that Nevada experienced 17 years of leading the nation in growth through the 1990s and up until approximately 2007, and the state has been very challenged since that time to find their footing in any local government, be it a city or county. He added that the City of Sparks was absolutely interested in discussing a solution to CTX distribution and hoped that the city could pick up the challenge and try to find a way to work through the comments from the county manager, and from the City of Reno and Sparks and collaborate on solutions.

Chairwoman Kirkpatrick appreciated the ability to have the dialogue on the CTX distribution. She was trying to be fair, honest and open with everybody so everyone knew where she stood, but she wanted to ensure that the Subcommittee considered all the factors in place. The formulas were not simple and she found it ironic that the City of Sparks' formula was not any simpler. She hoped as they moved forward in the

process that everyone could agree that the formula was never going to be simple, but possibly they could use simple whole numbers for the formula because she believed that percentages sometimes get lost in the translation. She wanted the local governments to be part of the discussion and everyone had to come to the conclusion that it could not be simple because Nevada was a unique state.

Mr. Carey agreed with Chairwoman Kirkpatrick and the City of Sparks' desire for simplicity was probably not a real solution to the allocation of money distributed from the local government tax distribution account. The problem was complex and was likely to be more complex as Nevada moved forward. Mr. Carey respectfully stated that it was hard to follow the tables and pages and he hoped they could work together with the Subcommittee to find a solution that was maybe not simple, but bridged the gap for the changes needed.

Marcia Berkbigler, City of Fernley, stated that the Fernley was unique in the CTX situation because it was the only city in the State of Nevada that incorporated after the CTX system was enacted in its current form. The issue and concern of Fernley was that although the city took over responsibility for many different types of services in the city when they incorporated, such as the City Attorney, and Public Works, the city did not get a recalculation for their CTX at that time. She noted that Fernley has never had a recalculation of the formula and has received the same CTX post incorporation that it received before incorporation, which put the city in a unique position, which was detailed on page 80, [Exhibit A](#).

Assemblyman Ellison asked Ms. Berkbigler when Fernley and Lyon County were going to meet to work out a solution to the CTX distribution and requested notification of the meeting. Ms. Berkbigler replied that the two cities were going to meet in the late part of April and she would provide him with the date of the meeting.

Chairwoman Kirkpatrick asked if the City of Fernley had police services because it was one of the criteria for incorporating. She stated that the City of Fernley seemed to be the only entity out of 175 that wanted to change to the first-tier tax distribution. She hoped to move away from the first-tier CTX distribution, but wanted to know if there was a different way to address the issues of the City of Fernley as opposed to opening up the first-tier distribution. She wondered about the thought process behind why Fernley wanted the first-tier distribution before the Subcommittee went any further, because she thought it was only fair to put everything out there so people could rest easily and work collaboratively because there were only three more meetings of the Subcommittee.

Ms. Berkbigler replied that she could not address the concerns of Chairwoman Kirkpatrick at this time but would take her concerns back to the Fernley City Council and the City Attorney and would provide their comments to the Subcommittee as soon as possible.

Chairwoman Kirkpatrick asked about the police services in Fernley, which was a part of the initial requirement to become a city. Ms. Berkbigler replied that when Fernley first incorporated in 2001 there was an agreement with Lyon County to continue to provide police services through the Sheriff's Office, which they had to have in the city anyway, so an agreement was set-up to do that. Ms. Berkbigler understood from the agreement that there was no monetary connection to that agreement and it was just an agreement in place. The agreement was extended and expired in 2003, and she did not believe an agreement was currently in effect. She stated that the City of Fernley does not provide police service and the county provided Sheriff services, which was on the agenda for the next Council meeting.

Ms. Kirkpatrick stated that the law was very clear in 1998 on what the city had to have in order to get additional CTX revenue. If the City of Fernley made an agreement with Lyon County it would seem that Lyon County would not give the city money for something Fernley did not provide. However, when the agreement expired she wondered who would provide those services because it would be problematic for both budgets if there was not an agreement in place. She said the Subcommittee would have a discussion on incorporation because she believed they had to be clear on how it works and because they could not be a city and then decide they did not want the services and go back. She stated that the meeting packet with the responses from the different cities would be part of the record for the meeting, but she wanted to have a clear understanding of the data provided to the Subcommittee.

Ms. Berkbigler replied that she was not sure she could answer all of Chairwoman Kirkpatrick's questions and concerns because she was not employed with the City of Fernley at that time. She was aware that there was an agreement negotiated and she knew that the basis of the agreement was that since Lyon County had to continue keeping a Sheriff's Office in the City of Fernley, an agreement was reached that Lyon County would continue to provide police services in the City of Fernley. She was unsure of the details about who paid for what but she could provide that information to the Subcommittee in writing if that was their desire. As far as fire services, Mr. Berkbigler stated that was a totally different entity and taking over fire services was not an option because it was set up differently in legislation by Assemblyman Joseph Dini.

Chairwoman Kirkpatrick requested that Mayor Goodman come to the next meeting because she believed he was the County Commissioner when all this transpired. She wanted the information on the record and going forward regarding cities and what incorporation does. Whether it was this Subcommittee or herself, requesting a bill draft, she thought the CTX distribution had to be clear. She wanted to hear what made the City of Fernley unique across the state and address what the city did or did not have. Chairwoman Kirkpatrick stated by that time of the bill draft request she hoped that Fernley could provide a definite answer about the first-tier formula.

Ms. Berkbigler replied that Mayor Goodman would attend the next meeting in Las Vegas and address the concerns of the Chairwoman.

Senator Lee stated that population has always been the thing that the City of Fernley has discussed and he was aware that their assessed value has not been huge compared to their population. He asked the population of the City of Fernley and hoped to get an idea of what they were hoping to get out of the CTX Subcommittee.

Ms. Berkbigler replied that the City of Fernley was the largest of the small cities in the state, which made it the sixth largest city in the state with just under 20,000 residents. The City of Fernley had a growing population and a high assessed valuation, which was one of the reasons that the city was concerned about the \$146,000 they received every year versus the millions of dollars received by considerably smaller cities. She said that Fernley hoped to get legislation passed to resolve the problem of the calculation of the CTX formula and to make the CTX issue clear to what happened with an entity like Fernley that incorporated after the change in the formula. She wondered if the City of Fernley was required to comply with the December 31 deadline for local governments to enter into an agreement for distribution of excess revenue, and since Fernley did not do that, she asked if they could never do that, which were the types of questions that needed answers.

Senator Lee apologized because he gave Lyon County the City of Fernley's commercial district and said that the City of Fernley had an huge assessed value.

Mr. Randy Roberson, City of Mesquite, stated that from the perspective of a smaller city inside of the largest county in the state, he has spent some time with the representatives from the City of Henderson to learn about the work and modeling the city was doing and found a lot of value and some common ground in the work. Specifically, the idea that was emerging about the base being modified by some other factor than CPI. One of the issues the City of Mesquite raised and the comments to the Subcommittee was the idea of consistency and reliability for the formula, particularly for a smaller entity that does not have all the resources of a larger entity, and having more consistency and reliability in the formula helped Mesquite to build a better budget each year as the city goes through that process. In addition, the City of Mesquite thought that modifying the base by something other than CPI would help achieve a better budget. He noted an additional issue dealing with population that was more specific to the City of Mesquite was if a snapshot was taken of the community in January, Mesquite looked significantly different due to the "snowbird" population, than the same snapshot in July, which had an impact on the level of services that the city needed to provide and the costs associated with that. He reiterated that it seemed to make sense, as they modify this formula, to get a better sense of equity.

Chairwoman Kirkpatrick disclosed that she was in Mesquite and publicly discussed CTX and received some feedback from the city.

Michael Sullivan, Finance Director, Town of Pahrump, stated that they were unable to meet the December 31, 2011, deadline to enter into a interlocal agreement for

distribution of excess CTX revenue. He expressed that the concerns of Pahrump were similar to many of the smaller and rural communities, even though they were the largest population center in a large county. In addition, Pahrump looked at incorporation and similar to what Laughlin has asked, to clarify how that process needs to work so it was not contentious for Pahrump as it has been in some respects for Laughlin. Mr. Sullivan believed that there had to be some de-link, which was suggested by Henderson and Las Vegas, of the assessed value and the population, because he did not know if the assessed value speaks to both the maturity of the older cities or the challenges of the faster-growing communities. He added that the Town of Pahrump's assessed value has been reduced at least 50% in the prior two fiscal years and may face another 8% drop, but yet inside the county, that was a large number that represented the entire county assessed value. Mr. Sullivan stated that no one has ever been able to explain to him how the distribution works inside of each county and Pahrump went from a guaranteed county to a regular county and Pahrump was the largest retail generator and largest population and yet the town was getting less than 10% of the entire amount generated in the county. Accordingly, from what he can see the rates for the formulas were set a few years ago and obviously the base has not changed to reflect the population or the retail generators in Pahrump.

Chairwoman Kirkpatrick stated that the information could be provided to Mr. Sullivan that explained the guaranteed counties. She noted it was based on a formula over time and the county had to be excelling to not be a guaranteed county, so she assumed Pahrump was doing well for a while. Mr. Sullivan replied that the town was no longer a guarantee. He questioned how the distribution might be changed inside the allocation to the county as it goes to the other communities inside that umbrella, because based on their growth and their size it did not seem proportional at least from a layman's standpoint.

Chairwoman Kirkpatrick explained that the local governments understood the Subcommittee's dilemma of having a certain amount of meetings and were gracious to offer to do different things that would help staff help the Subcommittee. She said she was going to the Legislative Commission to request an additional meeting, which she was told she could do if she believed the Subcommittee needed one. She stated there was great discussions from the local governments at the city council and county commission meetings on what people knew and did not know about CTX. She believed that the local officials were more engaged on the CTX distribution issue and realized the state could not have legislation every legislative session. Chairwoman Kirkpatrick stated that all the documents submitted to the Subcommittee would be part of the minutes and was documentation for future legislators. She appreciated all that the local governments have done to expedite the process and requested that the entities provide Fiscal Division staff with their raw data numbers so the Subcommittee could ensure that the local governments material reflected the same numbers the Subcommittee was using. In addition, she stated that a handout was distributed, which was also on the Subcommittee website, entitled, Summary of Responses from Local Government Entities Regarding First-Tier and Second-Tier

Distribution of CTX Revenue ([Exhibit F](#)). She requested that the local governments provide their feedback to the Subcommittee and a list of solutions they thought their particular county could live with. In addition, she asked the local governments to meet with their city manager to discuss what was needed in their city or county and the Subcommittee would allow more time between meetings so they could work together. She requested feedback and solutions from the local governments as soon as possible, which would allow staff and Subcommittee time to review the material and include it in the meeting packet.

VI. PRESENTATION OF ACTUAL REVENUES DISTRIBUTED UNDER THE FIRST-TIER AND SECOND-TIER OF THE CTX AND OTHER STATISTICS RELATED TO THE CTX REVENUE DISTRIBUTION. *This item was not introduced*

VII. SCHEDULING OF FUTURE MEETINGS.

Chairwoman Kirkpatrick stated that the next meeting would be in approximately six weeks, and she anticipated it would be a lengthy meeting. The Subcommittee would start talking about solutions, because there were only six meetings and decisions needed to be made.

VIII. PUBLIC COMMENT.

There was no public comment.

IX. ADJOURNMENT.

The meeting was adjourned at 7:08:41 PM

Respectfully submitted,

Cheryl Harvey, Committee Secretary

APPROVED:

Marilyn Kirkpatrick, Chairman

Date: _____