

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

**Seventy-Sixth Session
February 8, 2011**

The Committee on Taxation was called to order by Chair Marilyn K. Kirkpatrick at 9:31 a.m. on Tuesday, February 8, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, 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/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman Harvey J. Munford, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblyman John Ellison
Assemblywoman Lucy Flores
Assemblyman Ed A. Goedhart
Assemblyman Pete Livermore
Assemblywoman Dina Neal
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Cyndie Carter, Committee Manager
Mary Garcia, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

None

Chair Kirkpatrick:

[Called the meeting to order. Roll was called.] For those of you who know me, we start promptly on time in both committees. If you are not here, I will remind you.

I would like to welcome you to this legislative session and to the Committee on Taxation. We have quite a few things coming before us this session, but I want to spend the first week or so going through and understanding Nevada's tax policy. I think it is key, before we start hearing bills, that we know what the impacts are as we move forward.

I would encourage the legislators to ask lots of questions. There are no wrong questions. The more we educate ourselves, the more we can do for the public. We are on the Internet, so many people are listening to us.

We have to take care of a couple of housekeeping items first. I will go over the Committee Policies. I am very much a stickler for being engaged. I can see everybody's computers and see what they are looking at. I want to make sure everybody uses their computers for constructive purposes during our hearings. Also, I would remind you that cell phones are to be muted or turned off during hearings. Committee Policy number 4 ([Exhibit C](#)) also requires laptops to be muted.

I would like to go around the room and let you all introduce yourselves. Tell me which district you represent and whether you are a first-time legislator. We really have a diverse group in this Committee. Mr. Livermore, I am going to start with you.

Assemblyman Livermore:

My name is Pete Livermore. I am a freshman Republican from Assembly District No. 40. I have been a resident of Carson City for the past 50 years. It is a

pleasure serving on the Taxation Committee with Mrs. Kirkpatrick as Chair. I look forward to discussion with my colleagues for the betterment of Nevada.

Assemblywoman Neal:

I am representing Assembly District No. 7. I am a freshman legislator, and I am from Las Vegas.

Assemblywoman Benitez-Thompson:

I represent Assembly District No. 27 in Reno. I am an excited and enthusiastic freshman.

Assemblywoman Flores:

I represent the northeast part of Las Vegas, which is Assembly District No. 28, and I am a first-time legislator.

Assemblyman Anderson:

I am Assemblyman Anderson from Assembly District No. 15, which is roughly the eastern unincorporated area of Las Vegas below Sahara Avenue and above Tropicana Boulevard.

Assemblywoman Woodbury:

I have lived in Nevada my entire life. This is my second term in the Assembly, my first session on the Committee on Taxation, and my second session on the Committee on Government Affairs.

Assemblyman Ellison:

I represent Assembly District No. 33, which is John Carpenter's old district. I was a county commissioner for ten years and then a city councilman for eight years. I am looking forward to this session.

Assemblyman Goedhart:

I represent Assembly District No. 36, which covers one third of the state including all of Lincoln, Nye, Esmeralda, and Mineral Counties and part of Churchill County. The people are pretty spread out there. I am a farmer, rancher, business person, and Nevada taxpayer.

Assemblywoman Pierce:

I am from Assembly District No. 3 in Las Vegas. This is my fifth term.

Assemblyman Munford:

I represent Assembly District No. 6. This is my first time on the Committee on Taxation. I think it will be educational, and I am happy to be here.

Assemblyman Stewart:

I represent Assembly District No. 22 in the southern part of the Las Vegas Valley, which is sometimes called the double deuce. This is my third term and my third time with the Chairwoman, whom I respect very much. She is one of my favorite Democrats.

Assemblywoman Bustamante Adams:

I represent Assembly District No. 42, which is the Spring Valley area in Las Vegas. This will be my first session, and I get to follow in the footsteps of Mr. Harry Mortenson.

Russell Guindon, Principal Deputy Fiscal Analyst:

I am a Principal Deputy Fiscal Analyst with the Fiscal Analysis Division of the Legislative Counsel Bureau (LCB). Besides working as staff for this Committee, I also work with the Senate Committee on Revenue on revenue and tax matters.

Michael Nakamoto, Deputy Fiscal Analyst:

I am a Deputy Fiscal Analyst with the Fiscal Analysis Division. This is my third session as the primary staffer for the Assembly Committee on Taxation. I am looking forward to working with all of you this session.

Chair Kirkpatrick:

We also have our staff. We could not make this Committee work as efficiently or as well as it does if they were not here. I would like to take a moment to introduce them. We have Cyndie Carter, Mary Garcia, Olivia Lloyd, Cheryl Williams, Sheryl Burrows, and Jenny McMenomy. They really do a lot of work behind the scenes. We appreciate all you do.

I have served on the Committee for Taxation, or Growth and Infrastructure—whatever it was called at the time—every session since I got here. I have chaired the Assembly Committee on Government Affairs for the last two sessions.

I think this is the first time we will have discussed math and numbers the first thing in the morning, so it may take me a few minutes to get up to speed, but we can do that. I would like the Committee members, as well as those people watching here and on the Internet, to know that we will be sharing time with Government Affairs. So, depending on the workload, there may be weeks when we have four Government Affairs meetings and one Taxation meeting.

Today we are starting with Taxation. We have some policy books in front of us, and we will take our time going through them because our structure in Nevada is unique. I want to welcome everybody. I am excited, and I think we

have a great group here, and I think we are going to put some good policy out. Thank you for being on the Committee. With that, I will turn you over to Mr. Nakamoto, who will start through our Policy Brief. Then we will move into our work.

Michael Nakamoto:

Mr. Guindon and I are nonpartisan staff serving all 63 legislators. If any of you have any questions regarding revenues, you can bring them to us, and we will get you an answer.

I will start with the *Committee Policy Brief, Assembly Committee on Taxation* ([Exhibit D](#)). The *Committee Policy Brief* is an overview of this particular Committee, its jurisdiction, and the types of issues this Committee has dealt with in the past and that may be considered during this session.

I will start with page 2, number II, "Recap of Committee Work During the 2009 Legislative Session." This shows an overview of the number of measures considered during the 2009 Session. A total of 36 bills, including the initiative petition (IP), were referred to this Committee. Of those, 21 were approved or reported out of the Committee. Fifteen were reported to the Governor or filed with the Secretary of State. Out of those 15, there were 13 bills enacted. Two bills—Assembly Bill No. 267 of the 75th Session and Assembly Bill No. 307 of the 75th Session—were vetoed by the Governor. The Legislature did not override those vetoes so those measures did not become law.

I will skip part of number III, which covers legislation enacted during the 25th Special Session (2008) and the 26th Special Session (2010), until we get to the *Revenue Reference Manual*. Instead, I will go through some of the bills that do not specifically deal with revenue but have to do with some of the policy enacted during the 2009 Session.

Assembly Bill No. 193 of the 75th Session requires reports be submitted to the Interim Finance Committee (IFC) within 60 days of the end of each fiscal quarter by the Department of Taxation; State Gaming Control Board; Department of Motor Vehicles; Department of Employment, Training and Rehabilitation; the Office of the Secretary of State; the Department of Business and Industry; and the Office of the State Controller. The reports are to show the amount of taxes and fees that were required to be paid to each agency and, of that total amount, the portion the agency did collect and the portion it was unable to collect. The bill also requires that the Commission on Economic Development report to IFC, on that same time schedule, regarding the taxes or fees for which the Commission provided abatements, exemptions, or waivers and the duration

of those abatements, exemptions, or waivers. These particular reports were required to be filed for the period between the fourth quarter of fiscal year (FY) 2008-09 and the third quarter of FY 2010–11, which is the current quarter.

Assembly Bill No. 205 of the 75th Session is the omnibus bill introduced by the Nevada assessors [page 12, [Exhibit D](#)]. It is composed of technical adjustments to statutes regarding property taxes administered by the Department of Taxation and the county assessors. This is a type of bill the Committee on Taxation typically deals with, so do not be surprised if a similar bill is brought forward by the assessors for the 2011 Session.

Assembly Bill No. 403 of the 75th Session deals with the Streamlined Sales and Use Tax Agreement, and there will probably be another bill dealing with the Streamlined Sales and Use Tax Agreement this session as well. This agreement, of which Nevada is a full member, concerns providing uniform sales and use tax laws and regulations. It is something the Department of Taxation will be addressing.

State Ballot Question No. 3 in the last general election, which was a result of A.B. No. 403 of the 75th Session, sought to amend the Sales and Use Tax Act of 1955 in order to allow that act to be changed without voter approval for technical or administrative purposes. The question failed, with 68 percent of the votes being in opposition to it.

Assembly Bill No. 492 of the 75th Session [page 14, [Exhibit D](#)] put into place the provisions Article 10, Section 6 of the *Nevada Constitution*, which was enacted pursuant to Assembly Joint Resolution No. 16 of the 74th Session. This particular constitutional amendment requires a statement of findings regarding the benefits associated with any exemption or abatement from property taxes or Sales and Use Tax passed by the Nevada Legislature. The amendment also requires any such exemption or abatement to have a sunset or expiration date attached to it.

This particular bill established requirements for legislation enacted on or after July 1, 2009, that authorized or increased any tax abatements granted by the Commission on Economic Development. The bill requires the abatement to expire within ten years after it has been approved. It also requires the abatement to exclude the Local School Support Tax (LSST) portion of the Sales and Use Tax. Later on, I will cover the portion of the Sales and Use Tax that goes toward kindergarten through grade twelve (K-12) education throughout the state.

The bill also requires that the recipients of abatements subject to this law submit a biennial report to the Department of Taxation. This report must state whether the particular project is still in compliance with the terms of the granted abatement.

Assembly Bill No. 522 of the 75th Session created certain tax abatement incentives for eligible renewable energy projects. It also transferred the authority for granting those abatements from the Commission on Economic Development to the Nevada Energy Commissioner under the Office of the Governor. These particular incentives expire on June 30, 2049. These incentives provide an abatement from all local sales and use taxes over a 3-year period that are above 0.6 percent (above 0.25 percent beginning on July 1, 2011, because of the prospective reduction of the Sales and Use Tax rate for the LSST from 2.6 percent to 2.25 percent beginning on that date). There are also abatements of 55 percent of the Real and Personal Property Taxes for that project for a 20-year period.

The projects that receive this abatement must commit to operate in Nevada for at least ten years. They also cannot receive any state or local government funding for the facility or land acquisition. They must also meet additional requirements regarding the amount of construction jobs that are created, the amount of capital investment, and wages paid to workers.

Assembly Bill No. 543 of the 75th Session changed the provisions for the 1-cent supplemental Governmental Services Tax in Washoe and Clark Counties [page 16, [Exhibit D](#)]. The Governmental Services Tax (GST), which I will go through later in the *Revenue Reference Manual*, is the tax that is paid by people registering vehicles in this state.

The provisions of A.B. No. 543 of the 75th Session change the 1-cent supplemental GST in Washoe County such that it can be imposed by Washoe County without voter approval. Previously, it could not be imposed without voter approval. The bill also allows Washoe and Clark Counties to take the proceeds from that 1-cent supplemental GST and apply it toward their operating costs. Previously, these counties were allowed to use the money only for road construction and related costs.

Senate Bill No. 201 of the 75th Session is the enabling legislation that carried out the provisions of Washoe County Ballot Question No. RTC-5, which was approved by the voters at the 2008 General Election. This bill allowed Washoe County to create a new gasoline tax rate, which indexed all state and local rates to inflation, and to impose that differential as the new rate. Currently, the resulting additional rate imposed in Washoe County is roughly

6.5 cents a gallon. I can go into that in greater detail when we cover the *Revenue Reference Manual*.

Senate Bill No. 5 of the 26th Special Session (2010) changed the provisions for imposing a fee—attached to the fuel tax rate—for the cleanup of discharges of petroleum [page 19, [Exhibit D](#)]. This tax, a 0.75 cent per gallon levy, historically has only been imposed if the fund which this rate was supposed to go to did not exceed \$7.5 million. If the balance in the fund exceeded \$7.5 million at the end of any fiscal year, the rate could not be imposed at any point during the next fiscal year or until the balance of that fund dropped below \$7.5 million.

Under S.B. No. 5 of the 26th Special Session, those provisions were changed so that the 0.75 cent levy would be imposed on a perpetual basis. It also changed the distribution of that fund so that any proceeds above \$7.5 million are now transferred, according to statutory formulas, to the Regional Transportation Commission (RTC) of Clark County, which gets 70 percent of that balance; the RTC of Washoe County, which gets 20 percent of that balance; and the Department of Transportation, which gets the remaining 10 percent for maintaining rural roads.

This bill also changed provisions in existing law regarding the 0.5 percent Sales and Use Tax rate imposed in Clark County for road projects to remove sunset provisions that said the full 0.5 percent could not be imposed after June 30, 2028, or beyond the point where that rate had generated \$1.7 billion. Under S.B. No. 5 of the 26th Special Session, that rate can be imposed in perpetuity.

Chair Kirkpatrick:

Thank you, Mr. Nakamoto. Does anybody have any questions? As we go through the brief, it will go more slowly so we can educate ourselves. This is an overview to give you an idea how many different directions we will go.

I am going to go ahead and adopt the “Committee Policies: Assembly Committee on Taxation” ([Exhibit C](#)) now that everybody has had a chance to read them.

ASSEMBLYMAN ANDERSON MOVED TO ADOPT THE
COMMITTEE STANDING RULES.

ASSEMBLYMAN ELLISON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

The Committee Policies are now in force.

Ms. Carole Vilardo, President of the Nevada Taxpayers Association, submitted two documents ([Exhibit E](#)) and ([Exhibit F](#)). These will give you a lot of quick facts. When you are looking for something, they will give you a place to start. Ms. Carole Vilardo has been here since 1973. She gives great presentations, and we will schedule them for a later date. If Committee members have any ideas for presentations, please do not be shy about asking.

With that, I will turn things over to Mr. Nakamoto, and he can start our discussion. Do not be afraid to ask questions. If you have a question, just look back so I know to call on you.

Michael Nakamoto:

Continuing with the *Committee Policy Brief* ([Exhibit D](#)), page 21 deals with the jurisdiction of the Committee. It contains a list of the 28 chapters in *Nevada Revised Statutes* (NRS) Title 32, which has been the historical jurisdiction of this Committee. We may not see bills dealing with any or all of these chapters, and we may see bills dealing with other chapters of NRS during the 2011 Session. This Committee, though, has historically dealt with the Sales and Use Tax, Modified Business Tax (MBT), Governmental Services Tax, taxes on liquor and tobacco, fuel taxes, et cetera. I presented this information for you just for your consideration.

At the bottom of page 22 is a note referring to the 6 bills that have been prefiled and referred to this Committee at the time this Policy Brief was compiled. A seventh measure was referred to this Committee yesterday, [Initiative Petition 1](#), which deals with the proposed arena district in Clark County and the sales tax rate that would be imposed within that district.

Pages 23–28 contain a list of the bills the staff of the Fiscal Analysis Division identified as being either issues that would potentially be discussed by the Committee on Taxation or the Senate Committee on Revenue, or that may not come to this Committee but affect issues related to taxation and revenue.

On pages 29 and 30, you will find a directory of Taxation/Revenue Committee members and a directory of key contacts for various state agencies dealing with taxation, such as the Department of Taxation, the Nevada Tax Commission, the State Gaming Control Board, the Department of Motor Vehicles, and so on. Further down you will find local contacts such as the Carson City Assessor, who can answer questions about property taxes, and the Nevada Association of

Counties (NACO). Carole Vilardo's phone number is at the bottom of page 30, and she is always happy to answer questions about taxation.

Page 31 is a copy of the 120-day calendar, which lists the key deadlines during the legislative session. The ones that probably matter the most to the committees are day 50, on March 28, which is the deadline for bills to come out of the first committee. Day 68, on April 15, is the first house deadline, so any bill that is not exempt would have to be out of the Assembly by that date. May 20 and May 27 are the deadlines for bills to be out of the second committee and the second house, respectively.

Chair Kirkpatrick:

Thank you, Mr. Nakamoto. Does anybody have any questions? [There were none.] With that, we are going to go to the *Revenue Reference Manual* ([Exhibit G](#)). As we go through section by section, I would like to give people the opportunity to ask questions. Again, I encourage you to ask questions now so that, as you are preparing your bill drafts, you understand the process.

I would alert you that we do not have a legal counsel for this Committee at this time so if there are any legal questions, I will get the answers back to you. If you ask a question I do not have the answer to, I will get that answer back to you rather quickly.

Michael Nakamoto:

The *Revenue Reference Manual* ([Exhibit G](#)) is a document prepared biennially by the Fiscal Analysis Division. It is an overview of the major fees and taxes collected by the state for the State General Fund, the State Highway Fund, and certain other purposes.

The manual also goes through other information related to taxation, such as an overview of tax legislation passed in prior sessions. There is also information on tax exemptions and abatements offered through state law. There is general information on publications released by the Department of Taxation on education funding and on the fiscal note process.

The section showing appropriations and revenue charts begins on page 3. First is a pie chart of State General Fund appropriations, broken out by function, approved by the Legislature during the 2009 Session. Those appropriations totaled just over \$6.5 billion. Notes accompanying the chart point out this does not include stimulus funding we received under the American Recovery and Reinvestment Act of 2009.

Page 4 shows the same chart, but reflecting the appropriations approved by the Legislature in Assembly Bill No. 6 of the 26th Special Session. That bill reduced the total appropriations to slightly more than \$6.2 billion.

On page 5 is a breakdown of the Economic Forum's December 1, 2010, forecast for the upcoming biennium. The Economic Forum is the body required, under statute, to provide a forecast of unrestricted State General Fund revenues on or before December 1 of each even-numbered year, which the Governor must use in building The Executive Budget.

The Forum is also required, by statute, to provide, if necessary, any revisions to that forecast on or before May 1 of the odd-numbered years, including May 1 of this session. That adjusted forecast, if there is one, must be used by the Legislature in building the legislative approved budget for the upcoming biennium.

You can see from this page that the total State General Fund forecast the Governor used for The Executive Budget was \$5.338 billion. The chart shows the breakout of the various taxes and fees that are collected. Sales and Use Tax is still the largest, at approximately 30.3 percent of the State General Fund for this biennium. Gaming taxes are a close second at 27 percent.

You can see various other taxes, such as the Insurance Premium Tax, the Modified Business Tax (MBT), the Real Property Transfer Tax, and so on. I will go into each of those as I proceed through the manual.

Pages 6 and 7 contain the Economic Forum's forecast by revenue source. The table shows revenue broken out by major tax types. It goes through all the major General Fund sources to get to the total State General Fund numbers at the bottom.

Page 7a shows the detailed breakout of every General Fund revenue source the Economic Forum forecasts through this process. [Pages 7a–7f were not included in the printed manual, but they are included as [Exhibit H](#) and as part of the *Revenue Reference Manual* included as an exhibit on the Nevada Electronic Legislative Information System (NELIS) section of the Nevada Legislature's web site.]

Starting at the top is revenue general ledger number 3064 (GL 3064), the Net Proceeds of Minerals Tax. This is the tax imposed on mining activity and royalties paid in the state. In this particular forecast, you can see the fiscal year

(FY) 2011 forecast of \$66.5 million. There is a big hole in the table there for FY 2012.

That hole is a result of Senate Bill No. 2 of the 25th Special Session which, for fiscal years 2009, 2010, and 2011, required the tax to be paid in advance for the current calendar year rather than the old method of paying in the early part of the year for the prior calendar year. The provisions of that bill expire on June 30, 2011, meaning that, for FY 2012, there would be no payment. The Executive Budget proposed by the Governor recommends the expiration date of S.B. No. 2 of the 25th Special Session be moved from June 30, 2011, to June 30, 2013, in order to provide additional revenue for FY 2012.

General ledger number 3116, the Mining Claims Fee, was a fee put in place pursuant to A.B. No. 6 of the 26th Special Session, which imposes a graduated fee on any person owning ten or more mining claims. The more claims a person owns, the more the amount increases. This was put in place only for FY 2010. You can see there was approximately \$17,000 collected in FY 2010. For FY 2011, the forecast is nearly \$19 million collected from that particular revenue source. The provisions in that bill imposing this fee also expire on June 30, 2011.

You can see there are several categories under Sales and Use Tax. The Sales and Use Tax, GL 3001, is the 2 percent rate imposed pursuant to the Sales and Use Tax Act of 1955. That is the portion of the Sales and Use Tax dedicated to the State General Fund.

You will see the state share Local School Support Tax (LSST), GL 3002; the state share Basic City-County Relief Tax (BCCRT), GL 3003; and so on. These are commissions kept by the Department of Taxation and deposited in the State General Fund, which are meant to defray the collection costs for collecting local Sales and Use Tax. The LSST commission is 0.75 percent. The commission rates for the BCCRT; the Supplemental City-County Relief Tax (SCCRT); and GL 3005, the local option tax (PTT) are 1.75 percent. These commission rates were set pursuant to Assembly Bill No. 552 of the 75th Session.

One thing that is not noted here is the LSST, which is 2.6 percent, pursuant to Senate Bill No. 429 of the 75th Session. That will revert to 2.25 percent after the provisions of S.B. No. 429 of the 75th Session expire on June 30, 2011. It is not a State General Fund revenue source; it is placed into the Distributive School Account (DSA) and used toward the guarantee of funding for students, which I will cover later on. Every additional dollar in LSST does offset the amount from the State General Fund that needs to be put into that guaranteed

support. The effect of raising the LSST during the 2009 Session was an actual offset of State General Fund revenue.

Further down, you see gaming taxes, the major one of which is GL 3041, percentage fees of gross revenue. That is the gross gaming tax paid by non-restricted licensees based on the amount of revenue generated by those operations every month.

General ledger number 3043 and GL 3044 are quarterly fees for restricted and non-restricted slot machines. The restricted slot license fee is \$81 a slot machine for up to the first five slots. A fee of \$141 will be paid for each additional slot in excess of those five. The non-restricted slot license fee is \$20 a slot machine each quarter.

Since the 2005 Session, there has been an allocation of this particular revenue source to a problem gambling account. Right now, that is a \$2 per slot machine per quarter allocation. The Executive Budget proposes the amount of this allocation be reduced from \$2 per machine per quarter to \$1 per machine per quarter. That additional revenue would then be put into the State General Fund, thereby increasing this particular revenue source.

Going down to insurance taxes, GL 3061 is the Insurance Premium Tax, which is imposed at a rate of 3.5 percent on the net premiums of insurance written in this state. The exception is risk retention group premiums, which are taxed at a rate of 2 percent. This particular revenue source is in The Executive Budget, as a portion of the ongoing stream of this revenue will be securitized. This will result in a payment to the state of \$190 million in FY 2012, and payments by the state on that securitization in fiscal years 2014, 2015, 2016, and 2017.

There are two categories for the Modified Business Tax (MBT), GL 3069. This is the MBT nonfinancial, which is paid by general businesses at a rate of 0.5 percent on all taxable wages up to \$62,500 in a calendar quarter and a rate of 1.17 percent on all wages exceeding \$62,500 a quarter. The financial rate is paid by banks and other financial institutions at a rate of 2 percent of all taxable wages. The taxable wages are the gross wages paid to employees less any deductions for eligible health care expenses.

The Executive Budget recommendation for this particular tax is to maintain the two-tiered rate for nonfinancial institutions. Pursuant to S.B. No. 429 of the 75th Session, that rate is now scheduled to sunset on June 30, 2011, and revert to a rate of 0.63 percent for all businesses regardless of the amount of wages they pay. The Governor recommends the rate stay at 0.5 percent for all

wages up to \$62,500 a quarter and the rate change to 0.63 percent on all wages exceeding the \$62,500.

Going down to GL 3057, the Room Tax created by Initiative Petition No. 1 of the 75th Session, this is a rate of up to 3 percent in Clark and Washoe Counties imposed such that the combined rate in the particular taxing area did not exceed 13 percent. In Clark County, the entire 3 percent is imposed where the hotel has more than 75 rooms, with the exception of rooms in downtown Las Vegas on Fremont Street. There the rate is imposed at only 2 percent.

In Washoe County, the rate is imposed at only 1 percent in unincorporated Washoe County and in Reno, excluding the downtown area, because their rates were already at 12 percent. In downtown Reno and the city of Sparks, the rate at the time this was enacted was 14.5 percent, so no revenue is generated by this tax in those areas.

The Executive Budget proposes to continue the levy of this particular tax for the benefit of the State General Fund under I.P. No. 1 of the 75th Session as it was originally passed. The money was collected for the State General Fund only in FY 2010 and FY 2011. In FY 2012 and subsequent years, it was to go to a special account for K-12 education.

The next item is GL 3051, the Governmental Services Tax (GST). This is the tax paid at the time of registration of motor vehicles in this state. Under S. B. No. 429 of the 75th Session, the depreciation schedules used to calculate the GST were increased by 10 percent for all vehicles regardless of weight—with the exception of new vehicles whose depreciation was already set at 100 percent—with the increment that was generated from that 10 percent increase in the depreciation schedule to go to the State General Fund. That is a revenue source, under S.B. No. 429 of the 75th Session, that is collected for the State General Fund for FY 2010, FY 2011, FY 2012, and FY 2013. Beginning in FY 2014 and all subsequent years, that money will go to the State Highway Fund.

The last tax I will point out on this page is the Business License Fee, GL 3113. This is currently a \$200 per year fee imposed on all entities doing business in the State of Nevada. The rate was increased from \$100 to \$200 pursuant to S.B. No. 429 of the 75th Session. Senate Bill No. 435 of the 75th Session proposes that rate go down to the \$100 rate beginning on July 1, 2011. The other piece of legislation that affected the Business License Fee was Assembly Bill No. 146 of the 75th Session. The Secretary of State created the business portal and, as a result of the business portal legislation, the authority

for collecting the \$100—or \$200 in this instance—fee was transferred from the Department of Taxation to the Secretary of State's Office.

Assemblywoman Neal:

I have a question on the Business License Fee. Is it going to decrease or stay the same?

Michael Nakamoto:

On July 1, 2011, the Business License Fee will decrease from \$200 per entity per year to \$100 pursuant to S.B. No. 429 of the 75th Session and S.B. No. 435 of the 75th Session.

Assemblyman Anderson:

I have a question about the Room Tax. Did I.P. No. 1 of the 75th Session create a new revenue line, or does it just go into the same line?

Michael Nakamoto:

Initiative Petition No. 1 of the 75th Session created this particular revenue line for the State General Fund. There had been, up until that time, no room tax directly collected for the unrestricted State General Fund. This particular item is creating this revenue for the State General Fund again in FY 2010 and FY 2011. Then it will be taken out of the State General Fund and directed to a special account for K-12 education beginning in FY 2012.

Assemblyman Stewart:

Can you tell us whether the projections we made in the 75th Session (2009) for the MBT and Sales and Use Tax increases and the change in vehicle depreciation we passed have held true, or has revenue fallen short of them?

Russell Guindon:

No, they did not hold up very well. We had to have the Economic Forum convene in January 2010 to revise the forecast down. Specifically, the sales tax and the MBT were revised down some. In general, the major State General Fund revenue sources were not tracking with the forecasts prepared during the 2009 Session, thus the need for the Governor to call the Economic Forum into session in January 2010 and for this body to meet in February-March 2010 to make adjustments.

Assemblyman Stewart:

What about the vehicle depreciation and the Room Tax? Have they held up as anticipated?

Russell Guindon:

I think we could get a table together for the Committee so the members can compare. I believe the GST was one that was holding up relatively well and was not required to be adjusted during the January 2010 meeting. The Room Tax was required to be revised down. We will put a table together to summarize that.

Chair Kirkpatrick:

Thank you. I would appreciate it if you could do that at your earliest convenience.

Assemblyman Livermore:

My question is about the Modified Business Tax. If you look at the 2010 cycle, it shows a 43.8 percent increase. What accounts for that?

Michael Nakamoto:

The increase in the MBT on nonfinancial institutions, which is the first of the two GL 3069s listed, was a result of S.B. No. 429 of the 75th Session. That bill took the tax that was originally levied at a rate of 0.63 percent on all taxable wages and split it into a two-tier rate such that the first \$62,500 in wages in a calendar quarter are taxed at a 0.5 percent rate, but any wages above that \$62,500 in a calendar quarter are taxed at a rate of 1.17 percent. That particular increase in the tax accounts for the 43.6 percent increase.

Assemblyman Goedhart:

It looks like that MBT from FY 2008 was roughly \$264 million. Going forward, this shows a level substantially less in FY 2012 and FY 2013 than in FY 2008 and FY 2009, which would indicate to me that the amount of wages paid to private sector employees is actually forecast to be less. Is that correct?

Michael Nakamoto:

That would be the case. I would point out that the forecasts prepared by the Economic Forum in this table are based on the law in effect at that particular time. During FY 2008 and FY 2009, when the amounts collected were \$264 million and \$253 million respectively, that was at a rate of 0.63 percent. When you get to FY 2012 and FY 2013, the forecasts prepared by the Economic Forum were also at that 0.63 percent rate because that was what the provisions of S.B. No. 429 of the 75th Session required. That does indicate there will be substantially less wages that will be subject to the tax than there were previously.

Assemblyman Goedhart:

Thank you. Also, it is my understanding that the MBT is only levied on private sector employers. Is that correct?

Michael Nakamoto:

I will have to double-check the law, but it is my understanding that governments are not subject to this tax.

Russell Guindon:

That is correct. Basically, the MBT, as structured, is tied into Chapter 612 of *Nevada Administrative Code* (NAC), which is the chapter for unemployment insurance taxes. Entities that are required to pay and report wages for unemployment insurance tax purposes also have a responsibility to pay the MBT. Those provisions of the law only address the private sector. Local, state, or federal government entities are not included in this tax. Also, independent contractors and the like are not covered under this tax.

Assemblyman Goedhart:

This question should probably be directed to legal counsel, but what is the legality of applying a modified business tax to federal wages paid within the State of Nevada?

Chair Kirkpatrick:

That is definitely a legal question. I know they are listening, so I will get you an answer.

Assemblywoman Neal:

I have a question related to Assemblyman Goedhart's. In the forecast for FY 2012 for the MBT for financial institutions, is this because there is a decrease not just in wages but in actual employment as well? If we are going to return to the 0.63 percent rate, and the forecast for FY 2012 and FY 2013 is based on that—and it is significantly lower—I do not see where there is an actual gain. I do not see the benefit.

Chair Kirkpatrick:

I thought you said the financial MBT. Did you mean nonfinancial?

Assemblywoman Neal:

Let me correct that. It is the total MBT I am concerned with and the numbers in FY 2012 and FY 2013. Is that forecast based on us returning to the 0.63 percent rate?

Chair Kirkpatrick:

Let me have staff go back over this, because there is a distinct difference between financial and nonfinancial, and they have distinctly different percentage rates. Mr. Nakamoto, if you could reiterate what that is, Ms. Neal's question might change.

Michael Nakamoto:

The difference in the forecast for the MBT, at least for the nonfinancial portion, between FY 2011 and FY 2012 is the reduction of the rates for the two-tier rates from the 0.5 percent on the first \$62,500 of gross wages and 1.17 percent on wages in excess of \$62,500 levied in FY 2011 to a rate of 0.63 percent on all wages for FY 2012 and going forward. There are no rate changes between FY 2012 and FY 2013 that would affect the forecast. That is the difference in the forecast that was approved by the Economic Forum at its December 1 meeting, which was wholly attributable to economic activity within the state. That is true for both the nonfinancial and financial forecasts. For the financial forecasts between FY 2011 and FY 2012, they are both based on the 2 percent rate. There was no change to the rate, and there will be no change to the rate under current law for the financial portion.

Russell Guindon:

I think I know where Assemblywoman Neal is going with this. I think the question here is if you are looking at the forecast approved by the Forum for FY 2012 and FY 2013, part of the decline in the nonfinancial, obviously, is due to the rate change required under the law, and the Forum is required to produce its forecast under current law.

The reason for the fall in the financial revenue, and one reason for the drop in the nonfinancial as well, is the outlook for the economy for those two fiscal years. The forecasts that were presented to the Economic Forum, which were produced by the staff from the Fiscal Analysis Division of the Legislative Counsel Bureau (LCB), were built on a view that there would continue to be job losses in FY 2012 and then a recovery into FY 2013. That is why you see it go up from FY 2012 to FY 2013 for the nonfinancial and a little bit for the financial. That would be a combination of there being fewer jobs and the average wage rate possibly going down.

The MBT does not look at the wage per employee but at the total wages reported for a quarter by an employer. It is independent from the wage per individual employee. Ms. Neal, I hope that answers your question.

Assemblywoman Neal:

Yes, I was looking for information about a job loss forecast.

Chair Kirkpatrick:

Are there any other questions? Can you explain some of the acronyms you have been using? If you are not familiar with them or have never heard them before, it takes awhile to catch on.

Michael Nakamoto:

When I refer to a GL, that is the general ledger number. When the Office of the State Controller posts various revenue sources into the General Fund, they are identified using four-digit numbers. This is the way we have them sorted out. It is the easy way to pull out that particular revenue source. These are the actual general ledger numbers the Controller's system uses, so we list them here for that particular purpose.

Continuing on, page 7b ([Exhibit H](#)) takes us to the non-tax sources of the State General Fund. A portion of such various items as insurance licenses and marriage licenses, when collected by the counties throughout the state at the time the licenses are issued, goes to the State General Fund. The various Secretary of State fees are related to commercial recordings and Universal Commercial Code filings, notary fees, and securities fees collected by the Secretary of State from businesses operating in the state.

General ledger number 3161 is the Real Estate License Fee. The fee for the initial license is for a one-year period, and the renewal license is for a two-year period. Senate Bill No. 230 of the 75th Session, effective July 1, 2011, proposed changes to that such that the initial license fee would be for a two-year period, while the license renewal would be for a four-year period, thereby causing those fees to double. You can see that the revenue for FY 2011 is slightly less than \$2.5 million, but then it goes to \$4.8 million and \$4.6 million in FY 2012 and FY 2013 respectively. That is a direct result of that particular law change.

The Athletic Commission Fee, GL 3102, is a fee of 4 percent on the gross gate taken on bouts of unarmed combat in this state, which include boxing, mixed martial arts, and such. This particular fee was raised from 4 percent to 6 percent pursuant to Assembly Bill No. 6 of the 26th Special Session, effective July 1, 2011. You can see the corresponding increase between the FY 2010 actual revenue of just under \$3 million and the forecast for FY 2011 of just over \$4 million.

The Short-Term Car Lease Fee, GL 3066, was raised from 6 percent of the rental price of a vehicle to 10 percent of the rental price, pursuant to Senate Bill No. 234 of the 75th Session. The revenue listed here for FY 2011,

FY 2012, and FY 2013 is based on the State General Fund receiving 9 percent of that fee. The other 1 percent is dedicated to the State Highway Fund.

The Notice of Default Fee, GL 3115, was a fee of \$150 per notice of default filed by a bank intending to file foreclosure on a property, which was put into place by A.B. No. 6 of the 26th Special Session.

Assemblyman Anderson:

Could you please repeat that last general ledger number?

Michael Nakamoto:

That would be GL 3115, which is the next-to-last item on page 7b ([Exhibit H](#)).

Russell Guindon:

As a point of clarification on GL 3066, the Short-Term Car Rental Fee, it was stated that the rate went from 6 percent to 10 percent. That is true in terms of the State General Fund, but the rate had been 10 percent prior to this. The Legislature did not just increase this from 6 percent to 10 percent. The prior law used to have a 6 percent rate that went to the State General Fund, and car rental companies were allowed to impose up to a 4 percent recovery surcharge. The 2007 Legislature took 1 percent of that 4 percent recovery surcharge and dedicated it to the State General Fund.

During the 25th Special Session, another 1 percent of that 4 percent surcharge was placed in the State General Fund. The rate was still, for all practical purposes, 10 percent, but 8 percent was going to the State General Fund and the other 2 percent was being retained by the car rental companies. Then, during the 2009 Session, the car rental companies came forward with a proposal to put the full 10 percent toward the benefit of the state. Nine percent would go to the State General Fund, and the remaining 1 percent would continue to go to the State Highway Fund pursuant to legislation enacted during the 2007 Session.

The car rental companies were then given the authority to increase and index to inflation various fees that can be imposed for options when you rent a car. The Governor is proposing, then, to take the 1 percent that is currently going to the State Highway Fund and dedicate it to the State General Fund. Under his proposal, the full 10 percent that has always been imposed will go to the State General Fund.

This is one of those things that has a bit of history to it. The Legislature did not simply increase it from 6 percent to 10 percent with the 4 percent recovery

charge still sitting out there. The rate actually stayed at 10 percent. All that changed was the allocation of where the funds from the 10 percent were going.

Assemblyman Munford:

Going back to the Athletic Commission, how are those licenses and fees collected? Is that through the promoter or ticket sales or something else?

Russell Guindon:

There are two different components of this source. One is the gate fee on admissions to the event, which went from 4 percent to 6 percent. The other is a fee based on the broadcast fees of the event. As a result of the 26th Special Session, the rate on the admission fees went from 4 percent to 6 percent, but I cannot remember the rate on the broadcast fee.

Assemblyman Ellison:

Under Miscellaneous Fines and Forfeitures, in FY 2008, \$2.4 million was collected. For FY 2010, that dropped to \$1.8 million. Is that because of diverting funds back down to the counties, the justice courts, and such?

Russell Guindon:

No, these miscellaneous ones are best described by their title, "miscellaneous." As for fines and forfeitures, under law, when an Executive Branch agency had an entity that was violating the law, they were able to impose a fine upon that entity. Revenue from such fines depends on what is going on during the biennium regarding agencies enforcing various provisions of laws and imposing fines for violations. The reason fines and forfeitures bounce around so much, varying from year to year, is that they do not have anything to do with interaction between state and local governments.

Chair Kirkpatrick:

For Committee members, I would be happy to ask staff to get things for us later. I would rather have more detailed information. If any of you have additional questions, write them down and give them to me, and I will have staff get the answers for the entire Committee at a later time.

To give you an idea of what we are going to do, I am going to let Mr. Nakamoto finish this piece. We are going to go until 12:30 p.m. and we will take a 15-minute break to get some juices flowing. We need to get as much done as we can.

Michael Nakamoto:

The top half of page 7c deals with the use of money and property. A number of repayments are listed. Essentially, various state agencies are borrowing money

from the State General Fund for various projects with the understanding that this money will be paid back to the State General Fund over time. The amounts now being repaid are not very large. In FY 2008 and FY 2009, they were about \$5 million a year, but now they are down to just under \$1.1 million and projected to go down to about \$500,000 in FY 2012 and FY 2013.

Next is interest income, GL 3290 ([Exhibit H](#)). The Office of the State Treasurer is taking money in the State General Fund and investing it while it is not obligated. The proceeds from those investments are returned to the State General Fund. As the amount of revenue in the State General Fund has decreased over time, the forecast for the Treasurer's interest income has also declined from \$56 million in FY 2008 to \$1.5 million in FY 2011.

The last part of the State General Fund forecast is other revenue. Under "Miscellaneous Sales and Refunds," GL 3070 and GL 3071 are redirections of various property tax rates from Clark and Washoe Counties to the state. General ledger number 3070 is listed as a 5-cent capital rate from Clark and Washoe Counties.

The genesis for this rate was Assembly Bill No. 595 of the 74th Session, which required, for FY 2009, pursuant to NRS 354.59815, that 4.4 cents of that rate would stay with the county for their capital construction. The other 0.6 cents would go to the State Highway Fund. The increment under A.B. No. 595 of the 74th Session would change such that each successive fiscal year 0.6 cents would be reduced from what the county would receive, with that portion going to the State Highway Fund until FY 2013 and beyond, at which time 2 cents of the 5 cents would be retained by the county and 3 cents would go to the State Highway Fund.

In Assembly Bill No. 543 of the 75th Session, the allocation was changed such that the State Highway Fund would continue to receive its original amount, but the additional amount to be taken from the counties would go to the State General Fund for FY 2010 and FY 2011. In FY 2010, 3.8 cents of this 5 cents went to the State General Fund and 1.2 cents went to the State Highway Fund. In FY 2011, 3.2 cents went to the State General Fund and 1.8 cents went to the State Highway Fund.

The Executive Budget recommends that for this particular item, GL 3070, the entire portion would go to the Nevada System of Higher Education for its operating budget. The Washoe County portion would go to the University of Nevada, Reno and the Clark County portion would go to the University of Nevada, Las Vegas.

General ledger number 3071, which is the property tax 4-cent operating rate, was put in place pursuant to A.B. No. 543 of the 75th Session. It requires the allocation of the property tax attributable to 4 cents of each of those counties' operating property tax rates to go to the State General Fund for FY 2010. The Executive Budget recommends the allocation of this particular 4 cents continue but, instead of having the proceeds go to the State General Fund in FY 2012 and FY 2013, they would go to the operating budgets of the University of Nevada, Reno and the University of Nevada, Las Vegas.

Right below that on page 7c, GL 4792 is the Room Tax rate of 0.375 percent that has been required to be collected in all 17 counties for the operation of the Commission on Tourism. Senate Bill No. 431 of the 75th Session required that a portion of the revenue from this tax be deposited in the State General Fund with an appropriation for the Commission on Tourism for their operating costs.

The Supplemental Account for Medical Assistance to Indigent Persons, GL 4790, is another property tax rate levied in all 17 counties at a rate of 2.5 cents. As a result of S.B. No. 431 of the 75th Session, a portion of this rate is required to be transferred to the State General Fund for FY 2010 and FY 2011 in the amounts listed in the forecast ([Exhibit H](#)). The Governor recommends, in The Executive Budget, that revenue from this particular tax rate be transferred to the State General Fund for FY 2012 and FY 2013.

The entry for the Clean Water Coalition, GL 3081, is the result of action taken in A.B. No. 6 of the 26th Special Session, which required the Clean Water Coalition in Clark County to transfer \$62 million in cash and securities to the State General Fund. This is a one-time action that will occur only in FY 2011.

Assemblyman Anderson:

Has the Clean Water Coalition case been resolved by the Supreme Court? I know it went through district court, but is there going to be an appeal?

Chair Kirkpatrick:

Mr. Anderson, that is more of a question for the Legal Division because there is still an appeal process. You have to be careful, while things are in the court system, that you do not muddy the waters, so we will get you a legal opinion on that.

Assemblywoman Benitez-Thompson:

On this page, in the notes section, how do I attribute these notes to the proper general ledger number? Is there a shorthand system?

Michael Nakamoto:

The easiest way to do that—and there is not really an easy way—is to look at the note while you are looking at a particular revenue item. For example, for GL 3081, it lists the note 27-FY10, so you can go to that particular note. That would be easier than looking at the note and then trying to find the item unless you are intimately familiar with this page.

Assemblyman Ellison:

Under GL 4790, where the Supplemental Account for Medical Assistance to Indigent Persons was swept, is there a sunset on that?

Michael Nakamoto:

The action taken by the Legislature in S.B. No. 431 of the 75th Session only required that money to be transferred for FY 2010 and FY 2011, so there was a sunset. Again, I would note the Governor is recommending a continuation of that in the next biennium.

Chair Kirkpatrick:

Would it be possible to get a pie chart on how GL 3070 and GL 3071 work and which account the various numbers go into?

Michael Nakamoto:

That is something staff can prepare for you. You are specifically referring to the allocation of that revenue between the State Highway Fund and the State General Fund, and that is something we can put together in a more succinct fashion.

Chair Kirkpatrick:

Is that something that would help the Committee members? I like pictures so I can actually see it. If you could do that at your earliest convenience, you could hand that out at the next meeting.

Michael Nakamoto:

The next item I would point out is GL 3109, which is Court Administrative Assessments. Assembly Bill No. 531 of the 75th Session required a certain portion of unused Court Administrative Assessments to be transferred from the court system to the State General Fund. You can see amounts of slightly more than \$4.5 million in FY 2010 and FY 2011. The Executive Budget recommends this particular transfer of unused funds from the court system to the State General Fund continue in FY 2012 and FY 2013.

Chair Kirkpatrick:

When you say unused funds, does that mean unallocated funds or just a reversion, or is that information you can get for me by tomorrow?

Russell Guindon:

It is not that it is unused. It is just that, under the law, a portion is allocated for the courts and a portion could be allocated to other programs. This is, in a sense, diverting the money that is not allocated to the courts into the State General Fund. It is not unused per se. We used that money for the State General Fund in FY 2010 and FY 2011, and the Governor is recommending it be used that way in FY 2012 and FY 2013, but only the portion that is not going to the courts under current law.

Chair Kirkpatrick:

Thank you, Mr. Guindon.

Michael Nakamoto:

Continuing on to GL 3114, the Court Administrative Assessment Fee, this is an additional fee of \$5 for each misdemeanor violation that was imposed pursuant to Assembly Bill No. 6 of the 26th Special Session, with the proceeds to go to the State General Fund. You can see that this revenue source actually continues from FY 2010 into fiscal years 2011, 2012, and 2013. There is no particular sunset on this action.

The last item on here (page 7c) is GL 3255, Unclaimed Property ([Exhibit H](#)). By law, the Office of the State Treasurer is required to take possession of certain unclaimed items and dispose of any assets. Proceeds from these unclaimed items are to go into the State General Fund. Anybody who goes to the State Treasurer's website and finds their name on the list of unclaimed property can claim their money, so that is actually a perpetual liability on the State General Fund. Until that happens, the money generated from these unclaimed property items is put in the State General Fund.

Historically, the Nevada Legislature has chosen to take \$7.6 million a year of this revenue source from the State General Fund and put it into the Millennium Scholarship Trust Fund. This has not happened in recent years, though. Assembly Bill No. 549 of the 75th Session suspended the transfer of that \$7.6 million in FY 2009, leaving it in the portion of the State General Fund listed for Unclaimed Property.

Assembly Bill No. 562 of the 75th Session suspended \$3.8 million of the \$7.6 million for FY 2010 and FY 2011. Then Assembly Bill No. 3 of the 26th Special Session repealed the provisions suspending the \$3.8 million for

FY 2010 and FY 2011 and, instead, suspended the entire \$7.6 million so the Millennium Scholarship Fund has not received any of this unclaimed property revenue for the last several fiscal years.

Assemblyman Stewart:

Can you explain why there was a substantial decrease in the unclaimed property figures from a high of \$66 million down to \$45 million? Is that the result of a better website or doing a better job of informing people?

Michael Nakamoto:

This particular item involves varying amounts of money that come in to the State Treasurer. In FY 2010, if memory serves, additional revenue came in above and beyond what would normally be expected from certain banks. It is difficult to predict what will come in since what is unclaimed can vary from year to year. A lot of these are one-time occurrences. There can be money that is turned in and not claimed in one year that might never happen again.

Russell Guindon:

Mr. Nakamoto is correct. In FY 2010, a multistate action involving either Citibank or Citicorp turned up a considerable amount of unclaimed property, which can be in safe-deposit boxes among other things. The reason for the forecasts for FY 2012 and FY 2013 going down is that the Economic Forum is required to make its forecasts based on current law. The forecasts for those years project the \$7.6 million going back to the Millennium Scholarship Fund.

Assemblywoman Flores:

When funds are diverted to the State General Fund, such as the Supplemental Account for Medical Assistance to Indigent Persons, what happens to the program that had been funded with that money? Does it cease to exist, or is the cost for it shifted somewhere else?

Chair Kirkpatrick:

That should be here at the Legislature, Ms. Flores. Things move all the time.

Russell Guindon:

This is probably a better question for the money committees than for Taxation. Thankfully, Michael and I deal with the inflows and not the outflows. I believe, though, that when money from the 2.5-cent property tax, which would have supported the Indigent Program, is diverted to the State General Fund, the Indigent Program does not go away. The local governments would have to come up with the funds to provide the program.

Chair Kirkpatrick:

We can probably ask some of those questions in the Committee on Government Affairs, or we can ask members of Ways and Means. We can get you the bill from last session.

Russell Guindon:

We can get an answer to this and provide it to members of the Committee at the next meeting.

Chair Kirkpatrick:

It is interesting that the Taxation and Government Affairs Committees work so well together, but our primary function is to make sure the revenue gets to the state. The Ways and Means Committee determines which dollars have to be redirected. I happen to know the Chair of Ways and Means, and I could probably ask her that question for you. I am sure local governments have their own opinions on that, and we can ask them.

Michael Nakamoto:

Starting on page 7d ([Exhibit H](#)), as Assemblywoman Benitez-Thompson had asked about, are the footnotes for this particular table. Next to many of the revenue items is a code which is a number and the fiscal year. This is where these footnotes are. These discuss all of the actions taken by the Legislature during regular sessions and special sessions, from 2003 to the present, that affected the State General Fund.

Chair Kirkpatrick:

We are going to take a 15-minute break and then continue through this. We are in recess [at 11:07 a.m.].

We are going to reconvene the Committee on Taxation [at 11:26 a.m.]. At this time I will turn it back over to Mr. Nakamoto.

Michael Nakamoto:

Continuing in the *Revenue Reference Manual* ([Exhibit G](#)), section 2 begins on page 9. This is a summary of the major taxes collected in the state, be it for the benefit of the State General Fund, the State Highway Fund, or other sources.

The section on sales taxes begins on page 11, with summaries beginning on page 13 for each of the Sales and Use Taxes. Page 13 is specifically about the 2 percent sales tax rate dedicated to the State General Fund. This was put in place pursuant to the Sales and Use Tax Act of 1955. It was approved by voter referendum in 1956.

The effect of that act is that any changes to the Sales and Use Tax Act must be approved by the voters. If there are ever discussions about increasing the rate, decreasing the rate, or making any changes to this portion of the tax, it would require a vote of the people.

For all of the revenues in this section, there is information on who administers the tax—in this particular instance, the Department of Taxation—what the procedures are for paying the tax, and the purpose of the Sales and Use Tax Act. Taxpayers who are required to remit Sales and Use Tax to the Department of Taxation must do so every month if their taxable sales exceed \$10,000 in a quarter; otherwise, they can remit their taxes quarterly or, in some cases, annually. It also makes reference to the collection allowance of 0.25 percent that taxpayers may keep, provided they make their Sales and Use Tax payments in a timely manner.

On page 14 is the portion of the Sales and Use Tax rate known as the Basic City-County Relief Tax (BCCRT). This is a rate of 0.5 percent, with the proceeds of this tax returned to the county in which the tax was collected. Then it is distributed among the local governments within that county through a mechanism known as the Consolidated Tax Distribution, or CTX. This mechanism will be explained by the Department of Taxation during their presentation next week.

On page 15 is the Supplemental City-County Relief Tax (SCCRT). This is a rate of 1.75 percent that is part of the sales tax rate. This is returned to counties based on statutory formulas put in place during the 1990s. It is not distributed according to where it was generated. Certain counties are guaranteed to receive a certain amount of SCCRT revenue and other counties are not. The revenues of the SCCRT are distributed among the local governments within the counties through the CTX formulas.

Page 16 addresses the Local School Support Tax (LSST). Right now, this is imposed at a rate of 2.6 percent pursuant to Senate Bill No. 429 of the 75th Session. On July 1, 2011, the rate will go to 2.25 percent. This portion of the sales tax rate, less the commission kept by the state for collecting the tax, is deposited in the State Distributive School Account for K-12 education funding. This is one of the main sources for the guaranteed support of K-12 education.

I did mention the 0.75 percent commission kept by the state for the LSST. The BCCRT and the SCCRT have a commission of 1.75 percent. When you add up all of those rates, this is what is known as the statewide rate of 6.85 percent. On July 1, 2011, that rate goes back down to 6.5 percent. Many of you who

live throughout the state know you do not pay a rate of 6.5 percent in your county. You pay something higher, which brings us to page 17.

Page 17 discusses the County Optional Sales Taxes that are collected. There are various optional rates that can be imposed in counties for certain purposes pursuant to Chapters 377A and 377B of *Nevada Revised Statutes* and various other special local acts that have been passed by the Legislature.

Page 18 has a list of the specific rates that are imposed in each county, the purpose for the rate imposed, and the amount of revenue generated from those rates. You can see there are rates imposed for optional purposes in Carson City, Churchill County, Clark County, Douglas County, Lander County, Lincoln County, Lyon County, Nye County, Pershing County, Storey County, Washoe County, and White Pine County. Humboldt, Eureka, Elko, Mineral, and Esmeralda Counties do not have any local option taxes.

The total rates are shown on the map on page 19, which was put together by the Department of Taxation. It shows the Sales and Use Tax rate in each of the 17 counties. The highest rate is in Clark County, currently at 8.1 percent. The lowest rates are in those counties I mentioned as having no local option rates imposed.

At the time the LSST expires on July 1, 2011, the rate in Clark County will be reduced to 7.75 percent. All the other rates throughout the state will either decrease by 0.35 percent or go down to the statewide minimum of 6.5 percent, whichever is greater.

That is the end of the sales tax portion of the summary. I can answer any questions at this time.

Chair Kirkpatrick:

Does anybody have any questions?

Assemblyman Ellison:

On page 15, under the SCCRT, is that tax not frozen in most counties as far as distribution? It was frozen a few years ago as to what could be distributed back to the county?

Michael Nakamoto:

If I understand your question, it has to do with the distribution of the tax among the counties. Legislation passed in or before 1997 requires a certain amount of revenue from the SCCRT be distributed to some counties known as the guaranteed counties. Under statute, they are required to receive a set amount

of revenue that may or may not reflect the activity that actually occurred in that county. From that point, the revenue is distributed among the local governments through the CTX formula. I do not know if that answers your question.

Assemblyman Ellison:

Yes, thank you.

Assemblyman Livermore:

Page 18 shows the optional sales tax that is currently in place. Can you provide a list of what would still be available to counties under current law if they chose to impose it?

Chair Kirkpatrick:

Just to clarify this, you want to know the sales tax that is currently in place, and you want to know what other statutes would allow the counties to move forward with additional increases in sales tax?

Assemblyman Livermore:

Yes, that is correct.

Michael Nakamoto:

That is something staff can look into. In many instances, if a county is not imposing a rate, there is some reason behind it. For instance, many of the additional rates require voter approval. That information could be provided as well.

Assemblyman Livermore:

I would like to know what they could do through enabling legislation without voter approval.

Russell Guindon:

We can work with the Department of Taxation to put that together. The question is easy to ask, but it is a little more complicated for staff to put together. There are various different rates for infrastructure or other things that local governments are authorized to impose. The board of county commissioners can impose some of them without a vote of the people. Some require a vote of the people, and some rates are done through special local acts. We will have to do some research and put together a table.

Michael Nakamoto:

Page 21 begins the summaries of gaming taxes. The first one listed, on page 23, is the Gaming Percentage Fee administered by the State Gaming

Control Board. It is payable monthly by those casinos holding non-restricted licenses issued by the Gaming Control Board and is based on gross gaming revenues collected by that particular operation.

The fees are an estimated payment made three months in advance. Each additional month is adjusted for the difference between the taxes owed and the amount of the estimated prepayment collected three months before. There is a rolling stream of revenue coming from the Gaming Percentage Fee.

The fee is a progressive rate of 3.5 percent of monthly revenue to \$50,000, 4.5 percent on monthly revenue between \$50,000 and \$134,000, and 6.75 percent on monthly revenue in excess of \$134,000. This particular revenue source generated approximately 21 percent of the total of the State General Fund in FY 2010.

Pages 24 and 25 cover the Non-Restricted and Restricted Slot License Fees I addressed earlier in the forecasts for the State General Fund. The Non-Restricted Slot License Fee is the \$20 per quarter per machine, with \$2 per machine per quarter allocated to the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling.

The Restricted Slot License Fee, which is only paid by restricted licensees—licensees with 15 or fewer slots in their operation and no other games—is \$81 per machine for the first 5 machines. For each additional machine, they pay \$141 per machine. As with the Non-Restricted Slot License Fee, \$2 of each fee goes to the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling.

The Flat Fee on Games is on page 26 ([Exhibit G](#)). This fee is paid quarterly based on the rates that are shown. The fee is paid as one-fourth of the annual rate that is listed, so the fee for one game is \$50 a year, or \$12.50 a quarter. The rate for each of two games is \$100 a year, the rate for three games is \$200, and so forth, until you get to the rate for 36 or more games, which is \$100 a year for each game in excess of 35.

The Advance License Fee, on page 27, is a fee paid by new gaming licensees on or before the 24th of the month following the first full month of operation. They pay three times the percentage fees due from the first calendar month of operation. I had noted, in the Gaming Percentage Fee, that the licensees pay their fees as an estimate of what their actual payments would be in three months. The Advance License Fee primes that so they are always paying three months in advance.

On page 28 is the Annual Slot Tax, which is a rate of \$250 a year for any slot machine that is in operation in the prior fiscal year. I can answer any questions on the gaming taxes at this time.

Assemblywoman Neal:

Are casinos charged a flat fee for the new, electronic hand-held games people can walk around the casino with?

Russell Guindon:

That is a good question. I believe they would be classified as electronic gaming devices, but I believe table games and sports books may be run on those as well as slot-type games. We may have to refer that to the Gaming Control Board and get an answer back to you.

Michael Nakamoto:

The Gaming Control Board will be giving a presentation at our meeting next Tuesday, so that question could probably be addressed to them then, and you could get the answer straight from the horse's mouth.

Chair Kirkpatrick:

I have a question about the Restricted Slot License Fee. If a licensee only has slot machines, and no other games, basically all they pay is—let us say—\$1,300 a year in tax? Are any other fees incorporated in that?

Michael Nakamoto:

The Gaming Percentage Fee that is placed on non-restricted operations, shown in the progressive schedule on page 23, does not apply to the restricted licensees. This would be the only tax they pay. I have not really looked at why the rates were set the way they were, but that may explain why the non-restricted licensees pay a lower rate on their slots per quarter.

Russell Guindon:

Both restricted and non-restricted slots pay the annual slot tax. The restricted locations pay slightly higher quarterly fees plus the annual slot tax. The non-restricted licensees pay lower quarterly fees plus the annual slot tax. Only the non-restricted locations pay the monthly Gaming Percentage Fee. This has been the case for a very long time.

Assemblywoman Neal:

Is the Restricted Slot License Fee associated with the convenience stores that have about three slot machines? Is that what it is?

Russell Guindon:

You have some good questions you can ask Mr. Lipparelli, Chair of the State Gaming Control Board, next week. To answer your question, yes, it would be those types of locations. If you have 15 or fewer slot machines, you have a restricted license. That is the general rule.

The issue is actually a bit more complicated than that, though. There are even restrictions within the 15-slot limit; I think certain locations like convenience stores can only have up to seven slots. Having worked for the Gaming Control Board for three years, when I walk into a location, I find myself counting the number of gaming devices. It is possible that someone who may have 15 or fewer slot machines could be operating on a non-restricted license. There are also such things as grandfathering in of various licenses.

Chair Kirkpatrick:

That might also be a question you could ask of local governments. Depending on their ordinance, they can specifically tell you what rules apply to a certain type of establishment, whether it is a bar and grill or a slot parlor such as they have in California. They might be able to give you information so you can have a more detailed question for the Gaming Control Board.

Russell Guindon:

I will send the gentlemen the idea through an email while we are sitting here just to give them notice these are some of the questions they should come prepared to address.

Assemblyman Goedhart:

I was wondering if they could also have an estimate of population going forward into 2011, 2012, and 2013, as well as what the population was in 2007, 2008, and 2009. I am sure those numbers are figured into the economic indicators.

Michael Nakamoto:

The section on Property Taxes begins on page 31. This section deals specifically with the tax on real and personal property that is levied by the counties. The basis for this tax is in the *Nevada Constitution*, Article 10, Section 2, which limits the ad valorem property tax to a rate of \$.05 per \$1 of assessed valuation. *Nevada Revised Statutes* (NRS) 361.453, which was put in place by the Legislature in, I believe, the 60th Legislative Session, reduced that to \$3.64 per \$100 of assessed value, or \$.0364 per \$1.

There are exceptions to that in the law. Any levy imposed by the Legislature for repayment of bonds or operating expenses for the state is exempt from that.

The Nevada Tax Commission is also allowed to impose a rate up to \$4.50 per \$100 of assessed value in the event of a local government going into severe financial emergency, pursuant to NRS 354.705. Under the provisions that allow the Legislature to impose an additional rate for bond repayment or operating expenses for the state, there is an additional rate of \$.02 that is levied by the Legislature pursuant to Assembly Bill No. 564 of the 75th Session, which makes the maximum rate for property tax \$3.66 per \$100 of assessed value.

Right now, most local governments are not at that maximum rate, except for the City of Fallon, in Churchill County. Mineral and White Pine Counties are also at that \$3.66 maximum. The Cities of Reno and Sparks, in Washoe County, are very close to that maximum.

Chair Kirkpatrick:

What would have caused them to get to that maximum so quickly when other counties are not?

Michael Nakamoto:

The \$3.66 limit is the combined rate. In Washoe County, numerous jurisdictions are imposing property tax rates. The Cities of Reno and Sparks will have their own operating rate. Some of the local governments may have their own debt rates. Washoe County has its own operating rate and perhaps its own debt rate. Then there will be 75 cents levied for the benefit of the schools. A total of \$.17 will be levied for the state as debt rates, including that \$.02 that goes above the \$3.64. Local governments will have other rates for fire protection districts and other purposes. In many places, these individual rates start adding up and can come very close to the limit, if not actually reach it.

Assemblyman Goedhart:

I think some cities and towns in Nye County are at the maximum. That usually comes from having a low tax base. There are not a lot of buildings there, and the ones that are there do not have very high assessed values. As a result, the counties have gone to that \$3.64 limit to try to raise more revenue.

Russell Guindon:

That is a good question. As Michael pointed out, when we went through the property tax reform, we would have to go back and look at the rates that were in place. Then, as you reform down, people might have been close to that \$3.64 to begin with and not had much room to raise rates. There are provisions in the law that local governments use—it is called the 6 percent growth rule calculation. They go through it every fiscal year because counties are on the fiscal year basis versus the state, which is on a biennial basis for developing and

implementing budgets each year. They go through and calculate what rates would be necessary to generate the revenue from last year based on this year's assessed value. That is the 6 percent growth rule. That could allow the rate to come up, and they could impose it. But there are some counties that are not imposing the maximum rate they could under the 6 percent growth rule. There are some that cannot because they are capped at the \$3.64. It is one of those interesting questions to ask that you do not know the answer to, because you would almost have to go back to when we did the reform to see what shook out of that with regard to the rates and how close they were to the \$3.64.

Chair Kirkpatrick:

I remember when we did that in 2005. There were people who said they were already close at that point. Does it ever go backwards? Does some of it ever term out, or is it forever?

Russell Guindon:

The rates that could most likely go down would be the debt service rates. The local government has issued a debt and retired that debt, so that revenue is no longer needed to service the debt. The debt service rates can get complicated, but they are the ones that come to mind.

With operating rates, the way the 6 percent growth rule works is that if, after doing the prescribed calculation, this year's rate is higher, then you can impose it. If the new rate is lower, then you can still impose last year's rate.

Assemblyman Goedhart:

There is a disparate amount of taxes that are levied. I have been talking to some green and renewable energy companies. Which county they are located in could make a difference of millions of dollars a year in their property taxes.

Assemblyman Anderson:

Is there a constitutional limit on property tax percentages other than the 5 percent already mentioned?

Michael Nakamoto:

The limit of 5 percent of the assessed valuation is in the *Nevada Constitution*, Article 10, Section 2. The \$3.64 limit fixed in NRS 361.453 is within that limit.

Assemblyman Munford:

Is there any difference between real property and commercial property in terms of taxes? What is the rate on commercial property?

Michael Nakamoto:

The rates imposed in each jurisdiction are the same regardless of the type of property, so there is no specific rate imposed on a residence as opposed to commercial property. I believe you are referring to the partial abatements for property taxes that were approved pursuant to Assembly Bill No. 489 of the 73rd Session and Senate Bill No. 509 of the 73rd Session. These particular bills established that a partial abatement of property taxes would be given based on the type of property being taxed for single-family, owner-occupied residences.

The partial abatement is such that the property tax bill cannot increase by more than 3 percent over the prior year's tax. This 3 percent abatement also applies to certain eligible residential rental properties, so long as they meet various requirements established under this particular legislation with respect to it being low-income housing.

With respect to all other properties, and this would include commercial properties, the abatement is such that the amount of the tax bill for that particular property cannot increase than more than 8 percent, and that is actually the absolute maximum. The amount of the actual abatement is based on a formula that takes into account the average percentage change in the assessed value of taxable property within the county over the prior ten-year period or the average change in the inflation rate nationwide. That might be perhaps what you were thinking about with respect to the treatment of commercial properties as opposed to other properties.

Assemblywoman Neal:

When you have a situation where we are trying to offer a property tax abatement, can there be a freely-transferable credit that is applied to a property tax abatement?

Chair Kirkpatrick:

We do not have legal counsel here, and I know there is a legal question in this. Let us save that question for the Legal Division. I think they could give you a better answer.

Assemblywoman Neal:

I am trying to understand how people look at the tax value. Does the Department of Taxation take into consideration the fraud that caused the property laws that make an adjustment to the forecast, rather like a disclaimer that says, "This was the real value versus the inflated value we may have based our budget on?"

Chair Kirkpatrick:

The assessors will be coming before us as well.

Russell Guindon:

I think that, just for clarification, the Department of Taxation does not actually assess property; the county assessors do. The Department of Taxation does have a role in centrally assessed property, such as railroads, utility companies, and such. Residential and non-residential property, though, is assessed by the county assessor.

There is the law regarding what the assessor has to use to determine the value of your property, and you, as a property owner, have a right to appeal that assessment. The assessor determines the taxable value of your property—your land and improvements—and multiplies that by 35 percent to arrive at the assessed value.

Then you, as a property owner, have the right to appeal that assessment to your county board of equalization by a certain deadline. If you do not like the decision of the county board of equalization, you have the right to appeal that to the State Board of Equalization. If you do not like that Board's ruling, you have remedies through the courts.

Chair Kirkpatrick:

I read an article in the newspaper that said there were a record number of appeals this time. I believe the deadline was in the first part of January. If we do not have the assessors on the presentation list, I will be more than happy to put them on. They come with clean-up bills. I was here in 2005, when rocks became a big part of assessed valuation. It was interesting that whether your house faced the lake or the rocks were on the right side of your home really made a difference. The assessors would be more than happy to give a presentation and share how they do it.

Assemblyman Livermore:

A local property owner in Carson City wrote a letter to the newspaper because, on his appraisal, his flagpole was appraised at four or five times the purchase price and cost of installation. As in this case, even though they have the right of appeal, most citizens are frustrated because they do not have immediate access to that. I am hoping to address that so the public has the ability to present information and let the process take its course.

Chair Kirkpatrick:

It sounds like you might have a bill draft request (BDR) there.

Michael Nakamoto:

Mr. Guindon actually went through the entire process of determining the taxable and assessed value for me. On page 33, you can see that counties, cities, towns, special districts, school districts, and the state Consolidated Bond Interest and Redemption Fund are all recipients of the property tax revenue. Basically, anybody within a taxing district that has a rate that applies within that district will receive funds. You can see the revenue broken down based on local governments and how that revenue changed between FY 2009 and FY 2010.

Page 34 begins the Net Proceeds of Minerals Tax. The reason this tax is listed as a property tax is in the *Nevada Constitution*, Article 10, Section 5, which was put in place in 1989. The Net Proceeds of Minerals Tax is imposed on mineral operations in lieu of a property tax at a maximum rate of 5 percent. The *Nevada Constitution* specifically states that no other tax may be imposed upon a mineral or its proceeds until the identity of the proceeds, as such, is lost.

The rate of the tax is based on the percentage of net proceeds to gross proceeds. If the percentage of net proceeds to gross proceeds is less than 10 percent, they pay a rate of 2 percent. The rate gradually increases. If the percentage of net proceeds is between 10 percent and 18 percent, the tax rate is 2.5 percent. For a percentage of net proceeds of between 18 percent and 26 percent, the tax rate is 3 percent, and so on. If net proceeds equal or exceed 50 percent of gross proceeds, the maximum rate of 5 percent applies.

There are two exceptions to this. The first exception is if net proceeds, as reported to the Department of Taxation, exceed \$4 million in a calendar year, the 5 percent rate applies. The other exception is for geothermal operations, which pay a rate equivalent to the property tax rate in the district where the operation is located.

Pages 34 and 35 ([Exhibit G](#)) discuss the procedure for collecting the Net Proceeds of Minerals Tax. Historically, the tax has been due for a particular fiscal year based on the actual net proceeds and royalties reported by the operation or the royalty recipient in the prior calendar year. When we went through the Economic Forum tables, I had mentioned Senate Bill No. 2 of the 25th Special Session, which, for FY 2009, FY 2010, and FY 2011, required the tax to be paid in a calendar year or in a fiscal year based on the estimated net proceeds for that particular calendar year. Rather than paying for the year prior, they pay for the current year.

That particular practice will continue through FY 2011, but for FY 2012, because of the expiration of that legislation, the tax would go back to being collected based on the actual net proceeds for the prior calendar year.

Assemblywoman Bustamante Adams:

With that expiration, would the gaming industry be the only one that pays in advance?

Russell Guindon:

There is a subtlety in using the term "advance." The advance license fees for the Gaming Control Board do not actually involve paying in advance in the same sense as the Net Proceeds of Minerals Tax. The Advance License Fee paid by the gaming industry is an estimate for three months in advance, and then they true up against that.

When a new casino opens, they obviously have not generated revenue on which to make payments for three months in advance. That is why we make them pay three months of advance license fees when they open. We have to have those payments on the books so we can true up against them. I know that is complicated, but we can try and put an example together for you to show you the way it works.

Under the advance payments for the Net Proceeds of Minerals Tax, the tax used to be based on, in a fiscal year, the actual mining activity for the prior calendar year. The law changed in the 25th Special Session so they are now, in a fiscal year, paying the tax based on an estimate for that current calendar year. Then we true up against that estimate in the next fiscal year.

By advance, they are paying based on an estimate of what they think their mining activities are going to be. It used to be based on actual activity during a calendar year. With that sunset taking place, we would go from paying on the estimated activity to flipping it back to where they are paying on the actual activity.

On gaming's Advance License Fee, we are really just requiring them to make three months worth of payments so we have something to true up against when they actually start conducting business in the casino. I can try again to clarify it if you want. When they tell you the devil is in the details, they are referring to tax law.

Assemblyman Anderson:

Could you prepare a case study, say, such as on The Cosmopolitan of Las Vegas that was the most recent casino to go belly up, just so we can see and understand that better?

I have a question as well about the Net Proceeds of Minerals Tax. I know, as an industry, mining pays some property taxes. Could you go into greater detail on what mines pay property taxes versus the Net Proceeds of Minerals Tax?

Chair Kirkpatrick:

I would like the Department of Taxation to answer that rather than our Fiscal staff. We have given you about 30 tasks today, and there are 3 of you to get the job done. If Mr. DiCianno could address that, I would also like to ask him where we would find the deductions within statute.

Russell Guindon:

Fortunately, one of the answers is easy. We have examples we can put together on how the Advance License Fee and the whole percentage fee pay. Giving you an example of that is not difficult. What your staff cannot do is tie it to the numbers of any specific property. That information is proprietary and confidential.

On the Net Proceeds of Minerals Tax, we will talk to the Department of Taxation about going through that when they make their presentation. They actually have a bulletin called "The Net Proceeds of Minerals Bulletin" that does a good job of going through the different types of minerals and mines. It is one of the places where this data is reported by mines, both gross and net. You can get an idea of what the ratio is.

The mines are paying the Net Proceeds in lieu of property tax. There can be some property tax on some of their things, but theirs is basically the Net Proceeds of Minerals Tax.

Assemblyman Livermore:

Regarding who pays whom, is that paid to the state or to the county? Also, what process do they audit?

Michael Nakamoto:

The audit question is one you can probably address with the Department of Taxation when they come in on Tuesday. They are the agency required, under law, to audit and administer the Net Proceeds of Minerals Tax.

With respect to the distribution, because this is, in essence, a property tax in the eyes of the law, the distribution of the tax is between the local governments who would receive property tax and the state. Let us take the example of a gold mine that is paying at the full 5 percent rate because their net proceeds are above \$4 million. We will use, as an example, a mine in White Pine County, where the property tax rate is \$3.66 and the mine is paying the full \$5. The

\$3.66 portion would go to the local governments based on their share of the property tax. The remaining \$1.34 would go to the State General Fund.

Chair Kirkpatrick:

Thank you, Mr. Nakamoto. I am sure Mr. Ellison could tell you a lot about mining. I know Mr. Carpenter used to give me a lot of information, and I am sure he could give us some different perspectives as well.

Michael Nakamoto:

The section on excise taxes begins on page 39 with the Liquor Tax. This is imposed at the wholesale level on each gallon of liquor imported into the state. Four different rates are imposed on liquor. Malt beverages, including beer, are taxed at a rate of 16 cents a gallon. The remaining rates deal with non-malt beverages. Anything with 0.5 percent to 14 percent alcohol by volume is taxed at a rate of 70 cents a gallon. Between 14 percent and 22 percent is taxed at \$1.30 a gallon. Anything above 22 percent is taxed at a rate of \$3.60 a gallon.

The proceeds from all these rates go to the State General Fund, with the exception of \$.65 of the \$3.60 for anything above 22 percent alcohol by volume. Of that 65 cents, 15 cents goes to the Tax on Liquor Program Account, which, pursuant to NRS 458.097, is used for alcohol and drug abuse prevention and other related services. The other 50 cents is returned to counties based on that county's population as a proportion of the entire state's population. It is then distributed among the local governments within that county based on the CTX formula.

The Cigarette Tax, on page 40 ([Exhibit G](#)), is imposed on each pack of cigarettes at the wholesale level at a rate of 80 cents per pack of 20, or 40 mills per cigarette. This particular tax is also distributed mostly to the State General Fund, which receives 70 cents a pack. The other 10 cents a pack is distributed to the counties. Again, each county receives a portion based on its population as a proportion of the state's population and then distributes it to local governments within the county through the CTX formula.

On page 41 is the Tax on Other Tobacco Products. This would include cans of smokeless tobacco, snuff, pouches of other types of tobacco, and cigars. Anything that is not a cigarette is taxed at 30 percent of the wholesale price of the product. The proceeds of this tax go to the State General Fund.

Assemblyman Ellison:

Which portion of the Cigarette Tax goes to the Millennium Scholarship Fund?

Michael Nakamoto:

The money received from tobacco actually comes from the Master Settlement Agreement account from a lawsuit filed by the states against tobacco companies during the late 1990s. No portion of this excise tax goes to the Millennium Scholarship Trust Fund.

Assemblyman Munford:

We receive no revenue at all from the Indian smoke shops, is that correct?

Michael Nakamoto:

That is correct. Any sales that occur on any Indian reservation are not subject to state taxation.

Assemblyman Munford:

What about other products they sell? Do we get any tax revenue from that, or does this just pertain to cigarettes?

Michael Nakamoto:

With respect to the Sales and Use Tax, the same provisions would apply. Any sort of sale would not generate any revenue for the State General Fund.

Chair Kirkpatrick:

Is hookah tobacco taxed?

Russell Guindon:

It is probably taxed as "other tobacco," as is moist snuff or bulk tobacco for rolling your own cigarettes. Every session we have bills on cigarettes, generally brought forward by the Attorney General's Office. I would have to look into the definition of cigarettes to be able to answer that question, or we will get Mr. DiCianno to address it next week.

Chair Kirkpatrick:

I am just curious about whether it is something that flies under the radar. Are there any other questions? [There was no response.]

Michael Nakamoto:

Page 45 is the beginning of the section on fuel and motor vehicle taxes. Starting with the Gasoline Tax, this particular section addresses specifically the state and local taxes. If there is a later discussion of gasoline taxes, the first thing to keep in mind is that there is a federal Gasoline Tax of 18.4 cents a gallon imposed on everything discussed in here.

The state-mandated rate for the Gasoline Tax on top of that 18.4 cents is another 18.455 cents a gallon, of which 17.65 cents goes to the State Highway Fund. Three-quarters of a cent per gallon goes to the Fund for Cleaning Up of Petroleum Discharges, which I will talk about on another page. There is also an inspection fee for imported gasoline that is 0.055 cents a gallon. Those rates together make up the 18.455 cents.

There is an additional 6.35 cents of county mandatory fuel taxes that are imposed in all 17 counties, with the revenue being returned to the county of origin. That revenue is divided up pursuant to NRS for various construction purposes, mostly dealing with bond services and road construction, maintenance, and repair. It cannot be used for administrative purposes by the county.

In addition to the county mandatory rate, there is a county optional rate of up to 9 cents, levied pursuant to NRS 373.030, that is used for road projects either within that county by the county itself or by the regional transportation commission (RTC) within a county that has an RTC. All 17 counties impose some portion of the 9-cent rate. Douglas, Esmeralda, Lincoln, Nye, and Storey Counties impose 4 cents of the 9-cent rate. Elko County imposes 6.5 cents, and the remaining counties impose the full 9-cent rate.

There are also additional county option taxes. Under NRS 373.065, any county whose population is 400,000 or less, which would include all counties except Clark County, may impose a rate based on the 6.35-cent county mandatory rate and the 9-cent optional rate, adjusted for inflation over a certain prior period—I believe it is five years.

Right now, Washoe County is the only county to have utilized this particular rate. Based on legislation passed in the 2005 Session, they are imposing that at a rate of approximately 2.66 cents a gallon. That rate stays in place but will not grow any further.

Senate Bill No. 201 of the 75th Session, which was the enactment of Washoe County Question RTC-5, allows Washoe County to index all of its federal, state, and county rates to the Producer Price Index for highway and street construction. That rate will grow every year. As a result of S.B. No. 201 of the 75th Session, Washoe County imposes an additional rate of 6.42 cents a gallon, making the total combined federal, state, and local rate in Washoe County slightly less than 61.3 cents a gallon. By comparison, the rate in Clark County is 52.2 cents.

I am actually going to skip ahead over special fuels and jet fuel and go to page 49, the Petroleum Products Cleanup Fee. As I had mentioned, this is part of the gasoline tax, at a rate of 0.75 cents, that is imposed on motor vehicle fuel. It is also imposed on fuel, both diesel No. 1 and diesel No. 2, and heating oil that is imported into the state.

This revenue goes into the Fund for Cleaning Up Discharges of Petroleum, which is administered by the Division of Environmental Protection. Any amount in the fund in excess of \$7.5 million at the end of each fiscal year is transferred to the State Highway Fund and distributed, from there, to the RTC in Clark County, which receives 70 percent of the proceeds; the RTC in Washoe County, which receives 20 percent of the proceeds; and the other 10 percent goes to the Department of Transportation for rural road projects.

This is the result of Senate Bill No. 5 of the 26th Special Session in February 2010. This was the fee that was only collected when the amount of money in the Fund for Cleaning Up Discharges of Petroleum was less than \$7.5 million. It used to be that if that fund ever exceeded \$7.5 million at the end of the fiscal year, the fee was not collected until the fund went below \$7.5 million. It seemed the fee was being collected in alternate fiscal years, so that cap was lifted and the distribution to the counties was added.

On page 50 is the Governmental Services Tax (GST), which has its basis for being levied under the *Nevada Constitution*, Article 10, Section 1, Subsection 4. This allows the Legislature to exempt motor vehicles from personal property taxes as long as it levies a tax based on the value of the vehicle at a maximum rate of \$.05 per \$1.00 of assessed valuation. This tax was historically known as the Motor Vehicle Privilege Tax until Senate Bill No. 59 of the 71st Session, where the name changed to the Governmental Services Tax that we know today.

The GST is actually similar to the property tax in that the value of the vehicle—based on the manufacturer's suggested retail price (MSRP)—is multiplied by 35 percent to determine the taxable value. From there, the taxable value is multiplied by a depreciation factor. On page 50, you can see the depreciation factors for the two categories we list.

We specifically list cars and light trucks, and then trucks and buses. This oversimplifies the breakout of this. The cars and light trucks category is actually any vehicle whose gross weight is 10,000 pounds or less. The trucks and buses category includes any vehicle with a gross weight of 10,001 pounds or more. It also includes trailers with an unladen weight of 4,000 pounds or more.

Once you have figured out which category you are in, multiplied the value of the vehicle by the 35 percent and then by the depreciation factor, you arrive at a value to which the tax rate applies. Under current law, the GST is levied at a rate of 4 percent of the taxable value.

In certain counties, a supplemental GST of up to 1 cent can be levied. Right now, Clark County is imposing that 1 cent. That was historically for transportation projects. However, pursuant to legislation passed in the 2009 Session, it can be used for operating expenses as well. Churchill County also levies the 1-cent supplemental GST pursuant to the Local Government Tax Act of 1991, which is known by many as the "fair share" legislation.

The distribution of this particular revenue is primarily to local governments and school districts. They actually receive the amount based on the old depreciation schedules.

As we mentioned earlier, the depreciation schedules for all but new vehicles were increased by 10 percent per category pursuant to Senate Bill No. 429 of the 75th Session. The amount generated from that 10 percent increase goes to the State General Fund. The remaining portion goes to the school districts and local governments.

Assemblyman Anderson:

Do you know why, in the depreciation tables, trucks and buses initially depreciate faster than cars and light trucks but then end up going slower toward the end?

Chair Kirkpatrick:

I do not know if they have the answer, but it is in the minutes from the last legislative special session. Mr. (Paul J.) Enos (Chief Executive Officer, Nevada Motor Transport Association) did a pretty good job of explaining that.

Russell Guindon:

No, we really do not know. These depreciation rates have been in place probably since the early 1960s. Mr. Enos believed it was because trucks tend to actually depreciate differently from lighter vehicles. That was probably some of the discussion or consideration taking place when these rates were put in place back in the 1960s.

Chair Kirkpatrick:

Are there any questions? [There was no response.] With that, we are going to stop right here.

Russell Guindon:

I can take care of your hookah question. It would seem that if the hookah tobacco is rolled in the shape and form of a cigarette, then it is considered a cigarette. The legal definition of a cigarette is all rolled tobacco or substitutes therefore wrapped in paper or any substitute other than tobacco, irrespective of size or shape or whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient. I think hookah tobacco would be covered under that. If it looks and acts like a cigarette, then it is a cigarette.

Other tobacco product is defined as any tobacco of any description or any product made from tobacco other than cigarettes. If you buy your hookah tobacco loose, it would be other tobacco. If it is already rolled, it is a cigarette.

Chair Kirkpatrick:

Are there any other questions? [There was no response.] I have a list of tasks for staff. If anybody has anything they would like staff to do, I would appreciate it if they actually go through me so I can consolidate them.

We have a couple of options regarding these books [Blue binders containing the *Revenue Reference Manual* ([Exhibit G](#)) and ([Exhibit H](#))]. They are a great resource you need to have. I still have mine from the last couple of sessions. You can leave them in my office and I will look after them, or you can take them back to your offices. I want you, though, to bring them to each and every Taxation Committee meeting so you can refer back to them.

Michael Nakamoto:

As for the second binder, the one marked "Assembly Committee on Taxation, Bill Explanations and Work Session Documents," information provided by staff regarding various pieces of legislation will go in this. You can leave this binder and we will pick it up, add to it, and redistribute it before every meeting. A lot of the materials discussed during the session will show up in this binder. This binder, though, will not be the first place you see them. Staff will try to get such things as bill explanations out to members prior to meetings so you have a head start on what will be discussed at any particular meeting.

Chair Kirkpatrick:

I appreciate everybody staying a little longer today. Is there any public comment? [There was none.] Seeing no public comment, we are going to adjourn until next Tuesday at 8 a.m. We will start on time. Thank you, and I will see you next Tuesday. We are adjourned [at 12:36 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: February 8, 2011

Time of Meeting: 9:31 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Chair Marilyn K. Kirkpatrick	Committee Policies: Assembly Committee on Taxation
	D	Michael Nakamoto	<i>Committee Policy Brief, Assembly Committee on Taxation</i>
	E	Carole Vilardo, President, Nevada Taxpayers Association	<i>Nevada Tax Facts</i> booklet, 2009-2010 Edition
	F	Carole Vilardo, President, Nevada Taxpayers Association	<i>Understanding Nevada's Property Tax System</i> booklet, 2009-2010 Edition
	G	Michael Nakamoto	<i>Revenue Reference Manual</i> , Fiscal Analysis Division, January 2011
	H	Michael Nakamoto	Additional pages (7a-7f) for <i>Revenue Reference Manual</i> , Fiscal Analysis Division, January 2011