

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON REVENUE**

**Eighty-Second Session  
February 9, 2023**

The Committee on Revenue was called to order by Chair Shea Backus at 4:02 p.m. on Thursday, February 9, 2023, Online and in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Shea Backus, Chair  
Assemblywoman Venicia Considine, Vice Chair  
Assemblywoman Natha C. Anderson  
Assemblywoman Lesley E. Cohen  
Assemblywoman Danielle Gallant  
Assemblyman Ken Gray  
Assemblyman Gregory T. Hafen II  
Assemblywoman Erica Mosca  
Assemblyman Duy Nguyen  
Assemblyman P.K. O'Neill  
Assemblyman David Orentlicher  
Assemblywoman Shondra Summers-Armstrong

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Michael Nakamoto, Chief Principal Deputy Fiscal Analyst  
Susanna Powers, Deputy Fiscal Analyst  
Gina Hall, Committee Secretary  
Cheryl Williams, Committee Assistant



**OTHERS PRESENT:**

Tyler Klimas, Executive Director, Cannabis Compliance Board  
Kara Cronkhite, Division Chief, Inspection and Audit, Cannabis Compliance Board  
Shellie Hughes, Executive Director, Department of Taxation  
Jennifer Roebuck, Deputy Executive Director, Compliance, Department of Taxation  
Yvonne Nevarez-Goodson, Chief Deputy Executive Director, Department of Taxation  
Jeff Mitchell, Deputy Executive Director, Excise and Local Government Services, Department of Taxation

**Chair Backus:**

[Roll was taken and Committee rules and protocol were reviewed.] We have two presentations on the agenda today. We will hear these in reverse order. Will the presenters from the Cannabis Compliance Board (CCB) make their way to the table. Please begin when you are ready.

**Tyler Klimas, Executive Director, Cannabis Compliance Board:**

With me today is Deputy Director Michael Miles to my right and Steve Gilbert, Chief of Administration and Licensing for the CCB to my left. In the audience I would also like to recognize David Staley, Division Chief of Investigations, and Lisa Figueroa, our ASO [Administrative Services Officer]. Joining us by Zoom is Kara Cronkhite, our Division Chief of Inspection and Audit, and Tiana Bohner, our Public Information Officer. When you invite the CCB you get the whole family.

We appreciate the opportunity to be here today, to give you an overview of the CCB, our operations, what we do, and then answer any questions the Committee may have for us. With that, we will move on to our presentation [[Exhibit C](#)].

This may be our most important slide [page 2]. In 2019, the Nevada Legislature set forth the public policy that would ultimately guide our agency in all of our operations. We take this public policy very seriously as it dictates how we perform our duties, make regulatory decisions, and is our core mission and purpose. You will see the Legislature, at the time, recognized the continued growth and success of the cannabis industry were dependent upon public confidence and trust, two words that are very important to the CCB. Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations, and activities related to the operation of cannabis establishments. This is in law. If this language is familiar, it is because it is taken almost verbatim from the same public policy that guides Nevada's gold-standard gaming regulation and oversight. The CCB was legislatively designed to model the same regulatory oversight that we have for gaming for the cannabis industry, and for the same reasons.

At the top of the next slide [page 3] is our mission statement. It reflects those same principles. The CCB in its responsibilities oversees Nevada's 760 medical and adult-use operational licenses. We enforce statutes and regulations that guide the industry, and we

focus many of our efforts on what may be our most important responsibility, which is to protect the public health and safety of our many medical patients, adult-use consumers, residents, communities, and visitors to our state. Our agency is managed by a five-member part-time board currently chaired by former Nevada Supreme Court Chief Justice Michael Douglas. We hold monthly board meetings where the board presides over disciplinary matters, licensing approvals, management services agreements, and new or revised regulations, among other things. The CCB prides itself on accountability and transparency, and through our public meetings, we encourage robust public participation and engagement.

Our agency has 93 full-time employees, and we have four divisions within the agency: administration and licensing, inspections and audit, investigations, and enforcement. Created alongside the CCB was the Cannabis Advisory Commission (CAC), which I chair in my position as executive director. The CAC is made up of 12 members and is designed to model the Nevada Gaming Policy Committee. The CAC meets at the request of the CCB, the Governor, or the Legislature, to study cannabis-related issues when they come up, and make recommendations to the CCB. The most recent example of the CAC's work took place over the last two years as it studied the implementation of consumption lounges.

When the CCB was first authorized in July 2020, we had 50 full-time employees [page 4, [Exhibit C](#)]. Since then, our agency has continued to grow, now into the 93 full-time staff currently authorized. Along the way we have identified many operational deficiencies and addressed many issues that plagued the previous oversight body. Working to automate much of what we do, and through reconfiguration of resources and functions, we are working through all of the backlogs we inherited, or that were created as a result of the transfer of oversight responsibilities.

This slide [page 5] gives you a snapshot of our distribution of licenses statewide, as well as some other facts on license holders, agent cards, and the types of facilities we regulate. These include cultivation, production, laboratories, distribution, retail dispensaries, and now, or soon to be, consumption lounges. We have over 18,000 active cannabis agent registration card holders in the state.

The State of Nevada allows cannabis licenses to be structured in two different ways [page 6]. You can have a standalone business or a vertically integrated operation. That is, as a licensee, you can own just a cultivation facility, just a production facility, just a dispensary as standalones; or you can own all three, control your own supply, and sell your own product, as well as purchase products from other establishments, being vertically integrated. A licensee can also own any combination of those licenses. The only license you cannot own if you own a cultivation, production, or distribution retail store is a laboratory. Laboratories must remain independent, and no shared ownership is allowed. These structures will be important when you talk with the Department of Taxation next about fair market value determinations.

The taxes collected by the Department of Taxation relating to cannabis include a wholesale tax and a retail tax [page 7]. The wholesale tax is a 15 percent excise tax levied on the first arm's-length transaction of cannabis at the wholesale level—before it moves to a retail facility. It is taxed on the price the Department of Taxation determines to be the fair market value of that product type at that time. The other tax is a 10 percent retail tax collected on the retail sale of cannabis products at adult-use retail stores and dispensaries.

This is some information on taxable sales and tax collection [page 8]. You will see information and sales data spanning the last three fiscal years. This is the first year since cannabis was legalized in Nevada for adult use that we have seen a decline in yearly sales. We are down about 4.5 percent fiscal year to fiscal year, and about 14.5 percent calendar year to calendar year. This trend is consistent with more mature cannabis marketplaces across the nation and is a result of a number of market dynamics. For one, we had been experiencing extreme year-over-year growth since 2018 when we legalized adult use. The numbers were always going to stabilize at some point and lend to a baseline, then the pandemic hit. People were at home. People received stimulus money and had sizable discretionary income. We saw almost a 50 percent increase in sales from fiscal year (FY) 2020 to FY 2021.

We are finally coming back to earth a little bit. The pandemic restrictions are ending, people are back at work, discretionary income is falling as inflation continues to affect our economy, and we have competition from the illicit market. What we are seeing in Nevada is consistent with what our counterparts are seeing in other states. If anything, given our tourism economy, our prices have not fallen as much as some of the other states, at least so far.

Our agency is funded a little uniquely [page 9, [Exhibit C](#)]. We do not take any General Fund money. We are fee- and tax-funded, with the remainder of what is deposited into our account transferred to the State Education Fund (SEF). This past fiscal year we generated just over \$8 million in licensing fees, time and effort assessments, agent registration fees, and fines and civil penalties. There was also just over \$63 million collected from the 15 percent wholesale tax. That wholesale tax money is then combined with our agency-generated revenue, and from there, we take care of our operations. We send \$5 million to local governments, \$250,000 to the Division of Public and Behavioral Health, and then transfer the remaining balance to the SEF. This fiscal year, it resulted in just under \$59 million transferred to the SEF.

As previously discussed, that \$59 million is not the only revenue stream from cannabis that flows to the SEF. There is also the 10 percent retail tax on cannabis sales at the retail level. That amount also goes into the SEF in its entirety, but does not pass through the CCB. In the most recent fiscal year, the state collected over \$89 million from that retail tax. That number, plus the \$59 million we sent, resulted in a combined \$147 million transferred to the SEF for FY 2022. To note, you will hear from the Department of Taxation soon, but the CCB does not handle tax collection on the wholesale or retail side. That duty is the responsibility of the Department of Taxation.

I will now briefly highlight our four divisions to give you an idea of our operations [page 10, [Exhibit C](#)]. The first division is administration and licensing. This division maintains our database of all license holders and ownership records. It processes and reviews all license applications and renewals and collects all related fees. The division is also in charge of managing the cannabis agent registration card program, which through its efforts, the administration and licensing division has seen a reduction in wait times for agent cards by 98 percent. Processing new cards for employees in the industry used to take 45 days. Now it takes one business day. The division also works closely with the Department of Public Safety and the FBI [Federal Bureau of Investigation] on agent card background checks, as well as with the Department of Taxation on collecting unpaid taxes and fees.

I wanted to touch briefly on our regulatory authority and how we ensure taxes are paid to the State. We do have regulatory enforcement power to ensure taxes are paid to the State by our cannabis licensees, along with the regulatory authority to discipline licensees over unpaid taxes. When we took over oversight of the cannabis industry in mid-2020, we identified a number of outstanding tax bills, and through further investigations found instances of unfiled taxes and incorrectly filed taxes, nonpayment of licensing fees, and nonpayment of time-and-effort assessments. It was a little bit of a mess. As a result, the CCB, as one of its first initiatives, was to make it clear to the industry that this is not going to go on any further—this is a privileged industry, you need to pay your taxes, and you need to file and pay them on time. We passed necessary regulations that made it clear licensees do need to comply with the tax requirements or risk losing their licenses. We also implemented a change to our yearly renewal process that required licenses to be up to date on all outstanding taxes, renewal fees, or outstanding invoices, or they would not be able to renew. It was pretty straightforward. We also worked with the Department of Taxation to utilize a process they already had in place for Nevada taxpayers in which a licensee would need to provide appropriate documentation that showed they were in compliance with tax requirements. As you can imagine, given you certainly cannot grow or sell cannabis without a license, we began to see many of those outstanding payments become paid in full. Since then, outside of some one-off issues, we see very few instances of tax noncompliance, outside of business restructuring or payment plans entered into with the Department of Taxation. Additionally, through enforcement efforts and some of our larger disciplinary actions over the last two years, we have been able to recoup, in full, large outstanding tax balances due to the State. Although we will not be able to fully quantify that exact number, all of these efforts have resulted in capturing millions of dollars in owed tax revenue to the State. I have to compliment our friends at the Department of Taxation, who have always been a great partner in these efforts and continue to be today. Our agencies, without a doubt, must have a strong working relationship in this area, and we do.

Recently we successfully facilitated the first licensing round for consumption lounges in Nevada [page 11]. This was a significant accomplishment for the CCB and the State because there had not been a licensing round in Nevada since 2018, which if you remember was highly litigated and is still going on in the courts. It nearly brought this industry to a standstill.

We implemented a random selection process for this round, which allowed us to hold a randomized drawing for licenses at a public event, to ensure total accountability and transparency of the licensing round. The round was also the first time the State has allowed for individuals who were not already in the industry to apply for a cannabis license. Up until this point all prior licensing rounds applied only to those who had already had cannabis establishments. Furthermore, the licensing round facilitated Nevada's first ever social equity licenses. This was a component of Assembly Bill 341 of the 81st Session. Ten lounge licenses were available only to those individuals who were deemed to have been negatively impacted by prior drug policy. This was a very significant step towards greater equity and inclusion in the cannabis industry in our state.

The inspection and audit division agents visit all Nevada's cannabis licensees at least once a year, and in many cases more than that, to perform routine audits of inventory and inspections of facilities [page 12, [Exhibit C](#)]. Inspection and audit agents also conduct preopening inspections, facility modifications, and spot checks—usually around major holidays and events. The CCB's inspection and audit agents ensure facilities and establishments remain in compliance with rules and regulations. They track all inventory from facilities through Metrc, which is our seed-to-sale tracking system. They also inspect Nevada's ten testing laboratories to ensure laboratory standards and appropriate procedures are being followed.

When our agents finish an audit or inspection, they either issue a statement of deficiency or a statement of no deficiencies, depending on the results of the inspection or audit [page 13]. In calendar year 2022, out of 427 notices issued we had about 56 percent receive statements of deficiencies, which means we identified violations or instances of noncompliance, and 44 percent received statements of no deficiencies, which means it was a clean audit or inspection, with no compliance issues found. Roughly half of our inspections and audits in a given calendar year have no compliance issues. That is a good thing. We would like to see that number grow.

Just because you received a statement of deficiency does not mean you will be fined, or a complaint will be filed. Many times, these are minor deficiencies that can be corrected by submitting back to the CCB agents a plan of correction, which we review and approve. When a violation does rise to the level of potential disciplinary action, we transmit the details of that alleged violation to the Attorney General's Office, who reviews the case and recommends back to us either to proceed with a complaint for disciplinary action or not. Only at that point, and if the Attorney General's Office agrees with our recommendation, do we then proceed with disciplinary action. We had 427 audit inspection notices in 2022 and 23 complaints authorized by CCB members as a result of violations identified.

The CCB recently introduced what we call Letters of Concern, providing our agency with a tool that sits somewhere between a statement of deficiency and a complaint. It allows us to issue an official letter in lieu of a disciplinary complaint. It serves as an informal warning



and does not come with a complaint of financial penalty. This process has allowed us to provide an extra layer of education with the industry to address a violation before such conduct escalates to a disciplinary complaint.

Additionally, the CCB and the Attorney General's Office takes into account self-reporting as a mitigating factor in our disciplinary process [page 14, [Exhibit C](#)]. These mitigating factors are usually noted in any settlement agreement and presented as part of that settlement agreement to the CCB before the CCB approves any final action. The settlement agreements are also posted online for the public to view.

We receive hundreds of self-reporting incidents every year, and multiple on a daily basis. Most do not rise to a disciplinary level, especially if the licensees take immediate action. In fact, there has only been a few cases, exactly five cases in our 2.5-year history as an agency, that a self-reporting violation did result in a disciplinary action and financial penalty. Those cases, however, dealt with subject matter that the CCB, along with the United States Department of Justice, considered to be the most important pillars of keeping a safe and successful industry that remains free from any potential federal intervention. That includes sales to a minor, diversion of cannabis out of a facility, and hidden ownership, which has potential to invite criminal elements into our industry. Three of the five self-reporting incidents that have resulted in a fine dealt with one of those topics and carried a significant financial penalty as a result. The other two dealt with selling more product than what is allowed to a single consumer in the transaction. Although we consider that a serious issue, it was subsequently pled down to a financial penalty significantly lower than what could have been assessed. Again, all of these actions are decided at a public meeting, where it is transparent, and are then posted online for anybody to view.

Moving on to our investigations division [page 15], our investigators are tasked with processing all transfers of interest. These are sales of licenses to new owners or if a licensee sells a percentage of ownership to new or existing owners. This process includes a complete vetting of all potential new licensees and affiliated owners, officers, and board members. It includes sit-down interviews with applicants and a full suite of background checks and financial analysis on potential entrants into our industry. This process was modeled after how the Gaming Control Board vets potential licensees in the gaming industry. The CCB's investigations division has been a large success, especially in efforts to uncover hidden ownership and ensuring we know exactly who is in our cannabis industry. The results of these investigations are presented in public to the CCB, and potential and current licensees must appear in front of the CCB to answer questions about the vetted transaction. Cannabis Compliance Board agents have uncovered a number of instances of hidden ownership within the industry, with potential bad actors and individuals unsuitable to participate in our industry.

Finally, the CCB's small but mighty enforcement division [page 16] is made up of eight POST-certified [Peace Officers' Standards and Training Commission] enforcement officers. In addition to supporting complicated and/or contentious facility inspections, our enforcement agents investigate criminal complaints, as well as participate in multi-agency

law enforcement actions to address illicit market activity like outdoor cultivation sites and illegal sales of cannabis. The CCB hosts quarterly law enforcement meetings where we invite all local, state, and federal law enforcement agencies to a closed-door meeting to discuss cannabis-related issues and share operational opportunities and challenges. That completes the rundown of the CCB's four divisions.

This legislative session we have three bills we are carrying [[Senate Bill 31](#), [Senate Bill 33](#), and [Senate Bill 69](#)]. They deal mostly with housekeeping issues and some license transferability issues. We are happy to answer any questions on these bills after the presentation [page 17].

Some challenges we see this year are sales and tax revenue are down. Federal inaction on cannabis related matters continues to hamper both regulators and the industry. Limited access to banking keeps the industry, or at least a percentage of the industry, all cash based. Federal tax code continues to prohibit certain tax write-offs for cannabis businesses, which increase overhead costs and places an additional economic strain on these businesses. Additionally, there remains this constant threat or possibility of federal action to reschedule or legalize cannabis at the federal level. We know it is coming at some point. We just do not know when; however, that would significantly change or alter the marketplace here in Nevada if it did happen.

The illicit market continues to be a major issue here in Nevada, as it is in all other states that have a legalized cannabis marketplace. It is the number one competitor to our legal market and licensees. It puts unsafe product on the streets and the State loses tax revenue.

Looking ahead [page 19, [Exhibit C](#)], we will start to see consumption lounges open, likely towards the end of this year and into next year. We are also commissioning a market study that will review and analyze our cannabis marketplace, including examining supply and demand, any need for new licenses of all license types, as well as analyzing the breadth and scope of the illicit cannabis market in our state.

I appreciate that some of the members of the Committee heard this exact presentation yesterday. We are here to answer any questions that you may have [page 20].

**Chair Backus:**

We do have some questions. We will start with Assemblywoman Anderson.

**Assemblywoman Anderson:**

You mentioned, based upon the administration and licensing and the need for back research, there have been millions of dollars of back funds captured. Are those funds then put into the cannabis area, so the monies can go into SEF, as well as the General Fund, or do they go into a different area of the Department of Taxation.



**Tyler Klimas:**

Depending on if they were outstanding wholesale or retail sales tax, either way they go to the SEF—they go into the same bucket. Wholesale flows through the CCB. Retail flows through the Department of Taxation.

**Assemblywoman Anderson:**

Around slide 16, I was trying to follow along as well as look at the staffing agency growth and all those items.

You mentioned there are bad actors that are caught and then reported to the CCB. Does the CCB make the decision as to what is to happen with that application? Does it go forward without those names on it? Is there a list of them? What happens to them to ensure they do not attempt a second time to come forward?

**Tyler Klimas:**

Everything that happens is open and transparent at these CCB meetings. They are called a Transfer of Interest. If the Board has concerns, they usually start at the staff level. Investigation staff will prepare an investigative report, 20 to 30 pages, on the proposed transaction. That report goes to Board members before the Board meeting. They have that information and then they are able to ask further questions. At that point, they have the ability to accept or approve the transaction, deny the transaction, send the transaction back to staff, or direct licensees to provide further clarity. They have the power to either approve or deny. It is a privileged industry here in the state.

**Assemblywoman Anderson:**

Does the staff make a recommendation to approve or disapprove, or is that completely up to the CCB? In looking over your biennial report, as of December 2022 you have a 15 percent vacancy. How many of that staff are actually investigative individuals?

**Tyler Klimas:**

Our chief of investigations would be happy that I can report there are currently no vacancies on the investigations team. In answer to your first question, staff may recommend denial or approval. Staff can recommend the CCB question further on an item. It is really open. At the end though, it is up to the CCB and how they proceed.

**Assemblywoman Gallant:**

Is there a schedule of fees, fines, or licensing? Is that clear when a business opens and continues to operate? Also, in terms of the transparencies of the fines and fees, what about the schedule of inspections? Is it like a pop in or are they scheduled as well so a facility can prepare? I am asking this question more in terms of the good actors. Bad actors are going to be bad actors, but in terms of those operations that are running good solid businesses, what is the level of transparency on their interactions with you?

**Tyler Klimas:**

To your first question, yes. We go by category fines, so there are different categories—categories I, II, III, IV, and V. Those are listed in the regulations, as well as any kind of violations that would fall in those categories, and the maximum penalties that are included. Those are all listed in the regulations and are very clear. That is our process and what our attorneys go through when we create the complaint, and whether it ends up in a settlement or hearing, which is what we go by.

To your second question on inspections and audits, they are not scheduled if they are routine. Our routine inspections and audits are unannounced, and we go to the facilities at least once a year. There are different times where we may schedule an inspection or audit, such as if you are making a modification to your facility, or you are having a preopening inspection before you open, we will schedule that. Sometimes facilities can reach out to us and ask for us to come and perform an inspection. They may have reconfigured their inventory program or tracking and would like to ensure it is going to be in compliance. They can ask us to come out. It just depends.

**Assemblywoman Mosca:**

Do the wholesale tax and the retail tax apply to the lounges?

**Tyler Klimas:**

The lounges will not participate in any kind of wholesale cultivation and production, so the wholesale tax will not apply; however, the retail tax will apply to consumption lounges at the point of sale.

**Assemblyman Gray:**

With regards to banking and paying taxes, how is that working now with the banking regulations still being what they are? How are they transmitting that money to the State offices?

**Tyler Klimas:**

It remains a huge pain point. I do not think we are as cash-based as we used to be—with the large bags of cash being transferred to State offices. It still happens. People are still paying in cash. I think a lot of our licensees are finding banking partners now, where they did not previously, but they are getting crushed on fees. They are going out of state for banking and are paying an exorbitant amount of fees. That is consistent nationwide and is going to remain until the United States Congress passes some kind of banking legislation, which has passed the House of Representatives a number of times and is ready to go, but just has not crossed the finish line.

**Assemblywoman Considine:**

I was at the other hearing [Assembly Committee on Judiciary] and a question about Delta-8 was brought up. Can you explain what Delta-8 is and explain the difference between CBD [cannabidiol] and cannabis, and why they are regulated differently.

**Tyler Klimas:**

I will refer this to Kara Cronkhite. She is our Chief of Inspection and Audit.

**Kara Cronkhite, Division Chief, Inspection and Audit, Cannabis Compliance Board:**

Delta-8 THC [tetrahydrocannabinol] is really like Delta-9 THC, which is the main component in cannabis that is psychoactive. It is the part of cannabis that makes you feel high. Delta-8 THC is just a synthetic version that is made, where the double bond is on the eighth carbon instead of the ninth carbon, hence the name. The structure of the chemical is almost identical. It looks the same and it has very similar effects on the user. There are several reports of Delta-8 THC making people feel ill. The way that Delta-8 THC is made, it is not naturally found in cannabis to a measurable extent, if at all. What people will do is take CBD, which is a non-psychoactive compound. It does not make you high. It is a cannabinoid that comes from hemp and cannabis plants. They will take that CBD and mix it with an acid catalyst, which turns the CBD into Delta-8 THC. All these structures are chemically very similar, and that is how that is able to happen. The problem with that is we do not really know what the byproducts are from that, so it could be potentially very dangerous. In Nevada we do not allow synthetic cannabinoids to be made unless the CCB has approved the process. To date we have not yet approved any such processes, so you really should not be seeing that in cannabis.

To the second part of your question, the difference between CBD and hemp products versus cannabis and Delta-9 THC products: cannabis is grown to have those psychotropic effects where the user feels high, whereas hemp should not. Hemp should be less than 0.3 percent THC, and in Nevada we have defined THC to include all those different synthetic or non-synthetic isomers of THC, so Delta-8 is captured in that limit. If I missed anything I apologize. I am available for more questions.

**Assemblyman Hafen:**

I want to touch on your market study and how that is going to look at the illicit and illegal market. My understanding is it is becoming a bigger and bigger problem. It is very difficult for law enforcement to determine where the product is coming from. I am very happy to see that you are going to be doing the market study. I would like to know if that is going to be bringing forward legislation in 2025, or is there something we could do now to help your agency control the unregulated portion?

**Tyler Klimas:**

You are absolutely right; this is a significant issue. It is happening all across the country. When we legalized cannabis marketplaces across the states, we collectively had this thought that the legal market would stamp out the illicit market. Why would you go to the illicit market? You would go to the legal market. We know now this did not happen. If anything, in some instances the illicit market has continued to thrive and continues to grow. What we do not know is how big it is. States are having a very difficult time trying to figure out exactly how big the illicit market is in their state, and how much market share is it capturing. You hear 40 percent, 60 percent, and 70 percent. I think Massachusetts said it was 80 percent, which is a huge number when they do over \$1.5 billion in sales.

I am probably off on that number, but just for context. In its most simple method, you take how much is consumed in the state, you back out how much is legally sold, and the remainder is how much is sold on the illicit market. That is what you would want a market study to find out, so we know where it is, then we can start to measure if we are effective in our efforts or not.

Nevada is going to be a little more interesting because of our tourism dollars. We have a lot of people coming in from out of state and buying products here. That is the extra element, which is why it is important that we go outside through an RFP [request for proposal] to try to get an organization or company to come in and do a deep dive and analysis. We will end up doing the RFP process, which is out there right now. We will come to the IFC [Interim Finance Committee] and ask for the funds once we have identified the company we want. Other states have done market studies. We just have not done one. That is our first step, to start to measure the effectiveness. It could end up in legislation for 2025. I believe it is going to be a topic we continue to discuss this legislative session. It is certainly not going away.

You are right. We need resources all across the board. The quarterly meetings we put together on law enforcement have been very helpful. At least all of us are talking—all the locals, all the states, and even the feds [federal government]. We are prepared to start addressing that. We certainly need to.

**Assemblyman Hafen:**

I see this is a problem, not only for the industry and your agency but for the individuals who are consuming the product. Nevada has historically had the gold standard for testing to ensure the product is of quality, so our consumers do not have issues with it. I have serious concerns from the health perspective of what is going on in the illegal market and what people are actually consuming. I look forward to hearing anything your board can bring forward to help us crack down on that. I look forward to seeing the market study, even if it is coming through the IFC. The sooner the better.

**Assemblywoman Summers-Armstrong:**

We hear so many rumors as we are going through this process. One of the things I would really like to know is I received assertions that owners are related to cartels and those ownerships may be feeding into purported increases in human trafficking in the resort corridor. Have you done any research or investigations on this? Can you confirm any of these rumors?

**Tyler Klimas:**

I can tell you we share your same concerns. That is one of the reasons we put together our investigations division. Probably the largest departure from the past oversight body was creating an investigations division. We pulled resources from the Gaming Control Board who created this group. As I mentioned before, our vetting process is modeled after the Gaming Control Board's vetting process.

In 2.5 years we have found instances of folks who should not be in this industry. We found loans from folks who have questionable ties to licensees. We continue to methodically go through these transactions one-by-one, licensee-by-licensee, with our investigations division.

We have recently implemented, outside of just the normal investigations, a monitoring function. In our Governor-approved budget [2023-2025 *Executive Budget*, page CCB-8] you will notice that there are three additional investigation agents. A large part of the reasoning behind that is to continue with this monitoring function. Outside of a particular transfer or transaction, it is meant to be a continual monitoring of our licensees to make sure we know what is going on.

**Chair Backus:**

Thank you, Director Klimas and your team, who traveled here to testify tonight, as well as those who appeared remotely. We will close your presentation. The second item on the agenda is a presentation by the Department of Taxation. I would ask the presenters to make their way up to the table.

**Shellie Hughes, Executive Director, Department of Taxation:**

With me today is Yvonne Nevarez-Goodson, our Chief Deputy Executive Director; Jennifer Roebuck, our Deputy Executive Director of Compliance; and Jeff Mitchell, our Deputy Executive Director of Excise and Local Government Services. Thank you for allowing us to present a high-level overview of the Department [Department of Taxation] and the tax types we administer. You will likely see the four of us at your Committee hearings throughout the session, and we will be available to answer any tax questions you may have on the tax types we administer. I want to say thank you to Director Klimas and his team. As Director Klimas mentioned, the CCB is not involved in the collection of cannabis taxes, but Director Klimas did a great job explaining the taxation process.

Here is the agenda for our presentation today [page 2, [Exhibit D](#)]. We will begin with a brief agency overview. Next, we will give you information regarding our fiscal year (FY) 2022 tax revenue and distributions. Under item No. 3, we will go through our major General Fund tax types, which includes sales and use tax, modified business tax (MBT), commerce tax, insurance premium tax, live entertainment tax (LET), real property transfer tax, and net proceeds of minerals (NPOM) tax. We will conclude with a discussion on our remaining tax types that are listed under No. 4.

As an overview of the Department's operations [page 3], we perform a variety of functions, including administering 21 different tax types, and 3 fees. We appraise property, establish guidelines for local governments, and ensure compliance with those guidelines. We review local government budgets and certify annual populations. Additionally, the Department is one of the main revenue collection agencies in the state and we collect over 70 percent of the total unrestricted State General Fund. In addition to the State General Fund, the Department also distributes revenue to other sources, including the State Education Fund (SEF) and local governments. For FY 2022, we collected and distributed over \$9.5 billion in state and local government revenue. This is an increase of over \$1.6 billion from FY 2021.

The Department's mission is to provide fair, efficient, and effective administration of our tax programs [page 4]. Our philosophy is to provide consistent, impartial, and courteous service and treatment to our taxpayers. Our mission and philosophy are what drive the work we do, and the Department continually strives to fulfill these objectives.

At the beginning of the 2021 Session, the Department's executive team developed a strategic plan, which includes the Department's goals listed on the slide [page 5, [Exhibit D](#)]. Our strategic plan is available on our website. In our strategic plan you will find our goals, with specific action steps, measurements, and benefits. Though I will not read these goals in their entirety, I will briefly summarize them. Goal No. 1 is to provide uniformity and increase accessibility for our taxpayers on tax law, policy, and procedures. Goal No. 2 is to provide education and communication to our taxpayers. Goal No. 3 is to provide timely, relevant, and accurate reporting. Goal No. 4 is to attract and retain an engaged and empowered workforce. Goal No. 5 is to create a modern digital workplace. Goal No. 6 is to reduce IT [information technology] backlog and increase efficiencies.

Listed on this slide [page 6] are the members of the Department of Taxation's executive team, several of whom are here to present today. The Department of Taxation is comprised of six divisions and serves as staff to five boards and commissions [page 7]. We currently have 413 positions within the six divisions. The Nevada Tax Commission is head of the Department and is one of the boards and commissions that is staffed by the Department. The Nevada Tax Commission meets multiple times a year to hear appeals, review and hold public hearings on regulations, and pursue other such actions that are necessary for the operation of the Department of Taxation.

On this slide [page 8], you will see our website address, call center number, and contact information for each of our three offices. This slide [page 9] illustrates the revenue we received in FY 2022 from each tax type we administer. As you can see from this chart, of the \$9.5 billion in revenue collected during FY 2022, sales and use tax collections made up \$6.6 billion or 69.4 percent of the \$9.5 billion collected. This slide also demonstrates our distributions for FY 2022. The State General Fund receives 40.7 percent of our total distributions, or approximately \$3.9 billion. Local governments receive 33.5 percent, or approximately \$3.2 billion. The SEF gets 24.6 percent, or approximately \$2.3 billion.

This slide [page 10] provides the gross revenue we received from each tax type we administered in both FY 2021 and FY 2022. You can see we had an increase of approximately \$1.6 million from FY 2021 to FY 2022, which represents a 20.49 percent change from one fiscal year to the next.

This slide [page 11] breaks down total departmental distributions in FY 2022. The first column provides the amount of revenue that was distributed to the State General Fund from each tax type. The second column reveals the amount of revenue that was distributed to the SEF from each tax type. The third column represents the amount of revenue that was distributed to local governments from each tax type. The fourth column represents revenue that was distributed to other accounts from each tax type. For example, annually we



distribute \$150,000 from revenue received from the LET to the Nevada Arts Council, and this would be found in the fourth column. These other distributions are provided for in statute and we will discuss them in further detail during our discussion of the various tax types we administer later in this presentation. The fifth column represents revenue that was distributed to the State Debt Service Fund from each tax type. The sixth and last column represents the total amount of revenue distributed from each tax type.

This is a list of some of the major legislation passed from the 2021 Session that impacted the Department [page 12, [Exhibit D](#)]. Senate Bill 389 of the 81st Session established provisions governing the licensing and operation of a peer-to-peer car sharing program and requires the charging and collection of certain fees when a passenger car is shared through a peer-to-peer car sharing program. For those of you who are not familiar with a peer-to-peer car sharing program, it is a business connecting vehicle owners with vehicle drivers to share vehicles in exchange for money. In other words, an owner of a vehicle uses the peer-to-peer platform to list its vehicle for sharing. A person wishing to use that vehicle will connect on that platform with the owner, pay the required fees, and is given the ability or authority to drive the vehicle for a certain period. The State fee for all shared vehicles is 10 percent, and for any shared vehicle in Clark or Washoe Counties there is an additional 2 percent fee. These fees are similar to the governmental service fees paid by short terminal companies.

Assembly Bill 495 of the 81st Session provides for the imposition, administration, and payment of excise tax on the Nevada gross revenue of business entities engaged in the business of extracting gold or silver in Nevada. All business entities engaged in the business of extracting gold, silver, or both in Nevada, and whose Nevada gross revenue exceeds \$20 million during the taxable year, must file a gold and silver excise tax return unless otherwise exempted. Beginning July 1, 2023, payments made pursuant to the gold and silver mining tax will be deposited in the SEF.

Senate Bill 440 of the 81st Session amended *Nevada Revised Statutes* (NRS) 372.728 and related statutes, to provide an exemption from Nevada sales tax on the sales of tangible personal property to certain Nevada National Guard members and their qualifying dependents living at the same physical address in Nevada. The period of tax exemption is on the day Nevada Day is observed, or the Saturday and Sunday immediately following. Members of the Nevada National Guard are required to apply for a letter of exemption with the Department 30 days before the date on which Nevada Day is observed. If eligible, the Department will issue a letter of exemption. The bill requires that when the Nevada National Guard member or qualified dependent makes a retail purchase during the sales tax holiday, that that letter of exemption is provided to the vendor. The vendor is then authorized to sell to the member or qualified dependent, without imposing sales tax on the sale. The vendor is required to retain a copy of the letter of exemption for audit purposes.

After this bill became effective, it was determined that the bill violated the Streamlined Sales and Use Tax Agreement (SSUTA). Nevada is a member of the SSUTA Governing Board and was sanctioned for violating the agreement. We have worked very closely with the Governing Board to remedy the situation and the Department will be bringing Senate Bill 50 this legislative session to correct the violation.

To give you some background on SSUTA [page 13, [Exhibit D](#)], SSUTA was developed over the course of several years through the joint efforts of over 40 states participating in the streamlined sales and use tax project. Nevada became a full member of the SSUTA governing board on April 1, 2008. The Streamlined Sales Tax website indicates that the purpose of SSUTA is to simplify and modernize the administration of sales and use tax laws of the member states in order to facilitate multi-state tax administration and reduce the burden of compliance. The Streamlined Sales and Use Tax Agreement minimizes costs and administrative burdens on retailers who collect sales tax, particularly retailers operating in multiple states. It encourages remote sellers selling over the Internet and by mail order to collect tax on sales to customers living in the SSUTA member states. It levels the playing field so local brick-and-mortar stores and remote sellers operate under the same rules.

The Streamlined Sales and Use Tax Agreement ensures that all retailers can conduct their business in a fair and level competitive environment. The Streamlined Sales and Use Tax Agreement does not override state laws; however, states must comply with the requirements contained in SSUTA to be a member state. The Streamlined Sales and Use Tax Agreement applies to the state and local sales and use tax collected by retailers. Chapter 360B in NRS contains provisions for the implementation of SSUTA. Today, 23 states are full members of SSUTA.

Now we will get into an overview of our major General Fund tax types [page 14]. On Tuesday [February 7, 2023] Susanna Powers [Deputy Fiscal Analyst for the Fiscal Analysis Division of the Legislative Counsel Bureau] provided the Committee with a comprehensive overview of many of the tax types we administer, so we will try to keep our discussions brief. I will now turn the presentation over to Jennifer Roebuck, Deputy Director of Compliance.

**Jennifer Roebuck, Deputy Executive Director, Compliance, Department of Taxation:**

I will cover some of the major tax types that impact our General Fund and other funds. First, we have sales and use taxes [page 15] which comprise the largest revenue category in our State. Sales and use taxes were enacted in Nevada in 1955 at a rate of 2 percent, and the rate is still 2 percent. In FY 2022, the Department distributed \$1.6 billion to the General Fund. The sales tax rates that customers see are higher because today's tax rates encompass other components, which we will cover shortly. Sales tax is imposed on retailers for the privilege of selling property at retail. The sales tax rate is based on the county in which a sale occurs and is applied to the gross receipts from retail sales.

Use tax is the counterpart of sales tax. Both tax rates are equivalent and county-based. Use tax is imposed on the property purchased from a retailer where sales tax was not paid. For example, consider a purchase that was delivered to a customer in Nevada from a non-Nevada retailer who is located outside of our state. If the customer did not pay Nevada sales tax, the customer would pay the state directly and this would be use tax.

This slide [page 16, [Exhibit D](#)] gives a high-level overview of the base tax rate for Nevada, which is 6.85 percent. It is made up of the 2 percent sales tax which goes to the State General Fund, the 2.6 percent local school support tax (LSST), the 0.5 percent basic city-county relief tax (BCCRT), and the 1.75 percent supplemental city-county relief tax (SCCRT). The last component that makes up the sales tax rate is the local option tax [page 17]. Most of the counties have additional components in their sales tax rates for a variety of initiatives. This slide includes those components, as well as when the rate was imposed. The last rate increase was Clark County, effective January 1, 2020. Briefly, Washoe County had the highest sales tax rate in the state, but Clark County's last rate increase put them back in the lead. This sales tax map [page 18] is a visual representation of our state and the various county sales tax rates.

Next, I will dig into the components that distribute to all Nevada counties a bit more. The LSST [page 19] is 2.6 percent. The tax was distributed to the State Distributive School Account until July 1, 2021, when Senate Bill 543 of the 80th Session required the distributions to go to the SEF. One distinguishing feature of this tax is the distribution is based on the reporting businesses' locations. The tax is distributed to the school district in which the reporting business is located. If a reporting business is located out of state, the LSST distributes to the SEF. In FY 2021, the school districts received a total of \$1.7 billion and in FY 2022 they exceeded \$2 billion from the LSST.

The BCCRT is 0.5 percent [page 20]. In-state sales are distributed to counties where the sales or deliveries are made. Out-of-state sales are distributed based upon the population ratio through the Consolidated Tax Program [Consolidated Tax Distribution (CTX)] to the local governments. The CTX combines tax revenues, including the BCCRT, SCCRT, and several excise taxes into the one CTX account for distribution. In FY 2021, the BCCRT transferred to the CTX account was \$323 million dollars. In FY 2022, the transfer was \$391 million.

The SCCRT is 1.75 percent [page 21]. The collected revenue is distributed through the CTX account by way of a formula. Some counties receive a guaranteed distribution, and the balance is allocated to the rest of the counties based on the distribution formula. In FY 2022, the total SCCRT distributed \$1.37 billion to local governments, which was up from the \$1.13 billion in FY 2021.

This slide [page 22] gives additional details about the local option [local option sales and use tax], which makes up the tax rates above the 6.85 percent. The counties have the option to increase their sales and use tax rates for specific purposes by ordinance. For example,

above the 6.85 percent tax rate, Carson City has four additional tax components to fund public roads, open space, V&T [Virginia and Truckee] railroad bonds, and infrastructure. The combined components make up the 7.6 percent sales and use tax rate in Carson City.

A STAR [Sales Tax Anticipated Revenue] bond [page 23] is a way for local governments to finance special projects. These special projects must be located within tourism improvement districts, and there are unique rules for the distribution of the sales and use taxes generated there. There are currently four of these districts in Washoe County and three in Clark County. A tourism improvement district has special boundaries that are created by an ordinance. It is an area where development is going to be built. *Nevada Revised Statutes* 271A.120 states that once a municipality has adopted an ordinance to create the tourism improvement district, it may issue special obligation bonds to finance projects for the benefit of the district. The bonds are secured by a pledge of up to 75 percent of the sales tax revenues generated within the district for a maximum of 20 years. The Department of Taxation remits the pledged taxes back to the municipality that has adopted the ordinance. The municipality uses the funds to make the payments on their bonds and pay other expenses related to the district. At the end of each fiscal year, the municipality must return any money not spent to the Department. That money is then distributed to the county and its local governments through the normal distribution routes.

The modified business tax (MBT) is imposed each quarter on the gross wages reported by businesses [page 24, [Exhibit D](#)]. The category of businesses drives the tax rate and includes general businesses, financial institutions, and entities subject to net proceeds of minerals (NPOM). The general business tax rate is presently 1.378 percent and is imposed on the reported gross wages, less a deduction for qualified health benefits paid by the employer above a \$50,000 threshold per calendar quarter. The rate for financial institutions and entities subject to NPOM tax is 1.853 percent on gross wages, with a deduction for qualified health benefits paid by the employer. The MBT total distribution in FY 2022 was \$756 million, which is up from the \$591 million in FY 2021. This tax is distributed to the State General Fund.

The modified business tax was enacted in 2003 and the tax rates, deductions, and credits have evolved as a result of various amendments through 2021 [page 25]. In September 2022, the MBT rate reduction determination was completed per NRS 360.203, which resulted in a rate reduction effective July 1, 2023. Future rate reduction calculations will not be necessary as the rates have reached the bottom per NRS 360.203. In May 2021, the tax rate was reduced from 1.475 to 1.378 percent retroactively as a result of litigation. The court ruling required the Department to issue refunds, with interest, to taxpayers for the overpayments during FY 2020 and FY 2021.

The Nevada commerce tax is imposed on each entity engaged in business whose gross revenue exceeds \$4 million [page 26]. The tax rate is based upon the industry that the business is primarily engaged in. In FY 2022 the Department distributed \$282 million to the State General Fund. Businesses are allowed a credit against their MBT for up

to 50 percent of the commerce tax amount that they had paid. In FY 2021, businesses claimed \$43 million in commerce tax credits against MBT due; and in FY 2022, they claimed \$47.8 million.

Commerce tax was enacted in the 2015 Legislative Session [page 27]. At that time, all businesses with gross revenue in Nevada were required to file a return. By 2019 there were 594,605 open commerce tax accounts. Senate Bill 497 of the 80th Session eliminated the filing requirement for those businesses with less than \$4 million in gross revenue. Since then accounts are being closed, so the number of open accounts is less than half of what it was in 2019. In 2022, 14,404 returns were filed. Now I will pass the presentation to Chief Deputy Yvonne Nevarez-Goodson.

**Yvonne Nevarez-Goodson, Chief Deputy Executive Director, Department of Taxation:**

If you will indulge us, we are going to balance between Deputy Director Mitchell and myself for the next few tax types. First on our list is the insurance premium tax [page 28, [Exhibit D](#)]. The insurance premium tax represents a tax imposed at a rate of 3.5 percent on insurers who transact business in the state of Nevada, except for risk retention groups with a rate of 2 percent. The tax is assessed upon net direct premiums and net direct considerations written. The insurance premium tax is due on March 15 of each year, on premiums written in the prior calendar year. Insurers who are required to pay a tax of at least \$2,000 on the preceding calendar year must pay quarterly tax payments based on actual net direct premiums and direct considerations written for the current reporting quarter. The Department distributed approximately \$496.13 million to the State General Fund in FY 2022, which represents an increase in gross revenue of approximately 5.16 percent over FY 2021.

The next tax type is the live entertainment tax (LET) for nongaming establishments [page 29]. There are two agencies that collect LET in the state of Nevada. The Gaming Control Board collects LET at gaming establishments, and the Department of Taxation collects LET for events and activities which occur at facilities other than gaming establishments. The LET is collected from owners and operators of facilities where live entertainment is provided and who collect those receipts. The tax rate is 9 percent of the admission charge to a facility that provides the live entertainment in a venue or a facility with an occupancy of 200 or more, and the rate is also 9 percent on escort services. The LET does not apply to amounts paid for food, refreshments, or merchandise unless those purchasers are required to enter the facility for the live entertainment. The funding is distributed to the General Fund, except for the \$150,000 of annual distribution to the Nevada Arts Council. This tax is due upon the sale of the live entertainment tickets. As expected, the state experienced a significant decline in LET during FY 2021 as a result of the pandemic; however, this tax is far exceeding revenues experienced even before the pandemic. The Department received nearly \$40 million in FY 2022, and if we look back to prepandemic revenue for this tax, we received approximately \$19.16 million in FY 2020 and \$25.8 million in FY 2019. The most recent change to the LET was an amendment in Senate Bill 367 of the 81st Session, which exempted live entertainment that is provided by or for the benefit of a governmental entity. I am going to now defer to Deputy Director Mitchell.

**Jeff Mitchell, Deputy Executive Director, Excise and Local Government Services,  
Department of Taxation:**

I am going to speak to a couple of other taxes. First is the real property transfer tax (RPTT) [page 30]. This was enacted in 1967. Tax attributable to the RPTT was \$253.6 million in FY 2022, an increase over the approximately \$191 million attributable to this tax in FY 2021, which is an increase of about 32.7 percent. The rate established by this tax is \$1.95 on each \$500 in value for the transfer of real property. In Churchill and Washoe Counties, the rate is \$2.05. In Clark County the rate is \$2.55.

The revenue is collected by the county recorders. Of this tax, \$1.30 is distributed to the State General Fund, \$.55 is distributed to the counties through the CTX, and \$.10 is distributed to the Account for Low Income Housing. Churchill and Washoe Counties distribute the additional \$.10 cents of their rate for the Local Government Tax Act, and Clark County distributes the additional \$.60 cents to the school district. The chart on page 31 shows where the RPTT comes from. The majority of the tax is generated within Clark County.

Next up is the Net Proceeds of Minerals (NPOM) tax [page 32, [Exhibit D](#)] is calculated on the mining operations gross yield minus certain allowable deductions, which results in the net proceeds, then it is a multiple of the tax rate. The tax rate calculation is a little complicated. The ceiling of the tax rate is 5 percent, with the floor of 2 percent. Depending on the ratio between the net proceeds and the gross proceeds, it is determined on a sliding scale between 2 percent and 5 percent. The floor, in addition to the 2 percent, can also be the local county property tax rate where that mine is located. The Department determines the tax on the net proceeds pursuant to Chapter 362 of NRS. Producers report the annual gross yield on each separate extractive operation, as well as the expenses related to the extraction, processing, transportation, and marketing of the mineral.

This slide [page 33] gives a little more detail on the tax rate. There are approximately 103 net proceeds operators currently reporting to the Department, as well as 388 royalty reporters. This next slide [page 34] shows a chart on which minerals most of the net proceeds are generated from. As you can see, most of the NPOM tax comes from gold and silver at 89.41 percent. The distribution of the NPOM tax for FY 2022 was approximately \$174 million, where the General Fund received \$71 million, local governments received \$96.5 million, and \$6.4 million was distributed to the State Debt Service Fund. Due to the passing of Senate Bill 3 of the 31st Special Session, operators now make a prepayment on the General Fund portion of their tax rate.

We will now look at some other tax types. First, I will speak to cigarettes and other tobacco products tax [page 36]. The cigarette tax was originally enacted in the 1947 Legislative Session. The tax rate is 90 mills per cigarette and other tobacco products is 30 percent of the manufacturer's wholesale price. The distribution of this tax is 5 mills per cigarette to eligible local governments through the CTX and 85 mills per cigarette to the State General Fund, less the administrative fee determined by legislative appropriation that funds enforcement efforts for the Department. Other tobacco products tax revenues are distributed to the State General Fund.



Assembly Bill 535 of the 80th Session revised the wholesale cigarette dealer licensing fee and established licensing fees for cigarette manufacturers, wholesale dealers of other tobacco products, and tobacco retailers. The bill was effective October 2019, where the licensing portion was effective January 1, 2020. In the 2019 Legislative Session, there was also Senate Bill 263 of the 80th Session where vapor products and alternative nicotine products were added to the definition of "other tobacco products." This includes electronic cigarettes, cigars, cigarillos, pipes, hookahs, vape pens, and similar products and components. The effective date of that bill was January 1, 2020. To give an overview of the revenue, the other tobacco products saw an increase from FY 2021 of \$3.4 million. This is a 10.57 percent increase. Taxes collected for the cigarette tax were \$162.5 million in FY 2021 and decreased to \$153.5 million in FY 2022.

I will now go over liquor tax [page 38, [Exhibit D](#)]. This tax was originally enacted in 1935 as a stamp tax. Liquor tax rates are \$3.60 per gallon over 20 percent alcohol content by volume, over 14 percent to 22 percent alcohol content by volume is taxed at \$1.30 per gallon, and alcohol content between 0.5 percent to 14 percent is \$.75 per gallon. Beer is at \$.16 per gallon. Total taxes, fees, and fines for FY 2022 were approximately \$56.5 million, where \$50.39 million was distributed to the General Fund and \$4.6 million to local governments, with the remaining \$1.4 million to the tax on Liquor Program Account for victims of domestic violence, and community and juvenile justice programs. I will now turn the time back to Deputy Director Yvonne Nevarez-Goodson.

**Yvonne Nevarez-Goodson:**

We were going to touch on the cannabis taxes, but in the interest of time Director Klimas from the CCB did a great overview of cannabis taxes [pages 40 through 42]. One thing I wanted to clarify is the imposition of the wholesale cannabis tax is imposed solely on the cultivation facility and is levied only on the first transfer or sale of cannabis, and includes all transactions, not just arm's length transactions. Arm's length transactions, however, become relevant when the Department determines the fair market value of wholesale cannabis. To reiterate the comments of our colleague at the CCB, the Department does appreciate and rely heavily upon the tremendous work of the CCB and our relationship, to be able to accurately and properly carry out our responsibilities as it relates to taxation, which does include our determination of fair market value.

As Director Hughes gave a very good overview of the gold and silver excise tax (GSET) that was imposed in 2021, in the interest of time I will move quickly here [page 43]. As a result of the enactment of A.B. 495 of the 81st Session, which has been codified in Chapter 363D of NRS, called for the imposition of the excise tax on the businesses that are engaged in extracting gold and silver in Nevada with gross revenues exceeding \$20 million. Those tax rates change depending on the amount of taxable gross revenue. Up to \$150 million the tax rate is 0.75 percent and it is 1.1 percent of all gross revenue that is in excess of the \$150 million. The GSET applies to each calendar year and these taxes are reported on April 1 for the immediately preceding year. In FY 2022, the Department collected approximately \$36.9 million from the gold and silver excise tax for the first taxable year, 2021.

Our next tax is the lodging tax [page 44]. Lodging taxes are imposed on the gross receipts from the rental of transient lodging. These taxes are remitted to local governments and certain percentages are distributed to the Department of Taxation, to then be distributed to the Fund for the Tourism Promotion Fund and the SEF. The county board of commissioners are responsible for the imposition and collection of the lodging tax, while the Department of Taxation records and transfers the revenue to the appropriate state budget accounts. There are three rates imposed for the distribution to the state. The first is a 1 percent rate on gross receipts in a county with a population less than 700,000. The second is a rate of 2 percent of the gross receipts in a county with a population of 700,000 or more. The third is an additional tax of 3 percent of the gross receipts in the county whose population is greater than 300,000.

The distribution under the lodging tax includes various amounts [page 45, [Exhibit D](#)]. In counties with a population of 700,000 or more, three-eighths of 1 percent is distributed to the State to fund the promotion of tourism. The remaining five-eighths of 1 percent is distributed by the county treasurer to the county school districts for capital projects. In counties with a population of less than 700,000 three-eighths of 1 percent is distributed to the State to fund the promotion of tourism. The remaining five-eighths of 1 percent must be deposited with the county fair and recreation board, and if there is no such board in the county it goes to the board of county commissioners to be used as advertising resources in the county related to tourism. The additional 3 percent tax in counties where population is greater than 300,000 is then remitted to the SEF.

We have been discussing the imposition of various tax types, but we are now going to transition to a few of the fees the Department administers [page 46]. State law imposes a fee of 10 percent on the lease charge of the short-term lease of passenger vehicles. Two counties also impose an additional fee. Washoe County imposes a fee of 2 percent on the lease charge, with 0.25 percent of that amount distributed to the Department of Taxation for its collection. Clark County also imposes a fee of 2 percent on the lease amount, with 0.1 percent of this amount given to the Department. The revenue from these fees is distributed to the State General Fund, and also to Washoe and Clark Counties. As Director Hughes mentioned at the outset of the presentation, the peer-to-peer car sharing program is taxed similarly to this short-term rental car lease.

The next tax type is the transportation connection tax [page 47]. The Legislature created this tax in 2015 to impose an excise tax on the connection of a passenger in Nevada by a transportation network company, an autonomous vehicle network company, a common motor carrier of passengers, or a taxicab at a rate of 3 percent of the total fare charged on the transportation. These taxes are imposed on the use of a digital network, software application service, or dispatch center to connect a passenger to the driver, vehicle, motor carrier, or taxicab. This tax is due and payable monthly. The first \$5 million of each biennium is distributed to the State Highway Fund, with the remaining distributed to the State General Fund. I will now defer to Deputy Director Mitchell for the remainder of our tax types.

**Jeff Mitchell:**

The bank excise tax [page 48] was enacted in the 2003 Legislative Session. It is imposed on each bank at the rate of \$1,750 for each branch in excess of one maintained in any county on the first day of each calendar quarter. The distribution is straight to the State General Fund.

The next fee I would like to discuss is the tire fee [page 49]. This is a fee imposed on the retail sale of a new tire at the rate of \$1 per tire. The fee is collected from the purchaser by the seller at the time of the sale, in addition to any applicable sales tax. Ninety-five percent of the fee is remitted to the Department of Taxation and 5 percent is retained by the seller to cover their related administrative costs. The revenue collected by the Department is deposited for credit to the Solid Waste Management Account in the State General Fund, and the State Controller distributes quarterly as follows: One-half of 1 percent to the Department of Taxation, 44.5 percent to the State Department of Conservation and Natural Resources, 30 percent to the Clark County District Board of Health, and 25 percent to the Washoe County District Board of Health.

The exhibition facility fee [page 50, [Exhibit D](#)] is a \$5,000 annual fee, or alternatively if it is paid quarterly, the fee is equal to the number of businesses without a state business license taking part in each exhibition, multiplied by the number of days on which the exhibition is held, multiplied by \$1.25.

I will speak briefly on centrally assessed property [page 51]. Centrally assessed property is a property tax. The Department of Taxation values the assessment on this property. It collects and then distributes the tax to the local county governments, as well as to other funds where it resides. The type of property you think of as centrally assessed is property that crosses interstate or intercounty lines. This would be airlines, railroads, utility companies such as power companies, and so forth.

Last is the locally assessed property section within the Department of Taxation [page 52]. We oversee and monitor the quality of assessments performed by county assessors. Department staff appraisers conduct performance audits and appraisals on a selected sample of appraisals within counties on a rotational basis, and we report those findings to the Nevada Tax Commission in the form of a ratio study. This ratio study provides a statistical analysis of the quality of assessments that are being performed and aids the Tax Commission in their duty of providing equity and making sure assessments are as they should be throughout the state. With that, I believe we are ready for questions.

**Chair Backus:**

Thank you for your presentation. It is much appreciated. We do have a few questions, and I know you have another presentation to get to. We will try to get through those quickly. We will start with Assemblyman Nguyen.

**Assemblyman Nguyen:**

I have a question regarding things that were created more than 20 years ago that were based on a set amount versus a percentage. I know a lot of the taxes are based on a percentage, but for the ones that were created decades ago on a set amount, obviously the amount back then is different than that amount would be now. Are there any thoughts in terms of adjusting with the times? I guess this is more of a technical question and is something done legislatively.

**Shellie Hughes:**

Yes, much of that is in statute and done legislatively. We do not have the authority to adjust any of those numbers, and we typically do not set tax policy. We are unable to adjust those numbers ourselves but are glad to implement anything this body adjusts.

**Assemblyman Nguyen:**

Is there a list I could have? I do not know if they were all listed here today, all the ones that have a set amount instead of a percentage?

**Shellie Hughes:**

I think we have everything included here, but if we do not, we can provide you a list.

**Assemblyman Gray:**

How many guaranteed counties are still left in the state?

**Shellie Hughes:**

We had this question earlier today. I will defer to Michael Nakamoto to answer that for you.

**Michael Nakamoto, Chief Principal Deputy Fiscal Analyst:**

There are currently six guaranteed counties—Esmeralda, Lander, Lincoln, Mineral, Pershing, and White Pine—according to the information we have obtained from the Department.

**Chair Backus:**

For clarification, what is a guaranteed county?

**Shellie Hughes:**

A guaranteed county is a county that would receive a guaranteed amount of funds from sales tax distributions. Typically these are counties that are volatile in their revenues, so they become a guaranteed county. If their sales tax revenue is lower than their guaranteed amount, they still get their guaranteed amount. However, if their revenue is higher, they still get the guaranteed amount. Typically these counties will not come off the guaranteed list because of the volatility of their revenue, but occasionally we do get requests to come off the guaranteed list. Once they are off the list, they cannot go back on to that list.

**Assemblywoman Considine:**

Thank you for this presentation, on top of the last presentation we had. This is incredibly helpful to put things together. You mentioned you have 413 positions. Are they all filled? What is your vacancy rate?

**Shellie Hughes:**

We have 87 vacancies right now, so it is about a 21 percent vacancy rate.

**Assemblywoman Cohen:**

Following up on Assemblyman Nguyen's question. When we talk about the difference between whether you are collecting a percentage or a set amount, how does that impact the ability of your agency? How difficult does it make it in dealing with different programs that you might use? Is it costing the state more money because it is a percentage versus a set amount, or does it not matter because it is all technical now and is in programs?

**Shellie Hughes:**

That is a good question. I have not researched that, but we can look into it and give you an answer. I am not sure if it does have an impact on our resources, depending on if it is a percentage or a set amount.

**Assemblywoman Anderson:**

I would like further clarification on slides 24 and 25 [[Exhibit D](#)], with the MBT. If I understand this correctly, the reduction is happening based upon current statute language because we have reached the level that it needs to be for that reduction. This is based upon the language initially passed or might have been amended. Am I understanding that correctly, it was already in statute to have this reduction of the MBT collection?

**Shellie Hughes:**

Yes, you are correct.

**Assemblywoman Anderson:**

Under slide 39, having to do with the liquor tax, fines, and fees. I understand it is done by the different volumes, et cetera; however, what is not mentioned here is how you are ensuring no bad actors are out there. This is something I have spoken with other distributors about. I am concerned about some of those 87 vacancies having to do with those individuals who are researching those bad actors who are not necessarily reporting correctly. How are we ensuring this is paid correctly? Is this a self-reporting area or is something done in a different fashion to ensure alcohol levels are in fact being fined correctly?

**Shellie Hughes:**

We do have five compliance investigators who work for the Department. We also have one chief investigator. They ensure there is proper licensing. They look at invoices to ensure taxes are paid, and they are operating within the three-tiered system. They do seize liquor if they find a violation.

**Assemblywoman Anderson:**

From slide 29, having to do with the LET and how that is being utilized, if I were to buy a ticket for the Taylor Swift concert, I would be taxed on that. However, if I were to buy a ticket to a Raiders game, would I be taxed on that with the way the LET is currently worded?

**Shellie Hughes:**

There is a sport exemption under the LET, and if the home team is playing the ticket will be exempt from the LET.

**Assemblywoman Anderson:**

What if it is two away teams that are playing? Would there continue to be a tax break or would that also be taxed.

**Shellie Hughes:**

It would no longer qualify for the sport exemption, as long as the other requirements for the LET are met.

**Chair Backus:**

Thank you to the Department of Taxation for your presentation tonight. I would now like to open the meeting for public comment. [There was none.]. Are there any comments from the members of the Committee before we adjourn? [There were none.] As a reminder, next Tuesday [February 14, 2023] we will be in Room 3142 again at 4 p.m. We will be hearing from the Nevada Gaming Control Board. That concludes our meeting.

[[Exhibit E](#) was submitted but was not discussed, and is included as an exhibit.]

We are adjourned [at 5:38 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblywoman Shea Backus, Chair

DATE: \_\_\_\_\_



## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint presentation titled "Nevada Cannabis Compliance Board," dated February 9, 2023, presented and submitted by Tyler Klimas, Executive Director, Cannabis Compliance Board.

[Exhibit D](#) is copy of a PowerPoint presentation titled "Department of Taxation Overview," dated February 9, 2023, presented and submitted by Shellie Hughes, Executive Director, Department of Taxation; Jennifer Roebuck, Deputy Executive Director, Compliance, Department of Taxation; Yvonne Nevarez-Goodson, Chief Deputy Executive Director, Department of Taxation; and Jeff Mitchell, Deputy Executive Director, Excise and Local Government Services, Department of Taxation.

[Exhibit E](#) is follow-up information to the Department of Taxation's Presentation on February 9, 2023, dated February 21, 2023, to the Assembly Committee on Revenue, submitted by Shellie Hughes, Executive Director, Department of Taxation.