

REVISED MEETING NOTICE AND AGENDA

COMMITTEE ON LOCAL GOVERNMENT FINANCE

Date and Time of Meeting: February 6, 2015 9:00 a.m.

Place of Meeting: Public Utilities Commission
Hearing Room A
1150 E. William Street
Carson City, Nevada 89701

Video Conference To: Public Utilities Commission
Hearing Room A
9075 W. Diablo Drive, Suite 250
Las Vegas, Nevada 89148

This meeting will also be part of a teleconference. Please call the Department at (775) 684-2100 for the call-in number.

Action may be taken on the items indicated in **BOLD**:

1. ROLL CALL AND OPENING REMARKS
2. PUBLIC COMMENT (See Note 2)
In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.
3. **FINANCIAL CONDITION REPORTS BY THE DEPARTMENT; CONSIDERATION AND POSSIBLE ADOPTION OF RECOMMENDATIONS AND ORDERS**
 - a) **For Possible Action: Discussion and Consideration of City of North Las Vegas Financial Condition**
 - 1) Report by City on current year financial status, including revenue, expenditures and cash flow analysis;
 - 2) Report by City on FY 2014 CAFR;
 - 3) Report by City on status of litigation having fiscal impact, including Writ of Garnishment by 5th & Centennial, LLC et al;
 - 4) Report by City on plan to alleviate financial difficulties currently experienced by City, including legislative requests if any
 - b) **For Possible Action: Discussion and Consideration of City of Reno Financial Condition**
 - 1) Report by City on current year financial status, including revenue, expenditures and cash flow analysis;
 - 2) Report by City on overall debt status, debt service schedule;
 - 3) Report on FY 2014 CAFR
 - c) Report by Incline Village General Improvement District (IVGID) regarding potential conversion of Community Services & Beach Enterprise Fund to Special Revenue Funds
4. **CONSIDERATION AND APPROVAL OF REPORTS REQUIRED BY NRS 354.613(6)(b)**
 - a) **For Possible Action: Report by Department on transfers from Enterprise Funds by Counties and Cities during FY2014 pursuant to NRS 354.613(6);**
 - b) **For Possible Action: Consideration and approval of report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature pursuant to NRS 354.613(6)b**

5. **CONSIDERATION AND APPROVAL OF TRUST FUND INVESTMENT PLAN BY LOCAL GOVERNMENT PURSUANT TO NAC 287.788(2)**

Clark County OPEB Trust

6. **BRIEFING TO AND FROM THE COMMITTEE ON LOCAL GOVERNMENT FINANCE AND LOCAL GOVERNMENT FINANCE STAFF**

- (a) Report by Department on 2015 Local Government Summary Fiscal Report as prepared for LCB
- (b) Report by Department on Churchill County School District 3rd Year of Decline in General Fund Ending Balance, pursuant to NRS 387.3045;
- (c) Report by Department of completed mergers:
 - 1) Douglas Paramedic District and East Fork Fire District;
 - 2) TMWA acquisition of Washoe County Division of Water Resources and South Truckee Meadows GID;
- (d) Gold Hill and Virginia City conversion completed to become County Special Revenue Funds
- (e) Report on audit filing status

7. **DISCUSSION AND CONSIDERATION OF REGULATORY MATTERS**

- (a) For Possible Action: Report by Department on legislative bill drafts**
- (b) For Possible Action: Discussion and Consideration of regulatory or other guidance to Department regarding appropriate use of special revenue funds and enterprise funds**
- (c) For Possible Action: Update on Subcommittee on Definition of a Local Government**

8. **REVIEW AND APPROVAL OF MINUTES**

For Possible Action: CLGF Meeting – August 28, 2014

9. **For Possible Action: Schedule Date and Review Agenda Topics for the Next Meeting**

10. **Public Comment (See Note 2)**

In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.

11. **For Possible Action: ADJOURNMENT**

NOTE 1: Items on this agenda may be taken in a different order than listed. Items may be combined for consideration by the Committee on Local Government Finance. Items may be pulled or removed from the agenda at any time.

NOTE 2: Public comment may be made on any issue and any discussion of those items; provided that comment will be limited to areas relevant to and within the authority of the Committee on Local Government Finance. No action will be taken on any items raised in the public comment period. At the discretion of the Chairman, public comment may be received prior to action on individual agenda items. Public Comment may not be limited based on viewpoint. Prior to the commencement and conclusion of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual, the committee may refuse to consider public comment. See NRS 233B.126.

NOTE 3: We are pleased to make accommodations for members of the public who are disabled. Please notify the Department of Taxation in writing, at 1550 College Parkway, Carson City, Nevada, 89706 or call (775) 684-2180 prior to the meeting.

NOTE 4: Materials and files for items on this agenda are maintained in the offices of the Department of Taxation located in Carson City, Nevada. Requests for copies of materials and files for items on this agenda may be made to:
Terry Rubald, Deputy Executive Director, Department of Taxation, 1550 College Parkway, Carson City, NV 89706

Notice of this meeting was posted in the following Carson City, Nevada location: Department of Taxation 1550 College Parkway; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street

Notice of this meeting was emailed for posting to the following locations: Department of Taxation, 4600 Kietzke Lane, Building L, Suite 235, Reno; Department of Taxation, 2550 Paseo Verde, Suite 180, Henderson; Department of Taxation, 555 E. Washington Street; Las Vegas; Clark County Office, 500 South Grand Central Parkway, Las Vegas. Notice of this meeting was also posted on the Internet through the Department of Taxation website at www.tax.nv.gov and on the Department of Administration website at <https://notice.nv.gov/>.

AGENDA ITEM 3a

DISCUSSION AND CONSIDERATION OF CITY OF NORTH LAS VEGAS FINANCIAL CONDITION

Mayor John Lee delivers State of the City in North Las Vegas

By **Jessica Lovell**. CREATED Jan 27, 2015

North Las Vegas, NV (KTNV) -- The Mayor of North Las Vegas John Lee revealed what's next for the city in his State of the City Address on Tuesday.

Although there was a lot of good that happened over the past year like cutting the \$150 million deficit in half, adding new police officers and firefighters, raising more than \$100 million for city libraries and hiring a new city manager, Mayor Lee remains realistic about what's next for North Las Vegas.

"I want to go on the record here, North Las Vegas is not out of the hole. We are continuing to work just as hard as we did last year. I'll really need seven years to make North Las Vegas stand on its own again."

Lee talked about the newly-appointed advisory board between the city and the College of Southern Nevada, and how he wants to rename it from the Cheyenne Campus to CSN North Las Vegas Campus. He feels branding is key when it comes to connecting local businesses to the college.

"I'm very proud of the team we have assembled this year. We have a lot of brain power in North Las Vegas now and we're going to put it to work this year, really make sure bigger and better things happen."

Mayor Lee had this to say about APEX:

"APEX is that project that will set us and the whole region directly apart from where we are today by making a one industry town into a huge opportunity to do business here."

But first, the project needs a water supply.

"We are open for business right now if you want to go out there and you can sink a well and you can put in your business right now."

CITY OF NORTH LAS VEGAS
Cash Flow Projection (General Fund)
Fiscal Year 2014-15
September 2014

CNLV GENERAL FUND CASH FLOW Projection
PRESENTED IN THOUSANDS (000's)

	Revised Actual July	Actual August	Actual September	Projected October	Projected November	Projected December	Projected January	Projected February	Projected March	Projected April	Projected May	Projected June	Total Actual + Projected
RECEIPTS													
CTX	\$ 3,917	\$ 4,144	\$ 3,527	\$ 3,385	\$ 3,610	\$ 3,460	\$ 3,950	\$ 4,503	\$ 3,210	\$ 3,245	\$ 4,465	\$ 3,520	\$ 44,936
Real Property Tax	8	105	1,915	469	1,192	66	577	840	444	840	45	55	\$ 6,556
Personal Property/Cnty Gaming Taxes	249	133	5	-	70	70	-	60	70	70	70	70	\$ 867
Payment in Lieu of Taxes	-	550	-	549	-	-	548	-	547	-	-	-	\$ 2,194
PILT	1,000	1,050	-	3,000	-	6,000	2,000	-	3,000	2,693	-	5,000	\$ 23,743
Franchise Fees	344	2,792	268	337	4,275	268	302	2,808	268	469	2,289	268	\$ 14,688
Room & Gaming Tax	-	406	-	-	406	-	-	406	-	-	406	-	\$ 1,624
Muni Court	862	810	878	948	794	996	869	996	902	996	894	996	\$ 10,941
Bus License	1,228	1,073	670	536	275	97	1,479	756	317	604	311	796	\$ 8,142
Other Charges for Services	137	117	457	30	44	94	171	87	37	139	82	93	\$ 1,487
Administrative Charges	145	145	145	144	144	145	144	145	145	144	145	144	\$ 1,735
Permits	431	165	492	201	182	274	245	181	245	245	210	165	\$ 3,036
Transfers In	1,150	-	-	-	-	-	-	-	-	-	-	-	\$ 1,150
Cash Receipts	2,087	50	1,342	-	-	-	-	-	-	-	-	-	\$ 3,479
Other	-	-	-	230	230	230	230	230	230	230	230	230	\$ 2,070
Total Receipts	\$ 11,558	\$ 11,540	\$ 9,699	\$ 9,829	\$ 11,222	\$ 11,700	\$ 10,515	\$ 11,012	\$ 9,415	\$ 9,675	\$ 9,147	\$ 11,337	\$ 126,649
Total Receipts Y-T-D	\$ 11,558	\$ 23,098	\$ 32,797	\$ 42,626	\$ 53,848	\$ 65,548	\$ 76,063	\$ 87,075	\$ 96,490	\$ 106,165	\$ 115,312	\$ 126,649	\$ 126,649
EXPENDITURES													
Salaries & Benefits	\$ (9,370)	\$ (7,482)	\$ (6,735)	\$ (6,672)	\$ (6,672)	\$ (10,326)	\$ (7,500)	\$ (6,735)	\$ (6,735)	\$ (6,735)	\$ (6,735)	\$ (6,735)	\$ (88,432)
S&S / Capital	(1,984)	(1,756)	(2,162)	(4,088)	(1,545)	(2,162)	(1,858)	(1,858)	(3,162)	(2,856)	(1,858)	(3,162)	\$ (28,451)
Transfers Out	(627)	(1,869)	(726)	(728)	(728)	(728)	(728)	(728)	(728)	(728)	(728)	(726)	\$ (9,772)
Total Disbursements	\$ (11,981)	\$ (11,107)	\$ (9,623)	\$ (11,488)	\$ (8,945)	\$ (13,216)	\$ (10,086)	\$ (9,321)	\$ (10,625)	\$ (10,319)	\$ (9,321)	\$ (10,623)	\$ (126,655)
Total Disbursements Y-T-D	\$ (11,981)	\$ (23,088)	\$ (32,711)	\$ (44,199)	\$ (53,144)	\$ (66,360)	\$ (76,446)	\$ (85,767)	\$ (96,392)	\$ (106,711)	\$ (116,032)	\$ (126,655)	\$ (126,655)
CASH BALANCE													
Net change in Cash	\$ (423)	\$ 433	\$ 76	\$ (1,659)	\$ 2,277	\$ (1,516)	\$ 429	\$ 1,691	\$ (1,210)	\$ (644)	\$ (174)	\$ 714	\$ (6)
Beginning Cash	4,876	4,453	4,886	4,962	3,303	5,580	4,064	4,493	6,184	4,974	4,330	4,156	\$ 4,870
End Cash Balance	\$ 4,453	\$ 4,886	\$ 4,962	\$ 3,303	\$ 5,580	\$ 4,064	\$ 4,493	\$ 6,184	\$ 4,974	\$ 4,330	\$ 4,156	\$ 4,870	\$ 4,863

Bill,
The \$2.5 million
payment is
included in this
\$4,088 amount.

Bill,
The \$23,743
PILT amount is
here.

UNAUDITED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

5TH & CENTENNIAL, LLC, a Nevada limited liability company; 5TH & CENTENNIAL, II, LLC, a Nevada limited liability company; 5TH & CENTENNIAL III, LLC, Nevada limited liability company; ALL FOR ONE FAMILY TRUST, BRIAN A. LEE and JULIE A. LEE trustees for the ALL FOR ONE FAMILY TRUST; AND BRIAN A. LEE and JULIE A. LEE,

Plaintiff,

vs.

THE CITY OF NORTH LAS VEGAS,

Defendants.

Case No. A-10-609283-C
Dept. No.: XIII

WRIT OF EXECUTION

☐ Earnings ☒ Other Property
☐ Earnings, Order of Support

THE STATE OF NEVADA TO THE CLARK COUNTY CONSTABLE, GREETINGS:

On, May 17, 2011, Findings of Fact, Conclusions of Law and Judgment, upon which there is due in United States Currency the following amounts, was entered in this action in the Eighth Judicial District Court, Clark County, Nevada, in favor of 5TH & CENTENNIAL, LLC, 5TH & CENTENNIAL, II, LLC, 5TH & CENTENNIAL III, LLC, ALL FOR ONE FAMILY TRUST, BRIAN A. LEE and JULIE A. LEE trustees for the ALL FOR ONE FAMILY TRUST and BRIAN A. LEE and JULIE A. LEE (collectively the "Landowner Judgment Creditors"), and against THE CITY OF NORTH LAS VEGAS, as Judgment Debtor. On May 25, 2011, an Amended Judgment was entered in favor the Landowner Judgment Creditors and against the City of North Las Vegas, as Judgment Debtor. A true and correct copy of such Judgment is attached hereto as Exhibit 1. On September 2, 2011, pursuant to an Order Regarding Plaintiffs' Motion for Award of Attorney's Fees, Costs, and Pre-Judgment Interest, the Landowner Judgment Creditors were awarded costs in the amount of \$109,140.33. A true and correct copy of such Order is attached hereto as Exhibit 2. The collective principal judgment award (\$4,250,000.00) and costs award (\$109,140.33), totaling \$4,359,140.33, have been affirmed on appeal and are now due and owing to the Landowner Judgment Creditors. The Landowner Judgment Creditors reserve the right to pursue all amounts of pre and post judgment interest in subsequent proceedings. Pre-judgment interest and post-judgment interest have yet to be fully determined and are not included in this Writ of Execution. The Landowner Judgment Creditors reserve all rights to pursue execution upon all properly awarded pre and post judgment interest in subsequent execution proceedings.

JUDGMENT BALANCE

Principal	\$4,250,000.00
Pre-judgment Interest	TBD
Attorneys Fees	0
Costs	\$109,140.33
JUDGMENT TOTAL	\$4,359,140.33
Accrued Costs	0
Accrued Interest	TBD
Less Satisfaction	0
NET BALANCE	\$4,359,140.33

AMOUNTS TO BE COLLECTED BY LEVY

NET BALANCE	\$4,359,140.00
Fee this Writ	\$5.00
Garnishment fee	4
Mileage	18
Levy Fee	
Advertising	
Storage	
Interest from	
Date of Issuance	
SUBTOTAL	4359167.00
Commission	21848.34
TOTAL LEVY	4381015.34

Make Check Payable To:
Constable
302 E. Carson Ave. - 5th Floor
Las Vegas, NV 89155
702-455-4099
Put Case # & Name on Check

NOW, THEREFORE, you are commanded to satisfy the judgment for the total amount due out of the following described personal:

Please execute on the Office of the Nevada State Treasurer on funds held by the State Treasurer for the City of North Las Vegas in the State Treasurer's Local Government Investment Pool. NOTE: Only Local Government Investment pooled funds held by the State Treasurer on behalf of the City of North Las Vegas are the subject of this Writ of Execution. Defendant/Debtor's last known address is 2250 Las Vegas Blvd. North, N. Las Vegas, NV 89030.

EXEMPTIONS WHICH APPLY TO THIS LEVY
(Check appropriate paragraph and complete as necessary)

☒ Property Other Than Wages. The exemption set forth in NRS 21.090 or in other applicable Federal Statutes may apply. Consult an attorney.

☐ Earnings

The amount subject to garnishment and this writ shall not exceed for any one pay period the lesser of:

- A. 25% of the disposable earnings due the judgment debtor for the pay period, or
B. the difference between the disposable earnings for the period and \$100.50 per week for each week of the pay period.

☐ Earnings (Judgment or Order for Support)

A. Judgment was entered for amounts due under a decree or order entered on _____, _____, by the _____ for the support of _____, for the period from _____, _____, through _____, _____, in installments of \$ _____.

The amount of disposable earnings subject to garnishment and this writ shall not exceed for any one pay period:
(check appropriate box)

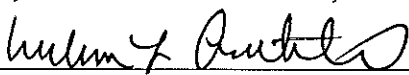
- ☐ a maximum of 50 percent of the disposable earnings of such judgment debtor who is supporting a spouse or dependent child other than the dependent named above;
☐ a maximum of 60 percent of the disposable earnings of such judgment debtor who is not supporting a spouse or dependent child other than the dependent named above;
☐ plus an additional 5 percent of the disposable earnings of such judgment debtor if and to extent that the judgment is for support due for a period of time more than 12 weeks prior to the beginning of the work period of the judgment debtor during which the levy is made upon the disposable earnings.

NOTE: Disposable earnings are defined as gross earnings less deductions for Federal Income Tax Withholding, Federal Social Security Tax and Withholding for any State, County or City Taxes.

You are required to return this Writ from date of issuance not less than 10 days or more than 60 days with the results of your levy endorsed thereon.

Issued at direction of:

KEMP, JONES & COULTHARD, LLP


 8-27-14
WILLIAM L. COULTHARD, ESQ., Nev. Bar No. 3927
3800 Howard Hughes Parkway 17th Floor
Las Vegas, NV 89169
(702) 385-6000
Attorney for Plaintiff

I hereby certify that I have this date returned the foregoing Writ of Execution with the results of the levy endorsed thereon.

CLARK COUNTY CONSTABLE

By: _____
DEPUTY Date

CLERK OF COURT

By: ADELINE BEISLEY  29 2014
DEPUTY CLERK Date

RETURN

_____ not satisfied	
_____ satisfied in sum of	\$ _____
_____ costs retained	\$ _____
_____ commission retained	\$ _____
_____ costs incurred	\$ _____
_____ commission incurred	\$ _____
_____ costs received	\$ _____

REMITTED TO
JUDGMENT CREDITOR \$ _____



Cash Sub-Ledger Detail Report

NLV - CITY OF NORTH LAS VEGAS

October/2013		Month Bég. Bal:		\$26,058,922.86
Txn. Date	Deposit	Withdrawl	Interest Rcvd	Comments
10/1/2013	\$0.00	\$0.00	\$2,084.52	Interest Earnings
10/1/2013	\$0.00	\$0.00	\$0.00	Interest Earnings
10/9/2013	\$0.00	\$2,000,000.00	\$0.00	WO PER DEBORAH
Month Total:		\$0.00	\$2,000,000.00	\$2,084.52
		Month End Bal:		\$24,061,007.38
Report Total:		\$0.00	\$2,000,000.00	\$2,084.52

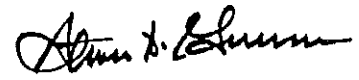


Cash Sub-Ledger Detail Report

NLV - CITY OF NORTH LAS VEGAS

October/2013		Month Beg. Bal:			\$26,058,922.86
Txn. Date	Deposit	Withdrawl	Interest Rcvd	Comments	
10/1/2013	\$0.00	\$0.00	\$2,084.52	Interest Earnings	
10/1/2013	\$0.00	\$0.00	\$0.00	Interest Earnings	
10/9/2013	\$0.00	\$2,000,000.00	\$0.00	WO PER DEBORAH	
Month Total:		\$0.00	\$2,000,000.00	\$2,084.52	
				Month End Bal:	\$24,061,007.38
Report Total:		\$0.00	\$2,000,000.00	\$2,084.52	

EXHIBIT 1


CLERK OF THE COURT

1 WILLIAM L. COULTHARD, ESQ.
Nevada Bar No. 003927
2 ERIC M. PEPPERMAN, ESQ.
Nevada Bar No. 01167
3 KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
4 Las Vegas, Nevada 89169
(702) 385-6000/Fax (702) 385-6011
5 Attorneys for Plaintiffs

6 JOHN PETER LEE, ESQ.
Nevada Bar No. 001768
7 JOHN PETER LEE, LTD.
830 Las Vegas Boulevard South
8 Las Vegas, Nevada 89101
(702) 382-4044 Fax: (702) 383-9950
9 e-mail: info@johnpeterlee.com
Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

13 5TH & CENTENNIAL, LLC, a Nevada limited
14 liability company; 5TH & CENTENNIAL, II,
15 LLC, a Nevada limited liability company; 5TH
16 & CENTENNIAL III, LLC, Nevada limited
17 liability company; ALL FOR ONE FAMILY
TRUST, BRIAN A. LEE and JULIE A. LEE
trustees for the ALL FOR ONE FAMILY
TRUST; AND BRIAN A. LEE and JULIE A.
LEE,

Plaintiffs,

v.

THE CITY OF NORTH LAS VEGAS

Defendant.

Case No. A-10-609283-C
Dept. No.: XIII

AMENDED
JUDGMENT

This action came on for an 8-day non-jury trial on January 12, 2011, before the
Honorable Judge Mark R. Denton. The Court having considered testimony, evidence, proof, and
arguments presented by counsel for Plaintiffs, William L. Coulthard of Kemp, Jones & Coulthard
and co-counsel for Plaintiffs, John Peter Lee, Ltd., and counsel for Defendant City of North Las
Vegas, Brian R. Hardy of Marquis & Aurbach, and with good cause appearing, and there being
no just reason for delay:

RECEIVED	
MAY 23 2011	
DISTRICT COURT DEPT# 13	
Voluntary Dis	Final Depositions
Incidental (last) Dis	<input type="checkbox"/> Time Limit Expired
Agmt on Adm Proceed	<input type="checkbox"/> Dismissed (with or without prejudice)
Settle to Dis (by clerk)	<input type="checkbox"/> Judgment Satisfactorily Paid in full
<input type="checkbox"/> Stop Dis	<input type="checkbox"/> Rem. Judgment
<input type="checkbox"/> Stop Judgment	<input checked="" type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Default Judgment	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> Transferred	

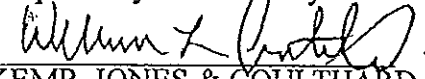
1
2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that a Judgment in favor
3 of the Plaintiffs, 5th & Centennial, LLC, 5th & Centennial, II, LLC, 5th & Centennial III, LLC, All
4 for One Family Trust, Brian A. Lee and Julie A. Lee, trustees for the All for One Family Trust
5 and Brian A. Lee and Julie A. Lee (collectively "Landowners"), against Defendant The City of
6 North Las Vegas, a municipal corporation, in the principal sum of Four Million Two
7 Hundred and Fifty Thousand Dollars (\$4,250,000.00), is hereby entered with post judgment
8 interest accruing at the legal rate from the date of entry of this Judgment until such time as the
9 Judgment is completely satisfied; and

10 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiffs' claim
11 for inverse condemnation be, and is hereby dismissed without prejudice.

12 DATED this 24th day of May, 2011.

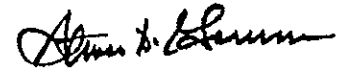
13
14 
15 DISTRICT COURT/JUDGE 

16 Respectfully Submitted by:

17  5-23-11
18 KEMP, JONES & COULTHARD, LLP
19 WILLIAM L. COULTHARD, ESQ.
20 3800 Howard Hughes Parkway, 17th Floor
21 Las Vegas, Nevada 89169
22 (702) 385-6000/Fax (702) 385-6011
23 e-mail: wlc@kempjones.com
24 Attorneys for Plaintiffs

25 JOHN PETER LEE, LTD.
26 JOHN PETER LEE, ESQ.
27 830 Las Vegas Boulevard South
28 Las Vegas, Nevada 89101
(702) 382-4044 Fax: (702) 383-9950
e-mail: info@johnpeterlee.com
Attorneys for Plaintiffs

EXHIBIT 2



CLERK OF THE COURT

1 KEMP, JONES & COULTHARD, LLP
2 WILLIAM L. COULTHARD, ESQ.
3 Nevada Bar No. 003927
4 ERIC M. PEPPERMAN, ESQ.
5 Nevada Bar No. 011679
6 3800 Howard Hughes Parkway, 17th Floor
7 Las Vegas, Nevada 89169
8 (702) 385-6000/Fax (702) 385-6011

9 JOHN PETER LEE, LTD.
10 JOHN PETER LEE, ESQ.
11 Nevada Bar No. 001768
12 JOHN C. COURTNEY, ESQ.
13 Nevada Bar No. 011092
14 830 Las Vegas Boulevard South
15 Las Vegas, Nevada 89101
16 (702) 382-4044 Fax: (702) 383-9950
17 e-mail: info@johnpeterlee.com

18 Attorneys for Plaintiff Landowners

19 **DISTRICT COURT**
20 **CLARK COUNTY, NEVADA**

21 5TH & CENTENNIAL, LLC, a Nevada limited
22 liability company; 5TH & CENTENNIAL, II,
23 LLC, a Nevada limited liability company; 5TH
24 & CENTENNIAL III, LLC, Nevada limited
25 liability company; ALL FOR ONE FAMILY
26 TRUST, BRIAN A. LEE and JULIE A. LEE
27 trustees for the ALL FOR ONE FAMILY
28 TRUST; AND BRIAN A. LEE and JULIE A.
LEE,

Plaintiffs,

v.

THE CITY OF NORTH LAS VEGAS

Defendants.

Case No. A-10-609283-B
Dept. No.: XIII

**ORDER REGARDING PLAINTIFFS'
MOTION FOR AWARD OF
ATTORNEYS' FEES, COSTS, AND
PREJUDGMENT INTEREST**

Date of Hearing: July 14, 2011

Time of Hearing: 9:00 a.m.

THIS MATTER came on for hearing on July 14, 2011, on Plaintiff Landowners' Motion for Award of Attorneys' Fees, Costs, and Pejudgment Interest, and on Defendant's Motion to Retax Costs. William L. Coulthard, Esq. and Plaintiff Landowners Representative Brian A. Lee, appeared for the Plaintiffs; Brian R. Hardy, Esq. and Micah S. Echols, Esq. appeared for the

1 Defendant, City of North Las Vegas (the "City"). Having had the opportunity to read and review
2 the pleadings and papers submitted herein, listen to the oral arguments of counsel of both parties,
3 and having taken the matter under advisement for further review and consideration, and with
4 good cause appearing and their being no just reason for delay, the Court enters the following
5 Order Granting Plaintiff Landowners' Motion for Award of Attorneys' Fees, Costs, and
6 Prejudgment Interest.

7 **Attorneys' Fees, Costs, and Prejudgment Interest**

8 **A. Attorneys' Fees**

9 1. Following an 8-day bench trial, the Court determined that Plaintiff Landowners
10 were entitled to an award of damages on their claim for precondemnation damages. Further, the
11 Court determined that Landowners' claim for inverse condemnation was not "ripe," and
12 dismissed such claim without prejudice. The Court did not address attorneys' fees at trial,
13 leaving the issue for post trial motion practice.¹

14 2. Nevada Courts have routinely defined the "prevailing party" as that party who
15 "succeeds on any significant issue in litigation which achieves some of the benefits it sought in
16 bringing the suit." *Smith v. Crown Financial Services*, 111 Nev. 277, 285, 890 P.2d 769, 774
17 (1994). Following trial, Landowners received a precondemnation damage award of
18 \$4,250,000.00. As such, Plaintiff Landowners are the "prevailing party" in this litigation.

19 3. Plaintiffs assert that, having stated a claim for inverse condemnation in their
20 Complaint, and having prevailed on the Second Cause of Action pleaded therein, they have, in
21 effect, recovered in an action for inverse condemnation, entitling them to an award of attorneys'
22 fees under NRS 37.185 and under the Uniform Relocation Assistance and Real Property
23 Acquisition Policies Act, 42 USC §4654©, as the latter has been construed by *McCarran*

24
25
26
27 ¹The parties stipulated, and the Court ordered that the issue of attorneys' fees and costs would be addressed
28 post trial through motion practice. See Stipulation to Reserve Decision on Attorneys' Fees and Costs to a
separate hearing following Trial, filed on June 19, 2011.

1 *International Airport v. Sisolak*, 122 Nev. 645, 673, 137 P.3d 1110, 1129 (2006).² Plaintiffs
2 further urge that support for the notion that a precondemnation damages cause of action is
3 subsumed within one for inverse condemnation for purposes of the aforesaid statutory provisions
4 is found in considering the Nevada Supreme Court's adoption of the rationale of *Klopping v. City*
5 *of Whittier*, 500 P.2d 1345 (Cal. 1972) in the case of *State Dept't of Trans. v. Barsey*, 113 Nev.
6 712, 720, 941 P.2d 971 (1997), overruled on other grounds by *GES, Inc. v. Corbitt*, 117 Nev.
7 265, 21 P.ed 11 (2001), footnote 6. However, this Court determines that language used by *Barsey*
8 does not appear to stand for Plaintiff Landowners' suggested proposition. Specifically, *Barsey*
9 provides in relevant part:

10 It is, of course, fundamental that property owners who suffer the loss of
11 their property through condemnation proceedings are entitled to receive just
12 compensation . . . At issue in the case before us is whether the precondemnation
13 activities of the State entitle Barsey to damages in addition to those resulting from
14 the taking of his property. (Emphasis supplied.) . . .

15 The *Klopping* court ruled that a condemnee must demonstrate that the condemnor
16 acted improperly following a precondemnation announcement by unreasonably
17 delaying action or by other unreasonable precondemnation conduct and that such
18 acts resulted in a decrease in the market value of the property. We define this
19 cause of action to give a condemnee the right to recover for damages caused by
20 precondemnation activity when extraordinary delay or oppressive conduct by the
21 condemnor has been shown. The condemnation process involves governmental
22 agencies and the court system, and it is endemic with delay. Without the
23 reasonably stringent standard we adopt today, every condemnation case would
24 give birth to a separate cause of action based on precondemnation activity. But
25 where the evidentiary burden is met, the condemnee must be compensated for loss
26 of income due to precondemnation action or publicity.

27 *Barsey, supra*, at 720, 976 (emphasis supplied).

28 4. In *Barsey*, which is not an inverse condemnation case, but one wherein .
precondemnation damages were sought in a counterclaim in an eminent domain action, the
Nevada Supreme Court recognized the distinction between precondemnation damages and
inverse condemnation damages, and such is the distinction that this Court perceived when it
decided the merits of the present case.

²As to such federal statute, the Court assumes, *arguendo* and without prejudice in making its within ruling,
that the record supports a requisite federal connection to invoke the same.

1 5. However, that does not end the Court's inquiry, because not only does *Barsy*
2 recognize a distinct cause of action for precondemnation damages, but it also appears to
3 recognize that attorneys' fees can be sought as an element of damages in a precondemnation
4 damage case, apart from any statutory authorization for an award of attorneys' fees. *See also,*
5 *Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 181 P.3d 670 (2008), where, at 230-
6 231, the Court alludes to Buzz Stew's separate cause of action for attorneys' fees and costs as
7 damages, the merits of which are remanded therein for consideration by the district court.

8 6. Based upon the foregoing, Nevada law suggests that attorneys' fees can be sought
9 as damages in a precondemnation case, apart from any statutory authorization for such an award
10 of attorneys' fees. *See Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 181 P.3d 670
11 (2008). The Court, in *Buzz Stew*, alludes to Buzz Stew's separate cause of action for attorneys'
12 fees and costs as damages. While *Buzz Stew* does not specifically say that the district court, on
13 remand, should make an award of attorneys' fees or that such is authorized, the discussion of the
14 concept of precondemnation damages therein suggests that the inclusion of attorneys' fees in an
15 award of precondemnation damages is appropriate. In addition, it would appear that if the
16 Supreme Court had intended to rule out attorneys' fees as part of damages that are awardable in a
17 precondemnation action, it could have done what it did with the estoppel cause of action in
18 determining that the district court properly dismissed the latter as failing to state a claim.

19 7. As further support for treating this award of attorneys' fees as damages, Plaintiff
20 Landowners' Complaint, p.5, ln. 25-26, under the rubric "ATTORNEYS' FEES," alleges that
21 "Plaintiffs have suffered damages in excess of \$10,000.00." The separate allegation of attorneys'
22 fees as damages goes beyond simply seeking a discretionary award to a prevailing party under
23 NRS 18.010. Additionally, the allegation is separate from the prayer in the Complaint and could
24 not be expected to be more specific as to amount because, under the contingency fee agreement
25 involved, the fees would be subject to increase or decrease, or even elimination, in the event of
26 non-recovery by the Plaintiff Landowners in the case.

27 8. Based upon the foregoing, the Court concludes that attorneys' fees are properly
28 awarded as an element of damages in a precondemnation damage action.

1 9. The equitable calculation of an award of attorneys' fees is a matter reserved to the
2 Court. *Shuette v. Beazer Homes Holding Corp.*, 121 Nev. 837, 863, 124 P.3d 530, 548 (2005).
3 "[T]he method upon which a reasonable fee is determined is subject to the discretion of the
4 court,' which 'is tempered only by reason and fairness.'" *Id.* at 548-49 (quoting *Univ. of Nev. v.*
5 *Tarkanian*, 110 Nev. 581, 594, 591, 879 P.2d 1180, 1188, 1186 (1984). Accordingly, its analysis
6 "may begin with any method rationally designed to calculate a reasonable amount," including an
7 approach based on a contingency fee agreement. *Shuette*, 121 Nev. at 549. The Court elects to
8 use the Contingent Fee methodology when considering an award of attorneys' fees in this case.

9 10. This entire litigation arose from the City's undertaking to adopt and implement its
10 regional North 5th Street super arterial roadway project. In so doing, the Court previously found
11 that, the City effectively "froze" Plaintiffs' property in its effort to "bank" the land north of
12 Cheyenne needed for the Project, resulting in a significant diminution of Landowners' Property's
13 fair market value. The City's failure to move forward with a condemnation action forced
14 Plaintiffs to retain the services of their attorneys, and execute a Contingency Fee Agreement.
15 The existence of a Contingency Fee Agreement is manifest and unquestioned by the Defendant,
16 and it is clear that the contingency fee rate of 25% of the recovery for a case fully developed and
17 brought to trial, and which fee will be shared by two law firms, is fair and reasonable under all
18 the circumstances in this case.

19 11. As the Nevada Supreme Court explained in *Alblos v. Horizon Communities*, 122
20 Nev. 409, 414, 132 P.3d 1022, 1026 (2006), in reviewing a request for attorneys' fees, the district
21 court should conduct its analysis in light of the factors set forth in *Brunzell v. Golden Gate*
22 *National Bank*, 85 Nev. 345, 349 (1969), which include:

- 23 1) The qualities of the advocate: his ability, training, education, experience,
 professional standing and skills;
- 24 2) The character of the work to be done: its difficulty, intricacy, importance,
 time and skill required, the responsibility imposed and the prominence and
25 3) The work actually performed by the lawyer: the skill, time and attention
 given to the work; and
- 26 4) The result: whether the attorney was successful and what benefits were
27 derived.

28 The Court reviewed and considered the Law Firm's Affidavits addressing the *Brunzell* factors.

1 12. In considering the *Brunzell* factors, each of the Plaintiff Landowners' Law Firms
2 are AV rated firms under Martindale Hubbell's peer review process. These Law Firms have a
3 lengthy history of practice before the Eighth Judicial District Court. The professional standing of
4 each of these Law Firms is beyond reproach. The record also reflects the character of the work
5 actually performed by the law firms of Kemp, Jones & Coulthard, LLP, and John Peter Lee, Ltd
6 (collectively "Law Firms") throughout this action. Significant efforts were expended by
7 Landowners' Law Firms in the preparation and prosecution of this Inverse Condemnation action.
8 Tens of Thousands of pages of historical N. 5th Street Project records were obtained, reviewed,
9 categorized, and digested. Thereafter, expert witnesses were interviewed, engaged and
10 incorporated into this action. With the participation of the Law Firms, the Expert Witnesses
11 were engaged, utilized, and ultimately produced comprehensive written reports in this case.
12 Extensive written discovery was conducted between the parties in this action. Plaintiff
13 Landowners' attorneys conducted key depositions of the City Witnesses. Following the close of
14 discovery, the City filed dispositive motions on Landowners' claims which required the Law
15 Firms to oppose such motions for summary judgment. The Law Firms successfully opposed the
16 City's Motion for Summary Judgment.

17 13. Following the dispositive motion work, the Law Firms prepared this case for trial.
18 Tens of thousands of pages of Exhibits were reduced down to under 200 Joint Trial Exhibits. A
19 Stipulated Set of Historical Facts was then created to assist the trier of facts in this case.
20 Landowners' Law Firms marshalled their witnesses and evidence and presented a complex 8-day
21 bench trial to the Court. This was a hard-fought case that presented numerous hurdles and
22 complicated constitutional legal issues. The issues involved with regulatory "takings" and
23 precondemnation damages were extremely challenging. Landowners' Law Firms vigorously
24 prosecuted this case over a substantial period of time. In considering an award of attorneys' fees
25 this Court also had the benefit of the review of Billable Time Records of each of the Law Firms
26 provided as exhibits to the underlying motion.

27 14. Finally, Landowners' counsel were successful at trial wherein this Court awarded
28 damages against the City in the amount of \$4,250,000. The benefits derived at trial are

1 significant funds toward justly compensating Plaintiff Landowners for the diminution of their
2 property's value resulting from the City's improper precondemnation actions.

3 15. Moreover, significant post trial work on the Findings of Fact, Conclusions of Law
4 and Judgment was performed by the Law Firm. Further, the present Motion for Award of
5 Attorneys' Fees, Costs and Prejudgment Interest likewise involved significant efforts by the Law
6 Firms. Analysis under each of the *Brunzell* factors demonstrates that a fee award of 25% of the
7 damages is very reasonable.³

8 16. Therefore, since attorneys' fees as damages were put into issue by the Complaint,
9 the proof of the amount incurred has been made by the contingency fee agreement, and the Court
10 has examined the amount and reasonableness thereof, attorneys' fees are awarded as damages in
11 the amount of 25% of \$4,250,000.00 pursuant to the contingency fee agreement which equals an
12 award of attorneys' fees of \$1,062,500.00.

13 **B. Costs**

14 17. NRS 18.020 authorizes an award of costs incurred in this action to Plaintiff
15 Landowners. The statute provides that costs must be allowed as a matter of course to the
16 prevailing party, and against any adverse party against whom the judgment is rendered, "in an
17 action for the recovery of money damages where the plaintiff seeks to recover more than
18 \$2,500." NRS 18.020(3).

19 18. This Court found in favor of Plaintiff Landowners, and against the City, awarding
20 Landowners \$4,250,000 in damages. Additionally, Plaintiffs sought damages in this action in
21 excess of \$10,000. Accordingly, as the prevailing party in an action seeking more than \$2,500 in
22 damages, Plaintiff Landowners are entitled to an award of costs from the Defendant City.

23 19. The Plaintiff Landowners timely filed their Verified Memorandum of Costs and
24 Disbursement which was supported by Affidavits from each of the Law Firms and from
25 Landowner Representative, Brian Lee. The Verified Memorandum of Costs filing was also

26 ³The Contingency Fee Agreement between Landowners and their Law Firms provides for a fee of 25% of
27 the "gross recovery." The gross recovery includes all damages, awarded costs, awarded fees, and
28 prejudgment interest. The fee awarded herein is all the more reasonable given that it is 25% of only the
damage award.

1 supported by a detailed summary of all costs incurred in this action. The City filed a Motion to
2 Retax Cost which, *inter alia*, challenged the sufficiency of the Landowners' Verified
3 Memorandum of Costs support and itemization of costs. Landowners opposed the Motion to
4 Retax Costs and provided additional back-up information and supplemental invoices and support
5 for their sought after costs ("Supplemental Cost Clarification").

6 20. The Court determines that Plaintiffs' Supplemental Cost Clarification can relate
7 back to their initial Memorandum of Costs and Disbursements and that there is no jurisdictional
8 impediment that would prevent the Court from so treating it, as the five-day period set forth in
9 NRS 18.110(1) is subject to expansion for "... such further time as the court or judge may grant .
10 ...". NRS 18.110(1).

11 21. Having considered the Verified Memorandum of Costs, and the Supplemental
12 Cost Clarification thereto, the Court notes that a large part of Plaintiffs' claim for costs is
13 attributable to experts and that the amount sought for each expert far exceeds the presumed
14 ceiling established in NRS 18.005(5). The Court determines, however, that the complexities of
15 the case, the protracted history of the City's Project, along with the specialized field of testimony
16 from each of the testifying experts justifies the Court's deviation over the \$1,500 per testifying
17 expert cap. The Court determines, pursuant to NRS 18.005(5) that circumstances surrounding
18 the experts' testimony were of such necessity and importance as to require a larger fee than
19 \$1,500 per expert. With that said, however, some of what is sought for experts fees and costs
20 pertains to time the experts incurred addressing the inverse condemnation aspect of the case, as
21 opposed to precondemnation damages. As the inverse condemnation claim was dismissed,
22 without prejudice, the Court is not inclined to grant the entirety of the sought after expert fees.
23 Accordingly, the Court retaxes expert costs as follows, and authorizes an award of experts costs
24 as follows:

25	•	Jim C. Lee, Ph.D.	\$20,000.00
26	•	Alan N. Nevin	\$10,000.00
27	•	George Garcia	\$25,000.00
28	•	Shelli Lowe	\$1,500.00

Urban Partners, LLC \$0

In all other respects the Landowners' sought after claimed costs in its Verified Memorandum are allowed, and Defendant's Motion to Retax Costs is DENIED IN PART.

22. The Court concludes that Plaintiffs have incurred significant costs in the preparation, discovery and trial phases of this case. Plaintiff Landowners costs were reasonable and necessarily incurred in the prosecution of this action. Therefore, the Court awards Plaintiff Landowners' total costs requested, with expert costs as retaxed above by the Court, in the amount of \$109,140.33. A summary of Awarded Costs consistent with this Order is attached hereto as Exhibit 1.

Prejudgment Interest

23. The Court views Plaintiff Landowners' recovery solely as one for precondemnation damages so it looks to NRS 17.130(2) for calculating prejudgment interest. The Court determines that interest shall commence to run from the date of service of the Summons and Complaint on the City. The Court further rules that prejudgment interest will also accrue on the attorneys' fees award as well as the damage award amount of the judgment, since attorneys' fees have been awarded as damages. *Alblos v. Horizon Communities, Inc.*, 122 Nev. 409, 414 (2006).

24. The Summons and Complaint were served on the City on February 4, 2010, and the Judgment was entered on May 17, 2011. Therefore, Prejudgment interest will have accrued for 468 days at a rate of 5.25% (Prime + 2 = 3.25 + 2). The Court further determines that prejudgment interest will not be compounded. This time frame and rate are consistent with NRS 17.130(2).

25. Therefore, Prejudgment Interest on the Judgment Damage Award (\$4,250,000.00) plus the Attorneys' Fees Damage Award (\$1,062,500.00) totals \$357,611.30. A copy of the Prejudgment Interest calculation is attached hereto as Exhibit 2.

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///

///

1 ORDER

2 Based upon the foregoing facts and conclusions and there being no just reason for delay,
3 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiff Landowners'
4 Motion for Award of Attorneys' Fees, Costs, and Prejudgment Interest is GRANTED IN-PART
5 and DENIED IN-PART as stated herein:

- 6 (a) Plaintiff Landowners are awarded attorneys fees in the amount of \$1,062,500.00;
7 (b) Plaintiff Landowners are awarded costs in the amount of \$109,140.33; and
8 (c) Plaintiff Landowners are awarded prejudgment interest in the amount of
9 \$357,611.30, and .

- 10 (d) ~~A Second Amended Judgment shall be entered which shall include the attorneys'~~
11 ~~fees, costs and prejudgment interest amounts awarded herein.~~

12 DATED this 31st day of July, 2011

13
14
15 THE HONORABLE MARK R. DENTON *pm*
16 DISTRICT JUDGE

17 Respectfully Submitted by:

18 *William L. Coulthard* 8-18-11
19 KEMP, JONES & COULTHARD, LLP
20 WILLIAM L. COULTHARD, ESQ.
21 3800 Howard Hughes Parkway, 17th Floor
22 Las Vegas, Nevada 89169
(702) 385-6000/Fax (702) 385-6011
e-mail: wlc@kempjones.com
Attorneys for Plaintiffs
All For One Family Trust,
Brian A. Lee and Julie A. Lee

23 JOHN PETER LEE, LTD.
24 JOHN PETER LEE, ESQ.
25 830 Las Vegas Boulevard South
26 Las Vegas, Nevada 89101
(702) 382-4044 Fax: (702) 383-9950
e-mail: info@johnpeterlee.com
27 Attorneys for Plaintiffs
28 5th & Centennial, LLC,
5th & Centennial II, LLC and
5th & Centennial III, LLC

EXHIBIT 1

EXHIBIT 1

5th & Centennial, LLC et al v. City of North Las Vegas

Summary of Plaintiffs' Awarded Costs

Attorney Process Service Fees	\$2,235.00
Clark County Treasurer Fees	1,340.05
Computer Disk/Flash Drive	\$17.97
Computerized Legal Research Fees	\$1,569.99
County Assessor Fees	\$2.00
County Clerk Fees	\$1,768.30
Courier Messenger Service Fees	\$565.00 ¹
Court Reporters Fees	\$3,164.70
County Recorder Fees	\$65.00
Electronic Filing Fees	\$129.00
Expert Witness Fees	\$56,500.00 ²
Facsimile Fees	\$301.25
Federal Express Service Fees	\$166.54
Filing Complaint Fee	\$480.00
Long Distance Calls and Phone Charges	\$442.17 ³

¹Less \$15.00 from total in Verified Memorandum of Costs because of duplicate entry found by Kemp, Jones & Coulthard accounting. *See* Opposition to Defendant's Motion to Retax Costs pg. 3, fn. 2.

²Reduced to conform with Honorable District Court Judge Denton's Decision dated August 1, 2011 on the Motion to Retax Costs.

³ Less \$0.94 from total in Verified Memorandum of Costs because of duplicate entry found by Kemp, Jones & Coulthard accounting while preparing for Opposition to Motion to Retax Costs. *See* Opposition to Defendant's Motion to Retax Costs pg. 3, fn. 2.

Maps	\$4,434.50
Miscellaneous	\$145.25
Photocopies/Tabs/Hole Punching Fees	\$30,055.59 ⁴
Postage Fees	\$73.14
Photos	\$392.68
Scanning of Documents for Trial Binders	\$2,737.05
Trial Exhibit Boards	\$554.55
Video/Audio Tape/CD Trial Fees	\$730.60
Witness Fees	\$1,270.00
TOTALS:	\$109,140.33

⁴ Less \$314.86 from total in Verified Memorandum of Costs because Kemp, Jones & Coulthard accounting determine that those costs were erroneously charged to the Plaintiffs herein. *See* Opposition to Defendant's Motion to Retax Costs pg. 3, fn. 2.

EXHIBIT 2

EXHIBIT 2

2-6-15 CLGF Exhibit Packet
Page 29

Billy Farrar

From: Kari Turkal-Barrett <turkalbarrettk@cityofnorthlasvegas.com>
Sent: Thursday, January 22, 2015 6:04 PM
To: Billy Farrar
Cc: Debbie Barton; Darren Adair
Subject: Re: FW: Extension of Time to Provide Financial Statements

Bill,

We have continued to work with the auditors this week and plan to have the draft financial reports next week to put together the supporting documents for the CAFR.

Will get the completed product to you as soon as it is completed. Thank you for your patience.

Kari

Kari Turkal-Barrett
Accounting Manager
City of North Las Vegas
2250 Las Vegas Blvd., N., Suite 700
North Las Vegas, NV 89030
(702) 633-1460 ext: 3612
Turkalbarrettk@cityofnorthlasvegas.com

On Tue, Jan 13, 2015 at 4:10 PM, Kari Turkal-Barrett <turkalbarrettk@cityofnorthlasvegas.com> wrote:
Bill,

Greetings and Happy New Year! Our financial statement, which was originally due by Oct 30, 2014 has not been completed. We are continuing to work with our auditors, Piercy Bowler Taylor & Kern to finalize the financial statements. In the interim, we can provide you the unaudited version of our financial statement. We will work to get you that unofficial copy to you soon.

Respectfully,

Kari

Kari Turkal-Barrett
Accounting Manager
City of North Las Vegas
2250 Las Vegas Blvd., N., Suite 700
North Las Vegas, NV 89030
(702) 633-1460 ext: 3612
Turkalbarrettk@cityofnorthlasvegas.com

On Tue, Jan 13, 2015 at 8:27 AM, Billy Farrar <bfarrar@tax.state.nv.us> wrote:

Good morning,

Just curious if the CAFR for June 30, 2014 is available for review at least in draft form. I don't see that it was on the agenda for the Council meeting on January 7th, as the attached letter mentions and I see it is not posted on your website. I know there was a special Council meeting on January 5th to discuss financial issues but nothing specific is posted. Will the CAFR be presented at the Council meeting on January 21st? I know the extension is until January 31st, I am just following up for planning purposes. Thank you for your help.

Bill Farrar, Budget Analyst

Dept. of Taxation

Division of Local Government Services

Local Government Finance

1550 E. College Parkway, #115

Carson City, NV 89706

Phone 775-684-2077

Fax 775-684-2020

bfarrar@tax.state.nv.us

CONFIDENTIALITY STATEMENT:

This e-mail and any attachments are intended only for those to which it is addressed and may contain information which is privileged, confidential and prohibited from disclosure and unauthorized use under applicable law. If you are not the intended recipient of this e-mail, you are hereby notified that any use, dissemination, or copying of this e-mail or the information contained in this e-mail is strictly prohibited by the sender. If you have received this transmission in error, please return the material received to the sender and delete all copies from your system.

From: Debbie Barton [<mailto:bartond@cityofnorthlasvegas.com>]

Sent: Tuesday, November 25, 2014 3:59 PM

To: Billy Farrar

Cc: Darren Adair; Kari Turkal-Barrett; Kade Stratton

Subject: Extension of Time to Provide Financial Statements

Good Afternoon Bill,

Please see attached request for an extension for the City of North Las Vegas to provide its annual audited financial statements.

If you have any questions or require additional information, please do not hesitate to contact me.

Thank you very much,

Debbie Barton

City of North Las Vegas

(702) 633-1460, X3629

Billy Farrar

From: Debbie Barton <bartond@cityofnorthlasvegas.com>
Sent: Tuesday, November 25, 2014 3:59 PM
To: Billy Farrar
Cc: Darren Adair; Kari Turkal-Barrett; Kade Stratton
Subject: Extension of Time to Provide Financial Statements
Attachments: Letter to Department of Taxation.pdf

Good Afternoon Bill,

Please see attached request for an extension for the City of North Las Vegas to provide its annual audited financial statements.

If you have any questions or require additional information, please do not hesitate to contact me.

Thank you very much,
Debbie Barton
City of North Las Vegas
(702) 633-1460, X3629

Mayor
John J. Lee

Council Members
Anita G. Wood
Pamela A. Goynes-Brown
Wade W. Wagner
Isaac E. Barron



City Manager
Dr. Qiong X. Liu, P.E., PTOE

Finance Department – Darren Adair, Director

2250 Las Vegas Boulevard North, Suite 710 • North Las Vegas, Nevada 89030-5875
Telephone: (702) 633-1460 • Fax: (702) 649-5077 • TDD: (800) 326-6868
www.cityofnorthlasvegas.com

November 25, 2014

Mr. Bill Farrar, Budget Analyst
State of Nevada Department of Taxation
Division of Local Government Services
1550 E. College Parkway, Suite #115
Carson City, NV 89006-7937

Dear Mr. Farrar:

The purpose of this letter, pursuant to NAC 354.735, is to request an extension of time for the City of North Las Vegas to provide its annual audited financial statements, in accordance with NRS 354.624 for the following entities:

City of North Las Vegas
North Las Vegas Redevelopment Agency
North Las Vegas Library District

It's expected our auditors (Piercy Bowler Taylor & Kern), will have completed their audit of the City's financial statements, including the auditor's opinion, prior to December 31st. However, it's not expected that the financial statements will be ready for presentation to the City Council until January 7, 2015. Subsequent to that presentation, we will file/mail the City of North Las Vegas' CAFR document with/to your office the following day.

If you have any questions or require additional information, please do not hesitate to contact me (702) 633-1460, extension 3629.

Thank you.

Sincerely,

Deborah J. Barton
Finance Manager

cc: Darren Adair, Director of Finance
Kari Turkal-Barrett, Accounting Manager



**STATE OF NEVADA
DEPARTMENT OF TAXATION**

Web Site: <http://tax.nv.gov>

1550 College Parkway, Suite 115
Carson City, Nevada 89706-7937
Phone: (775) 684-2000 Fax: (775) 684-2020

RENO OFFICE
4600 Kietzke Lane
Building L, Suite 235
Reno, Nevada 89502
Phone: (775) 687-9999
Fax: (775) 688-1303

BRIAN SANDOVAL
Governor
ROBERT R. BARENGO
Chair, Nevada Tax Commission
DEONNE E. CONTINE
Executive Director

LAS VEGAS OFFICE
Grant Sawyer Office Building, Suite 1300
555 E. Washington Avenue
Las Vegas, Nevada 89101
Phone: (702) 486-2300 Fax: (702) 486-2373

HENDERSON OFFICE
2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

January 15, 2015

**COMMITTEE ON LOCAL GOVERNMENT FINANCE
REQUEST FOR APPEARANCE**

CERTIFIED MAIL: 7004 2890 0002 6495 2095
DARREN ADAIR, DIRECTOR OF FINANCE
CITY OF NORTH LAS VEGAS
2250 LAS VEGAS BLVD NORTH #710
NORTH LAS VEGAS, NEVADA 89030

Date and Time of Meeting: February 6, 2015
9:00 a.m.

Place of Meeting:
Public Utilities Commission
1150 E. William Street
Hearing Room A
Carson City, Nevada 89701

Video Conference To:
Public Utilities Commission
9075 W. Diablo Drive, Suite 250
Hearing Room A
Las Vegas, Nevada 89148

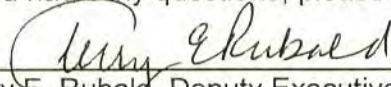
A representative from the City of North Las Vegas is requested to appear before the Committee on Local Government Finance (Committee) regarding the following:

City of North Las Vegas Financial Condition

- 1) Report by City on current year financial status, including revenue, expenditures and cash flow analysis;
- 2) Report by City on FY 2014 CAFR;
- 3) Report by City on status of litigation having fiscal impact, including Writ of Garnishment by 5th & Centennial, LLC et al;
- 4) Report by City on plan to alleviate financial difficulties currently experienced by City, including legislative requests if any

The Committee requests that any materials regarding this agenda item be received in the office of the Department at least 5 working days prior to the scheduled meeting to allow the Department and Committee Members an opportunity for review.

If you have any questions, please feel free to call me at 775-684-2095.


Terry E. Rubald, Deputy Executive Director
Department of Taxation

cc: Quiong Liu, City Manager, City of North Las Vegas

COMMITTEE ON LOCAL GOVERNMENT FINANCE REQUEST FOR APPEARANCE CERTIFIED MAIL RECEIPT DELIVERY CONFIRMATION

7004 2890 0002 6495 2095

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	698

<i>Sent To</i>	DARREN ADAIR DIRECTOR OF FINANCE
<i>Street, Apt. or PO Box</i>	CITY OF NORTH LAS VEGAS 2250 LAS VEGAS BLVD NORTH #710
<i>City, State</i>	NORTH LAS VEGAS NV 89030

PS Form 3800, June 2002
See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<div style="margin-bottom: 10px;"> A. Signature <div style="display: flex; justify-content: space-between;"> x <div> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee </div> </div> </div> <div style="margin-bottom: 10px;"> B. Received by (Printed Name) Terese Galado </div> <div style="margin-bottom: 10px;"> C. Date of Delivery </div> <div style="margin-bottom: 10px;"> D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No </div>
1. Article Addressed to: DARREN ADAIR DIRECTOR OF FINANCE CITY OF NORTH LAS VEGAS 2250 LAS VEGAS BLVD NORTH #710 NORTH LAS VEGAS NV 89030	3. Service Type <div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail </div> <div> <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D. </div> </div>
2. Article Number <i>(Transfer from service label)</i>	4. Restricted Delivery? <i>(Extra Fee)</i> <input type="checkbox"/> Yes
<div style="display: flex; justify-content: space-between;"> PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540 </div>	

Mailed Thursday, January 15, 2015, by K. Gransbery
Darren Adair, Director of Finance, City of North Las Vegas
Tracking #: 7004 2890 0002 6495 2095

AGENDA ITEM 3b

DISCUSSION AND CONSIDERATION OF CITY OF RENO FINANCIAL CONDITION




FINANCE DEPARTMENT

MEMORANDUM

DATE: January 28, 2015

TO: Terry Rubald, Deputy Executive Director,
State of Nevada Department of Taxation

FROM: Robert Chisel, Director of Finance & Administration 

SUBJECT: **Committee on Local Government Finance Meeting Materials**

Attached are reference materials for the meeting on February 6, 2015. Staff will present the information and answer questions that the Department and/or the Committee Members may have.

City of Reno

Current Year Financial Status



General Fund

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
REVENUE			
Taxes	22,825,046	42,321,414	42,298,694
Licenses & Permits			
Business License Fees	9,287,040	16,323,018	16,372,433
Franchise Fees, excluding Sewer in Lieu of Franchise Fee	7,317,047	21,391,367	23,129,909
Sewer in Lieu of Franchise Fee	517,573	3,026,911	2,788,314
Other	1,132	-	88,122
Total Licenses and Permits	17,122,792	40,741,296	42,378,778
Intergovernmental Revenue			
Consolidated Tax Revenue	16,815,281	47,696,339	46,470,929
Other Shared Revenues (AB104 & Gaming)	1,906,893	4,271,310	4,498,041
Other, Including Grants	485,481	1,195,268	8,750,619
Total Intergovernmental Revenue	19,207,655	53,162,917	59,719,589
Charges for Services	5,761,759	10,089,548	13,077,003
Fines & Forfeits	1,511,145	2,922,812	3,189,344
Special Assessments	876,870	1,625,000	1,718,459
Miscellaneous	8,176,104	8,780,264	2,476,518
Other Financing Sources	960,194	1,864,377	4,202,298
Beginning Fund Balance	-	12,249,949	-
REVENUE TOTALS	76,441,565	173,757,577	169,060,683
EXPENSE			
City Council			
Salaries & Wages	236,519	490,653	483,043
Employee Benefits	153,321	339,950	297,021
Services & Supplies	148,399	336,340	337,159
City Council Totals	538,239	1,166,943	1,117,223



General Fund

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
City Clerk			
Salaries & Wages	235,467	460,194	458,393
Employee Benefits	103,059	231,296	210,469
Services & Supplies	62,302	178,074	229,284
City Clerk Totals	400,828	869,564	898,146
City Manager			
Salaries & Wages	1,274,306	2,587,954	2,418,090
Employee Benefits	468,956	1,020,107	894,676
Services & Supplies	453,613	1,324,586	785,363
City Manager Totals	2,196,875	4,932,647	4,098,129
Finance			
Salaries & Wages	357,215	757,366	764,131
Employee Benefits	172,334	360,738	348,695
Services & Supplies	47,184	203,960	127,151
Finance Totals	576,733	1,322,064	1,239,977
City Attorney			
Salaries & Wages	905,375	2,158,809	2,106,457
Employee Benefits	420,140	994,632	847,699
Services & Supplies	108,025	637,474	190,738
City Attorney Totals	1,433,540	3,790,915	3,144,894
Human Resources			
Salaries & Wages	232,564	519,164	486,656
Employee Benefits	95,048	606,943	276,852
Services & Supplies	144,850	361,299	610,285
Human Resources Totals	472,462	1,487,406	1,373,793



General Fund

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
Civil Service			
Salaries & Wages	119,261	182,475	162,586
Employee Benefits	36,138	77,154	66,483
Services & Supplies	14,633	25,862	28,780
Civil Service Totals	170,032	285,491	257,849
Community Development			
Salaries & Wages	733,275	1,520,539	1,773,532
Employee Benefits	342,979	754,281	782,510
Services & Supplies	341,793	634,447	493,926
Community Development Totals	1,418,047	2,909,267	3,049,968
Police			
Salaries & Wages	16,399,831	33,373,006	32,880,802
Employee Benefits	8,659,265	18,224,748	17,013,771
Services & Supplies	2,765,857	5,599,618	4,894,202
Police Totals	27,824,953	57,197,372	54,788,775
Fire			
Salaries & Wages	11,723,231	21,341,656	25,577,785
Employee Benefits	6,299,068	13,184,567	13,574,512
Services & Supplies	972,549	2,235,695	2,934,560
Capital Outlay	775,671	904,980	24,261
Fire Totals	19,770,519	37,666,898	42,111,118
Municipal Court			
Salaries & Wages	1,633,751	3,339,865	3,439,860
Employee Benefits	881,872	1,837,133	1,738,670
Services & Supplies	315,512	908,948	1,058,518
Municipal Court Totals	2,831,135	6,085,946	6,237,048



General Fund

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
Public Works			
Salaries & Wages	1,209,621	2,567,925	2,222,164
Employee Benefits	577,649	1,254,458	1,003,743
Services & Supplies	708,071	1,882,276	1,529,058
Capital Outlay	-	21,000	381,650
Public Works Totals	2,495,341	5,725,659	5,136,615
Parks, Rec. & Community Service			
Salaries & Wages	2,697,659	5,569,284	6,037,875
Employee Benefits	918,091	2,282,661	2,006,727
Services & Supplies	866,890	1,874,924	1,613,801
Capital Outlay	-	-	29
Parks, Rec. & Community Service Totals	4,482,640	9,726,869	9,658,432
Debt Service			
Debt Service - Principal	297,589	494,991	282,449
Debt Service - Interest	551	579	11,138
Debt Service Totals	298,140	495,570	293,587
Intergovernmental			
Services & Supplies	1,511,627	4,186,294	4,864,939
Other financing uses	2,147,951	4,300,000	4,167,637
Intergovernmental Totals	3,659,578	8,486,294	9,032,576
Contingency			
Other financing uses	-	1,638,950	-
Contingency Totals	-	1,638,950	-



General Fund

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
Communications & Technology			
Salaries & Wages	2,457,494	5,252,565	5,175,831
Employee Benefits	1,074,169	2,413,637	2,094,543
Services & Supplies	898,057	2,615,013	2,456,741
Communications & Technology Totals	4,429,720	10,281,215	9,727,115
Non-Departmental			
Services & Supplies	-	-	1,689
Other financing uses	5,851,898	10,661,959	12,122,347
Non-Departmental Totals	5,851,898	10,661,959	12,124,036
Ending Fund Balance			
Ending Fund Balance	-	9,026,548	-
Ending Fund Balance Totals	-	9,026,548	-
EXPENSE TOTALS	78,850,680	173,757,577	164,289,281
Grand Total Net Gain (Loss)	(2,409,115)	-	4,771,402



Special Revenue Funds (Excluding RDA General Funds)

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
REVENUE			
Taxes	7,970,870	15,104,692	15,239,947
Licenses & Permits	1,097,294	2,095,000	2,952,592
Intergovernmental Revenue	4,954,479	8,648,685	14,725,036
Fines & Forfeits	10,157	5,000	851
Miscellaneous	1,386,904	853,978	1,895,563
Capital Contributions	-	-	715,000
Other Financing Sources	280,115	20,000	647,382
Beginning Fund Balance	-	14,897,805	-
REVENUE TOTALS	15,699,819	41,625,160	36,176,371
EXPENSE			
Salaries & Wages	2,108,381	4,562,443	4,199,244
Employee Benefits	1,031,880	2,562,644	1,972,238
Services & Supplies	5,635,201	11,687,667	15,335,651
Capital Outlay	177,488	5,270,000	4,128,944
Debt Service - Principal	33,000	33,000	33,000
Debt Service - Interest	1,827	3,544	3,726
Other Financing Uses	1,559,739	8,740,777	9,081,327
Ending Fund Balance	-	8,765,085	-
EXPENSE TOTALS	10,547,516	41,625,160	34,754,130
Grand Total Net Gain (Loss)	5,152,303	-	1,422,241



Debt Service Funds (Excluding RDA DS Funds)

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
REVENUE			
Taxes	2,638,029	5,900,000	5,862,019
Intergovernmental Revenue	3,540,805	8,957,000	10,002,755
Fines & Forfeits	23,511	-	75,777
Special Assessments	1,105,941	1,242,500	2,050,321
Miscellaneous	1,475,063	4,501,438	2,782,683
Other Financing Sources	5,543,159	15,606,152	102,570,981
Beginning Fund Balance	-	14,524,183	-
REVENUE TOTALS	14,326,508	50,731,273	123,344,536
EXPENSE			
Services & Supplies	1,045,637	3,094,867	2,584,422
Debt Service - Principal	7,070,910	18,864,305	67,551,884
Debt Service - Interest	6,838,311	15,078,428	14,539,259
Other Financing Uses	280,345	-	36,542,199
Ending Fund Balance	-	13,693,673	-
EXPENSE TOTALS	15,235,203	50,731,273	121,217,764
Grand Total Net Gain (Loss)	(908,695)	-	2,126,772



Capital Projects Funds (Excluding RDA CP Funds)

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
REVENUE			
Taxes	788,268	445,000	984,238
Licenses & Permits	18,600	-	19,800
Intergovernmental Revenue	259,743	637,500	508,963
Charges for Services	747,796	2,000,000	2,144,842
Miscellaneous	57,498	10,113	123,361
Capital Contributions	-	-	24,623
Other Financing Sources	1,028,064	2,041,618	4,135,419
Beginning Fund Balance	-	5,924,824	-
REVENUE TOTALS	2,899,969	11,059,055	7,941,246
EXPENSE			
Services & Supplies	24,326	286,374	161,648
Capital Outlay	1,887,399	4,973,600	6,851,652
Debt Service - Interest	-	-	9,578
Other Financing Uses	53,290	17,411	281,932
Ending Fund Balance	-	5,781,670	-
EXPENSE TOTALS	1,965,015	11,059,055	7,304,810
Grand Total Net Gain (Loss)	934,954	-	636,436



Enterprise Funds

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
REVENUE			
Licenses & Permits	155,811	305,000	344,594
Intergovernmental Revenue	95,036	-	152,544
Charges for Services	29,475,506	61,308,209	59,693,172
Fines & Forfeits	395,076	1,600,000	2,406,256
Miscellaneous	(66,880)	5,000	2,289,358
Capital Contributions	3,276,744	3,060,000	10,961,134
Other Financing Sources	-	-	1,007,200
Beginning Fund Balance	-	56,154,290	-
REVENUE TOTALS	33,331,293	122,432,499	76,854,258
EXPENSE			
Salaries & Wages	3,463,579	8,076,520	7,024,901
Employee Benefits	1,670,080	4,567,343	3,666,750
Services & Supplies	11,252,542	26,422,615	23,523,769
Capital Outlay	10,617,408	39,835,000	616,662
Debt Service - Principal	-	4,977,259	-
Debt Service - Interest	(40,445)	2,006,590	2,092,037
Other Financing Uses	2,356,000	14,733,000	14,510,411
Ending Fund Balance	-	21,814,172	-
EXPENSE TOTALS	29,319,164	122,432,499	51,434,530
Grand Total Net Gain (Loss)	4,012,129	-	25,419,728



Internal Service Funds

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
REVENUE			
Intergovernmental Revenue	299,751	550,000	413,733
Charges for Services	17,964,584	37,080,699	31,878,383
Miscellaneous	31,853	80,865	1,635,786
Capital Contributions	-	-	519,822
Other Financing Sources	114,532	-	2,017,919
Beginning Fund Balance	-	19,781,493	-
REVENUE TOTALS	18,410,720	57,493,057	36,465,643
EXPENSE			
Salaries & Wages	441,068	943,327	927,559
Employee Benefits	220,414	547,862	475,091
Services & Supplies	16,613,954	35,376,135	33,046,562
Capital Outlay	619,742	2,000,000	-
Other Financing Uses	-	2,000,000	3,984,091
Ending Fund Balance	-	16,625,733	-
EXPENSE TOTALS	17,895,178	57,493,057	38,433,303
Grand Total Net Gain (Loss)	515,542	-	(1,967,660)



RDA General Funds (Includes RDA 1 & 2)

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
REVENUE			
Intergovernmental Revenue	42,675	128,024	128,024
Miscellaneous	267,287	609,100	767,454
Other Financing Sources	-	-	-
Beginning Fund Balance	-	1,682,093	-
REVENUE TOTALS	309,962	2,419,217	895,478
EXPENSE			
Services & Supplies	339,722	870,300	737,761
Other Financing Uses	-	-	-
Ending Fund Balance	-	1,548,917	-
EXPENSE TOTALS	339,722	2,419,217	737,761
Grand Total Net Gain (Loss)	(29,760)	-	157,717

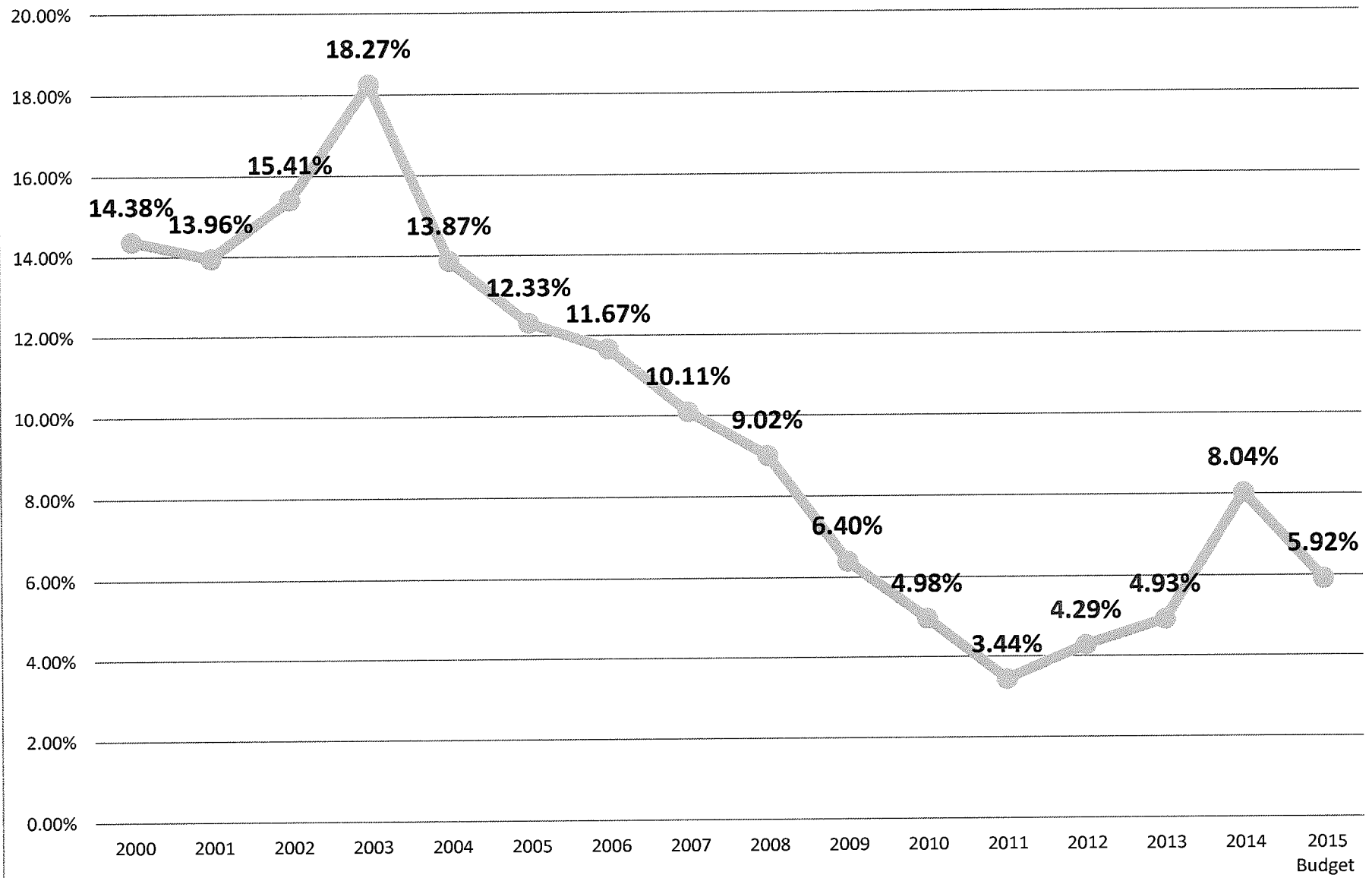


RDA General Funds (Includes RDA 1 & 2)

Through 12/31/14

	Year to Date at December 31, 2014	Annual 2015 Budget Amount	Prior Year at June 30, 2014
REVENUE			
Taxes	288,031	1,666,053	3,407,593
Miscellaneous	(2,660)	853,000	1,164
Other Financing Sources	-	-	853,265
Beginning Fund Balance	-	4,780,427	-
REVENUE TOTALS	285,371	7,299,480	4,262,022
EXPENSE			
Services & Supplies	5,670	192,000	189,139
Debt Service - Principal	1,960,000	2,225,000	2,075,000
Debt Service - Interest	734,305	1,422,373	1,577,370
Ending Fund Balance	-	3,460,107	-
EXPENSE TOTALS	2,699,975	7,299,480	3,841,509
Grand Total Net Gain (Loss)	(2,414,604)	-	420,513

Percent Fund Balance



City of Reno

Debt Status

City of Reno, Nevada										
Debt Schedule										
For Period Ended December 31, 2014										
					Annual	Original				
					Principal	Issue				
	Moody's			Interest	Installments	Amount	Outstanding at	Annual Amount 2014-2015		
Type of indebtedness (purpose)	Rating	S&P Rating	Maturities	Rates			December 31, 2014	Principal	Interest	Purpose/Primary Revenue Source/Notes
2002 Special Improvement District No. 5	Aa3	Unrated	12/1/06 - 12/1/25	5.7-7.25%	\$205,000 - \$655,000	7,500,000	5,200,000	315,000	385,878	Partially finance construction of the Downtown Events Center. Property Owners.
1999 Special Improvement District No. 2 (Series 2006)	Unrated	BBB	6/1/07 - 6/1/25	6.08-7.28%	\$355,000 - \$1,270,000	13,905,000	8,780,000	560,000	643,416	Partially finance ReTrac project. Property Owners.
2008A NV Tax-exempt Local Improvement			5/1/09 - 5/01/18	4.167%	\$20,000 - \$56,000	430,000	98,000	30,000	4,250	Finance sidewalk, curb and gutter improvements. Property Owners.
2008B NV Taxable Local Improvement	n/a	n/a	5/1/09 - 5/01/26	7.010%	\$40,000 - \$95,000	1,115,000	500,000	70,000	36,312	Finance sidewalk, curb and gutter improvements. Property Owners.
2010 Northgate Special Improvement District No. 2	n/a	n/a	11/1/12 - 11/1/41	4.00%	\$16,530 - \$52,740	939,800	888,160	17,910	35,885	Acquire open space formerly operated as Northgate golf course. Property Owners.
Total Special Assessment Bonds						\$ 28,123,528	\$ 16,541,160	1,117,910	1,159,265	

City of Reno, Nevada Debt Schedule For Period Ended December 31, 2014										
	Moody's Rating	S&P Rating	Maturities	Interest Rates	Annual Principal Installments	Original Issue Amount	Outstanding at December 31, 2014	Annual Amount 2014-2015 Principal Interest		Purpose/Primary Revenue Source/Notes
Notes Payable:										
HUD Section 108 Loan Program	n/a	n/a	2/1/02 - 8/1/20	0.31-2.45%	\$33,000 - \$39,000	\$ 600,000	\$ 204,000	\$ 33,000	3,544	Finance Section 108 housing projects. Section 108 Loan Recipients. Finance temporary fire stations serving downtown. RDA 1 and RDA 2 tax increment; secured by nine properties owned by COR and transferred to RDA.
RDA Nevada Land LLC	n/a	n/a	9/1/08-6/1/18	4.46% (Variable)	\$600,000	6,000,000	2,850,000	600,000	59,002 *	
Automated Date Processing, Inc.	n/a	n/a	1/31/14 - 12/31/18	0.00%	\$250,261	\$ 1,251,307	1,042,756	250,261	-	Finance implementation costs for outsourcing payroll & benefits administration. General Fund (legally available funds of the City).
						\$ 7,851,307	\$ 4,096,756	883,261	62,546	
Other:										
Clean Energy Renewable Installment Purchase Agreement	n/a	n/a	12/15/09 - 12/15/23	1.000%	\$156,000	\$ 2,340,000	\$ 1,560,000	\$ 156,000	\$ 15,600	Finance PV energy installations on City buildings. Energy savings generated by projects; secured by equipment located at the parking gallery and Events Center.
Qualified Energy Conservation Bond IPA	n/a	n/a	6/1/12 - 6/1/25	6.45%	\$137,000 - \$189,000	2,261,000	1,840,000	147,000	118,680	Finance clean energy & conservation projects. 70% Fed Govt interest subsidy; energy savings; legally available funds of the City; subsidy not shown.
Recovery Zone Economic Devpt Bond IPA	n/a	n/a	6/1/12 - 6/1/27	6.45%	\$175,000 - \$1,427,000	10,860,000	9,663,000	351,000	623,264	Finance clean energy & conservation projects. 45% Fed Govt interest subsidy; energy savings; legally available funds of the City; subsidy not shown.
US Bank Equipment Finance	n/a	n/a	8/31/12 - 7/31/14	7.72%	\$6,628 - \$7,681/mo	\$ 171,412	-	7,681	49	Finance buy-out of copiers lease. General Fund (legally available City funds) - paid 7/2014.
PNC Equipment Finance, LLC	n/a	n/a	5/1/13 - 4/1/18	4%	\$5,907 - \$40,807	\$ 195,190	\$ -	\$ 37,722	\$ 5,349	Finance acquisition of golf carts. General Fund (legally available City funds) - paid 7/2014.
IPS Group, Inc.	n/a	n/a	3/1/14 - 2/1/19	0%	\$6,527.50	\$ 391,409	\$ 326,175	\$ 78,282	\$ -	Finance acquisition of parking meters. General Fund (legally available City funds).
Total Other						\$ 16,219,011	\$ 13,389,175	\$ 777,685	\$ 762,942	
Total Governmental Activities						\$ 548,575,629	\$ 452,742,347			

City of Reno

Report on FY 2014 CAFR

STAFF REPORT

Date: December 10, 2014

To: Mayor and City Council

Thru: Andrew Clinger, City Manager

Subject: J.1. Staff Report (For Possible Action): Presentation of the Opinion and Findings of the Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended June 30, 2014, containing the Single Audit Report and Auditor's Opinion, and Auditor's Required Communications Letter, and approval of the Plan of Corrective Action. [2:00 PM]

From: Robert Chisel, Director of Finance and Administration

Summary: The Comprehensive Annual Financial Report (CAFR), which contains the Single Audit Report and Auditor's Opinion, for the fiscal year ending June 30, 2014 has been completed and the findings and opinion therein contained are now ready for presentation to Council. Staff is also presenting for review and approval, the City's Plan of Corrective Action relating to our auditor's conclusion regarding the City's compliance with Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) as identified in the annual audit process.

Background: An annual audit of a Nevada local government's financial statements is required by law, and the results of such audit must be submitted to the Council within five months of the close of the fiscal year. NRS 354.624(6) requires that the audit opinion and findings be presented to the Council at a meeting within 30 days after the audit report is submitted. The Plan of Corrective Action must also be approved by Council by this date, and along with the CAFR, be submitted to the Nevada Department of Taxation by no later than December 31, 2014.

Discussion: The City's FY 2013/14 CAFR has been completed and has received an unqualified (clean) opinion from the City's external auditors, Piercy Bowler Taylor & Kern, LLP (PBTK). An unqualified opinion by PBTK concludes that the CAFR presents fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City, as of June 30, 2014 and the respective changes in financial position and, where applicable, cash flows thereof, and the budgetary comparison information for the general fund for the year.

Staff and PBTK, represented by partner Jim Andrus and lead auditor Maria Gamboa via telephone, presented the CAFR and audit findings to the Financial Advisory Board (FAB) on

November 21, 2014, informing the Board that an unqualified opinion (clean) was rendered. PBTk also discussed the required communications letter which is attached.

Our auditor's conclusions regarding the City's compliance with Nevada Revised Statutes and Nevada Administrative Code are listed and described in Note 2 of the CAFR. The Department of Taxation (NAC 354.721) requires that the City develop a Plan of Corrective Action for each violation noted. While the plan had previously been submitted by staff, the Department of Taxation now requires that Plans of Corrective Action be accompanied by minutes from a Council meeting as evidence that the plan was approved by the Council. Information regarding the apparent violations of NRS that were identified in the annual audit for the year ended June 30, 2014, and a Plan of Corrective Action are presented in the attached letter to the Department of Taxation.

These findings are an important tool to assist the City in improving and enhancing financial policies and procedures to ensure long term financial stability.

Financial Implications: None.

Legal Implications: NRS 354.6245 and NAC 354.721 require the City to advise the Department of Taxation of the actions that have been, or will be, taken to prevent recurrence of any NRS and/or NAC violations related to the annual audit.

Recommendation: Staff recommends Council approval of the Plan of Corrective Action and directs staff to file the plan with the Nevada Department of Taxation.

Proposed Motion: Move to approve Staff's recommendation.

Attachments:

- City of Reno Comprehensive Annual Financial Report for FY2014 (PDF)
- Plan of Corrective Action - FY 2014 Audit (PDF)
- Required Communications Letter FY 2014 (PDF)

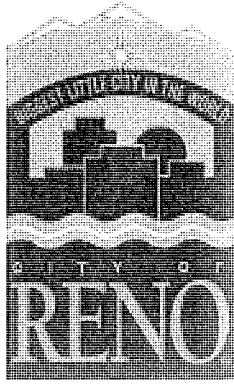
RESULT: APPROVED [UNANIMOUS]

MOVER: Jenny Brekhus, Councilmember

SECONDER: Neoma Jardon, Councilmember

AYES: Schieve, Brekhus, Duerr, McKenzie, Jardon, Bobzien

ABSENT: Oscar Delgado



December 11, 2014

Ms. Kelly Langley
Nevada Department of Taxation
Local Government Finance Division
1550 E. College Parkway, Ste 115
Carson City, NV 89706-7937

Dear Ms. Langley,

In response to our auditors' conclusion regarding the City of Reno's compliance with Nevada Revised Statutes (NRS) and Administrative Code (NAC), we offer the following plan of correction action for the specific exceptions noted in Note 2 on pages XX and XX of our Comprehensive Annual Finance Report (CAFR) for the fiscal year ended June 30, 2014. This plan was approved by the Reno City Council on December 10, 2014. An excerpt of the minutes will be forwarded to you once prepared.

Note 2 Expenditures In Excess of Budget Appropriated in Apparent Violation of NRS 354.626:

Expenditures were in excess of budget in the Court Fund, a nonmajor special revenue fund, by \$4,149.

Expenditures were in excess of budget in the Drainage Facility Impact Fee Fund, a nonmajor special revenue fund, by \$114,900.

The following expenditures in excess of budget were cited as a violation in Note 2 Expenditures but actually fall under NRS 354.626 as exemptions:

Expenditures were in excess of budget in the Community Development Grants Fund, a nonmajor special revenue fund, within the debt service function, by \$6.

Expenditures were in excess of budget in the Downtown Events Center Debt Service Fund, a major debt service fund, by \$262,123.

Expenditures were in excess of budget in the Railroad Debt Service Fund, a major debt service fund, by \$211,311.

Expenditures were in excess of budget in the City of Reno Debt Service Fund, a major debt service fund, by \$230,628.

Expenditures were in excess of budget in the Community Assistance Center Capital Project Fund, a nonmajor capital project fund, in the debt service function, by \$9,579.

Corrective Plan

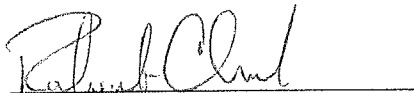
The City puts forth every effort to ensure compliance with NRS and NAC. Staff is required to present budget augmentations and revisions to City Council prior to June 30th of each year. However, to ensure compliance with GAAP and GASB pronouncements, the City's books are not closed until the end of August. Furthermore, if there is a material expenditure that is incurred in the fiscal year but an invoice is not received for processing or an adjustment is not otherwise identified after the August date and up to September 12, Staff is required to record the expenditure back to June 30 of the appropriate fiscal year. The violation in the Courts Special Revenue Fund was due to the required backdating of purchasing card transactions on the July bankcard statements. The violation in the Drainage Facility Impact Fee Fund was the result of paying an August 19, 2014 invoice that was required to be backdated.

The larger expenditures over budget that occurred within two of the debt service funds are the result of refunding (in whole or in part) and/or refinancing transactions that occurred during the year. The overage in the Downtown Events Center Debt Service Fund is the result of budgeting bond issuance costs in Other Financing Uses, where as the expenditures were recorded in the debt service function. The overage in the debt service function of the Community Developments Grants Fund was due to an error that reduced the original budget, which was correct, by \$6.

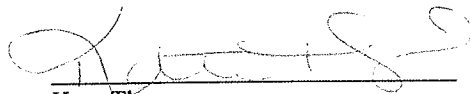
The Office of Management and Budget (OMB) and the Finance Department have worked diligently to educate employees in the numerous departments of the need to advise OMB of any pending expenditures or adjustments that would cause the department's reporting fund to go over budget and to submit necessary budget augmentation/revision requests to prevent that event. In 2012 OMB instituted monthly meetings with all departments to facilitate greater information sharing and to remind department heads of the need for accurate cost projections. These efforts continue to reduce the number of potential violations in the environment of tight budgets the City still faces.

The City of Reno continues to refine policies and procedures with the goal of eliminating future expenditures in excess of budget, and will put some new measures in place to address refunding/refinancing situations within debt service funds. Nonetheless, while improving, the City's financial condition still does not allow for additional budgeting to cover unanticipated potential situations that may occur in the last month of a given fiscal year or during the audit process.

Sincerely,



Robert Chisel
Director of Finance and Administration



Kate Thomas
Director of the Office of Management and Budget

P B T K

**PIERCY BOWLER
TAYLOR & KERN**

Certified Public Accountants
Business Advisors

CITY OF RENO

**REQUIRED
COMMUNICATIONS
LETTER**

**TO THE
FINANCIAL ADVISORY BOARD**

**FOR THE YEAR ENDED
JUNE 30, 2014**

CITY OF RENO
REQUIRED COMMUNICATIONS LETTER

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P B T K

PIERCY BOWLER
TAYLOR & KERN

Certified Public Accountants
Business Advisors

Financial Advisory Board
City of Reno
One East First Street, 9th Floor
Reno, Nevada 89501

RE: Required Communications

Ladies and gentlemen:

As part of our engagement to audit the financial statements of City of Reno (the City) as of June 30, 2014, and for the year then ended, we are required under applicable auditing standards to communicate certain matters to those charged with governance responsibilities for the City for the purpose of assisting them in meeting their responsibilities with regard to the financial reporting process. This report contains those required communications.

The matters reported herein were considered in forming our opinion on the City's financial statements contained in our report dated November 24, 2014, and these matters do not change that report.

The purpose of this communication is solely to describe the scope of our testing of internal control over financial reporting and compliance, and the result of that testing, and not to provide an opinion on the effectiveness of the City's internal control over financial reporting or on compliance. This communication is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control over financial reporting and compliance. Accordingly, this communication is not suitable for any other purpose. However, this report is a matter of public record, and its distribution is not limited.

Percy Bowler Taylor & Kern

November 24, 2014

Copies provided to:
Andrew Clinger, City Manager
Robert Chisel, Director of Finance and Administration
Lynette Hamilton, Accounting Manager

MANAGEMENT'S RESPONSIBILITY

Prior to issuance of the City's annual financial statements and our report thereon, it is management's responsibility to provide those charged with governance responsibilities, with detailed information related to the City's 1) initial selection of, and changes in, significant accounting policies and practices, 2) significant estimates, 3) significant unusual transactions, and 4) corrected and uncorrected misstatements, if any.

Appended to this communication is a copy of the letter of representation, requested by us, to be executed by management with regard to our audit services.

SIGNIFICANT AUDIT ADJUSTMENTS (CORRECTED MISSTATEMENTS)

Our audit resulted in a few significant adjustments to the City's financial statements, as follows:

Increase investments and investment income by \$235,000 to correct a clerical error in recording the change in market value of securities.

Reduction of deferred refunding losses and interest expense by \$521,000 to correct a clerical error in the recording of deferred refunding losses associated with three refundings that occurred during the year.

Increase in amounts due to other governments and a decrease in sewer fee revenue of \$1,200,000 to accrued amounts due to and collected on behalf of Washoe County. The cause of the misstatement was the delayed processing of the payment which occurred after management's search for unrecorded liabilities ended.

Reduction of accounts receivable and increase of amounts due from other governments (Sparks) of \$1,112,000 to correct a coding error which had no effect on operations.

WAIVED ADJUSTMENTS (UNCORRECTED MISSTATEMENTS)

Management requested us to waive as immaterial, individually and in aggregate, two proposed adjustments, as follows:

Waived Adjustment Number	Primary Financial Statement Line Item Affected and Explanation	Debit	Credit	Effect on Operations Debit (Credit)
1	Capital assets	\$ 362,000		
	Interest expense		\$ 362,000	\$ 362,000
	To capitalize interest related to construction expenditures			

Waived Adjustment Number	Primary Financial Statement Line Item Affected and Explanation	Debit	Credit	Effect on Operations Debit (Credit)
2	Net Position	\$ 1,207,520		
	Internal balances (Governmental Activities)		\$ 1,207,520	
	Internal balances (Business-type Activities)	1,207,520		
	Net Position		1,207,520	
	Prior period adjustment to decrease internal balance in Governmental Activities and Business-type Activities for closure/transfer of funds.			

We agreed to waive the adjustments, listed above, because we concurred with management's materiality assessment and they do not appear indicative of management bias (masking of a change in earnings trends, undisclosed instances noncompliance with contracts, laws and regulations, improper offsetting misstatements, *etc.*) that might be misleading and, accordingly, would not be considered significant to the intended users of financial statements.

DIFFICULTIES OR CONTENTIOUS MATTERS ENCOUNTERED IN PERFORMING THE AUDIT

Management cooperated fully, and no significant difficulties or contentious matters were encountered in completing the June 30, 2014, audit.

MATTERS INVOLVING INTERNAL CONTROL

We planned and performed our audit of the financial statements of the City as of June 30, 2014 and for the year then ended, in accordance with auditing standards generally accepted in the United States and *Government Auditing Standards* issued by the Comptroller General of the United States. We considered the City's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the City's financial statements. Such procedures were not performed for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

The principal objectives of effective internal control are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that all transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with accounting principles generally accepted in the United States. The concept of reasonable assurance requires that management, in fulfilling its responsibility, make estimates and judgments to assess the expected benefit and related costs of control procedures. Because of inherent limitations in any internal control, errors or fraudulent acts, particularly when involving forgery and collusion, may occur and not be detected. In addition, there is a risk that procedures may become inadequate in future periods because of changes in conditions and the degree of compliance with the procedures may deteriorate.

Definitions. A *deficiency* in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions,

to prevent or detect misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control, that is less severe than a material weakness yet important enough to merit attention by those with governance. Our consideration of internal control would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses.

Finding. Our procedures identified the following that we are bringing to your attention:

<u>Link</u>	<u>Previously Reported</u>	<u>Type</u>	<u>Internal control deficiencies and/or other comments</u>
N/A	No	Significant deficiency	Internal balances. Controls shall be designed to provide reasonable assurance that internal balances are properly accounted for and that closeout or transfers of funds are recorded in the fiscal year the events occur. An adjustment was necessary to correct balances related to the close out of the Animal Shelter fund and the transfer of the Golf Course fund.
N/A	No	Other comment	Completeness of Daily Deposits. Procedures to ensure that all collection locations make timely deposits were informal and undocumented. We recommend that a daily checklist be designed and used by revenue audit staff to identify potentially missing deposits and document that each location's daily deposit summary contains the signature of a preparer and reviewer, as well as follow-up inquiries / investigations. We subsequently observed that the checklist has been designed and is now in use.
N/A	No	Other comment	Compensated Absence Accounting. While reports available through the outside payroll service provider's (ADP's) software appear to accurately reflect the status of unused compensated absences at the end of a period, the available reports do not provide an easily searchable trail of compensated absences earned and used during each period (month and year) by employee, and in total for the City and its various reporting units. We recommend that a plan be developed to improve the audit trail of compensated absences earned and used.

We have reported other matters and/or made certain recommendations in a separate letter to management, dated November 24, 2014, which matters we believe do not constitute significant deficiencies or other matters required by applicable auditing standards to be included herein.

OTHER GOVERNANCE MATTERS

Auditors' responsibility under applicable professional standards. As stated in our report on the City's financial statements, our responsibility as independent auditors, under applicable professional standards, is to express an opinion, based on our audit, on the City's financial statements, which are the responsibility of the City's management. Our responsibilities, as contrasted with management's, are spelled out more fully in our letter of engagement.

Despite any limited assistance we may have provided to management in its preparation, our responsibility for

information accompanying the City's financial statements is limited to 1) reading such information to ascertain that it is materially consistent with information presented in the City's financial statements 2) considering whether any statements contained therein may appear to be materially misstated, and 3) assuring the satisfactory resolution of our concerns, if any. In this instance, we performed the required procedures, and any changes requested by us in this process were satisfactorily made and all questions satisfactorily resolved.

In considering the matters reported herein, you should be cognizant of your responsibility for oversight of the financial reporting process and management's responsibilities for establishing and maintaining an effective internal control subject to regulatory and ownership approval, and for the City's financial statements.

Fraudulent or other illegal or abusive activities. We did not become aware of any possible fraudulent or other illegal or abusive activities or any significant complaints or concerns regarding the City's accounting and financial reporting .

Significant accounting policies. The significant accounting policies employed by the City are disclosed in the notes to the City's financial statements and are essentially as prescribed, recommended or permitted under applicable authoritative literature for, or commonly used by, other entities in your industry. The accounting policies have been consistently applied and are not controversial or lacking in authoritative guidance or consensus.

Significant estimates. The financial statements do not contain any significant management estimates, except with regard to the depreciable lives of capital assets and depreciation methods, the value of derivative instruments ("interest rate swaps"), liability for self-insurance claims, and liability for post-employment retirement benefits.

Significant unusual transactions. Significant unusual transactions are those that occur outside the normal course of business or that otherwise appear to be unusual due to their timing, size, or nature. We are not aware of any significant unusual transactions.

Related parties. No significant audit issues were encountered in connection with the City's related party transactions, for example, nondisclosure by management or questionable authorization/purpose.

Disagreements or pre-retention discussions with, and consultations with other accountants by, management. We are also required by professional standards to communicate any significant disagreements with management, consultations by management with other accountants that we become aware of, or discussions with us prior to our retention regarding any major issues, over the application of accounting principles, management's judgments about accounting estimates, disclosures to be made in the City's financial statements, the scope of the audit or the wording of the auditors' report, regardless of whether the matter was satisfactorily resolved. No such disagreements were encountered in our audit, nor are we aware of any consultations with other accountants, nor were we consulted prior to retention, regarding any such matters.

Licensing and independence. This will confirm that we are duly licensed to perform this engagement. In addition, in our professional judgment, we are independent of the City and, when applicable, its affiliated entities under all applicable rules, regulations, and interpretations, and we represent that we know of no relationships that a reasonably informed person might consider an impairment of our independence under such requirements with regard to this engagement.

Management consulting services. We have not provided the City with any management consulting services except for consulting with management related to management's evaluation of the indirect costs associated with the City's agreement with the Truckee Meadows Fire Protection District. .

Compliance with laws, regulations, contracts and grants. Compliance with laws, regulations, contracts and grants applicable to the City is the responsibility of the City's management. As part of obtaining reasonable assurance about whether the City's financial statements are free of material misstatement, we performed tests of the City's compliance with certain provisions of laws, regulations, contracts and grants. However, our objective was not to provide an opinion on overall compliance with such provisions.

In accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, we have issued our report dated November 24, 2014, on our consideration of the City's internal control over financial reporting and on our tests of the City's compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. This report is an integral part of an audit performed in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and should be considered in assessing the results of our audit.

In accordance with the requirements of the U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*, auditing standards generally accepted in the United States and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, we have issued our report dated November 24, 2014, on our consideration of the City's compliance with requirements applicable to major programs and on internal control over compliance. The purpose of that report is to describe the scope of our testing of compliance and internal control over compliance and the results of that testing, and to provide an opinion on the City's compliance with such requirements, but not to provide an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over compliance. This report is an integral part of an audit performed in accordance with the requirements of OMB Circular A-133, auditing standards generally accepted in the United States and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and should be considered in assessing the results of our audit.

Material instances of noncompliance are failures to follow requirements or violations of prohibitions contained in laws, regulations, contracts and grants, that when aggregated, in our judgment, are material to the City's financial statements or a major grant program. The results of our tests of compliance and internal control over compliance did not disclose material instances of noncompliance or material weaknesses in internal control over compliance.

**REPRESENTATIONS SOUGHT
FROM MANAGEMENT**



STATE OF NEVADA
DEPARTMENT OF TAXATION

Web Site: <http://tax.nv.gov>

1550 College Parkway, Suite 115
Carson City, Nevada 89706-7937
Phone: (775) 684-2000 Fax: (775) 684-2020

RENO OFFICE
4600 Kietzke Lane
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Reno, Nevada 89502
Phone: (775) 687-9999
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BRIAN SANDOVAL
Governor
ROBERT R. BARENGO
Chair, Nevada Tax Commission
DEONNE E. CONTINE
Executive Director

LAS VEGAS OFFICE
Grant Sawyer Office Building, Suite 1300
555 E. Washington Avenue
Las Vegas, Nevada 89101
Phone: (702) 486-2300 Fax: (702) 486-2373

HENDERSON OFFICE
2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

January 15, 2015

COMMITTEE ON LOCAL GOVERNMENT FINANCE
REQUEST FOR APPEARANCE

CERTIFIED MAIL: 7004 2890 0002 6495 2101
ROBERT CHISEL, FINANCE DIRECTOR
CITY OF RENO FINANCE DEPARTMENT
PO BOX 1900
RENO, NV 89505-1900

Date and Time of Meeting: February 6, 2015
9:00 a.m.

Place of Meeting:
Public Utilities Commission
1150 E. William Street
Hearing Room A
Carson City, Nevada 89701

Video Conference To:
Public Utilities Commission
9075 W. Diablo Drive, Suite 250
Hearing Room A
Las Vegas, Nevada 89148

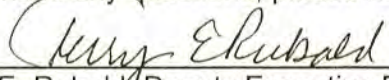
A representative from the City of Reno is requested to appear before the Committee on Local Government Finance (Committee) regarding the following:

City of Reno Financial Condition

- 1) Report by City on current year financial status, including revenue, expenditures and cash flow analysis;
- 2) Report by City on overall debt status, debt service schedule;
- 3) Report on FY 2014 CAFR

The Committee requests that any materials regarding this agenda item be received in the office of the Department at least 5 working days prior to the scheduled meeting to allow the Department and Committee Members an opportunity for review.

If you have any questions, please feel free to call me at 775-684-2095.


Terry E. Rubald, Deputy Executive Director
Department of Taxation

COMMITTEE ON LOCAL GOVERNMENT FINANCE REQUEST FOR APPEARANCE CERTIFIED MAIL RECEIPT DELIVERY CONFIRMATION

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	6.98

CARSON CITY NV 89505-1900
JAN 15 2015
5107 ST
Sdsu 10/68 TAX

Sent To ROBERT CHISEL FINANCE DIRECTOR
CITY OF RENO FINANCE DEPARTMENT
Street, Apt. or PO Box # PO BOX 1900
City, State, ZIP+4® RENO NV 89505-1900

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to:</p> <p>ROBERT CHISEL FINANCE DIRECTOR CITY OF RENO FINANCE DEPARTMENT PO BOX 1900 RENO NV 89505-1900</p> <p>2. Article Number (Transfer from service label) 7004 2890 0002 6495 2101</p>	<p>A. Signature X <i>V. Haney</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) V. HANEY</p> <p>C. Date of Delivery 1-16-15</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Mailed Thursday, January 15, 2015, by K. Gransbery
Robert Chisel, Finance Director, City of Reno Finance Department
Tracking #: 7004 2890 0002 6495 2101

AGENDA ITEM 3c

REPORT BY INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

M E M O R A N D U M

TO: Committee on Local Government Finance
State of Nevada Department of Taxation

THROUGH: Steven J. Pinkerton
General Manager
Incline Village General Improvement District (IVGID)

FROM: Gerald W. Eick, CPA CGMA
Director of Finance, Accounting, Risk Management and Information
Technology
Incline Village General Improvement District

SUBJECT: Report regarding potential conversion of Community Services
Enterprise Fund and Beach Enterprise Fund classification to Special
Revenue Fund classification

DATE: January 28, 2015

I. RECOMMENDATION

IVGID staff is recommending the District adopt a change in application of accounting principles to utilize the Special Revenue Fund classification for the District's activities currently utilizing the Enterprise Fund classification, for the District's Community Services Fund and Beach Fund. In our professional opinion, this application is considered a more appropriate one given the definitions under Governmental Accounting Standards Board (GASB) Statement 54 and the conditions under which the District provides services, asset management and debt service through the Community Services Fund and Beach Fund. The change would be effective July 1, 2015 for the fiscal year ending June 30, 2016. The District has received concurrence by its current auditor that such an application could expect to receive an unmodified audit opinion.

II. BACKGROUND

IVGID staff identified the need to make these changes based on consideration of the methods by which the District has and expects to consider setting the annual Facility Fee for each of the Community Services Fund and the Beach Fund. The primary change has come from the approach for determining the annual Facility Fee, which has components to provide resources for operations, capital

expenditure and debt service. Through 2011, this process essentially followed a course to first define the needs for each component and then, set the Facility Fee accordingly. In 2012 the District instituted a process we have called "smoothing" to intentionally change the timing of capital projects to result in no change to the aggregate Facility Fee.

The premise of Enterprise Funds is that pricing policies establish fees and charges designed to cover its necessary costs, including capital costs (such as depreciation or debt service). This premise has remained reasonably in place through the year ending June 30, 2015.

Under GASB 54, Special Revenue Funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service and capital projects. With our change in approach to setting fees, we have continued to present our decisions aimed at the various venues constituting Community Services (Golf, Facilities, Ski, Recreation, Recreation Administration, Tennis and Parks) and separately the Beach. Thus we have and continue to make the assessment of the Facility Fee for a specified purpose. All fees and charges are segregated through the sub-fund accounting for each venue. Both the timing and allocation of the Facility Fees among operations, capital expenditure and debt service has changed from year to year and over time. Over the last few years the flow of resources has always met debt service first, then operating needs and the remainder for capital expenditure to the extent possible. Given the District has recently passed its 50th anniversary, we are increasingly aware of the need for asset management and more detailed capital planning. For the Community Services Fund and the Beach Fund this is not accomplished by constant reinvestment as is the case for our other Enterprise activity, Utilities, but rather over defined periods fluctuating among the various venues. The District intends that a part of this change in application of accounting principles will include capital expenditure and debt service reporting as it occurs within each fiscal year, regardless of stated needs. However, the ongoing committed balances established by the Board would be measured and reported as Special Revenue Funds based on a flow of resources. These resources would then be used as scheduled projects occur.

III. FINANCIAL IMPACT

Net Position Remains Intact after the Conversion

IVGID staff has developed a template for the conversion of the current Enterprise Funds for Community Services and the Beach. An example of the application of that template is attached to demonstrate the conversion of the audited balances from June 30, 2014. It is important to note that Net Position remains intact for

each Fund following the conversion. It is the stated intention of the District that no Net Position of the converted Enterprise Funds would be transferred to another fund. Each Residual Transfer would be one to the other.

Bond Issues Outstanding as Liabilities of the subject Enterprise Funds

IVGID staff also has considered the consequences of the two bond issues currently outstanding which provided resources for equipment and facilities in past years and whose debt service has come from the Community Services Fund and the Beach Fund. These bond issues were issued by the Incline Village General Improvement District and carry a General Obligation feature. They do not name a specific fund, but infer a support of repayment to be from recreation revenues. The ability or obligation to repay these bonds will not be affected by the change in the application of an accounting principle. Neither bond was issued with a dedicated debt service fund or reserve requirement. The specific Bond issues are:

\$7,000,000 Incline Village General Improvement District, Nevada, General Obligation (Limited Tax) Medium-Term Recreation Bonds Series 2008. As of June 30, 2014 the unpaid principle was \$3,125,000. Its final maturity is June 1, 2018. The Facility Fee includes \$110 per year per parcel for the debt service of this bond within the Community Services Fund.

\$3,475,000 Incline Village General Improvement District, Nevada General Obligation (Limited Tax) (Revenue Supported) Recreation Refunding Bonds Series 2012. As of June 30, 2014, the unpaid principle was \$3,166,000. Its final maturity is March 1, 2023. The Facility Fee includes elements to service this bond. Based on how the original proceeds were used for various projects, this results in 1.61% for the Beach Fund and the remaining 98.39% for the Community Services Fund. Based on the average annual debt service, this would equate to \$48 per year per parcel in the combined Facility Fee.

Interfund Allocations and Central Services Allocations

The District has followed the administrative requirements of allocating Central Services costs under paragraph (C) of subsection 1 of NRS 354.613. A copy of the current allocation format is attached for the fiscal year ending June 30, 2015. The District does not anticipate any substantive change to the effect of the allocation. There may be a new element of cost to be allocated for the fiscal year ending June 30, 2016 (that would occur without regard to the change under discussion) because of shared costs for the District's new Information Technology Network. However, the general process of allocating costs to funds will otherwise follow the fund not the fund type. Therefore, there should be no direct consequence to the Utility Fund (the sole remaining Enterprise Fund) as a result of this change. The District intends to continue to allocate the expenses to

reflect the cost of operations for budgeting and financial reporting for all funds, whether they are subject to NRS 354.613 or not, to reconcile the totals.

Charges for Services (Facility Fee) collected under NRS 318.201

Annually, the District's Board of Trustees approves a resolution for the collection of Recreation Standby and Service Charges as set forth in NRS 318.201. Through this process the District establishes the uses of those fees in a manner that assimilates that of a commitment under GASB 54. The following is the current year's tables from the Board packet where that type of action was taken.

The following Recreation Facility Fee and Beach Facility Fee Allocation Tables provide the individual and the total dollar amount of the combined facility fees for the Community Services Fund and the Beach Fund. (Amounts in brackets represent operating resources provided to reduce the fees in other venues).

	Components			Per Parcel Facility Fee	2014-15 Facility Fee
	Operating	Capital	Debt Service		
Recreation (8180 Parcels)					
Golf	\$ 35	\$ 55	\$ 33	\$ 123	\$ 1,006,140
Facilities and Catering	11	13	22	46	376,280
Diamond Peak Ski	(196)	166	152	122	997,960
Community Programming	101	23	3	127	1,038,860
Recreation Administration	181	12	-	193	1,578,740
Recreation Reserves	-	-	-	-	-
Parks	62	42	4	108	883,440
Tennis	5	4	2	11	89,980
Recreation Facility Fee	\$ 199	\$ 315	\$ 216	\$ 730	\$ 5,971,400
Beach Facility Fee (7,743 Parcels)					
	\$ 65	\$ -	\$ 35	\$ 100	\$ 774,300

This manner of presentation and adoption will not be affected by the conversion to a Special Revenue Fund. In fact, the ability to meet the requirement for functional expenditures, as well as object level reporting, will allow a better demonstration of compliance with these components as adopted.

IV. ALTERNATIVES

The District has and could continue to utilize the Enterprise Fund classification. However, in doing so we are applying a process that is being considered less and less precise or reflective of the definitions under accounting standards. Eventually this change should be made. IVGID staff is recommending that we change the classification now with a deliberate and carefully considered process. The District has retired another recreation bond in October 2014. The shift in use of resources is expected to go to more capital expenditure for deferred projects.

V. COMMENTS

There is an intrinsic benefit to this change as it relates to understanding our finances by our constituency. Under the Enterprise Fund classification, capital expenditure and the portion of debt service that is for principal is only reported in the statement of cash flows. Members of the general public do not naturally look in two places for information to understand how the District uses their Fees. The format of Special Revenue, Capital Project and Debt Service financial reporting will allow each element of the Facility Fee to be clearly represented both as budgeted and as executed. District staff believes this will be of substantial benefit in gaining greater understanding of the District's finances and flow of resources. In a time when we seek better transparency and understanding, this will definitely be appreciated by our constituents. Regulatory users will continue to know how to navigate a Comprehensive Annual Financial Report and get the information they need whether at the government-wide or fund levels.

VI. NEXT STEPS

There are three distinct steps to be taken following the presentation to the Committee on Local Government Finance.

- 1) Prepare an operating and capital budget for the fiscal year ending June 30, 2016 based on the application of the change in accounting principles and submit the preliminary version to the Department of Taxation by April 15.
- 2) Complete the final operating and capital budget, along with the annual Facility Fee Roll, for the fiscal year ending June 30, 2016 for adoption on May 21, 2015.
- 3) On or before the final adoption, the Board of Trustees of the Incline Village General Improvement District will pass a resolution to form the necessary funds to accommodate the change in application of the accounting principles effective for July 1, 2015 for the Community Services Fund and the Beach Fund. The same resolution will acknowledge the dissolution of the former Enterprise Funds.

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
PROPRIETARY FUNDS
STATEMENT OF NET POSITION
JUNE 30, 2014

	NRS 354.613 Authorized (CAFR) Enterprise Funds		Template for Conversion to Special Revenue Funds	
	Community		Community	
	Services	Beach	Services	Beach
	Fund	Fund	Fund	Fund
ASSETS				
Current assets:				
Cash and cash equivalents	\$ 138,433	\$ 88,391	\$ 138,433	\$ 88,391
Investments	525,000	175,000	525,000	175,000
Accounts receivable	122,551	4,175	122,551	4,175
Interest receivable	16,750	251	16,750	251
Grants receivable	2,000	-	2,000	-
Due from other governments	205,691	26,993	205,691	26,993
Inventories	379,977	-	379,977	-
Prepaid expenses	278,076	19,328	278,076	19,328
Due from other funds	3,006,433	1,012,952	3,006,433	1,012,952
Total current assets	4,674,911	1,327,090	4,674,911	1,327,090
Noncurrent assets:				
Long-term investments	2,583,437	500,000	2,583,437	500,000
Restricted for debt service reserve	-	-	-	-
TRPA Deposits	80,257	-	80,257	-
State of Nevada Work Comp Deposit	-	-	-	-
State of Nevada Sales Tax	6,075	-	6,075	-
	2,669,769	500,000	2,669,769	500,000
Capital Assets				
Land	11,107,336	2,304,850		
Construction in progress	1,016,123	92,328		
Buildings and structures	28,153,069	2,111,014		
Improvements and Infrastructure	26,982,528	1,993,073		
Equipment and vehicles	8,640,702	235,921		
Total capital assets	75,899,758	6,737,186		
Less: accumulated depreciation	(31,713,218)	(2,621,064)		
Total capital assets (net)	44,186,540	4,116,122		
Total noncurrent assets	46,856,309	4,616,122		
Total assets	51,531,220	5,943,212	7,344,680	1,827,090

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
PROPRIETARY FUNDS
STATEMENT OF NET POSITION
JUNE 30, 2014

	NRS 354.613 Authorized (CAFR) Enterprise Funds		Template for Conversion to Special Revenue Funds	
	Community Services Fund	Beach Fund	Community Services Fund	Beach Fund
LIABILITIES				
Current liabilities:				
Accounts payable	279,834	112,368	279,834	112,368
Accrued personnel costs	211,983	20,787	211,983	20,787
Accrued interest payable	41,682	2,539	41,682	2,539
Unearned revenue	730,047	19,191	730,047	19,191
Refundable deposits	57,188	-	57,188	-
Current maturities of long-term debt	1,513,398	270,602		
Total current liabilities	2,834,132	425,487		
Non-current liabilities:				
Bond Discounts, net	(13,430)	(219)		
Bond Premium, net	124,866	-		
Non-current long term debt	5,196,163	45,837		
Total non-current liabilities	5,307,599	45,618		
Total liabilities	8,141,731	471,105	1,320,734	154,885
NET POSITION				
Net investment in capital assets	37,365,543	3,799,902	-	-
Restricted by Third Party Agreement	86,332	-	86,332	-
Unrestricted	5,937,614	1,672,205	5,937,614	1,672,205
Total net position	<u>\$ 43,389,489</u>	<u>\$ 5,472,107</u>	6,023,946	1,672,205
GASB 34 Reconciling Items to Government-Wide Financial Statements:				
Capital Assets			75,899,758	6,737,186
Accumulated Depreciation			(31,713,218)	(2,621,064)
Bonds Payable			(6,709,561)	(316,439)
Bond Discounts, net			13,430	219
Bond Premiums, net			(124,866)	-
Total GASB 34 Reconciling Items			37,365,543	3,799,902
Total net position (Residual Transfer from Enterprise to Special Revenue)			<u>\$ 43,389,489</u>	<u>\$ 5,472,107</u>

**INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
FOR THE YEAR ENDED JUNE 30, 2014**

	NRS 354.613 Authorized (CAFR) Enterprise Funds		Template for Conversion to Special Revenue Funds	
	Community Services Fund	Beach Enterprise Fund	Community Services Fund	Beach Enterprise Fund
OPERATING REVENUES				
Sales and fees	\$ 10,991,126	\$ 1,104,246	\$ 11,072,703	\$ 1,104,765
Facility fees (GASB 54 specified purpose revenue & collected under NRS 318.201 by Resolution)	6,024,564	780,716	6,024,564	780,716
Parcel Owner discounts on entry fees	(529,896)	(71,625)	(529,896)	(71,625)
Operating grants	106,238	-	147,767	-
Interfund services	66,704	-	66,704	-
Total operating revenues	16,658,736	1,813,337	16,781,842	1,813,856
OPERATING EXPENSES				
Wages and benefits	6,121,222	690,594	6,087,762	681,106
Cost of goods sold	945,313	-	945,313	-
Services and supplies	3,444,405	357,460	3,380,505	277,098
Defensible Space	100,000	-	100,000	-
Central Services Cost	705,996	72,000	705,996	72,000
Insurance	274,792	17,222	274,792	17,222
Utilities	1,109,464	85,763	1,109,464	85,763
Legal and audit	41,138	3,246	41,138	3,246
Depreciation	2,293,786	137,493	-	-
Total operating expenses	15,036,116	1,363,778	12,644,970	1,136,435
Operating income	1,622,620	449,559	4,136,872	677,421
NONOPERATING REVENUES (EXPENSES)				
Investment earnings	31,908	2,988	25,736	3,395
Gain (loss) on sales of assets	52,573	1,104	56,004	1,104
Cell Tower Lease Income	108,325	-	108,325	-
Interest on bond debt	(289,773)	(11,811)	-	-
Amortization bond discounts & premiums	49,395	(135)	-	-
Total nonoperating revenues (expenses)	(47,572)	(7,854)	-	-
Income before contributions & other	1,575,048	441,705		
Transfer for Capital Expenditures			(2,266,640)	(167,375)
Transfer for Debt Service			(1,162,723)	(277,192)
Capital Grant Contributions (Costs)	(407)	-	(407)	-
Changes in net position (Fund Financial Statements)	1,574,641	441,705	897,167	237,353
Total net position, July 1	41,814,848	5,030,402		
Total net position, June 30	\$ 43,389,489	\$ 5,472,107		

**INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
FOR THE YEAR ENDED JUNE 30, 2014**

	NRS 354.613 Authorized (CAFR) Enterprise Funds		Template for Conversion to Special Revenue Funds	
	Community Services Fund	Beach Enterprise Fund	Community Services Fund	Beach Enterprise Fund
GASB 34 Reconciling Items to Government-Wide Financial Statements:				
Transfer for Capital Expenditures			2,266,640	167,375
Transfer for Debt Service			1,162,723	277,192
Interest expense			(289,773)	(11,811)
Depreciation			(2,293,786)	(137,493)
Amortization			49,395	(135)
Cost of assets sold			(3,431)	-
Accounts receivable			37,880	1,668
Interest receivable			6,172	(407)
Grants receivable			(41,529)	-
Interfund receivable			2,427	1,746
Inventory			(20,917)	-
Prepaid expenses			(26,161)	2,106
Accounts payable			(16,822)	(82,468)
Accrued personnel			(33,460)	(9,488)
Unearned revenues			(121,884)	(3,933)
Total GASB 34 Reconciling Items			677,474	204,352
Total change in net position (Government-wide)			1,574,641	441,705
Total net position, July 1			41,814,848	5,030,402
Total net position, June 30			\$ 43,389,489	\$ 5,472,107

**Incline Village General Improvement District
Central Services Cost Allocation Plan
For the Fiscal Year Ending June 30, 2015**

	General	Utility	Community Services	Beach	Internal Services	Total District
Base Cost						
Budgeted FTE by Fund Allocation	28.03 11.74%	31.88 13.35%	147.52 61.77%	17.785 7.45%	13.6 5.69%	238.815 100%
Budgeted Wages by Fund Allocation	\$ 1,553,684 14.81%	\$ 2,276,634 21.70%	\$ 5,015,109 47.80%	\$ 631,509 6.02%	\$ 1,015,874 9.68%	\$ 10,492,810 100%
Budgeted Benefits by Fund Allocation	\$ 763,395 17.63%	\$ 1,178,632 27.21%	\$ 1,683,803 38.88%	\$ 171,035 3.95%	\$ 533,986 12.33%	\$ 4,330,851 100%
Budgeted Services & Supplies by Fund Allocation	\$ 655,600 8.62%	\$ 1,566,300 20.60%	\$ 4,494,650 59.12%	\$ 378,520 4.98%	\$ 507,500 6.68%	\$ 7,602,570 100%
Budgeted Accounting	\$ 873,743					
Percentage of Costs Allocated	80%					698,994
Allocation based on Services & Supplies	60,277	144,009	413,246	34,802	46,660	698,994
Blended Allocation	15%	21%	49%	6%	9%	
Budgeted Human Resources	496,369					
HR + 20% Accounting	671,118					
Based on Wages, Benefits & FTE	98,813	139,282	332,084	38,958	61,980	671,118
Central Services Cost Allocation to Enterprise Funds	\$ 283,290	\$ 745,330	\$ 73,760			\$ 1,102,381
Annual Billing for Adopted Budget	\$ 283,000	\$ 745,000	\$ 73,000			\$ 1,101,000

Prepared and calculated in accordance with NRS 354.613 Subsection C and IVGID Board Policy 18.1.0

By: Gerald W. Eick, Director of Finance, Accounting and Risk Management



**STATE OF NEVADA
DEPARTMENT OF TAXATION**

Web Site: <http://tax.nv.gov>

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Carson City, Nevada 89706-7937
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BRIAN SANDOVAL
Governor
ROBERT R. BARENGO
Chair, Nevada Tax Commission
DEONNE E. CONTINE
Executive Director

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HENDERSON OFFICE
2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

January 15, 2015

**COMMITTEE ON LOCAL GOVERNMENT FINANCE
REQUEST FOR APPEARANCE**

CERTIFIED MAIL: 7004 2890 0002 6495 2118
GERALD W. EICK
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
893 SOUTHWOOD BLVD.
INCLINE VILLAGE, NEVADA 89451

**Date and Time of Meeting: February 6, 2015
9:00 a.m.**

Place of Meeting:
Public Utilities Commission
1150 E. William Street
Hearing Room A
Carson City, Nevada 89701

Video Conference To:
Public Utilities Commission
9075 W. Diablo Drive, Suite 250
Hearing Room A
Las Vegas, Nevada 89148

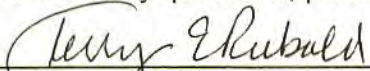
A representative from the Incline Village General Improvement District is requested to appear before the Committee on Local Government Finance (Committee) regarding the following:

Incline Village General Improvement District (IVGID)

**Report regarding potential conversion of Community Services & Beach
Enterprise Fund to Special Revenue Funds**

The Committee requests that any materials regarding this agenda item be received in the office of the Department at least 5 working days prior to the scheduled meeting to allow the Department and Committee Members an opportunity for review.

If you have any questions, please feel free to call me at 775-684-2095.


Terry E. Rubald, Deputy Executive Director
Department of Taxation

COMMITTEE ON LOCAL GOVERNMENT FINANCE REQUEST FOR APPEARANCE CERTIFIED MAIL RECEIPT DELIVERY CONFIRMATION

7004 2890 0002 6495 2118

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com


OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.98

GERALD W EICK
 INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
 893 SOUTHWOOD BLVD
 INCLINE VILLAGE NEVADA 89451



PS Form 3800, June 2002
See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X </p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>MARY MCCORMICK</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>
<p>1. Article Addressed to:</p> <p style="margin-top: 20px;">GERALD W EICK INCLINE VILLAGE GID DISTRICT 893 SOUTHWOOD BLVD INCLINE VILLAGE NEVADA 89451</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p> <p style="text-align: right; font-family: monospace;">7004 2890 0002 6495 2118</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Mailed Thursday, January 15, 2015, by K. Gransbery
Gerald W. Eick, Incline Village General Improvement District
Tracking #: 7004 2890 0002 6495 2118

AGENDA ITEM 4a

**REPORT BY DEPARTMENT ON TRANSFERS
FROM ENTERPRISE FUNDS BY COUNTIES
AND CITIES DURING FY2014
PURSUANT TO NRS 354.613(6)**



STATE OF NEVADA
DEPARTMENT OF TAXATION

Web Site: <http://tax.nv.gov>

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Carson City, Nevada 89706-7937
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Fax: (702) 486-3377

January 15, 2014

Committee on Local Government Finance
1550 College Parkway #115
Carson City, NV 89706

RE: Notice pursuant to NRS 354.613(6) Enterprise funds: Loan or transfer of money in or associated with fund

Dear Chairman Leavitt:

Please accept this as formal notice that the Department of Taxation has not received any reports pursuant to NRS 354.613(6) as it pertains to Enterprise Funds, Loan or transfer of money in or associated with fund.

This letter is provided to you as required pursuant to NRS 354.613(6). Statute requires that the Department of Taxation shall provide to the Committee on Local Government Finance (CLGF) a copy of each report submitted. On or before January 15, of each odd-numbered year, CLGF is required to submit a report of its findings to the Director of the Legislative Counsel Bureau for transmittal to the Legislature pursuant to NRS 354.613(6)b.

Should you have any questions regarding this notice, please don't hesitate to give me a call.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelly S. Langley".

Kelly S. Langley
Supervisor, Local Government Finance
Department of Taxation

AGENDA ITEM 4b

**CONSIDERATION AND APPROVAL OF
REPORT TO THE DIRECTOR OF THE
LEGISLATIVE COUNSEL BUREAU FOR
TRANSMITTAL TO THE LEGISLATURE
PURSUANT TO NRS 354.613(6)b**



**STATE OF NEVADA
DEPARTMENT OF TAXATION**

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Henderson, Nevada 89074
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Fax: (702) 486-3377

February 6, 2015

Rick Combs, Director
Legislative Counsel Bureau
401 S. Carson St.
Carson City, NV 89701-4747

RE: Biennial Report pursuant to NRS 354.613(b)

Director Rick Combs:

Please accept this as formal notice that the Committee on Local Government Finance has not received any reports pursuant to NRS 354.613 as it pertains to Enterprise Funds, Loan or transfer of money in or associated with fund.

This letter is provided to you as required pursuant to NRS 354.613(6). Statute requires that the Committee on Local Government Finance (CLGF) submit a report of its findings to the Director of Legislative Counsel Bureau for transmittal to the Legislature.

Should you have any questions regarding this notice, please don't hesitate to give me a call.

Sincerely,

Marvin Leavitt, Chairman
Committee on Local Government Finance

AGENDA ITEM 5

**CONSIDERATION AND APPROVAL OF
TRUST FUND INVESTMENT PLAN
BY LOCAL GOVERNMENT
PURSUANT TO NAC 287.788(2)**

CLARK COUNTY OPEB TRUST

Clark County, Nevada

OPEB Board of Trustees

500 South Grand Central Parkway 1st Floor • Box 551210 • Las Vegas NV 89155-1210
(702) 455-3895 • Fax (702) 380-3112

February 2, 2015

Marvin Leavitt, Chairman
% Terry Rubald
Committee on Local Government Finance
Nevada Department of Taxation
Division of Local Government Services
1550 College Parkway, No. 115
Carson City, NV 89706

Re: Clark County, Nevada OPEB Trust Fund Investment Plan

The Trust Agreement for the Clark County, Nevada OPEB Trust Fund provides that the investment of the assets of the Trust Fund is limited to:

- The Retirement Benefits Investment Fund (RBIF) provided in NRS 355.220; and
- Any investment authorized for a local government pursuant to NRS 355.170.

NAC 287.788 provides that, "Unless all the assets of the trust fund will only be deposited in the Retirement Benefits Investment Fund pursuant to subparagraph (1) of paragraph (g) of subsection 2 of NRS 287.017, the board of trustees shall develop an investment plan for the trust fund in consultation with a professional fund manager, if the board has entered into a contract with such a person pursuant to subsection 1, or with any other investment management advisor retained by the board of trustees. The investment plan must be approved as to its conformity with this subsection by the Committee on Local Government Finance before the investment of any assets of the trust fund."

It is the intent of the Trust Fund's Board that the majority of the Fund assets will be invested in the RBIF, with the remainder invested in the Clark County Investment Pool (which is invested in accordance with NRS 355.170) for short-term cash flow purposes.

On December 11, 2014, the Clark County OPEB Board of Trustees approved an Investment Plan, and is submitting this Plan to the Committee for its review and approval.

Please let me know if you have any questions.

Sincerely,



Laura Fitzpatrick
Vice-Chair, Clark County OPEB Board of Trustees
Clark County Treasurer

NOTICE OF PUBLIC MEETING

AGENDA

CLARK COUNTY OPEB BOARD OF TRUSTEES

**THURSDAY, DECEMBER 11, 2014, 9:30 AM
PINYON ROOM, GOVERNMENT CENTER, 6th FLOOR
500 SOUTH GRAND CENTRAL PARKWAY, LAS VEGAS, NEVADA**

This meeting has been properly noticed and posted in the following locations:		Agenda Also Available At:	
CC Government Center 500 S. Grand Central Pkwy Las Vegas, NV (Principal Office)	Regional Justice Center 200 Lewis Ave, 1 st Fl. Las Vegas, NV	City of Las Vegas 400 E. Stewart Ave Las Vegas, NV	City of No. Las Vegas 2200 Civic Center Dr. No. Las Vegas, NV
Third Street Building 309 S. Third St. Las Vegas, NV	Paradise Park Pool & Center 4775 McLeod Dr. Las Vegas, NV	City of Henderson 240 Water St. Henderson, NV	City of Boulder City 400 California Ave. Boulder City, NV
Winchester Park & Center 3130 S. McLeod Dr Las Vegas, NV	Desert Breeze Park & Community Ctr. 8275 Spring Mtn. Rd Las Vegas, NV	City of Mesquite 10 E. Mesquite Blvd. Mesquite, NV	Clark County Regional Govt. Ctr. 101 Civic Way Laughlin, NV

- Items on the agenda may be taken out of order.
- The OPEB Board of Trustees may combine two or more agenda items for consideration.
- The OPEB Board of Trustees may remove an item from the agenda or delay discussion relating to an item at any time.

The main agenda is available on Clark County's website, <http://www.ClarkCountyNV.gov>. For copies of agenda items and supporting backup materials, please contact Carrie Delatorre at (702) 455-3895.

CALL TO ORDER

Comments by the General Public

This is a period devoted to comments by the general public about items on this agenda. If you wish to speak to the OPEB Board of Trustees about items within its jurisdiction but not appearing on this agenda, you must wait until the "Comments by the General Public" period listed at the end of this agenda. Comments will be limited to three minutes. Speakers must clearly state their name (last name spelled for the record) and address. No action may be taken on a matter not listed on the posted agenda. If any member of the OPEB Board of Trustees wishes to extend the length of a presentation, this will be done by the Chair or the Board by majority vote.

1. Approval of Agenda. (For possible action)
2. Approval of the minutes of the Clark County, Nevada OPEB Trustee meeting on December 1, 2014. (For possible action)
3. Approve and authorize the Clark County, Nevada OPEB Trust (the Trust) to join the investment advisory agreement between the Clark County, Nevada and FTN Financial Main Street Advisors, LLC. (For possible action)

4. Approve and authorize the Trust to join the custodial agreement between Clark County, Nevada and Wells Fargo Bank, N.A. (For possible action)
5. Approve the opening of appropriate bank accounts with Bank of America in the name of the Trust and authorize funding the accounts with the required initial deposit or as deemed appropriate. Source of funding the accounts will be from the first contribution to the trust.(For possible action)
6. Approve the Clark County, Nevada OPEB Trust Investment Policy. (For possible action)
7. Approve the Clark County, Nevada OPEB Trust FY2015 budget. (For possible action)
8. Approve the cash flow projections and proposed schedule of transfers to the RBIF through June 30, 2015.
9. Trustee's/Staff announcements, requests for information, and topics for future agendas, Statements relating to items not on the agenda and any ideas and suggestions for greater efficiency, cost effectiveness and innovation in providing for the benefits of Clark County, Nevada OPEB Trust participants in accordance with the benefit plans. (No discussion on this item will take place among Trustees.)

Comments by the General Public

A period devoted to comments by the general public about matters relevant to the OPEB Board of Trustees' jurisdiction will be held. No action may be taken on a matter not listed on the posted agenda. Comments will be limited to three minutes. Speakers must clearly state their name (last name spelled for the record) and address. If any member of the OPEB Board of Trustees wishes to extend the length of a presentation, this will be done by the Chair or the Board by majority vote.

CLARK COUNTY OPEB BOARD OF TRUSTEES

Agenda Item: Approval of Investment Plan for OPEB Trust Fund

Petitioner: Laura Fitzpatrick, Vice-Chair of OPEB Board of Trustees

Recommendations:

That the Board of Trustees of the Clark County OPEB Trust (Board) approve and adopt an Investment Plan in accordance with NAC 287.288(2), and that the Board submit the Plan to the Nevada Committee on Local Government Finance for its approval as to the Plan's conformity with that subsection.

Fiscal Impact:

None

Background:

NAC 287.288(2) requires that an investment plan be developed by the Board unless all of the assets of the OPEB Trust Fund will only be deposited in the Nevada Retirement Benefits Investment Fund.

Per the Trust Agreement for Clark County, Nevada OPEB Trust Fund, approved and adopted on March 4, 2014 by the Clark County Board of Commissioners, the investment of the assets of the Trust Fund is limited to:

- (1) The Retirement Benefits Investment Fund (RBIF) provided in NRS 355.220; and (emphasis added)
- (2) Any investment authorized for a local government pursuant to NRS 355.170.

NAC 287.288(2) requires that the investment plan be approved by the Committee on Local Government Finance (LGC) as to the plan's conformity to with that subsection. After the Board's approval of the OPEB Trust Investment Plan, the Plan will be submitted to the LGC.

The investment plan was developed by the County Treasurer (also an OPEB member) and the County's external Cash and Investment Manager.

This investment plan has been reviewed by the District Attorney's office.

Respectfully submitted,

Laura B. Fitzpatrick, OPEB Trust Board Member
Attachments

12/11/2014

Clark County, Nevada
Other Post-Employment Benefits (OPEB) Trust

INVESTMENT PLAN

12/11/14

I. Introduction

The Clark County, Nevada OPEB Trust Fund (“Trust”) was created in March 2014 pursuant to NRS 287.017 to provide for the post-retirement benefits of Participants provided by the County’s benefit Plans described in the Trust Agreement, and for paying the reasonable expenses of administering the Trust.

The Trust is administered by the Clark County, Nevada OPEB Board of Trustees (“Board”), whose members are appointed the Trust Sponsor’s governing body, the Clark County, Nevada Board of Commissioners. The Board acts in a fiduciary capacity for the beneficiaries of the Trust, pursuant to NRS 287.017 (2)(e) and NAC 287.788, in order to ensure prudent administration of the Trust.

The purpose of this Investment Plan (“Plan”) is to set forth the goals, objectives, and investment constraints of the Trust, and to establish other guidelines for the management of the Trust’s investments.

II. Investment Plan Goals

The Board recognizes that a stable, well-articulated investment plan is crucial to the long-term success of the Trust. As such, the Board has developed this Plan with the following goals in mind:

- To establish the objectives and constraints that govern the investment of the Trust’s assets
- To establish a long-term target asset allocation with a likelihood of meeting the Trust’s goals and objectives, given the explicit investment constraints
- To protect the financial health of the Trust, and
- To provide for the duties of responsible parties

III. Fiduciary Standards

As Trustees of the Trust, Board members are fiduciaries. Accordingly, Board members must:

- Act solely in the interest of the Trust’s participants and beneficiaries, for the exclusive purpose of providing benefits and defraying the reasonable costs of managing the Trust’s assets.
- Exercise the care, skill, prudence and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.
- Diversify the investments of the Trust in order to minimize the risks of meaningful losses, unless under the circumstances it is clearly prudent not to do so.
- Act in accordance with the Trust’s authorizing statute and governing documents.

Fiduciary standards of conduct also apply to the Trust’s staff, and any investment managers, custodians, and others who exercise discretionary authority or control over the management or disposition of the Trust’s assets.

IV. Duties and Responsibilities

a. Board

The Board is responsible for establishing the policies and guidelines by which the Trust is managed, and to invest and/or reinvest any and all monies of the Trust to the extent permitted by law, regulation, the Trust Agreement, and this Plan.

b. Investment Managers

- **Retirement Benefits Investment Board**
Pursuant to NRS 277.180, the Board may enter into an Intrastate Interlocal Contract between Public Agencies with the Retirement Benefits Board (RBIB) in order to invest monies of the Trust in the Retirement Benefits Investment Fund (RBIF).
- **Other External Managers**
The Board may employ external professional investment managers to give them the discretion to manage the Trust assets in accordance with applicable NRS, investment policies, and the Trust Agreement. Each investment manager will operate under a formal contract which will include, but is not limited to, the scope of services to be provided, investment guidelines, performance benchmarks, investment accounting and reporting requirements, and fees.

The managers will work with the members of the Board and appropriate County officials and designated staff to determine cash flow funding requirements, the amount and timing of contributions and withdrawals to the RBIF, invest other available monies, and discuss investment strategies. The managers will interact with the staff of the Retirement Benefits Investment Board and monitor investment activity in the RBIF.

The managers will provide a list of the broker-dealers they utilize and an overview of the factors considered for selecting those firms.

c. Custodian Bank

Securities purchased shall be delivered against payment (delivery vs. payment) and held in a custodial account in the name of the Trust with the trust department of a third-party bank insured by the Federal Deposit Insurance Corporation. The custodian bank is expected to provide the Trust with timely information as related to portfolio holdings, transactions, and performance. Assets of the Trust invested in the RPIF shall be held in a custodial account in the name of that fund.

V. Investment Objectives

The primary investment objective of the Trust is to:

- Generate a 7.5% return by producing a long-term total return from investments which exceeds the rate of inflation (CPI) by 4.0% by capturing market returns within each asset class;
- Invest so that the short-term volatility of returns will not cause the System to alter its long term strategy; and,
- Structure an investment program which is sufficiently uncomplicated to control the ability to consistently meet return and risk objectives.

The Board recognizes that in order for the Trust to reach the highest, reasonably prudent real return possible and meet its expected liabilities, the Trust must allocate a portion of assets to riskier, higher returning assets. Therefore, the Board intends to invest a majority of the Trust assets in the RBIF.

The Board will monitor liquidity risk, thus maximizing the Trust's ability to meet disbursement needs during adverse market conditions.

VI. Investment Constraints and Strategy

a. Legal and Regulatory

The Board intends that the Trust assets be at all times invested in accordance with applicable laws. The Board will retain legal counsel when appropriate to review contracts and provide advice with respect to applicable statutes and regulations.

In accordance with the purpose of the Trust Fund stated in NRS 287.017(2)(a), the Trust Fund shall invest monies for the purpose of funding all or a portion of the unfunded actuarial accrued liabilities associated with future retirement welfare benefits under the Benefit Plans. The Trust Fund may be used to pay current retirement welfare benefits under the Benefit Plans.

Notwithstanding the investments permitted for the assets of the Trust Fund under NAC 287.790, and regardless of the value of the portfolio in the Trust Fund at the end of any Trust Year, the investment of the assets of the Trust Fund is limited to:

- The Retirement Benefits Investment Fund (RBIF) provided in NRS 355.220; and
- Any investment authorized for a local government pursuant to NRS 355.170

Note: The Board has obtained an opinion from Clark County, Nevada's legal counsel that the investment of Trust Fund assets in the Retirement Benefits Investment Fund will not violate the provisions of Section 10 of Article 8 of the Constitution of the State of Nevada.

As a clarification, the assets of the Trust Fund are not permitted to be invested in equity securities or bonds or other debt securities which meet the requirements of NRS 287.017(2)(g)(3).

All interest, earnings, dividends and distributions with respect to the investment of the Trust Fund, less any expenses charged with respect to such investments, must be deposited in the Trust Fund.

The Trust Fund shall be maintained as a separate account and no other funds shall be co-mingled with the funds in the Trust Fund, except to the extent otherwise permitted by NRS 287.017(2)(h) and NAC 287.790(4).

Trust Fund monies shall not be used to finance debt of the Trust Sponsor and shall not be available for loans to other funds of the Trust Sponsor.

b. Diversification and Asset Allocation

The Board recognizes that diversification is an important element of risk control and that allocation of monies to various asset classes will be a major determinant of the Trust's return and risk experience over time. As such, the Board will determine the timing and amount invested in the Retirement Benefits Investment Fund.

The asset allocation and investment structure of the Trust will be reviewed on an on-going basis, and at least annually. When necessary, such reviews may result in a rebalancing of asset allocation. In general, the Board intends that the Trust will adhere to its long-term target allocations, and that major changes to these targets will be made only in response to significant developments in the circumstances, objectives, or constraints of the Trust or in the capital market opportunities.

In addition, for appropriate investment managers, investment guidelines will specify diversification requirements, including, but not limited to, the maximum permissible investment in any one asset.

c. Permissible Asset Classes

The assets of the Trust Fund are limited to those permissible in applicable NRS, the Trust Agreement, the Retirement Benefits Investment Board Investment Objectives & Policies, and the Clark County Investment Policy.

X. Investment Manager/Provider Review

The Trust's investment manager(s) will be reviewed periodically to verify that they remain appropriate for the Trust. Each manager's suitability as an investment manager for the Trust will be judged from a variety of perspectives including, but not limited to, stability and capability of professional staff, adherence to investment disciplines for which the manager was retained, business practices, prudent management of risk, investment performance, and client communication.

The RBIF will be reviewed to determine adherence to the RPIB Investment Objectives and Policies, and for consistency with Trust objectives.

IX. Review of Investment Policy and Performance

The Plan will be reviewed at least annually to ensure that the objectives and constraints remain relevant. Major changes to this Plan will be made only when significant developments in the circumstances, objectives, or constraints of the Trust occur. If approved by the State Legislature, previously unauthorized investment vehicles may be utilized by the Trust upon approval by the Board.

The performance of the total Trust will be evaluated relative to the investment objectives and constraints identified in this Plan, in consideration of the returns available from the capital markets during the period under review. The total Fund performance will be measured against a custom benchmark that weights the returns of available market indices.

XI. Investment Costs

The Board intends to monitor and control investment costs at every level of the Trust. As such:

- Professional fees will be negotiated whenever possible; existing fees will be reviewed periodically and re-negotiated, as appropriate.
- Where appropriate, passive portfolios will be used to minimize management fees and portfolio turnover.
- Managers will be instructed to minimize brokerage, execution, and other costs.
- If possible, assets will be transferred in-kind during manager transitions and portfolio restructurings to eliminate unnecessary expenses.

XII. Investment Training

Members of the Board and any applicable staff will have appropriate training to ensure that they are knowledgeable in the prevailing investment practices. The Board will budget for appropriate training expenses, and will utilize the Clark County, Nevada Travel Policy.

XIII. Voting of Proxies

The Board may delegate the responsibility of voting all proxies to the investment manager[s] or a third party. The Board expects that all proxies will be executed in a timely fashion. The Board may review the voting actions periodically.

IX. Approval of Committee on Local Government Finance

In accordance with NAC 287.788(2), this Investment Plan has been approved by the Committee on Local Government Finance.

**RESOLUTION EXPANDING THE PURPOSE OF THE
OTHER POST-EMPLOYMENT BENEFITS (OPEB) RESERVE FUND (6550)**

WHEREAS, NRS 354.612 and NAC 354.241 require that local governments adopt resolutions establishing the various funds of the local government and setting forth the purpose of the funds and plan for administration of the funds; and

WHEREAS, the Other Post-Employment Benefits (OPEB) Reserve Fund (6550) was established on May 6, 2008, by the Board of County Commissioners for the purpose of accounting for OPEB contributions and liabilities pursuant to the Governmental Accounting Standards Board (GASB) Statement No. 45; and

WHEREAS, GASB Statement No. 45 establishes standards whereby state and local government employers must recognize the present value of future costs of retiree health benefits during the period of active employment; and

WHEREAS, Clark County currently funds certain OPEB obligations on a pay-as-you-go basis but has also contributed funding to the OPEB Reserve Fund to account for a substantial portion of the county's future OPEB obligations; and

WHEREAS, there are currently sufficient resources in the OPEB Reserve Fund to pay the annual costs of certain OPEB obligations thereby reducing the burden to pay for these costs from other funds of the County while, at the same time, limiting the amount of future contributions from other County funds to the OPEB Reserve Fund; and

WHEREAS, NRS 287.017 also permits the governing body of a local government to create a trust fund for future retirement benefits of employees and their spouses and dependents so that available resources can be invested in a manner that will further reduce the burden of paying these costs from other funds of the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Clark County, Nevada, as follows:

1. The County Comptroller shall periodically commission actuarial studies that estimate the OPEB liability of the County as required by GASB Statement No. 45.
2. The Chief Financial Officer of the County, in consultation with the County Comptroller, shall annually establish an amount to be assessed against each County fund for its pro-rata share of the cost of funding the County OPEB liability. The assessment shall be included in the annual budget of the County. In establishing such assessment, consideration shall be given to the Annual Required Contribution established pursuant to the most recent actuarial studies required by paragraph 1, the number of active employees enrolled in the Benefits Plans of the County, the sufficiency of the existing reserves of the OPEB Reserve Fund and/or any trust fund created pursuant to NRS 287.017 compared to the total accrued OPEB liability of the County, and the

availability of any additional current or projected resources that may be used to satisfy current or future OPEB liabilities.

3. The Board of County Commissioners hereby pledges to, and promises to pay the amount it receives under the Interlocal Agreement between Clark County and the Las Vegas Metropolitan Police Department (LVMPD) dated December 15, 2008, pursuant to which LVMPD subleases the Metro Headquarters Building into the OPEB Reserve Fund created by this Resolution. Said amounts shall be used for the purpose of providing funding to satisfy the OPEB obligations or related expenses identified in this Resolution. Amounts pledged and paid pursuant to this section shall not be used for the purpose of paying OPEB obligations of any government entity which participates in the OPEB Reserve Fund other than the County. This pledge and promise to pay shall take effect on the date of acquisition of the Metro Headquarters by the County, anticipated to occur on or about July 1, 2014, and shall remain in effect until and unless the Board of County Commissioners makes a finding that the amounts are no longer required, either in whole or in part, for the purposes set forth in this Resolution.

4. The resources of the Fund shall be used to pay the costs of the County's annual OPEB obligations including the County's pro-rata share of the retiree medical loss incurred by the Self-Funded Health Benefits Plan, the County's share of retiree health care premium subsidy payments made to the Public Employee Benefits Program of the State of Nevada, any retiree health care subsidy payment made pursuant to a collective bargaining agreement, or to make contributions to a trust fund for future retirement benefits created pursuant to NRS 287.017.

5. The resources of the fund may also be used for payment of any administrative costs necessary to comply with any applicable provisions of Nevada Revised Statutes, federal law, or the provisions of this Resolution. Such administrative costs may include salaries and wages and employee benefits for authorized staff, operating supplies and capital equipment, actuarial services, other consultant services as approved by the Board, expenses associated with the investment of the Fund's assets, or any other approved operating or capital expense up to the limit appropriated by the Board for such purpose in the annual budget of the County. The money in the fund may also be used to acquire the Metro Headquarters Building, as contemplated by the provisions of paragraph 3 of this Resolution.

6. The residual funding at the end of the fiscal year will rollover to the next budget year for the aforementioned uses. When the audited unassigned ending fund balance of the OPEB Reserve Fund is less than the amount required to be maintained according to applicable statutes and regulations, the Chief Financial Officer shall adjust the amount of the assessments set forth in paragraph 2 to ensure that the ending balance is not less than the amount required in the ensuing year.

7. The Chief Financial Officer in conjunction with the County Comptroller shall monitor the Fund and provide periodic reports to the Board regarding the activities of the Fund to ensure that they are reasonable and necessary to carry out the purpose of the Fund and this Resolution.

8. The Fund will account for its sources and uses in conformance with Generally Accepted Accounting Principles, Nevada Revised Statutes, Nevada Administrative Code and the Regulations of the Nevada Tax Commission.

PASSED, ADOPTED AND APPROVED THIS _____ day of _____, 2014.

COUNTY OF CLARK

By: _____
STEVE SISOLAK, Chairman
Board of County Commissioners

ATTEST:

DIANA ALBA, County Clerk

**CLARK COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM**

Issue:	OPEB Trust Agreement	Back-up:
Petitioner:	Jessica L. Colvin, Comptroller	Clerk Ref. #
Recommendation: That the Board of County Commissioners approve, adopt, and authorize the Chairman to execute a Trust Agreement for Clark County, Nevada OPEB Trust Fund; and appoint the Board of Trustees for the Trust for a term set to expire on June 30, 2016. (For Possible Action)		

FISCAL IMPACT:

With the execution of an irrevocable trust and the investment of trust assets it is estimated that the annual required contribution will be reduced by approximately \$18 million.

BACKGROUND:

GASB 45 was issued to provide more complete, reliable, and decision-useful financial reporting regarding the costs and financial obligations that governments incur when they provide other post employment benefits (OPEB) as part of the compensation for services rendered by their employees. Post employment healthcare benefits are the most common form of OPEB and are a very significant financial commitment.

While not mandating funding of the OPEB obligation, GASB 45 does establish a framework for prefunding future costs which will lead to significantly lower annual expenses and liabilities and preserve the credit worthiness of the County. The benefits of pre-funding occur only when plan assets are set aside in an irrevocable trust where the actuaries are permitted to use a higher long-term investment return assumption which corresponds to lower liabilities and costs.

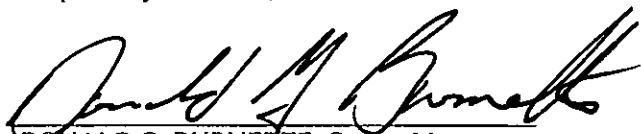
Nevada Revised Statutes (NRS) 287.017 authorizes local governments to create an irrevocable trust fund for the management of OPEB benefits. This trust will be a legally separate entity from Clark County for the exclusive benefit of providing funds for retiree and dependent health care and for paying expenses of administering the trust.

In accordance with NRS 287.017 a trust fund must be administered by a Board of Trustees appointed by the governing body of the local government creating the trust. Nevada Administrative Code 287.778 defines the Board of Trustees, their qualifications, and terms. There must be at least three but no more than five trustees, including:

- One or more persons who each have a combination of education and experience in finance or economics that totals 5 years or more;
- A public officer or employee of the local government who manages the fiscal affairs of the local government;
- A beneficiary of the benefits plan of the local government

**APPROVED (INCLUDING APPOINTMENT OF LAURA
FITZPATRICK, JESSICA COLVIN, AND GEORGE STEVENS AS
TRUSTEES) AS RECOMMENDED**

Respectfully submitted,


DONALD G. BURNETTE, County Manager

Cleared for Agenda

3/4/14 MD

Agenda Item #

62

MEMORANDUM

Diana Alba
County Clerk

CLARK COUNTY CLERK

Jim Pierce
Assistant County Clerk

TO: JESSICA COLVIN, COMPTROLLER

FROM : ROSANN JONES, DEPUTY CLERK, COMMISSION DIVISION

SUBJECT: TRUST AGREEMENT FOR CLARK COUNTY, NEVADA OPEB TRUST FUND-BCC
3/4/14, ITEM NO. 62

DATE: MARCH 5, 2014

PLEASE OBTAIN THE NECESSARY SIGNATURE(S) AND RETURN FULLY EXECUTED COPY
TO THIS OFFICE.

THANK YOU,

A handwritten signature in black ink, appearing to be "J. Jones", written over the printed text "THANK YOU,".

**TRUST AGREEMENT
FOR
CLARK COUNTY, NEVADA
OPEB TRUST FUND**

ARTICLE I.

Purpose of the Trust

This Trust is intended to provide the means to fund the post-retirement benefits provided by the employee benefit plans described herein. The Trust is intended to qualify as a governmental trust established to provide an essential government function under Code Section 115 and is created pursuant to Nevada Revised Statutes § 287.017. The name of this Trust shall be the Clark County, Nevada OPEB Trust Fund.

ARTICLE II.

Definitions

When used in this Trust, the following words shall have the following meanings, unless the context clearly indicates otherwise:

- 2.1 "Benefit Plan" means each of the employee post-employment welfare benefit plans maintained by the Employer that are funded through this Trust and that are listed on Exhibit A hereto, which may be amended from time to time.
- 2.2 "Board of Trustees" means "board of trustees" as that term is used by NRS 287.017(2)(e)
- 2.3 "Code" means the Internal Revenue Code of 1986, as amended.
- 2.4 "Dependents" means any spouse or other dependent of a former or retired employee of Employer who is eligible to participate in any Benefit Plan, to the extent such spouse or other dependent is a "covered dependent" under the terms of the Benefit Plan.
- 2.5 "Effective Date" means the Effective Date of this Trust, which shall be March 4, 2014, the date on which the Trust is approved by the Clark County Board of Commissioners.
- 2.6 "Employer" means Clark County, Nevada.
- 2.7 "Investment Plan" means an investment plan developed by the Board of Trustees pursuant to NRS 287.017(2)(g)(1) and NAC 287.788(2).
- 2.8 "NAC" means the Nevada Administrative Code, as amended from time to time
- 2.9 "NRS" means the Nevada Revised Statutes, as amended from time to time.
- 2.10 "Participant" means any individual who is a former or retired employee of Employer who is eligible to participate in a Benefit Plan and Dependents of such employees and former employees.

2.11 "Trust" and "Trust Fund" mean the Trust, as set forth in and by this document and all subsequent amendments thereto.

2.12 "Trust Sponsor" means Clark County, Nevada.

2.13 "Trust Year" means the fiscal year ending on June 30 of each year.

2.14 "Trustee" means the person or persons appointed under Article VII and accepting the position as Trustee, and any duly appointed and qualified successor Trustees.

2.15 Words used in the singular shall include the plural, words used in the plural shall include the singular, and words of one gender shall include other genders when the context so requires.

ARTICLE III.

Participation

Each Participant who is eligible to participate in a Benefit Plan shall be eligible to participate in this Trust.

ARTICLE IV.

Contributions

4.1 **Determination of Contribution:**

- (a) This Trust shall be funded by contributions by Participants and/or the Employer, and all such contributions to the Trust, and any earnings on such contributions, shall be irrevocable and shall become the property of the beneficiaries of the trust.
- (b) Contributions to this Trust shall be made in accordance with, and in amounts prescribed by, the Benefit Plan.
- (c) The Employer shall commission actuarial studies that estimate the liabilities of the Benefit Plans on a periodic basis as required by the Governmental Accounting Standards Board. The Employer shall notify the Trustee of the level of funding it expects to contribute to the Trust Fund.

4.2 **Funding Policy:** The policy of the Trust Sponsor is that this Trust shall be funded by Participant and/or Employer contributions. Such funding shall be determined pursuant to NAC 287.786(1) in a manner consistent with the Code, any Investment Plan established pursuant to Section 7.3, and any other applicable laws and regulations, in accordance with generally accepted accounting principles, and on a sound actuarial basis.

4.3 To Whom Contributions are to be Paid: Contributions shall be paid to the Trustees and shall become a part of the Trust Fund. All contributions to the Trust Fund and any earnings thereon shall be used only to:

- (a) Provide for the benefits of Participants in accordance with the Benefit Plans; and
- (b) Pay the reasonable administrative expenses incident to the provision of those benefits and expenses incurred in the administration of the Trust.

4.4 Corpus of Trust: The Trust shall consist of contributions made to the Trust, together with investments and reinvestments of the proceeds thereof, and all earnings and profits thereon, if any, less any losses, and less any expenses charged and distributions made pursuant to the terms of the Trust.

4.5 Investment of Trust:

- (a) In accordance with the purpose of the Trust Fund stated in NRS 287.017(2)(a), the Trust Fund shall invest monies for the purpose of funding all or a portion of the unfunded actuarial accrued liabilities associated with future retirement welfare benefits under the Benefit Plans. The Trust Fund may be used to pay current retirement welfare benefits under the Benefit Plans.
- (b) Notwithstanding the investments permitted for the assets of the Trust Fund under NAC 287.790, and regardless of the value of the portfolio in the Trust Fund at the end of any Trust Year, the investment of the assets of the Trust Fund is limited to:
 - (1) The Retirement Benefits Investment Fund provided in NRS 355.220; and
 - (2) Any investment authorized for a local government pursuant to NRS 355.170.

As clarification, the assets of the Trust Fund are not permitted to be invested in equity securities or bonds or other debt securities which meet the requirements of NRS 287.017(2)(g)(3), and Chapter 287 of the NAC.

- (c) All interest, earnings, dividends and distributions with respect to the investment of the Trust Fund, less any expenses charged with respect to such investments, must be deposited in the Trust Fund.
- (d) The Trust Fund shall be maintained as a separate account and no other funds shall be co-mingled with the funds in the Trust Fund, except to the extent otherwise permitted by NRS 287.017(2)(h) and NAC 287.790(4).
- (e) Trust Fund monies shall not be used to finance debt of the Trust Sponsor and shall not be available for loans to other funds of the Trust Sponsor.

ARTICLE V.

Payments From Trust

5.1 Payments Directed by Employer: The Board of Trustees must transfer funds from the Trust Fund to the account designated by the Employer upon the request of the Employer's governing body no later than ten (10) business days after the first day of the month following receipt of the request by the Board of Trustees. The request must include:

- (a) An explanation of how the proposed transfer will be used to fulfill the requirements of the Benefit Plans;
- (b) A copy of the Employer's approved budget reflecting the authorization of retirement benefits;
- (c) Minutes of the meeting of the Employer's governing body during which the transfer was proposed; and
- (d) The signature of the chairperson of the Employer's governing body.

If the request and supporting documentation do not meet the criteria of this Section 5.1, the Board of Trustees may delay transfer until the Employer's governing body corrects the request. Payments from the Trust may be made only to the extent that the Benefit Plan benefits for which such payment is made are benefits permitted under the NRS.

5.2 Trust for Exclusive Benefit of Participants; Reversion Prohibited: This Trust has been established for the exclusive benefit of the Participants and their Dependents. Under no circumstances shall any funds contributed to or held by the Board of Trustees at any time revert to the benefit of the Employer, except upon termination of the Trust as provided in Article VIII.

5.3 Transfer of Trust Assets Permitted: Notwithstanding Section 5.2 above, the Employer's governing body may amend the Employer's Benefit Plan to reserve the classification of Participants eligible for benefits under the Trust, and terminate such Participants' participation in the Trust or transfer their coverage to another trust complying with the provisions of NRS 287.017 to the extent any such action is in compliance with the law and does not cause the Trust to not be exempt from taxation under Code Section 115. In the event a classification of Participants is transferred to another such trust, the Board of Trustees may determine the allocable portion of reserves held by the Trust attributable to such transferred Participants and authorize such portion of Trust assets be transferred to the new trust. Any such transferred Trust assets shall be used exclusively for the purpose of providing health and welfare benefits to the Participants so transferred and similarly situated participants. Upon the transfer of such Participants, any and all right of such Participants and their beneficiaries under this Trust shall terminate, except as provided in the Benefit Plan, to the extent not inconsistent with the terms of this Trust, and except as otherwise required by law.

ARTICLE VI.

Trustees - Appointment, Resignation, and Removal

6.1 Appointment of Board of Trustees: This Trust shall be administered by three or more Trustees, as provided below, who shall be appointed by the Trust Sponsor's governing body to act in a fiduciary capacity for the beneficiaries of the Trust, pursuant to NRS 287.017(2)(e) and NAC 287.778, in order to ensure the prudent administration of the Trust. No member of the Trust Sponsor's governing body that creates the Trust may be appointed as Trustee. By signing this Trust, each Trustee hereby accepts the trusteeship and agrees to receive and hold the Trust solely for the uses and purposes set forth herein and solely in accordance with the terms hereof.

- (a) Pursuant to Section 4.5(b), if the investment of the assets of the Trust Fund are limited to investment in the Retirement Benefits Investment Fund provided in NRS 355.220 and investments authorized for a local government pursuant to NRS 355.170, the Trust Sponsor's governing body shall appoint at least 3 (three) but no more than 5 (five) Trustees who must include:
 - (1) At least one person who has a combination of education and experience of at least 5 (five) years in finance or economics;
 - (2) A public officer or employee of the Employer who manages the fiscal affairs of the Employer; and
 - (3) A current beneficiary of the Benefit Plan who has a combination of education and experience of at least 5 (five) years in finance or economics.
- (b) To the extent required under NAC 287.778(1)(c), if the assets of the Trust Fund qualify for investment pursuant to NAC 287.790(2) (where the market value of the portfolio in the Trust Fund at the end of the Trust Year is greater than \$100,000,000), the Trust Sponsor's governing body shall appoint 5 (five) Trustees who must include:
 - (1) Two Trustees who are versed in the securities exchange market;
 - (2) A public officer or employee of the Employer who manages the fiscal affairs of the Employer;
 - (3) A representative of the public at large who has a combination of education and experience of at least 7 (seven) years in finance or economics; and
 - (4) A beneficiary of the Benefit Plan who has a combination of education and experience of at least 7 (seven) years in finance or economics.
- (c) A person appointed as a Trustee shall not have a substantial financial interest in the ownership or negotiation of securities or other financial instruments in which monies in the Trust Fund are invested.
- (d) Each Trustee shall be appointed for a term of at least two years but not to exceed four years. The Trust Sponsor's governing body may renew the term of any Trustee.

6.2 Resignation, Removal and Substitution of Trustees:

- (a) **Resignation and Removal:** Any Trustee may resign at any time upon 30 days' written notice to the Trust Sponsor's governing body. Any Trustee may be removed with or without cause at any time by the Trust Sponsor's governing body upon 30 days' written notice to such Trustee. The Trust Sponsor's governing body may remove a Trustee if the Trustee fails to attend two consecutive meetings or three meetings during a calendar year. Upon resignation or removal of any Trustee, the Trust Sponsor's governing body shall appoint a successor Trustee who shall have the same powers and duties as are conferred upon the Trustees appointed under this Trust. The Trust Sponsor's governing body may reappoint a Trustee and may alter the composition of the Board of Trustees if required pursuant to Section 6.1.
- (b) **Successors' Liability:** No successor Trustee shall be liable or responsible for any acts or defaults of his or her predecessor or any predecessor co-Trustee, or for any losses or expenses resulting from or occasioned by anything done or neglected to be done in the administration of the Trust prior to his or her appointment as Trustee, nor shall a successor Trustee be required to inquire into or take any notice of the prior administration of the Trust.

6.3 Organization and Operation of Offices of Trustees:

- (a) The Board of Trustees may adopt such procedures and regulations as deemed desirable for the conduct of its affairs.
- (b) The Trustees shall select a Chairman and Vice Chairman from among their membership.
- (c) The Chairman shall preside at all meetings of the Board of Trustees. In case of the absence of the Chairman from any meeting of the Board of Trustees or in case of the inability of the Chairman to act, the Vice Chairman shall perform the duties and acts authorized or required by the Chairman to be performed, as long as the inability of the Chairman to act may continue.
- (d) The Trust Sponsor's governing body shall provide the staff necessary to organize and notice meetings of the Board of Trustees, take the minutes of the meetings, receive and disseminate financial reports of financial managers to the Trustees, and prepare financial reports and budgets for the Trustees.
- (e) The Board of Trustees shall meet quarterly or at the call of the Chairman whenever business is presented.
- (f) A majority of the Trustees shall constitute a quorum of the Board of Trustees for all purposes.

- (g) All action by the Board of Trustees at a meeting (and such meeting may be in person or a telephonic meeting) at which a quorum is present shall be by a majority of those present.
- (h) Any action of the Board of Trustees must be in writing.
- (i) No item of business shall be considered at a meeting of the Board of Trustees unless it shall first have been entered upon the agenda for that meeting, provided, however, that items not appearing on the agenda may be taken up with the approval of a majority of the Trustees present when it has been determined that the matter is an emergency as permitted under NRS Chapter 241.
- (j) No member of the Board of Trustees can bind the Board of Trustees by word or action unless the Board of Trustees has designated such member as the Board of Trustees' agent for some specific purpose and for that purpose only.
- (k) In the event of a deadlock in any vote of the Board of Trustees with respect to the operation or administration of the Trust, then the matter at issue shall remain in status quo until the next Board of Trustees meeting. If the Trustees do not resolve such deadlock among themselves prior to the Board of Trustees meeting, the question or matter shall again be presented at such next meeting. If at such next meeting the Trustees shall still be deadlocked and remain so until such meeting be adjourned, then, upon written notice of any Trustee to the other Trustees, the Board of Trustees shall, within 30 (thirty) days after receipt of such notice by the Trustees, appoint an independent fiduciary solely for the purpose of deciding upon the deadlocked matter. Such independent fiduciary shall render its decision on the matter, which decision shall be implemented as if decided at a Board of Trustees meeting.
- (l) Any member of the Board of Trustees may request a roll call vote of the Trustees, which shall be recorded in the minutes of the meeting.

ARTICLE VII.

Trustees - Duties and Powers

7.1 Duties and Powers of the Board of Trustees--In General: Subject to the requirements imposed by law, the Trustees shall be fiduciaries who shall have all powers necessary or advisable to carry out the provisions of this Trust and all inherent, implied, and statutory powers now or subsequently provided by law and shall be subject to the duties imposed on fiduciaries under applicable law. The Board of Trustees shall be responsible for the management and control of the Trust Fund. The Board of Trustees shall formulate and execute appropriate investment policies to govern the Investment Plan of the Trust Fund consistent with the requirements of NRS 287.017 and Sections 4.5(b) or (c) of this Trust. The Board of Trustees shall decide all questions arising in the administration, interpretation, and application of the Trust, except as may be reserved under this Trust to the Trust Sponsor. In addition:

- (a) As required by NRS 287.017(2)(e)(1), the Trust shall be administered in accordance with generally accepted accounting principles and actuarial studies applicable to the future provision of benefits to Participants;
- (b) To the extent required by NRS 287.017(2)(f)(3) or any similar applicable regulation, the Board of Trustees shall cause the Trust to be audited each Trust Year by an independent certified public accountant, and the results of such audit shall be reported to the Employer;
- (c) As permitted by NRS 287.017, the Trust Fund assets attributable to the Employer's Benefit Plan or Benefit Plans may be pooled for the purposes of investment with the assets of any other employer's trust fund established pursuant to NRS 287.017; provided, however, that each employer's interest in the Trust (1) is accounted for separately from the interest of any other employer, (2) is used to provide benefits only to the participants covered by the plan or plans of such employer; and (3) is not subject to the liabilities of any other employer.
- (d) In accordance with NAC 287.786(2) and Section 4.1(c) of this Trust, the Board of Trustees shall submit a budget incorporating the level of funding to the Trust Fund to the Employer's governing body for its consideration, approval, and inclusion in the overall tentative and final budgets of the Employer's governing body. The tentative budget submitted by the Board of Trustees must incorporate the amount of contributions to the Trust determined pursuant to NAC 287.786(1). The Employer's governing body may modify its budget at its discretion.

7.2 Duties and Powers of the Board of Trustees--Investment: To the extent permitted under NRS 287.017 and section 4.5(b) of this Trust, the Board of Trustees shall have the power to invest and/or reinvest any and all money or property of any description at any time held by them and constituting a part of the Trust, without previous application to, or subsequent ratification of, any court, tribunal, or commission, or any federal or state governmental agency, in such investments as are permitted under the express terms of the Trust.

None of the earnings of the Fund shall inure to the benefit of any Trustee or any private person, except that a Trustee or other individual may be a beneficiary of the Trust through participation in the Benefit Plan. A Trustee shall not be interested, directly or indirectly, as principal, partner, agent or otherwise, in any contract or expenditure created by the Board of Trustees, or in the profits or results thereof.

In addition, to the extent permitted under NRS 287.017, the Board of Trustees shall have the following specific powers:

- (a) To invest Trust assets in a "Retirement Benefits Investment Fund" established pursuant to NRS 355.220 and authorized pursuant to NRS 287.017(2)(g)(1) and Section 4.5(b).

- (b) To invest Trust assets in any investment which is authorized for a local government pursuant to NRS 287.017(2)(g)(2) and NRS 355.170.
- (c) To exercise or refrain from exercising voting rights pertaining to any securities, including exercise by general or specific proxies or powers of attorney with or without power of substitution.
- (d) To consent to or participate in reorganizations, recapitalizations, consolidations, mergers, liquidations or similar transactions with respect to any securities, and to accept and to hold any other securities issued in connection therewith.
- (e) To exercise any subscription rights or conversion privileges with respect to any securities held in the Trust Fund.
- (f) To collect and receive any and all money and other property of whatsoever kind or nature due or owing or belonging to the Trust Fund.
- (g) To cause any securities or other property to be registered in, or transferred to, the individual name of Trustee or in the name of one or more of its nominees, or to retain them in unregistered form, but the books and records of the Trust shall at all times show that all such investments are a part of the Trust Fund.
- (h) To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust; to commence or defend suits or legal proceedings whenever, in its judgment, any interest of the Trust requires it; and to represent the Trust in all suits or legal proceedings in any court of law or equity or before any other body or tribunal, insofar as such suits or proceedings relate to any property forming part of the Trust Fund or to the administration of the Trust Fund.
- (i) Generally, to do all acts, whether or not expressly authorized, which the Board of Trustees deems necessary, but acting at all times according to the provisions of Nevada law to the extent permitted under NRS 287.017(2)(e), which provides the Trustees with all powers and duties that may be exercised by a nonprofit corporation under Nevada laws, but prohibits the Trust from borrowing money.
- (j) To file any tax returns required of the Trust.

Notwithstanding the above, the Board of Trustees may not deposit the assets of the Trust Fund in the Retirement Benefits Investment Fund established pursuant to NRS 355.220, unless the Board of Trustees obtain an opinion from the Employer's legal counsel that the investment of those Trust assets will not violate the provisions of Section 10 of Article 8 of the Constitution of the State of Nevada. Fiduciary responsibility for assets of the Trust Fund invested in the Retirement Benefits Investment Fund remains with the Board of Trustees and not with the Retirement Benefits Investment Board. In addition, the Board of Trustees has no authority to negotiate or otherwise determine the benefits afforded the beneficiaries of the Trust Fund pursuant to the Benefit Plans.

7.3 Investment Plan:

- (a) An Investment Plan is not required if the investments are limited to the Retirement Benefits Investment Fund provided in NRS 355.220.
- (b) If the assets of the Trust Fund are invested in an investment which is authorized for a local government pursuant to NRS 287.017(2)(g)(2) or pursuant to NAC 287.790(2), the Board of Trustees shall be required to develop and administer an Investment Plan in accordance with NAC 287.788(2). The investment plan must be approved as to its conformity with NAC 287.788(2) by the Committee on Local Government Finance before the investment of any assets of the Trust Fund.

7.4 Valuation of Trust Fund: As of the last day of each Trust Year, the Board of Trustees shall determine the fair market value of all assets of the Trust Fund.

7.5 Advice and Assistance to the Board of Trustees: The Board of Trustees may employ such staff and may contract for the provision of such management, investment and other services, including without limitation, the services of accountants, actuaries and investment managers, as the Board of Trustees determine necessary for the administration of the Trust. In addition, the Board of Trustees may retain and consult with legal counsel, who may be counsel for the Employer or the Board of Trustees' own counsel with respect to the meaning or construction of the Trust or the Board of Trustees' obligations or duties. The Trustees shall be protected from any responsibility with respect to any action taken or omitted by them in good faith pursuant to the advice of such counsel, to the extent permitted by law.

7.6 Records and Accounts of the Board of Trustees: The Board of Trustees shall keep a record of all the Board of Trustees' proceedings and shall keep all such books of account records, and other data as may be necessary in the administration and conduct of this Trust, including records to reflect the affairs of this Trust, to determine the amount of the respective Participants' interests in the Trust Fund, and to determine the amount of all benefits payable under this Trust. Subject to the requirements of law, any person dealing with the Board of Trustees may rely on, and shall incur no liability in relying on, a certificate or memorandum in writing signed by the Board of Trustees as evidence of any action taken or resolution adopted by the Board of Trustees. The Board of Trustees' records and accounts shall be open to inspection by the Employer's governing body at all reasonable times during business hours. The books and records of the Trust shall be kept in accordance with generally accepted accounting principles and the end of the fiscal year of the Trust shall be the Trust Year. After the close of each year of the Trust, the Board of Trustees shall render a statement of assets and liabilities of the Trust Fund for such year.

7.7 Fees and Expenses: The Trustees shall be paid the maximum compensation provided pursuant to NAC 287.784. In addition, the Board of Trustees shall be reimbursed for any necessary and reasonable expenses, including reasonable counsel and accounting fees, as well as the expense of the audit required pursuant to NRS 287.017 and Section 7.1(b) of this

Trust, incurred by the Board of Trustees in the administration of the Trust Fund. Such compensation and expenses may be paid from the Trust Fund. All taxes of any kind that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof shall be paid by the Board of Trustees from the Trust Fund.

ARTICLE VIII.

Continuance, Termination, and Amendment of Trust

8.1 **Termination of Trust:** This Trust shall continue in full force and effect for such time as may be necessary to accomplish the purposes for which it is created. The expectation of the Trust Sponsor is to continue this Trust indefinitely, but the continuance of the Trust is not assumed as a contractual obligation by Employer. The right is reserved to the Trust Sponsor's governing body to terminate this Trust in whole or in part at any time as permitted by law.

8.2 **Disposition of Trust Upon Termination:** Upon the termination of the Trust, to the extent that the Trust assets are not transferred to a successor trust pursuant to Section 5.3, the Board of Trustees shall hold the Trust Fund until it is completely exhausted by paying those benefits provided under the Benefit Plans and paying the reasonable expenses of the Trust, including expenses incurred in the termination and liquidation of the Trust; provided, however, that upon the complete satisfaction of all obligations under the Benefit Plans and the satisfaction of all liabilities of the Trust, any remaining Trust Fund assets may be transferred to the Employer as determined by the Board of Trustees and in compliance with all applicable laws.

8.3 **Amendments to Trust:** At any time the Trust Sponsor's governing body may amend this Trust for any purpose by delivering to the Trustees signed copies of such amendment. Such amendment shall be effective as of the date specified by the Trust Sponsor's governing body, or if no date is specified, then on the first day of the next succeeding Trust Year.

ARTICLE IX.

Miscellaneous

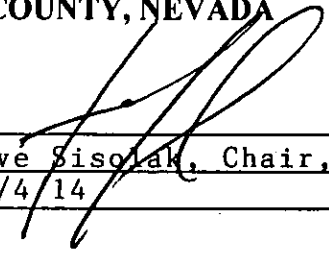
9.1 **Trust Not Subject to Creditors' Claims:** No assignment of any benefit under the Trust will be recognized or permitted; nor shall any such benefit or any assets of the Trust Fund be subject to attachment, garnishment or the claims of any creditors of Employer or any Participant or beneficiary of the Trust.

9.2 **Text to Control:** The headings of articles and sections are included solely for convenience of reference. If any conflict between any heading and the text of this Trust exists, the text shall control.

9.3 **Severability:** If any provision of this Trust is illegal, invalid or unenforceable for any reason, such illegality, invalidity or unenforceability shall not affect the remaining provisions. On the contrary, such remaining provisions shall be fully severable, and this Trust

This Trust has been executed this 4th day of March, 2014.

CLARK COUNTY, NEVADA

By: 
Title: Steve Sisolak, Chair, Board of County
Date: 3/4/14 Commissioners

TRUSTEES

Printed Name: _____
Signature: _____
Date: _____

Printed Name: _____
Signature: _____
Date: _____

Printed Name: _____
Signature: _____
Date: _____

Printed Name: _____
Signature: _____
Date: _____

Printed Name: _____
Signature: _____
Date: _____

EXHIBIT A
BENEFIT PLANS FUNDED THROUGH TRUST

The Clark County Self-Funded Group Medical and Dental Benefit Plan

50 W. LIBERTY STREET, SUITE 1000

RENO, NEVADA 89501

TELEPHONE: 775-323-1980

FAX: 775-323-2339

WWW.SHERMANHOWARD.COM

Sherman & Howard L.L.C.

ATTORNEYS & COUNSELORS AT LAW

3960 HOWARD HUGHES PARKWAY

SUITE 500

LAS VEGAS, NEVADA 89169

TELEPHONE: 702-387-6073

FAX: 702-380-2853

February 12, 2014

CONFIDENTIAL: SUBJECT TO ATTORNEY/CLIENT PRIVILEGE

Clark County, Nevada

Attention: Jessica Colvin, Comptroller's Office

500 South Grand Central Parkway, 2nd Floor

Las Vegas, NV 89155-1401

RE: Constitutionality of Investment by the Clark County, Nevada OPEB Trust Fund in the Retirement Benefits Investment Fund

Dear Ms. Colvin:

On behalf of the Trustees of the Clark County, Nevada OPEB Trust Fund, you have requested an opinion addressing whether investment by the Clark County, Nevada OPEB Trust Fund (the "OPEB Trust") in the Retirement Benefits Investment Fund established pursuant to Section 355.220 of the Nevada Revised Statutes ("NRS") violates the provisions of Section 10 of Article 8 of the Constitution of the State of Nevada.

SUMMARY CONCLUSION

Based upon the reasoning and analysis we have explained in detail below, we have concluded that such investment would not violate the provisions of Section 10 of Article 8 of the Constitution of the State of Nevada.

FACTS

The OPEB Trust, which is proposed to be established effective July 1, 2014, is intended to provide the means to fund the post-retirement benefits provided by certain employee benefit plans maintained by Clark County to retired Clark County employees. The OPEB Trust is intended to qualify as a governmental trust established to provide an essential government

function under Section 115 of the Internal Revenue Code of 1986, as amended (the "Code") and is created pursuant to NRS § 287.017.

Nevada law requires that all contributions to the OPEB Trust, and any interest and income earned on the investment of the assets of the OPEB Trust, be held in trust and used only to provide for post-retirement benefits for the benefit of the local government's retired employees (and the spouses and dependents of such employees), and to pay any reasonable administrative expenses related to the provision of those benefits and the administration of the OPEB Trust. *See* NRS § 287.017(2)(b). All contributions to the OPEB Trust are irrevocable and become the property of the beneficiaries of the OPEB Trust. *See* NRS § 287.017(2)(c).

The assets of the OPEB Trust may be deposited to the Retirement Benefits Investment Fund (the "RBIF") established pursuant to NRS § 355.220, invested in any investment which is authorized to a local government pursuant to NRS § 355.170, or invested in any stocks or other equity securities or bonds or other debt securities which are publicly traded and approved by the Nevada Committee on Local Government Finance or included in any category of such investments which are approved by the Nevada Committee on Local Government Finance. *See* NRS § 287.017(2)(g). The RBIF is required to be invested in the same manner as assets in the Public Employees' Retirement Fund are invested. *See* NRS § 355.220(2). However, no assets of the OPEB Trust may be deposited in the RBIF unless the board of trustees of the OPEB Trust obtains an opinion from legal counsel for Clark County that the investment of such assets in accordance with NRS § 355.220 will not violate the provisions of Section 10 of Article 8 of the Constitution of the State of Nevada. *See* NRS § 287.017(2)(i).

ANALYSIS

A. State Constitutional Restrictions Regarding the Purchase of Stock

Section 10 of Article 8 of the Constitution of the State of Nevada states, "No county, city, town, or other municipal corporation shall become a stockholder in any joint stock company, corporation or association whatever, or loan its credit in aid of any such company, corporation or association, except, rail-road corporations[,] companies or associations." *See Id.* This provision was part of the original constitution of Nevada when it became a state in 1864, and has remained unchanged since that time.

The vast majority of other state constitutions contain similar provisions restricting or prohibiting the investment in stock by the state and local governments. This is due in large part to the history of the expansion of the infrastructure in the United States during the 19th century, and the unfortunately "reckless and improvident use of public funds" by many states that invested in or lent money to privately owned enterprises such as railroads and canals, only to lose large sums of money in the process when many of such enterprises became insolvent. *See, e.g., Johns Hopkins University et al. v. Williams*, 199 Md. 382, 288 (1952) (*examining the basic reasons for the adoption of the provision in both the New York and Maryland state constitutions.*) *See, also, Almond v. Day*, 91 S.E.2d 660, 665 (Va.1956) (*citing 152 A.L.R. p. 495 in discussing the history of the purchase by state and local governments of the stock in railroad corporations, or the issuance of bonds or the lending of credit in aid of railroads, as it related to the adoption by most states of constitutional provisions prohibiting the purchase of stock and the lending of aid.*)

B. State Case Law Regarding the Purchase of Stock by State or Local Governments

Although no reported case in Nevada has addressed the application of Section 10 of Article 8 of the Nevada Constitution to the direct or indirect purchase of stock by a trust such as the OPEB Trust, courts in other jurisdictions have examined the similarly applicable state constitutional provisions in their respective states in connection with a variety of issues involving the purchase of stock by a state or local government. In most cases, it was the underlying purpose of those investments, as contrasted with the original reasons for the creation of the constitutional provision, and the nature of the state's interest in those investments, which determined the courts' holdings.

In *Almond v. Day*, 91 S.E.2d 660 (Va.1956), the Supreme Court of Virginia examined whether the investment by the board of trustees of the Virginia Supplemental Retirement System in certain securities would violate the provision of the Virginia constitution restricting the purchase of stock by the state. *See Id.* After observing that the retirement system was subject to abolition at the will of the General Assembly and that Virginia held a proprietary interest in the fund due to the statutory provision requiring that if the state abolished the retirement system, any funds remaining in the assets of the retirement system following the distribution of all vested benefits would revert to general funds, the court discussed the history of the constitutional provision and then looked to two prior cases in which it had analyzed and interpreted its restrictive provisions with respect to the "credit clause" portion of the constitutional provision. *See Id.* at 663-666.

In both prior cases, the court observed that the challenged transactions would in fact have been prohibited by the constitutional provision had such transactions been for the purpose of benefiting the parties with whom the local governments were contracting, and concluded that the rationale of the two prior decisions appeared to be that "the moving consideration and motivating cause of a transaction are the chief factors by which to determine if it is prohibited" by the constitutional provision. *See Id.* at 666. The court posited that whether or not a transaction violates the "credit clause" in the constitutional provision depended upon its "animating purpose and the object that it is designed to accomplish." *See Id.* at 667.

The court next analyzed the "stock or obligation clause" of the constitutional provision which prohibited the state from subscribing to or becoming interested in "the stock or obligations or any company, association, or corporation, for the purpose of aiding in the construction or maintenance of its works." The court evaluated the historical background of the original provision and the subsequent addition of the phrase "for the purpose of aiding in the construction or maintenance of its works" and concluded that due to this modification, the state only was prevented from purchasing the stock or obligations of a private company when the transaction in question is for the purpose of aiding in the construction or maintenance of the works of such company. *Id.* Observing that "the purpose of the transaction is the vital and controlling factor by which its validity or invalidity shall be determined", the court stated, "When the purchase of corporate securities, *i.e.*, bonds, stock or other obligations of a company is made with State funds which are being invested in the ordinary course of business for the State's benefit, and the transaction is not activated or made with the purpose of aiding in the construction or maintenance of the works of the company, such purchase is not forbidden by §185." *Id.* Ultimately, the court held the board of trustees of the Virginia Supplemental Retirement System was entitled to make the investments it had authorized. *Id.* at 669.

In Utah Land Bd. v. Utah State Fin. Comm'n, 365 P.2d 213 (Utah.1961), the Supreme Court of Utah evaluated whether the Utah State Land Board was entitled to purchase securities for investment purposes where a particular Utah statute authorized such purchases but the Utah constitution provided that the legislature was not to "authorize the State, or any county, town, or other political subdivision of the State to lend its credit or subscribe to stock or bonds in aid of any railroad, telegraph, or other private individual or corporate enterprise or undertaking." *See Id.*

Although the lower court had found that the Utah statute was unconstitutional, the court examined the legislative history of the constitutional provision and determined that “[t]he provision ‘in aid of any railroad’ etc. was expressly intended to prevent the use of the finances of the State to give support to private interests or enterprises, but unless the element of aiding such an enterprise is present, there is no indication in the language of the Constitutional provision itself, nor in the background of its origin, that the State or its agency should be prohibited from the purchase of well-established corporate securities in the interest of prudent handling of the funds defendant is required to manage. The activating purpose makes the difference.” *Id.* at 214 (citing to *Almond v. Day*, 91 S.E.2d 660 (Va.1956)). Further stating that “[w]hen the underlying purpose is to invest for the benefit of the State or a political subdivision thereof, there is no lending of credit or expenditure of funds ‘in aid of’ such enterprise or undertaking”, the court then briefly discussed the issue that came before the Supreme Court of Virginia in *Almond v. Day*, and reversed the judgment of the lower court in holding that the Utah statute was constitutional. *Id.* at 214-215.

In *Sprague v. Straub*, 451 P.2d 49 (Or.1969), Oregon state employees had filed a declaratory judgment action challenging the validity of a state statute which provided for the investment of assets from the Industrial Accident Fund and Public Employees’ Retirement Fund in corporate stock, and created the Oregon Investment Council to manage the Funds. The trial court declared the state statute unconstitutional on the basis that Section 6 of Article XI of the Oregon constitution prohibited the purchase of corporate stocks by the state, and this decision was appealed to the Supreme Court of Oregon. *See Id.* In considering the contention that the state statute violated the Oregon constitution, the Supreme Court of Oregon noted that Section 6 of Article XI of the Oregon constitution did not directly prohibit the purchase of corporate stock by the state; rather, “the proscription is in the form of a direction to the state not to *subscribe* to stock and not be *interested* in the stock of any company. The distinction between a subscription to stock and a purchase of stock is well established. The term *subscription* is ordinarily used to refer to an agreement to purchase stock in a prospective corporation to be organized in the future; it is to be contrasted with the purchase of the stock of an existing corporation.” *Id.* at 52 (emphasis in original).

After proceeding to address the meaning of being “interested” in a stock and speculating that “it may have been intended only to restrict the state from having an interest in the stock in the sense of having a concern for the financial welfare of the corporation issuing the stock”, the court goes on to state: “We mention these possible meanings because there is evidence that Article XI, § 6 and similar constitutional provisions in other states were adopted not to prohibit

investments in stock of any corporation no matter how sound, but to prevent the state from employing state moneys to aid companies which were entering into new and risky ventures.” Id.

Following a brief recitation of the historical background leading up to the adoption of similar constitutional provisions in many states, the court observed that courts in other states that have construed constitutional provisions similar to the provisions of Article XI, § 6 of the Oregon constitution “have confined the constitutional restriction to those expenditures or investments by the state which are designed to foster and promote private enterprises as distinguished from the mere investment of state moneys in well established companies.” Id. at 52-53. The court then looked to the historical discussion and illustrations in Johns Hopkins University et al. v. Williams, 199 Md. 382, 288 (1952) to shed light on what is meant by being “interested” in the stock of a company, and indicated this the illustrations in Johns Hopkins University showed “how a state may become ‘interested in the stock’ of a company, not because of an ownership interest in the stock of the company but because the state participates in issuance of the stock, permits its name to be used on the stock certificate, and pledges its credit for the payment of the obligation incurred upon the sale of the stock.” Id. at 53.

The court explained that, if it read this historical setting into the provision of the Oregon constitution, in effect it would provide “that the state shall not subscribe to or be interested in stock *in aid of* any company.” Id. (emphasis in original). Noting that where the phrase “in aid of” had been incorporated into constitutional provisions similar to Oregon’s, the court observed that courts had given exactly such a limited interpretation as the one suggested by the Oregon court. Id. (citing Utah Land Bd. v. Utah State Fin. Comm’n, 365 P.2d 213 (Utah.1961) and Almond v. Day, 91 S.E.2d 660 (Va.1956)). The court went on to state: “Although the constitutional provisions interpreted in the foregoing cases express the prohibition in terms of the use of state funds ‘in aid of’ corporations, the absence of such language does not preclude a similar construction. The same meaning can be found by implication from the circumstances under which the constitutional provision was adopted – circumstances indicating that the purpose of the provision as originally drafted was to do no more than prohibit the state from joining with private entrepreneurs in the initiation and promotion of new and risky enterprises.” Id. at 54.

Although the court concluded that if it were called upon to interpret the provision of the Oregon constitution as it read upon its original adoption and without reference to any other interpretive factors, “there would be some basis for the conclusion that the state is not prohibited from investing in the stock of established corporations”, the court noted that the provision was amended in 1956, and noted as well that a companion provision adopted as part of the Oregon

constitution in 1859 contained an absolute prohibition against the purchase of stock by counties and municipal corporations. Speculating that the inconsistency between the two original constitutional provisions may have been attributable to “inartful draftsmanship” or the borrowing of the phrasing from other states’ constitutions, the court nevertheless reluctantly concluded that the Oregon constitution prohibits the purchase of corporate stocks by the state. Id. at 55.

However, the court did not end its inquiry upon this conclusion. Instead, it went on to address the argument that even if the Oregon constitution were construed as prohibiting the purchase of stock by the state, the provision was not applicable to the purchase of stock with money from the Industrial Accident Fund or from the Public Employees’ Retirement Fund because the state has no proprietary interest in the Funds (and therefore stock purchased with such monies would not be owned by the state). Id. at 55-57. Analyzing prior Oregon case law regarding the two Funds, the court concluded that the Funds were each an isolated trust fund which were only held by the state treasurer as a custodian and in which the state had no proprietary interest.¹ Paraphrasing its previous decision in United Contracting Co. v. DUBY, 292 P. 309 (Or.1930), the court stated that “the retirement funds have been gathered not for the general enrichment of the state but for the benefit of the contributing employees”, and thus narrowed its inquiry to the question of whether, since the state has no proprietary interest in the Funds, the Oregon constitution prohibits “the purchase of corporate stock by the state out of funds owned by others which it holds as trustee or custodian for a designated purpose?” Id. at 57.

Admitting that losses resulting from investments in corporate stock might be reimbursed through the legislature (although not required to do so) or via increased employer contributions, the court nonetheless distinguished such losses as being suffered not by the state as a state but by the state as an employer, and resulting not from the investment of the state’s own funds but from the investment of the money of others. Id. at 58. The court opined that the constitutional

¹ The Office of the Attorney General of the State of Nevada has taken a similar position in its opinion issued September 28, 2007, that the State Senate Bills at issue had created two irrevocable trusts (the RBIF and the State Retirees’ Health and Welfare Benefits Fund (“RHWBF”)) that were beyond the control of the legislature to use for any other purpose. The Office of the Attorney General further opined that such funds were State-created and State-managed, and so Section 10 of Article 8 of the Nevada constitution did not apply to investment of funds in accordance with the State Senate Bill 457 (establishing the RBIF and requiring the Retirement Benefits Investment Board to administer the RBIF and invest the assets in the same way that assets in the Public Employees’ Retirement System are invested) because that Section 10 only applies to cities, towns, or other municipal corporations holding corporate stock. See A.G.O. 2007-08 (Sept. 28, 2007).

prohibition was intended to apply only to state-owned funds and not to funds which the state expended for the coverage of its employees via its contributions as an employer to the funds. Id. Although the court hastened to qualify that opinion by stating that the prohibition cannot be circumvented by transferring state moneys to a trustee who has the power to invest in corporate stocks because the state would continue to have a beneficial ownership in the fund and would be subject to the prohibition, the court noted that this was not the situation before it because the state's custodianship of the funds was not a device to circumvent the constitution, but was set up to implement a workmen's compensation plan and a retirement plan. Id. Looking briefly to prior case law in Texas and Oklahoma to bolster its reasoning, the court concluded that the provision of the Oregon constitution was not violated by the investment of moneys from the Funds in corporate stocks. Id. at 59.^{2,3}

² Note that one of the prior case decisions to which the Supreme Court of Oregon referred in reaching its final conclusion, Bolen v. Board of Firemen, Etc., 308 S.W.2d 904 (Tex. Civ. App. 1958), found that the board of trustees for the pension fund was neither a political corporation nor a political subdivision of the state of Texas, and therefore did not reach the issue of whether it was constitutional for a political subdivision of the state of Texas to invest in corporate stocks. See Id.

Likewise, in Danzilli v. Lomeo, 944 A.2d 813 (Pa. Commonw. Ct. 2008), the Commonwealth Court of Pennsylvania found that a municipality's placement of funds into a trust for post-retirement healthcare and medical benefits fell within the meaning of "pension and retirement funds" under Pennsylvania law, which allowed those funds to be invested in corporate stocks and bonds. See Id. Because of this holding, the court did not address the local municipal code's prohibition on the investment of municipal funds in corporate stocks or bonds. Id.

Similarly, in Louisiana State Employees' Retirement System v. State, 423 So.2d 73 (La. Ct. App. 1982), the Court of Appeal of Louisiana determined that Louisiana's constitutional prohibition on the purchase of common stock was not applicable to the Louisiana retirement systems because the retirement boards were not political subdivisions, and the funds in the retirement systems were in trust and were not public/state funds in that neither the state nor the general public had any proprietary interest in the funds. See Id. Because the court held that the constitutional aim was to prohibit the use of public/state funds for private investment, and that the funds belonging to the retirement systems were not the public/state funds contemplated by the constitution, investment in stock by the retirement systems was not prohibited. Id. at 75.

In contrast, in West Virginia Trust Fund v. Bailey, 199 W. Va. 463 (W. Va. 1997), the Supreme Court of Appeals of West Virginia looked to the specific phrasing of the West Virginia constitutional prohibition, "nor shall the State ever hereafter become a joint owner, or stockholder in any company or association in this State or elsewhere, formed for any purpose whatever", as well as its prior holdings finding that West Virginia, as the trustee of the state's employees' pensions had a fiduciary duty to protect the pension funds and therefore has an ownership interest in the pension funds, in concluding that all instances of state involvement in the stock market were proscribed. See Id. The court noted that the Supreme Court of Oregon had reached a different result in Sprague, *supra*, but distinguished the Sprague decision by

Unlike the Supreme Court of Oregon in Sprague, *supra*, in O'Brien v. S.C. Orbit, 668 S.E.2d 396 (S.C. 2008), the Supreme Court of South Carolina held that the obvious purpose of the city of Charleston's investment in an irrevocable OPEB trust established by a municipal association was to circumvent the South Carolina constitutional provision prohibiting political subdivisions from investing funds intended for post-employment benefits in equity securities. *See Id.* As a result of this illegal purpose, and reasoning that because it is unconstitutional for the city to invest in equity securities, it is likewise unconstitutional for the city to invest in a trust that invests in equity securities, the court held that such investment was unconstitutional. *Id.* at 400.

Note, however, the statutory construction the court engaged in necessarily must be unique to the applicable provision of the South Carolina constitution, which reads as follows: "The credit of neither the State nor any of its political subdivisions shall be pledged or loaned for the benefit of any individual, company, association, corporation, or any religious or other private education institution except as permitted by Section 3, Article XI of this Constitution [providing for the establishment of free public schools]. Neither the State nor any of its political subdivisions shall become joint owner of or stockholder in any company, association, or corporation." *See* Article X, § 11 of the South Carolina Constitution. Because the constitutional provision specifically provided for investment in equity securities in only two instances, neither

pointing to its own previous decisions regarding the fiduciary obligations imposed on the state in connection with the investment of the public retirement funds and also pointing out that, unlike the Oregon statute declaring that the state and other Oregon public employers had no proprietary interest in the Public Employees' Retirement Fund, West Virginia statutes lacked any comparable legislation declaring the state's lack of a proprietary interest. *Id.* at 470.

³ In Board of Trustees v. Pearson, 459 N.E.2d 715 (Ind.1984), in analyzing whether the board of trustees of the Indiana Public Employees' Retirement Fund was prohibited by the Indiana constitution from investing in and holding corporate stock, the Supreme Court of Indiana rejected the argument that the constitutional provision did not apply because of a state statute declaring members of the fund to own the contributions and interest. *See Id.* Reasoning that because, *unlike cases from other states*, Indiana had a legal obligation imposed by a state statute to reimburse the fund for any losses due to the financial failure of investments selected by its board, the court found instead that investment in corporate stock was unconstitutional under the Indiana constitution. *Id.* at 718. Note that this specific reasoning by the Indiana Supreme Court, and the statute unique to Indiana, distinguishes Pearson from the other case holdings. Moreover, Pearson is distinguishable from the issue here. Although Clark County is obligated to fulfill its retiree benefit obligations, there is no statute in Nevada with respect to an OPEB trust similar to the Indiana statute that would require Clark County to "make up" losses to the OPEB Trust. Nor, for that matter, is such a requirement imposed under the Nevada constitution.

of which provided the authority to municipalities to invest in equity securities via OPEB trusts, and because a recent amendment to Section 16 of Article X of the South Carolina constitution allowed only for the investment of various state-operated retirement systems in equity securities (and made no mention of whether municipality-operated retirement systems were allowed to invest in equity securities), the court found that “[a] clear reading of Article X holds that a municipality cannot invest in equity securities.” *Id.* at 398. Given the highly specific nature of the statutory construction of the South Carolina constitution with respect to this issue, the court’s reasoning in *O’Brien* arguably would not extend to the issue here under the Nevada constitution.

C. Office of Nevada Attorney General Opinions Regarding Investment in Stock

The Office of the Attorney General of the State of Nevada has previously addressed the issue of whether investment in stock by the State of Nevada or a local governmental entity is constitutional under Sections 9 and 10 of Article 8 of the Nevada constitution, and has found such proposed investments to be constitutional.

In its April 6, 1959, opinion, the Attorney General addressed the question of whether three separate Senate Bills, all similarly providing for the investment by instrumentalities of the state of Nevada in preferred or guaranteed stocks or shares of any solvent institution or corporation, were constitutional under Section 9 of Article 8 of the Nevada constitution. *See* A.G.O. 1959-35 (Apr. 6, 1959). The Attorney General observed that, “The purpose of Section 9 of Article 8, was therefore to protect the State as to its solvency, and keep the State upon a secure and solvent basis, and only this.” In addition, the Attorney General stated, “The framers did not have in mind that under departments of government large sums would be accumulated in trust, and not available for the ordinary costs of government, which of necessity would be required to be invested. In harmony with this construction it has been held that his [sic] limitation has no application to those funds not collected by the ad valorem taxes. This is the special fund doctrine.” After analyzing then-existing case law with respect to the “special fund doctrine” (where, for example, it was held in *Garrett v. Swanton*, 13 P.2d 725 (Calif.1932) that “Municipality incurs ‘indebtedness’ within the constitutional limitation when it may suffer loss if special fund from which indebtedness is payable is insufficient”), the Attorney General stated that the special fund doctrine “is equally applicable to this protective provision of the constitution, designed to prevent the incurring of debt, or loss of state funds, by virtue of which the ad valorem or other general taxpayer would suffer loss.”

The Attorney General then distinguished the intended investors of the three Senate Bills, finding that the proposed investment by the Nevada Industrial Commission and the Board of Regents of the University of Nevada did not violate Section 9 of Article 8 of the Nevada constitution, but opining that it was not so clear cut with respect to the Public Employees Retirement System. The Attorney General looked to similar constitutional provisions in Arizona but stated, "We have found nothing in point, either by the Attorney General's office of either state or by the court of last resort of either, which would cast light upon the validity of S.B. No. 295." Nevertheless, the Attorney General concluded, "However, in view of the evils sought to be avoided by the constitutional provision, also the law of presumption of constitutionality (King v. Board of Regents, 65 Nev. 533, 200 P.2d 221); and in view of the further fact that such funds as are contributed by the State of Nevada, by appropriation from general funds, are contributed in trust, beyond the power of the Legislature to repossess for other uses, and that certain persons now have vested rights in their pensions, by having been pensioned, (See: 98 A.L.R. 507), it is our opinion that this fund meets all qualifications of a "special fund," as beyond the power of the Legislature to diminish, and that therefore a bill providing that it be in part invested in common stocks of private corporations, for income augmentation purposes, is not in conflict with the provisions of Section 9 of Article 8 of the Constitution. We are therefore of the opinion the S.B. No. 295, if approved, would be constitutional."

In its opinion issued September 28, 2007, the Office of Attorney General addressed two separate questions regarding whether investing the assets of two trusts created by two Senate Bills (the RBIF and the State Retirees' Health and Welfare Benefits Fund ("RHWBF")) in corporate stock would violate either Section 9 or Section 10 of Article 8 of the Nevada constitution. See A.G.O. 2007-08 (Sept. 28, 2007).

First addressing whether the investment of the RBIF in private stock would violate Section 9 of Article 8 of the Nevada constitution, the Attorney General quoted its own previous discussion in its 1959 opinion of the "evils" sought to be avoided by the provision and the special fund doctrine, and, like the case law discussed above, discussed the fact that "the evils sought to be avoided by enactment of such constitutional provisions was the investment of public monies or subscribing to stock in railroad companies." Noting in a footnote that "other jurisdictions have failed to adopt the special fund doctrine and have interpreted constitutional provisions prohibiting investment in corporate stocks as a bar to trust fund investment in such stocks", and citing Pearson and Bailey as examples, the Attorney General nevertheless focused primarily on the reasoning and holding in Sprague that the constitutional provision "would not prohibit investment of funds of the state retirement system and the state worker's compensation

system which were deposited in a trust which the state treasurer held only as a custodian and in which the state had no interest." Ultimately, the Attorney General concluded, "While some jurisdictions have rejected the special fund rule, we believe that the special fund doctrine applies in this case. The funds held in the RHWBF are beyond the control of the legislature to use for any other purpose. The RHBFB funds are held in an irrevocable trust for the benefit of State retirees. The RHWB is invested in the RBIF by the RBIB in the same manner as the PERS Board invests its funds. Accordingly, the RHWBF is a special fund and investment of said funds by the RBIB in private stock does not violate Article 8, § 9, of the Nevada Constitution."

The Attorney General next addressed whether the investment of the RBIF in private stock would violate Section 10 of Article 8 of the Nevada constitution (which is the Section at issue with respect to the OPEB Trust investments). As noted in Footnote 1 above, the Attorney General took a similar position to that taken by the Supreme Court of Oregon in *Sprague, supra*, that the State Senate Bills at issue had created two irrevocable trusts that were beyond the control of the legislature to use for any other purpose. Reasoning that such funds were State-created and State-managed, the Attorney General concluded that Section 10 of Article 8 of the Nevada constitution did not apply to investment of funds in accordance with Senate Bill 457 because it only applies to cities, towns, or other municipal corporations holding corporate stock.

Here, arguably, if direct investment by a local government into the RBIF is not unconstitutional due to the fact that the RBIF is a State-created and State-managed fund, then indirect investment by the OPEB Trust into the RBIF should not be unconstitutional, either. Moreover, although the Attorney General did not engage in the same constitutional analysis and survey of other states' case law to reach its conclusion to Question Two that it did in Question One, it appears that it might have, for it would be very similar, if not identical, "evils" that would have been sought to be avoided at the local government level as at the state level. Applying the special fund doctrine to the OPEB Trust, it is possible to conclude that, like the investment at the state level, which the Attorney General concluded did not violate Section 9 of Article 8 of the Nevada constitution, investment at the local government level would not violate Section 10 of Article 8 of the Nevada constitution.

D. Investment of OPEB Trust in RBIF Should Not Violate Section 10 of Article 8 of Nevada Constitution

Applying the reasoning and the findings of the various courts described above, as well as the two opinions of the Office of the Attorney General of Nevada, to the question of whether

investment by the OPEB Trust in the RBIF pursuant to NRS § 355.220 violates the provisions of the Constitution of the State of Nevada, we believe that such investment should not violate Section 10 of Article 8 of the Constitution of the State of Nevada.

First, as provided under NRS § 287.017(2)(b) and discussed above, all contributions to the OPEB Trust, and any interest and income earned on the assets of the OPEB Trust, may only be used to provide for post-retirement benefits for the benefit of the local government's retired employees (and the spouses and dependents of such employees), and to pay any reasonable administrative expenses related to the provision of those benefits and the administration of the OPEB Trust. *See Id.* Moreover, as provided under NRS § 287.017(2)(c) and discussed above, all contributions to the OPEB Trust are irrevocable and become the property of the beneficiaries of the OPEB Trust. While Section 8.1 of the OPEB Trust provides that the governing body of the sponsor of the OPEB Trust may terminate the OPEB Trust at any time, and Section 8.2 of the OPEB Trust provides that any remaining assets following the complete satisfaction of all obligations and liabilities may be transferred to the employer as determined by the trustee, we note that, unlike the statutory provision in Almond, *supra*, such reversion is optional and not required, and such reversion cannot occur until all obligations and liabilities of the OPEB Trust are satisfied. Moreover, it is the trustee who would make such an optional determination for reversion, and not the mandatory operation of a state statute or local ordinance. This distinction, in conjunction with the irrevocability of the OPEB Trust provided in NRS § 287.017(2)(c), argues against any proprietary interest by Clark County in the OPEB Trust's assets. As a result, we believe a Nevada court would likely follow the reasoning in the first three cases discussed in Footnote 2 (Bolen, Danzilli, and Louisiana State Employees' Retirement System) that the assets of the OPEB Trust are no longer owned by Clark County. Thus, Section 10 of Article 8 of the Nevada Constitution, which prevents counties, cities, and towns from "becoming a stockholder" or "loaning its credit in aid of such a company" should not apply to the assets of the OPEB Trust which inure to the benefit of private beneficiaries.

Second, Section 10 of Article 8 of the Nevada Constitution specifically states, "No county, city, town, or other municipal corporation shall become a stockholder in any joint stock company, corporation or association whatever, or loan its credit *in aid of* any such company, corporation or association, except, rail-road corporations[,] companies or associations." (emphasis added). The emphasized language is similar to that analyzed by the Almond, Utah Land Board, and Sprague courts, each of which determined that the purpose of the respective constitutional provisions, as originally drafted, was to prevent the use of the finances of the respective states to give support to private interests or enterprises, and that where the element of

aiding such an enterprise is not present, the prohibition would not apply. Here, the purpose of investment by the OPEB Trust in the RBIF is not to support any specific private interests or enterprises, but to benefit the retired Clark County employees who are the beneficiaries of the OPEB Trust. The plain language of the provisions of both NRS § 287.017 and the OPEB Trust confirms this purpose.

Note that, unlike the amended constitutional provisions in Sprague and O'Brien, which caused the courts in those cases to conclude that the prohibition on the investment in corporate stock did apply to the state and/or political subdivision, Section 10 of Article 8 of the Nevada Constitution has not been amended since its inception. As a result, we believe that a Nevada court may well look to the historical basis for the provision, the lack of any Nevada case law regarding this issue, and the reasoning by the courts in other jurisdictions regarding the history surrounding the provision and its application to situations similar to the one at issue here, in determining that the OPEB Trust is not prohibited from investing in the RBIF. Although, like the provision in O'Brien, the provision in the Nevada constitution contains an exception for "rail-road corporations, companies or associations", we note that, unlike the provision in O'Brien, which was amended to allow for the investment of various state-operated retirement systems in equity securities (but not municipality-operated retirement systems), the exception in the Nevada constitution is part of the original provision and is not the product of a subsequent amendment. We believe a Nevada court would therefore give more weight to the historical basis for the phrasing of the exception, and not find that the existence of the exception, and the lack of a provision for any other exceptions, mandates a finding that investment by the OPEB Trust in the RBIF would be unconstitutional.

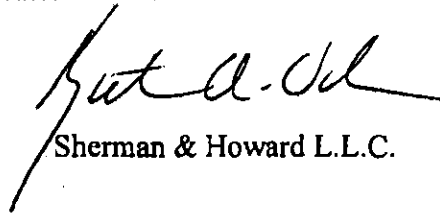
Third, as discussed above with respect to the opinions of the Office of the Attorney General of Nevada, and especially the 2007 opinion which also followed the reasoning of Sprague, the Attorney General did not believe investment in the RBIF was unconstitutional under either Section 9 or Section 10 of Article 8 of the Nevada constitution. Accordingly, we believe these opinions would carry some weight with a Nevada court.

As previously noted, there is no reported case in Nevada that directly addresses the question presented here. Although we believe that investment by the OPEB Trust in the RBIF likely would not be held unconstitutional under Section 10 of Article 8 of the Nevada Constitution, there is no guarantee that a Nevada court will make the same finding.

CONCLUSION

Based on our reading of the case law from other jurisdictions, and keeping in mind the caution that a Nevada court has not faced the question, while the matter is not free from doubt, we are of the opinion that the investment of the assets of the OPEB Trust in the RBIF will not violate the provisions of Section 10 of Article 8 of the Constitution of the State of Nevada; however, this legal opinion based on the above sources is not a guarantee of the outcome of a case on this question in any court.

This opinion letter is issued as of the date hereof and we assume no obligation to revise or supplement this opinion letter to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.



Sherman & Howard L.L.C.

Terry Rubald

From: Rebecca Coates <rco@ClarkCountyNV.gov>
Sent: Monday, February 02, 2015 5:43 PM
To: Terry Rubald
Cc: Laura Fitzpatrick
Subject: Clark County OPEB resolution
Attachments: OPEB resolution.pdf; 03042014 Item #62 OPEB Trust Fund - Appoint Board of Trustees .pdf

Terry,

Laura asked me to forward you the resolution for the OPEB board.

Below is the link that will take you directly to the Board of County Commissioners agenda for March 4, 2014. The OPEB items were #61 and #62.

http://clark.granicus.com/MinutesViewer.php?view_id=17&clip_id=3601&doc_id=094d3da7-f541-1031-95c6-93adab508dd6

I have also attached a .pdf copy of both.

If you need anything additional please let us know – both Laura and Drew will be here tomorrow.

Thanks!

Becky

Rebecca Coates, MPA
Assistant Treasurer
Clark County, NV
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702-455-4329

TRUST FUND FOR FUTURE RETIREMENT BENEFITS OF LOCAL GOVERNMENTAL EMPLOYEES

NAC 287.760 Definitions. ([NRS 287.017](#)) As used in [NAC 287.760](#) to [287.792](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 287.762](#) to [287.774](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.762 "Benefits plan" defined. ([NRS 287.017](#)) "Benefits plan" has the meaning ascribed to it in [NRS 287.017](#).

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.764 "Board of trustees" defined. ([NRS 287.017](#)) "Board of trustees" means the persons appointed by a governing body to administer a trust fund established pursuant to [NRS 287.017](#).

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.766 "Governing body" defined. ([NRS 287.017](#)) "Governing body" means the governing body of a local government.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.768 "Local government" defined. ([NRS 287.017](#)) "Local government" has the meaning ascribed to it in [NRS 287.017](#).

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.770 "Professional fund manager" defined. ([NRS 287.017](#)) "Professional fund manager" means a person or entity that provides investment management services, including, without limitation, the implementation of investment strategies and the management of an investment portfolio.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.772 "Retirement benefits" defined. ([NRS 287.017](#)) "Retirement benefits" has the meaning ascribed to it in [NRS 287.017](#).

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.774 "Trust fund" defined. ([NRS 287.017](#)) "Trust fund" means a trust fund established pursuant to [NRS 287.017](#).

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.776 Resolution to establish trust fund; periodic reports. ([NRS 287.017](#))

1. A trust fund must be established by a resolution of the governing body, which must include specific statements regarding:

- (a) The purpose of the trust fund;
- (b) A statement that all contributions to the trust fund, including any interest and income earned on the money in the trust fund, are held in trust, are irrevocable and may be used only to:
 - (1) Provide, for the benefit of retired employees of that local government and the spouses and dependents of those employees, retirement benefits in accordance with the benefits plan of that local government; and
 - (2) Pay any reasonable administrative expenses incident to the provision of those benefits and the administration of the trust fund;
- (c) The sources of the money expected to be deposited in the trust fund;

(d) The appointment by the governing body of a board of trustees, including, without limitation, the number of members of the board of trustees and their terms of office, as determined pursuant to [NAC 287.778](#);

(e) A statement that the powers, duties, rights and obligations of the board of trustees will conform to the requirements of [NRS 287.017](#) and [NAC 287.760](#) to [287.792](#), inclusive;

(f) A statement that, except as otherwise provided in paragraph (h) of subsection 2 of [NRS 287.017](#), no other money will be commingled with the money in the trust fund and that the trust fund will be maintained as a separate account; and

(g) A statement that the money in the trust fund will not be used to finance debt of the local government and will not be available for loans to other funds of the local government.

2. A copy of the resolution adopted pursuant to subsection 1 must be filed with the Department of Taxation within 30 days after its adoption by the governing body. The Department of Taxation shall report at least annually to the Committee on Local Government Finance regarding the trust funds established during the reporting period.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.778 Board of trustees: Appointment and terms of members. ([NRS 287.017](#))

1. In appointing a board of trustees:

(a) If the assets of the trust fund will only be deposited in the Retirement Benefits Investment Fund pursuant to subparagraph (1) of paragraph (g) of subsection 2 of [NRS 287.017](#), the governing body shall appoint at least three but not more than five persons to the board of trustees, including:

(1) One or more persons who each have a combination of education and experience in finance or economics that totals 5 years or more;

(2) A public officer or employee of the local government who manages the fiscal affairs of the local government; and

(3) A beneficiary of the benefits plan of the local government.

(b) If the assets of the trust fund will be invested only in investments authorized for a local government pursuant to subparagraph (2) of paragraph (g) of subsection 2 of [NRS 287.017](#), or in such investments and deposited in the Retirement Benefits Investment Fund pursuant to subparagraph (1) of paragraph (g) of subsection 2 of [NRS 287.017](#), the governing body shall appoint at least three but not more than five persons to the board of trustees, including:

(1) One or more persons who each have a combination of education and experience in finance or economics that totals 5 years or more;

(2) A public officer or employee of the local government who manages the fiscal affairs of the local government; and

(3) A beneficiary of the benefits plan of the local government who has a combination of education and experience in finance or economics that totals 5 years or more.

(c) If the assets of the trust fund qualify to be invested pursuant to subsection 2 of [NAC 287.790](#), the governing body shall appoint five persons to the board of trustees, including:

(1) Two persons who have experience in the securities exchange market;

(2) A public officer or employee of the local government who manages the fiscal affairs of the local government;

(3) A person who is not an employee of the local government, who has a combination of education and experience in finance or economics that totals 7 years or more; and

(4) A beneficiary of the benefits plan of the local government who has a combination of education and experience in finance or economics that totals 7 years or more.

2. A person may not be appointed to the board of trustees pursuant to this section if the person:

(a) Has a substantial financial interest in the ownership or negotiation of the securities or other financial instruments in which the assets of the trust fund are invested.

(b) Is a member of the governing body that established the trust fund.

3. A resolution adopted by two or more governing bodies to form a pooled trust pursuant to paragraph (h) of subsection 2 of [NRS 287.017](#) may include a provision for appointment of a member of the board of trustees of a participating governing body as a member of the board of trustees of the pooled trust.

4. The term of a member of a board of trustees appointed pursuant to this section must be at least 2 years, but not more than 4 years.

5. The governing body may reappoint a member of the board of trustees, and may alter the composition of the board of trustees determined pursuant to subsection 1 if required pursuant to [NAC 287.790](#).

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.780 Board of trustees: Selection and duties of chair and vice chair; meetings; quorum; voting. ([NRS 287.017](#))

1. The members of a board of trustees shall select a chair and vice chair from the members of the board of trustees.

2. The chair of the board of trustees shall:

(a) Preside at all meetings of the board of trustees; and

(b) Perform the duties incident to the office and such other duties as may be prescribed by the board of trustees from time to time.

3. The vice chair shall:

(a) Perform such duties as from time to time may be assigned to him or her by the chair or by the board of trustees; and

(b) In the absence of the chair, or in the event of the chair's inability or refusal to act, as determined by the majority of the board of trustees, perform the duties of the chair.

4. The board of trustees shall meet quarterly or at the call of the chair when business is presented. The governing body may remove a member of the board of trustees if the member fails to attend two consecutive meetings or any three meetings during a calendar year.

5. The board of trustees shall comply with the provisions of [chapter 241](#) of NRS.

6. A majority of the members of the board of trustees constitutes a quorum for all purposes.

7. Any member of the board of trustees may request a roll call vote of record.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.782 Board of trustees: Restrictions. ([NRS 287.017](#))

1. The board of trustees may not negotiate or otherwise determine the retirement benefits provided to the beneficiaries of the trust fund.

2. A member of the board of trustees may not bind the board of trustees by word or action unless the board of trustees has, in its corporate capacity, designated such member as its agent for a specific purpose and for that purpose only.

3. The earnings of the trust fund shall not inure to the benefit of any member of the board of trustees except that a member of the board of trustees may be a beneficiary of the trust fund through participation in his or her employer's benefits plan.

4. A member of the board of trustees shall not be interested, directly or indirectly, as principal, partner, agent or otherwise in any contract entered into or expenditure authorized by the board of trustees, or in the profits or results thereof.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.784 Board of trustees: Compensation of members; staffing; provision for expenses. ([NRS 287.017](#))

1. A governing body may provide for the payment to members of the board of trustees of:
 - (a) Compensation of not more than \$80 for each day or portion of a day that the member is actually engaged in the work of the board of trustees; and
 - (b) The per diem allowance and travel expenses normally provided for officers and employees of the local government, if any, for each day or portion of a day that the member is actually engaged in the work of the board of trustees.
2. The governing body shall provide to the board of trustees the staff necessary to assist the board of trustees in carrying out its powers and duties, including, without limitation, staff to organize and provide notice of the meetings of the board of trustees, take the minutes of such meetings, receive and disseminate financial reports of the professional fund managers of the trust fund, if any, and prepare financial reports and budgets for the board of trustees.
3. The governing body shall provide for the necessary and reasonable expenses of the board of trustees, including, without limitation, the costs of the annual audit required pursuant to [NAC 287.786](#).
(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.786 Determination of annual contributions; annual budgeting and auditing. ([NRS 287.017](#))

1. The governing body shall annually inform the board of trustees of the amount of the contributions that the governing body expects to make to the trust fund. In determining such a contribution, the governing body may:
 - (a) Commission actuarial studies that estimate the liabilities of the benefits plan of the local government for the ensuing 5 fiscal years; or
 - (b) Use an alternative method of calculation that is allowed by generally accepted accounting principles and which is performed or commissioned by the governing body.➔ The results of any such studies or calculations must be completed before March 1 of each year in order that the amount of the contributions to the trust fund is determined before completion of the tentative budget of the board of trustees for submission to the governing body pursuant to subsection 2.
2. The board of trustees shall annually submit a tentative budget to the governing body for its consideration, approval and inclusion in the tentative and final budgets of the governing body. The tentative budget submitted by the board of trustees must incorporate the amount of contributions determined pursuant to subsection 1. The governing body may modify the tentative budget of the board of trustees at its discretion.
3. The board of trustees shall cause the trust fund to be audited annually. The books, records and accounts of the trust fund may be audited by the same person or entity that audits the books, records and accounts of the local government. The governing body shall incorporate the results of the audit into the annual audit report of the local government.
(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.788 Contract with professional fund manager; investment plan. ([NRS 287.017](#))

1. The board of trustees may contract with a professional fund manager if the assets of the trust fund are invested:
 - (a) In an investment which is authorized for a local government pursuant to subparagraph (2) of paragraph (g) of subsection 2 of [NRS 287.017](#).
 - (b) Pursuant to subsection 2 of [NAC 287.790](#).

2. Unless all the assets of the trust fund will only be deposited in the Retirement Benefits Investment Fund pursuant to subparagraph (1) of paragraph (g) of subsection 2 of [NRS 287.017](#), the board of trustees shall develop an investment plan for the trust fund in consultation with a professional fund manager, if the board has entered into a contract with such a person pursuant to subsection 1, or with any other investment management advisor retained by the board of trustees. The investment plan must be approved as to its conformity with this subsection by the Committee on Local Government Finance before the investment of any assets of the trust fund. The investment plan must:

(a) Include formal investment policies consistent with the requirements of [NRS 287.017](#) and [NAC 287.760](#) to [287.792](#), inclusive, including, without limitation, policies governing acceptable risks, diversification requirements and the fundamental processes for regulating the investment of the assets of the trust fund.

(b) Include processes governing the selection and monitoring of the staff and any professional fund manager or other investment management advisor assisting the board of trustees in the administration of the trust fund that are sufficient to ensure such staff, professional fund managers and other advisors have appropriate expertise and exhibit appropriate fiduciary behavior for such positions.

(c) Include appropriate investment training for members of the board of trustees and staff to ensure that they are knowledgeable in the prevailing investment practices.

(d) Include travel policies for participation in investment training for members of the board of trustees and staff that support the need for training and are defensible in the context of the interests of the public and the beneficiaries of the trust fund.

(e) Include an organizational plan for the selection and retention of competent investment expertise among the staff and in professional fund managers and other advisors, and incorporate a competitive process for the selection of both staff and professional fund managers and advisors.

(f) Provide for the development of and annual review by the board of trustees of the asset allocation strategy of the investment plan and the positioning of classes of assets in the investment portfolio of the trust fund in light of general market trends and valuations.

(g) Provide, on at least an annual basis, for a formal evaluation of the role or potential role of passive or indexed investment strategies applicable to the investment portfolio of the trust fund, and of appropriate strategies to minimize the costs of the administration of the trust fund, including, without limitation, the costs of transactions, professional fund managers and other advisors and investment training.

(h) Provide for a periodic review of investment-related practices, including, without limitation, services provided by brokers and unconventional investment strategies, in the context of fiduciary standards and the interests of economy.

(i) Establish formal benchmarks for the performance of the portfolio and managed accounts that are specific to the assigned role of the manager of the portfolio or account.

(j) Provide for the regular evaluation of the performance of the portfolio using consistent, documented and reliable disciplines, and establish clear criteria and procedures for selection and termination of investments by managers.

(k) Provide for regular communications on investment results to the governing body in a clear and intelligible format.

3. Approval by the Committee on Local Government Finance of the investment plan required in subsection 2 does not create or establish any fiduciary responsibility between the Committee on Local Government Finance and the trust fund or its beneficiaries.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.790 Deposit and investment of assets; maintenance as separate account; prohibited uses; reimbursement of administrative expenses. ([NRS 287.017](#))

1. Except as otherwise provided in subsection 4, if the market value of the investment portfolio of a trust fund at the end of a fiscal year is \$100,000,000 or less, the assets of the trust fund may only be:

(a) Deposited in the Retirement Benefits Investment Fund pursuant to subparagraph (1) of paragraph (g) of subsection 2 of [NRS 287.017](#); and

(b) Invested in any investment which is authorized for a local government pursuant to subparagraph (2) of paragraph (g) of subsection 2 of [NRS 287.017](#).

2. Except as otherwise provided in subsection 4, if the market value of the investment portfolio in a trust fund at the end of a fiscal year is more than \$100,000,000, the assets of the trust fund may be:

(a) Deposited in the Retirement Benefits Investment Fund pursuant to subparagraph (1) of paragraph (g) of subsection 2 of [NRS 287.017](#);

(b) Invested in any investment which is authorized for a local government pursuant to subparagraph (2) of paragraph (g) of subsection 2 of [NRS 287.017](#); and

(c) Invested in any stocks or other equity securities or bonds or other debt securities which meet the requirements of subparagraph (3) of paragraph (g) of subsection 2 of [NRS 287.017](#).

3. If the market value of the investment portfolio of a trust fund that is invested pursuant to subsection 2 falls below \$100,000,000 at the end of a fiscal year, the board of trustees:

(a) Is not required to liquidate any investments described in paragraph (c) of subsection 2.

(b) Shall invest the assets of the trust fund in the manner set forth in subsection 1 until the market value of the portfolio is more than \$100,000,000.

4. The assets of a pooled trust authorized pursuant to paragraph (h) of subsection 2 of [NRS 287.017](#) may only be deposited in the Retirement Benefits Investment Fund established pursuant to [NRS 355.220](#).

5. All interest, earnings, dividends and distributions received from the investment of assets in the trust fund, minus the expenses charged for such investments, must be deposited into the trust fund.

6. Except as otherwise provided in paragraph (h) of subsection 2 of [NRS 287.017](#), the trust fund must be maintained as a separate account, and no other money may be commingled with the money in the trust fund.

7. Money in the trust fund must not be used to finance the debt of the local government and must not be used for loans to other funds of the local government.

8. Reasonable charges may be assessed to the trust fund for reimbursement of the direct expenses incurred by the board of trustees in administering the trust fund.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

NAC 287.792 Requests for transfers of money. ([NRS 287.017](#))

1. Except as otherwise provided in subsection 2, the board of trustees shall, upon request of the governing body, transfer money from the trust fund to an account designated by the governing body not later than 10 business days after the first day of the month following receipt of the request by the board of trustees. A request by the governing body pursuant to this subsection must include, without limitation:

(a) An explanation of the manner in which the proposed transfer will be used to fulfill the requirements of the benefits plan of the local government;

(b) A copy of the budget of the local government for the current fiscal year, which demonstrates that expenditures for retirement benefits are authorized by the governing body pursuant to an agreement between the local government and its employees;

(c) Minutes of the meeting of the governing body at which the transfer was proposed; and

(d) The signature of the chairperson of the governing body.

2. If the request by the governing body does not meet the requirements of this section, the board of trustees may delay transfer of the money until the governing body has complied with the requirements.

(Added to NAC by Com. on Local Gov't Finance by R089-08, eff. 9-18-2008)

AGENDA ITEM 6b

REPORT BY DEPARTMENT ON CHURCHILL COUNTY SCHOOL DISTRICT 3RD YEAR OF DECLINE IN GENERAL FUND ENDING BALANCE



STATE OF NEVADA
DEPARTMENT OF TAXATION

Web Site: <http://tax.nv.gov>

1550 College Parkway, Suite 115
Carson City, Nevada 89706-7937
Phone: (775) 684-2000 Fax: (775) 684-2020

RENO OFFICE
4600 Kietzke Lane
Building L, Suite 235
Reno, Nevada 89502
Phone: (775) 687-9999
Fax: (775) 688-1303

BRIAN SANDOVAL
Governor
ROBERT R. BARENGO
Chair, Nevada Tax Commission
DEONNE E. CONTINE
Executive Director

LAS VEGAS OFFICE
Grant Sawyer Office Building, Suite 1300
555 E. Washington Avenue
Las Vegas, Nevada 89101
Phone: (702) 486-2300 Fax: (702) 486-2373

HENDERSON OFFICE
2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

December 3, 2014

To: Committee on Local Government Finance
From: Heidi N. Rose, Budget Analyst *HNR*
Subject: Churchill County School District – Third Year Decline

Per the requirement of NRS 387.3045, the Department received the attached official notice from Churchill County School District on November 18, 2014. This notice addressed the Committee regarding the third year decline in General Fund Ending Fund Balance. This was informally brought to the Committee's attention at the August 28, 2014 Committee meeting along with other school district's decline in ending fund balance.

The Department believes this is a result of economic conditions as well as the declined enrollment and reduction in per pupil DSA funding to the school districts starting in 2010. Though the ending fund balance was a third year decline, the school district ended their 2013-14 year with a greater than expected general fund ending fund balance.

NRS 387.3045 Report of decline in ending balance of general fund of school district. If the ending balance of the general fund of a school district has declined for 3 consecutive years, the school district shall submit to the Committee on Local Government Finance created pursuant to NRS 354.105 a written explanation of the cause of the decline.
(Added to NRS by 1999, 1358; A 2001, 1827)



CHURCHILL COUNTY SCHOOL DISTRICT

690 SOUTH MAINE STREET
FALLON, NEVADA 89406
PHONE: (775) 423-5184
FAX: (775) 423-2959
www.churchill.k12.nv.us

DR. SANDRA SHELDON
SUPERINTENDENT

Excellence in Education

November 17, 2014

RECEIVED

NOV 18 2014

State of Nevada
Department of Taxation

Committee on Local Government Finance
Department of Taxation
1550 College Parkway, Suite 115
Carson City, NV 89706

Dear Committee,

The Churchill County School District Board of Trustees approved the Comprehensive Annual Financial Report for year ended June 30, 2014, at their board meeting on November 13, 2014.

That report indicated that the District's General Fund ending fund balance has declined for the third consecutive year. As required by NRS 387.3045 (below), I am reporting this decline to you.

The District's declining fund balance is the result of many years of economic challenges as well as a significant decline in student enrollment. In the same three years, our enrollment declined by 11.5%, which affected our Distributive School Account (DSA) revenues from the State of Nevada. The Trustees elected to use the fund balance to lessen the impact of the lost revenues on our District.

On a positive note, the fiscal year 2015 Augmented Budget is showing a slight increase of the ending fund balance. The Board of Trustees is dedicated to ensuring the District is in good financial condition and is working toward increasing that balance further.

If you additional information, please contact me at dowdp@churchill.k12.nv.us or (775) 428-7220.

Respectfully,

Phyllis Dowd, CPA
Director of Business Services

NRS 387.3045 – Report of decline in ending balance of general fund of school district.

If the ending balance of the general fund of a school district has declined for 3 consecutive years, the school district shall submit to the Committee on Local Government Finance created pursuant to NRS 354.105 a written explanation of the cause of the decline.

BUSINESS OFFICE
PHONE: (775) 428-7230
FAX: (775) 423-0583

AGENDA ITEM 7a

DISCUSSION AND CONSIDERATION OF REGULATORY MATTERS

REPORT BY DEPARTMENT ON LEGISLATIVE BILL DRAFTS

ASSEMBLY BILL NO. 54—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED DECEMBER 20, 2014

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to local governments existing in a severe financial emergency. (BDR 31-308)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to local financial administration; revising provisions governing the operation of the Committee on Local Government Finance; revising provisions relating to the management of a local government existing in a severe financial emergency; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the procedures by which certain local governments existing in a severe financial emergency may receive technical financial and other assistance from the Department of Taxation and the Committee on Local Government Finance. Existing law also requires the Nevada Tax Commission, upon determining that a local government exists in a severe financial emergency, to require by order that: (1) the Department take over the management of the local government until the severe financial emergency ceases to exist; (2) the local government increase or impose new taxes to meet the revenue requirements of the local government; and (3) under certain circumstances, a question be submitted to the electors of the local government as to whether the local government should be disincorporated or dissolved. Existing law further provides for the cessation of the management of a local government by order of the Commission under certain circumstances. (NRS 354.105, 354.655-354.725) **Section 1** of this bill revises provisions providing for the operation of the Committee on Local Government Finance. **Sections 4 and 5** of this bill provide for the withholding of certain payments to which a local government may otherwise be entitled for failing to file



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certain financial reports or to make certain payments to the Public Employees' Benefits Program. **Section 6** of this bill requires the Department, upon making a determination that certain financial conditions exist in a local government, to place the local government under a program of monitoring. **Section 7** of this bill establishes the process by which the Committee and the Commission determine that a local government exists in a severe financial emergency and requires the Commission, upon making such a determination, to order the local government to follow a remedial course of action. **Section 8** of this bill revises the duties of the Department upon taking over the management of a local government found to exist in a severe financial emergency. **Section 9** of this bill provides for the creation and adoption by the Commission of a remedial plan of action to increase the revenues and reduce the expenditures of the local government. The plan may provide for the imposition of additional taxes by the local government, which taxes, pursuant to **section 15** of this bill, are not subject to certain abatements and other limitations. **Section 11** of this bill extends the period by which a local government may repay certain interest-free loans distributed by the Executive Director of the Department to the local government from the Severe Financial Emergency Fund. If the Executive Director determines that the severe financial emergency of a local government is unlikely to end within a certain period, **section 12** of this bill requires the Committee to review the findings of the Executive Director and recommend certain additional remedial actions to the Commission, including a recommendation that: (1) the county absorb the local government; or (2) the local government be disincorporated or dissolved. **Section 13** of this bill prohibits the Commission from terminating or modifying the management of a local government by the Department without first obtaining a recommendation from the Committee.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- Section 1.** NRS 354.105 is hereby amended to read as follows:
- 354.105 1. The Committee on Local Government Finance, consisting of 11 members, is hereby created.
2. The following associations shall each appoint three members to serve on the Committee:
- (a) Nevada League of Cities;
 - (b) Nevada Association of County Commissioners; and
 - (c) Nevada ~~[School Trustees]~~ Association ~~[]~~ *of School Boards.*
3. The Nevada State Board Of Accountancy shall appoint two members to serve on the Committee.
4. Each appointment must be for a term of 3 years ~~[]~~ , *and each member appointed may be reappointed to additional terms.*
5. ~~[All vacancies]~~ *A vacancy* must be filled as soon as practicable by the appointing authority of the person who vacated the seat.
6. If any of the associations listed in subsection 2 cease to exist, the appointments required by subsection 2 must be made by the association's successor in interest or, if there is no successor in interest, one each by the other appointing authorities.



1 7. *The members of the Committee shall elect by majority vote*
2 *a member as Chair and another member as Vice Chair, who shall*
3 *serve for terms of 3 years or until their successors are elected.*

4 8. *The Committee shall meet not less than twice per year and*
5 *may meet at other times upon the call of the Chair or a majority of*
6 *the members of the Committee.*

7 9. *A majority of the members of the Committee constitutes a*
8 *quorum, and a quorum may exercise all the power and authority*
9 *conferred on the Committee.*

10 10. *Members of the Committee serve without compensation,*
11 *except that for each day or portion of a day during which a*
12 *member of the Committee attends a meeting of the Committee or is*
13 *otherwise engaged in the business of the Committee, the member*
14 *is entitled to receive the per diem allowance and travel expenses*
15 *provided for state officers and employees generally.*

16 11. *The Department of Taxation shall provide administrative*
17 *support to the Committee.*

18 **Sec. 2.** NRS 354.655 is hereby amended to read as follows:

19 354.655 As used in NRS 354.655 to 354.725, inclusive, unless
20 the context requires otherwise:

21 1. *“Basic function” means an activity of a local government*
22 *for the purpose of accomplishing a primary service or function of*
23 *the local government, including, without limitation, those services*
24 *and functions relating to general governance, public safety, public*
25 *works, public health, public welfare and judicial services or*
26 *functions for which the local government is responsible.*

27 2. *“Commission” means the Nevada Tax Commission.*

28 3. *“Committee” means the Committee on Local Government*
29 *Finance.*

30 ~~[2.]~~ 4. *“Department” means the Department of Taxation.*

31 ~~[3.]~~ 5. *“Executive Director” means the Executive Director of*
32 *the Department . ~~[of Taxation.]~~*

33 ~~—4.]~~ 6. *“Fiscal watch” means the monitoring of a local*
34 *government pursuant to a notice issued pursuant to subsection 1*
35 *of NRS 354.675.*

36 7. *“Local government” means ~~[any local government subject to~~*
37 *~~the provisions of the Local Government Budget and Finance Act.~~*

38 ~~—5.—The]~~ *every political subdivision or other entity which has*
39 *the right to levy or receive money from ad valorem or other taxes*
40 *or any mandatory assessments, and includes, without limitation,*
41 *counties, cities, towns, boards, school districts, districts organized*
42 *pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS*
43 *450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555*
44 *of NRS, irrigation districts organized pursuant to chapter 539 of*
45 *NRS, and any agency or department of a county or city which*



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1 *prepares a budget separate from that of the parent political*
2 *subdivision.*

3 8. *“Technical financial assistance” means assistance*
4 *provided by the Department to a local government, including,*
5 *without limitation, assistance with auditing financial records,*
6 *developing budgets, reviewing contracts, analyzing cost*
7 *allocations, debt management, feasibility analyses and revenue*
8 *forecasting.*

9 9. *Except as otherwise provided in subsection 7, the* words
10 and terms defined in the Local Government Budget and Finance Act
11 have the meanings ascribed to them in that act.

12 **Sec. 3.** NRS 354.657 is hereby amended to read as follows:

13 354.657 1. The purpose of NRS 354.655 to 354.725,
14 inclusive, is to ~~provide specific methods for the treatment of~~
15 ~~delinquent documents, payments, technical financial assistance~~
16 ~~and~~ :

17 (a) *Restore and maintain the financial solvency of any local*
18 *government in financial distress;*

19 (b) *Provide basic functions for which a local government in*
20 *financial distress is responsible; and*

21 (c) *Provide a tiered program of financial oversight and*
22 *assistance by the State based on the existing financial conditions*
23 *of a local government, including, without limitation, placing the*
24 *local government on fiscal watch, providing technical financial*
25 *assistance to the local government and assisting the local*
26 *government if it is found to exist in a state of severe financial*
27 *emergency.*

28 2. To accomplish the purpose set forth in subsection 1, the
29 provisions of NRS 354.655 to 354.725, inclusive, must be broadly
30 and liberally construed.

31 **Sec. 4.** NRS 354.665 is hereby amended to read as follows:

32 354.665 1. If a local government does not file a statement,
33 report or other document as required by the provisions of NRS
34 350.013, **354.5945**, 354.6015, 354.6025, 354.624, 354.6245 or
35 387.303 within 15 days after the day on which it was due, the
36 Executive Director shall notify the governing body of the local
37 government in writing that the report is delinquent. The notification
38 must be noted in the minutes of the first meeting of the governing
39 body following transmittal of the notification.

40 2. If the required report is not received by the Department
41 within 45 days after the day on which the report was due, the
42 Executive Director shall notify the governing body that the presence
43 of a representative of the governing body is required at the next
44 practicable scheduled meeting of the Committee to explain the
45 reason that the report has not been filed. The notice must be



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transmitted to the governing body ~~at least~~ *not less than* 5 days before the date on which the meeting will be held.

3. If an explanation satisfactory to the Committee is not provided at the meeting as requested in the notice and an arrangement is not made for the submission of the report, the Committee may instruct the Executive Director to request that the State Treasurer withhold from the local government the next distribution from the Local Government Tax Distribution Account, if the local government is otherwise entitled to receive such a distribution, ~~or of~~ the local school support tax if the local government is a school district ~~or~~ *or any other property taxes, taxes on the net proceeds of minerals or grants to which the local government may otherwise be entitled as a distribution from the State*. Upon receipt of such a request, the State Treasurer shall withhold the payment and all future payments until the State Treasurer is notified by the Executive Director that the report has been received by the Department.

Sec. 5. NRS 354.671 is hereby amended to read as follows:

354.671 1. Upon receipt of notification by the Board of the Public Employees' Benefits Program pursuant to NRS 287.0434 that a local government is delinquent by more than 90 days on an amount due to the Public Employees' Benefits Program pursuant to paragraph (b) of subsection 4 of NRS 287.023, the Executive Director shall notify the governing body that the presence of a representative of the governing body is required at the next practicable scheduled meeting of the Committee to explain the reason that the payment has not been made. The notice must be transmitted to the governing body ~~at least~~ *not less than* 5 days before the date on which the meeting will be held.

2. If an explanation satisfactory to the Committee is not provided at the meeting as requested in the notice and an arrangement is not made for the submission of the payment, the Committee may instruct the Executive Director to request that the State Treasurer withhold from the local government an amount equal to the amount of the delinquent payment from the next distribution from the Local Government Tax Distribution Account, if the local government is otherwise entitled to receive such a distribution, ~~or of~~ the local school support tax if the local government is a school district ~~or~~ *or any other property taxes, taxes on the net proceeds of minerals or grants to which the local government may otherwise be entitled as a distribution from the State*. Upon receipt of such a request, the State Treasurer shall withhold that amount from the payment or any future payment as necessary until the State Treasurer is notified by the Executive Director that the delinquent payment has been received by the



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1 Department. The Department shall transmit the delinquent payment
2 to the Public Employees' Benefits Program upon receipt.

3 **Sec. 6.** NRS 354.675 is hereby amended to read as follows:

4 354.675 1. ~~[A governing body which determines that the~~
5 ~~local government is in need of technical financial assistance may~~
6 ~~adopt a resolution requesting an appearance before the Nevada Tax~~
7 ~~Commission to request technical financial assistance from the~~
8 ~~Department.] If the Department determines that one or more of the~~
9 ~~conditions identified in paragraphs (a) to (aa), inclusive, of~~
10 ~~subsection 2 of NRS 354.685 exist in a local government, the~~
11 ~~Department shall provide written notice to the local government,~~
12 ~~the Commission and the Committee that the local government has~~
13 ~~been placed on fiscal watch by the Department. The Department~~
14 ~~shall not remove a local government from fiscal watch until the~~
15 ~~Executive Director determines that such conditions no longer exist~~
16 ~~or the Executive Director submits a recommendation to the~~
17 ~~Committee pursuant to subsection 2 of NRS 354.685.~~

18 2. *If a local government is placed on fiscal watch pursuant to*
19 *subsection 1, the governing body of the local government may*
20 *adopt a resolution requesting the Commission to order the*
21 *Department, in consultation with the local government and the*
22 *Committee, to provide appropriate technical financial assistance to*
23 *the local government.*

24 3. Upon receipt of a resolution adopted pursuant to subsection
25 ~~[1.]~~ 2, the ~~[Nevada-Tax]~~ Commission shall place the request for
26 technical financial assistance on the agenda for the next practicable
27 scheduled meeting of the Commission and notify the governing
28 body of the local government of the time and place at which one or
29 more representatives of the local government must appear to present
30 the request.

31 ~~[3.]~~ 4. After hearing the request for technical financial
32 assistance ~~[.]~~ *and any recommendations of the Committee*, if the
33 ~~[Nevada-Tax]~~ Commission finds that the local government is in
34 need of technical financial assistance, ~~[the]~~ *the Commission* shall
35 order the Department to provide the assistance. The order must
36 include such terms and conditions as the Commission deems
37 appropriate and may include a schedule or rate of payment for the
38 services of the Department.

39 ~~[4.]~~ 5. If the governing body adopts a resolution accepting the
40 terms and conditions established pursuant to subsection ~~[3.]~~ 4,
41 the Department shall provide such technical financial assistance to
42 the local government as the Department deems necessary and
43 appropriate.



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1 ~~[5-]~~ 6. The Department may request *from the Committee* any
2 assistance it deems appropriate to carry out the provisions of this
3 section. ~~[from the Committee.]~~

4 ~~—6-]~~ 7. The Department shall continue to provide assistance to
5 the local government pursuant to this section until the ~~[Nevada Tax]~~
6 Commission ~~[adopts]~~ *issues* an order requiring the Department to
7 cease providing the assistance. The ~~[Nevada Tax]~~ Commission may
8 ~~[adopt]~~ *issue* such an order upon its own motion, ~~[or]~~ upon receipt
9 of a *request for such an order from the Department or the*
10 *Committee, or upon receipt of a* resolution adopted by the
11 governing body requesting such an order.

12 ~~[7-]~~ 8. If no payment for the services of the Department is
13 required by the order or such payments are not sufficient to pay the
14 costs of providing the technical financial assistance required
15 pursuant to this section, the Department may request an allocation
16 by the Interim Finance Committee from the Contingency Account
17 pursuant to NRS 353.266, 353.268 and 353.269 to pay the costs of
18 providing the technical financial assistance required pursuant to this
19 section.

20 **Sec. 7.** NRS 354.685 is hereby amended to read as follows:

21 354.685 1. ~~[H]~~ *The Committee may, upon the*
22 *recommendation of the Executive Director pursuant to subsection*
23 *2 or at the request of a local government pursuant to subsection 3,*
24 *conduct one or more hearings to determine whether a severe*
25 *financial emergency exists in a local government.*

26 2. *The Executive Director may recommend that the*
27 *Committee conduct one or more hearings to determine whether a*
28 *severe financial emergency exists in a local government if the*
29 *Department finds that one or more of the following conditions exist*
30 *in [any] the local government : [after giving consideration to the*
31 *severity of the condition, it may determine that one or more hearings*
32 *should be conducted to determine the extent of the problem and to*
33 *determine whether a recommendation of severe financial emergency*
34 *should be made to the Nevada Tax Commission:]*

35 (a) Required financial reports have not been filed or are
36 consistently late.

37 (b) The audit report reflects the unlawful expenditure of money
38 in excess of the amount appropriated in violation of the provisions
39 of NRS 354.626.

40 (c) The audit report shows funds with deficit fund balances.

41 (d) The local government has incurred debt beyond its ability to
42 repay.

43 (e) The local government has not corrected violations of statutes
44 or regulations adopted pursuant thereto as noted in the audit report.



1 (f) The local government has serious internal control problems
2 noted in the audit report which have not been corrected.

3 (g) The local government has a record of being late in its
4 payments for services and supplies.

5 (h) The local government has had insufficient cash to meet
6 required payroll payments in a timely manner.

7 (i) The local government has borrowed money or entered into
8 long-term lease arrangements without following the provisions of
9 NRS or regulations adopted pursuant thereto.

10 (j) The governing body of the local government has failed to
11 correct problems after it has been notified of such problems by the
12 Department.

13 (k) The local government has not separately accounted for its
14 individual funds as required by chapter 354 of NRS.

15 (l) The local government has invested its money in financial
16 instruments in violation of the provisions of chapter 355 of NRS.

17 (m) The local government is in violation of any covenant in
18 connection with any debt issued by the local government.

19 (n) The local government has not made bond and lease
20 payments in accordance with the approved payment schedule.

21 (o) The local government has failed to control its assets such
22 that large defalcations have occurred which have impaired the
23 financial condition of the local government.

24 (p) The local government has recognized sizeable losses as a
25 result of the imprudent investment of money.

26 (q) The local government has allowed its accounting system and
27 recording of transactions to deteriorate to such an extent that it is not
28 possible to measure accurately the results of operations or to
29 ascertain the financial position of the local government without a
30 reconstruction of transactions.

31 (r) The local government has consistently issued checks not
32 covered by adequate deposits.

33 (s) The local government has loaned and borrowed money
34 between funds without following the proper procedures.

35 (t) The local government has expended money in violation of
36 the provisions governing the expenditure of that money.

37 (u) Money restricted for any specific use has been expended in
38 violation of the terms and provisions relating to the receipt and
39 expenditure of that money.

40 (v) Money has been withheld in accordance with the provisions
41 of NRS 354.665.

42 (w) If the local government is a school district, a loan has been
43 made from the State Permanent School Fund to the school district
44 pursuant to NRS 387.526.



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(x) An employer in the county that accounts for more than 15 percent of the employment in the county has closed or significantly reduced operations.

(y) The local government has experienced a cumulative decline of 10 percent in population or assessed valuation for the past 2 years.

(z) The ending balance in the general fund of the local government has declined for the past 2 years ~~[]~~ *or is less than 4 percent of the actual expenditures from the general fund of the local government for the immediately preceding fiscal year.*

(aa) The local government has failed to pay, in a timely manner, contributions to the Public Employees' Retirement System, workers' compensation or payroll taxes or fails to pay, at any time, a payment required pursuant to the Federal Insurance Contributions Act ~~[]~~

~~[2.]~~ *, 26 U.S.C. §§ 3101 et seq., or the Federal Unemployment Tax Act, 26 U.S.C. §§ 3301 et seq.*

3. If the governing body of a local government determines by the affirmative vote of a majority of its members that, because the local government is involved in litigation or threatened litigation, a severe financial emergency will exist in the local government, the governing body may submit a request to the Committee to conduct a hearing to determine whether a severe financial emergency exists in the local government.

4. If the ~~[Department]~~ Committee conducts a hearing pursuant to subsection 2 or 3 and determines that a ~~[condition listed in subsection 1]~~ severe financial emergency exists, the Department, on behalf of the Committee, shall:

(a) Notify the local government about the determination;

(b) Request from the local government any information that the Department deems to be appropriate to determine the extent of the condition; and

(c) Require the local government to formulate a plan of corrective action to mitigate the possible financial emergency.

~~[3. Within]~~

5. Not later than 45 days after receiving notification pursuant to subsection ~~[2.]~~ 4, a local government shall submit to the Committee any information requested by the Department and a plan of corrective action.

~~[4. The]~~

6. If the Committee determines that a severe financial emergency exists pursuant to subsection 4, the Committee shall:

(a) Review ~~[a]~~ the plan of corrective action submitted by a local government ~~[]~~ *pursuant to paragraph (c) of subsection 4;*



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(b) Provide observations and recommendations for the local government; and

(c) If the Committee deems necessary, periodically review the status of *and conduct additional hearings to review* the financial operations of the local government.

~~[5. The Department shall report the observations and recommendations of the Committee to the Nevada Tax Commission.~~

~~6.] 7.~~ In addition to any notice otherwise required, the Department shall give notice of any hearing held pursuant to ~~[subsection 1]~~ *this section* to the governing body of each local government whose jurisdiction overlaps with , *or in the case of a city, whose jurisdiction is contiguous to*, the jurisdiction of the local government whose financial condition will be considered ~~[at least]~~ *not less than* 10 days before the date on which the hearing will be held.

~~[7.] 8.~~ If the ~~[Department,]~~ *Committee*, following ~~[the]~~ *a* hearing ~~[or hearings,]~~ *conducted pursuant to this section*, determines that a ~~[recommendation of]~~ severe financial emergency ~~[should be made to the Nevada Tax Commission, it]~~ *exists in a local government, the Committee* shall , ~~[make such a recommendation]~~ as soon as practicable ~~[Upon receipt of such a recommendation, the Nevada Tax]~~ , *provide notice of its findings, including any recommendations of the Committee, to the Commission.*

9. The Commission shall , upon receiving a notice and any recommendations from the Committee pursuant to subsection 8, hold a hearing at which the Department [.] and the Committee must recommend a course of action to mitigate the financial conditions that are the cause of the severe financial emergency which exists in the local government. The Commission shall afford the local government whose financial condition will be considered and each local government whose jurisdiction overlaps with , or in the case of a city, whose jurisdiction is contiguous to, the jurisdiction of the local government whose financial condition will be considered [are afforded] an opportunity to be heard. If, after the hearing, the [Nevada Tax] Commission determines that a severe financial emergency exists, [it] the Commission shall [require by] issue an order [that] requiring the local government to follow a remedial course of action and requiring the Department to take over the management of the local government as soon as practicable.

~~[8. As used in this section, "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the Internal Revenue Code of 1939 and subchapters A and B of chapter 21 of the Internal Revenue Code of 1954, as such codes have been and may from time to time be amended.]~~



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Sec. 8. NRS 354.695 is hereby amended to read as follows:

354.695 1. As soon as practicable after taking over the management of a local government, the Department shall, with the approval of the Committee:

(a) Establish and implement a management policy and a financing plan for the local government;

(b) Provide for the appointment of a financial manager for the local government who is qualified to manage the fiscal affairs of the local government;

(c) Provide for the appointment of any other persons necessary to enable the local government to provide the basic services for which it was created in the most economical and efficient manner possible;

(d) Establish an accounting system and separate accounts in a bank or credit union, if necessary, to receive and expend all money and assets of the local government;

(e) Impose such hiring restrictions as deemed necessary ; ~~[after considering the recommendations of the financial manager;]~~

(f) Negotiate and approve all contracts entered into by or on behalf of the local government before execution and enter into such contracts on behalf of the local government as the Department deems necessary;

(g) ~~[Negotiate and approve]~~ *Except as otherwise provided in subsection 2, assume all the rights and obligations of the local government under any* collective bargaining contracts ~~[to be]~~ entered into by the local government ; ~~[, except issues submitted to a fact finder whose findings and recommendations are final and binding pursuant to the provisions of the Local Government Employee Management Relations Act;]~~

(h) Approve all expenditures of money from any fund or account and all transfers of money from one fund to another;

(i) Employ such technicians as are necessary for the improvement of the financial condition of the local government;

(j) Meet with the creditors of the local government and formulate a debt liquidation program ~~[;]~~ *that may include, without limitation, the adjustment of bonded indebtedness by the exchange of existing bonds for new bonds with a later maturity date and a different interest rate;*

(k) If the Department has taken over the management of a local government because the local government is involved in litigation or threatened litigation, carry out the duties ~~[set forth in NRS 354.701, if the provisions of that section are applicable;]~~ *of the Department pursuant to subsection 2 of NRS 31.010;*

(l) Approve the issuance of bonds or other forms of indebtedness by the local government;



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(m) Discharge any of the outstanding debts and obligations of the local government; and

(n) Take any other actions necessary to ensure that the local government provides the basic ~~services~~ *functions* for which it was created in the most economical and efficient manner possible.

2. The Department may, after taking over the management of a local government and with the approval of the Committee, suspend in whole or in part any collective bargaining agreement of the local government until the Department's management of the local government ceases or is terminated.

3. The Department may provide for reimbursement from the local government for the expenses the Department incurs in managing the local government. If such reimbursement is not possible, the Department may request an allocation by the Interim Finance Committee from the Contingency Account pursuant to NRS 353.266, 353.268 and 353.269.

~~3.1~~ 4. The governing body of a local government which is being managed by the Department pursuant to this section may make recommendations to the Department or the financial manager concerning the management of the local government.

~~4.1~~ 5. Each state agency, board, department, commission, committee or other entity of the State shall provide such technical *financial* assistance concerning the management of the local government as is requested by the Department.

~~5.1~~ 6. The Department may delegate any of the powers and duties imposed by this section to the financial manager appointed pursuant to paragraph (b) of subsection 1.

~~6.1~~ *A financial manager acting within the scope of his or her delegation pursuant to this subsection is responsible only to the Department for his or her actions.*

7. Except as otherwise provided in NRS 354.723 and 450.760, once the Department has taken over the management of a local government pursuant to the provisions of subsection 1, that management may only be terminated pursuant to NRS 354.725.

Sec. 9. NRS 354.705 is hereby amended to read as follows:

354.705 1. As soon as practicable after the Department takes over the management of a local government, the Executive Director shall ~~1.1~~ *prepare a plan of revenue enhancement and expense mitigation, for consideration by the Committee, that will lead to sustainable financial stability for the local government. In preparing the plan, the Executive Director shall:*

(a) Determine the total amount of expenditures necessary to allow the local government to perform the basic functions for which it was created ~~1.2~~ *, with priority given to public safety and the maintenance of roads and highways;*



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(b) Determine the amount of revenue reasonably expected to be available to the local government; and

(c) Consider any alternative sources of revenue available to the local government.

2. ~~{If the}~~ *The* Executive Director *shall submit the plan prepared pursuant to subsection 1 to the Committee. If the Committee* determines that the available revenue *of the local government* is not sufficient to provide for the payment of required debt service and operating expenses ~~{}~~ *pursuant to* the ~~{Executive Director may submit his or her findings to}~~ *plan*, the Committee ~~{who shall review the determinations made by the Executive Director. If the Committee determines that additional revenue is needed, it shall prepare}~~ *shall submit* a ~~{recommendation}~~ *revised plan* to the ~~{Nevada Tax}~~ Commission as to which one or more of the following additional taxes or charges should be imposed by the local government:

(a) The levy of a property tax up to a rate which when combined with all other overlapping rates levied in the State does not exceed \$4.50 on each \$100 of assessed valuation.

(b) An additional tax on transient lodging at a rate not to exceed 1 percent of the gross receipts from the rental of transient lodging within the boundaries of the local government upon all persons in the business of providing lodging. Any such tax must be collected and administered in the same manner as all other taxes on transient lodging are collected by or for the local government.

(c) Additional service charges appropriate to the local government.

(d) If the local government is a county or has boundaries that are conterminous with the boundaries of the county:

(1) An additional tax on the gross receipts from the sale or use of tangible personal property not to exceed one-quarter of 1 percent throughout the county. The ordinance imposing any such tax must:

(I) Include provisions in substance which comply with the requirements of subsections 2 to 5, inclusive, of NRS 377A.030. The ordinance shall be deemed to require the remittance of the tax to the Department and the distribution of the tax to the local government in the same manner as that provided in NRS 377A.050.

(II) Specify the date on which the tax must first be imposed or on which a change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

(2) An additional governmental services tax of not more than 1 cent on each \$1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county



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1 on each vehicle based in the county except those vehicles exempt
2 from the governmental services tax imposed pursuant to chapter 371
3 of NRS or a vehicle subject to NRS 706.011 to 706.861, inclusive,
4 which is engaged in interstate or intercounty operations. As used in
5 this subparagraph, "based" has the meaning ascribed to it in
6 NRS 482.011.

7 3. Upon receipt of the plan from the Committee, a panel
8 consisting of three members of the ~~[Nevada-Tax]~~ Commission
9 appointed by the ~~[Nevada-Tax]~~ Commission and three members of
10 the Committee appointed by the Committee shall hold a public
11 hearing at a location within the boundaries of the local government
12 in which the severe financial emergency exists after giving public
13 notice of the hearing ~~[at least]~~ *of not less than* 10 days before the
14 date on which the hearing will be held. In addition to the public
15 notice, the panel shall give notice to the governing body of each
16 local government whose jurisdiction overlaps with , *or in the case*
17 *of a city, whose jurisdiction is contiguous to*, the jurisdiction of the
18 local government in which the severe financial emergency exists.

19 4. After the public hearing conducted pursuant to subsection 3,
20 the ~~[Nevada-Tax]~~ Commission may adopt the plan as submitted or
21 adopt a revised plan. *If the Commission adopts a revised plan, the*
22 *revised plan must be approved by the members of the Committee*
23 *serving on the panel described in subsection 3.* Any plan adopted
24 pursuant to this section must include the duration for which any new
25 or increased taxes or charges may be collected which must not
26 exceed 5 years.

27 5. Upon adoption of the plan by the ~~[Nevada-Tax]~~
28 Commission, the local government in which the severe financial
29 emergency exists shall impose or cause to be imposed the additional
30 taxes and charges included in the plan for the duration stated in the
31 plan or until the severe financial emergency has been determined by
32 the ~~[Nevada-Tax Commission]~~ *Committee* to have ceased to exist.
33 *Any levy of additional property tax applies to all taxpayers,*
34 *regardless of whether the taxes previously imposed have been*
35 *partially or fully paid pursuant to NRS 361.483.*

36 6. The allowed revenue from taxes ad valorem determined
37 pursuant to NRS 354.59811 does not apply to any additional
38 property tax levied pursuant to this section.

39 7. If a plan fails to satisfy the expenses of the local government
40 to the extent expected, the Committee shall report such failure to:

41 (a) The county for consideration of absorption of services; or

42 (b) If the local government is a county, to the next regular
43 session of the Legislature.



Sec. 10. NRS 354.715 is hereby amended to read as follows:

354.715 **1.** If a local government *or any officer or employee of the local government* fails to comply with any request made by the Department pursuant to NRS 354.695, the Department may apply to the district court to compel compliance.

2. *In any proceeding brought pursuant to subsection 1, the Department may seek a declaration by the district court that the failure to comply with the request of the Department was willful. A willful failure to comply by any:*

(a) Officer of the local government works a forfeiture of his or her office.

(b) Employee of the local government is grounds for dismissal from his or her employment.

3. *Any officer or employee of the local government who willfully fails to comply with any request made by the Department pursuant to NRS 354.695 is guilty of a gross misdemeanor.*

Sec. 11. NRS 354.721 is hereby amended to read as follows:

354.721 **1.** The Severe Financial Emergency Fund is hereby created in the State Treasury as a revolving fund. The Executive Director shall administer the Fund.

2. The money in the Fund must be invested as other state funds are invested. Any interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund.

3. Money in the Severe Financial Emergency Fund may be:

(a) Distributed by the Executive Director as a loan to a local government for the purpose of paying the operating expenses of the local government until the local government receives revenues if:

(1) The Department takes over the management of a local government pursuant to NRS 354.685 to 354.725, inclusive;

(2) The Executive Director determines that a loan from the Severe Financial Emergency Fund is necessary to pay the operating expenses of the local government; and

(3) The local government adopts a resolution in which the local government agrees to:

(I) Use the money only for the purpose of paying the operating expenses of the local government until the local government receives revenues; and

(II) Repay the entire amount of the loan, without any interest, to the Severe Financial Emergency Fund as soon as practicable, but not later than ~~12~~ 24 months after the date on which the resolution is adopted.

(b) Used for any other purpose authorized by the Legislature.

4. A loan approved by the Executive Director must be repaid as soon as practicable by the local government, but the duration of the



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1 loan must not exceed ~~[12]~~ 24 months after the date on which the
2 loan was made. The Executive Director shall not charge interest on
3 a loan made pursuant to this section.

4 5. The Executive Director shall report to the Committee ~~on~~
5 ~~Local Government Finance~~ and to the ~~[Nevada Tax]~~ Commission
6 as soon as practicable after the date that the loan is approved
7 concerning:

8 (a) The status of the loan;

9 (b) The purposes for which the local government will use the
10 money from the loan; and

11 (c) The resources that the local government will use to repay the
12 loan.

13 **Sec. 12.** NRS 354.723 is hereby amended to read as follows:

14 354.723 1. If the Executive Director determines that a severe
15 financial emergency which exists in a local government under
16 management by the Department is unlikely to cease to exist within 3
17 years, the Executive Director shall determine:

18 (a) The amount any tax or mandatory assessment levied by the
19 local government must be raised to ensure a balanced budget for the
20 local government; and

21 (b) The manner in which the services provided by the local
22 government must be limited to ensure a balanced budget for the
23 local government,

24 ➤ and submit his or her findings to the Committee.

25 2. The Committee shall review the findings submitted by the
26 Executive Director pursuant to subsection 1. If the Committee
27 determines that the severe financial emergency which exists in the
28 local government is unlikely to cease to exist within 3 years and that
29 the findings made by the Executive Director are appropriate, the
30 Committee shall submit its recommendation *and findings* to the
31 ~~[Nevada Tax]~~ Commission. *The Committee may recommend:*

32 (a) *That the county absorb the local government;*

33 (b) *Disincorporation or dissolution of the local government; or*

34 (c) *Any other action or remedy that the Committee deems*
35 *appropriate.*

36 ➤ If the Committee determines that the financial emergency is
37 likely to cease to exist within 3 years, that decision is not subject to
38 review by the ~~[Nevada Tax]~~ Commission.

39 3. The ~~[Nevada Tax]~~ Commission shall schedule a public
40 hearing ~~[within]~~ *not later than* 30 days after the Committee submits
41 its recommendation ~~[.]~~ *and findings*. The ~~[Nevada Tax]~~
42 Commission shall provide public notice of the hearing ~~[at least]~~ *not*
43 *less than* 10 days before the date on which the hearing will be held.
44 The Executive Director shall provide copies of all documents
45 relevant to the recommendation *and findings* of the Committee to



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1 the governing body of the local government *existing* in *a* severe
2 financial emergency.

3 4. If, after the public hearing, the ~~[Nevada-Tax]~~ Commission
4 ~~[determines that]~~ *adopts* the recommendation *and findings* of the
5 Committee ~~[is appropriate]~~, *the Commission may:*

6 *(a) Require the submission of* a question ~~[must be submitted]~~ to
7 the electors of the local government at the next primary or general
8 municipal election or primary or general state election, as
9 applicable, asking whether the local government should be
10 disincorporated or dissolved ~~[]~~; *or*

11 *(b) Require the local government to take any other remedial*
12 *action in accordance with the recommendation and findings of the*
13 *Committee.*

14 5. If the electors of the local government do not approve the
15 disincorporation or dissolution of the local government:

16 (a) The maximum ad valorem tax levied within the local
17 government, if any, must be raised to \$5 on each \$100 of assessed
18 valuation;

19 (b) Any other taxes or mandatory assessments levied in the local
20 government, notwithstanding any limitation on those taxes or
21 assessments provided by statute, must be raised in an amount the
22 ~~[Nevada-Tax]~~ Commission determines is necessary to ensure a
23 balanced budget for the local government; and

24 (c) The services provided by the local government must be
25 limited in a manner the ~~[Nevada-Tax]~~ Commission determines is
26 necessary to ensure a balanced budget for the local government.

27 ~~[5-]~~ 6. If the electors of the local government approve the
28 disincorporation or dissolution of a local government that is:

29 (a) Created by another local government, it must be
30 disincorporated or dissolved:

31 (1) Pursuant to the applicable provisions of law; or

32 (2) If there are no specific provisions of law providing for
33 the disincorporation or dissolution of the local government, by the
34 entity that created the local government. If, at the time of the
35 disincorporation or dissolution of the local government pursuant to
36 this paragraph, there are any outstanding loans or bonded
37 indebtedness of the local government, including, without limitation,
38 loans made to the local government by the county in which the local
39 government is located, the taxes for the payment of the bonds or
40 other indebtedness must continue to be levied and collected in the
41 same manner as if the local government had not been
42 disincorporated or dissolved until all outstanding indebtedness is
43 repaid, but for all other purposes the local government shall be
44 deemed disincorporated or dissolved at the time that the entity
45 which created the local government disincorporates or dissolves the



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1 local government. Any other liabilities and any remaining assets
2 shall revert to the entity that created the local government which is
3 being disincorporated or dissolved.

4 (b) Created by a special or local act of the Legislature, it may
5 only be disincorporated or dissolved by the Legislature. The
6 Executive Director shall submit notification of the vote approving
7 the disincorporation or dissolution of the local government to the
8 Director of the Legislative Counsel Bureau for transmittal to the
9 Legislature. At the first opportunity, the Legislature shall consider
10 the question of whether the special or local act will be repealed.

11 (c) Created in any other manner, it must be disincorporated or
12 dissolved:

13 (1) Pursuant to the applicable provisions of law; or

14 (2) If there are no specific provisions of law providing for
15 the disincorporation or dissolution of the local government, by the
16 governing body of that local government. If, at the time of the
17 disincorporation or dissolution of the local government pursuant to
18 this paragraph, there are any outstanding loans or bonded
19 indebtedness of the local government, including, without limitation,
20 loans made to the local government by the county or counties in
21 which the local government is located, the taxes for the payment of
22 the bonds or other indebtedness must continue to be levied and
23 collected in the same manner as if the local government had not
24 been disincorporated or dissolved until all outstanding indebtedness
25 is repaid, but for all other purposes the local government shall be
26 deemed disincorporated or dissolved at the time that the governing
27 body of the local government disincorporates or dissolves the local
28 government. Except as otherwise provided in this subparagraph, any
29 other liabilities and any remaining assets of the local government
30 shall revert to the board of county commissioners of the county in
31 which the local government is located. If the local government is
32 located in more than one county, the governing body of the local
33 government shall apportion the remaining liabilities and assets
34 among the boards of county commissioners of the counties in which
35 the local government is located.

36 ~~[6. Within]~~

37 **7. Not later than** 10 days after the ~~[Nevada Tax]~~ Commission
38 ~~[makes a determination]~~ **requires the submission of a question to**
39 **the electors to disincorporate or dissolve a local government**
40 pursuant to subsection 4, the Executive Director shall notify:

41 (a) The city clerk, if the local government is a city; or

42 (b) The county clerk in all other cases,

43 ➡ and provide the clerk with the amount any tax or mandatory
44 assessment levied by the local government must be raised and a
45 description of the manner in which the services provided by the



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1 local government must be limited to ensure a balanced budget for
2 the local government.

3 ~~[7-]~~ 8. After the Executive Director notifies the city clerk or
4 the county clerk, as applicable, pursuant to subsection ~~[6-]~~ 7, the
5 clerk shall cause to be published in a newspaper of general
6 circulation that is printed in the local government a notice of the
7 election once in each calendar week for 2 successive calendar weeks
8 by two weekly insertions a week apart, the first publication to be not
9 more than 30 days nor less than 22 days next preceding the date of
10 the election. If no newspaper is printed in the local government,
11 publication of the notice of election must be made in a newspaper
12 printed in this State and having a general circulation in the local
13 government.

14 ~~[8-]~~ 9. The notice required pursuant to subsection ~~[7-]~~ 8 must
15 contain the following information:

16 (a) That the ~~[Nevada-Tax]~~ Commission has determined that the
17 severe financial emergency which exists in the local government is
18 unlikely to cease to exist within 3 years;

19 (b) That the question of whether the local government should be
20 disincorporated or dissolved will be submitted to the electors of the
21 local government at the next primary or general municipal election
22 or the next primary or general state election, as applicable; and

23 (c) That if the electors do not approve the disincorporation or
24 dissolution:

25 (1) The maximum ad valorem tax levied within the local
26 government, if any, will be raised to \$5 on each \$100 of assessed
27 valuation;

28 (2) Any taxes or mandatory assessment levied in the local
29 government will be raised to ensure a balanced budget for the local
30 government and the amount by which those taxes or mandatory
31 assessments will be raised; and

32 (3) The services the local government provides will be
33 limited to ensure a balanced budget for the local government and the
34 manner in which those services will be limited.

35 ~~[9-]~~ 10. If any provisions providing generally for the
36 disincorporation or dissolution of the local government require that
37 the question of disincorporating or dissolving be published or
38 submitted to a vote of the electors of the local government, the
39 publication required by subsection 3 and the election required by
40 subsection 4 satisfy those requirements. If:

41 (a) There is any other conflict between the provisions of this
42 section and any provisions providing generally for the
43 disincorporation or dissolution of a local government; or

44 (b) The provisions providing generally for the disincorporation
45 or dissolution of a local government provide additional rights to



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1 protest the disincorporation or dissolution of a local government not
2 provided by this section,

3 ➔ the provisions of this section control a disincorporation or
4 dissolution pursuant to this section and any person wishing to
5 protest such a disincorporation or dissolution must proceed in
6 accordance with the provisions of this section.

7 ~~{H0-}~~ 11. As used in this section, "local government" does not
8 include a county, a school district or any agency or department of a
9 county or city which prepares a budget separate from that of the
10 parent political subdivision.

11 **Sec. 13.** NRS 354.725 is hereby amended to read as follows:

12 354.725 1. The ~~{Nevada-Tax}~~ Commission may, on its own
13 motion or at the request of a local government ~~{-}~~ *or the Committee,*
14 terminate the management of a local government by the Department
15 at any time upon a finding that the severe financial emergency has
16 ceased to exist.

17 2. The governing body of a local government which has
18 complied with all requests made by the Department pursuant to
19 NRS 354.695 may petition the ~~{Nevada-Tax}~~ Commission for
20 termination or modification of the management of the local
21 government by the Department or of any request made by the
22 Department pursuant to NRS 354.695.

23 3. *The Commission shall not terminate or modify the*
24 *management of a local government pursuant to subsection 1 or 2*
25 *without first obtaining a recommendation from the Committee as*
26 *to the termination or modification.*

27 4. The ~~{Nevada-Tax}~~ Commission shall provide notice, a
28 hearing and a written decision on each such petition.

29 ~~{4-}~~ 5. In determining whether a condition of severe financial
30 emergency should be terminated, the ~~{Nevada-Tax}~~ Commission
31 shall give consideration to the following:

32 (a) The local governing body has shown a desire and capability
33 to manage the financial affairs of the local government in
34 accordance with the provisions of NRS.

35 (b) The local government has staff available with sufficient
36 financial expertise that they can adequately control the finances of
37 the local government.

38 (c) All violations of statutes have been corrected.

39 (d) The local government has no funds with deficit fund
40 balances.

41 (e) The local government has increased ~~{their}~~ *its* revenues or
42 made appropriate expenditure reductions so that it is anticipated
43 ~~{they}~~ *that it* can operate for the next fiscal year in a positive cash
44 and fund balance position ~~{-}~~ *without imposing any increased or*
45 *additional tax pursuant to NRS 354.705.*



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(f) The governing body has expressed a determination through a resolution submitted to the Department ~~[of Taxation]~~ to manage ~~[their]~~ *the* affairs *of the local government* in accordance with *the provisions of* NRS relating to financial matters and utilizing sound accounting and financial management practices.

~~[5.]~~ 6. The ~~[Nevada Tax]~~ Commission may require the governing body to submit special reports to the Department for a period not to exceed 5 years as a condition of terminating the management of the local government by the Department.

~~[6.]~~ 7. When a petition relating to a specific request is denied, the governing body may not resubmit a petition to terminate or modify that request until 3 months following the date of denial.

Sec. 14. NRS 31.010 is hereby amended to read as follows:

31.010 1. Except as otherwise provided in subsection 2, the plaintiff at the time of issuing the summons, or at any time thereafter, may apply to the court for an order directing the clerk to issue a writ of attachment and thereby cause the property of the defendant to be attached as security for the satisfaction of any judgment that may be recovered, unless the defendant gives security to pay such judgment as provided in this chapter.

2. If the Department of Taxation has taken over the management of a local government *at the request of the local government* pursuant to ~~[the provisions of NRS 354.686,]~~ *subsection 3 of NRS 354.685*, and if a plaintiff is allowed by law to apply to a court for an order directing the clerk to issue a writ of attachment, the ~~[plaintiff must comply with the applicable provisions of NRS 354.701 before applying for such an order.]~~ *action must be stayed until the following conditions have been satisfied:*

(a) The plaintiff must meet with the Department to formulate a program for the liquidation of the debt owed by the local government to the plaintiff; and

(b) The Department must adopt a program for the liquidation of the debt owed by the local government to the plaintiff as described in paragraph (a). The Department shall formulate the program not later than 60 days after meeting with the plaintiff pursuant to paragraph (a). The formulation of the program is a final decision for the purposes of judicial review.

Sec. 15. NRS 361.4726 is hereby amended to read as follows:

361.4726 1. Except as otherwise provided by specific statute, if any legislative act which becomes effective after April 6, 2005, imposes a duty on a taxing entity to levy a new ad valorem tax or to increase the rate of an existing ad valorem tax, the amount of the new tax or increase in the rate of the existing tax is exempt from



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1 each partial abatement from taxation provided pursuant to NRS
2 361.4722, 361.4723 and 361.4724.

3 2. The amount of any tax imposed pursuant to NRS **354.705**
4 **and** 387.3288 is exempt from each partial abatement from taxation
5 provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

6 3. For the purposes of this section, "taxing entity" does not
7 include the State.

8 **Sec. 16.** NRS 450.090 is hereby amended to read as follows:

9 450.090 1. In any county whose population is 700,000 or
10 more, the board of county commissioners is, ex officio, the board of
11 hospital trustees, and the county commissioners shall serve as
12 hospital trustees during their terms of office as county
13 commissioners.

14 2. In any county whose population is less than 700,000, the
15 board of county commissioners may enact an ordinance providing
16 that the board of county commissioners is, ex officio, the board of
17 hospital trustees. If such an ordinance is enacted in a county:

18 (a) The county commissioners shall serve as hospital trustees
19 during their terms of office as county commissioners; and

20 (b) If hospital trustees have been elected pursuant to NRS
21 450.070 and 450.080, the term of office of each hospital trustee who
22 is serving in that capacity on the effective date of the ordinance is
23 terminated as of the effective date of the ordinance.

24 3. A board of county commissioners shall not enact an
25 ordinance pursuant to subsection 2 unless it determines that:

26 (a) The county has fully funded its indigent care account created
27 pursuant to NRS 428.010;

28 (b) The county has fulfilled its duty to reimburse the hospital for
29 indigent care provided to qualified indigent patients; and

30 (c) During the previous calendar year:

31 (1) At least one of the hospital's accounts payable was more
32 than 90 days in arrears;

33 (2) The hospital failed to fulfill its statutory financial
34 obligations, such as the payment of taxes, premiums for industrial
35 insurance or contributions to the Public Employees' Retirement
36 System;

37 (3) One or more of the conditions relating to financial
38 emergencies set forth in subsection **H 2** of NRS 354.685 existed at
39 the hospital; or

40 (4) The hospital received notice from the Federal
41 Government or the State of Nevada that the certification or licensure
42 of the hospital was in imminent jeopardy of being revoked because
43 the hospital had not carried out a previously established plan of
44 action to correct previously noted deficiencies found by the
45 regulatory body.



* A B 5 4 *

1 4. Except in counties where the board of county commissioners
2 is the board of hospital trustees, in any county whose population is
3 100,000 or more but less than 700,000, the board of hospital trustees
4 for the public hospital must be composed of the five regularly
5 elected or appointed members, and, in addition, three county
6 commissioners selected by the chair of the board of county
7 commissioners shall serve as voting members of the board of
8 hospital trustees during their terms of office as county
9 commissioners.

10 5. Except in counties where the board of county commissioners
11 is the board of hospital trustees, in any county whose population is
12 less than 100,000, the board of hospital trustees for the public
13 hospital must be composed of the five regularly elected or appointed
14 members, and, in addition, the board of county commissioners may,
15 by resolution, provide that:

16 (a) One county commissioner selected by the chair of the board
17 of county commissioners shall serve as a voting member of the
18 board of hospital trustees during his or her term of office as county
19 commissioner;

20 (b) A physician who is the chief of the staff of physicians for the
21 public hospital shall serve as a voting member of the board of
22 hospital trustees; or

23 (c) Both a county commissioner appointed pursuant to the
24 provisions of paragraph (a) and a physician appointed pursuant to
25 the provisions of paragraph (b) shall serve as voting members of the
26 board of hospital trustees.

27 ➡ The term of office of a member appointed pursuant to the
28 provisions of paragraph (b) is 2 years and begins on the date the
29 board of county commissioners appoints the member.

30 **Sec. 17.** NRS 450.620 is hereby amended to read as follows:

31 450.620 1. Except as otherwise provided in subsection 2 and
32 NRS 450.625, if a hospital district is created pursuant to NRS
33 450.550 to 450.750, inclusive, the board of county commissioners
34 shall provide by ordinance for:

35 (a) The number of members of the board of trustees;

36 (b) The term of office of the trustees, which must not exceed 4
37 years; and

38 (c) The times and manner of the election of the trustees, which
39 must be nonpartisan.

40 2. If a hospital district specified in subsection 1 does not
41 include territory within more than one county, the board of county
42 commissioners may enact an ordinance providing that the board of
43 county commissioners is, ex officio, the board of hospital trustees of
44 the district hospital. If such an ordinance is enacted in a county:



* A B 5 4 *

1 (a) The county commissioners shall serve as the hospital trustees
2 of the district hospital during their terms of office as county
3 commissioners; and

4 (b) If hospital trustees have been elected pursuant to subsection
5 1, the term of office of each hospital trustee of the district hospital
6 who is serving in that capacity on the effective date of the ordinance
7 is terminated as of the effective date of the ordinance.

8 3. Except as otherwise provided in NRS 450.710, a board of
9 county commissioners shall not enact an ordinance pursuant to
10 subsection 2 unless it determines that:

11 (a) The county has fully funded its indigent care account created
12 pursuant to NRS 428.010;

13 (b) The county has fulfilled its duty to reimburse the hospital for
14 indigent care provided to qualified indigent patients; and

15 (c) During the previous calendar year:

16 (1) At least one of the hospital's accounts payable was more
17 than 90 days in arrears;

18 (2) The hospital failed to fulfill its statutory financial
19 obligations, including the payment of taxes, premiums for industrial
20 insurance or contributions to the Public Employees' Retirement
21 System;

22 (3) One or more of the conditions relating to financial
23 emergencies set forth in subsection ~~H~~ 2 of NRS 354.685 existed at
24 the hospital; or

25 (4) The hospital received notice from the Federal
26 Government or the State of Nevada that the certification or license
27 of the hospital was in imminent jeopardy of being revoked because
28 the hospital had not carried out a previously established plan of
29 action to correct previously noted deficiencies found by the
30 regulatory body.

31 **Sec. 18.** The Committee on Local Government Finance shall,
32 at its next regular meeting after the effective date of this act, elect
33 from among its members a Chair and Vice Chair pursuant to NRS
34 354.105, as amended by section 1 of this act.

35 **Sec. 19.** NRS 354.686 and 354.701 are hereby repealed.

36 **Sec. 20.** This act becomes effective upon passage and
37 approval.



* A B 5 4 *

TEXT OF REPEALED SECTIONS

354.686 Severe financial emergency: Request by local government involved in litigation or threatened litigation for order that Department of Taxation take over management of local government; issuance of order.

1. If the governing body of a local government determines by the affirmative vote of a majority of its members that, because the local government is involved in litigation or threatened litigation, the local government is or will be in a severe financial emergency, the governing body may submit a request to the Nevada Tax Commission for an order that the Department, as soon as practicable, take over the management of the local government pursuant to the provisions of NRS 354.655 to 354.725, inclusive.

2. If the Nevada Tax Commission receives a request pursuant to subsection 1, the Nevada Tax Commission shall order the Department to take over the management of the local government.

354.701 Severe financial emergency: Stay of action by creditor of local government for attachment, garnishment or execution until adoption of program for liquidation of debt. If the Department takes over the management of a local government because the local government is involved in litigation or threatened litigation and if a creditor of the local government is allowed by law to commence or maintain an action in the nature of an attachment, garnishment or execution in the courts of this State against the local government or its assets, the action must be stayed until the following conditions have been satisfied:

1. The creditor must meet with the Department to formulate a program for the liquidation of the debt owed by the local government to that creditor; and

2. The Department must adopt a program for the liquidation of the debt owed by the local government to the creditor as described in subsection 1. The Department shall formulate the program not later than 60 days after meeting with the creditor pursuant to subsection 1. The formulation of the program is a final decision for the purposes of judicial review.



AGENDA ITEM 7b

DISCUSSION AND CONSIDERATION OF REGULATORY MATTERS

**DISCUSSION AND CONSIDERATION
OF REGULATORY OR OTHER GUIDANCE
TO DEPARTMENT REGARDING
APPROPRIATE USE OF SPECIAL REVENUE
FUNDS AND ENTERPRISE FUNDS**

NRS 354.517 “Enterprise fund” defined. “Enterprise fund” means a fund established to account for operations:

1. Which are financed and conducted in a manner similar to the operations of private business enterprises, where the intent of the governing body is to have the expenses (including depreciation) of providing goods or services on a continuing basis to the general public, financed or recovered primarily through charges to the users; or

2. For which the governing body has decided that a periodic determination of revenues earned, expenses incurred and net income is consistent with public policy and is appropriate for capital maintenance, management control, accountability or other purposes.

(Added to NRS by 1971, 200; A 1981, 1761)

NRS 354.530 “Fund” defined. “Fund” means a fiscal and accounting entity having a self-balancing set of accounts, recording cash and other financial resources together with all related liabilities and residual equities or balances, or changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with specific regulations, restrictions or limitations.

(Added to NRS by 1965, 728; A 1981, 1762)

NRS 354.562 “Revenue” defined. “Revenue” means the gross receipts and receivables of a local government derived from taxes and all other sources except from appropriations and allotments.

(Added to NRS by 1965, 729; A 1967, 937; 1981, 1763; [2001, 1798](#))

NRS 354.570 “Special revenue fund” defined. “Special revenue fund” means a fund used to account for specific revenue sources, other than sources for major capital projects, which are restricted by law to expenditure for specified purposes.

(Added to NRS by 1965, 729; A 1971, 200; 1981, 1763; [2001, 1798](#))

NRS 354.612 Establishment of one or more funds by resolution required; contents of resolution; accounting requirements; copy of resolution to be provided to Department of Taxation; proprietary funds; enterprise funds.

1. A local government shall establish by resolution one or more funds. The resolution establishing the fund must set forth in detail:

(a) The object or purpose of the fund;

(b) The resources to be used to establish the fund;

(c) The source or sources from which the fund will be replenished;

(d) The method for controlling expenses and establishing revenues of the fund; and

(e) The method by which a determination will be made as to whether the balance, reserve or retained earnings of the fund are reasonable and necessary to carry out the purpose of the fund.

2. Financial statements and other schedules required for funds must be prepared in accordance with generally accepted accounting principles.

3. Upon adoption of a resolution establishing a fund, a local government shall provide an executed copy of the resolution to the Department of Taxation.

4. In establishing a proprietary fund, a local government shall, besides furnishing working capital for the fund, provide that one of its financial objectives is to recover the complete costs of operation of the activity being financed, including overhead, without producing any significant amount of profit in the long run.

5. Each enterprise fund established must account for all charges properly related to the purpose of the enterprise fund, including, without limitation, debt service, capital outlay and operating expenses.

Upon dissolution of the enterprise fund, no transfer of equity that may be made available to other funds or functions may be declared until after all proper obligations have been charged against the enterprise fund.

(Added to NRS by 1965, 734; A 1971, 201; 1981, 1767; [1991, 390](#); [2001, 1810](#); [2005, 579](#))

NRS 354.613 Enterprise funds: Loan or transfer of money in or associated with fund; increase in amount of fee imposed for purpose of fund; compliance reports; remedy for violation; regulations; applicability; plan to eliminate certain transfers from fund. [Effective through June 30, 2017.]

1. Except as otherwise provided in this section and [NRS 354.6135](#), the governing body of a local government may, on or after July 1, 2011, loan or transfer money from an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund only if the loan or transfer is made:

(a) In accordance with a medium-term obligation issued by the recipient in compliance with the provisions of [chapter 350](#) of NRS, the loan or transfer is proposed to be made and the governing body approves the loan or transfer under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and:

(1) The money is repaid in full to the enterprise fund within 5 years; or
(2) If the recipient will be unable to repay the money in full to the enterprise fund within 5 years, the recipient notifies the Committee on Local Government Finance of:

- (I) The total amount of the loan or transfer;
- (II) The purpose of the loan or transfer;
- (III) The date of the loan or transfer; and
- (IV) The estimated date that the money will be repaid in full to the enterprise fund;

(b) To pay the expenses related to the purpose for which the enterprise fund was created;

(c) For a cost allocation for employees, equipment or other resources related to the purpose of the enterprise fund which is approved by the governing body under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body; or

(d) Upon the dissolution of the enterprise fund.

2. Except as otherwise provided in this section, the governing body of a local government may increase the amount of any fee imposed for the purpose for which an enterprise fund was created only if the governing body approves the increase under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and the governing body determines that:

(a) The increase is not prohibited by law;

(b) The increase is necessary for the continuation or expansion of the purpose for which the enterprise fund was created; and

(c) All fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected.

3. Upon the adoption of an increase in any fee pursuant to subsection 2, the governing body shall, except as otherwise provided in this subsection, provide to the Department of Taxation an executed copy of the action increasing the fee. This requirement does not apply to the governing body of a federally regulated airport.

4. The provisions of subsection 2 do not limit the authority of the governing body of a local government to increase the amount of any fee imposed upon a public utility in compliance with the provisions of [NRS 354.59881](#) to [354.59889](#), inclusive, for a right-of-way over any public area if the public utility is billed separately for that fee. As used in this subsection, "public utility" has the meaning ascribed to it in [NRS 354.598817](#).

5. This section must not be construed to:

(a) Prohibit a local government from increasing a fee or using money in an enterprise fund to repay a loan lawfully made to the enterprise fund from another fund of the local government; or

(b) Prohibit or impose any substantive or procedural limitations on any increase of a fee that is necessary to meet the requirements of an instrument that authorizes any bonds or other debt obligations which are secured by or payable from, in whole or in part, money in the enterprise fund or the revenues of the enterprise for which the enterprise fund was created.

6. The Department of Taxation shall provide to the Committee on Local Government Finance a copy of each report submitted to the Department on or after July 1, 2011, by a county or city pursuant to [NRS 354.6015](#). The Committee shall:

(a) Review each report to determine whether the governing body of the local government is in compliance with the provisions of this section; and

(b) On or before January 15 of each odd-numbered year, submit a report of its findings to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

7. A fee increase imposed in violation of this section must not be invalidated on the basis of that violation. The sole remedy for a violation of this section is the penalty provided in [NRS 354.626](#). Any person who pays a fee for the enterprise for which the enterprise fund is created may file a complaint with the district attorney or Attorney General alleging a violation of this section for prosecution pursuant to [NRS 354.626](#).

8. For the purposes of paragraph (c) of subsection 1, the Committee on Local Government Finance shall adopt regulations setting forth the extent to which general, overhead, administrative and similar expenses of a local government of a type described in paragraph (c) of subsection 1 may be allocated to an enterprise fund. The regulations must require that:

(a) Each cost allocation makes an equitable distribution of all general, overhead, administrative and similar expenses of the local government among all activities of the local government, including the activities funded by the enterprise fund; and

(b) Only the enterprise fund's equitable share of those expenses may be treated as expenses of the enterprise fund and allocated to it pursuant to paragraph (c) of subsection 1.

9. Except as otherwise provided in subsections 10 and 11, if a local government has subsidized its general fund with money from an enterprise fund for the 5 fiscal years immediately preceding the fiscal year beginning on July 1, 2011, the provisions of subsection 1 do not apply until July 1, 2021, to transfers from the enterprise fund to the general fund of the local government for the purpose of subsidizing the general fund if the local government:

(a) Does not increase the amount of the transfers to subsidize the general fund in any fiscal year beginning on or after July 1, 2011, above the amount transferred in the fiscal year ending on June 30, 2011, except for loans and transfers that comply with the provisions of subsection 1; and

(b) Does not, on or after July 1, 2011, increase any fees for any enterprise fund used to subsidize the general fund except for increases described in paragraph (b) of subsection 5.

10. On or before July 1, 2012, a local government to which the provisions of subsection 9 apply shall adopt a plan to eliminate, on or before the fiscal year beginning on July 1, 2021, all transfers from any enterprise funds to subsidize the general fund that are not made in compliance with subsection 1. A copy of the plan must be filed with the Department of Taxation on or before July 15, 2012.

11. On and after July 1, 2012, the provisions of subsection 9 do not apply to a local government that fails to comply with the provisions of subsection 10.

(Added to NRS by [2011, 1686](#); A [2013, 2712](#))

Excerpts from GASB Statement 54:

Governmental Fund Type Definitions

28. Governmental fund types include the general fund, special revenue funds, capital projects funds, debt service funds, and permanent funds, as discussed in paragraphs 29–35.

General Fund

29. The general fund should be used to account for and report all financial resources not accounted for and reported in another fund.

Special Revenue Funds

30. Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The term *proceeds of specific revenue sources* establishes that one or more specific restricted or committed revenues should be the foundation for a special revenue fund. Those specific restricted or committed revenues may be initially received in another fund and subsequently distributed to a special revenue fund. Those amounts should not be recognized as revenue in the fund initially receiving them; however, those inflows should be recognized as revenue in the special revenue fund in which they will be expended in accordance with specified purposes. Special revenue funds should not be used to account for resources held in trust for individuals, private organizations, or other governments.

31. The restricted or committed proceeds of specific revenue sources should be expected to continue to comprise a substantial portion of the inflows reported in the fund.² Other resources (investment earnings and transfers from other funds, for example) also may be reported in the fund if those resources are restricted, committed, or assigned to the specified purpose of the fund. Governments should discontinue reporting a special revenue fund, and instead report the fund's remaining resources in the general fund, if the government no longer expects that a substantial portion of the inflows will derive from restricted or committed revenue sources.

32. Governments should disclose in the notes to the financial statements the purpose for each major special revenue fund—identifying which revenues and other resources are reported in each of those funds.

Capital Projects Funds

33. Capital projects funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets. Capital projects funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments.

Debt Service Funds

34. Debt service funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for principal and interest. Debt service

funds should be used to report resources if legally mandated. Financial resources that are being accumulated for principal and interest maturing in future years also should be reported in debt service funds.

Permanent Funds

35. Permanent funds should be used to account for and report resources that are restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs—that is, for the benefit of the government or its citizenry. Permanent funds do not include private-purpose trust funds, which should be used to report situations in which the government is required to use the principal or earnings for the benefit of individuals, private organizations, or other governments.



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Statement of Position Enterprise Fund Accounting

The purpose of this Statement of Position is to provide concise information on the accounting standards applicable to enterprise funds.

The Governmental Accounting Standards Board (GASB) describes enterprise funds in its Codification of Governmental Accounting and Financial Reporting Standards. It states that enterprise funds may be used "[t]o report any activity for which a fee is charged to external users for goods or services." The Standards also describe the circumstances that control whether enterprise fund accounting is required, as follows:

Activities are required to be reported as enterprise funds if any one of the following criteria is met. Governments should apply each of these criteria in the context of the activity's principal revenue sources.

- a. The activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity. Debt that is secured by a pledge of net revenues from fees and charges and the full faith and credit of a related primary government or component unit—even if that government is not expected to make any payments—is not payable solely from fees and charges of the activity. (Some debt may be secured, in part, by a portion of its own proceeds but should be considered as payable "solely" from the revenues of the activity.)
- b. Laws or regulations require that the activity's costs of providing services, including capital costs (such as depreciation or debt service), be recovered with fees and charges, rather than with taxes or similar revenues.
- c. The pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service).¹

Generally, fees and service charges should cover the cost of an enterprise fund activity

¹ *GASB Governmental Accounting and Financial Reporting Standards*, § 1300.109 (June 30, 2013).

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This Statement of Position is not legal advice and is subject to revision.

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unless the community as a whole derives some benefit from the service program.² If a benefit does accrue to the community, any subsidy should be proportionate to that benefit.³

If an enterprise fund is subsidized from other municipal funds, the best management practice is to base the subsidy on a conclusion by the municipality's governing body that the enterprise serves to benefit the community as a whole. In addition, the municipality should have a policy or plan in place that specifies goals and objectives for the performance of the enterprise fund, including the amount of subsidy considered appropriate and reasonable in light of the value of the benefits to the community.

² See Handbook for Minnesota Cities, ch. 20, p. 8 (League of Minnesota Cities). ("In operating a city marina, for example, virtually no benefit accrues to the city as a whole, hence it would be difficult to justify an appropriation from the city's general fund.") A regular appropriation from the city general fund might be justified, however, for a city-operated hospital because the city as a whole benefits from the availability of medical facilities. *Id.*

³ The League of Minnesota Cities suggests the following formula to determine the amount of a general fund appropriation: The "total amount of the city appropriation, divided by the total income from fees, should be equal to the benefits accruing to the general public, divided by the benefits to private users. The proportion of operating costs the city treasury bears should equal the ratio of public benefit to private benefit." *Id.*

Governmental Accounting



Beginning

At the turn of the century governments began to establish separate cash accounts to manage dedicated resources.

These separate cash accounts gradually evolved into the funds that are still used today by governments to ensure and demonstrate legal compliance.

Accountability

- The Government Accounting Standards Board has identified accountability as the paramount objective of financial reporting
- Fiscal Accountability is the responsibility of governments to justify that their actions in the current period have complied with public decisions concerning the raising and spending of public moneys in the short term.
- Operational Accountability refers to government's responsibility to report the extent to which they have met their operating objectives efficiently and effectively, using all resources available for that purpose, and whether they can continue to meet their objectives for the foreseeable future.

Funds

- A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

Number of Funds

- Governmental units should establish and maintain those funds required by law and sound financial administration. Only the minimum number of funds consistent with legal and operating requirements should be established, however, since unnecessary funds result in inflexibility, undue complexity, and inefficient financial administration.

Fund Types and Classifications

- All funds can be classified into one of 11 different fund types.
- These 11 fund types, in turn, can be classified into three broad categories of funds.
- Governmental Funds – typically are used to account for tax-supported (I.e., governmental) activities.
- Proprietary Funds – are used to account for a government's business-type activities (I.e., activities supported, at least in part, by fees or charges).
- Fiduciary Funds – are used to account for resources that are held by the government as a trustee or agent for parties outside the government and that cannot be used to support the government's own programs.

Governmental Funds

- General Fund – chief operating fund of government. Used to account for all of the resources except those required to be accounted for in another fund.
- There are at least three compelling reasons to account for a particular activity in some type of fund other than the general fund.
 1. Requirements of generally accepted accounting principles (GAAP).
 2. Legal Requirements
 3. Demands of sound financial administration

Governmental Funds

- Special Revenue Funds – may be used to account for the proceeds of specific revenue sources (other than major capital projects) that are legally restricted to expenditure for specified purposes.
- This definition is intended to apply to legal restrictions imposed by outside parties, although it is commonly interpreted to apply as well to restrictions imposed by the governing body.
- The use of a special revenue fund is almost always permitted rather than required.

Governmental Funds

- Debt Service Funds – may be used to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest.

Governmental Funds

- Capital Projects Funds – may be used to account for financial resources to be used for the acquisition or construction of major capital facilities (other than those financed by proprietary funds and trust funds).
- The use of a capital projects fund is especially common for major capital acquisition or construction activities financed through borrowings or contributions.
- The use of the capital projects fund type is permitted rather than being required.

Governmental Funds

- Permanent Funds – should be used to report resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs, that is, for the benefit of the government or its citizenry.

Proprietary Funds

- Enterprise Funds – may be used to report any activity for which a fee is charged to external users for goods or services.
- An enterprise fund must be used to report any activity whose principal revenue sources meet any of three criteria.
 1. Association with debt backed solely by fees and charges.
 2. Legal requirement to recover all direct costs (including capital costs such as depreciation or debt service).
 3. Policy decision to recover all direct costs (including capital costs such as depreciation or debt service).

Proprietary Funds

- Internal Service Funds – may be used to report any activity that provides goods or services on a cost-reimbursement basis to other funds, departments, or agencies of the primary government and its component units, or to other governments.
- The use of an internal service fund is never required by GAAP.

Fiduciary Funds

- Should be used to report assets held in a trustee or agency capacity for others and that therefore cannot be used to support the government's own programs.
- The key distinction between trust funds and agency funds is that the former normally are subject to a trust agreement that affects the degree of management involvement and the length of time that the resources are held.

3. ACCOUNTING

3.1 Accounting Principles and Internal Controls

3.1.1 Fund Types and Accounting Principles

3.1.1.10 The following principles of accounting and financial reporting are based on those set forth in the Governmental Accounting Standards Board's (GASB) [Codification of Governmental Accounting and Financial Reporting Standards](#). The BARS manual permits accounting and financial reporting that conforms to these principles in all respects and requires GAAP municipalities to account and report in conformity with these principles, except that the annual report required is not as extensive as the Comprehensive Annual Financial Report (CAFR).

3.1.1.20 ACCOUNTING AND REPORTING CAPABILITIES

A governmental accounting system must make it possible both: (a) to present fairly and with full disclosure the funds and activities at the government in conformity with generally accepted accounting principles; and (b) to determine and demonstrate compliance with finance-related legal and contractual provisions.

3.1.1.30 FUND ACCOUNTING SYSTEMS

A governmental accounting system should be organized and operated on a fund basis. A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations. Fund financial statements should be used to report detailed information about primary government, including its blended component units. The focus of governmental and proprietary fund financial statements is on major funds.

3.1.1.40 TYPES OF FUNDS

In fund financial statements, governments should report governmental, proprietary, and fiduciary funds to the extent that they have activities that meet the criteria for using these funds.

Presented below is a system to classify all funds used by local government and the assignment of code numbers to identify each type of fund. A three digit code is used: the first digit identifies the fund type and the next two digits will be assigned by the governmental unit to identify each specific fund.

Governmental Funds

Code

000 General (Current Expense) Fund – should be used to account for and report all financial resources not accounted for and reported in another fund.

Although a local government has to report only one general fund in its external financial reports, the government can have multiple general *subfunds* for its internal managerial purposes. These managerial subfunds have to be combined into one general fund for external financial reporting.

Special Revenue Funds – should be used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specific purposes other than debt service or capital projects. *Restricted* revenues are resources externally restricted by creditors, grantors, contributors or laws or regulations of other governments or restricted by law through constitutional provisions or enabling legislation (similar to restricted component of net position used in government-wide reporting). *Committed* revenues are resources with limitations imposed by the highest level of the government, and where the limitations can be removed only by a similar action of the same governing body. Revenues do not include other financing sources (long-term debt, transfers, etc.).

The term *proceeds of specific revenue sources* establishes that one or more specific restricted or committed revenues should be foundation for a special revenue fund. They should be expected to continue to comprise a substantial portion of the inflows reported in the fund. While [GASB Statement 54](#) has not provided a numeric range for *substantial* portion of inflows, it was recommended that at least 20 percent is a reasonable limit for reporting a special revenue fund. Local governments need to consider factors such as past resource history, future resource expectations and unusual current year inflows such as debt proceeds in their analysis.

They may use the calculation below to determine whether an activity would qualify for reporting as a special revenue fund.

$$\text{Substantial portion of inflows} = \frac{(\text{restricted revenues} + \text{committed revenues})}{\text{total resources}^* \text{ reported in the fund}}$$

*Total resources would include all revenues and other financing sources.

Other resources (investment earnings and transfers from other funds, etc.) also may be reported in the fund if these resources are restricted, committed, or assigned to the specific purpose of the fund.

Governments should discontinue reporting a special revenue fund, and instead report the fund's remaining resources in the general fund, if the government no longer expects that a substantial portion of the inflows will derive from restricted or committed revenue sources.

The Statement requires all revenue to be recognized in the special revenue fund. If the resources are initially received in another fund, such as the general fund, and subsequently remitted to a special revenue fund, they should not be recognized as revenue in the fund initially receiving them. They should be recognized as revenue in the special revenue fund from which they will be expended. So, the local governments can either receive resources directly into the special revenue fund, or account for the resources as agency deposits in the receiving fund and, after remitting them, recognize them as revenue to the special revenue fund.

Special revenue funds should not be used to account for resources held in trust for individuals, private organizations, or other governments.

The general fund of a blended component unit should be reported as a special revenue fund.

The state statutes contain many requirements for special funds to account for different activities. The legally required funds do not always meet GAAP standards for external reporting. So, while the local governments are required to follow their legal requirements, they will have to make some adjustment to their fund structure for external financial reporting.

- 200 Debt Service Funds – should be used to account for and report financial resources that are restricted, committed, or assigned to expenditure for principal and interest. Debt service funds should be used to report resources if legally mandated. Financial resources that are being accumulated for principal and interest maturing in future years also should be reported in debt service funds. The debt service transactions for a special assessment for which the government is not obligated in any matter should be reported in an agency fund. Also, if the government is authorized, or required to establish and maintain a special assessment bond reserve, guaranty, or sinking fund, [GASB Statement 6](#) requires using a debt service fund for this purpose.
- 300 Capital Projects Funds – should be used to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays including the acquisition or construction of capital facilities or other capital assets. Capital outlays financed from general obligation bond proceeds should be accounted for through a capital projects fund. Capital project funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments (private-purpose trust funds).
- 700 Permanent Funds – should be used to account for and report resources that are restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs – that is for the benefit of the government or its citizens (public-purpose). Permanent funds do not include private-purpose trust funds which account for resources held in trust for individuals, private organizations, or other governments.

Proprietary Funds

Code

- 400 Enterprise Funds – may be used to report any activity for which a fee is charged to external users for goods or services. Enterprise funds are required for any activity whose principal revenue sources meet any of the following criteria:
- Debt backed solely by a pledge of the net revenues from fees and charges.
 - Legal requirement to recover cost. An enterprise fund is required to be used if the cost of providing services for an activity including capital costs (such as depreciation or debt service) must be legally recovered through fees or charges.

- Policy decision to recover cost. It is necessary to use an enterprise fund if the government's policy is to establish activity fees or charges designed to recover the cost, including capital costs (such as depreciation or debt service).

In addition, GAAP mandate the use of enterprise funds for the separately issued financial statement of public-entity risk pools. Public-entity risk pools also are accounted for as enterprise funds when they are included within a sponsoring government's report, provided the sponsor is not the predominant participant in the arrangement. Otherwise, they can use the general fund.

NOTE: Separate funds should not be reported for bond redemption, construction, reserves, or deposits, for any utility that is accounted for on the full accrual basis, using either the BARS accounts or a nationally recognized utility chart of accounts such as FERC or NARUC. Separate funds should not be reported even though bond covenants may stipulate a *bond reserve fund*, *bond construction fund*, etc. The bond covenant use of the term *fund* is not the same as the use in governmental accounting. For bond covenants, *fund* means only a segregation or separate account, not a self-balancing set of accounts. (See account 150 in the general ledger chart of accounts.)

- 500 Internal Service Funds – may be used to report any activity that provides goods or services to other funds, departments or agencies of the government, or to other governments, on a cost-reimbursement basis. Internal service funds should be used only if the reporting government is the predominant participant in the activity. Otherwise, the activity should be reported in an enterprise fund.

Fiduciary Funds

Code

- 600 Fiduciary Funds – should be used to account for assets held by a government in a trustee capacity or as an agent for individuals, private organizations, other governmental units, and/or other funds. These include (a) investment trust funds, (b) pension (and other employee benefit) trust funds, (c) private-purpose trust funds, and (d) agency funds.
- 600-609 Investment Trust Funds – should be used to report the external portion of investment pools reported by the sponsoring government.
- 610-619 Pension (and Other Employee Benefit) Trust Funds – should be used report resources that are required to be held in trust for the members and beneficiaries of defined benefit pension plans, defined contribution plans, other postemployment benefit plans, or other employee benefit plans.
- 620-629 Private-Purpose Trust Funds – should be used to report escheat property and all other trust arrangement under which principal and income benefit individuals, private organizations and other governments.
- 630-699 Agency Funds – should be used to report resources held by the government in a purely custodial capacity (assets and liabilities). Agency funds typically involve only the receipts, temporary investment, and remittance of fiduciary resources to individuals, private organizations, or other governments.

3.1.1.50 NUMBER OF FUNDS

Governments should establish and maintain those funds required by law and sound financial administration. Only the minimum number of funds consistent with legal and operating requirements should be established. Using numerous funds results in inflexibility, undue complexity and inefficient financial administration.

Local governments should periodically undertake a comprehensive evaluation of their fund structure to ensure that individual funds that became superfluous are eliminated from accounting and reporting.

Elected officials should be educated to the fact that accountability may be achieved effectively and efficiently by judicious use of department, program and other available account coding or cautious use of managerial (internal) funds.

3.1.1.60 REPORTING CAPITAL ASSETS

A clear distinction should be made between general capital assets and capital assets of proprietary and fiduciary funds. Capital assets of proprietary funds should be reported in both the government-wide and fund financial statements. Capital assets of fiduciary funds should be reported only in the statement of fiduciary net position. All other capital assets of the governmental unit are general capital assets. They should not be reported as assets in governmental funds but should be reported in the governmental activities column in the government-wide statement of net position.

3.1.1.70 VALUATION OF CAPITAL ASSETS

Capital assets should be reported at historical cost. The cost of a capital asset should include ancillary charges necessary to place the asset into its intended location and condition for use. Donated capital assets should be reported at their estimated fair value at the time of acquisition plus ancillary charges, if any.

3.1.1.80 DEPRECIATION OF CAPITAL ASSETS

Capital assets should be depreciated over their estimated useful lives unless they are either inexhaustible or are infrastructure assets using the modified approach. Inexhaustible assets such as land and land improvements should not be depreciated. Depreciation expense should be reported in the government-wide statement of activities; the proprietary fund statement of revenues, expenses, and changes in fund net position; and the statement of changes in fiduciary net position.

3.1.1.90 REPORTING LONG-TERM LIABILITIES

A clear distinction should be made between fund long-term liabilities and general long-term liabilities. Long-term liabilities directly related to and expected to be paid from proprietary funds should be reported in the proprietary fund statement of net position and in the government-wide statement of net position. Long-term liabilities directly related to and expected to be paid from fiduciary funds should be reported in the statement of fiduciary net position. All other unmatured general long-term liabilities of the governmental unit should not be reported in governmental funds but should be reported in the governmental activities column in the government-wide statement of net position.

MEASUREMENT FOCUS AND BASIS OF ACCOUNTING IN THE BASIC FINANCIAL STATEMENTS

3.1.1.100 **Government-Wide Financial Statements**

The government-wide statement of net position and statement of activities should be prepared using the economic resources measurement focus and the accrual basis of accounting. Revenues, expenses, gains, losses, assets, and liabilities resulting from exchange and exchange-like transactions should be recognized when the exchange takes place. Revenues, expenses, assets, and liabilities resulting from nonexchange transactions should be recognized in accordance with the [GASB Statements 24 and 33](#).

3.1.1.110 **Fund Financial Statements**

In fund financial statements, the modified accrual or accrual basis of accounting, as appropriate, should be used in measuring financial position and operating results.

- a. Financial statements for governmental funds should be presented using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues should be recognized in the accounting period in which they become available and measurable. Expenditures should be recognized in the accounting period in which the fund liability is incurred, if measurable, except for unmatured interest on general long-term liabilities, which should be recognized when due.
- b. Proprietary fund statements of net position and revenues, expenses, and changes in fund net position should be presented using the economic resources measurement focus and the accrual basis of accounting.
- c. Financial statements of fiduciary funds should be reported using the economic resources measurement focus and the accrual basis of accounting, except for the recognition of certain liabilities of defined benefit pension plans and certain postemployment healthcare plans.
- d. Transfers should be reported in the accounting period in which the interfund receivable and payable arise.

NOTE: The various fund types may be grouped in the following manner to more clearly portray their relationship to an accounting basis:

Flow of Current Financial Resources Measurement Focus Funds - use the modified accrual basis:

000	General (Current Expense) Fund
100	Special Revenue Funds
200	Debt Service Funds
300	Capital Projects Funds
700	Permanent Funds

Flow of Economic Resources Measurement Focus Funds - use full-accrual basis:

400	Enterprise Funds
500	Internal Service Funds
600-609	Investment Trust Funds
610-619	Pension (and Other Employee Benefit) Trust Funds
620-629	Private-Purpose Trust Funds
630-699	Agency Funds

3.1.1.120 BUDGETING, BUDGETARY CONTROL, AND BUDGETARY REPORTING

- a. An annual/biennial budget should be adopted by every government.
- b. The accounting system should provide the basis for appropriate budgetary control.
- c. Budgetary comparison schedules should be presented as required supplementary information for the general fund and for each major special revenue fund that has a legally adopted annual/biennial budget. The budgetary comparison schedule should present both (a) the original and (b) the final appropriated budgets for the reporting period as well as (c) actual inflows, outflows, and balances, stated on the government's budgetary basis.

3.1.1.130 TRANSFER, REVENUE, EXPENDITURE, AND EXPENSE ACCOUNT CLASSIFICATIONS

- a. Transfers should be classified separately from revenues and expenditures or expenses in the basic financial statements.
- b. Proceeds of general long-term debt issues should be classified separately from revenues and expenditures in the governmental fund financial statements.
- c. Governmental fund revenues should be classified by fund and source. Expenditures should be classified by fund, function (or program), organization unit, activity, character, and principal classes of objects.
- d. Proprietary fund revenues should be reported by major sources, and expenses should be classified in essentially the same manner as those of similar business organizations, functions, or activities.
- e. At a minimum, the statement of activities should present:
 - (1) Activities accounted for in governmental funds by function, to coincide with the level of detail required in the governmental fund statement of revenues, expenditures, and changes in fund balances.
 - (2) Activities accounted for in enterprise funds by *different identifiable activities*.

3.1.1.140 COMMON TERMINOLOGY AND CLASSIFICATION

A common terminology and classification should be used consistently throughout the budget, the accounts, and the financial reports of each fund.

3.1.1.150 ANNUAL FINANCIAL REPORTS

- a. General purpose external financial reports should be prepared and published. They should include, at a minimum:
 - (1) Management's discussion and analysis (MD&A).
 - (2) Basic financial statements. The basic financial statements should include:
 - (a) Government-wide financial statements.
 - (b) Fund financial statements.
 - (c) Notes to the financial statements.
 - (3) Required supplementary information other than MD&A.
- b. The statements and reports listed above follow national standards of financial reporting. They should not be confused with legal reporting requirements, which are prescribed by the State Auditor's Office for all local governments in Washington State. The legal requirements are consistent with these national standards, but they are not identical. Specific legal reporting requirements are contained in reporting part of this Manual.
- c. A comprehensive annual financial report may be prepared and published, covering all activities of the primary government (including its blended component units) and providing an overview of all discretely presented component units of the reporting entity including introductory section, management's discussion and analysis (MD&A), basic financial statements, required supplementary information other than MD&A, combining and individual fund statements, schedules, narrative explanations, and statistical section. The reporting entity is the primary government (including its blended component units) and all discretely presented component units.
- d. The financial reporting entity consists of (1) the primary government, (2) organizations for which the primary government is financially accountable, and (3) other organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's basic financial statements to be misleading or incomplete. The reporting entity's government-wide financial statements should display information about the reporting government as a whole distinguishing between the total primary government and its discretely presented component units as well as between the primary government's governmental and business-type activities. The reporting entity's fund financial statements should present the primary government's (including its blended component units, which are, in substance, part of the primary government) major funds individually and nonmajor funds in the aggregate. Funds and component units that are fiduciary in nature should be reported only in the statements of fiduciary net position and changes in fiduciary net position.
- e. The nucleus of a financial reporting entity usually is a primary government. However, a governmental organization other than a primary government (such as a component unit, joint venture, jointly governed organization, or other stand-alone government) serves as the nucleus for its own reporting entity when it issues separate financial statements. For all of these entities, the provisions the [GASB Statement 14](#) should be applied in layers *from the bottom up*. At each layer, the definition and display provisions should be applied before the layer is included in the financial statements of the next level of the reporting government.

AGENDA ITEM 8

REVIEW AND APPROVAL OF MINUTES

AUGUST 28, 2014

**COMMITTEE ON LOCAL GOVERNMENT
FINANCE MEETING**

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Minutes of the Meeting
COMMITTEE ON LOCAL GOVERNMENT FINANCE
August 28, 2014
1:30 p.m.

The meeting was held at the Nevada State Legislative Building located at 401 South Carson Street, Room 2135, Carson City, Nevada, and video-conferenced to the Grant Sawyer State Office Building located at 555 East Washington Avenue, Room 4412E, Las Vegas, Nevada.

COMMITTEE MEMBERS PRESENT:

Marvin Leavitt, Chairman
John Sherman, Vice Chairman
Alan Kalt
Beth Kohn-Cole
Julia Teska
George Stevens
Mark Vincent
Mary Walker

COMMITTEE MEMBERS ABSENT:

Andrew Clinger
Marty Johnson
Jeff Zander

COUNSEL TO COMMITTEE

Dawn Buoncristiani

DEPT OF TAXATION STAFF PRESENT:

Terry Rubald
Kelly Langley
Warner Ambrose
Heidi De'Angelo
Bill Farrar
Penny Hampton
Susan Lewis
Janie Ware

MEMBERS OF THE PUBLIC PRESENT:

Name	Representing
Greg Titus	Bank of America
Mitch Andreini	Canyon General Improvement District
Phyllis Dowd	Churchill County School District
Sandra Sheldon	Churchill County School District
Dan Newell	City of Yerington
Jeffrey Share	Clark County
Steve Osburn	Clark County School District
Richard Schmalz	Las Vegas Valley Water District
Leslie Boucher	Lincoln County
Paul Matthews	Lincoln County
Carole Vilaro	Nevada Taxpayers Association
Amy Fanning	Nye County
Wayne Carlson	PACT
Carol Shank	Pershing County
Steve Boline	Pershing General Hospital / Nevada Rural Hospital Partners
Ron Dreher	PORAN
Rusty McAllister	Professional Firefighters of Nevada
Jeffrey Church	Reno Resident
Rew Goodenow	South Truckee Meadows General Improvement District
Hugh Gallagher	Storey County
Janet Houts	Storey County Resident
Mark Foree	Truckee Meadows Water Authority
Michael Sullivan	Town of Pahrump
Jeff Tissier	Truckee Meadows Water Authority

1. Roll Call and Opening Remarks

Warner Ambrose, Budget Analyst, Department of Taxation, took roll call and stated eight of the eleven members were present, and there is a quorum.

2. Public Comment

Chairman Leavitt requested public comment for the Heart-Lung Regulations.

3. For Possible Action: Report from Subcommittee on Heart-Lung Regulations, LCB File No. R010-13

Terry Rubald, Deputy Executive Director, Department of Taxation (Department), gave a brief overview of the regulations. These regulations were first adopted as temporary regulations in November 2012. They were effective for the 2013-2014 fiscal year. The Department collected information in 2013 from local governments regarding the liabilities associated with providing the benefits required under NRS Chapter 617, and produced summary information which was published on the Department's website. NRS Chapter 617 provides disability insurance and compensation to eligible public safety employees and eligible non-current public safety employees for certain occupational diseases which include heart and lung, cancer and hepatitis. The Committee on Local Government Finance (CLGF) then proceeded to make the regulations permanent. Workshops were held, and ultimately the regulations were adopted by this body on November 15, 2013.

Subsequently the adopted regulations were originally submitted to the Legislative Commission in December 2013, but we were asked to postpone presentation to the Legislative Commission. It was actually heard in March 2014. During the Legislative Commission hearing in March, Assemblyman Daly expressed concern over the term "compensation and medical benefits." He stated that these benefits are not compensation. They are an exclusive remedy required by law in exchange for injured workers not suing public bodies. Assemblyman Daly also expressed concern about placing an unfunded mandate on local governments. He suggested the Commission defer R010-13 until his concerns were addressed. Senator Settelmeyer also stated that the smaller counties he represents generally support the regulations, but he requested more time to discuss it with them. The Legislative Commission moved to defer these regulations.

The CLGF was still interested in adopting the regulations, so the Heart-Lung Subcommittee of Committee on Local Government Finance met again on May 29th. In order to address Assemblyman Daly's concern over using the term "compensation and medical benefits," the Subcommittee recommended the regulations should reference the cost of financial or monetary liabilities of local governments connected with the payment of claims under NRS Chapter 617. Some other minor changes were also recommended, particularly in Section 12. As a result of the May 29th workshop, a major change to the regulations creates the definition for the term "occupational disease obligation," which is in Section 5, and removes the previous definition of "compensation and medical benefits." The regulations would track the obligations of local governments associated with the payment of a claim for compensation related to an occupational disease. The other major change occurs in Section 12 which removes a statement regarding the purpose of reporting compensation and medical benefits. Section 12 also modifies the statement about not requiring estimated actuarial liabilities to be reported in the financial statements of the local government except as otherwise required pursuant to GASB statements. There is a handout of the minutes of the workshop so the comments of the attendees can be reviewed. There were representatives of various public safety employee unions including the Professional Firefighters of Nevada, the Las Vegas Police Protective Association and the Police Officers Research Association of Nevada. Among their comments, they said that public safety employees were being singled out even though there are long-term obligations for all public employees. They expressed concern that through these regulations, these benefits would be stripped away.

Vice Chairman Sherman stated Ms. Rubald summarized the points very well. The subcommittee approved the minutes to these regulations on a 2:1 vote to send to the full committee. One of the points discussed was the request by the Speaker and the Chairman of the Legislative Commission to review these proposed regulations and get back to the Commission with some changes.

Chairman Leavitt asked for public comment.

Ron Dreher, representing the Peace Officers Research Association of Nevada, came forward for public comment. They gave an overview of their concerns on May 29th. He asked that the full committee review these concerns and make recommendations. The minutes are accurate regarding his comments. There is no

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change in his opinion, and he respectfully asks this committee to not go forward with the permanent regulations.

Rusty McAllister, representing Professional Firefighters of Nevada, came forward for public comment. He echoed Mr. Dreher's comments. He also reviewed the minutes, and they appear very accurate to his previous testimony in May. In summary, there is nothing in statute that says any local governmental entity in the state cannot do this already. He has actuarial reports from ten years ago where this was done. At that point in time, all the local governmental entities had provided actuarial data to the Legislature stating the sky was falling and the world was going to end. It did not. The actuarial evaluations that were done are not remotely close to the reality over the last ten years. These benefits were established, created and amended back in 1965 and 1967. The amount of money spent on these benefits up to now does not even remotely come close to the projected \$2.2 billion in long-term liability that they see going forward. The only long-term liability is for medical care. That medical care does not go forward to any dependents. To project that there is a \$2.2 billion long-term liability is disingenuous. Mr. Sherman stated this was not on the fast track, but it was obvious from previous hearings that it was. There was no desire to take into account their concerns. In 2011, Ms. Villardo tried to limit these benefits going forward and was not successful. It is interesting that there has been concern regarding the long-term liability for employees who work five years, get vested in these benefits and then leave. Yet, Ms. Villardo and Mr. Carlson both had an opportunity to get rid of this four years ago and chose not to do it. The lobbyist for Mr. Carlson stated that they wanted it all, or they did not want anything. They were not successful in 2011, so they bring these regulations through in 2014, prior to the 2015 legislative session. Mr. McAllister believes that if they really want to pursue permanent regulations where an unfunded mandate of actuarial studies must be done by all the local governments that have public safety employees, this should be brought before the Legislature. Let us have a debate at the Legislature where there is equal footing and equal ground and all sides can be expressed in a fashion that brings equality to the situation. The Professional Firefighters of Nevada respectfully opposes these permanent regulations, and hope their concerns will be taken into consideration.

Chairman Leavitt asked for any additional public comment.

Carol Shank, Pershing County Commissioner came forward for public comment. She wanted to comment on Agenda Item 7(a) and express how proud Pershing County is of their hospital, the staff and administration and the help they receive from Steve Boline. They have made a tremendous turnaround on their financial condition. The Pershing General Hospital is a focal point of their community. Most importantly, she wanted to thank the members of the Committee on Local Government Finance for allowing the hospital one more chance. The hospital was close to being taken over by the state. The county and the members of the community are grateful the hospital is doing so well. Thank you very much.

Jeffrey Church, resident of the City of Reno, came forward for public comment. He runs a law enforcement consulting business and is a retired Reno police sergeant. He has appeared before on issues related to the City of Reno. He wishes to put the CLGF on notice and request that they either seek a legal opinion or taxation opinion on the failure of Reno to comply with the law and the ballot measure for the allocation of Reno taxpayer money for "additional" firefighters and equipment. In 1996, Reno voters approved a measure known as R-3 for an increase in taxes at 7.15% of \$100 of assessed value. That measure brings in about four million dollars annually. Instead of using that money as required, Reno has fallen back at or below the 1996 floor in firefighters and equipment and is using that money in the general fund for other purposes. The 1996 floor was approximately 226 firefighters and per the Reno Gazette, current staffing is about 204. CLGF needs to require Reno to report the funding and makeup of the 1996 fire department and demonstrate that the \$4 million is used specifically for the ballot purposes. If used for other purposes, wouldn't that be criminal in nature? Mr. Church referred to the Nevada Attorney General Opinion #2011-4 which in part says: "The number of police officers funded by sources other than the revenue received under the Act must be at least the same number of officers as were funded and supported prior to the time the act became effective..." Because the public safety and

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various tax ballot measures are in the general fund and not shown on any tax bill, it allows for the inappropriate use of the monies. Our tax bills should reflect all ballot measure levies especially since this one, like Safety 88, does not set a prescribed levy but instead the council is supposed to set it yearly in public hearing "... at a rate (to be determined yearly by the city council) not to exceed 7.15..." He urges any CLGF member or the Deputy Attorney General to not ignore having been put on notice and to direct an inquiry as appropriate. He included a copy of the ballot measure in the handouts.

Mr. Church also wanted to express his opinion that the City of Reno is one banana peel away from insolvency. Do not take his word for it. There are six separate experts; recently two Fact Finders found Reno's financial situation so severe they sided with Reno over labor unions. There are two reports on Reno's other post-employment benefits (OPEB) debt, including one from Jeremy Aguero, saying Reno could be broke by 2016, if not sooner. Then we look at our last audits, and we see in the State of the City address yesterday, the present OPEB debt is \$120 billion. It has not gone down, and there is nothing in the present budget that addresses this. The overall debt of the City of Reno is over \$500 billion. The latest shoe to drop was the legal decision prohibiting Reno from laying-off firefighters after a \$10 million grant ended. Even with the burden of the extra firefighters, Reno has closed fire stations during a federally-declared drought and various federally-declared high fire danger days. Where are the rights of citizens? He believes that Reno is one more shoe drop away from insolvency, and it is better for the CLGF to put them under watch now than when it is too late. He asked the CLGF to seek an opinion on various labor issues. These are in the handouts. It deals with the labor contracts that create a monopoly for the City of Reno, and does not allow the City of Reno to contract with the county or private enterprise. It also prohibits Reno from having less than four-person crews. When there is a perfectly good three-person fire station under the contract and a fourth person calls in sick or is gone, they close the station. Sparks, the county and everyone else has three-person crews. He does not have a problem with Reno having four-person crews, but he does have a problem with closing a perfectly good station. He asked the CLGF and the Attorney General to look into the legality of this.

Ron Dreher, representing the Peace Officers Research Association of Nevada, came forward for public comment. He believes we need to put things into perspective. For over 30 years, he has been part of the Reno Police Protective Association negotiating contracts with the City of Reno. He takes exception to Mr. Church's statement that the City of Reno is a banana peel away from insolvency. While there has been an economic downturn throughout the state, the City of Reno has been a pay-as-you-go organization for the past 30 years and continues to be that way. They chose to do things differently than Washoe County and Sparks. Mr. Dreher does not like the threats that the City of Reno is going to soon be insolvent, and the Department of Taxation is going to take over. This is simply not true. Having been part of the Fact Finding of various labor groups in Washoe County and Reno, he can say that the City of Reno is making strides to move out of the economic downturn.

Janet Houts, resident of Storey County, came forward for public comment. She has issues with the Virginia City Tourism Commission (VCTC) account. She does not understand why the account has not been clearly identified. Now Tom Gransbery is the tax consultant of Storey County. Before he retired from the Department of Taxation, he was in charge of the VCTC. She does not understand why, after two years, she still cannot get information on the VCTC accounts. The money is still taken from the taxpayers. Ms. Houts pointed out what she believes are discrepancies in the debt management policy. She would like the CLGF to look into the Storey County financial accounts. Their debt is going higher and higher. The residents are not getting a benefit; 80% of the revenue goes to payroll. She does not know where the other 20% is going. The community does not have very much. The park does not have water.

Chairman Leavitt stated that there have been quite a few comments over a period of time from people that have dissatisfaction with their local government. He understands it is appropriate to be dissatisfied with your local government. When your local government enters into debt, you may not like it. However, as long as the local government does it in a legal manner, files the proper financial reports, is not in violation of statutes

pertaining to finances and is not in great financial difficulty, it is not a matter of the CLGF. Your unhappiness should be felt at the ballot box. If there are violations of bond covenants, this would show up in audit reports. That is the way the information officially comes to the CLGF.

4. For Possible Action: Adoption of Permanent Regulations

LCB File No. R010-13 (Heart-Lung Liability Reporting)

The regulations provides for appropriate financial reporting and liability disclosures of health care and disability benefits required by NRS Chapter 617 for local government public safety employees

Vice Chairman Sherman moved to approve the regulations, with a second from Member Kalt. Member Kohn-Cole stated that she is concerned about the fact that we need the regulations. Most of the larger governmental entities are already disclosing their heart-lung liability under the workers' compensation contingencies. Most of the others are probably part of PACT. She is going to oppose these permanent regulations.

The motion carried with one opposed.

5. For Possible Action: Reports on Regulatory Matters

(a) Report from Subcommittee on Definition of a Local Government; criteria for determination of whether an entity is a local government for purposes of the Local Government Budget and Finance Act, NRS Chapter 354; and recommendations

Member Walker stated the Subcommittee on Definition of a Local Government met on August 19th and received excellent information from the Department staff. It is a big puzzle. We are getting some additional information from the Department and looking at some regulations for clarification. When looking at the definition of a local government, NRS 354, the entity must be able to receive taxes. We are trying to clarify what this really means.

Member Kohn-Cole requested the minutes from the August 19th subcommittee meeting.

Member Kalt, who is serving on this subcommittee, thanked the Department for putting together a binder of information. The goal is transparency, accountability and oversight in trying to define a local government. There were six or seven specific examples, and the Department has been dealing with this issue in order to get consistency. There is much work to be done, but much work has been done by the Department.

6. For Possible Action: Report by Staff on Lincoln County Financial Condition; Update on Nevada Tax Commission Hearing Held July 15, 2014

Terry Rubald stated the report on Lincoln County's financial condition is being brought to your attention as a result of a testimony received by the Nevada Tax Commission at the hearing on July 15th. They had convened a special session to investigate the circumstances surrounding the receipt of a very large payment of \$1.8 million from the Air Force pursuant to a Memorandum of Agreement with Lincoln County. That agreement provided a framework for how to determine the property taxes on possessory interest and federal property in Area 51 by contractors as well as the contractor's property. As part of that agreement, the Air Force made that \$1.8 million payment to discharge the Air Force from any and all claims. The Air Force might have underreported the taxable value of government-owned facilities on the property for several years prior to that agreement. The Department expressed its opinion to Lincoln County officials that the money received should be considered a property tax and distributed to local government entities accordingly. There are a number of issues connected with the proper calculation of the taxable value and the proper distribution of the tax. The matter is currently tied up in a lawsuit initiated by Lincoln County. The Nevada Tax Commission is continuing

its investigation. Beginning on Page 100 of the exhibits, Chairman Barengo of the Nevada Tax Commission referenced a news report where one of the county commissioners stated that without the Air Force payment, the county would have been \$40,940 in the hole. That commissioner confirmed the statement during the July 15th hearing. Chairman Barengo asked Ms. Rubald if the county commissioners comments were something the Department may want to look at and review their budgets to see if they are sufficient. Ms. Rubald responded to Chairman Barengo and the Nevada Tax Commission that the CLGF often makes inquiries into the financial status of local governments. Chairman Barengo replied that the Nevada Tax Commission recommended the CLGF look into the matter and Lincoln County solvency.

With that background, the Department reviewed the quarterly reports and other financial information received from the county. They made special inquiry of the Lincoln County Recorder-Auditor regarding the commissioner's comments on the shortfall. Page 130 of the exhibits pertains to a cash flow issue which was caused by a late-arriving distribution of centrally assessed property taxes. It was not a permanent condition. The recorder-auditor reported to the county commission in January 2014 that services and supply bills would remain accounts payable until the property tax revenue was received. In addition, exhibits on Pages 133 through 138 confirm the cash balances of all the various funds at that time. Only one had a negative ending fund balance. It was material, and that was for Caliente City.

Kelly Langley, Supervisor, Local Government Finance, Department of Taxation, stated that Local Government Finance did review the financials. We have had discussions with Leslie Boucher, Lincoln County Auditor, regarding the concerns of their financial status, including the January 2014 data showing the delay of the centrally assessed property taxes were the cause of the cash flow issue. We have concluded that Lincoln County is not insolvent and is not in financial distress.

The representatives from Lincoln County did not wish to comment.

Chairman Leavitt stated there does not appear to be a serious financial condition that would require CLGF to implement steps toward severe financial emergency.

Terry Rubald agreed. We do not have any findings from the various quarterly reports, audits or other information showing anything occurred that was a long-term situation. The Department believes they are solvent.

7. Briefing to and from the Committee on Local Government Finance and Local Government Finance Staff

(a) Pershing County Hospital was recognized and received a national award

There was applause.

Terry Rubald stated she could not wait to share the good news about Pershing General Hospital. We came close to determining that Pershing General was in severe financial emergency. It started back in 2004 when we learned the hospital was eleven months in arrears at PERS. The hospital was incurring losses and had major collection problems. In 2008, CLGF was starting to consider severe financial emergency. The hospital made appearances before this body at nearly every meeting between 2004 and January 2013. In October 2010, Patty Bianchi became the new CEO. Between her and Steve Boline and the Nevada Rural Hospital Partners they began the long, slow, hard work to turn it around. The hard work that the hospital staff, the board, the community and Nevada Rural Hospital Partners put in did the trick. As seen on Page 177 of the exhibit packet, the hospital won a national award. They are the recipient of the Critical Access Hospital Recognition Certificate for financial turnaround from the National Rural Health Resource Center and Technical Assistance and Services Center. As the article notes, the hospital got rid of unprofitable service lines, did a comprehensive review of community health needs, pursued an aggressive strategy of managing expenses and

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promoted use of the facility by the community rather than having community members drive to Reno for healthcare. They implemented financial management tools and created a culture of success. What a success story this is! Ms. Rubald stated she is proud of them and congratulated them on their award.

Chairman Leavitt voiced his appreciation and congratulations to the hospital.

Member Walker gave congratulations to the hospital and Steve Boline. They did a fantastic job. Robin did a great job helping them out.

Member Kalt said thank you on behalf of the travelers on Interstate 80. Through this situation, he has learned a great deal about hospital finance.

(b) Acquisition of Washoe County Division of Water Resources and South Truckee Meadows GID by Truckee Meadows Water Authority -- Anticipated completion date 12-31-14

Kelly Langley stated we have another success story. Truckee Meadows Water Authority is in the process of completing an acquisition of the South Truckee Meadows GID and the Washoe County Division of Water Resources. This proposed consolidation has been many years in the making. There was a subcommittee created to study the feasibility and advisability of consolidating the water-related services in Washoe County back in 2005. In 2006 through Senate Bill 487, the Committee on Natural Resources outlined a comprehensive plan to include the evaluation and recommendations regarding the consolidation. Ms. Langley referred to Exhibit B which shows the GANTT chart. They are on target to achieve this goal by December 31, 2014. Ms. Langley wanted to be sure the Committee was aware of this acquisition which has been accomplished by all three of these local government entities.

Member Walker stated this has probably been twenty years in the making. Congratulations, this is a wonderful step.

Chairman Leavitt gave congratulations. He is glad to see governments work out these opportunities.

(c) Report by Staff regarding 2004-2013 Audit Summaries Report

Kelly Langley referenced the Audit Summaries Report in the binder. The summary pages at the beginning summarize the counties, school districts and the cities.

Chairman Leavitt asked if there was anything in the Audit Summaries Report that causes concern regarding any particular local government.

Kelly Langley stated there are some trends where general fund ending balances have been reduced over the years. There is no cause for concern. If we see problems, we bring them to the Committee as we see them. There are a couple of school district that must notify us. You can see this information in the graphs. You can see the revenue as well as the expenses on a trending basis.

Chairman Leavitt stated it appears we are coming out of the huge trough we went into during the severe recession. Most of these local governments need to be congratulated for looking at the economic situation and doing something about it.

Kelly Langley agreed.

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Member Kalt stated Storey County was in a severe financial difficulty, but through the help of their leadership, Pat Whitten and Hugh Gallagher, they have a strong ending fund balance in the general fund. White Pine County is very strong. Mining has helped get them out of the hole. It is good to see the positive trend.

(d) Report by Staff regarding School Districts for which the ending fund balances have dropped for three consecutive fiscal years

Kelly Langley stated that in accordance with NRS 387.3045, school districts are required to report when they experience a reduction for three consecutive years in the ending fund balance of the general fund. Three school districts have experienced such reductions, Clark County, Carson City and Churchill County. These reductions are due, in part, to the Nevada special legislative session concluded in February 2010 when the 2011 DSA appropriation was reduced per pupil. There were further reductions in the DSA allocations during the 2012-2013 biennium. Specifically, Clark County School District experienced reductions from 2009 to 2012 due to economic challenges. They have seen an increase in the past year and projects the increase will continue. Carson City School District had over \$17 million in general fund reserves in 2010. With approval from its board of trustees, they have elected to strategically use the general fund reserves to lessen the impact of lost revenues on school district operations. In addition, the board has directed the staff to maintain no less than 8.3% of its annual expenditures in reserves and begin to rebuild those reserves as economic conditions permit. Churchill County School District anticipates a three-year decline. They have provided us a letter. The third year would be for 2014. They do anticipate that it will be a three-year decline and have provided us this courtesy notification while they await the completion of their annual audit. Churchill County has referenced a 25% decline in net proceeds of minerals in their most recent 2014 quarterly economic survey. They would not need to report to the Department until next year to be in compliance with this statute.

Chairman Leavitt commented that Clark County School District is a huge organization. It is disconcerting when you see the balances dropping. It looks like their ending fund balance in 2013 is actually higher than it was in the beginning.

Kelly Langley clarified that the one year we show Clark County going up, it included the net proceeds. The original numbers they provided did not include some net proceeds numbers. We updated that table. In the binders, it show three years declining, but we have fixed that.

(e) Recognition of Warner Ambrose upon his retirement

Terry Rubald stated it was a bittersweet occasion to recognize Warner Ambrose upon his retirement. Warner has worked for the Department since 1988, first as an Auditor. In 1996, he was promoted to a Budget Analyst II. Since he has been a Budget Analyst in the Local Government Finance section, he has been involved in most of the major events. The entities that he has served include Clark County, Elko County, Nye County and White Pine County. Warner is well respected by the officials in these local governments. He is a wealth of knowledge about the budget process and is often called upon to share his knowledge. Ms. Rubald has relied on Warner for his advice for many years. He will truly be missed. Warner was congratulated for a job well done and wished well in his retirement.

Warner Ambrose thanked the Committee. He stated it had been both a pleasure and an honor to serve this Committee.

Chairman Leavitt commented that Warner's contributions have always been valuable. The Committee very much appreciates it.

Terry Rubald introduced Warner's replacement, Bill Farrar. He joined the Department a few months ago as an Auditor but was promoted to a Budget Analyst II. Bill has an accounting degree from Arkansas Tech

University, and he is a current CPA. He has a wealth of experience auditing municipalities as well as budget preparation and analysis, cash flow analysis, regulatory compliance, financial review and planning at executive levels in private industry. We are very glad to have him, and he looks forward to working with the local governments.

Member Vincent thanked Warner Ambrose for tolerating his questions early in Mr. Vincent's career.

Richard Schmalz with the Las Vegas Valley Water District and Southern Nevada Water Authority stated that on behalf of himself and these organizations, he would like to express gratitude to Warner for his outstanding service to them for more than a decade. They wish him the best in all of his future endeavors.

8. For Possible Action: Discussion by Committee Regarding Matters Affecting the Committee

There was no discussion regarding this agenda item.

**9. Review and Approval of Minutes
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Vice Chairman Sherman moved to approve the minutes of April 25, 2014, as submitted, with a second from Member Kohn-Cole. Member Vincent abstained from voting on the approval of the minutes since he was not present. The motion carried.

10. For Possible Action: Schedule Date and Review Agenda Topics for the Next Meeting

Terry Rubald stated the only thing pending is a report from the City of North Las Vegas. The Committee wanted to wait until the middle of the fiscal year. Ms. Rubald asked if the Committee would like to meet in December or January.

Chairman Leavitt recommended waiting until after we get audit statements.

Terry Rubald stated she would send out an email as that time approaches.

Chairman Leavitt stated at that time we should also be ready to have some discussion regarding the definition of a local government.

11. Public Comment

Jeffrey Church came forward for public comment. He stated he appreciated the comments from Chairman Leavitt. Mr. Church wanted to reiterate that he is saying Reno is potentially violating the law with regards to Safety 88 and R-3. He went to the Attorney General and was referred to the CLGF. At the previous meeting, the CLGF referred him back to the Attorney General. He feels he is getting the runaround. He retained counsel for research purposes. His counsel's advice was to resolve this at the CLGF level. He is asking for the Committee's Attorney General representative for a legal opinion. He already has the Attorney General legal opinion from Las Vegas. He is alleging a possible legal violation. Regarding the labor contracts, he cited specific NRS. Again, he is alleging potential legal violations. Mr. Church stated if he is correct about these legal violations, it would be \$14 million and insolvency for Reno. After the documents were submitted to the CLGF by the City of Reno in October, no one expected the judges were waiting for the prohibition on 35 layoffs of firefighters in the \$10 million loss of the SAFER grant. This is something that changes everything. Also, we have the growing OPEB liability. Today he got statistics that there are 25 police and fire retirees in the first half of this year. This is \$180,000 just for health care per year. The average age of the fire retirees is 56, and the

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average age of the police retirees is 49. Mr. Church stated he is not just talking about his opinion. He has the report from the expert, Jeremy Aguero, stating Reno will be broke by 2016 if not sooner. He also has the two Fact Finder reports. No one expected the judge's decision on that lawsuit. The Nevada Supreme Court

denied a stay. This is significant. Mr. Church reviewed NRS, and it does allow the CLGF to act unilaterally. This could include just a watch, not an actual takeover. The volunteer City of Reno Financial Advisory Board are experts. They heard the budget, and at their last meeting were so disturbed that they requested the action item issue of state takeover be on their agenda for October 2nd. The labor contracts are in progress. The news media reports the fire departments asked for an 8% pay raise. Yesterday the city council discussed over \$400,000 in legal fees of taxpayer money expended thus far over labor issues. This was \$100,000 over their budget of \$300,000. He appreciates the comments made by everyone.

Chairman Leavitt stated that prior to next meeting, we will have a submission of the audit report from the City of Reno. The auditors have an obligation in their report to comment on matters relating to legal compliance in financial matters. The Committee takes notice of this information. Rest assured that we will be taking a look at this one.

Carole Vilardo with the Nevada Taxpayer's Association thanked John Sherman and Heart-Lung Subcommittee. She wanted to assure the members this had nothing to do with worker's compensation. This is strictly a transparency issue with the budget to make sure the liability is identified. Right now GASB is looking at all benefits and reporting for purposes of liability. She began this request three years ago for pure purposes of transparency.

Janet Houts came forward for public comment. She stated that if her local government was doing a good job, she would congratulate them directly. She added that one of the board members mentioned Storey County was in good financial status. The debt management report conducted by JM Consulting states the assessed value of Storey County was \$497,587,221. It is her understanding that debt should not exceed 10%. Ms. Houts referred to other reports showing debt and stated she does not see how it shows Storey County is in good financial condition. She asked if we should wait until her county fall apart, or start taking initial steps. Many of the Storey County residents are asking the CLGF to help them out. She understands the county cannot have zero debt because they need to progress. The school is now running a non-profit organization. What about the students' education? She is a very concerned resident. She loves this country and is passionate toward the people. Please look into Storey County's financial situation.

12. For Possible Action: Adjournment

The meeting adjourned at 2:49 p.m.