

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

**Seventy-Eighth Session  
March 17, 2015**

The Committee on Taxation was called to order by Chairman Derek Armstrong at 1:33 p.m. on Tuesday, March 17, 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](http://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](mailto: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:**

Terry E. Rubald, Chief Deputy Director, Local Government Services,  
Department of Taxation  
Jeff Fontaine, Executive Director, Nevada Association of Counties  
Joni Eastley, Assistant County Manager, Nye County  
Yolanda King, Chief Financial Officer, Department of Finance,  
Clark County  
Mark R. Vincent, Chief Financial Officer, City Manager's Office,  
City of Las Vegas  
Jordan A. Davis, representing the Village League to Save Incline  
Assets, Inc.  
William J. McKean, representing the Village League to Save Incline  
Assets, Inc.  
Les Barta, Vice President, Village League to Save Incline Assets, Inc.  
Victor Joecks, Executive Vice President, Nevada Policy Research Institute  
Suellen Fulstone, Private Citizen, Reno, Nevada  
Michael E. Clark, Assessor, Washoe County  
Joshua G. Wilson, Chief Deputy Assessor, Washoe County

**Chairman Armstrong:**

[Roll was called and housekeeping items discussed.] On today's agenda we have quite a bit to get through. We have a presentation on property taxes, with quite a few presenters, followed by a bill. At this point I will open the hearing for the presentation for the review and discussion of property taxes. For the Committee members, as we have quite a bit to get through I will ask you to hold your questions until the end.

**Terry E. Rubald, Chief Deputy Director, Local Government Services, Department of Taxation:**

With me today is Jeff Mitchell. He is the supervisor of centrally assessed properties in our division. To refresh everyone's memory, the calculation of property taxes (page 2, [Exhibit C](#)) depends on four variables. First, we determine the taxable value. We then apply a factor, which is 35 percent, to the taxable value to determine assessed value. We then apply a tax rate to the assessed value to calculate the amount of revenue to be generated.

Typically the purpose of appraising property is to figure out what fair market value is. In our state, we test our taxable value to ensure that it does not exceed full cash value, which is a term interchangeable with fair market value.

The sales comparison approach estimates a property's value by reference to comparable sales. This is the approach that is considered to be the most reliable, if there is a sufficient number of sales of property with similar characteristics. Assessors use the sales comparison approach to establish the value of land.

The cost approach is based on the idea that a rational, informed purchaser would pay no more for a property than the cost of building an acceptable substitute with similar utility. It is also called the summation approach, because it is the sum of the land value using the sales comparison approach, plus the depreciated value of the improvements. In other states, the cost approach requires estimates of land value, accrued depreciation, and the current cost of constructing the improvements. In Nevada, we have adapted this method slightly, and I will talk more about that in a minute.

The income approach estimates fair market value by capitalizing the anticipated income stream generated by the property. In other words, an investor in real estate seeks a return on and of the money he or she invests, so he or she would pay no more for the property than the present value of the anticipated income stream. The way the fair market value is measured is to divide the income stream by a capitalization rate. You will see this approach used most often in appeals of commercial or industrial property to county and state boards of equalization, in which the taxpayer is trying to demonstrate that the taxable value exceeds full cash value by showing that the anticipated income stream generated by the commercial property, when capitalized, indicates a value less than the taxable value.

As I mentioned earlier, Nevada has adapted the cost approach in valuing property. It came about in 1981 when property values were going up by double digits, much like what we were experiencing during 2005. The Legislature at that time wanted to provide additional property tax relief to homeowners, while still providing an adequate source of revenue for local governments. In 1981 the Legislature passed what is known as the "tax shift of 1981" [Senate Bill No. 69 of the 1981 Session]. It reduced property tax collections significantly, and also placed a greater reliance on sales taxes for revenues for local governments. This legislation created the concept of "taxable value," which adds the market value for land based on the use to which it is actually put, rather than the highest and best use, plus replacement cost new, less a set rate of depreciation for improvements. That sounds a lot like the cost approach

that is used in other states, but there is one major difference unique to Nevada that has to do with depreciation.

In order to answer the question of how taxable value is different from full cash value, we first have to understand what full cash value is. The definition on the slide (page 5, [Exhibit C](#)) is currently in our statutes. Full cash value is very similar to "market value." The real estate market certainly has its ups and downs, but the general trend over long periods of time is that real estate appreciates in value.

In 1981, we split the land from the improvements and said only the value of the land will be a reflection of market value. The value of improvements will be based on a certain kind of cost, and the amount of depreciation will be predetermined by statute.

What would it cost to build your home today using the latest materials and building standards? That is the cost of replacement (page 6, [Exhibit C](#)). It is possible that the cost to build an improvement does not accurately reflect the market value of that improvement. For example, just a couple of years ago the cost of steel and lumber was going up, thus causing the replacement cost of improvements to go up, yet we all know the recession affected the market, and sales prices were going down. Similarly, in a strong upward market, the cost to build might not be going up as quickly as the sales prices in a competitive market, so replacement cost will often lag behind market values, and that was the case in 1981 when the "tax shift" was implemented.

As I mentioned, the other major component of the cost approach is depreciation, which is the loss of value of improvements from any cause (page 7, [Exhibit C](#)). Typically in other states there will be market studies to figure out what the actual rate of depreciation is, but in Nevada, state law requires depreciation to be calculated at a rate of 1.5 percent per year up to 50 years. When you multiply 1.5 percent times 50, that means that an improvement can be depreciated up to a total of 75 percent of the replacement cost, whether or not this is an accurate measure of the actual loss in value as a result of wear and tear or some other source of obsolescence. This was intended during the tax shift of 1981 to counter the effects of appreciation of real estate in a strong market.

So, from time to time, you will hear the suggestion made that "we need to get rid of depreciation," and what is really meant is "we want to get rid of the scheduled rate of depreciation of 1.5 percent per year," because a rate of depreciation that is not based on actual market conditions causes a gap between market value and taxable value to be greater, particularly during a

strong market. Remember, even in a market value system, depreciation is recognized. The physical property still experiences wear and tear. It is just that the rate of appreciation as a result of market forces in a robust market overcomes the rate of depreciation caused by wear and tear of the improvement, and the net result is then an increase in value.

Once we have established taxable value and multiplied it by 35 percent to get assessed value, we then multiply assessed value times the tax rate. There are 266 entities in the state with the authority to levy a tax. Of those, there are 15 tax districts with overlapping tax rates that have reached the maximum allowable tax rate of \$3.66 per \$100, including Mineral and White Pine Counties.

The Department publishes all of the tax rates in a document called "Property Tax Rates for Nevada Local Governments," which is also known as the Redbook (page 9, [Exhibit C](#)). It can be found on the Department's website. If I could ask you to turn to page 26 of the "Elements and Application" handout ([Exhibit D](#)), you will see the 2014-2015 property tax rates by county and city. As you can see, the total overlapping tax rate in column 10 is the compilation of columns 5 through 9, so each jurisdiction has a component of the total property tax rate, including the state, which has a rate of \$.17 per \$100. On pages 27 through 29, there is a list of voter approved overrides, along with the purpose of the override, the rate approved, when it was passed, and the duration of the levy.

The information on this chart (page 10, [Exhibit C](#)) is also published in the Redbook. It is the total amount of tax dollars projected last year for the 2014-2015 tax year, and the breakdown among schools, counties, cities, special districts, and the state. In general, the state's share of the total property tax is about 5 percent of the total. The total taxes generated, prior to exemptions and abatements, is about \$2.8 billion. The schools receive about 39 percent of the total; the counties receive about 28 percent of the total; cities and towns receive about 15 percent of the total; and special districts receive about 13 percent of the total.

In Nevada all property is taxable; however, there are a number of property tax relief programs in place that are designed to alleviate property tax burdens, or encourage publicly desired objectives. There are two types of relief programs. There are property tax limitations, and there are property tax credits and exemptions. I have listed a few general types on this slide (page 11, [Exhibit C](#)). Nevada has something for each of those listed, except perhaps for spending limits and property tax rollbacks. I would again encourage you to refer to the

"Nevada Property Tax: Elements and Application" handout ([Exhibit D](#)) for a more complete discussion of each of those relief programs.

One of the property tax relief programs I would like to spend some time on this afternoon is the program known as the "tax cap," which is a reference to the general and residential partial tax abatements that were implemented back in 2005. Both the residential and the general partial tax abatements are reductions of tax liability, so even if taxable value of property increases or if tax rates increase, the actual measure of the tax liability is no more than 103 percent of the prior year's tax liability for residential property, or up to no more than 108 percent of the prior year's tax liability for all other property.

This chart (page 13, [Exhibit C](#)) shows data for the history of what has occurred since the inception of the abatement. In the first year, almost 25 percent of the total taxes due were abated, which declined substantially during the recession years to a low of only 3.69 percent. Since 2012, the abatement has been on the rise again, to almost 13 percent in 2014-2015.

The residential tax cap applies to single family residences that are owner occupied and constitute the primary residence of the owner, as well as for certain qualifying rental properties.

The abatement for qualifying residential properties is calculated by multiplying last year's tax liability times 1.03. This result is then compared to this year's tax liability. Any amount of this year's tax liability that exceeds the result of multiplying last year's tax liability times 1.03 is abated.

The 3 percent abatement applies to existing properties that are the primary residence of the owner. There are several steps the assessor goes through to qualify property as the primary residence of the owner. First, the owner must claim the property as a primary residence. This slide (page 15, [Exhibit C](#)) is an example of a typical claim form. The primary residence is exclusive of any other residence of the owner in this state, but it is not exclusive of any other residence of the owner in other states. So, a person who might live most of the year in California can still claim a residence here in Nevada as the primary residence for purposes of the abatement.

Although a claim may be received, the assessor also has to determine several other factors, such as whether the property is a mixed-use property having both a residence and nonresidence improvements on it. This may affect which level of abatement to apply. The assessor may also have to determine whether the property is a single-family residence out of which a home business is operated.

In that event, the property still qualifies for the 3 percent level of abatement. Single-family residence does include mobile homes.

Assessors also identify rental property that is eligible for the 3 percent abatement separately from rental property that is eligible for the general abatement. As part of the information they need to determine whether a rental qualifies for the 3 percent level, they annually have to obtain the rental rates from property owners claiming the 3 percent level of abatement. They then compare this information to the fair market rent published by the U.S. Department of Housing and Urban Development (HUD) and disseminated by the Department of Taxation to determine whether the rental rates are equal to or less than the HUD rate.

The general abatement is the same basic calculation as the residential abatement, except the amount of taxes abated is the amount in excess of up to 8 percent over the prior year's taxes.

One of the major exceptions to either the residential or the general abatement is that it does not apply to new property, which is typically a property that had no assessed valuation established for the preceding fiscal year because it is actually brand new or it did not exist in the same form in the prior year.

The assessor must determine whether the property is new or was not in existence in the prior year based on a variety of factors. The Nevada Tax Commission has spent a lot of time creating regulations to help the assessors determine what property is considered new for purposes of the abatement, and what is considered to be a remainder parcel, and what is a change in actual or authorized use. As an example, if a building is used as a residence, then the residential use is the actual use. If the property is zoned for residential use, that is the authorized use. If a house was converted to a commercial use, that would be a change in the actual use and it would be new property—the base year is reset to the year of the change in use.

Despite all the new regulations, the determination of what is new property and what is remainder property has generated several appeals over the years to the Tax Commission and to the courts.

As I said before, taxes are the result of two things: assessed value and the rate of tax. There are certain exemptions from the abatement, in terms of whether some portion of the assessed value is exempt or whether a portion of a tax rate is exempt from the abatement. It is pretty complex and I am going to spare us all from getting into it too deeply, but I will say that correct tax computation requires splitting value into several components: existing value, new value,

exempt value, and under certain circumstances, recapture value. In addition, because some portion of the combined overlapping ad valorem tax rate may be exempt from abatement, different tax rates may apply to each value component.

Remember the old tax revenue formula, on page 2 ([Exhibit C](#)), assessed value times rate equals tax revenue? Well, compare that formula to the new one shown on page 19 ([Exhibit C](#)). For those of you who love mathematical formulas, this slide shows how the calculation of the tax is done now. As I said, it is pretty complex.

There is one additional complexity about the general abatement and it is that the level of the abatement can be anywhere up to 8 percent, and it varies from county to county and from year to year. The actual level depends on the comparison between the ten-year rolling average of assessed value of the county, compared to twice the growth in the Consumer Price Index (CPI). Whichever is higher, up to 8 percent, is the general tax cap factor.

I have highlighted just one of the counties as an example (page 20, [Exhibit C](#)). In Clark County, the ten-year moving average growth rate in fiscal year (FY) 2014-2015 was 1.4 percent. This is compared to the change in the CPI multiplied by two, which in this case was 3 percent. It turns out that twice the CPI is greater than 1.4 percent, so the general tax cap factor in Clark County for the tax year 2014-2015 was 3 percent.

This slide (page 21, [Exhibit C](#)) is a little history of what has happened to the ten-year moving average growth rate in assessed value in each county, as well as statewide. You can see that for Clark County, in the first year of the abatement, assessed value was growing at the rate of 12.6 percent, hitting a high in 2007-2008 of 16.92 percent, and then declining each year since then, until 2014-2015, when the ten-year growth rate was a mere 1.4 percent.

This slide (page 22, [Exhibit C](#)) is a little history of the tax cap. It shows that when it was first implemented, Clark County was at the maximum general tax cap factor of 1.08, but in the last three years, as the ten-year rolling average declines, because the high years are falling off of the average, Clark County is now at 1.03. So both the residential and the general tax cap factors are at 1.03.

I highlighted Mineral County as well, because an interesting factor occurred back in 2010-2011. In that year, Mineral County's factor was 1.003, and that is not a typographical error. It was one-third of 1 percent in that year because the CPI growth was negative that year, and the ten-year rolling average was



one-third of 1 percent, which of course was higher than a negative CPI. Because the general tax cap was that low, the residential tax cap in that year was also lowered from 3 percent to one-third of 1 percent, per statute.

In summary, there is a lot of work done behind the scenes in order to implement the tax cap. One of the most important steps in the abatement process is identifying certain types of property for purposes of applying the varying levels of abatement. Prior to the tax abatement laws, an assessor might simply identify property as residential, commercial, industrial, or agricultural. In addition to those classifications, the assessors now also identify additional kinds of property, such as the types you see here on this list (page 23, [Exhibit C](#)). For instance, the assessor will have to sort out residential property into qualifying primary residences for one kind of abatement; other residential property qualifying for a general abatement; new residential property which is not eligible for any kind of abatement; existing residential property, which has been annexed into a new taxing district, thus causing a change in the tax rate; residential property that experienced obsolescence in one year and regained its value in the next year, so that a recapture of some of the abatement may be made; and the list goes on for each type of classification.

Forecasting revenue from property taxes has become a bit of a challenge over the years, because we cannot simply multiply rate times assessed value to forecast revenue. Because of all of the complexities of the abatement, what happens now is the county treasurer takes the assessor's assessment roll that indicates the assessed values with all the exceptions, remainders, and property eligible for recapture, and then applies the tax rates forecasted to be used for the coming year to see what kind of abatements will be generated. The Department produces a pro forma report for local governments at the end of March annually, which projects what effects abatements will have on property tax revenue.

That completes my presentation. I would be happy to answer any questions.

**Chairman Armstrong:**

We will hold the questions until the end, because we have four more presenters, and I want to make sure we get to the bill. We will have the presenters come up and give highlights from their PowerPoint presentations, about five to ten minutes each, and then we will get to the bill.

**Jeff Fontaine, Executive Director, Nevada Association of Counties:**

Our Deputy Director, Dagny Stapleton, is here with me this afternoon. First of all, I would like to thank you for inviting me to present testimony on how Nevada's counties are faring under the current property tax structure, and how

they are impacted by what has been happening with property taxes. I am going to give a very brief, micro overview that will cover pretty much all the counties. We have with us this afternoon Ms. Yolanda King with Clark County and Ms. Joni Eastley with Nye County, who will provide more specifics on their counties.

I want to start by saying property taxes are the largest revenue source for most of our counties, and since 2010 these revenues have declined. In fact, they have declined 17 percent between 2010 and 2014. This is at a time when, for the most part, the state was in a recovery mode. As a result, you can see what that means in terms of the revenues to counties and their general funds (page 2, [Exhibit E](#)). Their revenues per capita have steadily declined over the years, from a high in 2010 of \$884 per capita to \$638 per capita in 2014.

Ms. Rubald went over this information in her presentation, but there are a couple of points I want to make (page 3, [Exhibit E](#)). First of all, what you see on this page is the county tax rate. That is just one component of the overall tax rate in each county, and then the highest tax rate. Under the highest tax rate, there are some nine counties that are either at the cap or effectively at the cap. What that means is, without either an action by the Legislature and/or voter override, they are effectively limited in terms of increasing their property taxes. That said, just to give you a range of what those property taxes are in each of those counties, look, for example, in Clark County. I am told that for every penny of property tax rate that brings in approximately \$5 million. That is after abatement. If you go to a place like Esmeralda County, one of our smallest counties, for every penny of property tax rate they have, they would bring in about \$5,580.

The highest tax rate in each of those counties includes all the taxing entities, and it is not necessarily the tax rate for everybody in that county, but just for those individuals who are in a particular location that has overlapping districts.

The next several slides (pages 4 through 8, [Exhibit E](#)) show information supplied by Applied Analysis for the counties and cities. I will cover Washoe County very quickly in two slides, and the remainder of the counties, and Ms. King will talk about Clark County.

For Washoe County, you see the assessed values (page 4, [Exhibit E](#)) and the trend from 2009 through 2015. You pretty much see the same in many of the other counties.

Next are the property tax revenues. Again, this is net of abatements (page 5, [Exhibit E](#)). You can see the trend there with projected increases in this fiscal year.

The next slide (page 6, [Exhibit E](#)), shows the remainder of the state. What is different here is that for the five rural counties, the assessed values started to increase, and that was a good trend, but this year they are expected to decrease in aggregate across the rural counties.

For the property tax revenues (page 7, [Exhibit E](#)), county by county, in aggregate you will see that the property tax revenues actually are projected to increase in 2015. I think this is primarily the result of being able to again tax against the lag in the abated values. If we continue to see a decline in assessed values, or even a flattening, then those property tax revenues will eventually begin to decline as well.

The last slide shows a very important chart (page 8, [Exhibit E](#)). It shows the money lost due to property tax abatements, the 3 percent and 8 percent caps Ms. Rubald mentioned in all the counties. You can see on these bar graphs where that lost property tax revenue is. Obviously, Clark County and Washoe County are the largest. Of all of the entities that received property tax revenues, the counties lost the most, after school districts.

I would say for county governments that rely on property tax revenues, and in many counties property tax revenues make up more than 50 percent of their general fund revenues, there are issues out there. You will hear more about this from the other speakers. Property tax revenues used to be very predictable, and you might even say a stable revenue source for county governments, but that is no longer the case.

I would be happy to answer any questions.

**Chairman Armstrong:**

We will move on to Nye County.

**Joni Eastley, Assistant County Manager, Nye County:**

I am not going to take very much time at all. I think Jeff really provided a very good recap of what is going on. My first slide shows county assessed values (page 2, [Exhibit F](#)) for FY 2005 through 2014. As you can see, assessed valuation has declined in Nye County nearly \$590 million since our high in FY 2010. Unfortunately, opportunities to generate revenues from other sources are either insignificant or they simply are not available to us.

I thought it was important to include a slide on Pahrump (page 3, [Exhibit F](#)). If you compare the total county assessed valuation to the assessed valuations in Pahrump, you can see it does not really track what is going on with the rest of the counties. The reason for that is we still have a lot of short sales and foreclosures in Pahrump. Pahrump is our largest community at 18,000 square miles in size, where almost 90 percent of our population lives. Based on the statistics you see, we do not believe we have bottomed out there yet.

Page 4 ([Exhibit F](#)) shows general fund revenues for FY 2005 through 2014. This slide applies only to real property. Personal property and centrally assessed taxes are not generated from these assessed values. As you can see, we have reset to 2005 levels. An interesting piece of information, property tax represents the largest source of revenue in the county, in all of the towns in the county except for the town of Tonopah. Tonopah's largest revenue source does not come from property taxes, it comes from room taxes. That tells you how bad things are there.

As you can see on page 5 ([Exhibit F](#)), our abatements have risen slightly in 2014, but we saw next to nothing in FY 2012 and 2013, which is just a further indication of the significant drops in assessed valuations, and underscores the problem that we are having in Pahrump with short sales and foreclosures.

That ends my presentation.

**Chairman Armstrong:**

I would like Ms. King with Clark County to go next, then Mr. Vincent with the City of Las Vegas.

**Yolanda King, Chief Financial Officer, Department of Finance, Clark County:**

Much of the information for Clark County pretty much mirrors what has been mentioned by Nye County, as well as that from NACO.

What this chart represents (page 2, [Exhibit G](#)) is the assessed valuation for Clark County. This is all of Clark County, which includes unincorporated Clark County, as well as all the cities that are incorporated within the county. If you take a look back at the assessed valuation, going back to 2005 through 2015, what is important to note is the assessed valuation estimated for FY 2015 is \$63 billion, which is roughly at the same level as FY 2006. What is important to note is that while they are showing an increase of 14 percent between FY 2014 and 2015, that 14 percent increase in assessed valuation does not and will not equate to the same or an equivalent amount of property tax collections, and that is because of the abatements.

Page 3 ([Exhibit G](#)) represents the property tax revenue that has been collected for just the Clark County General Fund from 2005 through 2015. As I mentioned before, the assessed valuation increase was 14 percent, but if you look at the property tax revenue that is collected by the Clark County General Fund, that increase is only a 4.2 percent increase. This amount, which is collected for FY 2015, is the same as the level collected in FY 2006. Another thing to note, if the property tax growth rate is at 3 percent, the tax collections will reach the level of FY 2009 in FY 2028. At one point the property tax revenue for the county general fund used to be the largest revenue source that was collected in the county general fund. It was a predictable and stable revenue source for the Clark County General Fund, in that you could estimate just based on the assessed value and based on the growth in the assessed valuation, the revenue that would be collected in the Clark County General Fund, and what that percentage increase would be.

Because of the abatements, it is difficult for us to determine how much and what percentage increase will be collected for property tax revenues.

I also wanted to review with you what the abatements look like in Clark County in total dating back to FY 2006. This blue chart (page 4, [Exhibit G](#)), represents the total parcels, which are currently about 720,000 parcels within Clark County. The green bar outlines the total properties, of the total 720,000 properties in Clark County, that are currently in abatement. So, starting in FY 2006 there was a total of 81 percent of total properties in abatement, and then it dropped to a low of 3 percent in FY 2011. In FY 2015, we are looking at 85 percent of the total properties being in abatement. Preliminary numbers for FY 2016 will increase to 92 percent of the properties being in abatement. Most of that is attributable to the fact that as the assessed valuations grow, you will have more and more of those properties going into an abatement, and eventually probably 100 percent of those properties will be in abatement, as the assessed valuations continue to grow.

The next slide (page 5, [Exhibit G](#)) gives a breakdown of the residential and commercial properties. This was referred to by Ms. Rubald as the "other properties," so it is pretty much the same in terms of a definition. What this chart represents is an outline for the percentage of the total properties that were in abatement, what percentage was residential, and what percentage was commercial. Looking back to FY 2006, 41 percent of the properties that were in abatement were residential properties, and 59 percent of those properties were commercial properties. Moving forward to FY 2015, it is approximately the same percentage, in that 34 percent of the properties were residential and 66 percent of the properties were commercial. The red percentages to the far right of this page represent the commercial cap that Ms. Rubald referred to

earlier. Starting in FY 2006, that percentage was at 8 percent, and then as you work through, either the ten-year average or the CPI, that percentage cap for commercial properties declined to the same amount in 2015, which is at 3 percent.

I also wanted to give you some information for FY 2016. It is estimated by the Department of Taxation that the percentage cap will increase to 3.2 percent. What that means for Clark County is that, although the cap for commercial properties is going from 3 to 3.2 percent, the amount of revenue expected as a result of that percentage cap increase is \$500,000 into the county general fund.

The next slide (page 6, [Exhibit G](#)), outlines the total property tax collections by entity. As you can see, almost 43 percent of the property taxes collected within Clark County are remitted to the Clark County School District, and 26 percent goes to the Clark County towns and fire districts. The remaining amounts go to the state, the various local government agencies, and the cities.

Page 7 ([Exhibit G](#)) shows a breakdown of property tax abatements. Because the Clark County School District is the recipient of the largest amount of property tax revenues, it loses the largest amount due to abatements.

I wanted to note for you that in FY 2014, the total amount of abatements in Clark County was \$109 million, so there is \$109 million that is not being collected by the county, the cities, the state, or the school district.

I wanted to give you an idea of what those abatements look like, and who exactly is receiving the abatements. What this first chart shows is the residential property abatements (page 8, [Exhibit G](#)). The left side of the table breaks down the amount abated by dollar category. For abatements of less than \$20, you have approximately 28,000 residential parcels receiving abatements, then abatements of less than \$100, less than \$200, and greater than \$200. This breaks down for you those residential properties and the dollar amount of abatements they are receiving.

On the next slide (page 9, [Exhibit G](#)) is a table that breaks down what it looks like on the commercial side. Commercial abatements account for roughly \$86 million of the \$109 million of abatements, so commercial abatements account for close to 80 percent of the total abatements. What is also important to note is that, of the total abatements for commercial properties, there are a total of 79 properties with abatement values of greater than \$100,000, and this equates to a total of \$48 million, or 55 percent of the total commercial abatements. What we have are 79 properties representing less than

0.1 percent of the total commercial properties, that are receiving \$48 million in abatements.

The information on the next slide (page 10, [Exhibit G](#)) gives you an idea of what 1 cent of property tax rate increase would generate for Clark County. If Clark County wanted to increase our property tax rate by 1 cent with property tax abatements, based on the current estimated numbers we have for FY 2016, this would generate an additional \$747,000. As more properties are pushed into the abatements, that is less money collected by the state, as well as the counties and the cities. If there was a 1 cent increase to Clark County's countywide property tax rates without the abatements, this would generate \$6.3 million for Clark County, so you can see the difference between what an abatement does, if you increase the property tax rate by 1 cent with the abatements, and if you increase without the abatements.

That \$747,000 will continue to decline. It will not increase, and that is because of the abatements. While the comparison between \$747,000 and \$6.3 million is significant, it does not really help Clark County to try to increase those rates, because whatever amount we try to increase by, there is only so much that you will be able to collect because of those abatements.

This last slide (page 11, [Exhibit G](#)) lists the property issues I have outlined, which include that property tax is no longer a stable source of revenue for Clark County. It has limited recovery due to the property tax abatements, and then the county and the cities are restricted in the property taxes they levy because of the tax caps and/or voter approval requirements.

Mr. Chairman, that concludes my presentation.

**Mark R. Vincent, Chief Financial Officer, City Manager's Office, City of Las Vegas:**

I will go through my slide show very quickly ([Exhibit H](#)). You have already heard that property tax is the second largest revenue source throughout the state, right behind sales tax. There is no question that the economic instability that we saw in the last half of the last decade, coupled with legislative changes, specifically Assembly Bill No. 489 of the 73rd Session (2005), has significantly altered the tax calculations, as well as the tax yield, and you have heard a lot of testimony about that.

I would also like to say that Nevada property tax is unique, for the reasons you have already heard. Three things make our tax structure unique: our improvement values are determined based on replacement cost; we depreciate



those at 1.5 percent per year for year service, for up to 50 years; and we have partial property tax abatement caps.

These are three areas that are primary concerns to local government (page 3, [Exhibit H](#)). I will go through them pretty quickly.

You have already seen a slide like this (page 4, [Exhibit H](#)). Interestingly enough, I would certainly agree that the bulk of the \$5 billion in abated tax is cumulative since FY 2007. Most of that was on the upside, during the real estate bubble. We could easily agree that this was probably warranted, but when you look at FY 2015, where values are just now getting back to normal levels, you could argue we are still abating \$370 million throughout the state, and as Ms. King pointed out, the largest chunk of that is for the school districts.

Page 5 ([Exhibit H](#)) is just a different way of showing the effects of the cap. I will not go through this, but it does show you the calculations and how we arrived at the fact that it was 3 percent for FY 2015. As Ms. King indicated, the calculation for FY 2016 looks like it is 3.2 percent. You can see that the dropping of the ten-year assessed value average means that we will be looking at CPI growth in all likelihood as being the cap for commercial.

You have not seen this slide (page 6, [Exhibit H](#)) quite this way before. It is a stacked bar chart. The important part about the areas in red is that these show the property that was abated, actually levied in the normal calculation, but abated because of the 3 percent and not more than 8 percent caps. As I mentioned, most of the abatements—the \$5 billion and \$6 billion in abatements—occurred during the ramp-up of the real estate bubble. Understand that no one paid property taxes on the full value. They paid a partially abated value, and the green bar represents that. What is interesting is as we enter into FY 2015-2016, we are starting to see some growth, and now we are looking at the abatement piece gross. Assembly Bill No. 489 of the 73rd Session is a one-way ratchet. It ratchets on the way up. On the way down there is no floor. The argument here is that the recession has reset tax revenue with a specific cap that is going to take roughly two decades to get back to where we were prerecession, even with the abatement. I will note that from the bottom out, for Las Vegas, for FY 2013 to 2016, the rate of growth and tax revenue for us works out to an annual percentage rate of 2 percent, which is even less than the cap.

I would like to talk about some of the issues on page 7 ([Exhibit H](#)), such as depreciation. You understand the calculation. Say you have two homes, with a market value of \$250,000, and the buyers each paid \$250,000 for these homes. One home is brand new and one is 50 years old. The one that is



50 years old, assuming the \$3.30 tax rate, even though the market value is the same, 60 percent less is paid in property taxes on the 50-year-old home. That is the result of depreciation at 1.5 percent per year, up to 50 years. It is a big issue for older cities. In Reno and Las Vegas, where we have older urban areas, this is a huge issue, because there are a lot of properties that are 50 years of age and older.

With respect to the appeals valuation Ms. Rubald talked about, the income approach, one of the things that we saw happen as an unintended consequence of A.B. No. 489 of the 73rd Session, was when we had the recession, you had revenue-producing commercial property that appealed the tax bill on the income basis. The income appeals were intended to be a one-year appeal, where we reset the next year, but the problem we have is with the property tax caps. Once you get the appeal for that particular year you have to reset the tax bill at a new low. It does not snap back. In fact, the recapture rules say you have to have a decline in assessed value of 15 percent, followed by an increase of 15 percent or more, and we simply did not see that happen during the recession. As every year was ratcheting down through the recession, what we have done is we have reset properties at a new low, which is why you see 79 properties accounting for 55 to 60 percent of the appeals, so that is the problem we see with that.

I will just close with an idea. When you look at counties and cities, and at the revenue per capita for all governmental activities, including capital projects funds, special revenue funds, internal service funds as government activities under the Comprehensive Annual Financial Report rules, but excluding enterprise funds, you can see (page 8, [Exhibit H](#)) that revenue per capita is down significantly from FY 2010 to FY 2014. The idea that the local governments, county, and cities have recovered and revenue is responding is simply not accurate when you look at it in its totality.

**Chairman Armstrong:**

Thank you Mr. Vincent, and to all the presenters for being expedient. We have a brief period of about ten minutes. I will open it up for questions and answers.

**Assemblywoman Kirkpatrick:**

I struggle with feeling sorry for the cities when we do tax increment financing (TIF) to build a parking garage, to build baseball stadiums in the north, and redevelopment, because the counties gave up a lot of that. I think most counties mothballed their redevelopment in 2007, when things were happening.

For the record, I do have a bill this session [Assembly Bill 412] to try to fix the 8 percent cap at least, because I think there is some real value in that.

Explain to me on improvements and depreciation how that works in conjunction when we do TIFs and redevelopment. How does that work? I do not think we should punish the people who have stayed in their older homes of 50 years, and have worked to pay them off. They typically would be the ones who may be affected if we did away with the caps, or the depreciation for that matter. I want to understand how this works in correlation with the other stuff.

**Mark R. Vincent:**

If I understand your question, it is relative to the activities we have in the redevelopment area, and how this relates to that.

As you know, by definition, a redevelopment area is an economically depressed area with very little, if any, residential property in there, other than perhaps some of the new high rise towers. The idea of the redevelopment agency was it being a depressed and blighted site, that we were trying to reinvest tax revenues to encourage new development. New development, obviously, comes on the tax rolls, and it is full value when it is brought into use. We did see some significant growth in the redevelopment agency during the middle part of the last decade. Of course it was hit very hard by the recession as well, but we had very little residual property in that area.

**Assemblywoman Kirkpatrick:**

I may not be explaining it right. For instance, this provision of the depreciation, to go back and change the depreciation, there are many redevelopment agencies throughout the cities and the state that do have homes within a redevelopment map that are 50 years old, so they would be affected by the depreciation. Does it not already freeze when you do the redevelopment, so depreciation would not make a difference in one of those maps?

**Mark R. Vincent:**

Not to the taxpayer. The taxpayer is going to have improvements, either commercial or residential, and in this case you are talking about residential. Their improvements are going to continue to depreciate up until the point in time the property improvements are 50 years old. That continues whether you are in the redevelopment area or not. The issue is not to eliminate it; it is the rate of depreciation, because you have tax bills that are capped at 3 percent. For the sake of argument let us assume that 100 percent is improvement value. Most of the value is in the improvements. The issue then becomes once the property is 50 years old, it is fully appreciated. It is going to be brought on the tax roll at 75 percent of the value. We are talking about slowing that rate down. If roughly 100 percent of the value is improvements, we would have to see a 4.5 percent growth rate to net the 3 percent. We are losing 1.5 percent off the top every year on the improvements.

**Assemblywoman Kirkpatrick:**

I do not disagree. Those are the types of places we want to redevelop, so they do come on at 100 percent. I think I am the only one on this Committee who was here in 2005 when local government was begging for help. I understand trying to adjust it.

I have one question for NACO. I like the way Clark County broke it down, between residential and commercial pieces. I think that gives us a great overview. Is there any way you could do that with some of the smaller counties? I think it is just a formula, the way you do a request, or can you give us some basic idea at some point?

**Jeff Fontaine:**

I am sure that data exists. I will do my best to get it to you, either from the individual counties or perhaps working with the Department of Taxation.

**Assemblywoman Neal:**

My question is for the City of Las Vegas. You were talking about A.B. No. 489 of the 73rd Session, and how for a period of time they used income valuation. I do not know if I heard you clearly, but how many businesses took advantage of that income valuation? You said the base was reset, so you were not going to be able to capture as much as you thought.

**Mark R. Vincent:**

I do not know that I can answer that question. I believe when we did the presentation to the Senate Committee on Revenue and Economic Development, a question was asked along those lines, and they wanted to know specifically who those 79 were that accounted for such a large percentage of the abatement. I do not intend to deflect it, but I think Clark County may have a better answer for that question than I.

**Yolanda King:**

I am researching that information, to give you an idea of the 79 properties that I mentioned, and when was the first time they went to the Clark County Board of Equalization and how many times thereafter those properties had presented or asked for a lower assessment. I will get that information to you, when I receive it from the assessor's office.

**Chairman Armstrong:**

I will close the presentations on the overview and discussion of property taxes, and open the hearing on Assembly Bill 56.

**Assembly Bill 56: Revises provisions regarding the equalization of assessments of property for purposes of taxation. (BDR 32-304)**

**Terry E. Rubald, Chief Deputy Director, Local Government Services, Department of Taxation:**

Assembly Bill 56 is a bill that asks to update the language in Chapter 361.333 of *Nevada Revised Statutes* (NRS), governing the equalization of assessments for property tax purposes among counties. It is a bill that is intended to provide better, more usable information about how property values are established, without asking for more people to do the work. It is a bill intended to improve our quality control program by examining the methods assessors use to administer property taxes, through performance auditing.

The concept of equalization comes from our *Nevada Constitution*, which requires the Legislature to provide for a "uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property." The question is, how do we measure whether the valuations established by county assessors have been just, and that the rate of assessment and taxation is uniform and equal?

One thing that NRS 361.333 does is to provide for a quality control program called a "ratio study," where the assessments made by each county assessor are tested for accuracy and uniformity through statistical tests and procedures.

I would like to call your attention to ([Exhibit I](#)), which is an example of a ratio study from the International Association of Assessing Officers. This particular example comes from their publication called *Standard on Ratio Studies*. This standard has been adopted by the State Board of Equalization in its regulations, and it is an authoritative standard. This particular example shows us that there were 36 sales in the sample, and a comparison was made between the assessor's appraised value and the actual sales price. The comparison is the ratio that you see in the far right-hand column. There are a number of statistical measures and tests that would be performed on data like this, but basically what you see in this example is that the median of all the ratios was 86.4, which means that the average appraised value was 86 percent of the actual sales price. This kind of analysis helps us understand whether the appraisals are accurate, and whether they are uniform. There are a lot of other statistical tests shown on this particular example, but I wanted you to see what a sales ratio study looked like.

I would like to provide a little more background and context for the quality control program we have. Earlier today you heard me say that the tax shift of 1981 changed the benchmark for property taxation away from full cash value and toward a system of determining taxable value through an alternative methodology.

Since the days of the tax shift there have been several court cases over the years in which the Nevada Supreme Court has opined that the goal of a uniform system of taxation is met by ensuring that the proper method has been used. For example, in both the Imperial Palace case several years ago [*Imperial Palace v. State Dep't Taxation*, 843 P.2d 813 (1992)], and the more recent Bakst decision in 2006 [*State Board of Equalization v. Bakst*, 148 P.3d 717 (2006)], the Court concluded that using the proper method ensures uniform and equitable application of Nevada's tax statutes.

Back in 2008, the Nevada Tax Commission appointed a blue ribbon committee to address the valuation issues brought forward by Incline Village taxpayers. The blue ribbon committee, which included a former U.S. Senator, legislators, assessors, and taxpayers from Incline Village, made various recommendations, including one to create regulations that modeled the Legislative Counsel Bureau's audit of agencies for the purpose of conducting performance audits of the county assessors in determining compliance with regulations. You can see that recommendation in ([Exhibit J](#)).

In response to the blue ribbon committee's recommendation, the Nevada Tax Commission has indeed adopted regulations on how performance audits should be done, and the Department successfully completed the land valuation performance audit using those regulations. Since then, however, our audit resources have been devoted to net proceeds. The problem going forward is to find the resources to do performance audits on a routine basis, and to incorporate performance audits as part of the everyday quality control program.

All of this background is intended to demonstrate that ensuring the proper "method" of appraisal has been emphasized by the courts, the blue ribbon committee, and the Nevada Tax Commission; and, the best tool to address "method" is a performance audit, not a ratio study.

Ratio studies are especially useful in states where fair market value is the standard, because sales data can be used to compare the values established by assessors to see how close those values are to market. In our state, where market value is only established for land, the best use of a traditional sales ratio study is to measure accuracy and uniformity of the land values. The Department does that and will continue to do that under this bill.

In addition to the ratio study for vacant land, we currently independently appraise a sample of randomly selected properties in the study areas. We compare our appraisals of improvements to the assessed values established by the county assessor. The properties comprising the sample are physically inspected by Department appraisers and valued according to statutory and regulatory requirements.

When our appraisers perform their independent appraisals on improvements, they are not producing a fair market value for the improvements, because that is not the state standard. They are instead producing "replacement cost new, less depreciation" values that they compare to the county assessor's values. Because both the assessor and our state appraisers use the same source document to produce costs, the *Marshall & Swift Residential Cost Handbook*, the variation between assessor's values and our values is very small, which you will see if you look at ([Exhibit K](#)), last year's ratio study. Page 9 is the table of median ratios. That portion of the ratio study confirms for us *Marshall & Swift* was indeed used, but does not tell us how it was used.

But there are many more issues regarding fair and uniform assessment that need to be addressed. We have a backlog of issues that we would like to address through performance auditing. We did carry out a model performance audit in 2012 on land valuation, and the executive summary is included in your packet as ([Exhibit L](#)). The actual performance audit covered all 17 counties on land valuation issues in a one-year time frame, and is about 375 pages long. I figured there are not that many insomniacs on the Committee that need a sleep aid, so only the summary is produced here.

I also included as ([Exhibit M](#)) the portion of the performance audit related to Eureka County, so you could see exactly how the audit was conducted, what the findings were, and what the response was from the assessor. It should be noted that the Department made findings of what could be improved, but it also made findings of what was done exceptionally well.

I would ask you to turn to ([Exhibit L](#)), page 2-4. You will see there is a summary discussion of the issues that we found. For example, 10 of the 17 counties had findings related to the mapping and valuation of the surface of patented mining claims. Five counties had findings related to properly posting land values to the billing programs. A ratio study will not tell you that kind of information because it has to do with methods and procedures. To me, that is incredibly more informative and transparent about what is happening with property tax issues in the counties. This kind of information can be used to advise assessors and the public about local appraisal conditions on specific types of property. It can be used to determine if a regulation is needed to help

assessors better understand and accomplish their work, or if the regulation is already in place, the performance audit can help us determine whether the assessor has used the proper method to determine value. A performance audit does not just point out problems in the assessor's office, it also points out shortcomings in regulation or guidance from the Department.

The plain fact is we cannot do both ratio studies as they are currently done now with regard to producing appraisals, and also do comprehensive performance audits, because we do not have the resources to do so. If we continue to perform sales ratio studies for land and we also turn our resources to performance auditing, the taxpayers and decision-makers will benefit from far more comprehensive information, particularly about the methods used by county assessors.

This bill is asking you to prioritize performance audits regarding methodology ahead of a ratio study of improvements because the information so developed is better suited to our standard of valuation.

I will now turn to the bill itself. Since the bill was initially drafted, we have reached out to a number of people to get their take on the various provisions. As a result, we do have a few amendments to present to you, and I would like to go through those at the same time as we go through the bill.

I will be using the document called "Request to Amend AB 56, Equalization of Assessments among the Several Counties" ([Exhibit N](#)). It has the entire bill reproduced on it. Please note that there are headings in bold to designate on which page of the original bill the line appears. So, if I refer to a page number, it will be the page number of the bill in the bold heading, not the actual physical piece of paper you are looking at.

Under the heading of Page 2, section 1, lines 1 through 19, and Page 3, lines 1 through 3 ([Exhibit N](#)), it provides that the Department of Taxation shall annually conduct ratio studies, but may also conduct one or more performance audits. Performance audits must also use sufficient sample sizes to support any conclusions, and that is why you see the language that "In conducting a performance audit, the Department may use any statistical measures or analyses that will determine whether property subject to taxation is being assessed uniformly by the county assessor who is the subject of the performance audit." The ratio studies will continue to be performed in each county at least once every three years, as they are now.

In section 1, line 6, under the heading Page 2 ([Exhibit N](#)), you will see the first requested amendment in the green type. After talking with the county

assessors' legislative committee, it requested the word "appropriate" be substituted wherever the word "relevant" appears in describing the methods of appraisal and assessment required by law.

Under the heading Page 3, subsection 3 of section 1, starting on line 4 ([Exhibit N](#)), the bill specifies that the Department will conduct ratio studies for the groups and classes of property as selected. In addition, both the Nevada Tax Commission and the State Board of Equalization can select additional groups and classes of property as necessary. Under the heading Page 3, line 15 (page 2, [Exhibit N](#)), ratio studies will either be sales ratio studies, where the assessor's values will be compared to actual sales prices, or to the Department's independent appraisals. You will also see some amendments starting on lines 15 and 16. This is to clarify that sales ratio studies or independent appraisals can be used; and if the Department ever had to contract for help in getting a ratio study done, those persons would have to be certified property tax appraisers. This last item was also a request of the county assessors.

The ratio studies will use measures of central tendency and other statistical analyses, and they will adhere to any additional standards for statistical analysis adopted by regulation. You will see the original bill language called for reliance on the regulations that have already been adopted by the State Board of Equalization. From the Department's perspective, we have two masters with regard to equalization—the Tax Commission and the State Board. It has been my fear that the Tax Commission and the State Board might one day, under this system, adopt differing statistical standards, and that the ratio studies would become very complicated in meeting varying standards; however, the assessors asked that the reference to the State Board be removed and in the spirit of compromise, we have agreed to that and instead reference that additional standards be promulgated by regulation.

Subsection 4 under the heading Page 3, beginning at line 22 (page 2, [Exhibit N](#)), requires the Department to publish and deliver the ratio study and the performance audit to the Tax Commission, State Board, the county assessors, and county commissioners, and to include a summary of any deficiencies found. Farther down under the heading Page 4, line 11 begins a very important feature. It is an update on any recommendations that were made in prior years. Sometimes there are continuing problems that take several years to address, and the Tax Commission and the public are entitled to know whether progress is being made on prior findings.



That is it with regard to what the Department's main role is. The rest of the bill addresses the process of what happens after the ratio study and the performance audit have been submitted to the Tax Commission.

Under the heading Page 4, subsection 5, beginning at line 14 and continuing through line 32 (pages 2 and 3, [Exhibit N](#)), the Tax Commission is required to hold a hearing prior to the end of May each year. Instead of limiting a response to the county commissioners and the county assessors, any interested person would be able to submit evidence regarding assessment uniformity, whether the appropriate methods of appraisal and assessment were used, and whether adjustments ordered in prior years were complied with. When the State Board held workshops on its equalization regulations several years ago, a concern was expressed by taxpayers about whether they could participate in such a hearing. This language opens up the hearing to everyone, if they have evidence to present.

Subsection 6, which begins under the heading Page 4, line 35 (page 3, [Exhibit N](#)), provides the remedies that the Tax Commission can consider. It can do nothing; it can order a factor to be applied; or it can order a reappraisal. Although there are a lot of language additions and deletions in this particular section to update the language, in principle, nothing has changed with regard to what the Tax Commission can do. The Tax Commission can do those three things now, and they will be able to do so after the bill is passed.

The original bill was proposing that any action taken by the Tax Commission would be applied to the current year. That is because the ratio studies and the performance audits are all based on data from the current year, and if there is a problem that needs to be corrected, it is based on current year information. However, after talking with county assessors and various taxpayers, there was a lot of concern expressed over adjusting values after the tax roll for the current year has already closed. Once again, in the spirit of compromise, the amendment you see under the heading Page 4, line 42 (page 3, [Exhibit N](#)), restores the original language of the statute with regard to any order that would apply a factor. That order would be done on the succeeding tax list and assessment roll. I have a caveat for you. What that means is that property that was seriously under- or over-valued in a county in the current year would never be corrected for that year. Any correction applies in the following year.

There is also some additional new language under the heading Page 5, just after line 2 (page 3, [Exhibit N](#)). If there is going to be a factor, then the factor must result in values within a specified range, and that is 32 to 36 percent. That is really not new; but what is new is that there must be further testing to ensure that statistically speaking the factor can be relied upon with certainty to result

in values that fall within the range. It is not enough to just come up with a factor. We want to test it to make sure it reaches the appropriate confidence level of reliability, and that the factor does what it is intended to do when equalizing property.

Rather than impose a factor on property, the Tax Commission could order a reappraisal by either the county assessor or a third-party qualified appraiser. What is different here is the option is provided to the Tax Commission to order either the assessor to the third-party appraisers to do it. Allowing the county assessor to do it has not been an option before. For example, let us say a county used the wrong agricultural bulletin to establish the value of agriculture lands by using last year's manual rather than the current year. It would not take an army of third-party appraisers to figure that out. The assessor would simply be ordered to use the correct bulletin and reappraise the property.

A report on any reappraisal that was ordered would have to be made to the Tax Commission by October 1, and that date has not changed. If additional testing shows that the reappraisal did not result in uniformity, then the Tax Commission could take additional action to ensure uniformity. But like the factor, any such action would be applied to the next succeeding tax list and assessment roll. Again, this does not help the problem that existed in the current year, but in the spirit of compromise does not change the existing system.

As a result of not changing the timeline, there also would be no need to introduce any special appeal process as was provided for in subsection 9. So, you see that subsection 9, under the heading Page 6, lines 21 through 25 (page 4, [Exhibit N](#)), is proposed to be deleted. If an adjustment in value occurs as a result of a factor or a reappraisal, then the adjustment is applied to the properties prior to assessment notices for the next year going out.

If I could ask you to turn to ([Exhibit O](#)) you will see the current timeline of events for equalization compared to the timeline under this bill, and you will see that there is no material change. Taxpayers will be fully apprised of any adjustments in the regular assessment notices, and if they believe the adjustment resulted in a value that exceeds full cash value, they would have the same opportunity to appeal to the county and state boards of equalization as they do now.

In summary, this bill is about allowing the Department to improve the quality control process, without costing the state any more money to produce it. This can happen if we are allowed to devote our limited resources to continuing to produce sales ratio studies on land, but to also produce performance audits that

provide substantive information about the methods that assessors use in producing values, so that we can all work towards improving the property tax system.

I would be happy to take your questions.

**Assemblywoman Kirkpatrick:**

Ms. Rubald, nice job on this, as far as giving plenty of information. I have a couple of questions, because I want to be sure I understand.

There are a lot of people from the outside who just want to understand how it comes together, especially because they are new to our state and do not understand the tax shift and how that all came about.

Where in here does it address the business income loss? Where is that piece specifically within this timeline, or the reassessment? I see in your amendment, under the heading Page 5, lines 1 through 3, (page 3, [Exhibit N](#)), you go back to what the assessed valuation should be. How does that play into the business income loss piece? I am thankful we are going to have something more updated, but I do not see where we have addressed the business income loss, which seems to be part of the problem for the assessed valuation.

**Terry Rubald:**

The business income loss, what would be addressed in the ratio study, is whether business properties were being valued according to replacement cost new, less depreciation. If the valuation across a wide group of properties was showing that it was less than that, then we would have to apprise the Commission of that fact. That is why I think a performance audit is also important, because we would want to know what steps were used to allow the reduction in value, because of the income generation factors.

On the one hand, you would say yes, the assessor was following the provisions of the state law that allows the income approach to be used. On the other hand that resulted in a significant difference between replacement cost new, less depreciation, and what it ultimately resulted in, and part of that information would be, was this as a result of an action by the State Board? So the Tax Commission would not want to overturn the action of the State Board. You would not want to create a war between two agencies.

**Assemblywoman Kirkpatrick:**

I thought I read in here, and maybe it was before the amendment, that we are going to do this every single year, on a regular basis, or did that part come out?

**Terry Rubald:**

The ratio studies would continue to be on a three-year rotational schedule, but on the topics that are selected that year for the performance audit, that would be performed for all 17 counties for that year. Let us say the topic was whether hangars on airport property had been properly classified as possessory interest, it would be done for all 17 counties at any given time.

**Assemblywoman Kirkpatrick:**

That way we have the ability to go out and compare?

**Terry Rubald:**

Yes.

**Assemblywoman Kirkpatrick:**

I am struggling a bit on the heading Page 5, (page 3, [Exhibit N](#)), with the 32 to 36 percent, when 35 percent is the average. Can you explain that to me one more time?

**Terry Rubald:**

The level of assessment is 35 percent; taxable value times 35 percent is the assessed value. What we are doing here is we are comparing assessed value. The range of allowable assessed value that would be allowed statistically would be 32 to 36 percent per assessed value.

**Assemblywoman Kirkpatrick:**

What if the numbers did not come between 32 and 36 percent? In the past we have seen the numbers way low or super high. We have seen it across the state. What is the recourse on how you come back and address that? Do you appeal it to the Tax Commission? I want to be clear on what that process is.

**Terry Rubald:**

Statistically speaking, in a ratio study you have a sample of properties and you are inferring from that sample of properties what is happening in the universe of properties as a whole. If the median ratio for all the samples is at 30 percent, what we are assuming then, statistically, is that sample is representative of the whole group of properties that we are studying, and we are assuming that everything is low. That is why we would take that information to the Tax Commission and they would say everything is too low in this particular area. We will either apply a factor to bring it up to between 32 and 36 percent, or we would order a reappraisal. In either case, it applies to the following year. As everything in mass appraisal, one size does not always fit all, and so while that factor, or whatever the values were in the reappraisal, might fit the vast majority, statistically speaking, of all of the properties, there would be a few for

which it has taken them over full cash value. That is why it is important to allow them to appeal normally. Whatever the results of having applied that factor would be, if that took an individual property above full cash value, then they have the opportunity to appeal.

**Assemblywoman Neal:**

On your amendment (page 1, [Exhibit N](#)), under the heading Page 2, line 11 of section 1, when you had the sentence that says "the Department may use any statistical measures or analyses that will determine whether property subject to taxation..." should that statistical analysis also be uniform? Why is it that you can use any statistical measurement in order to evaluate another entity, and it may be different? Is it appropriate to be the same, so that you get the same outcome?

**Terry Rubald:**

The standard that I was referring to, the standard on ratio studies, is true applied statistics, but for the performance audit what we are saying there is that, and we are looking at specific methodology, we want to make sure that we have an adequate sample size. We are not doing true applied statistics like we are in the ratio study, but we still want to make certain that we have enough samples out there to come to a reasonable conclusion that something is really true. It is possible that we could make reference to it, but the standard on ratio studies is not directly applicable to what we are doing in a performance audit, but it is important to have an adequate sample size.

**Assemblywoman Neal:**

In the bill you said that you would select groups, and those groups would then be a part of the ratio study process. In ([Exhibit K](#)), you have the findings from the 2014-2015 Report of Assessment Ratio Study, and in particular, Lander County (page 17). I want you to help me understand this. In the future you are going to pick a group, for example Lander County, on page 37 [of the document]. In this case, you found that there were seven samples out of compliance in relationship to the vacant land. I do not know if it has been fixed, but you found that the way the assessor judged or valued the land was that they used the zone 3 seismic adjustment and they relied on default values for other adjustments in Marshall & Swift, page 38, and the assessor manually entered multipliers within the residential Marshall & Swift system, and did not rely on zip code defaults.

What would that look like, going forward on a ratio study? How would you deal with this? I am assuming you are trying to make sure that they are no longer out of compliance, and that they have changed the method. The way I read it is that you would prefer them to use the zip code defaults. Is that correct?

**Terry Rubald:**

I believe the answer is yes. I think there were a couple of questions in there. First, on vacant land we would be performing a sales ratio analysis where we would be comparing the assessor's values to the sales of sold property and inferring what is happening to a sample of all the properties.

In this case, we had a sample of 30 vacant land properties (page 37, [Exhibit K](#)), and 23 were in compliance; however, when you go to page 17, you will see that the median ratio of all of those samples, countywide vacant land, is 34.8 percent. There are some other measures there as well, but the law, as it currently stands, says that if it is between 32 and 36 percent, there is nothing we can do to further improve the numbers. With a performance audit, as you read on page 38, the assessor is using some seismic adjustments, is entering multipliers, and does not rely on zip code defaults. What we would do in a performance audit is we would again take enough samples to make sure that was generally true, and then we would recommend that the assessor correct the way she uses Marshall & Swift and adjust values that way.

**Assemblywoman Neal:**

That is why I was confused. When I was reading under Carson City, and then it was counties, the ratios seemed to fall within the gap of I do not know how much more we can improve what they are doing.

**Terry Rubald:**

Exactly. What I was trying to explain is that the ratio studies, particularly for improved property, show near perfection, which is unheard of in other states. That is because this state is not on the fair market value system, but there could be some improvements to the system that we could make because of the way they do it. That is why a performance audit is so important, so that we can go through the kinds of things you see in the narrative, that you would not otherwise catch because of the numbers in the front part.

**Chairman Armstrong:**

Would the performance audits be available to the public?

**Terry Rubald:**

Absolutely. In fact the only one that we have done, the land valuation audit, is on our website and has been for a couple years.

**Assemblyman Nelson:**

I have a question on the amendment (page 3, [Exhibit N](#)), under the heading Page 4, on line 42. After the audit is done, if it finds that any class of property is assessed at less or more than the proper percentage, you took out "and if the

board of county commissioners approves." Over on the left, the reason is that the reference to the county commission is deleted to streamline the process. So I am curious, what is the reason for that, and up until now how much have the counties had?

**Terry Rubald:**

I have been at the Department for 18 years and at each ratio study hearing we have had at the Tax Commission, I have not seen one county commissioner there. The reason is they delegate—and are allowed to under the law—their presence to the county assessors. The county assessors almost always show up, because of course they are materially involved in what is happening.

The reason we are removing that particular line, "if the board of county commissioners approves," is that later on in the current statute it says that if there is a reappraisal ordered by the Tax Commission, and they get their report on October 1, they can go ahead and submit that report to the county commissioners and they are supposed to order the county assessor to do something. I do not think you need the middleman. The Tax Commission has the authority to order the assessors to do something. They are the body charged with the expertise for knowing how to read these studies and so forth. I think the county commissioners were involved beforehand because they have to foot the bill if there is a reappraisal.

**Assemblyman Nelson:**

So are you saying that you are cutting out the assessors then because you can order them to do it anyway?

**Terry Rubald:**

No. That is why you have the hearing. We never want to cut out the assessors. They are material to the whole success of the project. If there is going to be a factor applied, they are going to have to implement it. They are going to have to understand what it is all about. They are going to have intimate knowledge of the properties that are being discussed, so you never want to exclude assessors.

When it comes to ordering a factor or ordering a reappraisal, the county commission is not the body that initiated the study. They are not the ones that have the expertise, like the Tax Commission does, about what is needed or wanted, so their role has never been strong in this. That is why I used the word "streamline."

**Chairman Armstrong:**

Are there any other questions? Seeing none, we will take testimony in regard to A.B. 56. First we will take testimony in support of A.B. 56. Would anyone like to come speak in support? Seeing none, I will take those who would like to speak in opposition to A.B. 56.

**Jordan A. Davis, representing the Village League to Save Incline Assets, Inc.:**

I am with the law firm of Fennemore Craig. I am here today representing the Village League to Save Incline Assets, Inc., a nonprofit entity formed by Nevada property owners committed to insuring the rights of all Nevada taxpayers to uniform and equal taxation under the *Nevada Constitution*, and we are opposed to A.B. 56.

Under current law, Nevada's tax system is overly complicated and lacks transparency. Assembly Bill 56 does nothing to fix those problems; instead it makes our tax system more complicated and less transparent. With your indulgence, I would like to introduce Bill McKean to address some of our main concerns with A.B. 56.

**William J. McKean, representing the Village League to Save Incline Assets, Inc.:**

I am also with the law firm of Fennemore Craig. I am an attorney who practices regularly in the area of property tax, representing Nevada taxpayers in front of the county boards and the State Board of Equalization.

Nevada's property tax system lacks transparency and procedural fairness. You might discount that statement coming from a Nevada property tax lawyer, but it is a finding in two recent studies by the Council on State Taxation (COST), a nonprofit organization that has many Fortune 500 members on its board such as Walmart, Coca-Cola, and AT&T. It periodically researches and evaluates states on specific criteria, including transparency and procedural fairness. Each category for each state is given a grade. The report issued by COST in 2011 ([Exhibit P](#)) gave Nevada a C- overall grade, which was among the worst in the 50 states. In September 2014 that study was updated and Nevada's grade dropped from a C- to a D+ in the areas of transparency and procedural fairness. Not only is Nevada among the worst in the country, on those two criteria, it is the worst.

The concepts used by COST to evaluate transparency and procedural process are what are harmed by A.B. 56. Assembly Bill 56 would further erode transparency for taxpayers and it would further erode procedural fairness. It removes transparency by removing the county board of commissioners from the process. Right now, under the current statute, NRS 361.333, subsection 5, paragraph (b), for example, if a class of property is ordered to be reassessed, or



there is an increase in the assessed valuation of a class of property, the board of county commissioners has to approve that. In A.B. 56, that reference is taken out, and as the Department of Taxation would say, the county commission could appear and present testimony, but again that weakens the county's authority in this regard.

Assembly Bill 56 also creates two places where there can be reappraisals, so the taxpayer has to worry about an appraisal in December that affects the results of a valuation. The Tax Commission and the Department of Taxation can order a reappraisal as part of what they are calling a quality audit, and if they find what they believe to be problems, they can order a third reappraisal.

Assemblywoman Kirkpatrick asked a great question about the income approach. The income approach, in her question, was the result of an appeal. The taxpayer went to the State Board of Equalization and received a reduction. Is this process going to require another review process and another appraisal for the same taxpayer that could show up on a later tax bill, and would then also have to be appealed? This is adding a whole other level of appraisal and appeal problems for taxpayers in Nevada. As you can see from today's presentation, taxpayers have their annual valuations, they have the tax cap to be confused about, and now they are going to have a third appraisal process.

**Chairman Armstrong:**

Thank you Mr. McKean. Are these written notes that you could submit?

**William McKean:**

I would be happy to submit some written comments ([Exhibit Q](#)).

**Les Barta, Vice President, Village League to Save Incline Assets, Inc.:**

I am a taxpayer. I have lived in Washoe County and have paid taxes since 1987. I was going to read my written comments, which have been submitted to you ([Exhibit R](#)), but I think I am just going to make some brief comments instead.

First of all, we know that the Tax Commission and the Department of Taxation have authority over the entire tax system in the state, but it is not unobstructed authority. It is not unlimited authority. Taxpayers have the right to appeal. They get assessment notices, usually after Thanksgiving, and then they have a right to try to fix that with the county assessor. They have a right to go to the county board of equalization and appeal it, and if that does not work they can go to the State Board of Equalization, and if that does not work they could go to judicial review in court.

The problem is that as originally written, this bill had intended to apply the results of an appraisal audit to the next year's taxes. How is that supposed to work? If you are going to have a new appraisal and new values, even if you can submit it in time for the taxpayer to be able to appeal it, what is it going to be? Is it going to be another value increase on top of the valuation that has already taken place for that year? Are you going to apply last year's values to this year? How does that work? There really is no opportunity to properly appeal that, and it just does not seem like it is workable. The whole principle of a tax assessment, which is an additional assessment beyond the annual tax cycle, just does not seem to work at all. It is too complex and too arcane.

I will conclude like this: we as taxpayers, and I think assessors also, would love to see a system that is simpler. We would like to see legislation that is constructive, produces something that is simple and easy to understand, and works for everybody.

**Victor Joecks, Executive Vice President, Nevada Policy Research Institute:**

We are opposed to A.B. 56, for many of the reasons brought up, so I will be very brief.

The biggest concern is the one brought up by Assemblyman Nelson that this bill takes authority from the county level and centralizes it within the Nevada Tax Commission. As you can see, the approval needed by the board of county commissioners gets cut out in section 1, subsection 6, paragraph (b) of the bill.

**Chairman Armstrong:**

In the interest of time, I would appreciate you keeping your remarks to less than two minutes.

**Suellen Fulstone, Private Citizen, Reno, Nevada:**

I will try to make my remarks brief, but I do have a lot of views on this proposal.

**Chairman Armstrong:**

If you have written testimony, you are more than welcome to submit that as well.

**Suellen Fulstone:**

I would be happy to do that ([Exhibit S](#)). My name is Suellen Fulstone. I am a mostly retired lawyer. When I was practicing actively I was involved in a number of property tax matters, several that went to the Nevada Supreme Court. I am familiar with NRS 361.333, the statute that A.B. 56 would seek to amend. I believe the existing NRS 361.333 is better left as it is

for several reasons: uniformity is one, constitutionality is another, and checks and balances is the third.

The existing NRS 361.333 requires ratio studies for all classes of locally assessed property in every county. It requires comparisons of similar properties in the county and similar properties in other counties. One-third of the counties are done in each year, but there must be uniformity across the county, which is important because the *Nevada Constitution* mandates uniformity.

As amended, A.B. 56 would remove all of that uniformity, and instead vest the Department with the capacity to choose, in its unfettered discretion, whether to use ratio studies or performance audits, which classes of property to use, and even which selected isolated groups of property to study. Right now, there is no provision for groups at all. As it exists, NRS 361.333 requires that they study all classes of property and not isolate groups to study.

These would be groups or limited classes, or some ratio studies and some performance audits, as performed by the Department and selected by the Department, without any standards. There is no criteria established in the proposed A.B. 56 for how they are going to select these areas. It could be that they will select an area like Incline Village, or an area like a neighborhood in Thomas Creek, but there is no recourse for that, and in my opinion, as an attorney who has tried these cases, that would be set aside by a court on grounds of failure to satisfy the constitutional requirement of uniformity.

It also creates a constitutional issue of due process. Right now, when you take a representative sample from all the classes, you essentially put people on general notice that there is a possibility some equalization action could be taken with respect to their property. Selecting properties, or picking out groups of properties, and not telling people, is done in the Department. It is not done in the way of an assessor's appraisal, where notice is sent out to people. This is just done in the Department. Even when it goes to the Tax Commission, there is still no general notice to any of the individual property owners who might be impacted. Notice and an opportunity to be heard is a due process requirement of both the *U.S. Constitution* and the *Nevada Constitution*, whenever you are going to do taxation.

**Chairman Armstrong:**

Ms. Fulstone, if you would like to have those arguments presented, you are more than welcome to submit them. I am going to ask you to wrap up your comments.

**Suellen Fulstone:**

I would like to say a couple of things that I think are important the Committee hear now. One is, there is no existing authority for reappraisals. If you read NRS 361.333, if you read all of the statutes, there is no authority in any of the statutes to order reappraisals, and that is for a good reason. Reappraisals start the process over.

**Chairman Armstrong:**

Ms. Fulstone, I am going to cut you off in the interest of time. I know you want to speak about this, and I appreciate your passion, but we need to move on for the other speakers.

**Suellen Fulstone:**

I will accommodate, but there are important issues to be addressed with respect to A.B. 56.

**Chairman Armstrong:**

We are more than willing to accept that as written testimony.

**Michael E. Clark, Assessor, Washoe County:**

I agree with the other individuals who were against this particular bill, for a lot of reasons. In the interest of keeping it short, I think there are other ways to achieve what Ms. Rubald is trying to do without going into this legislation. I brought along my chief deputy assessor, the former assessor of Washoe County, Josh Wilson. He has a few comments to make as well.

**Joshua G. Wilson, Chief Deputy Assessor, Washoe County:**

As I listened to Ms. Rubald open her testimony, she indicated the changes contained in A.B. 56 were to produce a better and more usable information for the Tax Commission and improve the quality control program. While I think those goals are lofty, I am not certain that this particular language achieves those goals, as the current ratio study allows for that. It is noted in the 2014-2015 ratio study, presented to the Tax Commission on May 5, that it already contains a procedural audit, an office review, and performance audit. It further specifies that the current language in NRS 361.333, subsection 1, paragraph (b), subparagraph (2) requires the Department to make determinations as to whether each county has adequate procedures governing how they are valuing property. I think what was probably most telling in the hearing is a question raised by Assemblywoman Neal. How does the current language or the proposed language cure some of the Lander County inequities? The response was rather questionable, but I think what was more important is the current ratio study identified those challenges, and I am not sure that any of

the language contained in the current suggested language improves the equalization process.

Certainly there are some challenges with the equalization process, one being who is responsible for statewide equalization. When there are two separate bodies responsible for carrying out that same task, albeit through the Tax Commission and the State Board of Equalization, and I think reference was made that there could be some conflicting determinations if both bodies chose to act on those, but this particular language in this bill does not affect those challenges, and for those reasons the Washoe County Assessor's office is opposed, and we are not speaking on behalf of the assessors' association.

**Chairman Armstrong:**

I will close the testimony for those in opposition. I will open it up for those who would like to speak neutral on A.B. 56. Seeing none, Ms. Rubald would you like to come up for closing comments?

**Terry Rubald:**

I certainly agree that the property tax system as a whole is complicated. There was a reference to the COST study, where we had a C- and a D+. I read the study myself and it was a reference to how much the individual taxpayer had to defend himself at a county or State Board of Equalization appeal. It really was not addressing this particular process, which is broad equalization.

The comment was made that this was an attempt that would further erode transparency. That is simply not the case. Performance auditing will be quite specific and more intensive, so there will be more transparency.

There were comments that some sort of third reappraisal would be introduced. The system right now is that the Tax Commission can order a reappraisal or apply a factor after the roll is closed, and this does not change that.

There were comments about taking authority from the county level. I am certainly willing to work with the parties to reintroduce that language if it is felt to be necessary. That is not an issue that was intended to cause controversy.

As to all the due process, the taxpayers will be fully apprised of what the effects of any equalization are through the assessment notices that are sent out. That is why going to the next year is supposedly a good fix. That is what is done today. It is not a change. My original bill was to change that, so we could apply it to the current year. So in that regard, I basically agree with the taxpayers that it really should apply to the current year, because that is what the problem is. The assessors did not want to do that because there would not

be a sufficient opportunity to appeal that way, although that could certainly be fixed as well.

This bill really is about improving uniformity. It is not about less transparency.

**Chairman Armstrong:**

We will close the hearing on A.B. 56. I will open it up for brief public comment; however, I will not take testimony on A.B. 56 during public comment. Would anyone like to speak? Seeing no one, we are adjourned [at 3:36 p.m.].

RESPECTFULLY SUBMITTED:

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Gina Hall  
Committee Secretary

APPROVED BY:

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Assemblyman Derek Armstrong, Chairman

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

**EXHIBITS**

**Committee Name:** Committee on Taxation

**Date:** March 17, 2015

**Time of Meeting:** 1:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Terry E. Rubald, Department of Taxation	PowerPoint Presentation
	D	Terry E. Rubald, Department of Taxation	Nevada Property Tax: Elements and Application
	E	Jeff Fontaine, Nevada Association of Counties	PowerPoint Presentation
	F	Joni Eastley, Nye County	PowerPoint Presentation
	G	Yolanda King, Clark County	PowerPoint Presentation
	H	Mark R. Vincent, City of Las Vegas	PowerPoint Presentation
A.B. 56	I	Terry E. Rubald, Department of Taxation	Ratio Study Statistical Analysis
A.B. 56	J	Terry E. Rubald, Department of Taxation	Transcript Excerpt from Nevada Tax Commission June 25, 2008 Meeting
A.B. 56	K	Terry E. Rubald, Department of Taxation	2014-2015 Report of Assessment Ratio Study
A.B. 56	L	Terry E. Rubald, Department of Taxation	Performance Audit #1001 Land Valuation
A.B. 56	M	Terry E. Rubald, Department of Taxation	Excerpt from Performance Audit #1001 Land Valuation
A.B. 56	N	Terry E. Rubald, Department of Taxation	Request to amend AB 56, Equalization of Assessments among the Several Counties
A.B. 56	O	Terry E. Rubald, Department of Taxation	Equalization Timeline

A.B. 56	P	William J. McKean, The Village League to Save Incline Assets	Council on State Taxation, "The Best and Worst of International Property Tax Administration"
A.B. 56	Q	William J. McKean, The Village League to Save Incline Assets	Prepared testimony in opposition
A.B. 56	R	Leslie Barta, The Village League to Save Incline Assets	Prepared testimony in opposition
A.B. 56	S	Suellen Fulstone, Private Citizen, Reno, Nevada	Prepared testimony in opposition