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)
June 18, 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 fourth meeting of the 2011-12 Interim on March 15, 2012, in room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada; room 137 of the High Tech Center, Great Basin College, 1500 College Parkway, Elko, Nevada; and, room 108, Great Basin College, 5490 Kluncy Canyon Road, Winnemucca, Nevada.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:
Assemblywoman Marilyn Kirkpatrick, Chair
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
Dan Yu, Principal Deputy Legislative Counsel, Legal Division

STAFF MEMBERS PRESENT IN CARSON CITY:
Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division
Joe Reel, Deputy Fiscal Analyst, Fiscal Analysis Division
Cheryl Harvey, Committee Secretary, Fiscal Analysis Division

EXHIBITS:
Exhibit A – Agenda
Exhibit B – Minutes of the March 15, 2012 meeting
Exhibit C – CTX for New Cities provided by Terry Yurick, Laughlin Economic Development Corporation (LEDC)
Exhibit D – Progress report from local governments provided by Jeff Fontaine, National Association of Counties (NACO)

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 9:05 a.m. and the secretary called roll. All members were present, except Senator Parks, who would join the meeting in progress.

II. PUBLIC COMMENT.

Terry Yurick, Board Member, Laughlin Economic Development Corporation (LEDC), said he would comment on CTX distribution for new cities.

Mr. Yurick said the Subcommittee members were probably aware that the citizens of the Township of Laughlin voted against incorporation. He reported that the initiative to incorporate was defeated by a little over 200 votes in the 2012 Primary Election. He said the main reason the initiative did not pass was the unpredictable CTX revenues that would have been allocated to the new city and the equally unpredictable possibility of increased property taxes and/or reduced city services. From his door-to-door canvassing to convince residents to approve the incorporation, he learned that this unpredictability and uncertainty was distressing to many voters. Many voters did not understand the complex statutory issues, but they knew that nobody could predict with reasonable certainty the CTX revenue to be allocated to the new city in conjunction with services to be transferred from the county. He said everyone had a "best guess" estimate, and there were lots of assumptions made by the consultants hired to study the incorporation, and the Nevada Department of Taxation.

Mr. Yurick said the governing statutes should clarify pre-incorporation issues to provide proper guidance and directions for reasonable certainty in fiscal feasibility estimates and budgets. He said NRS 360.740 and other statutes deemed relevant should, but do not, provide such direction. Existing statutes allow a new city to consider and apply for additional CTX upon incorporation, but there are no provisions for such activities during the pre-incorporation fiscal feasibility period. He said NRS 360.740 addresses only the application process after a fiscal estimate of budget has been prepared, but is silent on the specific basis and amount of additional CTX distribution to be included in such fiscal plans.

Mr. Yurick said that on March 15, 2012, the LEDC submitted a proposal to the Subcommittee requesting the following provisions:

- Allow a new city to receive the amount of tax currently being used to pay for transferred services, so that the revenue stream will remain neutral.
- Challenge a new city to reduce service costs by a minimum of 10% without impacting services.
- Set up a rainy day fund with at least 50% of the savings, which cannot be used other than in an economic downturn.
- Assure that the Committee on Local Government Finance (CLGF) would provide oversight to the new city to ensure compliance.

Mr. Yurick said the attempt to incorporate the Township of Laughlin was worthwhile. He said it was an opportunity for new cities to incorporate and be fiscally feasible. He believed that since NRS 360.740 was created in 1997, there have been no new cities that took over police services and two of the other required services.

Referring to the handout, CTX for New Cities, provided by Mr. Yurick (Exhibit C), Chairwoman Kirkpatrick asked for more details about the rainy day fund. Mr. Yurick said that if the cost reduction goal for a new city was 10%, and the actual savings were 20%, at least 50% of that savings must be deposited into the rainy day fund. He said the rainy day fund would not be used except in the case of an economic downturn that resulted in a reduction in the revenue stream. For example, if the budgeted amount for police services was $2 million, but only $1.8 million was spent, that would result in savings of $200,000. Of that amount, 50%, or $100,000, would go to the rainy day fund.

Senator Parks joined the meeting.

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

This agenda item was taken out of order.

Chairwoman Kirkpatrick reported that the Legislative Commission approved the Subcommittee's request for two extra meetings. She had heard compliments from the local governments on the working group process, and how much they appreciated being included. She said this was a local government issue, and she wanted to make sure that all local governments were part of the process.

Chairwoman Kirkpatrick said she had asked Jeremy Aguero, Principal, Applied Analysis to present an update on the working group.

Mr. Aguero said that since the April 30, 2012, meeting of the Subcommittee, the working group has met 11 different times. Six of the meetings included all of the entities of the working group, and there were five sub-group meetings centered on specific issues of the allocation of the CTX distribution. Mr. Aguero said he was originally retained by the cities of Las Vegas and Henderson, who are his clients for this particular project. He said they have tried to work diligently with all local governments. Some of the meetings have been available through the "Go to Meeting" Internet application which allows people from all over the state to participate using teleconference and videoconference technology. He thanked David Frazier of the Nevada League of Cities and Jeff Fontaine of the Nevada Association of County Organizations (NACO) for reaching out to their member entities and asking them to participate. He also thanked the originators of the CTX as it currently exists, which included Mike Alastuey, Guy Hobbs, Marvin Leavitt, Carole Vilardo and Mary Walker. He thanked the local governments for being engaged and present throughout the discussion. He had asked that everyone come prepared for a meaningful debate with a solution in mind, and the local governments have done that. He thanked the Legislative Counsel Bureau and Department of Taxation staff for being accessible and helpful throughout the entire process.

Mr. Aguero said there was tentative agreement on certain elements of the CTX. He explained that all of the parts worked together. If one part of the formula did not work, other items that have already been settled may have to be reconsidered. He wanted to reserve the right to bring up any of the topics again as the working group addresses this very complex issue.

Mr. Aguero said a number of issues were discussed at the first meeting on May 10, 2012, the first issue was the memorandum of understanding (MOU), which was an intergovernmental agreement that allowed governments to determine how the second tier distribution should be allocated in the event that the statutory distribution did not work for whatever reason. In Clark County an MOU was used due to aberrations in the results of the formula's mathematics. The general agreement was that MOUs should be prepared no later than the last Friday in April.

Mr. Aguero said the second topic was the first and second tier distribution. He said the first tier distribution was the distribution of money from the state to each county, and Carson City. The second tier distribution was the distribution of money within each county. The working group considered whether to discuss the first tier distribution, or whether the discussion should focus only on the second tier. There was general consensus that the first tier should remain as is, and the analysis should focus on the second tier distribution. He noted that the representatives from Fernley raised concerns about the first tier. However, there was general consensus that the first tier should be left as is, and the point-of-origin guarantee system used on the first tier should remain unchanged.

Mr. Aguero said the third issue was the consumer price index (CPI) and its impact on the base for each year. He said the Subcommittee members may recall that every year, each entity's base was adjusted by the rate of inflation using to the CPI. There was general consensus that instead of using the CPI for a single year, it would be better to use the trailing five-year average due to concerns about deflation and hyper-inflation in the foreseeable future.

Mr. Aguero said the final issue was specific to the base itself, and what should be used each year to calculate the base. He said there has been a misconception relative to the idea of base versus excess. The excess has been considered "extra money," but that was not accurate. The reality was that the excess allocation is nothing more than a way of treating some of the money differently than other parts of the money. One of the changes that was made to the original CTX formula caused the excess to continue to grow over time. For some entities, the excess made up 60% to 80% of the CTX distribution in any given year. There was absolute consensus among the group that this should not continue, and that the current distribution should become the distribution for the following year. He said that was a common sense approach, and is the way the CTX was originally designed to work.

Chairwoman Kirkpatrick noted that the CPI on the five-year average was a concern of Nye County. She asked Mr. Aguero if it would be used as it is currently in statute. Mr. Aguero said the change in population that is part of the excess calculation provides that if an entity has multiple years of decline, it would be treated separately. That was not the issue addressed by using the five-year trailing average of the CPI to determine inflation. He explained that before the excess calculation was performed, the base should be adjusted by inflation every year. He said that if an entity received $1 million in total CTX, that amount should be the starting point for the next fiscal year, adjusted for the rate of inflation. Every entity should at least enjoy an increase consistent with the rate of inflation, before any distribution is made of the revenue in excess of that amount.

Chairwoman Kirkpatrick asked for an explanation of the five-year trailing average. Mr. Aguero said that rather than adjusting the base distribution by the current rate of inflation, the rate of the last five years' inflation growth would be divided by five to determine the average for the period. That way, if inflation rose to 6% in one year, then declined to 1%, the change would be smoothed over time to prevent dramatic ups and downs in the base calculation.

Chairwoman Kirkpatrick asked how that method of calculation would work if there was a five-year period of negative inflation. Mr. Aguero noted that would be an unprecedented period of deflation in the economy. In that event, after two or three years of deflation, a problem would be evident. The intention of using the trailing five-year average was to not be caught off-guard by dramatic changes in the rate of inflation from one year to the next.

Chairwoman Kirkpatrick was concerned that if there was a five-year period of negative growth in inflation, which had an effect on the distribution, the Legislature would receive bill draft requests (BDRs) from the local governments to fix the problem in the formula.

She asked if that kind circumstance could be addressed through the MOU process. She said the Subcommittee wanted a review period every ten years with the Committee on Local Government Finance (CLGF).

Mr. Aguero said he wished he could assure the Subcommittee that all of the recommendations from the working group would prevent that from happening. He said the formula had worked well for a long period, then changes to the formula caused peculiarities in the CTX distribution. The adjustments recommended by the working group result in a formula that would work well into the future. He said the recommendations were tested against the state's economic history in the model. He noted Nevada has had a unique economic period over the last 10 years. The period of the most rapid growth and the most rapid decline in a 50 year span are within about 7 years of each other. The recommendations from the working group would not have created the spikes and aberrations that lead to requests for changes to the distribution formula.

Chairwoman Kirkpatrick commended the working group for working together on the recommendations.

Mr. Guindon added that a five-year average was used for assessed value and population to prevent big ups and downs from year to year. He explained that if there were five years of deflation, the CTX revenue will be the least of our worries. Five years of deflation would cause a prolonged recession. Even in the recent economic downturn there were months that were very close to deflation, but there was never a year with deflation, so five straight years of deflation would be very unlikely. Even if that event happened, the formula would not break down, rather, the distribution would diminish.

Chairwoman Kirkpatrick said she felt comfortable that there would not be an argument every year that the formula did not work, because the formula was based on a long-term view, rather than the short term.

Assemblyman Daly asked for more explanation about the distribution of the base, and the excess becoming the base for the next year, with an increase for inflation. Noting that the distribution for some entities was made up of 60% excess, he asked how a fair starting point would be determined.

Mr. Aguero said that was an excellent question. He clarified that not only the excess becomes the base for the following year, rather, the total distribution to any entity becomes the base for the following year. The base, plus the excess, equaled 100% distribution. That number will then become the base for the subsequent year. Regarding a potential problem where an entity that had received a large percentage of its distribution from excess could be disparately impacted one way or the other, he explained that the huge excess distributions occurred in FY 2005, FY 2006 and FY 2007, a period when the CTX was at its absolute peak. Unfortunately, since that point, our state has seen the vast majority of the excess disappear. He said each year revenue amounts were lower and lower, until there was no excess. As a result, this is a good time to have these types of conversations, before the excess grows under the current formula. This created a requirement to determine what will become the new base year, which is a conversation that is still ongoing. The first year the revised formula could be applied would be FY 2014. He said the discussion would be about how to allocate the excess in a reasonable and appropriate way. He said there were two ways to handle that. The first was to distribute the funds, and add it to the base under the one plus formula. The other was to allocate based on the new formula. The goal was to create the minimal amount of distortion in the distribution so that there are no huge winners and losers. He hoped that he provided the scope of not only how the base and excess interplay with one another, but also how the working group was taking very careful steps to ensure that inequities are not created, and then added to the base.

Assemblyman Daly wanted to ensure that discussion occurred. He agreed with Chairwoman Kirkpatrick that he did not want the entities to feel the base was selected in a particular year that put them at a disadvantage.

Chairwoman Kirkpatrick noted that if the new formula was put into place in FY 2014, the calculations would use the CPI from FY 2009 forward to calculate inflation growth. She noted that growth was flat in FY 2009. She asked how that would affect the establishment of the base.

Mr. Aguero said those issues have not been settled. He said there was discussion about using the year in which everyone had their highest base amount as a starting point. That approach was difficult because the base was really just a proxy for percentage distribution. He explained that one entity's highest year of distribution may be in a different year than another entity's highest year, so when they are added together, the total result could be more than 100%. The working group wanted to be very cautious about putting any entity into a negative position. Whatever solution the group comes up with must be forward looking. There may need to be some corrections to the formula in the future, but in order to select a base, a starting year and a formula, the working group must recognize that the changes are "going forward," as opposed to looking back to 1981, 1997, or 2001.

Senator Lee said that Mr. Aguero was trying to do the impossible by making both his clients and the counties happy. He said there were ways to calculate assessed value and population that would put some counties at a disadvantage, because they had been in a position of advantage under the past formula. He asked Mr. Aguero how this would be resolved.

Mr. Aguero said he wanted to be clear that his clients were specific about creating a formula that was as equitable as possible for everyone. A model was designed to estimate alternatives to the CTX, and show the impact of any change to all 170-plus jurisdictions. His group performed 20 or 30 different simulations, which were shared with every local government that was participating in the working group. In addition, his group has spent a great deal of time talking about the principles behind the elements of the formula. For example, there was discussion on how the base and excess amounts got to current levels; whether population and assessed value were good factors; and, whether the weights were correct. He said an average of 35 people participated in each of the 11 meetings of the working group. He said, under the guiding principles from his clients, the working group has provided a full opportunity for all local governments affected by the CTX distribution by creating a forum where everyone can argue, and have their ideas heard.

Mr. Aguero said with regard to being able to make adjustments to the formula, two things should be considered. When an entity grows more quickly, there is a general belief that the entity should receive move revenue. Over time, those entities that are expanding and have more people and more demand for services should be generating additional revenue. The formula did that for a period of time. The problem was that when the economy declined, the faster growing entities that were more dependent on the excess were disparately impacted.

Mr. Aguero said the second consideration is the inherent assumptions that underlie the model. For example, there were comments from local governments about the change in property tax rates since 1981. In addition, there was an assumption that the CTX formula was intended to even out the distribution of revenue to the entities, and make the entities whole. He said the recent discussions were focused on whether the formula was being applied to the appropriate base amount. An unsuitable base amount would memorialize inequity, and would not address current or historic shortcomings. He noted that inequity was very much "in the eye of the beholder." However, the only way to resolve that question would be to have the discussion with everybody in the room, and build consensus through conflict. He did not know whether everyone would agree, but everyone was attending the meetings to describe the issues and to suggest solutions.

Senator Lee noted that there were more than 170 recipients of the CTX distribution. He asked if there has been discussion about removing the pool and library districts to reduce the number of recipients. He noted that not all cities were getting a stipend for those kinds of services. He said that some local governments would be at a disadvantage in the future.

Mr. Aguero said there was a conversation on the topic of distribution to "single-purpose" entities. He said the problem was that the GIDs may or may not be coterminous with other local government entities. He noted that some of those entities were very tiny, of which Douglas County had several. Others were incredibly large, for example, the Clark County/Las Vegas Library District or the Fire Services District, which cover huge swaths of area that are not coterminous with individual jurisdictions. The consensus was that special districts and enterprise districts should be treated the same as they are today. He noted that enterprise districts do not grow, and the special districts are only weighted for assessed value, and not for population. He explained that the original design was to discourage the creation of special districts. He clarified that single-purpose entities should be treated differently than multi-purpose entities, but to deconstruct that relative to how those services are provided would be very difficult.

However, he said, a system can be created whereby that problem does not expand in the future.

Senator Lee noted that MOUs could be agreed upon requiring that a certain portion of the CTX be given to an entity's library districts. He thought there were ways to simplify the distribution to special districts.

Chairwoman Kirkpatrick added that she spoke with the mayor of Henderson and the city manager of Las Vegas early on. She said the cities hired Applied Analysis to make sure there was a productive discussion on the topic, and the Legislature had been clear that the entities must work together on a solution. Applied Analysis offered its services to everyone across the state, including Subcommittee staff. Mr. Aguero has had many discussions with local government entities regarding the CTX distribution formula. She said that Applied Analysis included the library districts in the working group, because that issue was the gist of the original bill. She noted that to have everyone working separately got us nowhere. She said everyone knew that it would be very hard for any of the legislators to vote for something that would take resources away from constituents in their districts. She believed that the local government entities across the state were trying to make it work. She said the cities of Las Vegas and Henderson deserved kudos for hiring Applied Analysis.

Mr. Aguero said he would touch on the issues that were the crux of Senator Lee's question, and asked Senator Lee to let him know if he wanted more detailed discussion on any of the topics. He reported that on May 17, 2012, the general working group had its second meeting, which was held in Reno. The first discussion was about enterprise districts, and whether they should be treated differently; the general consensus was no.

Mr. Aguero said the second focus of discussion was the excess distribution formula itself. There are four components to that formula: population; assessed value; the weights given to population and assessed value; and, timing. He said the values currently used in the formula are population and assessed value. There was discussion as to whether there were other factors that should be considered as part of the distribution. There were many comments provided relative to why population and assessed value should be used. He noted that services to people, and services to buildings were different from one another, and grew at different paces. He ran models that doubled the weight on population, or eliminated assessed value. This created any number of problems. Using only weighted population created huge inequities, particularly for special districts that do not have weighted population. It also created substantial inequities for communities that generate a huge amount of CTX revenue, but do not have large population bases. For example, the 39.5 million visitors to the Las Vegas Strip in Clark County represent about 16.5% of the full-time equivalency population, and over 24% of the county's taxable retail sales, but there are very few full-time residents in the township. Therefore, using only population created an aberration. He said the originators of the CTX formula included assessed value and population, because about 60% of the assessed value was residential. By including both population and assessed value, the population element in the distribution formula was double counted. There was discussion about using different weights, and the general consensus was that using five-year average of the growth in population and assessed value was appropriate, and the weighting was appropriate. He said in many jurisdictions assessed value has declined by an incredible amount – in some places 60%. The rate of population growth would not matter with those kinds of declines in assessed value.

Mr. Aguero said the third issue was population estimates. He noted that the 2010 census estimates were, in some cases, very different than what the State Demographer had originally estimated. From that standpoint, the local governments felt that they did not have time to protest. There was a general consensus among the group that while the difference in population should effectively resolve itself over time due to the five-year average, statutorily, some clarification to the population estimate process should be recommended by the working group so that these problems are not repeated in the future. He said that Jeff Fontaine of the Nevada Association of Counties has provided some suggested language for that statute.

Mr. Aguero said that on May 24, 2012, the general working group met specifically to undertake the issue of special districts. He said there was a certain degree of confusion as to why the special districts were created, and whether all of them were necessary. He said some of the special districts were very large, and others very small. Some library districts were coterminous with the entity they served, and others crossed or were within the entity's border, which was problematic. There was a general consensus in the May 24, 2012, meeting that single-purpose governments should be treated differently than multi-purpose governments. Special districts should get only assessed value, while multi-purpose governments should get population and assessed value, which would cause the percentage of distribution to grow a bit faster over time. He said the working group determined that there were some unique things about library districts in Clark County. For example, they were coterminous, and provided services to an individual government. Population growth could be calculated for these special districts. There was an issue with the North Las Vegas Library District not being recognized for CTX distribution. There was a special meeting on May 30, 2012, of all of the library districts, which he would report on in a later topic.

Mr. Aguero said the second piece of the May 24, 2012, meeting was about the "hold harmless" factors. He said that name created a bit of confusion. The decline in the growth of assessed value and population caused some entities to not be able to participate in the second part of the CTX distribution formula. A solution was created by not allowing the growth in population or assessed value to drop below zero. It was thought that if those two were brought together, the issue of one factor weighing the other factor down would be resolved. At the time of the discussion, there was concern among the working group members that in the event that an entity loses population over a long period, the CTX needed a built-in mechanism to adapt to that. The consensus was that while assessed value should not be allowed to drop below zero, population should be allowed to drop below zero. He said that raised a concern that the result could be zero, but there was also discussion of adding a plus factor. The working group thought a drop in assessed value would create a problem with the way the CTX was distributed. Therefore, the conclusion was the population and assessed value factors would be independent, and assessed value cannot go below zero, and population can go below zero. The two factors are then added together, to become the basis for the CTX distribution. Mr. Aguero mentioned that the plus factor would provide a buffer, and the use of five-year averages would allow for any substantial aberration in the growth percentages.

Mr. Aguero said there were two sub-meetings of the working group: May 29, 2012, and May 30, 2012. He had been focusing only on the general working group sessions, but he thought it was particularly important to report on these two meetings. He said that Mary Walker and Jeff Fontaine met with him on May 29, 2012, to discuss rural issues and tinker with some of the formulas to find out what would happen. After discussion, it was decided that, as a matter of policy, it did not make any sense to compare growth in an entity as small as Kingston, to an entity as monstrously large as Clark County. Each one of the rural entities, which included all counties other than Washoe and Clark, were reviewed, and in each case the working group found situations in which either there was no difference, because the counties did not have smaller government entities, or an aberration was created. That was not because there was a problem with the formula, but because the entities simply did not have the critical mass to allow the formula to do what it was intended to do, which was to create equity among multiple jurisdictions within one area. From that, the working group came to the consensus that the best way to move forward, if it was practical from a legislative standpoint, would be to create a population threshold. Entities with a population above a certain number would have a plus factor, and those entities with population under that threshold would simply stay with the one plus factor. He said there would be a time when, in a rural area, one place would grow faster than another, and they would feel that the growth rates were even among everyone in that jurisdiction. He said that was absolutely the lesser concern today given the structure of those entities, and the real risk of huge positive growth or huge negative growth. Esmeralda County has experienced both positive 30% growth and negative 30% growth within a five-year period. The idea would be to bifurcate the formula. The working group believed one factor of that formula – the plus factor – should be different for the rural entities than the urban entities in order to make it work the way it is intended for both groups.

Chairwoman Kirkpatrick asked how it would be determined that an entity was urban versus rural in the future formula funding. Mr. Aguero replied that it would be based on the county, as opposed to each individual entity within the county. He said the second tier distribution was designed to distribute funds within that county. In this case, Clark County would get the funds, and the township of Laughlin would then receive its share of that consolidated tax. If it grew at a faster clip, it would get a greater distribution of that growth. If Clark County was under a one plus formula as is proposed for the rural counties, then essentially, even if Laughlin were to grow at a more rapid pace, it would get exactly the same growth rate as every other jurisdiction within the county. It is that dynamic of a county where growth can be largely dispersed, and one area could have a higher rate of growth, and another area a lower rate of growth, in which the formula works well. He said "rural" was defined as all entities within every county, other than Clark and Washoe. The one plus simply worked better in those rural entities, either as a result of the fact that they do not have cities, or they have only one or two cities.

Chairwoman Kirkpatrick was concerned about the legality of the technical issues. She would hate for the working group to go all the way through the process, only to find that it cannot be done legally. She asked when that particular issue would be explored for pitfalls. Mr. Aguero replied that, with the Subcommittee's permission, he would turn that over to LCB staff to be vetted. He said it was critically important that the working group comes to some type of consensus, and that will be shared with staff and the Department of Taxation to make sure the working group was not considering a solution that would create a legal issue. He would like to share with staff the items on which the working group has reached tentative agreement, and request that LCB and Department of Taxation staff let the working group know if there was anything that needed to be revisited.

Chairwoman Kirkpatrick said staff may be able to shed some light on the items for which the working group has general consensus. However, she did not want for specific language to be provided for BDRs, because it created a problem in understanding legislative intent. It was better for LCB staff to be provided with the conceptual idea.

Assemblyman Ellison said he received a progress report from Jeff Fontaine, National Association of Counties (NACO) (Exhibit D). The report indicates that one or more of the counties are still considering the recommendations, and there was no consensus on a change in the base year to prior year's actual using the five-year rolling average for population and assessed value for urban counties. He said the report was informative, because the Subcommittee knew what the rural counties were thinking. He said, if similar information was available from the Nevada League of Cities, he would like a copy of that as well.

Mr. Aguero said he has not had a chance to review the report, but it appeared to be consistent with his previous comments. He said NACO has done an incredible job of communicating with its constituency to encourage them to participate in the process. Mr. Aguero said he would contact the Nevada League of Cities to find out if something similar was available.

Chairwoman Kirkpatrick clarified that the report (Exhibit D) mentioned the seven items that Mr. Aguero noted as having consensus. It supports what has been reported on the issues.

Senator McGinness noted that if five lots were sold in Kingston, the population could increase by 65% to 70%. He noted other entities in rural Nevada would be in the same situation. He asked if that kind of growth would affect the CTX distribution under the proposed formula. Mr. Aguero explained that due to the combination of the base carry-forward issue, not allowing the excess to get out of control, and the fact that the rural jurisdictions would be using one plus, even very large changes in growth rates would not cause a wild aberration.

Mr. Aguero said Mary Walker was very diligent in working through the modeling in the rural areas, and took the time to consider the entities like Kingston as to what would happen in those situations. That was the reason he was able to answer that question.

Mr. Aguero said there was a concern that library districts should be treated the same as the other entities. There was a long, meaningful debate on the topic. There were some misconceptions relative to the formation of library districts, or whether library districts could have population. He said the City of North Las Vegas wanted some type of base adjustment for its library district. He said there was logic in the idea that single-purpose entities are treated differently than multi-purpose entities. If there was an adjustment, it should be part of the larger government's base, rather than creating a sub-government within the jurisdiction. When North Las Vegas took the position reserving its right to revisit this issue upon our ongoing discussions relative to the base, the other library districts in Clark County indicated that they were willing to drop the issue of adding population to the library districts. He said it was very important to clarify the record relative to how the situation got to where it is today, and the conversation about library districts. He committed to the library districts to create a white paper to talk about the individual issues, and to try to clarify the history such that if the issue arose again, there would be a document saying that the libraries in Clark County got together, along with the host jurisdictions to which the services are provided. He said the library districts were incredibly forthcoming in terms of providing information and participating in the conversation and debate.

Mr. Aguero said the following meeting was on May 31, 2012. The conversation with the library district was reported to the entire group. He said that Jeff Fontaine and Mary Walker made it clear they were still having conversations with the entities they represented. The idea of using a plus factor was introduced, such that the rural entities would be treated under one plus as it exists currently. That topic would need an extensive discussion relative to the plus factor for the urban areas. He said it was very important, and dozens of models were run to balance two competing factors. The reason that the one plus was put into the CTX formula when it was created was to provide as much stability as possible. He said any of the founders of the CTX formula would tell you that they did not want jurisdictions to compete for growth. The problem was that, over time, the plus factor created increased inequities. Faster growing areas that were adding more population or assessed value had a tendency for the distribution to grow at exactly the same rate as places that were growing very slowly. That created concern among the local governments that were trying to provide the same services to an increasing population. As a result, the one plus was eliminated, which created the zero plus dilemma, and all of the problems that we have dealt with today. He said factors of one-half plus, one-quarter plus, three plus, two plus and .000001 plus were considered, and there was general consensus that 2% plus should be selected. The 2% plus level essentially builds into the formula the assumption that every entity grows slowly. For example, there could be a circumstance where all of the entities have greater than negative 2% average population growth over a five-year period. When that factor was simulated, it resulted in a more equitable distribution over time. He said the plus factor, in addition to an excess that is not growing over time, would cause the excess distribution to become a smaller and smaller issue. The excess should never be 60% or 50% or 40% of total distribution. Rather, it should be 4%, 5%, 6% or 7% of total distribution. The combination of the plus factor, along with not allowing the excess to grow unabated over time, would result in the stability that the formula sought at its outset.

Mr. Aguero said the next meeting of the working group was on June 7, 2012, in Northern Nevada. By that time, the working group had come to a resolution as to how the formula itself would work. There had not yet been any discussions as to how the base might be adjusted, or how to deal with the perceived inequity of some of the individual entities. He said the opening discussion was specific to the City of Fernley, an entity that was concerned about the formula and its allocation. There was general consensus among the working group members that the City of Fernley's struggles were truly problematic, and Mayor LeRoy Goodman and his team laid out their case eloquently and in a compelling manor. As the working group argued and debated as to how we got to where we are today, and how to change it, we kept coming back to the same fundamental principle: the formation of a new government cannot result in existing government services becoming more expensive to provide, unless the citizens of that community vote to increase taxes on themselves. To create a new entity for which the costs for services are higher than they had been through the county, and expect the CTX to pay for that additional expense, is the situation which we are trying to avoid. At the same time, the City of Fernley's approach would have also meant that if a new government entity was formed tomorrow in Clark County, the new entity should not only be provided with revenue from within Clark County, but that it should be provided revenue from every entity across the state. He agreed with the mayor's comment from the June 7, 2012, meeting that it is more expensive, in many ways, to provide services in a city, particularly in Fernley. For example, if there is no city, there is no need for a city attorney. There is a real danger in allowing new governments to be formed that have the ability to redistribute money, and increase the cost of the new government to existing governments for services that are already being provided. This was not a satisfactory response for the City of Fernley. The mayor was very clear that the inequities and challenges, even with these underlying principles, do not resolve Fernley's problems. Therefore, they would seek redress in whatever way possible, and they have.

Mr. Aguero said the working group thought the statutes needed to be clarified such that, if an entity was willing to take on a service that is currently provided by the county, a process was needed to apply for those funds. In some ways those provisions already exist, but they need to be clarified, because there was confusion about what was possible and what was not possible. There was a general consensus among the group that, to the extent that a city was going to provide the same services, they should be dedicated those same revenues.

Mr. Aguero said the working group believed that the problems being faced by Fernley were real risks to the state overall. The City of Fernley was allowed to incorporate, they have provided services, taken on debt, received CTX distribution and yet their ability to raise taxes on their own citizens, or even to increase their property tax, was limited by other legislation. The city wanted to have the revenues to provide the best services, but they do not have that ability due to the rules of the state, nor do they have the traditional resources that other jurisdictions may have had, for example, increased property taxes. The working group wanted to think long and hard about the analysis that is required for a city to incorporate. The issue is not only about providing existing services, it is about the total cost of providing government. If there were additional layers of government, there tended to be more expenses. The entity may be able to demonstrate that it can provide services at a lower cost, and that was what we would want to have happen. There should be great scrutiny around any type of legislation that would allow a new government to be formed that would result in higher costs, particularly if those higher costs have to be borne by either the county that they are in, or other jurisdictions around the state.

Senator Lee asked how the true cost of services would be determined. For example, police departments have challenges providing services to unincorporated areas, such as slow response time. If the unincorporated areas want to form a city, and provide its own police services, the funds that would be taken from the entity that had been providing those services would be removed, and it could prevent the incorporation. He said there was a challenge in calculating the real cost of police services.

Mr. Aguero said that issue was discussed in depth by the working group, in terms of giving greater scrutiny to the formation of a new government, the process of calculating the cost of providing the current services arises. There is a general feeling that if an unincorporated area wants to create a new government, the county has an incentive to low-ball the costs, and the aspiring city has an incentive to make that number as high as possible. The process is difficult and unclear. The goal would be to spend some time thinking about how to make that process clearer, more fair and more complete so as not to place a burden on the county, or putting the local government in a situation where it does not have enough funds to provide even the most basic services to its citizens.

Mr. Aguero said this discussion was specific to Northern Nevada. The City of Reno thought there were mathematical issues with the base that began when the formula was created, and were then carried forward. The other jurisdictions called those into question. Some of the Northern Nevada governments came together to review how the change to the first piece of the formula could help them work through some of those inequities over time, and there were further meetings scheduled. He wanted to be clear that the conversation on the base issues has just begun, and there has not been consensus, but the willingness of the Northern Nevada entities to work together and compromise was progressing, and he was optimistic.

Mr. Aguero said at the last meeting of the working group on June 14, 2012, there was a long conversation relative to the base adjustments in Southern Nevada. The conversation took lots of different directions. There was a great deal of talk about why a base adjustment might be needed, and if a base adjustment was needed, what are the principles that underlie that base adjustment. For example, it should not negatively impact one entity, or it should be forward looking, and apply to all jurisdictions within a county rather than a single jurisdiction within a county. The goal was to continue that discussion, and run scenarios to see how they might impact the jurisdictions, that were interested in this particular alternative, particularly Clark County.

Chairwoman Kirkpatrick asked Mr. Aguero to give LCB and Department of Taxation staff time to look at the conceptual pieces so they can provide feedback, which may be helpful to the working group as well. She did not want to wait until the last minute to have a work session, without allowing the Subcommittee members to digest the information and make sure their constituents were comfortable with the recommendations. She would like to move forward with some of the items on which there were consensus. She knew that in real terms, the base adjustment could blow the whole thing up. She hoped that everybody would work together. She did think that some of the things that were agreed upon were good, regardless of what happened with the base. She would like to move forward with some things to get them off the table. She did not want for them to become leveraging points. She said changing the date for the MOU to April 30 made sense. She asked Mr. Aguero to relay this to the working group at its next meeting.

Chairwoman Kirkpatrick wanted to know whether the individuals involved in the working group were the finance and technical people. She wanted for the working group to discuss how they would ensure the entities they represent would be supportive going forward. She thought the working group's initial resolution brought a sense that everyone wanted to work together. As the working group was winding down, there needs to be that same kind of buy-in. She expected that there would be some entities that would not agree to that, but the Subcommittee would need to know whether the local officials would support the recommendations or not.

Mr. Aguero said those issues would be raised at the next meeting of the working group. He said they would continue to work closely with staff. He thought the formula issues, and the MOU were at a point where the working group could relay its recommendations to staff. The working group would continue to work through the base issues, and hoped to resolve those as well.

Chairwoman Kirkpatrick asked if all of the entities were invited to the next meeting of the working group. Mr. Aguero said he has tried to keep everyone informed of the meetings so that they could participate. Every meeting the number of people attending has increased. Chairwoman Kirkpatrick said the work of the Subcommittee must be completed by August 31, 2012. The BDR requests are due on September 1, 2012. She asked the working group to have the information to staff in 20 days. Staff would need about 10 days to put the agenda together for the Subcommittee meeting. She believed it would take 30 days to review the recommendations. She asked if that timeframe was acceptable to the Subcommittee members.

There were no further questions from the Subcommittee.

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

There were no comments from the local governments.

III. APPROVAL OF MINUTES OF THE MARCH 15, 2012, MEETING.

This agenda item was taken out of order.

SENATOR LEE MOVED TO APPROVE THE MINUTES OF THE MARCH 15, 2012, MEETING OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY THE ALLOCATION OF MONEY DISTRIBUTED FROM THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT. THE MOTION WAS SECONDED BY ASSEMBLYMAN ELLISON.

THE MOTION CARRIED UNANIMOUSLY.

VII. PUBLIC COMMENT.

This agenda item was taken out of order.

Jeff Fontaine, Executive Director, NACO, clarified that the progress report from local governments that Assemblyman Ellison referred to (Exhibit D) was sent to all county managers and financial staff to recap what was discussed in the working group meetings, and to lay out what we believed to be the issues that were discussed that the counties could agree to. He said it was a working document, and he hoped the Subcommittee members did not feel slighted that they were not included in the distribution. He said NACO simply wanted to make sure that all of the counties were aware of what was going on, and that there was an opportunity to give feedback to NACO to make sure it was correct in its analysis.

Mr. Fontaine said the next big step was for the county managers and financial staff to take the recommendations to their governing boards, and boards of county commissioners so that the county governments can reach consensus. A discussion and possible action on the issues was planned for the NACO board meeting on June 22, 2012. He concluded by thanking Mr. Aguero, the Subcommittee's staff and the entities that participated in the working group.

Assemblyman Ellison said the report (Exhibit D) provided some insight as to what the counties were considering. He said, if the report was updated, he would like to receive that as well.

Mr. Fontaine said the report indicated there was consensus about supporting existing equal distribution for population and assessed value factors, with a zero percent hold harmless. He noted that Mr. Aguero said the working group agreed there would be a hold harmless for the assessed value, but not for population. He would need to correct that with the counties so that they understood the consensus of the working group.

Mark Vincent, Chief Financial Officer, City of Las Vegas, thanked the Subcommittee for allowing the working group to continue its meetings. He has learned quite a bit from the meetings, and it has been very fruitful for everyone who participated. He said when the City of Las Vegas and the City of Henderson contracted with Mr. Aguero to create the model, there was no request to get more CTX distribution, or even to maintain the current distribution. In fact, the issue of having the base adjustment grow equal to the prior year distribution, plus the CPI, probably hurts the City of Las Vegas more than any other aspect. He said it has been a very collaborative project, and he is looking forward to completing the assignment.

Mike Cathcart, Business Operations Manager, City of Henderson, thanked Mr. Aguero and Applied Analysis for all of the work they have done, and the process that has been put into place to allow for collaboration across the state. He looked forward to continuing that work with the other entities and the Subcommittee.

There was no other public comment.

VI. SCHEDULING OF FUTURE MEETINGS.

This item was taken out of order.

Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, thought that the last week of July might be the best time for the next meeting, considering the meeting and vacation schedules of the Subcommittee members and staff. He said that would give Applied Analysis, the Subcommittee and Department of Taxation staff enough time to prepare for the work session.

Chairwoman Kirkpatrick asked the Subcommittee members about their availability for a meeting the last week of July, and the Subcommittee members were available that week. She clarified that the meeting would take place if the working group provided the recommendations to LCB staff.

IX. ADJOURNMENT.

The meeting was adjourned at 11:11 a.m.

Respectfully submitted,

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Cheryl Harvey, Secretary

APPROVED:

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Marilyn Kirkpatrick, Chairman

Date:__________________________