

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

**Seventy-Eighth Session
February 5, 2015**

The Committee on Taxation was called to order by Chairman Derek Armstrong at 1:34 p.m. on Thursday, February 5, 2015, 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/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775 684 6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Derek Armstrong, Chairman
Assemblyman Randy Kirner, Vice Chairman
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Olivia Diaz
Assemblywoman Jill Dickman
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblywoman Dina Neal
Assemblyman Erven T. Nelson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Gina Hall, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Barbara K. Cegavske, Secretary of State, Office of the Secretary of State
Scott Anderson, Chief Deputy, Office of the Secretary of State
A. G. Burnett, Chair, State Gaming Control Board
Frank Streshley, Chief, Tax and License Division, State Gaming Control Board

Chairman Armstrong:

Before we get started today I wanted to go over a change on the agenda. We are going to go out of order today. Since the Secretary of State is here, we are going to allow her to go first.

Barbara K. Cegavske, Secretary of State, Office of the Secretary of State:

Good afternoon Chairman Armstrong and members of the Committee. Thank you for allowing us to bring this presentation to you. We gave this same presentation this morning, and for those of you who are seeing it again I apologize. We appreciate all questions. The two gentlemen sitting with me today—Scott Anderson, my chief deputy, and Wayne Thorley, my operations deputy—are primed to answer all questions. Thank you for having me here this afternoon to present to you an overview of the Office of the Secretary of State. As requested by Chairman Armstrong, my testimony will primarily focus on the various fees and penalties collected by the office.

The Office of the Secretary of State is one of the original constitutional offices established in the *Nevada Constitution*, and is responsible for maintaining the official records of the acts of the Legislature and the Executive Branch.

Additional duties have been added over time and include Chief Officer of Elections, registrar of business entity filings, and administrator of the Uniform Securities Act. [Continued to read from prepared testimony ([Exhibit C](#)) and ([Exhibit D](#)).]

Chairman Armstrong:

I appreciate your willingness to come and speak before the Committee. We have some questions. Assemblyman Hickey, you may go first.

Assemblyman Hickey:

Some of us who are on the Assembly Committee on Ways and Means have already heard you discuss and explain your office's role should the Governor's recommended proposed business license tax come to fruition. I think you told us this morning it would not necessarily have an impact upon staffing in your office. Would you elaborate on what your contingency plans are, what sort of effect the tax may have, and how you are planning to manage if it goes into effect?

Scott Anderson, Chief Deputy, Office of the Secretary of State:

If the Governor's revenue plan passes as proposed and the state business license function moves over to the Department of Taxation, that would have a definite impact on the revenue in our office. The immediate impact would be that \$70 million of revenue that came through the Office of the Secretary of State would go elsewhere. That amount is based on the \$200 per year for the more than 300,000 entities we have on file in our office.

As I told the Assembly Committee on Ways and Means this morning, when we took this on from the Department of Taxation in 2009, we did not add additional staff for the processing of this information. Part of the reason is that when it was brought to the Office of the Secretary of State, we proposed that we make it part of the annual list filing, which we already had in place and, as such, we just added that functionality to our current processes. We were basically collecting that extra \$200, generating a state business license, and updating a database, so we did not receive any additional staff. If we were to lose this function, we would have the same processes we have now and at the same volume. Once we decouple the state business license from the annual list filing, the process is still going to be the same for all of those entities that are on file with the office.

There has been discussion with registered agents and the business community that deals with our office about the potential for entities to choose to go to other filing jurisdictions, so there could be additional revenue loss. We do not see any reduction in the resources that we currently use for our processes.

Assemblyman Hickey:

Your last point goes to my second question about the potential revenue loss. We all know that Nevada has tried to keep itself competitive in the filing market. Should this new tax come into place, have you thought about what impact it will have? Regarding the filing fees from companies that are domiciled in Nevada but whose resources are out of the state, will you have the capacity to determine what their business license fee should be on the scale? Is that a

great challenge regarding companies that register here but are in fact located elsewhere?

Scott Anderson:

Currently in the Office of the Secretary of State it is a flat fee. The proposed business license fee plan bases the fee on a number of factors, including industry and receipts. In our office currently it is \$200 per entity, whether you are in state or you only have a registered agent here. It has been estimated that more than 60 percent of the entities that are registered with the Office of the Secretary of State are from out of state and have no true connection in Nevada other than taking advantage of our business-friendly laws. Anything that will cause them to go to other states will definitely have an impact on us retaining them or having new entities come in and file. Therefore, many may not come in or may fly to other jurisdictions, so there would be a corresponding reduction in the revenue that we generate from those entities. We have not had the opportunity to put those numbers together or even make an estimate of what that flight could be.

Assemblyman Kirner:

I appreciate the fact that every business today pays \$200 as a business license fee. Is there a different initial fee, such as a registration fee, when an entity comes into the state for the first time and registers their business?

Scott Anderson:

There really is not a fee. You have the initial filing fee to create your business in the state. Then you also pay what is called the initial list of officers and the state business license, which every entity that comes here would pay. This is paid every year thereafter. So what they pay is the initial filing fee plus \$325, which is \$125 for their annual list plus \$200 for their state business license; thereafter they pay that same fee on or before their anniversary date.

Assemblyman Kirner:

The same fee being the \$200?

Scott Anderson:

Yes, for the business license it is \$200 and \$125 for your annual list fee, so you pay both.

Chairman Armstrong:

Just to clarify, so when a new company comes into the state it is \$400 to set up their initial company. It is \$200 for the business license fee, \$125 for the initial list, and is there another \$75 charge?

Scott Anderson:

When a company first comes to Nevada they pay anywhere from \$75 to \$35,000, if they are a corporation that has very high capitalization. Thereafter the base fee is \$125 for the annual list and \$200 for the state business license. Corporations with high capitalization may pay up to \$11,100 per year for the annual list. Granted, those are few and far between, but we do have those that will pay that amount. It is on a graduated scale, based upon their capitalization. It is not based on any type of revenue receipt, just upon their capitalization.

Chairman Armstrong:

So the initial set up is a minimum of \$400, and maybe more?

Scott Anderson:

Yes.

Assemblywoman Kirkpatrick:

Currently we have a little over 300,000 businesses that pay the \$200 fee, plus the itemized amount depending on what services they get in our state. Out of those 300,000 businesses, how many of them are ones that come into the state just to take advantage of the corporation filing fees? How many of those businesses using resident agents did we lose when we went from \$100 to \$200? There were some who said they would leave the state, but I would bet not many did. I think it would be beneficial for the Committee to know the breakdown of those businesses. There is a benefit to coming to our state and using our legally friendly laws for their corporations. I want to know comparable fees around the West and how we fit in with our \$200 fee. If Zappos pays the same \$200 that I pay, that is hard to explain to those mom-and-pop establishments that are just trying to make it. Could you give us a breakdown? We do not need all 30 categories. There are probably fewer than 20 entities across the state that pay the \$11,100. Foreign corporations are typically the ones that pay this higher rate. If you could share some information, I think it would help us have a better discussion as bills like this come before us.

Scott Anderson:

I do not have a lot of that information for you at this time. I will first answer your question regarding the 300,000-plus businesses.

We have approximately 305,000 business entities on file with the state, consisting of corporations and limited liability companies, those types of entities. We have another 30,000 to 35,000 sole proprietors and partnerships filed with us as well. So we have approximately 335,000 entities that have a state business license with us. For the first group of 305,000, it is almost

impossible to tell you how many of them are out of state or in state, by virtue of the fact that they have a registered agent in Nevada and with that address for service of process they are considered a Nevada entity, even though they do not have a physical presence here in the state.

It has been estimated that approximately 60 to 65 percent of Nevada entities are considered off-shore or out-of-state entities and do not have an actual physical presence here in Nevada.

As far as your question about registered agent flight, I cannot tell you how many entities using registered agents have actually left the state. We do know that when the economic decline occurred and the state business license was put in around the same time, we went from approximately 315,000 entities to 285,000, so there were 30,000 entities that either left, did not file, or did not renew with us. It has taken us almost six years to recover to the 305,000 we have now. While we still hear the argument that an increase in the state business license will cause a flight of businesses to other jurisdictions, such as Delaware, Wyoming, or North Dakota, some of these other states have business-friendly statutes similar to ours. Entities might choose to stay in their home state if they do not see the benefits here outweighing the costs in their home state.

Assemblywoman Kirkpatrick:

I understand that it is not personal, but I will say what I have been saying since 2007. When someone says "If you make me pay five more dollars I am leaving," then my answer is—1-800-UHAUL—because at some point we have to educate kids, provide health services, provide roads, so they can do their business. It is not your office. I get it. I am on your side.

I am just trying to understand how we break it down, because there is not a lot of institutional knowledge going back to 2009. I can tell you that I probably had 20,000 resident agents contacting me and threatening to blow up my tires, or threatening to move tomorrow; they were the meanest group I have ever worked with in the Legislature.

All that aside, I think we do ourselves a disservice by not keeping track of this information. I would like to know how this compares with the modified business tax, and how we compare with other states in the West. If you could write this up for us, I would appreciate having it on paper.

Lastly, I feel it is important to know what type of revenue the 60 to 65 percent foreign, or out-of-state, entities bring in, because that is a pretty high number to be just guesstimating revenue.

Scott Anderson

We will get you the information on the items we have listed here and try to get you an estimate on those entities that do not have a physical presence here. We will get you as much information as we can regarding this business license issue.

Assemblywoman Kirkpatrick:

The last thing I would like to know is how many businesses go under on a regular basis. I think in 2009 we saw a little over 20,000 businesses fall out. If you could give us an estimate that would be helpful. I think this is important, because this is a big change.

Barbara K. Cegavske:

Assemblywoman Kirkpatrick, we do take note of that and agree with you. This is something that we can work on, asking them to list, or somehow record, what entities they are.

I have noticed over the last year in talking to the business entities—and this is why we think the business portal is so important—that we have many businesses that think they only have to register the one time. I think some of those numbers could be because people did not realize they were supposed to register again. Whether they do not come back or just do not know they have to register again has been an issue. We think that working with the counties and the cities, as we talked about before, to make sure that entities have their business license first, before they can do any other licensing, or handle other requirements, will help a lot. Maybe through the business portal we can draw out some more information, now that you are bringing that to light. I think that would be something we could do, but it is a concern that there are other states that have a one-time fee for licensing, and that is all, so some believe that is all they have to do here. I think there are varying reasons why we lost 30,000 entities, but our hope is to get people to come back, because we want them here. Thank you, and we will work with you.

Chairman Armstrong:

In regard to businesses that close in Nevada, do we do a good job keeping track of those businesses through the Office of the Secretary of State? Are we losing revenue on that end of the deal?

Scott Anderson:

We have a similar dissolution process for all business entities, including sole proprietorships and partnerships. Not all entities will file dissolution documents or cancellation documents with us. We have a bill this session, Senate Bill 39,

that gives us some leeway, as far as the dissolution process, to hopefully get more of those entities to dissolve properly.

Many times a business or a corporation will just close its doors and not do anything else. Then what happens is the entity first goes into default status when it does not pay its annual list fee. Then it goes into what is called revocation, or revoked, status. Many of those entities will just stay in that revoked status, never filing the proper dissolution paperwork. There really is no mechanism in statute to force a business or corporation to dissolve. It has been pretty much their choice to either file the proper dissolution documentation to legally end that entity's existence, or stay on the record as a revoked entity. There are legal ramifications to leaving it out there. There may be reasons why this happens, or it may be just an oversight. It could be that the entity did not have the funds, and at some point the statutes do allow a revoked entity to revive, but we have no way of knowing which have actually dissolved. When we do find out that an entity is in revoked status, has not paid their annual fees, and is still conducting business in the state, we can go after them for those past fees and penalties.

Chairman Armstrong:

I guess my point is that since we are coming out of the economic downturn, if a business has not paid its fees for two to three years and it is in revoked status, could we allow it to come up with a one-time fee and get back up to speed, rather than doing nothing and then starting a new business?

Scott Anderson:

There are provisions in S.B. 39 that would allow us to waive the fees and penalties for any period for which they can show they did not conduct business in the state. They would still need to pay the fees and penalties for those years in which they actually conducted business in the state, but this would allow them to start business again, or to dissolve without paying those additional fees and penalties. There really is not a mechanism to allow them to just start up again for a lesser fee, and this would be something we could discuss further.

Assemblyman Nelson:

I understand that currently when a company pays its annual fees—the \$200 plus the \$125—it can do that all on one form and it goes straight to your office. Now, under the Governor's proposal to transfer the business license fee to the Department of Taxation, would that mean those entities will now have to do two separate payments, or can they still do just one?

Scott Anderson:

It depends on what the final resolution is. The state business portal—SilverFlume—allows a person to go online to pay those fees. If we partner with the Department of Taxation to do this, an entity could potentially pay both at the same time and only have to go there once. For paper filing, they would definitely have to do one for us and one for the Department of Taxation, because it would be two separate processes, unless there is some resolution that I am not aware of to combine the two.

Assemblyman Nelson:

So that is an inconvenience if it goes that way, at least a minor inconvenience. In your opinion, do you think having to do it this way would be a disincentive to staying in Nevada?

Scott Anderson:

We designed SilverFlume to combine all of these processes into one, so you could go to any number of agencies and process your paperwork in one stop versus having to go to a number of different agencies. I cannot tell you one way or the other whether it is a disincentive. For me personally, I would rather go to one place and do everything at one stop.

Chairman Armstrong:

As we continue to come out of the economic downturn, have you seen an uptick in the volume of new business filings? Do you think the Governor's proposals would then affect new business filings and growth?

Scott Anderson:

That is kind of a loaded question. We have seen some upturn. As you can see from the earlier slides ([Exhibit D](#)), we have seen more increase on the business license side, and we believe that is because more people are aware of it and more people are becoming compliant. We are seeing some increase in the number of filings. We have gone from 285,000 entities at the lowest point in the economy, to over 305,000 now. So we are seeing some recovery that way. We had hoped to see a greater recovery at this point.

There has been a thought in the office, since the beginning of my tenure in 1997, that legislation and economic downturn that would not be beneficial to our customers could lead to a flight from Nevada. We have not taken a full look at the Governor's proposal. We understand that there could be changes, based on what happens here in the Legislature, so we will reserve some of our comments to see what actually comes out, but there could be an effect on the office.

Chairman Armstrong:

I knew that was a loaded question, but your agency sees all the new business licenses, so it seemed like an appropriate question for your agency.

Barbara K. Cegavske:

We are willing to work with both houses and the Governor on whatever proposals you come up with. We will be there. We will get you the information, and we want to be part of the solution.

Chairman Armstrong:

Do the members have any further questions? [There were none.] Thank you. I appreciate your taking the time to come out. The next item on the agenda is the State Gaming Control Board.

A. G. Burnett, Chair, State Gaming Control Board:

Seated to my left is the chief of our Tax and License Division, Frank Streshley. Seated to my right is Buffy Brown, Esq., who is a senior research analyst for the State Gaming Control Board. Behind us is Michael Lawton, who is also a senior research analyst and chief economist in our revenue and taxation accounting. We will proceed with an overview of the State Gaming Control Board first, and then an overview of the taxes and fees we collect.

On page 2 ([Exhibit E](#)) there is an outline of the two-tiered gaming regulatory oversight structure we have in Nevada. First you have the State Gaming Control Board, of which I am the Chair. It comprises approximately 400 employees. We investigate applicants and audit licensees. We make licensing recommendations to the Gaming Commission, and we enforce all of the gaming laws and regulations, in addition to accounting for and collecting licensing fees and gaming taxes.

We have six divisions, ranging from divisions that have enforcement officers who are peace officers, to accountants, attorneys, investigators, and certified fraud examiners.

There are three persons who serve on the State Gaming Control Board. In addition to me they are Shawn Reed and Terry Johnson. The Nevada Gaming Commission is made up of five persons, who are laypersons serving part time. The Committee Chair is Tony Alamo, a medical doctor in Henderson. The Commission has the final say on licensing recommendation matters, and when the State Gaming Control Board does have an issue with one of its licensees and we have a dispute in front of the Commission in the form of a complaint, the Nevada Gaming Commission serves as judge and jury and the State Gaming Control Board serves as the prosecutor.

Next on page 3 ([Exhibit E](#)) is an organizational chart. The Gaming Policy Committee, shown on the left, is an entity that can be called by the Governor in order to look at certain policy matters. It is made up of 12 persons, some from the Assembly, some from the Senate, the Chair of the State Gaming Control Board, the Chair of the Nevada Gaming Commission, the Governor, and several other members culled from the public and other areas of industry.

On page 4 is a brief outline of our mission statement. These are the things that we are most concerned with at the State Gaming Control Board, and these are the things that we try to instill in all of our employees.

On page 5 is a breakdown of the Board employees' geographical locations throughout the state. As I stated earlier, we have six divisions. We have offices in Carson City, Elko, Las Vegas, Laughlin, and Reno. Our Administration Division has 52 total employees. Our Audit Division has 91. The Enforcement Division has 118. Our Investigations Division has 95. The Tax and License Division has 28, and our Technology Division has 24.

Our Administration Division, as shown on page 6, is essentially our human resources department, for lack of a better term. They also conduct some accounting and record keeping.

Our Audit Division comprises auditors and accountants who audit the records of Group 1 licensees in the state. Group 1 licensees are those that collect more than \$6.2 million dollars in gross gaming revenue for the year.

Our Enforcement Division, shown on page 7, is essentially peace officers. Think peace officers who conduct investigations. They arbitrate disputes between patrons and licensees. They gather intelligence on organized crime. They make recommendations for inclusion of persons on our list of excluded persons, otherwise known as the "black book."

The Investigations Division investigates all pre-license applicants for any type of approval, whether it is an individual requesting approval to become a licensee or an entity, or an already-licensed entity or individual that needs a subsequent approval of another form. The Division prepares a report that goes to the State Gaming Control Board for it to digest.

Then the board holds a public meeting once a month to discuss the qualifications of applicants and whether or not they should be allowed to go forward as licensees. Traditionally, two weeks later the Nevada Gaming Commission meets to look at those recommendations. They can uphold them, deny them, or change them in any way they see fit. After someone is licensed,

agents in the Investigations Division continually monitor licensees for their activities, including their finances.

On page 8 is our Tax and License Division. It handles the Group 2 licensee audits, for entities that have annual revenue of \$6.2 million or less. In short it collects and deposits all gaming taxes, fees, and penalties, including interest and fines. It forecasts gaming taxes and fees for the Economic Forum. The Division produces a monthly press release on gaming win and percentage fee collections and also prepares that information for the Nevada Gaming Abstract.

Page 9 shows a detailed listing of our Technology Division. It reviews and makes recommendations for approval of gaming devices or associated equipment that comes to a gaming floor after an independent test lab has already made the review. Division employees perform random inspections of gaming devices and associated equipment after it has been deployed into slot floors and casinos. They also monitor technology trends and provide guidance to the industry and the State Gaming Control Board on gaming technology matters. In addition, they provide forensic support to the Board's five other divisions. The Division's role is becoming increasingly important simply because of cybercrime, and some of the elements that we see, not just related to interactive gaming, but to gaming in general and the use of electronics related to gaming.

On page 10 is a description of our funding by source. We are an interesting public agency in that we accept both State General Fund monies and funds through billable hours that our agents accrue. If an agent goes out into the field to conduct investigative work, the applicant is billed for that work. On the right [page 10, ([Exhibit E](#))], you can see the other funds as percentages of our total funds.

Page 11 has a pie chart showing that in fiscal year (FY) 2014 we collected, in total, \$912,371,316, with most of this coming from Clark County. The percentage coming from Clark County was 87.2 percent, with the remainder coming from Washoe County, Elko, South Lake Tahoe, Carson Valley, and other locations in the state.

Where do we get our collections? On page 12 is a breakdown of our collections by category for FY 2014. Percentage fees constitute the bulk, with roughly 75 percent. Live entertainment tax (LET) falls in just above 15 percent, and then our annual slot taxes, quarterly nonrestricted slot taxes, quarterly restricted slot taxes, quarterly games tax, annual games tax, and other collections make up the remainder. Are there any questions before I go through each of those?

Assemblyman Hickey:

You touched upon cyber enforcement in the wake of new online poker capabilities in Nevada. Could you briefly update us on how you oversee this, and if there have been any particular problems or challenges for your division with this new area of enforcement?

A. G. Burnett:

I am proud to say that in the interactive space we have been very good. We continually monitor licensees' activities. One of the things we were very concerned about, after the 77th Session concluded, was that when we did go live, there would be some issues in regard to hackers or geolocation cheaters, age and identification cheaters, things of that nature. I am not aware of any. Our licensees performed very well. The only hard part was that one of them did not have enough liquidity and did close shop; however, there are two remaining and they continue to do business unabated. We do penetration testing ourselves, and we are also aware of a lot of the attempts that occur. The licensees will notify us, usually in real time, when someone has made an attempt. While nothing is perfect, and there have been attempts, our record is very clean in that regard. The bulk of what we are looking at now is other areas of potential penetration, as software and technology continues to grow in gaming, not just on an interactive level but in general. Every day we see new products and new ideas, everything from new games and new devices, to accounting systems, new wagering systems, and all electronic and digitized. Our concerns are about making sure that data is protected, and that is a concern the licensees share as well.

Assemblyman Hickey:

Can we assume that you are going to be proactive and not reactive? The fact that you do not know of any problems in this relatively new system does not mean they do not exist, or there might be abuses. I guess what I want to hear is that you are going to troubleshoot and be aggressive about looking for those unscrupulous folks, who are quite smart, trying to find ways to take advantage of this new system.

A. G. Burnett:

I just presented some proposals on our budget that go right to the heart of that matter. Number one, I am very concerned about the data and protection at the board level. Number two, the goal is to be proactive, at least as proactive as we can be. We are not a large, publicly traded corporation that can expend millions of dollars to protect data; however, we have done as much as we can, and we continue to make that effort. One thing we have set up over the last year is a cybercrime team, and I also discussed that in our budget hearings this

morning. The team is made up of enforcement agents and technology staff and will address exactly those issues you asked about.

Assemblyman Hambrick:

Have you seen an increase in international challenges, international attempts to hack your system? So many of us read in the papers about hackers in Central Europe or Ukraine. Have you been able to identify a focal point, over any others, as to what part of the world seems to be challenging the integrity of your system?

A. G. Burnett:

Right now I think our system is as protected as it can get. We have not had any challenges from outside. However, as technology advances, our concerns increase when that progression occurs. As the Committee will recall in the last session, we got approval to go from a COBOL-based software recordkeeping structure over to a newer, less antiquated software base for data information. We have not had a breach. We have not had an issue. We are aware of groups outside of Nevada and outside of the United States that do attempt to hack into our licensees' data, and some have been successful. Our licensees expend millions of dollars, as do other large companies such as Target and Home Depot, in protecting themselves from those types of breaches.

Assemblyman Hambrick:

Do your licensees talk to each other? Are you keeping statistics on where these challenges are coming from and sharing this data, even with other states? The evolution of technology is just amazing, but I would like to know if there is communication among the industries?

A. G. Burnett:

I cannot speak to whether they are communicating among themselves; however, knowing the gaming licensees in our state as well as I do, I would be nearly 100 percent certain they are communicating among themselves. As far as communication with us, absolutely. Once a data breach occurs or is thought to have occurred, they will immediately notify me and my chief of technology, because there is a state statute that speaks to data protection by companies, including state agencies. As a regulatory body, our first question is whether they had protections in place sufficient to comply with statute. Secondly, we work with them. If they have not done anything wrong, and it rises to the level of disciplinary action with us, we will work with them to ascertain who the wrongdoers might be. They will also work with federal agencies. However, I think your previous question hit the nail on the head. Often these are overseas perpetrators and they just disappear. I think sometimes hackers do come from

within, and in those cases, to the best of my knowledge, licensees address the problem, with very swift action.

Chairman Armstrong:

Are there any other questions. [There were none.] Please continue.

A. G. Burnett:

On page 13, you can see a line item graph of the collections I referred to earlier. The top is a blend of total tax and fee collections. The remaining items are annual percentage fees, LET, and annual slot tax.

Page 14 shows the revenues collected by type. The first type is percentage fees. This is a tax based on a nonrestricted licensee's monthly taxable gross gaming revenue as defined by statute. For the first \$50,000 of taxable revenue the rate is 3.5 percent. For the next \$84,000 the rate is 4.5 percent, and then over \$134,000 the rate is 6.75 percent. You can see the amounts that were collected related to those percentage fees in FY 2013 and FY 2014.

On page 15 is the LET. I will not go into too much detail on this, because I know this will be a topic of much discussion, but the LET has led us to collect more than \$125 million in FY 2013 and nearly \$140 million in FY 2014. The rate is 10 percent of all amounts paid for food, beverage, merchandise, and admission in casino entertainment venues with seating of less than 7,500. Nonrestricted licensees that offer live entertainment in an area with a maximum occupancy, or seating, over 7,500 are subject to a 5 percent tax on admission sales only. The 10 percent LET is also applied at smaller restricted licensees—locations with 15 or fewer slot machines. In order for venues to be taxable under statute they must have a seating capacity of over 200 people with an admission charge.

Page 16 details the quarterly nonrestricted slot fee and the quarterly restricted slot fee. The quarterly nonrestricted slot fee is based on a quarterly fee of \$20 per machine operated by each nonrestricted licensee. The quarterly restricted slot fee is a payment based on the number of slot machines a restricted location operates each quarter, with a payment of \$81 per slot machine for the operation of one to five machines, and a payment of \$141 per slot machine if you go beyond five, up to the maximum of 15, which cuts you off for a restricted license.

Assemblywoman Neal:

How many licensees fit in the 4.5 percent category and how many licensees made over \$134,000 in revenue at the 6.75 percent rate?

Frank Streshley, Chief, Tax and License Division, State Gaming Control Board:

There are a large number of very small locations that only pay at 3.5 percent. I do not have the exact number. There are just a handful that would fall to where their total revenue would only get to 4.5 percent. The majority of all your big licensees, licensees with 50 slots or more, are going to probably hit the 6.75 percent tier.

For example, because of the revenue generated on the Strip, which is about 50 percent of the state's gaming revenue, our effective tax rate, when you compare taxable revenue to what we actually collected in percentage fees, is approximately 6.61 percent. That alone would tell you the majority are taxed at 6.75 percent.

Assemblywoman Neal:

On page 16, when you talk about the quarterly nonrestricted slot fee, what type of entity is paying the nonrestricted slot fee of \$20 per machine?

A. G. Burnett:

Nonrestricted licensees are those with 16 or more slot gaming devices and table games.

Assemblywoman Neal:

When was the last time this fee was adjusted?

Frank Streshley:

I believe the nonrestricted fee has been on the books since the early 1980s, but I believe the restricted slot fees were increased during the 72nd Session.

Assemblywoman Neal:

So in 2003 it became \$20.

Frank Streshley:

No, again this would be with the quarterly industry.

Assemblywoman Neal:

So in the 1980s it was increased to \$20.

Frank Streshley:

Yes.

Assemblywoman Neal:

Has there been any discussion about adjusting or shifting that? What is the cost prohibition there? Is it somehow burdensome?

A. G. Burnett:

It is something that the Legislature determines and looks at every legislative cycle. The State Gaming Control Board remains neutral in all taxation matters. I believe the topic is routinely brought up in various sessions; however, I cannot recall when this actual slot fee was last discussed in a legislative session.

Assemblywoman Neal:

I know that slots are different, such as baccarat. Is there a fee associated with that? That is a table game.

A. G. Burnett:

You are going right to my next page.

Assemblyman Kirner:

In looking at your chart, it strikes me as interesting that apparently the number of slot machines has not changed a lot over the years. Going back to my days at International Gaming Technology (IGT), we were always concerned that they were contracting. My impression, from these numbers, is that is not the case.

A. G. Burnett:

You are absolutely correct. That number has remained relatively flat, and it is actually an interesting dynamic. It is because slot machines have become more efficient. For example, you can now have multiple games on one device, so there is almost less need for actual boxes on the slot floor when you can have five machines that have 80 games, as opposed to 80 machines on the floor.

Assemblyman Kirner:

I agree, they are moving more towards electronics than the boxes themselves. Are we as a Legislature taking the right approach to this, or should we be looking at a tax based on the number of electronic games that are on the machine?

A. G. Burnett:

I would hesitate to give you any advice. I will say, however, that that notion has come up in the past. At least during my experience, I believe there have been some questions as to whether there should be a tax on games versus one on actual machines.

Assemblyman Nelson:

I notice on page 8 you mention—in addition to taxes—fees, penalties, interest, and fines. Looking at just fees, penalties, interest, and fines, is that a significant portion at all? About how much does that total annually?

A. G. Burnett:

That is a very good question, and I will say a bit more about that. If the State Gaming Control Board acting as prosecutor finds that a licensee has done something wrong, it can pursue a complaint against that licensee. Usually those complaints are settled, and usually they will incorporate some form of a fine. Last year, for example, was I believe a record year for the State Gaming Control Board in pursuit of licensees who had done something wrong. I want to say we collected roughly \$7 million in fines; however, in previous years it could have been \$1 million, \$2 million, or nothing. These numbers do fluctuate a bit, but that is what the fines are.

Assemblyman Nelson:

Would that also include the fines? There was something in the newspapers last year about certain things happening at certain properties dealing with illicit drugs and prostitution. Is that under your purview also?

A. G. Burnett:

It is, and some of those news items you mentioned were incorporated in that number I gave you.

Now looking at page 17 ([Exhibit E](#)), going to Assemblywoman Neal's question, we have a quarterly nonrestricted game fee. That payment is based on the number of games that a nonrestricted licensee operates each calendar quarter.

Next is the advance license fee. New licensees, after they have been in business for a full month of operation, are required to pay a fee that is equal to three times the amount of percentage fees owed for that month.

On page 18 is manufacturer and distributor license fees. These are companies such as Assemblyman Kirner's former employer, IGT. They manufacture and distribute gaming devices and technology. Manufacturers have an annual fee of \$1,000, and if you are a distributor that ships those games out you pay \$500 annually. You also pay \$500 annually if you are a slot route operator.

Page 19 refers to the annual slot tax. The payment for that is based on an annual fee of \$250 per slot machine. That is paid by all licensees. The first \$5 million of that tax amount goes directly to the Capital Construction Fund for Higher Education, 20 percent of it goes to the Special Capital Construction Fund for Higher Education, and the remaining balance goes to the State Distributive School Account.

Assemblywoman Kirkpatrick:

First I want to say thank you, because you really run a gold star operation. Your auditing division is one of the best. I think that many times we forget to acknowledge the golden goose in our state and all of the work they do behind the scenes to ensure that we are top notch.

I hope you can provide some additional information for us. How many entities fall into the 0 to 50 slot category, and how many fit into the 50 to 500 slot category? Can we get that information from you specifically?

A. G. Burnett:

Yes.

Assemblywoman Kirkpatrick:

For slot routes we need the same information, because we are going to have those discussions this session and we need to have the facts. Please get us that information and the information on manufacturers and distributors fees.

The one thing about gaming is we never have to go begging them to pay their fees. By statute, they get it done. It is very easy. I do not know why we cannot do that to the rest of the state.

I am wondering if your information technology system—the new software you got as a result of last session—gave you the capability to draw things out through an Excel sheet, because I think that would be helpful. I am not technology savvy, but it just seems that there should always be a way to sort data to get different information. I believe that you were working in that direction, and if that is the case, I would like to know how it is working, because maybe the rest of the state needs to work in that direction.

A. G. Burnett:

That is right. As to the first part of the question, I can absolutely say that we have that data and we can provide it to you. We redact any confidential information such as names. We probably already have some of those numbers prepared, and some of it may have been presented in the abstract.

As to the second part of your question, I can only commend my staff, the people sitting here with me and behind me. They do not have any special software programs or magical solutions. It is just hard work. The two divisions that do the collections, Tax and License, and Audit, have an exemplary staff. They are dedicated and hardworking people who do an extremely efficient job every day. I think we have the typical software programs. Chief Streshley can correct me if I am missing anything, but I think it is just elbow grease.

Assemblywoman Kirkpatrick:

I would like to reach out to them and ask them about best practices.

A. G. Burnett:

Absolutely.

Assemblywoman Kirkpatrick:

I am a big believer in reports, because before you try to go in and gut something, you should watch it for a session, to understand how it works.

At the very least, the gaming and liquor sectors of our state are spot-on, collecting their revenues all the time. There is never anything that is left on the table. They can tell you where almost every penny has gone on a regular basis.

A. G. Burnett:

I testified recently at a presession meeting that our tax and license division has a 99.99999 percent collection rate. Although I hesitate to give the Legislature any advice, I think not only is that due to the exemplary staff we have, but also to a very strong statutory framework that requires those taxes be paid. For example, there is a statute that says if you do not pay your taxes on time, after multiple notices your license is deemed revoked. There is no process. It is deemed revoked, and we do that.

Assemblywoman Neal:

I had a question about page 18. When gaming companies extend outside of the state and they create another entity or subsidiary, do any of the fees for manufacturing, distributors, slot, and operator license come back to the state, or is all that money going to the other state?

A. G. Burnett:

The money goes to the other state.

Assemblywoman Neal:

So nothing comes back to Nevada through, for example the MGM, if they have an MGM in Atlantic City? It is all gone?

A. G. Burnett:

They have a reporting structure in New Jersey or in whatever jurisdiction they do business through which they have to pay taxes.

Assemblywoman Neal:

With entities expanding more into other states, to be more competitive in other local markets, what has been the effect of the dilution of the revenue in Nevada?

A. G. Burnett:

That began 15 to 20 years ago, and it absolutely had an effect on revenue in Nevada. As gaming increased, Nevada went from being the only game in town, to first New Jersey, and now 47 or 48 other states having some form of gaming, be it travel gaming or full-on casino gaming. Some would say that the market has been saturated to some extent. In addition, worldwide jurisdictions have also opened up and continue to do so. I will say, as I did last session, Las Vegas and Nevada still retain what I would believe is the first and foremost position. Nothing is as unique as Las Vegas, and while revenues have in some places declined because of economics, politics, or what have you, Las Vegas still remains a resort locale that is unmatched anywhere in the world.

Assemblywoman Neal:

Has there been an industry discussion about not diluting themselves? Has there been a discussion that maybe the trend of trying to reach into all these other markets should actually stop, to maintain uniqueness?

A. G. Burnett:

I think you would have to ask them that question.

Assemblyman Trowbridge:

What are the differences between the Capital Construction Fund for Higher Education, the Special Capital Construction Fund for Higher Education, and the State Distributive School Account (DSA).

Frank Streshley:

I cannot go into any great detail. I know the two Capital Construction Funds were set up to fund bond payments. I believe these funds go to different sectors to pay off certain bonds for building the buildings at the universities, community colleges, et cetera. The last is the DSA, to run our schools throughout the state.

Assemblyman Trowbridge:

When the bonds are paid, do these fees expire, or do they just renew the funds?

Frank Streshley:

In statute they do not expire, they are ongoing.

Chairman Armstrong:

I would like my fiscal analyst, Russell Guindon, to elaborate on this. He might be in a better position to answer this question.

Russell Guindon, Principal Deputy Fiscal Analyst:

I do not have a lot to add to what Mr. Streshley stated, because we have worked on this now for over a decade. To elaborate a bit, I think the easier one is the last one, which is the DSA. It is a statutory fund that various revenue sources are placed into, part of the Nevada Plan, the kindergarten through grade 12 (K-12) funding formula for K-12 education. I do not know how much further I should go, given this is Assembly Taxation and not Assembly Ways and Means, but I can have a conversation with Assembly Trowbridge afterwards if he would like.

As Mr. Streshley said, the other ones go to the Nevada System of Higher Education, and they are dedicated to capital projects. Specifically, the Special Capital Construction Fund for Higher Education portion is pledged to bonds. The first \$5 million is a little more complex, in terms of how it goes into funding capital projects, and I will admit that I am no expert on this. Mr. Streshley is correct that this is a statutory rate, so the industry continues to pay these annual fees.

The way I understand it is that they have this revenue stream so the university could go out and say "we have this revenue stream that we can pledge to bonds," then they could pay off those bonds but issue an additional series of bonds. This is worked through the budget process, through the money committees.

A. G. Burnett:

In the 76th Session there was a law [Assembly Bill No. 219 of the 76th Session] passed regarding expired slot machine wagering vouchers. These are wagering tickets that have expired, in which case they escheat back to the state after a certain period of time. Licensees are required to remit 75 percent of the value of what is deemed an unredeemed slot machine wagering voucher each quarter.

Chairman Armstrong:

If it escheats back to the state, why does the other 25 percent go back to the institutions? Why do we allow that? Could the state get 100 percent?

A. G. Burnett:

I will have Chief Streshley elaborate further, but I believe that was a statutory creation. I cannot recall the reasoning behind those percentages.

Frank Streshley:

I will not be able to shed much light on why it was 75 percent versus 100 percent, but that was the number that was decided on. This was one of those discussions that they had at the end of the session.

A. G. Burnett:

Going on to the interactive gaming business on page 22, for an interactive gaming license, an initial fee of \$500,000 is required for a two-year license, and annually thereafter it is \$250,000. You can see our collections for FY 2013 and FY 2014 here [page 22, ([Exhibit E](#))]. In addition, if you manufacture interactive gaming systems in any form, the initial fee is \$125,000 for a one-year license, and the annual fee thereafter is \$25,000.

Assemblywoman Dickman:

I had a question on the vouchers. I understand you do not know why these percentages came about, but where does the other 25 percent go? Do the licensees keep it?

A. G. Burnett:

I can only answer that with a guess and say that, assuming they have been able to collect that 100 percent, they would.

Frank Streshley:

Chair Burnett is correct. Before vouchers, coin and currency were played at the machines. Now it is mostly currency, and you get a ticket voucher. For example, if an individual received a \$100 voucher, and for whatever reason never went to the casino cage or a kiosk to receive their money, the way statute works is that 75 percent is paid to the state; so yes, the licensee keeps the remaining 25 percent.

Assemblywoman Kirkpatrick:

I have this entire piece of legislative history in my office and would be happy to share it. What was happening is we were looking for revenue. We saw that there was this small amount of money. We asked the industry what was happening with the small vouchers that individuals were not cashing out. A couple of other states were looking at this at the same time we were. At that time the industry was keeping 100 percent. We went to them and asked for a share of this, because it was revenue we really needed. The industry stepped up and gave it to us, so we agreed to allow them to keep a portion. I also have history on the slot tax that I will share because we did bond that out last session. It has expired, and we bonded it out for some improvements to the Thomas & Mack Center and some improvements up north. I would be happy to share this information with the Committee.

A. G. Burnett:

The final category is service providers on page 23. These are entities that provide services that are ancillary to an interactive gaming operation. We have some tiered categories for those types of licensees, and the annual fee for them is \$1,000.

In the interest of the Committee's time I will skip through pages 24 and 25, simply because these have been presented before, and the Committee can peruse those at their leisure. These pages list some changes, from 1991 to the present, and some of the things that have been encountered by both the Legislature and the regulatory bodies.

With that, Mr. Chairman, I conclude my presentation.

Assemblyman Nelson:

On page 8 you mentioned one of your functions is to monitor tribal gaming compacts in Nevada. Do you receive any revenues from tribal gaming?

A. G. Burnett:

We do, Assemblyman Nelson. When a tribe enters into a compact with the Governor of the state, it allows them to operate gaming, and usually the compact will indicate that for the enforcement of the rules, the State Gaming Control Board can charge billable hours, just as it does with any other regular Nevada licensee. What we receive is nominal, because there are only a couple of tribal operations.

Assemblyman Nelson:

But you are not getting taxes from them, like you would a Strip casino?

A. G. Burnett:

I do not believe that they pay the same tax, if any. Correct?

Frank Streshley:

I believe it is illegal under federal law to tax tribal gaming. We cannot tax them at the state level, but again, as Chair Burnett said, we have two that we do collect a fee from. We offset it against our Enforcement Division, Technology Division, Audit Division, et cetera, for the services or work done at those locations.

Assemblywoman Diaz:

I have a couple of questions. I know we passed the online gaming bill last session. Is the collector of that the operator of interactive gaming licenses?

A. G. Burnett:

Yes. Their license fees are found on page 22, the initial entry fee for both categories of those, and then they remit gross gaming revenue taxes as well.

Assemblywoman Diaz:

I want to understand the different moving parts. There are the operators of the interactive gaming, but then there are the people who actually manufacture them and sell them to the operators. Could you tell me what part of the equation the interactive gaming service provider license and gaming service provider license are, because it is not really clear in my mind?

A. G. Burnett:

During the last session the structure that was created was one where an operator of an interactive gaming license had to be tied to what is called an affiliate of a gaming operation. So to use an example, Station Casinos is the gaming licensee. They created an affiliate to hold the interactive gaming operator's license. The affiliate at the time was Ultimate Gaming. Some companies choose to do everything in-house, in which case they would not need a service provider to do things like geolocation, age verification, or identification verification. Some companies were also able to create their own software from scratch. For example, one of our interactive operators, South Point, created everything in-house, from the software the customer sees, to verification services and things of that nature. However, when we entered into this new world there were a myriad of companies that were completely expert at doing these activities already, so the option was given to licensees to go ahead and have an affiliate. That would be the operator, who would then hire companies that could perform those other services for them, because again they already had the expertise to do that. So you see a little bit of blending there. Lastly, the manufacturers and distributors, companies such as IGT, Scientific Games, Bally Technologies, and Shuffle Master, that were producing various items that required some form of approval, for licensing and for technology, hence the manufacturer and distributor licenses.

Assemblywoman Diaz:

So IGT, for example, could be paying the manufacturer license fee of \$25,000, after they initially pay the \$125,000, and on top of that they could be paying another \$1,000 because they are doing another piece of it?

A. G. Burnett:

Sure, depending on what they are doing, they could be pairing various pieces of what you see before you, and an operator could hire IGT to provide things for them after those approvals have been granted.

Chairman Armstrong:

I also have a question on the interactive gaming. As we see improvements to the technology, and as we grow—at this point online poker is most of the interactive gaming, I think—have we entered into any compacts with other states to allow operators within Nevada to operate in other states? How would that work?

A. G. Burnett:

We have. The Governor entered into a compact with the Governor of Delaware, pursuant to what is called the Multi-State Internet Gaming Agreement. This would essentially allow the two states to comingle players, for lack of a better term.

A lot of careful thought and consideration went into this agreement by both Governors' offices. I believe it was signed early last year. Once it was signed, common licensees began work on developing the platform required to enable it to happen, and we are hoping for that launch to come soon. There has always been anticipation of other states legalizing as well, but until those other states legalize and join that agreement, it will be Nevada and Delaware.

Assemblyman Nelson:

At the top of page 22, operator of interactive gaming licenses, it says the initial fee is \$500,000 and then after the first two years it is \$250,000, yet the collections for FY 2013 and FY 2014 are odd numbers. How can they be anything other than a multiple of \$250,000?

Frank Streshley:

The statute has a proration, so the way it reads there is a \$500,000 fee for your first two years, but each month you get away from December 31, which is our due date, the amount is prorated to a smaller amount. For example, if Ultimate Gaming pays from April through the end of the year plus a full year, it is a prorated amount. So yes, you are correct. It looks odd, but it is because of that proration.

Assemblywoman Neal:

I am traveling back to the slot machine question. When a gaming institution replaces a slot machine on the floor, do they pay the \$20 again? Are they paying for the space or every time they replace a machine?

Frank Streshley:

A licensee pays for a nonrestricted location. They pay \$20 per machine for what they want to operate in the upcoming quarter. So, if they pay for 2,000 slots, they can change that mix, as long as they only have 2,000 slots on the floor. There would be no additional fees paid.

Assemblywoman Neal:

So it is a one-time fee for the year or the quarter?

Frank Streshley:

The \$20 is for the quarter. It is not machine specific.

Assemblywoman Neal:

They are paying for the space?

Frank Streshley:

Yes.

Chairman Armstrong:

Are there any other questions? [There were none.] Thank you for coming out and speaking to us. I really appreciate it.

Michael Nakamoto, Deputy Fiscal Analyst:

Next Tuesday's meeting is going to have a presentation from the Department of Taxation. For those of you who were paying attention this last Tuesday, I mentioned that the Department would be doing a presentation on the tax expenditure report. That part of their presentation has been postponed until a later date. They will still be presenting on the agency and their taxes, but the tax expenditure portion of their presentation has been delayed. We will also hear two bills of the Department's, Assembly Bill 57 and Assembly Bill 70. Materials related to that will be forthcoming.

Chairman Armstrong:

Before we close I will open the meeting for public comment. Seeing none, that finishes our agenda today. We are adjourned [at 3:15 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblyman Derek Armstrong, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: February 5, 2015

Time of Meeting: 1:34 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Barbara K. Cegavske	Prepared testimony
	D	Barbara K. Cegavske	Office of the Secretary of State Revenue Collection Overview
	E	A. G. Burnett	State Gaming Control Board Agency and Revenue Overview