

MEETING NOTICE AND AGENDA

COMMITTEE ON LOCAL GOVERNMENT FINANCE

Date and Time of Meeting: **October 27, 2015** **10:30 a.m.**

Place of Meeting: **Nevada State Legislative Building**
401 South Carson Street
Room 2134
Carson City, Nevada

Video Conference To: **Grant Sawyer State Office Building**
555 East Washington Avenue
Room 4412
Las Vegas, Nevada

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. **For Possible Action: RECESS FOR ATTENDANCE AT REGULATION WORKSHOP**
The Department of Taxation will hold a workshop on behalf of the Committee on Local Government Finance to receive input on proposed language changes to the Nevada Administrative Code Chapter 354, as follows:

 LCB File No. R078-15 relating to local government finance; establishing certain requirements for the establishment of a trust fund by a local government for the purpose of funding future retirement benefits of retired employees, including procedures for making the investment; treatment of the trust account; composition of the trust fund board; powers, rights and duties of the trust fund board of trustees; accounting and auditing functions; and other matters properly relating thereto.
4. **For Possible Action: RECONVENE REGULAR MEETING**
5. **For Possible Action: SUBCOMMITTEE REPORTS:**
 - a) **Next steps regarding adoption of LCB File No. R078-15**
 - b) **Next steps regarding LCB File No. R010-13, Heart-lung regulations; Report on effects of SB 153 (2015) amending NRS Chapter 617**
 - c) **Report from subcommittee regarding guidance on enterprise funds and special revenue funds**
6. **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 the following matters:**
 - a) **FY 15/16 Final Budget, including revenue, expenditures, cash flow analysis and scheduled debt repayments;**
 - b) **Status of collective bargaining agreements expiring 6/30/15;**
 - c) **Status of FY 14/15 Audit**

- b) **For Possible Action: Discussion and Consideration of Nye County financial condition:**
 - 1) **Report by the Department on Nye County financial condition and request for information from the County;**
 - 2) **Response from the County**
- 7. **For Possible Action: Discussion and consideration of establishing subcommittee(s):**
 - a) **To perform 10 year review of CLGF regulations pursuant to NRS 233B.050(1)(e) to determine whether any regulations should be amended or repealed;**
 - b) **To determine whether NAC 354.660 may be updated to conform with SB 168 (2015);**
 - c) **To determine whether regulations should be considered related to GASB Exposure Drafts 43 and 45 regarding post-employment benefits;**
 - d) **To consider other topics related to legislative changes**
- 8. **BRIEFING TO AND FROM THE COMMITTEE ON LOCAL GOVERNMENT FINANCE AND LOCAL GOVERNMENT FINANCE STAFF**
 - a) **Report by Department on legislative changes;**
 - b) **Report by Department on “More Cops” activities in Clark County**
 - c) **Discussion and explanation of travel claims**
- 9. **REVIEW AND APPROVAL OF MINUTES**
For Possible Action: CLGF Meeting – April 30, 2015; Subcommittee Meetings on April 24, 2015; August 18, 2015; and August 27, 2015.
- 10. **For Possible Action: Schedule Date and Review Agenda Topics for the Next Meeting**
- 11. **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.

12. 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) 684-2066 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, on the Legislative website at www.leg.state.nv.us and on the Department of Administration website at <https://notice.nv.gov/>.

AGENDA ITEM 3

WORKSHOP ON LCB FILE NO. R078-15 REGARDING TRUST FUNDS

**PROPOSED REGULATION OF THE
COMMITTEE ON LOCAL GOVERNMENT FINANCE**

LCB File No. R078-15

October 1, 2015

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

AUTHORITY: §§1-3, NRS 287.017.

A REGULATION relating to local governmental finance; revising provisions relating to trust funds for future retirement benefits of local governmental employees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the governing body of any local government which provides retirement benefits to retired employees of that local government and the spouses and dependents of those employees to establish a trust fund for the purpose of funding those benefits, and authorizes the Committee on Local Government Finance to adopt regulations for the creation and administration of such trust funds. (NRS 287.017) Existing law also establishes a Retirement Benefits Investment Fund, administered by the Retirement Benefits Investment Board, which may accept retirement trust fund monies from local governments for investment purposes. (NRS 355.220)

Existing regulations require the governing body of a local government that establishes a trust fund to appoint persons to a board of trustees to administer the trust fund. Such persons are required to have certain experience, depending on how the assets of the trust fund will be invested. (NAC 287.764, 287.778) **Section 1** of this regulation revises provisions relating to the nature of the investment of the assets of a trust fund for purposes of appointing qualified persons to a board of trustees.

Existing regulations also require a board of trustees to develop an investment plan for a trust fund in certain circumstances. The Committee on Local Government Finance must approve the investment plan before the investment of any assets of the trust fund. (NAC 287.788) **Section 2** of this regulation provides additional circumstances in which a board of trustees is not required to develop an investment plan for a trust fund. **Section 2** also establishes only certain circumstances in which the Committee on Local Government Finance is required to approve an investment plan developed by a board of trustees.

Additionally, existing regulations generally provide that if the market value of the investment portfolio of a trust fund at the end of a fiscal year is more than \$100,000,000, the assets of the trust fund may be: (1) deposited in the Retirement Benefits Investment Fund; (2)

invested in any investment which is authorized for a local government; and (3) invested in any stocks or other equity securities or bonds or other debt securities which meet certain requirements. (NAC 287.790) **Section 3** of this regulation authorizes the Committee on Local Government Finance to waive the \$100,000,000 minimum market value upon application by a local government and for good cause shown.

Section 1. NAC 287.778 is hereby amended to read as follows:

287.778 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 *any of* the assets of the trust fund ~~qualify to~~ *will* be invested ~~pursuant to~~ *in 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 ~~NAC 287.790,~~ *NRS 287.017*, 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.}~~ *subsection 1.*

Sec. 2. NAC 287.788 is hereby amended to read as follows:

287.788 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 ~~{}~~; *or*

(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, *or invested in any investments authorized pursuant to NRS 355.170*, 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 3 by the Committee on Local Government Finance before the investment of any assets of the trust fund ~~{}~~ *if:*

(a) *The assets of the trust fund qualify to be invested pursuant to NAC 287.790; and*

(b) *The board of trustees desires to invest outside the Retirement Benefits Investment Fund 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. *An* investment plan *developed pursuant to subsection 2* 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.

~~13.1~~ **4.** Approval by the Committee on Local Government Finance of the investment plan , *if* required ~~in~~ *pursuant to* subsection 2 , does not create or establish any fiduciary responsibility between the Committee on Local Government Finance and the trust fund or its beneficiaries.

Sec. 3. NAC 287.790 is hereby amended to read as follows:

287.790 1. Except as otherwise provided in ~~subsection 4,~~ *subsections 3 and 5*, 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,~~ **subsections 3 and 5**, 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. ~~##~~ ***The Committee on Local Government Finance may waive the minimum market value of the investment portfolio in a trust fund set forth in subsection 2:***

(a) Upon application by a local government; and

(b) For good cause shown, including, without limitation, demonstrating an ability to manage an investment portfolio which includes equity securities of \$100,000,000 or more and managing a pension fund of \$100,000,000 or more outside the Public Employees' Retirement System.

4. ***Except as otherwise provided in subsection 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.

~~14.1~~ 5. 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.

~~15.1~~ 6. 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.

~~16.1~~ 7. 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.

~~17.1~~ 8. 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.

~~18.1~~ 9. 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.

AGENDA ITEM 5(b)

NEXT STEPS REGARDING HEART/LUNG REGULATIONS LCB FILE NO. R010-13

**SECOND REVISED PROPOSED REGULATION OF
THE COMMITTEE ON LOCAL GOVERNMENT FINANCE**

LCB File No. R010-13

August 22, 2014

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

AUTHORITY: §§1-16, NRS 354.107.

A REGULATION relating to governmental financial administration; requiring local governments to provide a total discounted estimated actuarial liabilities report concerning certain obligations; providing standards and requirements for actuarial studies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 617 of NRS sets forth various provisions concerning occupational diseases of firefighters and police officers. Under existing regulations, local governments are required to use and submit certain budget forms as provided by the Department of Taxation. (NAC 354.100) **Section 9** of this regulation requires the Department to include with those forms a form concerning occupational disease obligations that have been paid by local governments as the result of claims made by eligible persons pursuant to chapter 617 of NRS. **Section 10** of this regulation requires each local government which employs public safety employees for whom occupational disease obligations may be incurred to file a report concerning the local government's total discounted estimated actuarial liabilities associated with such obligations on the form prescribed by the Department. **Section 13** of this regulation sets forth the information that is required to be included in the report concerning such obligations. **Section 14** of this regulation sets forth additional information that is required to be included in the report if the local government participates in an association of self-insured public employers.

Section 11 of this regulation requires that the Department compile in summarized form the information submitted by each local government pursuant to **section 10** in an annual report. **Section 11** also requires the Department to publish the annual report on its Internet website. **Section 12** of this regulation provides that certain actuarial liabilities are not required to be reported in the financial statements of a local government unless otherwise required by the Governmental Accounting Standards Board.

Section 16 of this regulation establishes the manner in which the total discounted estimated actuarial liability for occupational disease obligations must be computed. **Section 16** also sets forth certain requirements concerning the performance and content of an actuarial study.

Section 1. Chapter 354 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 16, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Actuarial study” means a report prepared and signed by an actuary who is designated as an Associate of the Society of Actuaries or has a similar credential from a similar professional organization of actuaries.*

Sec. 4. *“Funded ratio” means the ratio of the total reserves established by the local government divided by the total discounted estimated actuarial liability arising from occupational disease obligations.*

Sec. 5. *“Occupational disease obligation” means the total cost of any financial or monetary liability associated with the payment of a claim for compensation for an occupational disease described in NRS 617.453, 617.455, 617.457 and 617.485.*

Sec. 6. *“Pay-as-you-go funding” means any amount funded annually by a local government employer that chooses to pay for occupational disease obligations only when the occupational disease obligations become due and payable.*

Sec. 7. *“Prefunding plan” means payments to an internal service fund or other designated fund to build reserves to pay for the total discounted estimated actuarial liabilities arising from occupational disease obligations.*

Sec. 8. *“Public safety employee” means a person subject to an occupational disease described in NRS 617.453, 617.455, 617.457 and 617.485.*

Sec. 9. *The Department shall include in the budget forms required by NAC 354.100 a form requiring information on the occupational disease obligations that have been paid as the result of claims made by eligible persons.*

Sec. 10. *The governing body of a local government which employs public safety employees for whom occupational disease obligations may be incurred must file a report concerning the local government's total discounted estimated actuarial liabilities associated with such occupational disease obligations on a form prescribed by the Department. The form must be submitted as part of the tentative budget required by NRS 354.596.*

Sec. 11. *The information submitted by each local government pursuant to sections 10 and 13 of this regulation must be compiled by the Department in an annual report in summarized form. The Department shall publish the report on its Internet website.*

Sec. 12. *Except as otherwise required pursuant to the statements issued by the Governmental Accounting Standards Board, discounted estimated actuarial liabilities determined by an actuary are not required to be reported in the financial statements of a local government.*

Sec. 13. *1. The report filed pursuant to section 10 of this regulation must include, at a minimum:*

(a) For a local government employer that is self-insured through a prefunding plan or pay-as-you-go funding:

(1) An explanation of whether the occupational disease obligations are funded through a prefunding plan or pay-as-you-go funding;

(2) The number of eligible persons for whom the occupational disease obligations may be incurred, separately subtotaled for current and former public safety employees;

(3) The number and amount of known and accepted claims paid by the local government net of reinsurance during the immediately preceding 10 years, if available, and separately stated for eligible persons;

(4) The total discounted estimated actuarial liability for occupational disease obligations, separately stated for eligible persons;

(5) The basis for the total discounted estimated actuarial liability, such as an actuarial study, including the date the actuarial study was prepared, the frequency of preparation of an actuarial study and whether the actuarial study separately reported for eligible persons;

(6) A 10-year history of payments made for occupational disease obligations and reserves established and identification of the funds from which such payments were made or to which reserves were contributed;

(7) The funded ratio of the present value of contributions plus investment return compared to the present value of the total discounted estimated actuarial liabilities; and

(8) How the full and complete actuarial study may be obtained.

(b) For a local government employer that is insured through an association of self-insured public employers or any private insurer, proof of a requirement by the local government employer that the association of self-insured public employers or the private insurer provide to the Department the information required by subparagraphs (2) to (7), inclusive, of paragraph (a). A copy of the local government's letter, notice or other communication requiring the association of self-insured public employers or the private insurer to provide the information must be submitted to the Department as part of the tentative budget required by NRS 354.596.

(c) For a local government employer that is insured through an association of self-insured public employers, an indication by the local government employer that it required the

association to provide to the Department a current list of public employers who are members of the association.

2. A local government employer that has been both self-insured through a prefunding plan or pay-as-you-go funding and insured through an association of self-insured public employers or any private insurer during the immediately preceding 10-year reporting period must ensure that the information required by subsection 1 is provided to the Department for:

(a) The years during which the local government was self-insured; and

(b) The years during which the local government was insured through an association of self-insured public employers or by a private insurer.

3. A local government employer having less than 10 years of historical records for purposes of providing the information required by subsection 1 must provide the information for as many years as the records have been maintained. The first report submitted pursuant to this section and each subsequent report must identify the number of years of information reported, if less than 10 years, until 10 years of information is obtained. A local government which reports historical information for less than 10 years must begin maintaining the information required by subsection 1 until 10 years of information is continuously available.

Sec. 14. *A local government employer that is insured through an association of self-insured public employers must include in the report filed pursuant to section 10 of this regulation information regarding where the most recent actuarial study conducted pursuant to section 16 of this regulation and the funding report of the association of self-insured public employers plan may be obtained.*

Sec. 15. *1. To determine the total discounted estimated actuarial liabilities associated with occupational disease obligations that have been paid as the result of claims made by*

eligible persons, the best practice for an actuarial valuation must consider and define the following inputs:

(a) Participant demographic data, including, without limitation, current age, gender, service retirement, terminations with benefit eligibility, salary increases and the percent married and percent survivors of the eligible persons for whom occupational disease obligations have been incurred;

(b) Reasonable assumptions concerning the interest rate, health care inflation rates, general inflation rates and decrement rates, such as the mortality rates for heart disease in the general population; and

(c) Claims experience which considers historical information based on actual claims incurred by the local government employer, including subsequent employment of public safety employees, and which considers the last injurious exposure rule.

2. As used in this section, “last injurious exposure rule” means full liability being assigned to a single local government employer or insurer for an occupational disease resulting from the claimant’s exposure to injurious stimuli during a local government employer or insurer’s coverage period, even if the most recent exposure was not the primary or triggering cause for the disease.

Sec. 16. 1. *The total discounted estimated actuarial liability for occupational disease obligations must, at a minimum, be computed using the probability of occurrence over a 30-year period, using confidence levels of 50 percent and 75 percent.*

2. An actuarial study must:

(a) If it establishes the total discounted estimated actuarial liability, be performed at least once every 5 years;

(b) Identify the type of occupational disease obligation and the eligible persons for whom the occupational disease obligation may be incurred;

(c) Document the results of an actuarial valuation of employer-provided payments for occupational disease obligations; and

(d) Include the results of the discount process used to determine the present value of the payments.

3. A projection of new employees that may be hired over the 30-year period is not required for an actuarial study.

**Report of Liabilities Associated with
Public Safety Employee NRS Chapter 617 Benefits**

Local Government:			
Contact:			
E-mail Address:		Daytime Telephone:	

1. Check the box which best describes how your local government pays for the cost of compensation and medical benefits afforded to **public safety employees only** pursuant to NRS 617.453, 617.455, 617.457, and 617.485.

- | | |
|--|--|
| (a) <input type="checkbox"/> Pre-funding Plan
(c) <input type="checkbox"/> Association of self-insured public employers | (b) <input type="checkbox"/> Pay-as-you-go Plan
(d) <input type="checkbox"/> Private Insurer. |
|--|--|

2. If you checked (c) or (d) on Line 1, please identify the Association or Insurer.

3. If you checked (c) or (d) on Line 1, a copy of the letter directing the Association or Insurer to supply the balance of the information requested on this form is attached. Yes _____ No _____

If you marked (a) or (b), continue to fill out this form. If you marked (c) or (d), STOP! You are not required to fill out the remainder of this form. If the local government has been both self-insured through a pre-funding plan or a pay-as-you-go funding plan and insured through an association during the ten-year reporting period, you must fill out this form for the years the local government participated in a pre-funding or pay-as-you-go funding plan AND direct your Association or Private Insurer to report for the years covered by the Association or Private Insurer.

4. Historical Claims Paid	Current Public Safety Employees	Eligible Non-Current Public Safety Employees	Total
4(a) Number of Employees subject to the benefit, prior 10 fiscal years*			
4(b) Number of known and accepted claims net of re-insurance in the past 10 fiscal			
4(c) Total paid out for claims in the past 10 fiscal years*			

**If the local government has less than 10 years of experience, identify the number of years of information reported.*

5. Estimated Future Liability Under NRS Chapter 617	Current Public Safety Employees	Eligible Non-Current Public Safety Employees	Total
5(a) Estimated number of employees subject to the benefit over next 30 years*			
5(b) Estimated amount of actuarial liability for medical & disability, non-discounted			
5(c) Estimated amount of actuarial liability for medical & disability, discounted			
5(d) What discount rate was selected to determine the liability in 5(c)?			

**The estimate should not include a projection of new employees that may be hired over the 30 year period.*

6. Actuarial Study Information			
6(a)	Was the estimated amount reported on Lines 5(b) and (c) based on an actuarial study?	Yes _____	No _____
6(b)	When was the last actuarial study prepared? (Date)		
6(c)	How often are the actuarial studies prepared?		
6(d)	Who prepared the last actuarial study? (Name and Designation)		
6(e)	Address of Actuary		
6(f)	Did the actuarial study separately report current public safety employees from eligible, non-current public safety employees?	Yes _____	No _____
6(g)	Where may the public review a complete copy of the actuarial report? (Provide a website link if available.)		

7. Reserves						
7(a)	Has the local government established a reserve for known and accepted historical claims?	Yes _____	No _____			
7(b)	What percentage of historical claims (Line 4b) are fully funded?					
7(c)	Has the local government established a reserve for known and accepted historical claims?	Yes _____	No _____			
7(d)	Identify each fund used for reserves.					
7(e)	List the amount of payments made to each fund reserve for the following years (add lines if more than one fund)*					
Fund Name:	Budgeted FY 2013-2014	Estimated FY 2012-2013	Actual FY 2011-2012	Actual FY 2010-2011	Actual FY 2009-2010	Actual 2008-2009
Payments						
7(f)	List the total reserves established for each fund (add lines if more than 1 fund):*					
Fund Name:	Budgeted FY 2013-2014	Estimated FY 2012-2013	Actual FY 2011-2012	Actual FY 2010-2011	Actual FY 2009-2010	Actual 2008-2009
Total Reserves						

**Should reflect only the NRS Chapter 617 benefits; if amount includes other than NRS Chapter 617 dollars, check this box:*

8. Current Year Funded Ratio	
What is the current year funded ratio of the present value of contributions plus investment return compared to the present value of the accrued liabilities (Line 7(f) divided by Line 5(c)) ?	

Senate Bill No. 153–Committee on
Commerce, Labor and Energy

CHAPTER.....

AN ACT relating to occupational diseases; revising the circumstances under which certain occupational diseases are conclusively presumed to arise out of and in the course of employment; limiting the compensation to which a person is entitled to receive for certain occupational diseases; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that certain diseases of the lungs or heart contracted by certain police officers, firefighters or other employees are, for purposes of industrial insurance claims, conclusively presumed to be occupationally related if the employee has served a certain number of years in the profession before contracting the disease. (NRS 617.455, 617.457) **Sections 2 and 3** of this bill limit the period in which certain employees may claim these presumptions. **Sections 2 and 3** also provide that a person who files a claim for the disease after he or she retires from employment as a police officer, firefighter or arson investigator is not entitled to receive any compensation for that disease other than medical benefits. **Sections 2.5 and 3.5** of this bill prevent certain persons who use tobacco products or fail to follow a physician’s prescribed plan of care from claiming these presumptions.

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

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

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 617.454 is hereby amended to read as follows:

617.454 1. Any physical examination administered pursuant to NRS 617.455 or 617.457 must include:

(a) A thorough test of the functioning of the hearing of the employee; and

(b) A purified protein derivative skin test to screen for exposure to tuberculosis.

2. Except as otherwise provided in subsection ~~7~~ 8 of NRS 617.457, the tests required by this section must be paid for by the employer.

Sec. 2. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious



gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.

2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the employee's lungs, upon employment, upon commencement of the coverage, once every 2 years until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. Each volunteer firefighter who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to:

(a) A physical examination upon employment and upon commencement of the coverage; and

(b) The making of an X-ray film of the volunteer firefighter's lungs once every 3 years after the physical examination that is required upon commencement of the coverage,

↳ until the volunteer firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment. As used in this subsection, "physical examination" includes the making of an X-ray film of the volunteer firefighter's lungs but excludes a thorough test of the functioning of his or her lungs.

4. All physical examinations required pursuant to subsections 2 and 3 must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for ~~1~~ 2 years or more before the date of disablement

if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;



(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

↳ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

6. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after a physical examination required pursuant to subsection 2 or 3 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

7. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator,

↳ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

8. A person who files a claim for a disease of the lungs specified in this section after he or she retires from employment as a police officer, firefighter or arson investigator is not entitled to receive any compensation for that disease other than medical benefits.

Sec. 2.5. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.



2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the employee's lungs, upon employment, upon commencement of the coverage, once every 2 years until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. Each volunteer firefighter who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to:

(a) A physical examination upon employment and upon commencement of the coverage; and

(b) The making of an X-ray film of the volunteer firefighter's lungs once every 3 years after the physical examination that is required upon commencement of the coverage,

↳ until the volunteer firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment. As used in this subsection, "physical examination" includes the making of an X-ray film of the volunteer firefighter's lungs but excludes a thorough test of the functioning of his or her lungs.

4. All physical examinations required pursuant to subsections 2 and 3 must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for 2 years or more before the date of disablement if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

↳ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.



6. *Frequent or regular use of a tobacco product within 1 year, or a material departure from a physician's prescribed plan of care by a person within 3 months, immediately preceding the filing of a claim for compensation excludes a person who has separated from service from the benefit of the conclusive presumption provided in subsection 5.*

7. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after a physical examination required pursuant to subsection 2 or 3 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

~~f7~~ 8. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator,

↳ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

~~f8~~ 9. A person who files a claim for a disease of the lungs specified in this section after he or she retires from employment as a police officer, firefighter or arson investigator is not entitled to receive any compensation for that disease other than medical benefits.

Sec. 3. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for ~~f5~~ 2 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment

~~f4~~ *if the disease is diagnosed and causes the disablement:*

(a) *During the course of that employment;*

(b) *If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or*

(c) *If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.*

↳ *Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.*



2. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

3. Except as otherwise provided in subsection 4, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his or her employment.

4. During the period in which a volunteer firefighter is continuously on active status on the roster of a volunteer fire department, a physical examination for the volunteer firefighter is required:

(a) Upon employment;

(b) Upon commencement of coverage; and

(c) Once every 3 years after the physical examination that is required pursuant to paragraph (b),

↳ until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment.

5. The employer of the volunteer firefighter is responsible for scheduling the physical examination. The employer shall mail to the volunteer firefighter a written notice of the date, time and place of the physical examination at least 10 days before the date of the physical examination and shall obtain, at the time of mailing, a certificate of mailing issued by the United States Postal Service.

6. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection 5 excludes the volunteer firefighter from the benefits of this section.

7. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

(a) Applies to the department for the first time as a volunteer firefighter; and



(b) Is 50 years of age or older on the date of his or her application.

8. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

(a) Paid for the physical examination in accordance with subsection 7;

(b) Is declared physically fit to perform the duties required of a firefighter; and

(c) Becomes a volunteer with the volunteer fire department.

9. Except as otherwise provided in subsection 7, all physical examinations required pursuant to subsections 3 and 4 must be paid for by the employer.

10. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to a physical examination required pursuant to subsection 3 or 4 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

11. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, arson investigator or police officer,

→ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

12. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

13. A person who files a claim for a disease of the heart specified in this section after he or she retires from employment as a firefighter, arson investigator or police officer is not entitled to receive any compensation for that disease other than medical benefits.

Sec. 3.5. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 2 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment if the disease is diagnosed and causes the disablement:



- (a) During the course of that employment;
 - (b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or
 - (c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.
- ➔ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

2. Frequent or regular use of a tobacco product within 1 year, or a material departure from a physician's prescribed plan of care by a person within 3 months, immediately preceding the filing of a claim for compensation excludes a person who has separated from service from the benefit of the conclusive presumption provided in subsection 1.

3. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

~~3-1~~ **4.** Except as otherwise provided in subsection ~~4-1~~ **5**, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his or her employment.

~~4-1~~ **5.** During the period in which a volunteer firefighter is continuously on active status on the roster of a volunteer fire department, a physical examination for the volunteer firefighter is required:

- (a) Upon employment;
- (b) Upon commencement of coverage; and
- (c) Once every 3 years after the physical examination that is required pursuant to paragraph (b),



↳ until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment.

~~15-1~~ 6. The employer of the volunteer firefighter is responsible for scheduling the physical examination. The employer shall mail to the volunteer firefighter a written notice of the date, time and place of the physical examination at least 10 days before the date of the physical examination and shall obtain, at the time of mailing, a certificate of mailing issued by the United States Postal Service.

~~16-1~~ 7. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection ~~15-1~~ 6 excludes the volunteer firefighter from the benefits of this section.

~~17-1~~ 8. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

(a) Applies to the department for the first time as a volunteer firefighter; and

(b) Is 50 years of age or older on the date of his or her application.

~~18-1~~ 9. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

(a) Paid for the physical examination in accordance with subsection ~~17-1~~ 8;

(b) Is declared physically fit to perform the duties required of a firefighter; and

(c) Becomes a volunteer with the volunteer fire department.

~~19-1~~ 10. Except as otherwise provided in subsection ~~17-1~~ 8, all physical examinations required pursuant to subsections ~~13-1~~ 4 and ~~14-1~~ 5 must be paid for by the employer.

~~10-1~~ 11. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to a physical examination required pursuant to subsection ~~13-1~~ 4 or ~~14-1~~ 5 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

~~11-1~~ 12. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, arson investigator or police officer,

↳ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.



~~H2-1~~ **13.** Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

~~H3-1~~ **14.** A person who files a claim for a disease of the heart specified in this section after he or she retires from employment as a firefighter, arson investigator or police officer is not entitled to receive any compensation for that disease other than medical benefits.

Secs. 4 and 5. (Deleted by amendment.)

Sec. 6. The amendatory provisions of this act:

1. Apply only to disablement which occurs on or after the effective date of this section; and
2. Do not apply to any person who, on the effective date of this section, has completed at least 20 years of creditable service, not including any service credit purchased in a retirement system, as a police officer, firefighter, volunteer firefighter or arson investigator in this State.

Sec. 7. 1. This section and sections 2, 3 and 6 of this act become effective upon passage and approval.

2. Sections 1.5, 2.5 and 3.5 of this act become effective on January 1, 2017.



**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session
February 23, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 9:01 a.m. on Monday, February 23, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James A. Settelmeyer, Chair
Senator Patricia Farley, Vice Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Renee Fletcher, Committee Secretary

OTHERS PRESENT:

Wayne Carlson, Executive Director, Public Agency Compensation Trust
Robert Balkenbush, Public Agency Compensation Trust
Michael Rebaleati, Nevada Public Agency Insurance Pool; Public Agency Compensation Trust
Dagny Stapleton, Deputy Director, Nevada Association of Counties
Mary Walker, Carson City; Douglas County; Lyon County; Storey County
Tray Abney, The Chamber
Bob Ostrovsky, Employers Insurance Company of Nevada
Danny Thompson, Nevada State AFL-CIO
Rusty McAllister, President, Professional Firefighters of Nevada

Chris Collins, Las Vegas Police Protective Association
Ron Dreher, Peace Officers Research Association of Nevada
Ryan Beaman, Clark County Firefighters, Local 1908
Tim Ross, Washoe County Sheriff Deputies Association

Chair Settlemeyer:

We will begin the hearing with Senate Bill (S.B.) 153.

SENATE BILL 153: Revises provisions relating to occupational diseases.
(BDR 53-635)

Wayne Carlson (Executive Director, Public Agency Compensation Trust)

Public Agency Compensation Trust (PACT) is an association of self-insured public entities and worker compensation formed under *Nevada Revised Statutes* (NRS) 277.080 through .180, the Interlocal Cooperation Act. The Compensation Trust includes counties, cities, towns, special districts, school districts and hospitals in rural Nevada. I am providing a summary of my testimony ([Exhibit C](#)).

Fundamental principles of workers' compensation laws were passed during the Industrial Age in America, which required employers to waive certain rights and employees to give up their right to sue in lieu of specific benefits set by the Legislature. If an employer failed to provide workers' compensation, the employee could sue under those circumstances and the employer had no common law defense.

The historical key to this trade-off is the nexus to employment. Certain court cases modified NRS 617. Insurance coverage was expanded to include post-employment, for lifetime benefits, which original legislation did not intend. This change created a burden to the taxpayers for past employees no longer providing any service, whether that person be a short-term employee, with 5 years of service, or a long-term employee who worked in that occupation until retirement age.

The Compensation Trust supports the essential services of public safety employees, and we accept an occupational disease exposure connected with some of the work performed. However, it seems that some court cases have misconstrued the intent of workers' compensation laws to the degree that an employee with only 5 years of service becomes eligible for occupational disease benefits far beyond the years of employment. As an example, one employee

worked for 6 years as a police officer, then became an attorney. Under the existing law, that person is still eligible for heart/lung coverage although that person is no longer providing a public service.

Senate Bill 153 is brought before this Committee in an attempt to rebalance the exchange between employers and employees via these workers' compensation principles. The Compensation Trust seeks to change the interpretation of the NRS to require that occupational diseases must be diagnosed and cause disablement during employment. Such a change will remove the present interpretation that such diseases are covered long after the employment relationship ends, whether by termination, with or without cause, change of occupation or retirement.

The original language of S.B. 153 had some errors that inadvertently deleted the post-employment periods for cancer and hepatitis, which we had not requested, and the amended bill reverses, our proposed amendment ([Exhibit D](#)). Our intent was not to modify any of the provisions regarding cancer and hepatitis, with one exception.

There is another rebalancing goal with S.B. 153 to treat the employee partially disabled from an occupational disease the same as any other partially disabled employee. Under the present law, occupational disability employees are able to elect permanent, total disability on an insurance claim. The availability of this insurance election for occupational diseases is very costly since that person will receive benefits for life. Other employees can go through rehabilitation or be retrained for other positions.

Senate Bill 153 removes a long-term, unfunded liability from many government entities in Nevada, both State and local. The Compensation Trust has started a long-term liability fund, based on actuary reports, for post-employment liability ranging from \$20 million to \$80 million. This funding began approximately 10 years ago; however, we have not even raised the minimum dollar figure. Therefore, PACT is trying to eliminate the unfunded liability that was established based on the court case, *Gallagher v. City of Las Vegas*, 114 Nev. 595, 959 P.2d 519 (1998).

An additional factor relates to post-employment physicals. During active employment, employees are subject to physical exams. If a precursor to heart or lung disease is found, the doctor is obligated to correct that condition. If the

employee does not have the correction done, that employee is not entitled to the presumption of benefits. During post-employment, the employer has no control over the medical process. No physical is required and there is no obligation for an employee to comply with doctor orders. This is not currently addressed in the NRS.

The PACT members have established a cardiac wellness program to help prevent heart disease, yet once employees leave, the benefit is no longer available. Medical risk is no longer in the employers' control; however, employers' do have financial obligation for certain occupational diseases. Former employees can relocate to a different state, yet still collect benefits from Nevada if he or she has met the minimum 5-year employment requirement.

In the mock-up proposed amendment, [Exhibit D](#), here are a few of the proposed changes. On page 3, line 3, in green, is clarifying language that cancer causing disablement diagnosed during employment is presumed to have arisen from such employment.

Any language in orange had inadvertently been deleted in the original bill, which was not our intent; therefore, we are reinstating that language. The Compensation Trust recognizes there are certain cancers that have a manifestation period. Existing law provides a time of up to 60 months for post-employment manifestation, which PACT agrees should be retained in the language.

On page 4, lines 12-13, language is being added regarding disabling lung diseases that are diagnosed during the course of employment, so the language is consistent for occupational diseases referenced in S.B 153. On page 4, lines 24-30 are deleted. This is the benefit election for permanent, total disability, which I mentioned earlier. Eligibility for rehabilitation continues to be accessible; however, every employee must follow the same procedure for disability benefits. An employee cannot just elect permanent, total disability.

The following changes on page 6, are as follows: lines 6-12 deletes the same language regarding election of permanent, total disability: lines 21 and 22, consistent language is added for hepatitis needing to be diagnosed during the course of employment. Page 7, line 17 reinstates language that was mistakenly deleted; lines 19-22, regarding post-employment manifestation, are deleted:

lines 23-30, regarding election of permanent, total disability status, from hepatitis, are deleted.

Robert Balkenbush (Public Agency Compensation Trust):

Senate Bill 153 requires heart, lung and hepatitis diseases to be diagnosed, and cause disablement, during employment, for an employee to be eligible for medical benefits, which is consistent with existing law, and the language regarding election for permanent, total disability is being omitted. Existing law allows firefighters, police officers or other law enforcement officials to elect permanent, total disability, even if they are only diagnosed as partially disabled, which allows that employee a benefit of 66.75 percent of their average monthly wage, for life.

If an employee is diagnosed as totally disabled, that person is eligible for the lifetime benefit. However, if an employee is diagnosed as partially disabled, that claim is submitted to the rehabilitation aspect of workers' compensation. That is a service provided by insurance to allow an employee to be rehabilitated to purposeful employment, even if that employment is different from the employment that person had prior to injury.

Michael Rebaleati (Nevada Public Agency Insurance Pool; Public Agency Compensation Trust):

As a recent retiree as an auditor and recorder for Eureka County, I have seen the prohibitive costs associated with the current law and how the court case of *Gallagher* created liability for local governments. We need to balance benefits with workers' compensation principles. For the record, "I have been a volunteer fireman for 32 years and plan to continue."

Senator Atkinson:

Can you clarify whom you are representing?

Mr. Rebaleati:

The Nevada Public Agency Insurance Pool and the Public Agency Compensation Trust represent 15 of the 17 counties for coverage of workers' compensation, liability and casualty insurance.

Senator Atkinson:

What particular problems caused the necessity of S.B. 153? Are costs being exceeded?

Mr. Carlson:

Public Agency Compensation Trust is a self-insured workers' compensation provider, owned by the local governments that are our members. The problem arose from the court case of *Gallagher*, which interpreted the law for a lifetime benefit, where a public employee would be eligible for certain workers' compensation benefits, long after the termination of employment. Thus, an employee with only 5 years of service is entitled for the same benefit as an employee who has 20 years of service.

Although an employee is no longer providing service, PACT is not relieved of the obligation to provide that employee with presumptive benefits for the remainder of his or her natural life. This benefit is where the cost is derived. The Compensation Trust had two separate actuarial analysis reports completed on cost implications. Both reports confirmed the same approximate costs of \$20 million to \$80 million, depending on specific assumptions made for benefits.

The Department of Taxation collected data from other individual self-insured governments. Between both sets of data, the collective costs could reach \$2 billion of unfunded liability. The significant fiscal impact, for which the public is not benefiting, is the problem we are trying to address, and it has caught the attention of the Nevada Taxpayers Association.

Senator Atkinson:

Have these dollar figures come from reports at your agency or another organization?

Mr. Carlson:

Our agency is a Nevada organization for local governments. The \$20 million to \$80 million range is PACT's figure for post-employment liability. The \$2 billion figure is the total Nevada number based on data from the Department of Taxation, only for post-employment liability.

Senator Atkinson:

Where is this data located?

Mr. Carlson:

Two actuarial studies were provided to the Department of Taxation, which remain on record at the Department. I am providing the Department of

Taxation's report of liabilities for 2014 ([Exhibit E](#)) and an analysis on liabilities associated with public employees ([Exhibit F](#)).

Senator Spearman:

As a disclaimer, I am a disabled veteran. All of my disabilities are connected to my military service. I know military personnel who had health issues manifest long after their service to our Country, and are having issues with obtaining benefits. How can you put a value on human life?

Mr. Balkenbush:

The difference between having military service-related health manifestations, whether mental or physical, and what is in S.B. 153, is a conclusive presumption which takes away proof of causation. A person does not need to prove a connection between his or her service and the disease. The benefit is simply granted by law. Our agency is adding a work connection to S.B. 153, so a past employee must prove a connection of an illness to past work service. It is not a question about the value of life, as it is the association with payment of benefits with causation of a disease.

Senator Spearman:

Are you able to place a value on a human life? Why is there a 5-year limit to claim benefits, when exposure to caustic agents may not manifest until long after that time frame?

Mr. Balkenbush:

The 5-year period is existing law. Our agency did not propose that time period.

Senator Spearman:

Are you trying to make the law better? Are you going to change the time frame of manifestation?

Chair Settlemeyer:

What is prompting S.B. 153? Are there any examples that fall under unfunded liability?

Mr. Balkenbush:

One example was an individual who had not worked in law enforcement for 15 years. This individual had bypass surgery that was paid for by health insurance. Three years later the individual filed a claim for a heart transplant.

Under existing law, the county would have to pay benefits due to a conclusive presumption, meaning regardless of the disease, it is presumed to have arisen from the individual's employment.

Chair Settlemeyer:

Was there any intervening cause that clearly shows the condition did not derive from that person's prior employment?

Mr. Balkenbush:

Additional facts found this individual had been abusing alcohol and tobacco; however, these facts did not change the payment of benefits. The current language of the law does not allow past employees to be medically monitored, allowing individuals to live medically unsafe yet still collect on benefits years after employment.

Senator Farley:

Between the unfunded liability and the counterbalance, what percentage of people is actually accessing the heart/lung fund? Do you have to account for all employees less some percent that actually use the fund? Are your associations worried about what could happen or what is actually happening?

Mr. Carlson:

We looked at the population of police and fire personnel within our employment base, and then took data from national health statistics to estimate the percentage of people who would likely develop heart, lung or hepatitis diseases. Cases involving those major surgeries typically cost over \$1 million. Once the analysis was complete, we put together a funding plan, meaning the establishment of a separate rate to collect toward the initial \$20 million for post-employment liability. That cost has been passed on to the member governments, which is a burden to taxpayers.

A driving factor is the demographic known as the baby boomer age, which is going to be a large group. Part of the funding is to help handle the larger number of claims that will be filed. Reserves are set for these potential liabilities. If you do not fund this type of potential liability in advance, then benefit dollars will come out of current operations dollars. There are several large self-insured governments funding on a pay-as-you-go basis. This is a significant risk because if certain factors come into play, the insurers will have to meet the benefit claims first as they are priority obligations.

Senator Manendo:

How many members does PACT cover?

Mr. Carlson:

There are approximately 125 local governments with 14 counties and 13 cities.

Senator Manendo:

What is the number of actual people covered?

Mr. Carlson:

There are approximately 11,000 employees.

Senator Manendo:

How many actual claims have been filed?

Mr. Carlson:

I do not have the breakdown of claims filed specifically for heart, lung and hepatitis diseases; however, the total number of claims filed per year is approximately 800-900.

Senator Manendo:

Of those claims, how many are accepted?

Mr. Carlson:

Most claims are accepted, although I do not have an exact figure.

Senator Manendo:

Are the claims all paid?

Mr. Carlson:

Some of the claims are being paid over time; others have been paid and closed.

Senator Manendo:

Has there been any study conducted on the cost to taxpayers if an individuals post-employment must seek medical assistance after the time period on the proposed amendment has elapsed?

Mr. Carlson:

I do not have that information. Senate Bill 153 and the proposed amendment pertain to workers' compensation and an employment-based issue. Where you obtain health coverage after employment at any given occupation should be up to the next employer or some other health plan.

Senator Manendo:

If any person cannot pay for medical aid received at any hospital, that charge becomes a burden on taxpayers; this must be taken into consideration during deliberations for S.B. 153.

Senator Atkinson:

Is there a number of retirees that have filed claims?

Mr. Carlson:

I will need to obtain that information from our claims administrator.

Senator Atkinson:

When does coverage for a retiree end?

Mr. Carlson:

Coverage does not end until the retiree's death, at which time the benefit transfers to a surviving spouse and expires at the death of the spouse.

Senator Atkinson:

Can you provide the total number of claims submitted with the amount of claims approved and the amount of claims denied? Can you explain the actual studies leading to S.B. 153 and the proposed amendment?

Mr. Carlson:

There were two studies conducted. The first study was completed in 1999 after the decision on the *Gallagher* court case. The Compensation Trust tried to get legislation amended immediately after the court decision, and has been unsuccessful since. The second study, completed in 2008, had data consistent with the 1999 study. Each study was conducted by different actuaries.

Senator Atkinson:

Is there a fair comparison between the data collected in 1999 and 2008?

Mr. Carlson:

Since there were two independent actuaries who conducted studies at different times, the conclusions are consistent. The important information is the combined data from the actuaries and all entities. It is over \$2 billion. \$20 million to \$80 million is a very large amount for the Compensation Trust. Our annual revenue for all services, programs and claims provided, is \$14 million. There is a huge impact to the rural cities and counties with membership in the PACT.

Senator Atkinson:

Would you expect any additional differences in information between 1999 and 2015?

Mr. Carlson:

The purpose of an actuarial study of this type is focused on reserve dollars that need to be set aside to fund claims when they manifest.

Senator Hardy:

What are you doing to meet your \$14 million expenditure? Are you doing anything with reinsurance to allow for additional expenditures? How are you charging each of your member counties?

Mr. Carlson:

Annual revenue for the PACT is approximately \$14 million for all coverage, service and claims for every employee, including \$2 million toward post-employment heart-lung exposure. There is a separate rate charged to full-time police and fire employees, per \$100 of payroll. Of the \$2 million collected, we place that in reserves for future claims on assumption that the money will be paid at some point because it is such an uncertain area of law, based on the actuarial studies.

To date, we have accumulated approximately \$13 million toward the initial \$20 million. By Board of Directors policy, the Compensation Trust has consistently raised the rate for public safety category by 10 percent per year to accelerate the accumulation of needed funding.

Senator Hardy:

Do you use reinsurance?

Mr. Carlson:

Yes, we do use reinsurance. The Compensation Trust pays a premium to the reinsurer; however, in the public safety category, our retention is \$500,000 with the self-insurance fund. The Compensation Trust also has its own captive insurance company that shares in the excess claim amount up to \$3 million with the reinsurer. Most of the risk is retained between the PACT captive insurance and the reinsurer.

Senator Hardy:

If a large claim was initiated, are you currently covered up to \$20 million or more?

Mr. Carlson:

The Compensation Trust retains an approximately \$2-million risk fund in its own captive insurance, and reinsurers provide the balance up to the workers' compensation statutory limit.

Senator Hardy:

Are you covered up to any amount of benefit claim?

Mr. Carlson:

Yes, we are covered up to any dollar amount.

Senator Spearman:

What does the term "scheme" mean? What are presumptive benefits?

Mr. Carlson:

The term "scheme" stands for "benefits."

Senator Spearman:

Are you separating firefighters and police officers as a separate category from other employees and the presumption of what claims can be filed for particular benefits?

Mr. Carlson:

For police officers and firefighters, the particular diseases of heart, lung and hepatitis, the Legislature decided the conclusive presumption was work-related, regardless of any proof. The court case, *Gallagher*, decided the benefit was

receivable for life. No other employee type has heart, lung, cancer or hepatitis as a presumed disease.

Senator Spearman:

Aside from police officers and firefighters, how many other professions have a presumption of danger when they go to work?

Mr. Carlson:

From a statutory standpoint, police officers and firefighters are the only categories with a presumption of danger. Philosophically speaking, others may be exposed to conditions believed to be dangerous.

Dagny Stapleton (Deputy Director, Nevada Association of Counties):

The Association of Counties supports the efforts to manage costs of long-range presumptive eligibility for workers' compensation benefits due to the significant unfunded liabilities that exist in county budgets across the State. The Association continues to poll members regarding individual unfunded liabilities.

Mary Walker (Carson City; Douglas County; Lyon County; Storey County):

We support S.B. 153. It brings more reason to the workers' compensation statutes.

Tray Abney (The Chamber):

The Chamber members support S.B. 153. Police officers and firefighters should definitely be well paid and compensated for their health care costs, as well as for any injuries they acquire on the job. Public safety employees put their lives on the line every day, not knowing if they will come home at the end of the day. However, if an individual leaves the fire department after 5 years of employment, moves to another state and drinks, smokes and eats badly, then at age 60 can claim a manifestation of a disease was caused by his or her employ at the fire department. Nevada would be liable to pay benefits to that individual, without any proof that the manifestation was caused by his employment in Nevada.

Senate Bill 153 changes the law so an individual would need to prove that any heart, lung or hepatitis disease was caused by employment as a public safety worker. Every dollar spent on paying these lifetime benefits is one less dollar that a local government has to pay toward current salaries, benefits for current employees, parks or any other fund paid by each local government.

Bob Ostrovsky (Employers Insurance Company of Nevada):

There is a necessity for clarification on S.B. 153, section 6. Public safety employees retire with the expectation of a future benefit if needed. If S.B. 153 with the proposed amendment passes, the future benefit is taken away. It is only fair that if a previously qualified individual leaves work or retires, then that individual should remain qualified. Section 6 does not address if a qualified recipient of benefits stays qualified or loses the ability to file a future claim.

Under NRS 617.358, any employee not working in public safety filing a claim for compensation due to an occupational disease faces a rebuttable presumption that the disease did not arise out of and in the course of employment. An individual no longer employed and diagnosed with an occupational disease faces a hard road to prove the disease was attributed to his or her employment. For firefighters and police officers, the law is totally opposite by covering any occupational disease with lifetime benefits.

Employers Insurance would like some middle ground or clear lines for what is covered and not covered under any particular policy, and would support a more liberal benefit interpretation. A premium was collected for an insurance policy based on the current statute; therefore, retroactive benefits cannot be added nor benefits taken away at a later date. If there were unfunded liability, it would need to be dealt with by the agency or insurance company that accepted the liability.

Senator Hardy:

There is funding available for policies in place. Are you saying we should not offer the lifetime presumption of benefits to new hires?

Mr. Ostrovsky:

Insurance policies should be clearer regarding presumptive benefits for all employees starting with new hires. These policies are written as of a specific date, claims made after a certain date, or state a manifestation time, such as 10 or 20 years, but not a lifetime.

Policy requirements are very clear. Under NRS 616C.015, an employee must provide written notice of an on-the-job injury within 7 days. Per NRS 616C.020, the insurance company must be notified within 90 days of the injury. These policy requirements are very clear and simple, yet it gets complicated with diseases that manifest in the future.

Senator Atkinson:

Should benefits be received at a reduced rate?

Mr. Ostrovsky:

Employers Insurance is not advocating any position other than what the statute requires. There is a plethora of choices the Committee has as a matter of policy. If you retire or leave employment, you need to look to the law at the time of retirement. The benefit should not be taken away. Current lifetime benefit claims already exist so it does not help with the reserve problem. As a matter of policy, the same position taken when trying to increase benefits should be taken when you decrease benefits. You should not take away what an employee has earned.

Danny Thompson (Nevada State AFL-CIO):

The AFL-CIO represents more than 200,000 individuals in the State ranging from construction, hotel, public safety and other workers who have varying exposure to risk. The recent tunnel for water from Lake Mead was completed by our members. There was a known risk since the workers on the tunnel had to agree to an Office of Safety and Health Administration waiver. An unforeseen, unplanned accident took the life of one individual.

Although trained for many different scenarios, when public safety workers show up to a call, such as with the tunnel accident at Lake Mead, no amount of planning can anticipate for the unknown things that can happen at any particular job.

The original part of the Legislative Building was built with asbestos. If the building caught on fire, the responding firefighters do not have the opportunity to spend time with an analysis of the building materials, or determine if any transformers contain polychlorinated biphenyl; both substances are known as cancer-causing substances.

There are substances proven to cause cancer that take many years to manifest, sometimes up to 20 or 30 years. The current law is in place to compensate the workers who take these risks to provide safety measures for the public; they are well-deserved benefits. When I was a legislator, I brought forth this measure due to all of the claims that were being denied. Every single claim for an occupational disease, post-employment, was denied by local government. Every member of the AFL-CIO opposes S.B. 153.

Rusty McAllister (President, Professional Firefighters of Nevada):

I have provided Website links ([Exhibit G](#)) for seven of the hundreds of studies proving public service workers are exposed to known cancer-causing substances. Proponents of S.B. 153 must be well aware of this fact since the insurance companies are paying the claims. Since benefit payments are getting expensive, insurance companies want to change the law.

The heart and lung provisions for police officers and firefighters were added in the statute in 1965 and 1967. Cancer protections were provided in 1987 for firefighters. In 2001, hepatitis protection was added as an occupational disease, and in 2003, police officers were added to coverage only specified for firefighters. Since the inception of the statutes, there have been numerous amendments with each one meant to strengthen the statute. Every proposed amendment to exclude the occupational disease benefit has failed since 1999 after the court case *Gallagher* approved the benefit for life.

The heart and lung benefits extend into retirement. The cancer provisions only protect us for 5 years post-employment, even though scientific evidence shows the latency period for many types of cancer is over 10 years, with a few cancers manifesting as much as 30 years after exposure. The 5-year coverage period is not enough, yet it is all we have. Hepatitis coverage only follows a post-employee for 1 year. When the hepatitis coverage was added to the statute in 2001, scientific evidence, at that time, showed manifestation should occur within 12 months.

The proposed amendment, [Exhibit D](#), leaves the cancer and hepatitis provisions in the statute; however, S.B. 153 totally restructures the heart and lung benefits. The heart and lung benefits would completely stop once a person left employment, regardless of time served. The firefighters association believes that veterans should be well compensated with benefits to take care of them after their service. Public safety workers are exposed to many of the same risks as the veterans, and should be compensated in much the same way. The statute only provides benefits for medical coverage, which should not be revoked.

I can provide evidence showing benefits have been denied on claims which diagnoses are conclusively presumed to have arisen from employment, some cases dragging on longer than 3 years.

Actuary reports can be skewed to a person's benefit, depending on the information given them. Actuary reports can also be wrong, as is the case with two reports provided by one of the larger cities in Nevada. They say if the hepatitis law passed, payment of benefits would break the city due to unfunded liability. There have only been three cases of hepatitis since that time which have been treated and cured. No such bankruptcy happened.

In 2004, a questionnaire was sent to all employers of police and fire personnel consisting of questions pertaining to the number of claims received between active and retired personnel, as well as how many claims were approved and denied. I am providing a report from the City of Las Vegas showing data collected on heart and lung cases from 1984 through 2004 receiving permanent total disability for claims ([Exhibit H](#)). There are only 32 cases in 20 years.

Of the companies that responded to the questionnaire, there were 722 total claims, with only 43 from retired employees. Total claim payments, medical and indemnity, were \$7,768,000. Of the \$7.7 million, \$1,195,000 was paid on the 32 heart and lung cases over a 20-year period.

On the bottom of the provided report, [Exhibit H](#), you will see changes to the amount of self-insurance per claim, or attachment point. From the January 1986 through June 1998 reporting period to the July 1998 through June 2002 reporting period, the attachment point actually dropped from \$500,000 to \$350,000. However, the next recording period of July 2002 through June 2003, the attachment point shot up to \$2 million, then up to \$5 million in the July 2003 through June 2004 period.

After going over all the data provided, it was hard to determine what caused the attachment point value to skyrocket. After additional research, it was determined that the first large increase occurred after the attack on the Twin Towers of the World Trade Center in New York City, when many public safety workers lost their lives, which seems to be the reissuing of terrorist insurance. Our Firefighters Association submits that insurance companies are losing money in payments on many claims other than just heart and lung claims. Firefighters and police workers will continue to pull people out of burning buildings and protect the public from harm. These workers will continue to expose themselves to detrimental reliance, knowing if they get injured, they will be taken care of. Therefore, our Firefighters Association opposes S.B. 153.

Chris Collins (Las Vegas Police Protective Association):

Police officers and firefighters have no idea what awaits them when responding to service calls. Safety workers are exposed to chemical, biohazard and nuclear materials as well as meth labs. Some of our members have been exposed to ricin and anthrax, and the association had to enter into litigation to get the benefit claims accepted.

I was on the Special Weapons and Tactics team for many years and executed quite a few search warrants, many of which were on active meth labs. Upon returning to our home base, the team requested to fill out workers compensation C-4 Forms to cover ourselves for the poisonous fumes we inhaled. The entire team was informed that we did not need to fill out the forms because all safety workers would be taken care of. Every team member believed their Country would take care of them medically for the service provided. Senate Bill 153 is trying to strip us of hard-earned coverage.

The proponents of S.B. 153 stated that the baby boomer generation would soon be trying to collect on benefits so the insurance industry needs to ramp up for liabilities. However, in Nevada, the number of police and firefighters in 2007 was 11,936; in 2008, there were 12,367; and now in 2015 there are 11,817. Facts show the baby boomers did not arrive. There are fewer safety workers serving a greater population. The increased insurance liability due to heart, lung and hepatitis disease simply is not true and our Police Association strongly opposes S.B. 153.

Chair Settlemeyer:

Many states are trying to address the same medical liability issues. Medical benefits should be available for the workers who deserve it. A few states have taken away the presumptive clause if the worker is a cigarette smoker. How is the best way to preserve the liability when a worker leaves one job for another far more dangerous job for another 10 years where he or she was most likely infected?

Mr. McAllister:

I agree that every deserving safety worker should have a protected benefit. In 2011, I offered an amendment stating a safety worker who is vested at 5 years and then leaves employment should be covered for 5 years then be off the policy. For longer employment time, workers should be covered for the same

number of years he or she worked. I was informed by a representative for the PACT that they wanted all terms on the proposed bill or nothing at all.

There is stipulation in the NRS stating that if an employee does not make a good-faith effort toward correcting a pre-existing condition and/or submit to X-rays at specified intervals during employment, then that individual is no longer eligible for benefits. I would like to comment that I am submitting written testimony from Francesca Litow ([Exhibit I](#)).

Chair Settlemeyer:

What about post-employment? If Nevada is going to offer medical coverage to individuals after employment, should not the individuals share the responsibility for their well-being?

Mr. McAllister:

Our Firefighters association would support post-employment physical examinations.

Senator Atkinson:

What is the longest time frame an individual has been in retirement before accessing needed benefits? How many retirees have accessed benefits?

Senator Harris:

Data on the handout provided, [Exhibit H](#), in the fourth column, what do the initials FF and CO stand for? Is there any data available more current than 2004? Is the data provided for active duty employees or retirees?

Mr. McAllister:

The FF stands for firefighter and CO stands for correctional officer. I do not have more current data than what has been provided. To the best of my knowledge, the data provided is on active duty employees.

Ronald Dreher (Police Officers Research Association of Nevada):

I am a 26-year retired police officer and a veteran of the U.S. Army who served in Vietnam. I have seen this legislation worked on by the former State Industrial Insurance System and the PACT for many years. Some of my fellow officers had heart and lung cases that were denied, even an on-duty police officer who was conclusively presumed had his claim denied. Senate Bill 153 does not fix this issue. The amount of denied claims is an insult to the men and women who

have served this Country and the Peace Officers Association opposes S.B. 153. Our Peace Officers Association is about the future of law enforcement. Senate Bill 153 is retroactive; there is no closure date. If this bill passes, I and every retiree from law enforcement and firefighting will have zero coverage. Every law enforcement and firefighting association request this Committee oppose S.B. 153.

Ryan Beaman (Clark County Firefighters, Local 1908):

On behalf of my members and every first responder in the State, I ask this Committee to stand with those who serve and protect its communities. Assembly Bill No. 345 of the 71st Session collected a lot of data regarding acceptance and denial of claims. The 2013 report was amended to only collect the information regarding police and firefighters. In 2014, the data shows 349 reported claims for police officers and firefighters; 3 claims were for cancer, which were accepted; 4 were lung claims; 9 were heart claims. There were a total of 164 denials. The report information states the average medical cost per claim is approximately \$5,700. The report does not state if the claims are for active or retired employees. This association opposes S.B. 153.

Tim Ross (Washoe County Sheriff Deputies Association):

Police officers and firefighters do not have the luxury of knowing they will be safe on any day they go to work. Our associations want safety workers to be taken care of if an injury or death befalls them. Regarding a proposed \$2 billion unfunded liability, it would take every single firefighter and police officer to file a claim tomorrow to get near the \$2 billion figure.

Senator Atkinson:

The proponents stated that all submitted claims were approved; however, the firefighter and police associations are stating numbers of denials. I need to see factual data on approvals and denials.

Mr. Dreher:

I have represented law enforcement officers in Nevada for 31 years. I have personal experience of seeing denied claims, even claims that have been submitted while individuals were still employed and there was conclusive evidence that the heart attack was work-related.

Senator Spearman:

What is the length of time a newly hired safety worker needs to be employed before being put into a dangerous situation?

Mr. Dreher:

A newly hired safety worker can and will be put into dangerous situations on day one.

Chair Settlemeyer:

Due to time constraints, we are not able to hear all those who have signed in to testify. We have received additional Web links to studies provided by Virginia Hunt ([Exhibit J](#)), and a letter from Nancyann Leeder ([Exhibit K](#)).

Remainder of page intentionally left blank; signature page to follow.

Chair Settlemeyer:

This Committee meeting is adjourned at 11:09 a.m.

RESPECTFULLY SUBMITTED:

Renee Fletcher,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY

Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	27		Attendance Roster
S.B. 153	C	1	Wayne Carlson	Written Testimony
S.B. 153	D	9	Wayne Carlson	Mock-Up Proposed Amendment 9668
S.B. 153	E	2	Wayne Carlson	Department of Taxation FY 2014 Statewide Report on Liabilities Associated with Public Safety Employees
S.B. 153	F	1	Wayne Carlson	Analysis on Liabilities Associated with public Employees
S.B. 153	G	2	Rusty McAllister	Web links to Studies
S.B. 153	H	1	Rusty McAllister	Disability Claims for Heart/Lung
S.B. 153	I	7	Rusty McAllister	Letter from Francesca Litow
S.B. 153	J	2	Senator James A. Settlemeyer	Web links to studies provided by Virginia Hunt
S.B. 153	K	1	Senator James A. Settlemeyer	Letter from Nancyann Leeder

AGENDA ITEM 5(c)

**REPORTS FROM THE SUBCOMMITTEE
REGARDING GUIDANCE ON ENTERPRISE
FUNDS AND SPECIAL REVENUE FUNDS**



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DEPARTMENT OF TAXATION

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Guidance Letter 15-002

Date: October 27, 2015

To: County Finance Officers

From: Terry E. Rubald, Deputy Executive Director, Department of Taxation

CC: Committee on Local Government Finance, Marvin Leavitt, Chairman
Deonne Contine, Executive Director, Department of Taxation
Kelly Langley, Supervisor, Local Government Finance, Division of Local Government Services

Subject: Special Revenue Funds and Enterprise Funds

SUMMARY:

This Guidance Letter recognizes Governmental Accounting Standards Board (“GASB”) Statements, including but not limited to, No. 33, “Accounting and Financial Reporting for Nonexchange Transactions;” No. 34, “Basic Accounting Standards and Management’s Discussion and Analysis” and No. 54, “Fund Balance Reporting and Governmental Fund Type Definitions” are appropriate standards for the preparation of financial statements for all funds and comply with the requirements of NRS 354.612(2) as generally accepted accounting principles. In addition, this Guidance Letter discusses the nature and use of special revenue funds and enterprise funds, and provides examples.

This Guidance Letter does not change any interpretations of any existing general accounting principles followed by a local government. The purpose in issuing this Guidance Letter is to raise awareness about differences between using special revenue fund and enterprise fund accounting, by highlighting and discussing certain GASB statements in relation to Nevada law.

AUTHORITY FOR THIS LETTER:

NRS 354.472(1)(d): One of the purposes of the Local Government Budget and Finance Act is to provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money. NRS 354.612(2) requires fund financial statements and other schedules to be prepared in accordance with generally accepted accounting principles.

APPLICATION:

The Department finds that Governmental Accounting Standards Board (“GASB”) Statements, including but not limited to, No. 33, “Accounting and Financial Reporting for Nonexchange Transactions;” No. 34, “Basic Accounting Standards and Management’s Discussion and Analysis” and No. 54, “Fund Balance Reporting and Governmental Fund Type Definitions” are appropriate standards for the preparation of

financial statements for all funds and comply with the requirements of NRS 354.612(2) as generally accepted accounting principles.

Based on the definitions of proprietary fund and special revenue fund found in NRS 354.553 and 354.570, as well as GASB No. 34, a special revenue fund is a type of governmental fund, whereas an enterprise fund is a type of proprietary fund.¹ In either case, the level of financial reporting must be based on a determination of whether the special revenue fund or the enterprise fund is a major or non-major fund.² The criteria for designation as a major fund is measured by whether the total assets, liabilities, revenues, or expenditures/expenses of the individual special revenue fund or enterprise fund are at least 10 percent of the corresponding total for all funds of that category or type. In addition, the total assets, liabilities, revenues, or expenditures/expenses of the individual special revenue fund or enterprise fund must be at least 5 percent of the corresponding total for all governmental and enterprise funds combined.³

When establishing a new fund, it is important to examine the activities that meet the criteria for using a particular kind of fund. For example, a governmental fund, such as a special revenue fund, generally has activities which are financed through taxes, intergovernmental revenues, and other non-exchange revenues. In a *nonexchange* transaction, a government gives (or receives) value without directly receiving (or giving) equal value in return, as opposed to an *exchange* transaction, in which each party receives and gives up essentially equal values.⁴ Business-type activities financed in whole or in part by fees charged to external parties for goods or services are usually, but not always, reported in enterprise funds.⁵ An enterprise fund essentially reports exchange transactions.

GASB No. 34, ¶78 outlines the financial statements required for governmental funds, including a balance sheet and statement of revenues, expenditures, and changes in fund balances. GASB No. 34, ¶91 indicates the required financial statements for a proprietary fund include a statement of net assets or balance sheet; a statement of revenues, expenses, and changes in fund net assets or fund equity; and a statement of cash flows.

Enterprise Funds

NRS 354.517 defines an enterprise fund as 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.

Similarly, ¶67 of GASB Statement No. 34 states that an enterprise fund may be used to report any activity for which a fee is charged to external users for goods or services. In addition:

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—

¹See complete statutory reference for NRS 354.553 and 354.570 at the end of this Guidance Letter. *See also*, ¶63, ¶64, ¶66, ¶67, GASB Statement No. 34 (June 1999), pp. 25-26.

²¶75, GASB Statement No. 34 (June 1999), p. 28.

³¶76, GASB Statement No. 34 (June, 1999), p. 28.

⁴¶7, **GASB Statement No. 33 (December, 1998), p. 3.**

⁵¶15, GASB Statement No. 34 (June, 1999), p. 9.

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.)⁶

- b. Laws or regulations require that the activity’s costs of providing services, including capital costs (such as depreciation 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).

Footnote 33 to ¶67 states that:

These criteria do not require insignificant activities of governments to be reported as enterprise funds. For example, state law may require a county’s small claims court to assess plaintiffs a fee to cover the cost of frivolous claims. However, taxes, not fees, are the principal revenue source of the county’s court system, and the fees in question cover only the cost of frivolous small claims court cases. In this case, the county would not be required to remove its court system or the small claims court activity from its general fund and report it in an enterprise fund. Conversely, a state department of environmental protection regulation may require a water utility to recover the costs of operating its water plant, including debt service costs, through charges to its customers—the utility’s principal revenue source. Because these charges are the activity’s principal revenue source and because the water utility is required to recover its costs, the utility should be reported as an enterprise fund.

In explaining enterprise fund reporting requirements, GASB 34, ¶387 states that:

Perhaps most significantly, this Statement makes clear that enterprise fund reporting should be used for any activity that is financed with *debt secured solely by net revenue* from its fees and charges to external users. Enterprise fund reporting is also required for any activity that operates under *laws or regulations* requiring that its costs of providing services, including capital costs (depreciation or debt service), be recovered with fees and charges. The final criterion—requiring enterprise fund reporting for any activity for which management establishes fees and charges, pursuant to its *pricing policies*, designed to recover its costs of providing services, including capital costs—is similar to the existing criterion. However, it adds an element of objectivity by basing the standard on established policies rather than management’s intent. Further, this Statement makes clear that all criteria for required use of enterprise fund reporting should be applied only in the context of an activity’s principal revenue sources. For example, paragraph 67a requires an activity to be reported as an enterprise fund if the activity is financed by debt secured solely by a pledge of the net revenue from fees and charges of the activity. To apply the principal revenue source test in relation to this criterion, a government should compare an activity’s pledged revenues to its total revenues.

⁶ In practice, there are exceptions. For example, sometimes general obligation (GO) backing is needed for enterprise funds in small rural communities so a lower interest rate can be obtained from the state bond bank. Using GO backed revenue bonds does not automatically require a change from an enterprise fund to a special revenue fund.

Examples of an Enterprise Fund

Background

A general power of a county is acquire, improve, equip, operate and maintain a variety of projects, including sewerage and water projects. *NRS 244A.057*. The Board of County Commissioners may issue special obligation bonds to acquire, improve and equip any sewerage or water project. *NRS 244A.0587*. A county may charge license fees or other excise taxes to acquire, operate and maintain a project, and ensure that revenue obligation bonds are paid. *NRS 244A.063*.⁷

For example, the Douglas County Board of County Commissioners established the Carson Valley Water Utility Fund by resolution adopted May 3, 2012. See *Appendix for Exhibit 1, Resolution No. 2012R-037*. The Board resolved to use the existing working capital from four individual water utility funds to establish a consolidated water utility fund and further resolved to recover the costs of operation of the water system, including overhead, through user charges, without producing any significant amount of profit in the long run. The new Water Utility Fund is designed to account for all revenues and all charges related to the consolidated operations, management and rate setting of four legacy utilities.

Analysis

In this example the Douglas County Board of County Commissioners has the authority to establish an enterprise fund pursuant to *NRS 354.612*. The resolution meets the conditions in *NRS 354.612* for an enterprise fund. For instance, subparagraph 4 requires the local government to furnish working capital for the fund which the resolution addressed by transferring the working capital from four legacy utilities to the current fund. In addition, *NRS 354.612(4)* requires the recovery of the costs of operation, including overhead, without “producing any significant amount of profit in the long run.” This objective was also included in the resolution and specifically referenced “user charges” as the means by which operation costs would be recovered. The resolution was consistent with the authority provided in *NRS Chapter 244A*.

“User charges” take the form of water usage fees and connection charges. Payment by water users of usage fees and connection charges are exchange transactions because each party gives up and receives something of equal value. Rates are typically set to recover costs of operation and maintenance. This meets the definition of GASB 34 ¶ 67(c) requiring the use of an enterprise fund when pricing policies for fees and charges are designed to recover costs.

Special Revenue Funds

GASB Statement No. 54 “Fund Balance Reporting and Governmental Fund Type Definitions,” updates the definitions of governmental fund types, with the most significant changes related to special revenue funds. The nature of a special revenue fund is discussed at Paragraph 30:

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

⁷ Cities have similar authority. A general power of a city is to acquire, improve, equip, operate and maintain a variety of projects including sewerage and water projects. *NRS 268.730*. A city may defray the cost of acquisition, improvement and equipment through general obligation bonds, which may be payable from taxes and further secured by a pledge of other revenues derived from any other income-producing project of the city. *NRS 268.732*. A city may charge license fees or other excise taxes to acquire, operate and maintain a project, and ensure that revenue obligation bonds are paid. *NRS 268.738*.

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.

GASB Statement No. 54 abandons the reserved and unreserved classifications of fund balance and replaces them with five new classifications: non-spendable, restricted, committed, assigned and unassigned. These classifications will indicate the level of constraints placed upon how resources can be spent and identify the sources of those constraints.

The terms “restricted” or “committed” are references to constraints placed on the use of the revenue source. For example, a fund balance is “restricted” when the constraints are either externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or imposed by law through constitutional provisions or enabling legislation.⁸ A “committed” fund balance includes amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-making authority. “Committed” amounts cannot be used for any other purpose unless the government removes or changes the specified use by taking the same type of action, such as legislation, resolution, or ordinance, which was employed to previously commit those amounts. A committed fund balance also should incorporate contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.⁹

In the past, special revenue funds were reported in instances where there was a specific spending purpose, but not necessarily a specific revenue source. The new definition of a special revenue fund means that local governments need to evaluate resources *received* to determine if they qualify for reporting in a special revenue fund. An activity may no longer be reported as a special revenue fund based only on management’s desire to account for it separately. For all major special revenue funds reported, local governments will need to disclose the purpose of the fund and the revenues and other resources reported in the funds in the notes to the financial statements.

Please note that the change in classifications of fund balance and special revenue fund financial statement reporting requirements detailed in Statement No. 54 does not require changes in the way a local government budgets and internally accounts for special revenue funds; and the Department has not changed the budget reporting forms to reflect the new classifications.

In addition, GASB Statement No. 54 states at Paragraph 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. 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.

Local governments may use the following calculation to determine whether an activity would qualify for reporting as a special revenue fund:

$$\text{Substantial portion of inflows} = \frac{(\text{restricted revenues} + \text{committed revenues})}{\text{Total Inflows reported in the fund}}$$

⁸ ¶34, GASB Statement No. 34 (June 1999), p. 16. See also ¶8, GASB Statement No. 8 (February 2009), p. 4.

⁹ ¶10, GASB Statement No. 10 (February 2009), p. 5.

In the calculation, restricted revenues are defined as resources externally restricted or having restrictions imposed by internal enabling legislation (same definition as restricted net assets used in government-wide reporting). The committed revenues are resources with constraints imposed by the highest level of the government, where the constraints can be removed only by a similar action of the same governing body. Total Inflows are defined as the inflows of all financial resources. Total inflows will include transfers and other financing sources such as debt issuances.¹⁰

“Substantial portion” of inflows is not defined in Statement No. 54, however, the Government Finance Officers Association has indicated “around 20 percent” is reasonable for justifying a special revenue fund; and it is a commonly used threshold. Local governments also need to consider factors such as past resource history, future resource expectations and unusual current year inflows such as debt proceeds.¹¹

An example of how to analyze or “prove up” whether the total revenue sources are substantially restricted, committed or assigned to the specified purpose of the fund is attached as Exhibit 2 from Churchill County. If the analysis shows that the restricted and committed resources are less than 20%, then the local government can take action to remedy the situation by going through the process of formally committing additional resources so that the inflow of restricted and committed resources represent a substantial component of the total inflow.

Examples of Special Revenue Funds

Two examples of a special revenue fund may be found in the Appendix of this Guidance Letter. The first example is a special revenue fund for a landscape maintenance district created by resolution adopted by the Douglas County Board of Commissioners. See *Exhibit 3 in the Appendix*. In this case, the initial financing source is a developer funded security deposit and subsequent revenue will be annual assessments levied on benefiting property owners. The revenue will be restricted to expenditures for improvements or maintenance of parcels within the district.

A second example of a special revenue fund is the “Infrastructure Fund” created by resolution adopted by the Carson City Board of Supervisors. See *Exhibit 4 in the Appendix*. The revenue source is a sales tax of one-eighth of one percent (0.125%). The proceeds of the tax may only be used to fund certain public infrastructure projects identified in the Plan of Expenditure adopted by the Board of Supervisors on April 17, 2014.

In both examples, the revenue source meets the definition of a “committed” fund source because the governing board took formal action to restrict the use of the revenue. However, we would need more information to determine whether those committed funds represent a “substantial” portion – at least 20% - of the total revenue inflow.

Example of a Special Revenue Fund – Or is it? – Fire Districts

Background

A fire protection district formed pursuant to NRS Chapter 474 may sue and be sued; arbitrate claims; and contract and be contracted with. *NRS 474.125*. In addition, a fire protection district may impose a property tax rate not to exceed 1 percent of the assessed value within the district, including net proceeds, to cover the costs of establishing, equipping and maintaining the district with fire-fighting facilities. *NRS 474.190*. Under *NRS 474.200(3)*, two separate funds must be created for the district, an operating fund and a district emergency fund. The district emergency fund must be used solely for emergencies and must not be used for regular operating expenses. In addition, the district may issue

¹⁰ Washington State Auditor’s Office, “GASB Statement 54 – Focusing on Special Revenue Funds,” page 37, accessed 4-17-15 at <http://digitalarchives.wa.gov/WA.Media/do/BE1679E72F5484784D2834ACA64AE00E.pdf>

¹¹ Ibid, p. 37 and New York Division of Local Government and School Accountability, “Fund Balance Reporting and Governmental Fund Type Definitions,” p. 5, accessed 4-17-15 at <https://osc.state.ny.us/localgov/pubs/releases/gasb54.pdf>

bonds for purchase of equipment and acquisition of property; and may levy a tax sufficient to pay for the bonds. Under NRS 474.300(4), proceeds of the tax levied for debt service must be placed in a special fund to pay the principal and interest on the bonds.

Analysis

Clearly the property taxes in this example are imposed non-exchange revenues resulting from an assessment on property. This is a characteristic of a governmental fund rather than a business-entity type fund.

Next, the analysis should consider whether the governmental fund is a special purpose fund. As discussed in GASB No. 54, ¶ 30, a special revenue fund is used to account for and report the proceeds of specific revenue sources which are restricted or committed to expenditure for specified purposes other than debt service or capital projects. In this example, the district may levy a tax to pay for bonds for equipment and property, so the revenue received for debt service does not necessarily mean the fund is a special revenue fund.

NRS 474.200(3) requires a portion of the property tax to be deposited in the district emergency fund, and the fund must be used solely for emergencies. In this case, the property tax revenue source appears to be restricted for a specified purpose other than debt service or capital projects. "Money collected to meet unforeseen emergencies" appears to be a restriction.

Further analysis is needed, however, because the emergency fund may still not qualify as a special revenue fund. This is so because the uses which may be made from the emergency fund need to be defined in order to determine whether the fund balance should be reported as restricted or committed.

Some governments formally set aside amounts in governmental funds under formal stabilization-type policies that can be expended only when certain specific non-routine circumstances exist. For example, typical purposes for which stabilization funds are set aside include emergency situations; unanticipated significant revenue shortages or budgetary imbalances; working capital needs; contingencies; and others. The authority for such funds generally is derived from statute, ordinance, resolution, charter, or constitution¹², as in this example.

For purposes of reporting fund balance, stabilization amounts should be reported in the general fund as restricted or committed if they meet the criteria set forth in GASB Statement No. 54, as amended, based on the source of the constraint on their use. Stabilization arrangements that do not meet the criteria to be reported within the restricted or committed fund balance classifications should be reported as unassigned in the general fund.

In this example, the source of the emergency fund is a portion of the property tax rate and is restricted. However, GASB 54 states that "a stabilization amount that can be accessed in an emergency would not qualify to be classified within the committed category because the circumstances or conditions that constitute an emergency are not sufficiently detailed. If the revenue from the property tax is restricted or committed, then the emergency fund qualifies as a special revenue fund. If the source is not restricted or committed, then the stabilization arrangement discussed above applies.

Example of Application of Criteria to determine whether Fund is an Enterprise Fund or a Special Revenue Fund

Nevada General Improvement District

NRS 318.197 permits a governing board of a general improvement district to fix rates, tolls or charges other than special assessments, including but not limited to, service charges and standby service charges, for services or facilities furnished by the district. NRS 318.197 is permissive rather than

¹² ¶20, GASB Statement No. 54 (February 2009), p. 9.

mandatory in that the governing board “may” fix rates, tolls or charges to cover the costs of services or facilities furnished.

The board may “pledge the revenue for the payment of any indebtedness or special obligations of the district.” Such rates and tolls constitute a perpetual lien on and against the property served, and may be collected on the tax roll together with the county’s general taxes (NRS 318.201). In addition, NRS 318.225 grants the governing board the power and authority to levy ad valorem taxes. NRS 318.275 permits the district to borrow money and issue GO bonds, revenue bonds, and special assessment bonds. Revenue bonds issued for the purpose of acquiring or improving facilities appertaining to the basic purpose of the district must be made payable solely out of the net revenues for any and all of the income-producing facilities and services provided by the district (NRS 318.320). General obligation bonds and other general obligation securities payable from general property taxes may be additionally secured by a pledge of and lien on net revenues. (NRS 318.325).

Applying GASB Statement 34, ¶67(a-c) to the Nevada statutory framework for general improvement districts, since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197, an enterprise fund is not required to be used. However, if the general improvement district’s activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity, then it would be required to use the enterprise fund accounting. This would be the case if the district issued revenue bonds pursuant to NRS 318.320. If the district’s activity is financed with debt secured by both taxes and user fees, then it is not required to use enterprise fund accounting, as would be the case under NRS 318.325 for GO bonds secured by taxes or a combination of taxes and fees. Finally, under ¶67(c), if the pricing policies of the district for the fees and charges are designed to recover its costs, including capital costs (such as depreciation or debt service), then enterprise fund accounting must be used.

If the general improvement district did not meet the conditions requiring the use of enterprise fund accounting pursuant to GASB Statement No. 34, ¶67, then standard governmental fund reporting must be used. If the general improvement district contemplated creating a major special revenue fund, then at least 20% of the total inflows reported in the fund must be restricted and/or committed to the purpose for which the fund was created. The restricted and committed revenue must be recognized as revenue of the special revenue fund rather than the general fund. Total inflows include restricted revenues, committed revenues, transfers in and any other financing sources.

If you have any questions about this guidance letter, please call the Local Government Finance Section of the Division of Local Government Services, Department of Taxation at (775) 684-2100.

WEBSITE LOCATIONS:

Nevada Revised Statutes (NRS): <http://www.leg.state.nv.us/NRS/>

Nevada Administrative Code: <http://www.leg.state.nv.us/NAC/CHAPTERS.html>

Department of Taxation Guidance letters: <http://www.tax.state.nv.us>; then select “Publications;” then select Assessment Standards Publications and “Guidance letters.”

Appendix

Exhibit 1: Douglas County Board of County Commissioners, *Resolution No. 2012R-037, Carson Valley Water Utility Fund*

Exhibit 2: Churchill County Comptroller's Office, *Fund Balance Analysis GASB #54*

Exhibit 3: Douglas County Board of County Commissioners, *Resolution 2014R-056, Landscape Maintenance Districts Fund*

Exhibit 4: Carson City Board of Supervisors, *Resolution No. 2014-R-24, Infrastructure Fund*

Exhibit 5: Selected Nevada Statutes and Regulations

DRAFT

RESOLUTION NO. 2012R-037

A RESOLUTION ESTABLISHING THE CARSON VALLEY WATER UTILITY FUND

WHEREAS, NRS 354.612 requires the establishment of funds by resolution, and

WHEREAS, NRS 354.517 defines an enterprise fund as a fund established to account for operations 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, and

WHEREAS, Douglas County previously established the East Valley Water Utility, the West Valley Water Utility, the Foothill Water Utility (Job's Peak), and the Sheridan Acres Water Utility funds, to account for the operations of these separate systems, and

WHEREAS, the purpose of this fund is to consolidate the accounting, budgeting, capital planning, operations, management and rate setting of the East Valley Water Utility, West Valley Water Utility, the Foothill Water Utility (Job's Peak) and the Sheridan Acres Water Utility, and

WHEREAS, existing working capital from the four individual water utility funds will be used to establish the fund, and one of the financial objectives of the fund is to recover the costs of operation of the water system, including overhead, through user charges, without producing any significant amount of profit in the long run, and

WHEREAS, the Carson Valley Water Utility Fund will account for all revenues and all charges properly related to the purpose of the fund, including, without limitation, debt service, capital outlay, and operating expenses,

NOW, THEREFORE, BE IT RESOLVED by the Douglas County Board of Commissioners that the Carson Valley Water Utility Fund is hereby established, and will be used for all transactions beginning July 1, 2012.

ADOPTED this 3rd day of May, 2012 by the following Vote:

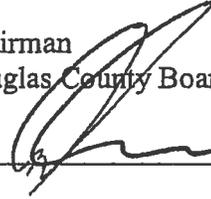
Ayes:

Commissioners: MICHAEL A. OLSON
DOUG N. JOHNSON
LEE BONNER
GREG LYNN
NANCY MCDERMID

Nayes:

NONE

Chairman
Douglas County Board of Commissioners



ATTEST:



Ted Thran, Douglas County Clerk

By:



Clerk to the Board

Churchill County, Nevada
Fund Balance Analysis GASB #54
Social Services Fund

Exhibit 2

Description	FY 2009		FY 2010		FY 2011		FY 2012		FY 2013		FY 2014	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Revenues & Transfers												
Restricted	652,628	47%	1,189,394	62%	883,900	56%	910,903	55%	958,286	58%	819,232	53%
Committed	22,982	2%	8,986	0%	604,971	38%	716,910	43%	685,047	41%	697,919	45%
Assigned	711,337	51%	710,139	37%	95,366	6%	35,487	2%	21,915	1%	17,199	1%
Total Revenues & Transfers	1,386,947	100%	1,908,519	100%	1,584,237	100%	1,663,300	100%	1,665,247	100%	1,534,350	100%
Total Expenditures	959,467		1,540,945		1,346,525		1,472,634		1,672,141		1,547,753	
Change in Fund Balance	427,480		367,574		237,712		190,665		(6,893)		(13,403)	
Fund Balance Classifications	959,775	BFB										
Restricted	144,783		(206,768)	0	0	(561,731)	0	(713,855)	0	(728,520)		
Committed	38,886		(158,896)	0	1,525,462	0	2,242,372	1,680,641	2,365,687	1,651,833	2,349,751	1,621,231
Assigned	1,203,586.14		1,754,829	1,754,829	467,080	502,567	502,567	524,481	524,481	541,680	541,680	
Total Fund Balance	\$ 1,387,255		\$1,754,829	\$1,992,542		\$2,183,207		\$2,176,314		\$2,162,911		

Notes:

Due to expenditure levels, it appears the entire EFB is Assigned. No further analysis is necessary.

Resolution 06-12 Specifically Committed Revenues at a baseline in accordance with GASB #54. CTX \$50,000 PILT \$50,000

Churchill County, Nevada
Fund Balance Analysis GASB #54
Parks & Recreation Fund

Exhibit 2

Description	FY 2009		FY 2010		FY 2011		FY 2012		FY 2013		FY 2014	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Revenues & Transfers												
Restricted	322,729	22%	341,272	28%	294,292	26%	262,972	23%	274,833	22%	298,173	25%
Committed	7,603	1%	4,190	0%	3,481	0%	262,628	23%	262,751	21%	263,246	22%
Assigned	1,134,956	77%	868,187	72%	843,222	74%	638,618	55%	706,288	57%	653,334	54%
Total Revenues & Transfers	1,465,288	100%	1,213,649	100%	1,140,995	100%	1,164,218	100%	1,243,872	100%	1,214,753	100%
Total Expenditures	1,094,511		1,128,681		1,104,340		1,131,566		1,182,885		1,148,025	
Change in Fund Balance	370,777		84,968		36,655		32,652		60,986		66,728	
Fund Balance Classifications	381,428	BFB										
Restricted	(687,772.66)	0	(787,409)	0	(810,048)	0	(868,594)	0	(908,052)	0	(849,852)	0
Committed	(678,190.53)	0	(783,219)	0	(806,567)	0	(605,966)	0	(645,302)	0	(586,606)	0
Assigned		752,205		837,173		873,828		906,480		967,466		1,034,194
Total Fund Balance		\$752,205		\$837,173		\$873,828	\$906,479.65	\$906,480	\$967,466.09	\$967,466	\$1,034,194.27	\$1,034,194

Notes:

Due to expenditure levels, it appears the entire EFB is Assigned. No further analysis is necessary.

Resolution 06-12 Specifically Committed Revenues at a baseline in accordance with GASB #54. Fed PILT \$200,000 CTX \$60,000

Churchill County, Nevada
Fund Balance Analysis GASB #54
Regional Streets & Highways Fund

Exhibit 2

Description	FY 2009		FY 2010		FY 2011		FY 2012		FY 2013		FY 2014	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Revenues & Transfers												
Restricted	768,759	100%	823,009	100%	916,339	100%	840,852	100%	768,481	100%	746,667	100%
Committed	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%
Assigned	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%
Total Revenues & Transfers	768,759	100%	823,009	100%	916,339	100%	840,852	100%	768,481	100%	746,667	100%
Total Expenditures	724,325		671,816		750,088		711,441		946,275		1,215,708	
Change in Fund Balance	44,434		151,193		166,251		129,411		(177,794)		(469,041)	
Fund Balance Classifications	771,141	BFB										
Restricted	815,575.00	100%	966,768	100%	1,133,019	100%	1,262,430	100%	1,084,636	100%	615,596	100%
Committed	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%
Assigned	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%
Total Fund Balance	\$ 815,575	100%	\$966,768	100%	\$1,133,019	100%	\$1,262,430	100%	\$1,084,636	100%	\$ 615,596	100%

Statutorial interest earned on this fund is restricted as it must be spent on RTC projects.

Churchill County, Nevada
Fund Balance Analysis GASB #54
Technology Fund

Exhibit 2

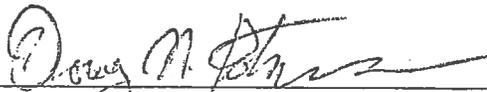
Description	FY 2009		FY 2010		FY 2011		FY 2012		FY 2013		FY 2014	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Revenues & Transfers												
Restricted	105,638	95%	142,034	98%	180,595	99%	149,157	99%	148,294	98%	100,662	98%
Committed	5,901	5%	2,276	2%	1,920	1%	1,689	1%	3,194	2%	1,546	2%
Assigned	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%
Total Revenues & Transfers	111,539	100%	144,310	100%	182,515	100%	150,846	100%	151,488	100%	102,208	100%
Total Expenditures	31,540		116,307		50,336		91,506		234,521		136,180	
Change in Fund Balance	79,999		28,003		132,179		59,340		(83,032)		(33,972)	
Fund Balance Classifications	253,760	BFB										
Restricted	314,432.76	94%	340,159.76	94%	470,419	95%	528,070	95%	441,843	94%	406,325	86%
Committed	19,326.24	6%	21,602	6%	23,522	5%	25,212	5%	28,406	6%	29,952	6%
Assigned	-	0%	-	0%	-	0%	-	0%	-	0%	-	0%
Total Fund Balance	\$ 333,759	100%	\$ 361,762	100%	\$ 493,941	100%	\$ 553,281	100%	\$ 470,249	100%	\$ 436,277	93%

Notes:

15 year history of Committed Revenues: Interest Income		37,671										
Fund Balance Classifications	FY 2009		FY 2010		FY 2011		FY 2012		FY 2013		FY 2014	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Restricted			\$ 326,011	90%	\$ 456,270	92%	\$ 513,921	93%	\$ 427,694	91%	\$ 392,176	90%
Committed	-		\$ 35,751	10%	\$ 37,671	8%	\$ 39,361	7%	\$ 42,555	9%	\$ 44,101	10%
Assigned	-		-	0%	\$ -	0%	\$ -	0%	\$ -	0%	\$ -	0%
Total Fund Balance	\$ 333,759		\$ 361,762	100%	\$ 493,941	100%	\$ 553,281	100%	\$ 470,249	100%	\$ 436,277	100%
15 year history of Committed Revenues: Interest Income												

Absent: Commissioners:

NONE



Doug N. Johnson, Chairman
Douglas County Board of Commissioners

ATTEST.



Theodore Thran,
Douglas County Clerk

BY:



Clerk to the Board of Commissioners

Explanation of Impact: FY 15 revenue is expected to be approximately \$787,133 based on a collection start date of October 1, 2014. The annualized amount is approximately \$1,049,511.

Funding Source: One-eighth of one percent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in Carson City.

Alternatives: Amend resolution

Supporting Material: Resolution

Prepared By: Nick Providenti Nick Providenti Date: 8/12/14
Reviewed By: : _____ Date: _____
 (Department Head) Nicholas Mariano Date: 8/12/14
 : _____ Date: _____
 (City Manager) [Signature] Date: 8/12/14
 : _____ Date: _____
 (District Attorney) Nick Providenti Date: 8/12/14
 : _____ Date: _____
 (Finance Director)

Board Action Taken:

Motion: 2014-R-24 1) BB 50
 2) JM Aye/Nay

[Signature]

 (Vote Recorded By)

Selected Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC)

NRS 354.472 Purposes of Local Government Budget and Finance Act.

1. The purposes of [NRS 354.470](#) to [354.626](#), inclusive, are:
 - (a) To establish standard methods and procedures for the preparation, presentation, adoption and administration of budgets of all local governments.
 - (b) To enable local governments to make financial plans for programs of both current and capital expenditures and to formulate fiscal policies to accomplish these programs.
 - (c) To provide for estimation and determination of revenues, expenditures and tax levies.
 - (d) To provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money.
 - (e) To provide specific methods enabling the public, taxpayers and investors to be apprised of the financial preparations, plans, policies and administration of all local governments.
2. For the accomplishment of these purposes, the provisions of [NRS 354.470](#) to [354.626](#), inclusive, must be broadly and liberally construed.

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 354.553 “Proprietary fund” defined. “Proprietary fund” means an internal service fund or enterprise fund.

(Added to NRS by [2001, 1793](#))

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](#))

Other statutes and regulations referenced may be found at <https://www.leg.state.nv.us/law1.cfm> or <https://www.leg.state.nv.us/NAC/>

AGENDA ITEM 6(a)

DISCUSSION AND CONSIDERATION OF CITY OF NORTH LAS VEGAS FINANCIAL CONDITION

CITY OF NORTH LAS VEGAS
Cash Flow Projections for the General Fund
Fiscal Year 2015-16
July 2015

CNLV GENERAL FUND CASH FLOW PROJECTIONS FOR FY 2014-15
PRESENTED IN THOUSANDS (000's)

	Actual July	Projected August	Projected September	Projected October	Projected November	Projected December	Projected January	Projected February	Projected March	Projected April	Projected May	Projected June	Total Actual + Projected
RECEIPTS/DEPOSITS													
CTX	\$ 4,140	\$ 4,451	\$ 3,891	\$ 3,922	\$ 4,221	\$ 3,860	\$ 3,739	\$ 4,969	\$ 3,626	\$ 3,637	\$ 4,688	\$ 3,973	\$ 49,117
Real Property Taxes	5	133	1,997	261	1,235	102	563	1,074	608	957	84	39	\$ 7,058
Personal Property Taxes	93	125	145	5	4	50	149	45	86	98	57	69	\$ 926
Gaming Taxes	1	77	220	-	245	85	-	265	40	-	265	68	\$ 1,266
Room & Gaming Taxes	-	272	-	-	598	-	-	628	-	-	602	-	\$ 2,100
Payment in-Lieu-of Taxes	-	537	-	538	-	-	538	-	537	-	-	-	\$ 2,150
PILT	2,000	-	-	2,000	-	5,000	-	-	2,000	3,000	2,000	5,492	\$ 23,492
Franchise Fees	178	2,941	368	337	4,275	337	577	2,588	890	341	2,488	277	\$ 15,597
Franchise Fees - Utility Funds	-	-	1,144	-	-	1,144	-	-	1,144	-	-	1,144	\$ 4,576
Municipal Court	719	740	756	550	550	550	550	550	550	550	550	550	\$ 7,165
Business License	1,757	605	111	700	227	666	1,756	699	707	693	264	794	\$ 8,979
Permits	538	478	703	345	386	287	181	298	555	671	538	712	\$ 5,692
Cash Receipts	24	52	57	60	51	54	43	76	49	67	55	84	\$ 672
Administrative Charges	148	148	149	148	148	149	148	148	149	148	148	149	\$ 1,780
Other Charges for Services	208	8	457	169	156	51	122	174	41	158	129	145	\$ 1,818
Transfers In	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Other	2,827	-	-	-	-	-	-	-	-	-	-	-	\$ 2,827
Total Receipts	\$ 12,638	\$ 10,567	\$ 9,998	\$ 9,035	\$ 12,096	\$ 12,335	\$ 10,366	\$ 11,514	\$ 10,982	\$ 10,320	\$ 11,868	\$ 13,496	\$ 135,215
Total Receipts Y-T-D	\$ 12,638	\$ 23,205	\$ 33,203	\$ 42,238	\$ 54,334	\$ 66,669	\$ 77,035	\$ 88,549	\$ 99,531	\$ 109,851	\$ 121,719	\$ 135,215	\$ 135,215
EXPENDITURES/PAYMENTS													
Salaries & Benefits	\$ (8,844)	\$ (7,037)	\$ (6,574)	\$ (7,037)	\$ (7,037)	\$ (9,600)	\$ (7,350)	\$ (7,350)	\$ (7,350)	\$ (7,350)	\$ (7,350)	\$ (7,350)	\$ (90,229)
Services & Supplies / Capital	(2,448)	(1,394)	(2,421)	(3,034)	(3,034)	(3,034)	(3,034)	(3,034)	(3,034)	(3,034)	(3,034)	(3,034)	\$ (33,569)
Transfers Out	(629)	(629)	(629)	(701)	(629)	(630)	(630)	(629)	(629)	(629)	(629)	(629)	\$ (7,622)
Total Disbursements	\$ (11,921)	\$ (9,060)	\$ (9,624)	\$ (10,772)	\$ (10,700)	\$ (13,264)	\$ (11,014)	\$ (11,013)	\$ (11,013)	\$ (11,013)	\$ (11,013)	\$ (11,013)	\$ (131,420)
Total Disbursements Y-T-D	\$ (11,921)	\$ (20,981)	\$ (30,605)	\$ (41,377)	\$ (52,077)	\$ (65,341)	\$ (76,355)	\$ (87,368)	\$ (98,381)	\$ (109,394)	\$ (120,407)	\$ (131,420)	\$ (131,420)
CASH BALANCE													
Net change in Cash	\$ 717	\$ 1,507	\$ 374	\$ (1,737)	\$ 1,396	\$ (929)	\$ (648)	\$ 501	\$ (31)	\$ (693)	\$ 855	\$ 2,483	\$ 3,795
Beginning Cash	2,415	3,132	4,639	5,013	3,276	4,672	3,743	3,095	3,596	3,565	2,872	3,727	\$ 2,415
End Cash Balance	\$ 3,132	\$ 4,639	\$ 5,013	\$ 3,276	\$ 4,672	\$ 3,743	\$ 3,095	\$ 3,596	\$ 3,565	\$ 2,872	\$ 3,727	\$ 6,210	\$ 6,210

UNAUDITED

10-27-15 CLGF Exhibit Packet
PROJECTIONS ARE NOT A GUARANTEE OF FUTURE RESULTS
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STANDARD & POOR'S RATINGS SERVICES

McGRAW HILL FINANCIAL

North Las Vegas, NV Rating Outlook Revised To Stable From Negative On Improved Economy, Balanced Fiscal 2016 Budget

10-Jun-2015 19:24 EDT

[View Analyst Contact Information](#)

SAN FRANCISCO (Standard & Poor's) June 10, 2015--Standard & Poor's Ratings Services revised its outlook to stable from negative and affirmed its 'BB-' long-term rating and underlying rating (SPUR) on North Las Vegas, Nev.'s limited-tax general obligation debt outstanding.

"The stable outlook is based on our view of recent positive economy conditions and the city's ability to create a balanced budget in fiscal 2016," said Standard & Poor's credit analyst Bryan Moore.

The GO ratings reflect our assessment of the following factors for the city, including its:

Weak economy,
Very weak management,
Adequate budgetary performance,
Very weak budgetary flexibility,
Strong liquidity, and
Very weak debt and contingent liability position.

RELATED CRITERIA AND RESEARCH

Related Criteria

USPF Criteria: [Local Government GO Ratings Methodology And Assumptions](#), Sept. 12, 2013

USPF Criteria: [Financial Management Assessment](#), June 27, 2006

USPF Criteria: [Debt Statement Analysis](#), Aug. 22, 2006

USPF Criteria: [Limited-Tax GO Debt](#), Jan. 10, 2002

USPF Criteria: [Methodology: Rating Approach To Obligations With Multiple Revenue Streams](#), Nov. 29, 2011

Related Research

[S&P Public Finance Local GO Criteria: How We Adjust Data For Analytic Consistency](#), Sept. 12, 2013

[Institutional Framework Overview: Nevada Local Governments](#)

Complete ratings information is available to subscribers of RatingsDirect at www.globalcreditportal.com and at www.spcapitaliq.com. All ratings affected by this rating action can be found on Standard & Poor's public Web site at www.standardandpoors.com. Use the Ratings search box located in the left column.

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Rating Update: Moody's upgrades North Las Vegas, NV's GOLT to Ba2; outlook stable

Global Credit Research - 11 Jun 2015

\$413 million of debt affected

NORTH LAS VEGAS (CITY OF) NV
Cities (including Towns, Villages and Townships)
NV

NEW YORK, June 11, 2015 –Moody's Investors Service upgraded the City of North Las Vegas, Nevada's general obligation limited tax rating to Ba2 from Ba3 and maintained a stable outlook.

SUMMARY RATING RATIONALE

The upgrade to Ba2 for the city's GOLT ratings reflects relative financial stability compared to recent years, including timely adoption again of a city-wide balanced budget for FY2016 that includes a modest surplus for operating funds. Financial performance is supported by the state's economic recovery and a rebounding tax base following the deep housing downturn. However, the city is pressured by elevated fixed costs and remains reliant on uncommonly large transfers from the water and sewer utility to support critical services. Also, management will negotiate new collective bargaining agreements with all labor groups over the next two years and, although still unknown, contracted provisions could pressure future operating costs.

OUTLOOK

The stable outlook reflects management's continued ability to limit costs amid a rebound in operating taxes. Despite forecast deficits, the budget is consistently balanced on a city-wide basis each year. We expect that positive tax base and economic trends will continue in-line with the greater Las Vegas metro area. Also, the water and sewer utility remains healthy including solid liquidity despite subsidizing general city operations, and it fully funds debt service for most of the GOLT bonds which were issued for related infrastructure projects. Nevertheless, the city's financial position will remain challenged over the next several years, and outsized transfers from the water and sewer utility will be required to support the general fund.

WHAT COULD MAKE THE RATING GO UP

- Structural fiscal balance with a trend of sustained improvement in reserves and liquidity
- Substitution of outsized subsidies from the water and sewer utility that support the general fund
- Adoption of multi-year collective bargaining agreements without significant cost pressures for the city

WHAT COULD MAKE THE RATING GO DOWN

- Deterioration of the city's already narrow financial position
- Declines in available liquidity from the water and sewer utility
- Adoption of multi-year collective bargaining agreements that add significant cost pressures for the city
- Economic downturn that significantly impacts tax revenues and property values

STRENGTHS

- Participation in the Las Vegas (Aa2 stable) metro area's economy that is in a sustained recovery
- Still large tax base in rebounding from large, prior declines
- Ample liquidity for the water and sewer utility

CHALLENGES

- Seven-year forecast indicates a structural deficit for the general fund
- Limited financial flexibility given a sizable fixed costs burden driven by pensions and debt service
- Reliance on large subsidies from water and sewer utility to support general operations, which are allowed through FY2021 under state law
- Negotiations with union groups over the next two years for new collective bargaining agreements
- Modest socioeconomic measures

RECENT DEVELOPMENTS

North Las Vegas adopted a city-wide balanced budget for FY2016, as required by state law. The budget projects available reserves for operating funds of 12.2% of revenues (\$22.3 million), reflecting an expected modest surplus. The budget benefits from no cost of living or merit pay increases for labor groups. Consolidated taxes remain the city's largest resource (26.8% of budgeted operating revenues) and are expected to continue moderate growth at 5%. Property taxes (26.4% of budgeted revenues) are also expected to increase modestly due to growth in the tax base amid stable levy rates, net of abatements. The overall increase of \$2 million in available reserves is attributed to a surplus in the public safety tax fund due to grants that will subsidize the costs for new public safety officers as the fund receives increased property taxes. Importantly, general operations will continue to receive an operating subsidy from the water and sewer enterprise of \$23.5 million (13.2% of budgeted operating revenues) to balance the budget, net of franchise fees, payments in lieu of taxes, and administrative overhead fees. Operating funds include the general fund, public safety funds, and the debt service fund.

For FY2015, budget-basis estimates indicate budget basis operating reserves of 11.5% of revenues (\$19.9 million) amid improved tax revenues and typical expenditure savings from attrition as well as limiting purchases. Consolidated taxes were more than \$2 million above projections along with franchise fees at \$1 million above expectations and other favorable variances only somewhat offset by fines and forfeitures that were low by over \$1 million. Attrition savings were over \$2 million for just the first half of the year as the city maintained critically low staffing. For the general fund, management expects that fund balance will meet the city's 8% policy at year-end.

The city's tax base is expected to grow strongly again by 16.4% to a full value of \$15.7 billion based upon a preliminary valuation for 2016. Tax base valuations lag the market and reflect activity from the first half of the prior calendar year, implying the tax base will continue to grow following recent increases in property values. The tax base is benefitting from the region's economic recovery but remains well below pre-recession highs from the prior housing boom.

DETAILED RATING RATIONALE

ECONOMY AND TAX BASE: RECOVERY ACROSS THE LAS VEGAS AREA

The Las Vegas area's unparalleled gaming and resorts benefit from improved economic conditions for consumers, and the economy also benefits from a rebound in commercial and gaming related construction projects throughout the metro area. The metro economy is also seeing gains in technology and healthcare sectors that provide some diversity from the area's traditional sectors. Tourism-related industries are benefitting from slow growth in visitor volumes to record levels for the metro area. In North Las Vegas, specifically, officials note that established developers are working toward building phases of a master 2,600 acre housing project and a combined over 1,000 acres of commercial land are available for development and garnering various levels of interest.

The city's unemployment rate was 8.3% for April 2014 and remained elevated compared to state and U.S. levels, despite improvement. Median family income was 91.4% of U.S. levels as of the 2012 American Community Survey after weakening in the recent economic downturn.

Full value improved to a still large \$13.5 billion for 2015, marking sizable annual growth of 16.3% after modest growth of 2% in 2014. Moody's Analytics estimates that 28% of homeowners had mortgage debt that outweighed property values as of 2014. These underwater borrowers may provide some near-term headwinds to the housing market, along with higher property prices that may also slow the market. Nevertheless, the level of foreclosures and distressed homeowners continues to decline. The tax base declined drastically by 56% from 2009-13 due to a very high incidence of distressed properties that depressed home prices.

FINANCIAL OPERATIONS AND RESERVES: CONSTRAINED FLEXIBILITY AND LONG-TERM PRESSURES REMAIN

Looking forward, North Las Vegas will continue facing financial pressures under its seven-year financial forecast, from July 2014, indicating a 5-7% budget shortfall annually through FY2020 (or a nominal \$6-10 million) for the general fund. Balances in the other operating funds are projected to fluctuate but without structural shortfalls. The general fund's shortfall dramatically increases to over \$30 million for FY2021-22 with the end of most transfers from the water and sewer utility as required by the state's Assembly Bill 503 (see below), which currently subsidize operations. Revenue assumptions appear reasonable and include 3.6% growth in state-shared consolidated taxes and 3% growth in local sales taxes. The city also assumes 3.8% growth in property taxes with abatements damping the impact of stronger tax base growth. The city also assumes 3.4% growth in population as the metro area generally continues to grow more slowly than in the prior housing boom. The forecast includes modest cost of living and merit pay increases of up to 2% per year under future labor contracts. The forecast also assumes elevated holiday sellbacks by employees relative to recent years as well as generally stable costs for other employee benefits.

Importantly, forecast operating expenditures assume staff headcount remains at current levels characterized by management as unsustainably thin for the long term. Population growth and service needs are expected to pressure staffing requirements that will exacerbate finances by adding to personnel costs while also reducing attrition savings.

The city's financial flexibility is limited given a fixed costs burden of a more moderate 23.6% of operating revenues, as of FY2014, net of the majority of debt service which is funded by the water and sewer utility for bonds that financed related projects. The burden was a gross 37.8% of operating revenues, including gross GOLT secured debt service, OPEB costs, and actuarially required pension contributions.

The city has limited means to increase its major operating revenue sources to support growing operating and debt service costs. Consolidated taxes are distributed by the state to local governments under a longstanding formula, and underlying components include cyclically volatile sales and use levies, sin taxes, and vehicle registration fees. Property taxes are subject to a statutory limit countywide that maintains sizable headroom, but the city and other local governments did increase operating tax rates amid the recent downturn. Property tax receipts, and the impact of levy rate increases, are limited by the state's abatement provisions that limit annual levy growth to 3% for residential properties and 8% for other properties.

Importantly, operating funds are reliant on outsized transfers of from the water and sewer enterprises to the general fund totaling \$32 million in recent years, approximately 20% of annual resources for operating funds. The city is hard pressed to replace contributions from the utility, or otherwise reduce operating expenditures. We note that the city's significant reliance on utility resources to support general operations is uncommon amongst cities nationally and indicates the magnitude of the challenges impacting the city's finances.

The state temporarily enables the city to continue outsized transfers to the general fund until FY2021 under Assembly Bill 503. The city does not forecast being able to balance its operating budget without sustaining around \$32 million of annual transfers for at least the medium term. Statutes allow local governments with general fund reserves below 9% of expenditures to maintain outsized transfers to support core services like public safety, which incentivizes the city to maintain narrow reserves at least in the general fund. Management must report all such transfers to the Committee on Local Government Finance, a state-appointed board that collaborates with the Department of Taxation to oversee local governments. Starting in FY2014, the city accounted for payments to the general fund partly as typical municipal charges for payments in lieu of taxes (\$2.2 million), franchise fees (\$4.3 million) and administrative overhead fees (\$1.7 million), but the large majority remains operating transfers that subsidize general operations.

Audited results for FY2014 indicated still thin available reserves of 5.4% of operating revenues (\$8.7 million) which included draws on reserves for one-time legal settlements that outweighed strong 11.5% growth in consolidated taxes by \$4.5 million driven by the state's economic recovery. Overall, revenues and expenditures were down slightly from the prior year. Management actively kept suppressed costs with cuts and spending adjustments and legal settlements also provided some budget relief for compensation. In January 2014, a Nevada court ruled in that the city breached collective bargaining agreements by suspending scheduled wage increases and benefits in FY2013 and FY2014 by misusing statutes related to states of emergency. The city secured favorable settlements of only \$7.7 million relative to the judgment valued at approximately \$25 million and permanently ended litigation claims. The city also continued to receive \$32 million of support for general operations from the water and sewer utility, though a small portion is now classified as franchise fees and payments in lieu of taxes.

Liquidity

Unrestricted cash in operating funds improved slightly in FY2014 but remained narrow at 8.2% of revenues (\$13.1 million). The city's operating liquidity is narrow but the city does not engage in cash flow borrowing.

Cash in the water and sewer enterprises is budgeted to stabilize at just over \$50 million for FY2015 and FY2016 after declining in recent years due to ongoing contributions to the general fund, fluctuating pay-go capital needs, and scheduled debt service. The utility's liquidity is supported by perpetual rate hikes of 3% per year for each enterprise as previously adopted by the city council. Reduced liquidity for the utility would constrain future inter-fund transfers that support general operations and cause material operating pressures.

DEBT AND PENSIONS: MANAGEABLE NET DIRECT DEBT AND HIGH PENSION BURDEN

The city's gross direct debt burden is high at 3.1% of full value following large declines in the city's tax base that has only partly rebounded from the housing downturn. Most GOLT debt financed water and sewer enterprise projects and is additionally secured, and fully funded, directly by resources of the utility. The city's net direct debt burden is a more manageable 1% of full value net of debt supported by the utility.

Debt Structure

Approximately two-thirds of outstanding GOLT debt is additionally secured, and fully supported, by resources of the city's water and sewer utility. The remainder is additionally secured by tax revenues from operating funds. For FY2016, scheduled GOLT debt service totals \$31.3 million with \$21.8 million attributed to utility-related debt service. Amortization of GOLT debt is slow at 29.4% in ten years.

GOLT bonds supported by the utility maintain healthy coverage of debt service that was 2.1 times net revenues as for FY2014 (calculated prior to payments to the general fund). Coverage is estimated to remain satisfactory at 2.3 times for FY2015 and 2.2 times in FY2016, as reported on a budgetary basis. Annual debt service is supported by the utility is scheduled to decline modestly in the near term, and then remains nearly flat or declines modestly until final maturity in 2040.

GOLT bonds supported by operating revenues have scheduled debt service that escalates in the medium term and will contribute to higher fixed costs. In particular, GOLT debt additionally secured by 15% of consolidated taxes was \$8 million for FY2015 and declines to less than \$7 million in FY2016-17, then averages \$11 million annually thereafter. From a practical standpoint, these obligations are funded wholly from all of the city's legally available operating revenues.

Debt-Related Derivatives

The city has no exposure to debt-related derivatives.

Pensions and OPEB

The city's gross Moody's adjusted net pension liability (ANPL) averaged 4.6 times operating revenues and 5.5% of AV for FY2011-13, and totaled \$739.5 million for FY2013. The city participates in the State of Nevada Public Employees' Retirement System, which is a cost-sharing defined-benefit pension plan and paid 100% of its required annual pension costs in all recent years. Moody's ANPL reflects certain adjustments we make to improve comparability of reported pension liabilities, including netting pension contributions from self-supporting essential utilities. The adjustments are not intended to replace reported liability information, but to improve comparability with other rated entities.

The city offers OPEB for insurance coverage to eligible retirees from various employee groups through several programs. The unfunded actuarial liability for OPEB was \$27.2 million as of a 2013 valuation. Benefits are funded on a pay-go basis and managed through the self-insurance internal service fund that had \$21.8 million of cash and only \$12.9 million of current liabilities as of FY2014.

MANAGEMENT AND GOVERNANCE: OPERATING FLEXIBILITY CHALLENGED BY HIGH FIXED COSTS AND HISTORICALLY CONTENTIOUS LABOR RELATIONS

Nevada Cities have an institutional framework score of 'Aa' or strong. Revenues are driven by state-shared excise taxes governed by a legislative formula, and property taxes may be adjusted by management subject to statutory overlapping tax rate limits. Expenditures are predictable and management has the ability to make significant spending adjustments.

The city will negotiate new collective bargaining agreements this coming year with the fire and police supervisor's unions, followed by negotiations with police officer and general employee unions. Relations between labor groups and management were strained in the recent past and undetermined provisions of future contracts could pressure operating costs.

KEY STATISTICS

- Full value of tax base, 2015: \$13.5 billion
- Full value per capita: \$60,377
- Median family income, 2012 American Community Survey: 91.4% of U.S.
- Available operating reserves, FY2014: 5.4% of revenues
- 5-year change in available operating reserves, FY2009-14: -44.7%
- Available net cash, FY2014: 8.2% of operating revenues
- 5-year change in available net cash, FY2009-14: -16.9%
- Institutional framework: Aa
- 5-year average of operating revenues to expenditures, FY2010-14: 0.96 times
- Net direct debt to full value: 3.1%
- Net direct debt to operating revenues: 2.6 times
- 3-year average of Moody's ANPL to full value, FY2011-13: 5.5%
- 3-year average of Moody's ANPL to operating revenues, FY2011-13: 4.6 times

OBLIGOR PROFILE

The city is located adjacent to Las Vegas and participates in the greater metro area's economy, which is driven by cyclical and relatively volatile tourism activity. The city's population was a sizable 223,873 as of 2013 and nearly doubled since 2000 amid the region's recent housing and economic boom.

LEGAL SECURITY

The bonds are ultimately secured by the city's full faith and credit pledge, subject to Nevada's statutory and constitutional limitations on overlapping levy rates for ad valorem taxes. Property taxes are subject to a statutory limit countywide for overlapping rates that is \$3.64 per \$100 of AV as well as a constitution limit of \$5.00. Most of the city's GOLT debt is additionally secured by a pledge of specified revenue streams intended to fully support related debt service, and debt is structured to be supported fully by that specified revenue.

The combined property tax rates in North Las Vegas were nearly \$3.3544 per \$100 of assessed value as of 2014, which leaves a sizable margin of nearly \$0.30 under statutory caps for overlapping tax rates. Overlapping rates include levies for operations and debt service and combined rates remained about stable in recent years, despite the recession, as local governments did not increase levies and voters rejected additional levies. Importantly, levies for non-debt purposes would be reduced first for overlapping rates to comply with the statutory limit of \$3.64 in a compression situation.

Legal provisions favorably require the city to deposit monthly set-asides into city-held bond funds for semiannual debt service payments, a structural strength for bondholders.

USE OF PROCEEDS

Not applicable

PRINCIPAL METHODOLOGY

The principal methodology used in this rating was US Local Government General Obligation Debt published in

January 2014. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

REGULATORY DISCLOSURES

For ratings issued on a program, series or category/class of debt, this announcement provides certain regulatory disclosures in relation to each rating of a subsequently issued bond or note of the same series or category/class of debt or pursuant to a program for which the ratings are derived exclusively from existing ratings in accordance with Moody's rating practices. For ratings issued on a support provider, this announcement provides certain regulatory disclosures in relation to the rating action on the support provider and in relation to each particular rating action for securities that derive their credit ratings from the support provider's credit rating. For provisional ratings, this announcement provides certain regulatory disclosures in relation to the provisional rating assigned, and in relation to a definitive rating that may be assigned subsequent to the final issuance of the debt, in each case where the transaction structure and terms have not changed prior to the assignment of the definitive rating in a manner that would have affected the rating. For further information please see the ratings tab on the issuer/entity page for the respective issuer on www.moodys.com.

The following information supplements Disclosure 10 ("Information Relating to Conflicts of Interest as required by Paragraph (a)(1)(ii)(J) of SEC Rule 17g-7") in the regulatory disclosures made at the ratings tab on the issuer/entity page on www.moodys.com for each credit rating:

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Please see www.moodys.com for any updates on changes to the lead rating analyst and to the Moody's legal entity that has issued the rating.

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INVESTORS SERVICE

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People in pursuit of answers

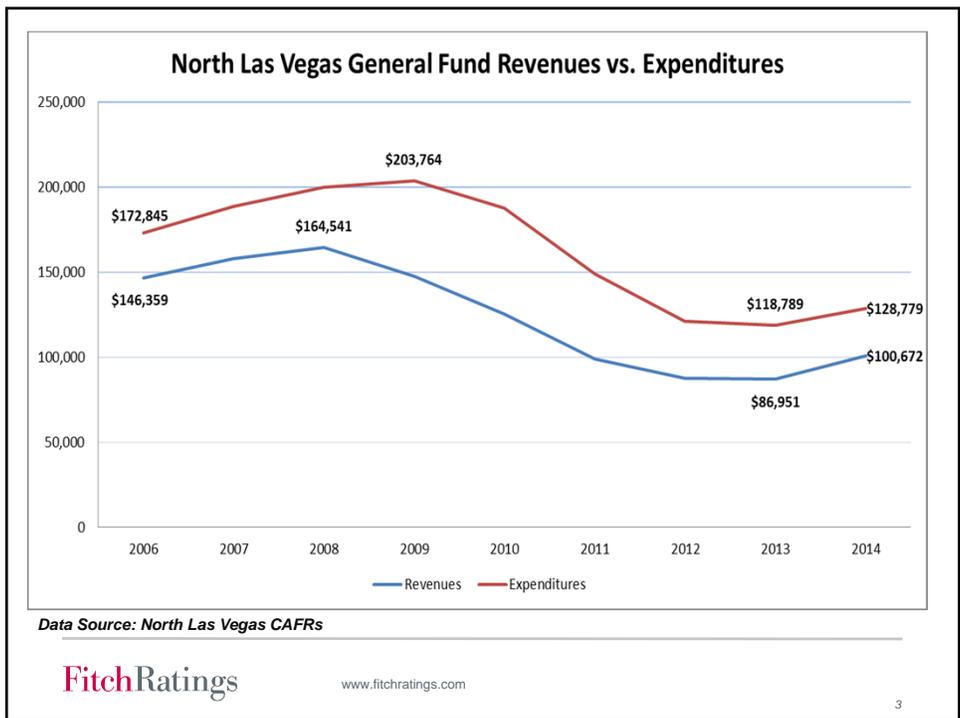
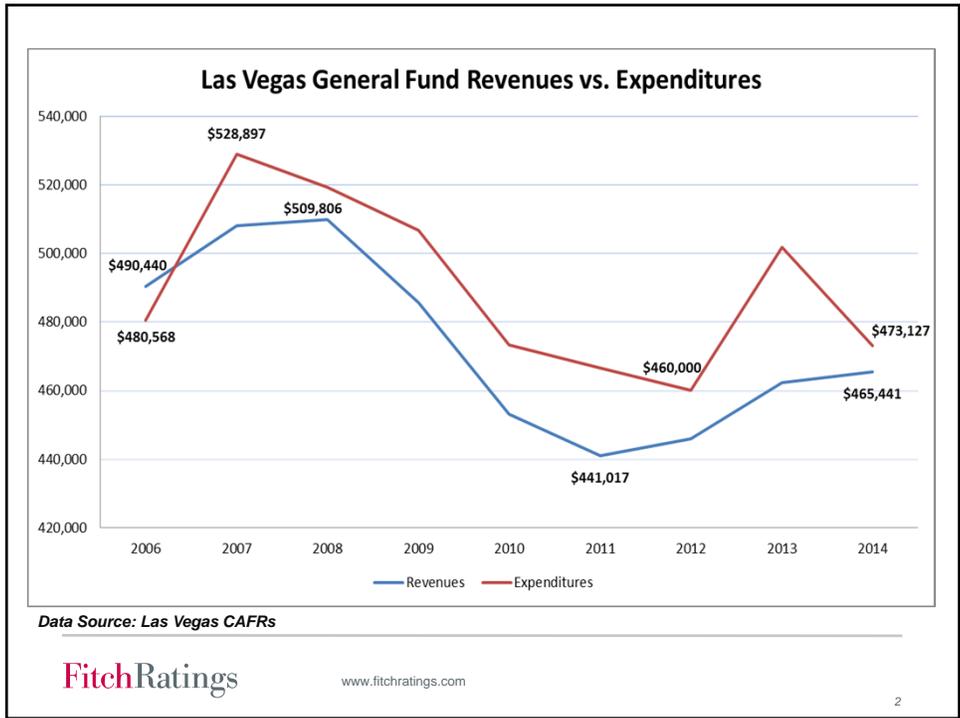
FitchRatings Local Government Squeeze

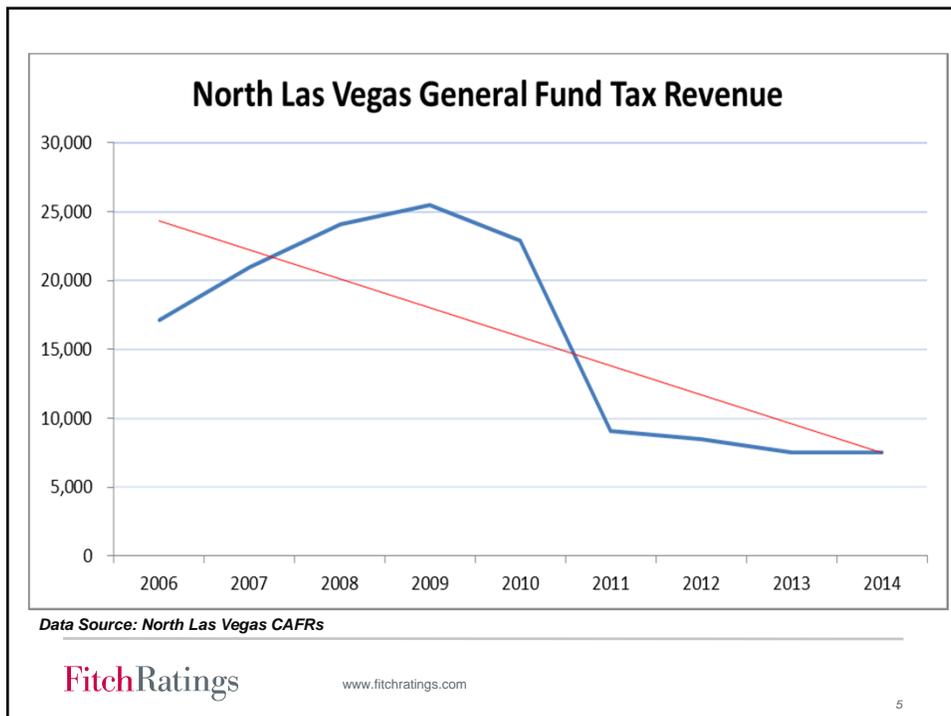
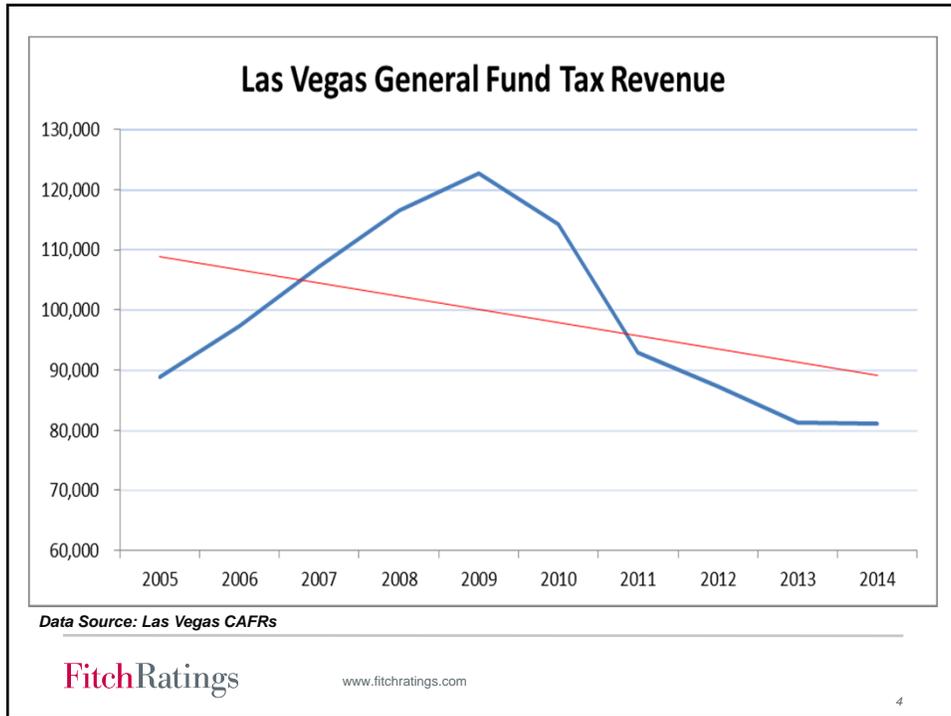
National Federation of Municipal Analysts
Annual Conference – Las Vegas, NV
8:00 AM - May 15, 2015

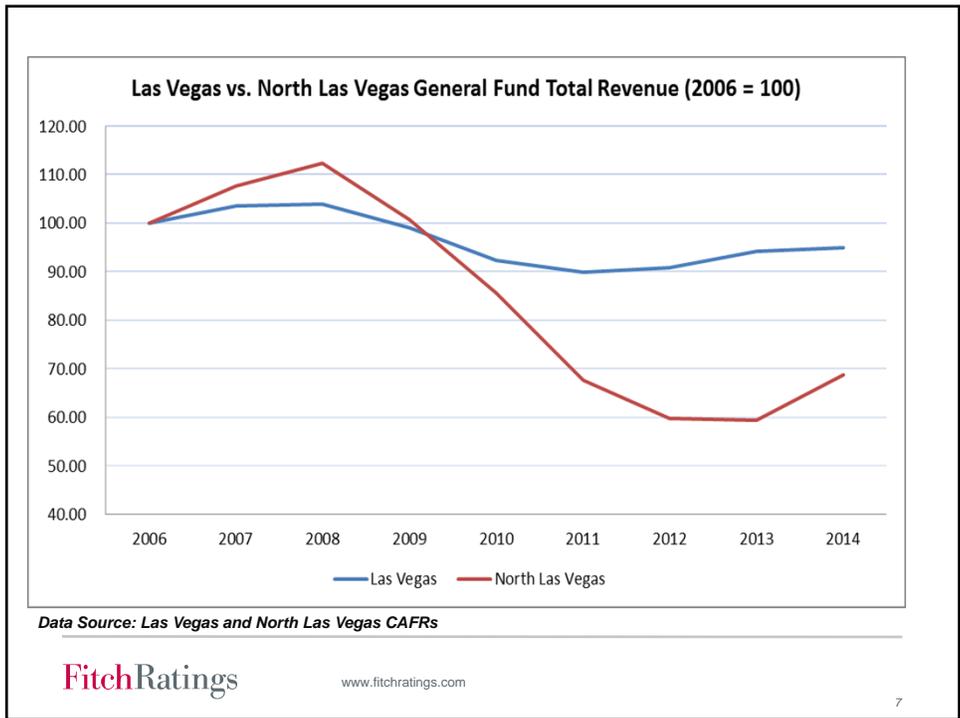
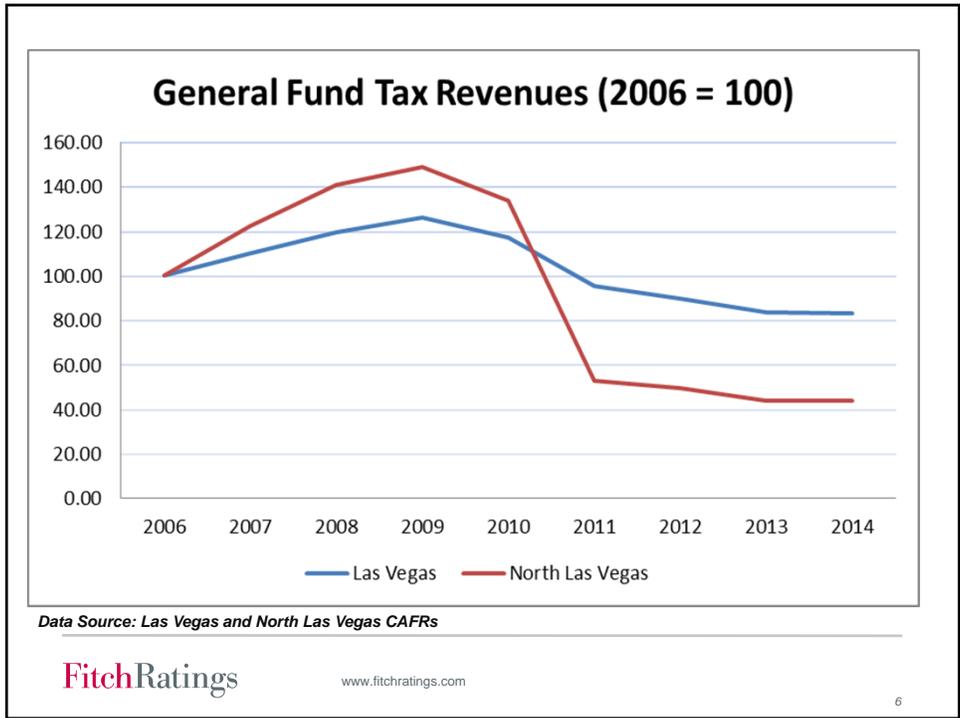
Agenda:

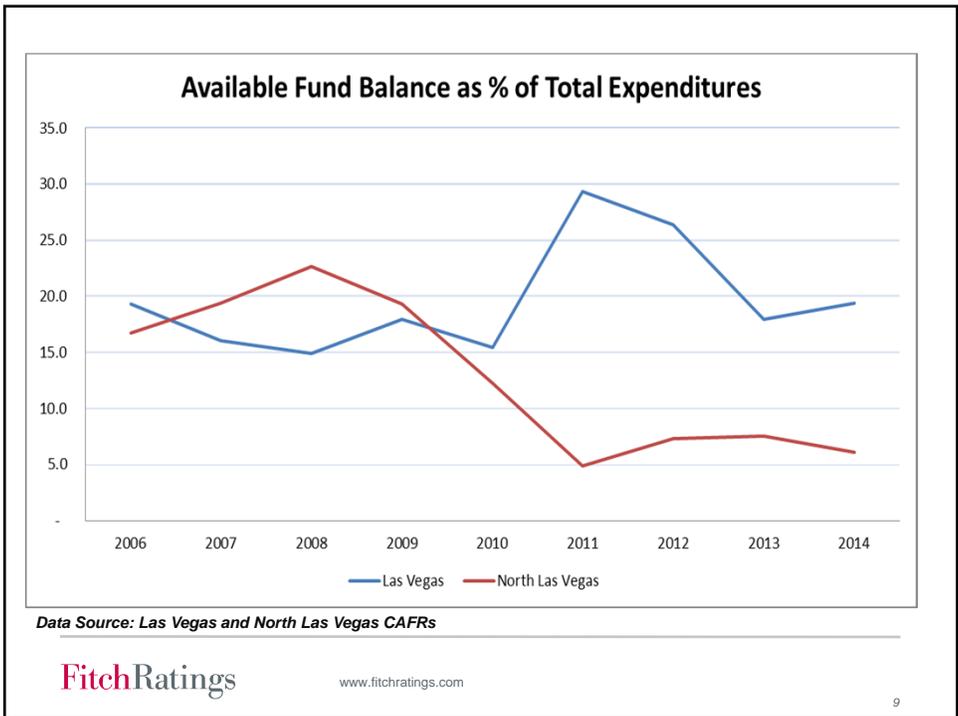
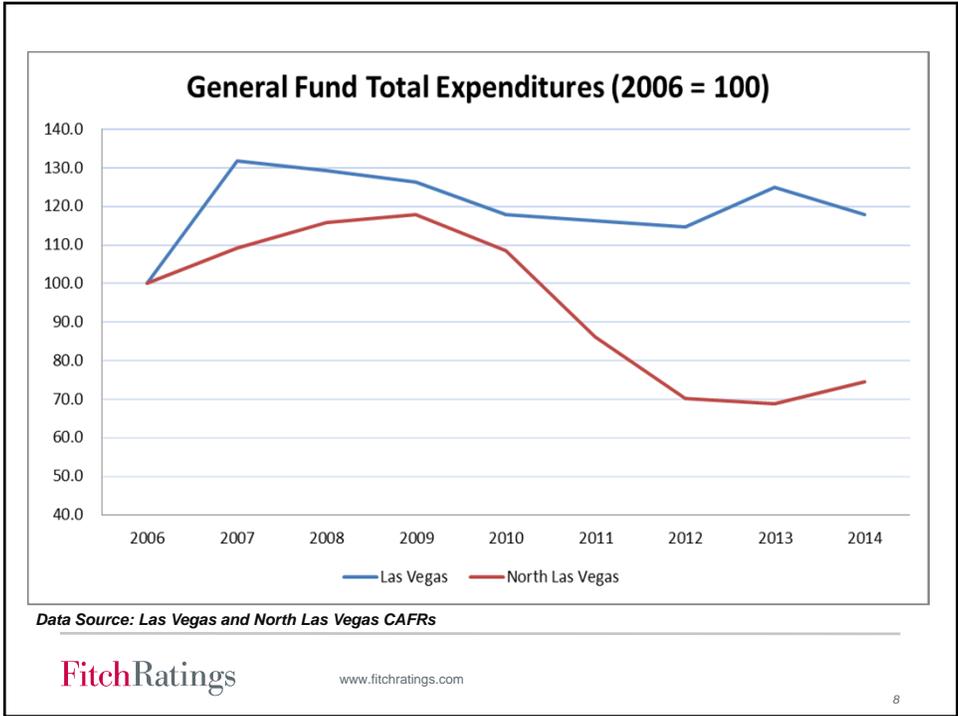
- 1) The Tale of Two Cities
- 2) Revenue Changes
- 3) Expenditure Rigidity/Flexibility
- 4) Fund Balances
- 5) Rating Actions Taken

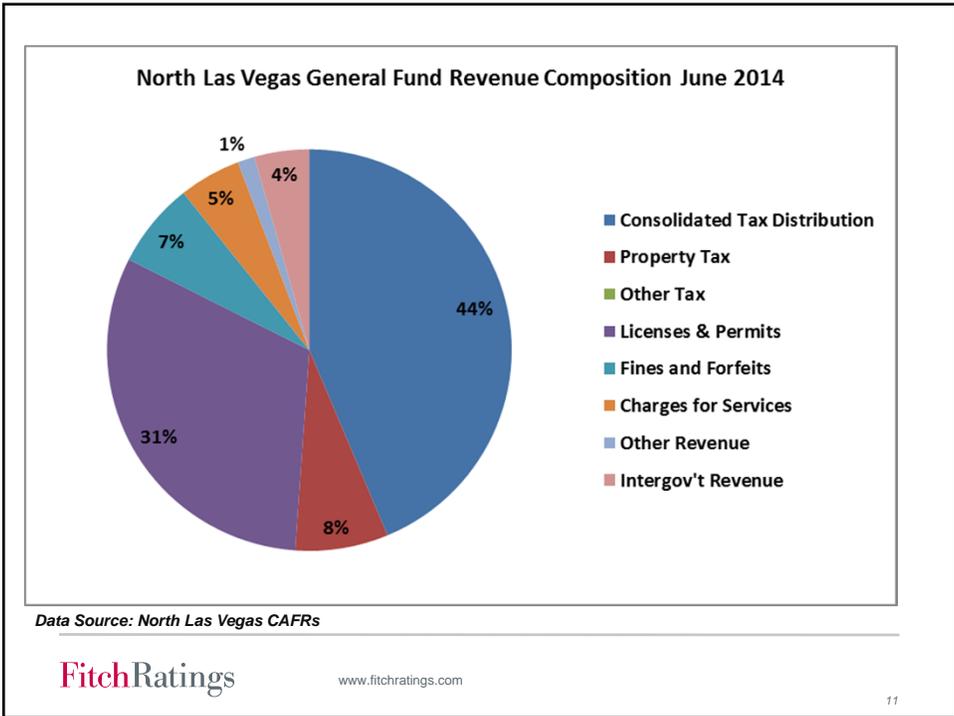
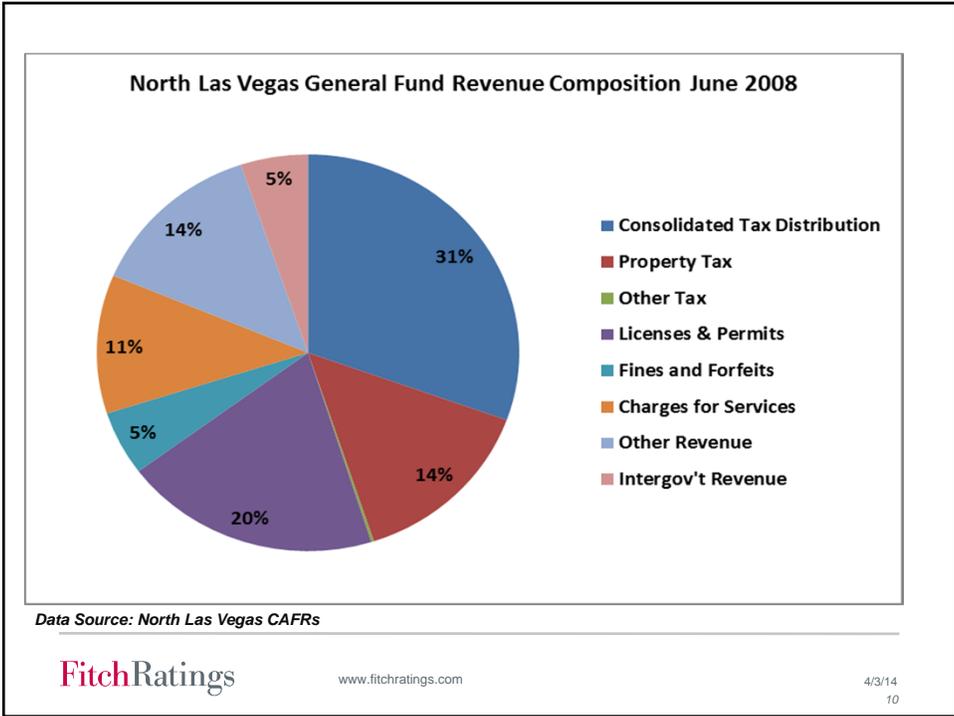
FitchRatings

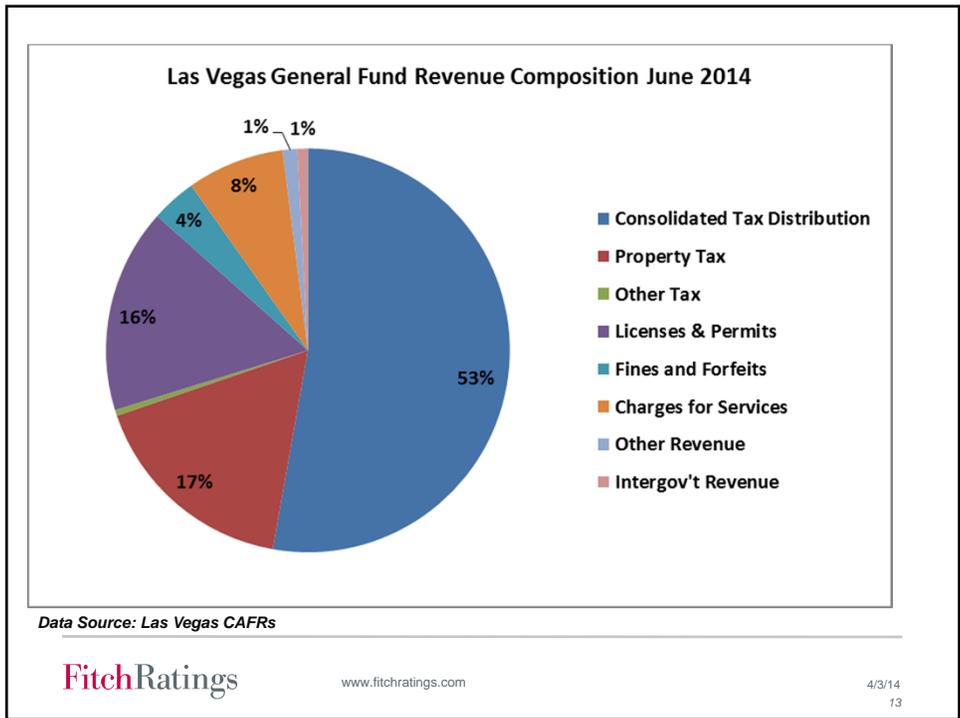
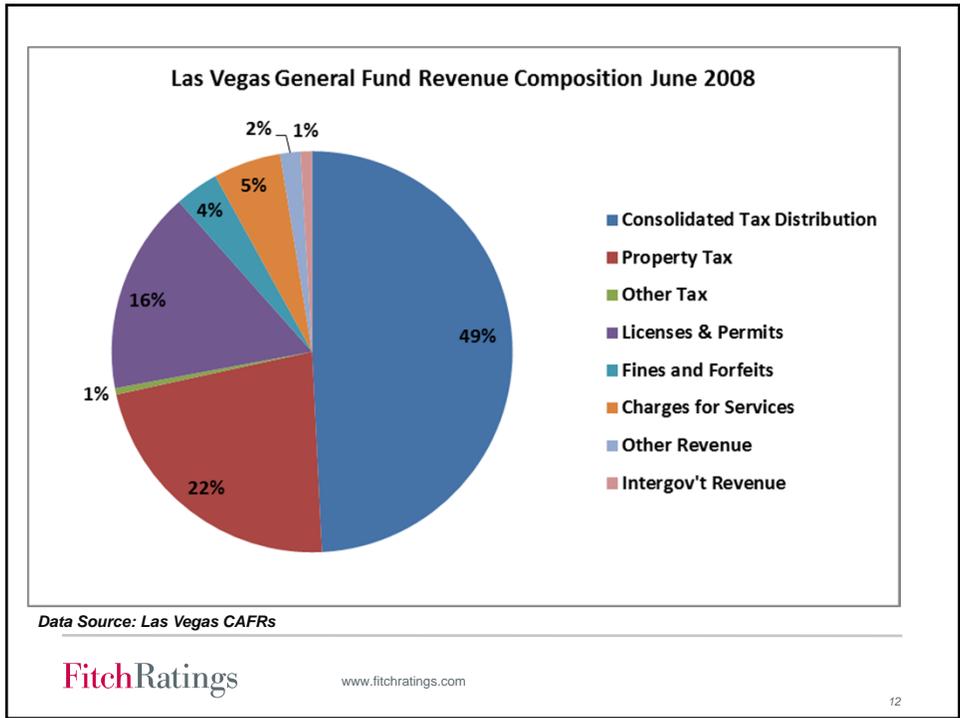










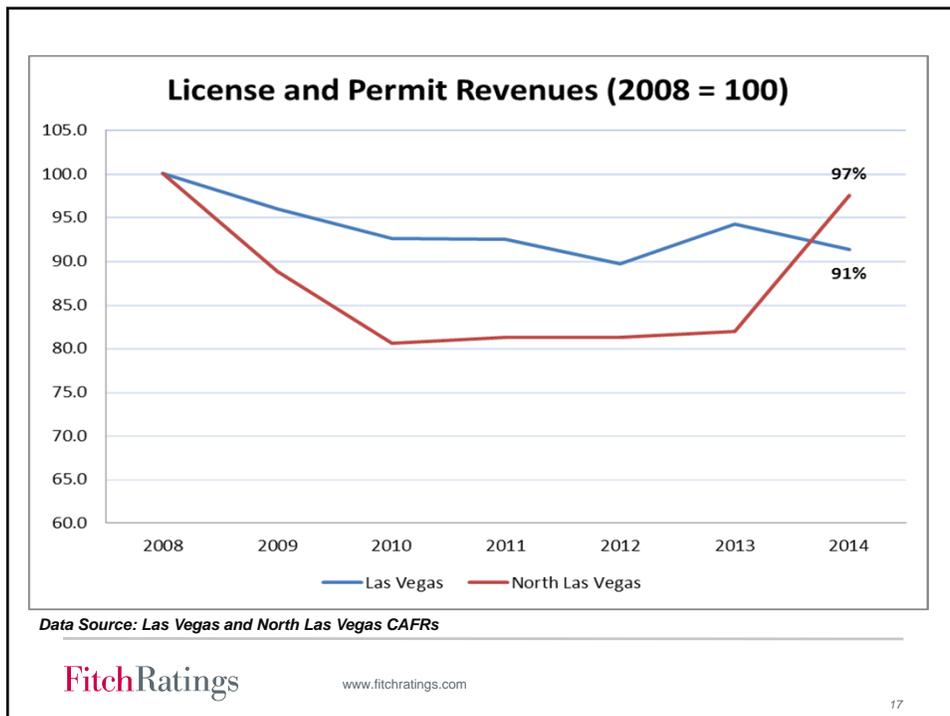
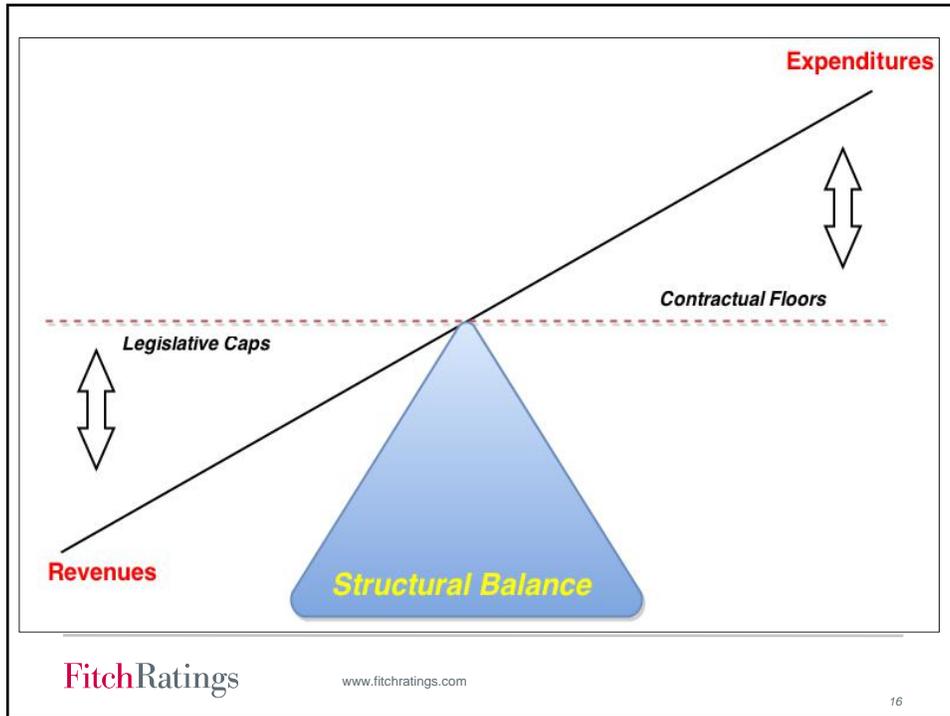


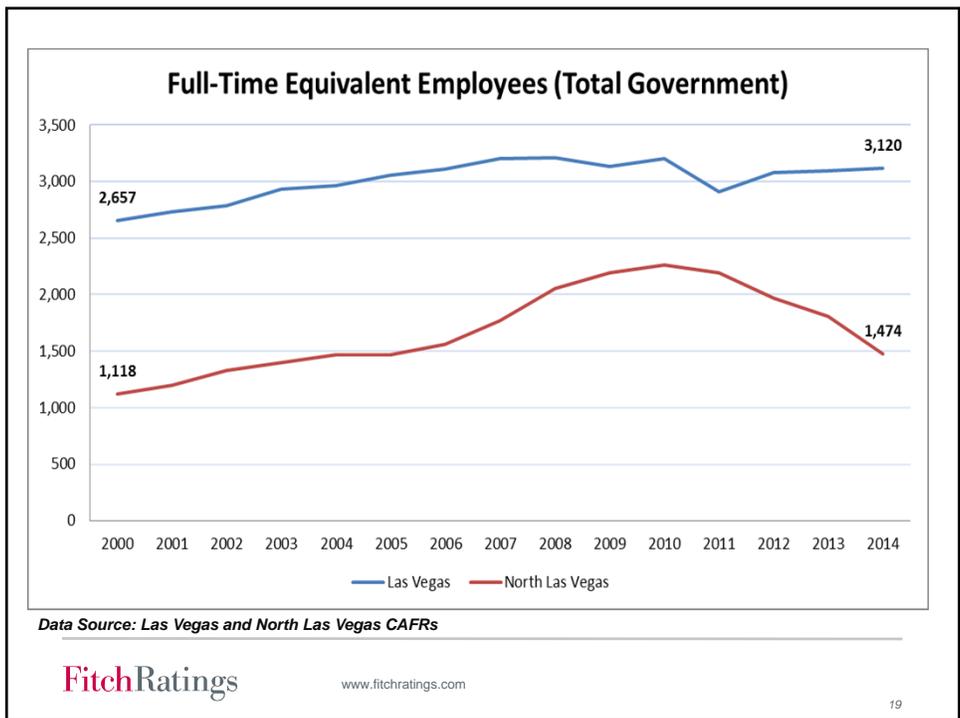
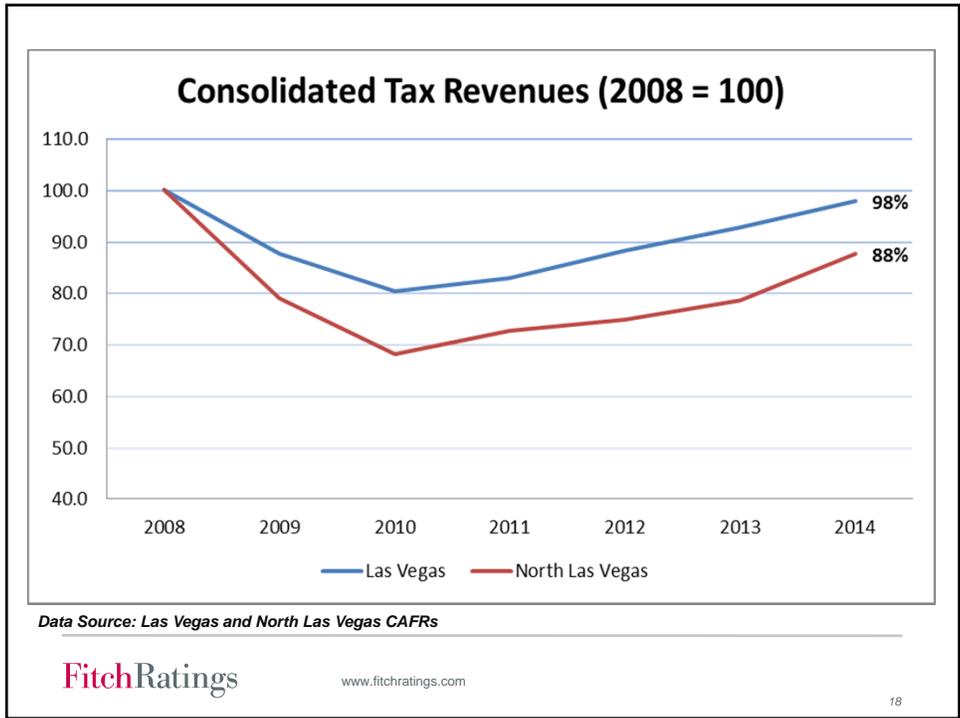
Consolidated Taxes 101

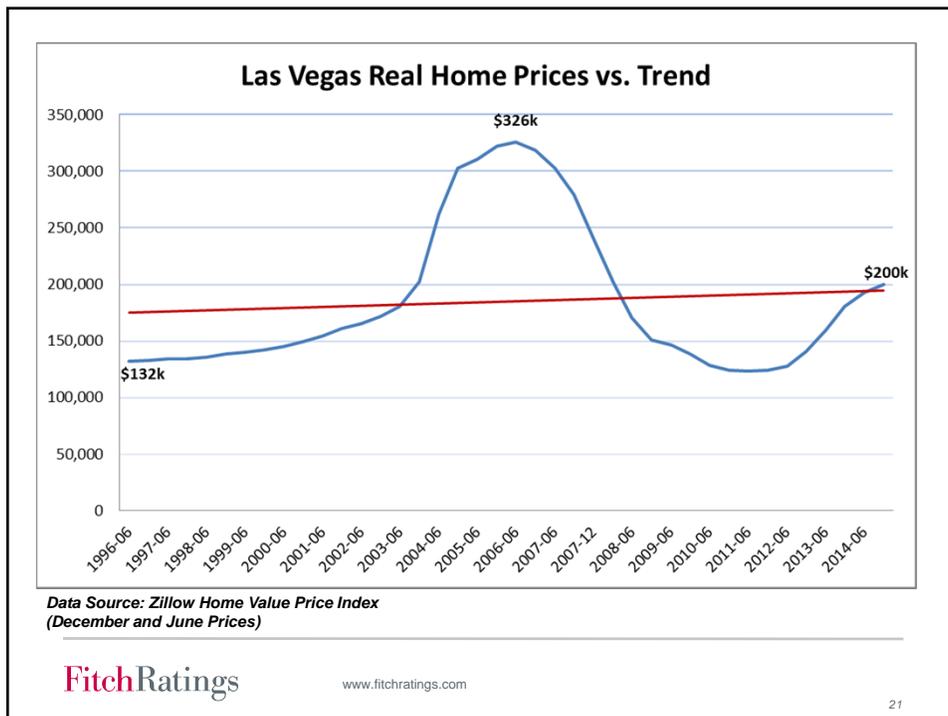
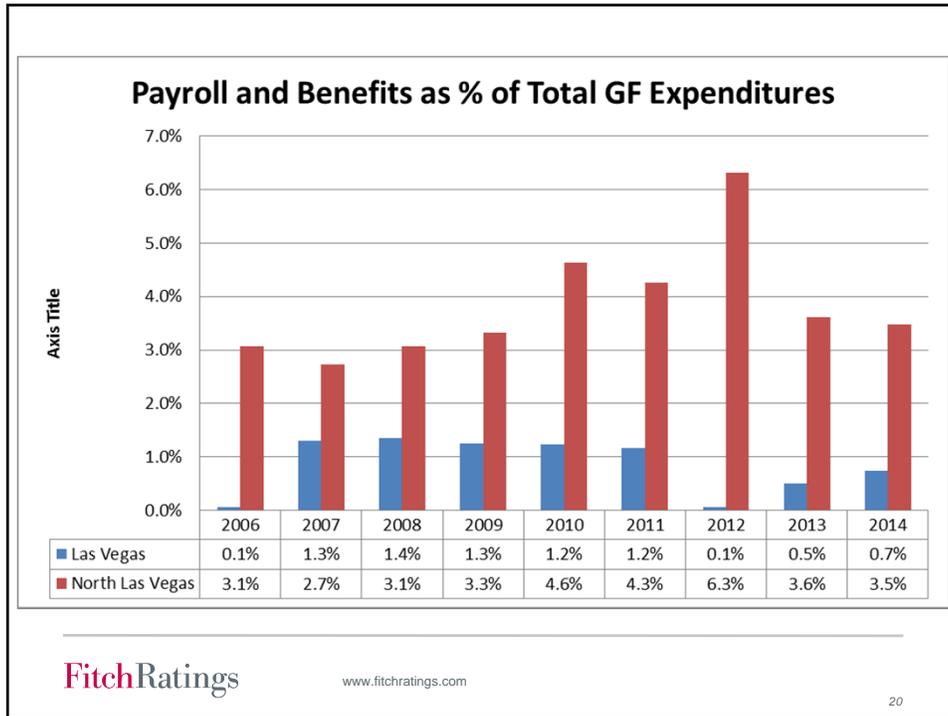
- The “Consolidated Tax Distribution” is an array of taxes collected by the State of Nevada. They include:
 - 1) Sales Tax
 - 2) Liquor Tax
 - 3) Cigarette Tax
 - 4) Real Estate Property Transfer Tax
 - 5) Government Services Tax
- They are allocated to local governments (such as Las Vegas and North Las Vegas) based on statutory formulas. Sales and Use taxes are the largest component (generally falling between 80% and 90% of the total).
- Because the majority of consolidated taxes are made up of sales taxes, they are generally considered to be highly elastic in nature and generally reliant upon economic conditions.

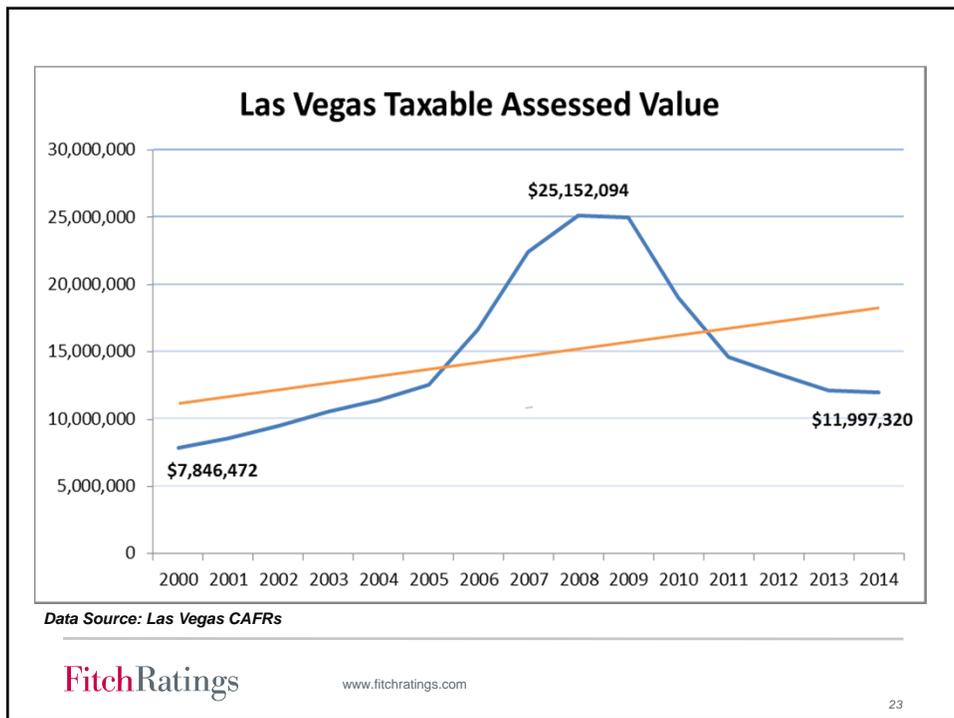
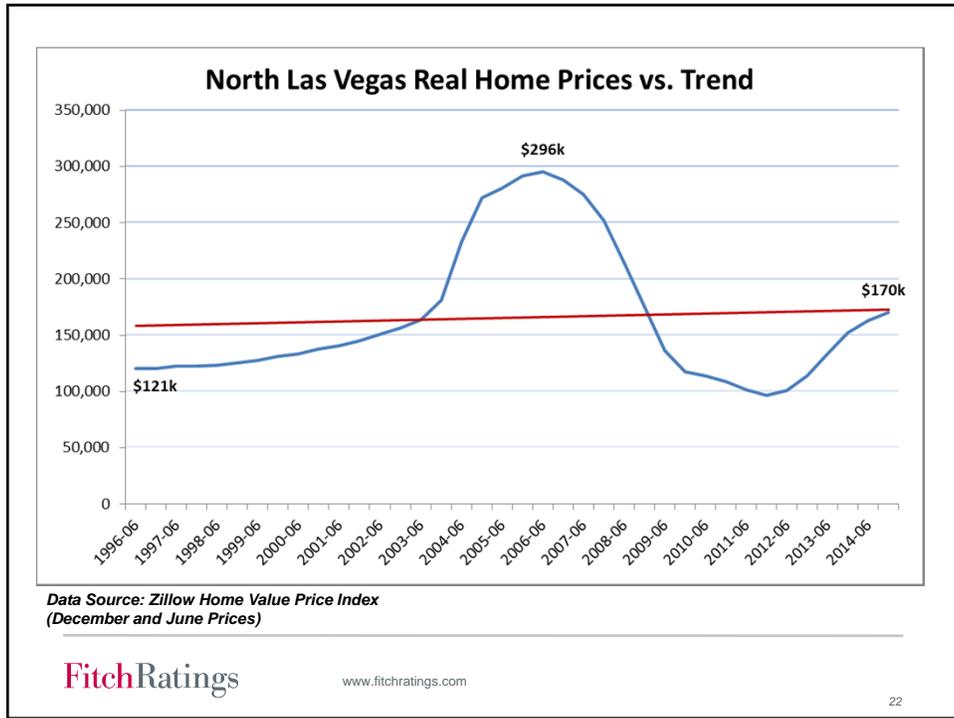
Licenses, Permits and Franchise Fees 101

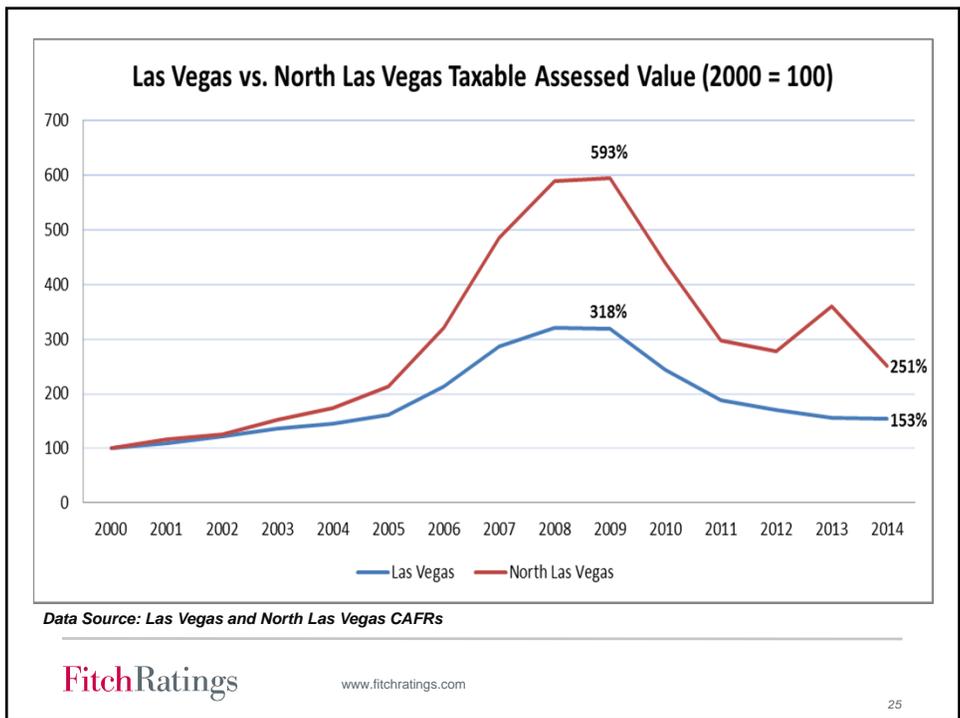
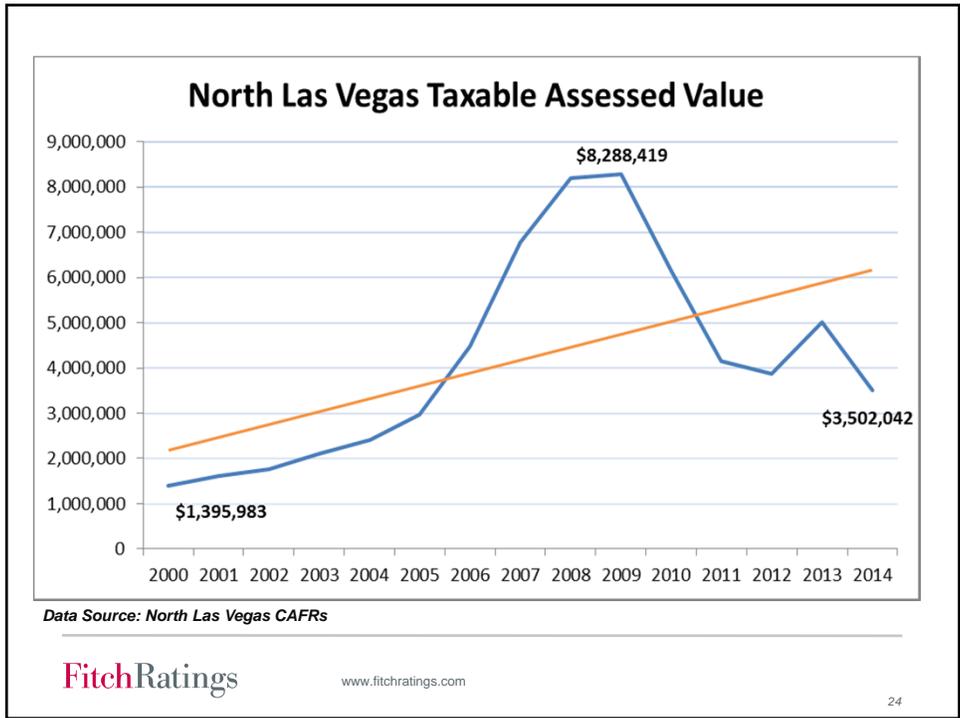
- **License and permit revenues are directly influenced by the local economy and include building and engineering permits and business, gaming, liquor, animal licenses.**
 - Business License Fees are assessed against entities engaged in business within the city limits. They can be “flat” in nature, meaning that the business may pay an up-front fee that is based on a percentage of gross income.
 - Building Permit Revenues are similarly dependent upon economic activity, particularly residential and commercial construction that drive applications for licensing.
- **Franchise Fees are imposed on gross revenues or a percentage of gross revenue on public companies operating within city limits.**
 - Franchise fees are paid by public utilities or other companies pursuant to franchise agreements and include utilities such as electric, natural gas, cable, sanitation, telecommunication, and ambulance services.

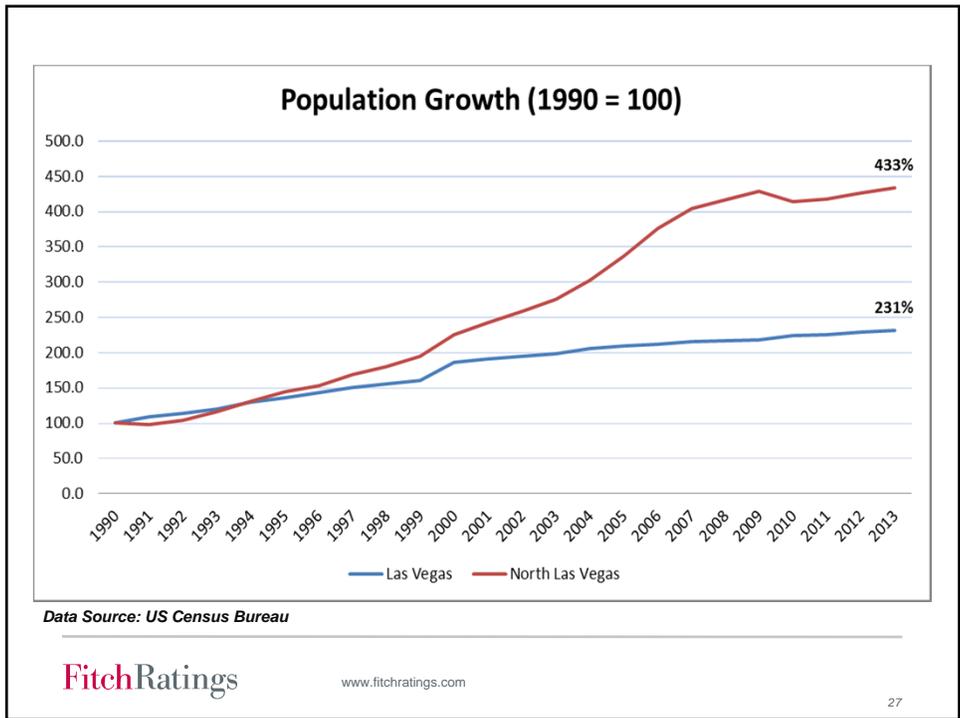
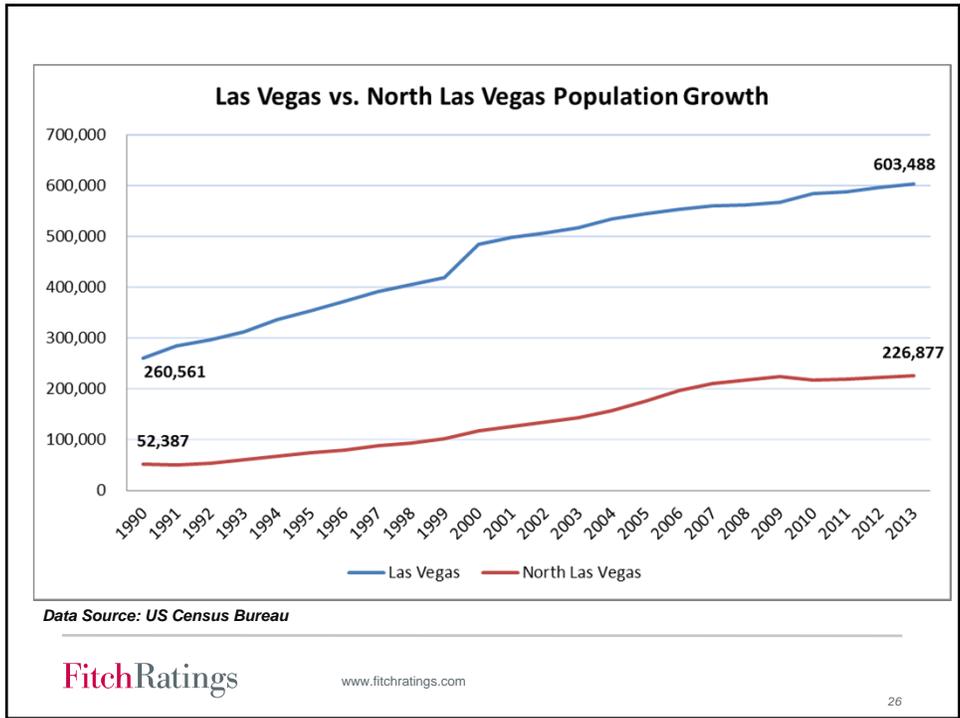












Fitch Rating Actions on LTGO Debt

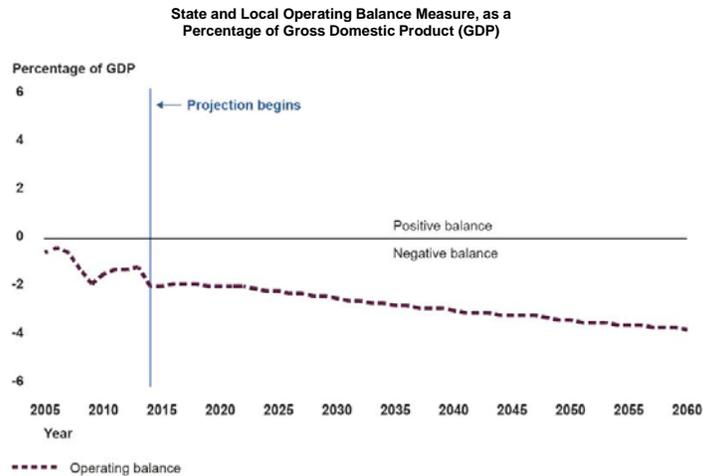
	<u>Las Vegas</u>	<u>North Las Vegas</u>
2006	Assigned, Stable Outlook AA	Assigned, Stable Outlook AA
2007		
2008		
2009	Negative Outlook AA	Downgrade, Negative Outlook AA-
2010	Revision Rating AA+	Downgrade AA-
2011	Downgrade AA	Downgrades (2) A+/A
2012	Negative Outlook AA	Downgrade, Rating Watch BBB
2013		Downgrade BB+
2014	Stable Outlook AA	Downgrade B
2015		Stable Outlook B
Current Ratings	AA/Stable	B/Stable



www.fitchratings.com

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GAO Projected 18% Structural Gap



Sources: GAO calculations using Bureau of Economic Analysis data and GAO simulations, updated December 2014. | GAO-15-224SP

Source: United States Government Accountability Office, "State and Local Governments' Fiscal Outlook: December 2014 Update"

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State and Local Workforce Spending

Compensation component	Civilian workers	Private industry	State and local government
Wages and salaries	68.4%	69.4%	64.1%
Benefits	31.6	30.6	35.9
Paid leave	7.0	6.9	7.3
Supplemental pay	3.0	3.5	0.8
Insurance	8.8	8.1	11.9
Health benefits	8.4	7.6	11.6
Retirement and savings	5.3	4.2	10.1
Defined benefit	3.3	2.0	9.2
Defined contribution	1.9	2.2	0.9
Legally required	7.6	8.0	5.9

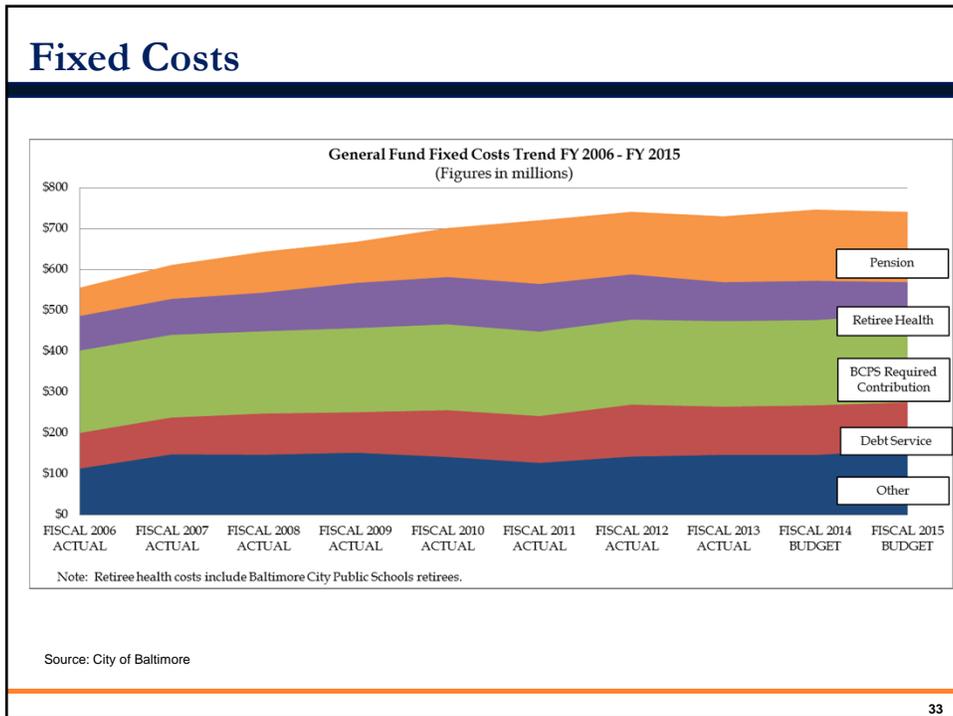
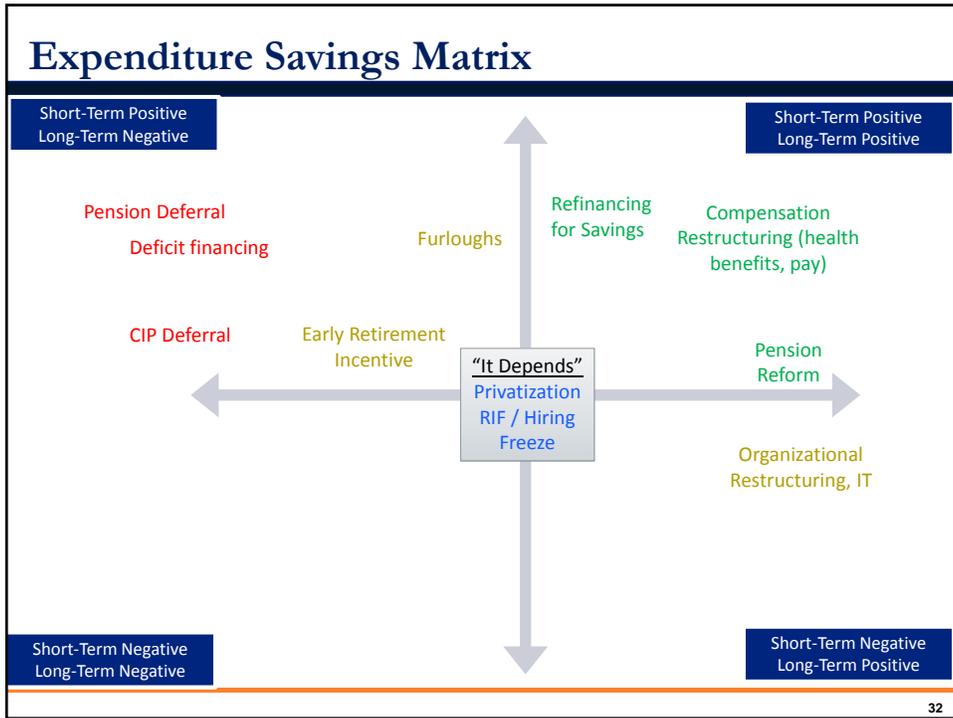
Source: Bureau of Labor Statistics, Employer Costs for Employee Compensation - December 2014 (March 11, 2015)

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Flexibility of Compensation Costs

	Wages	Active Health	Pensions	Retiree Health	Staffing Levels / Contracting/ Layoffs
Flexible	Legislatively determined	Legislatively determined	Legislatively determined; Legal framework allows for changes to incumbents	Legislatively determined; Legal framework allows for changes to incumbents	Established as management rights
Moderately Flexible	Negotiated, but subject to appropriation	Negotiated, but subject to appropriation	Negotiated; Legal framework allows for changes to incumbents	Negotiated; Legal framework allows for changes to incumbents	Some negotiated process and/or constraints
Moderately Inflexible	Negotiated	Negotiated	Legislatively determined; Legal framework constrains changes to incumbents	Legislatively determined; Legal framework constrains changes to incumbents	Heavy negotiated process and/or constraints
Less Flexible	Binding arbitration	Binding arbitration	Negotiated, Legal framework constrains changes to incumbents	Negotiated, Legal framework constrains changes to incumbents	Statutory constraints; and/or subject to binding arbitration

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AGENDA ITEM 6(b)

DISCUSSION AND CONSIDERATION OF NYE COUNTY FINANCIAL CONDITION

For a copy of the Nye County CAFR

Please go to:

<http://www.nyecounty.net/DocumentCenter/View/23638>

NYE COUNTY AGENDA INFORMATION FORM

Action
 Presentation
 Presentation & Action

Department: Finance	Agenda Date:
Category: Regular Agenda Item	October 6, 2015

Contact: Amy Fanning	Phone:	Continued from meeting of:
-----------------------------	--------	----------------------------

Return to:	Location:	Phone:
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Action requested: (Include what, with whom, when, where, why, how much (\$) and terms)

Discussion and deliberation regarding the budget status for Fiscal Year 2016, budget projections and possible actions.

Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)

Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.

Expenditure Impact by FY(s): (Provide detail on Financial Form)

No financial impact

Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Date <i>NS/a</i>
4.	Date	9. Finance	Date ✓
5.	Date	10. County Manager	Date

Place on Agenda

Board of County Commissioners Action

<input type="checkbox"/> Approved	<input type="checkbox"/> Disapproved	<input type="checkbox"/> Amended as follows:
Clerk of the Board	Date	

ITEM # 33



Nye County General Fund Budget Update

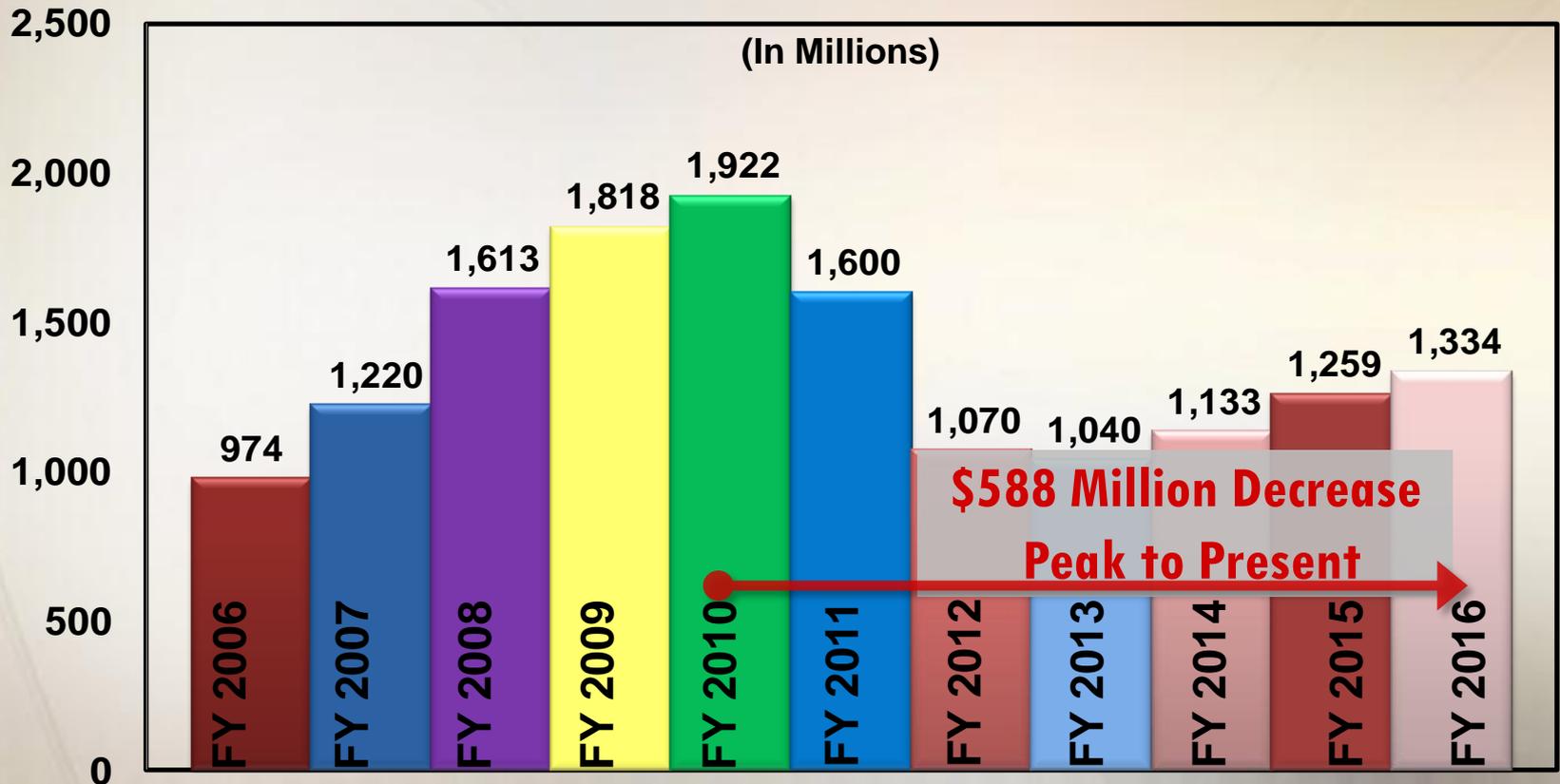
Board of County Commissioners Meeting
October 6, 2015



Assessed Valuation

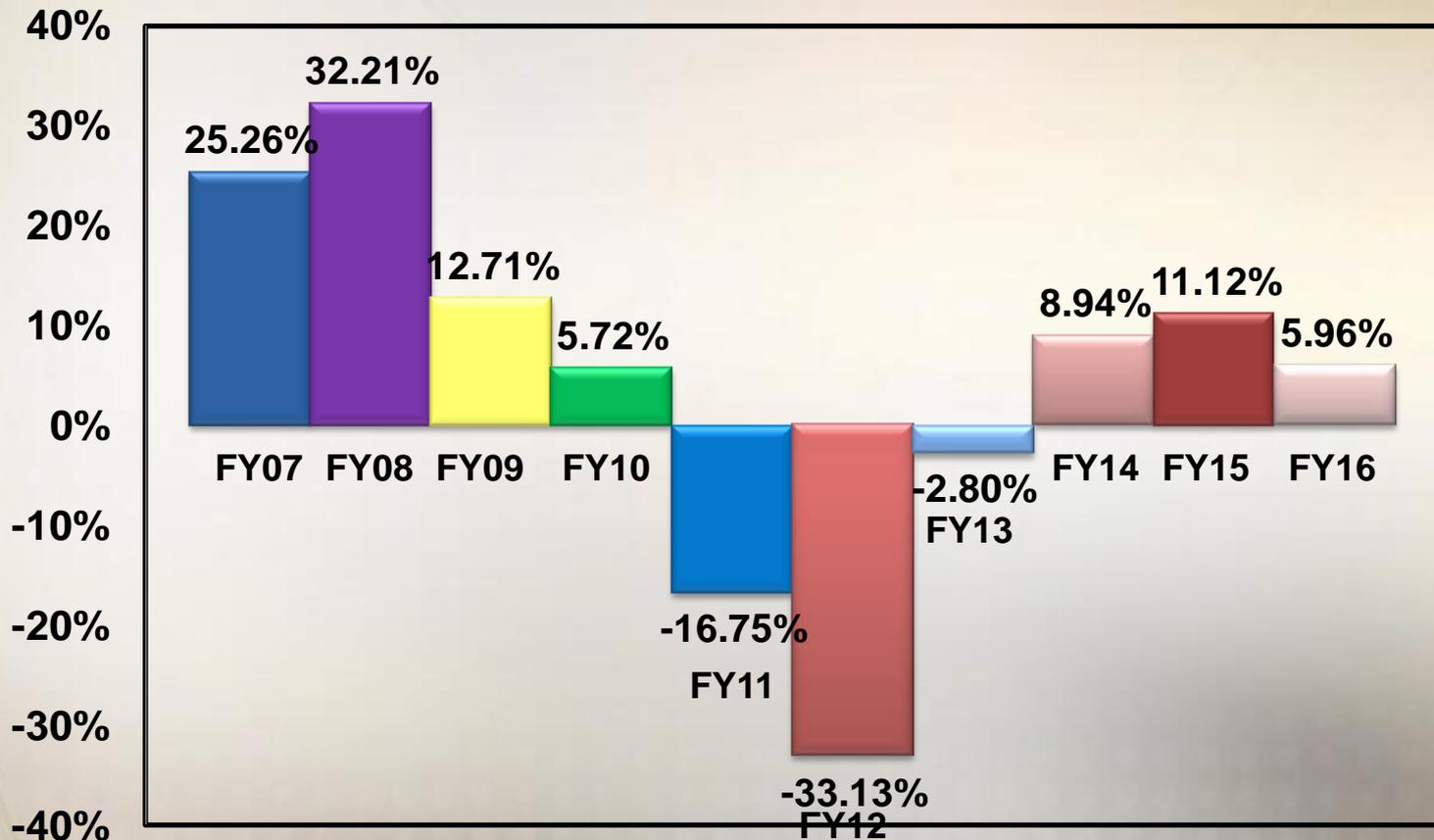
FY2006 - FY2016

Source: Department of Taxation, Final Assessed Value by County
(Excludes Net Proceeds Valuations)





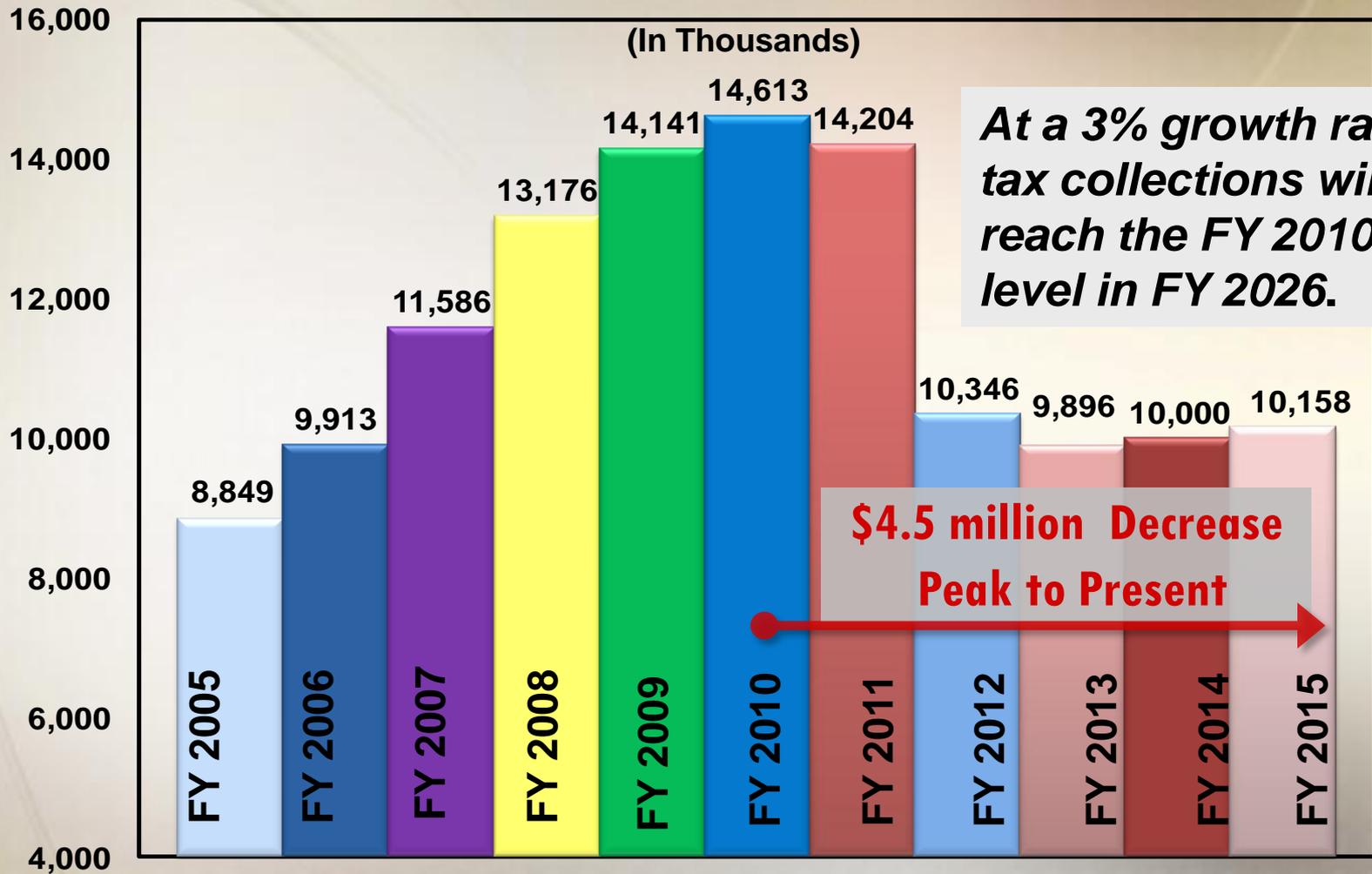
Assessed Valuation Percentage Change FY2007 - FY2016





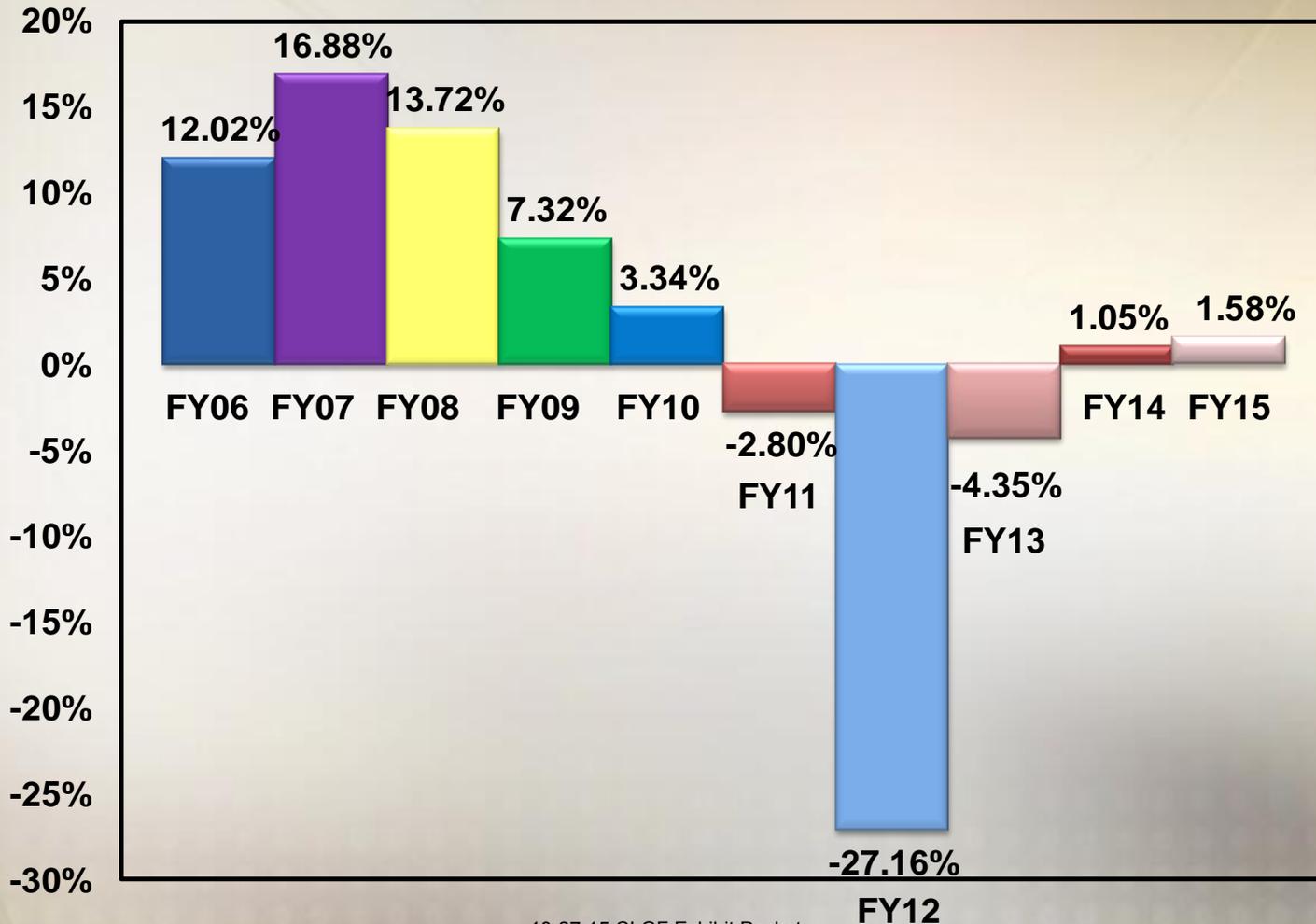
Property Tax Revenue

FY2005 - FY2015





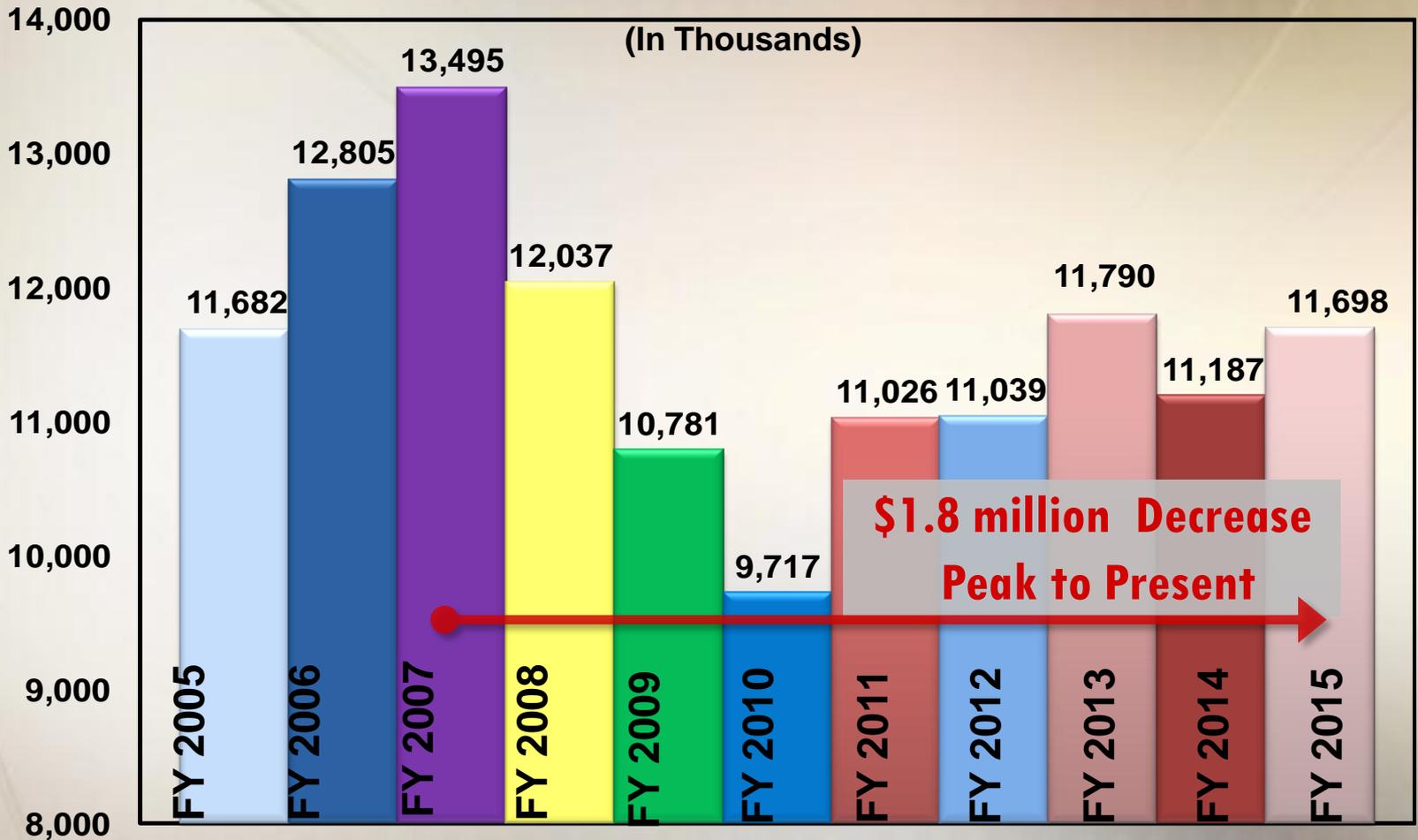
Property Tax Revenue Percentage Change FY2006 - FY2015





Consolidated Tax Revenue

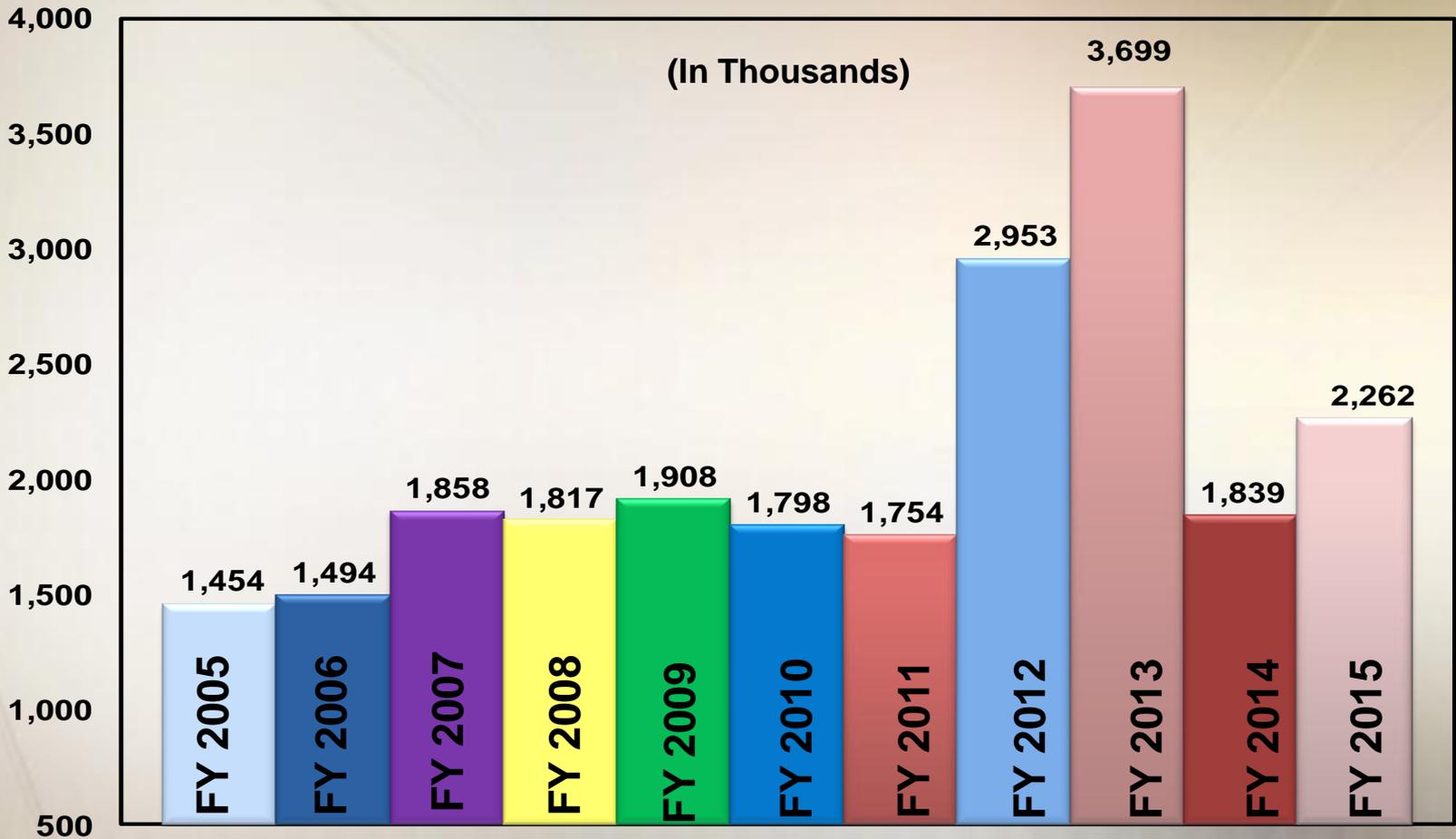
FY2005 - FY2015





Net Proceeds

FY2005 - FY2015

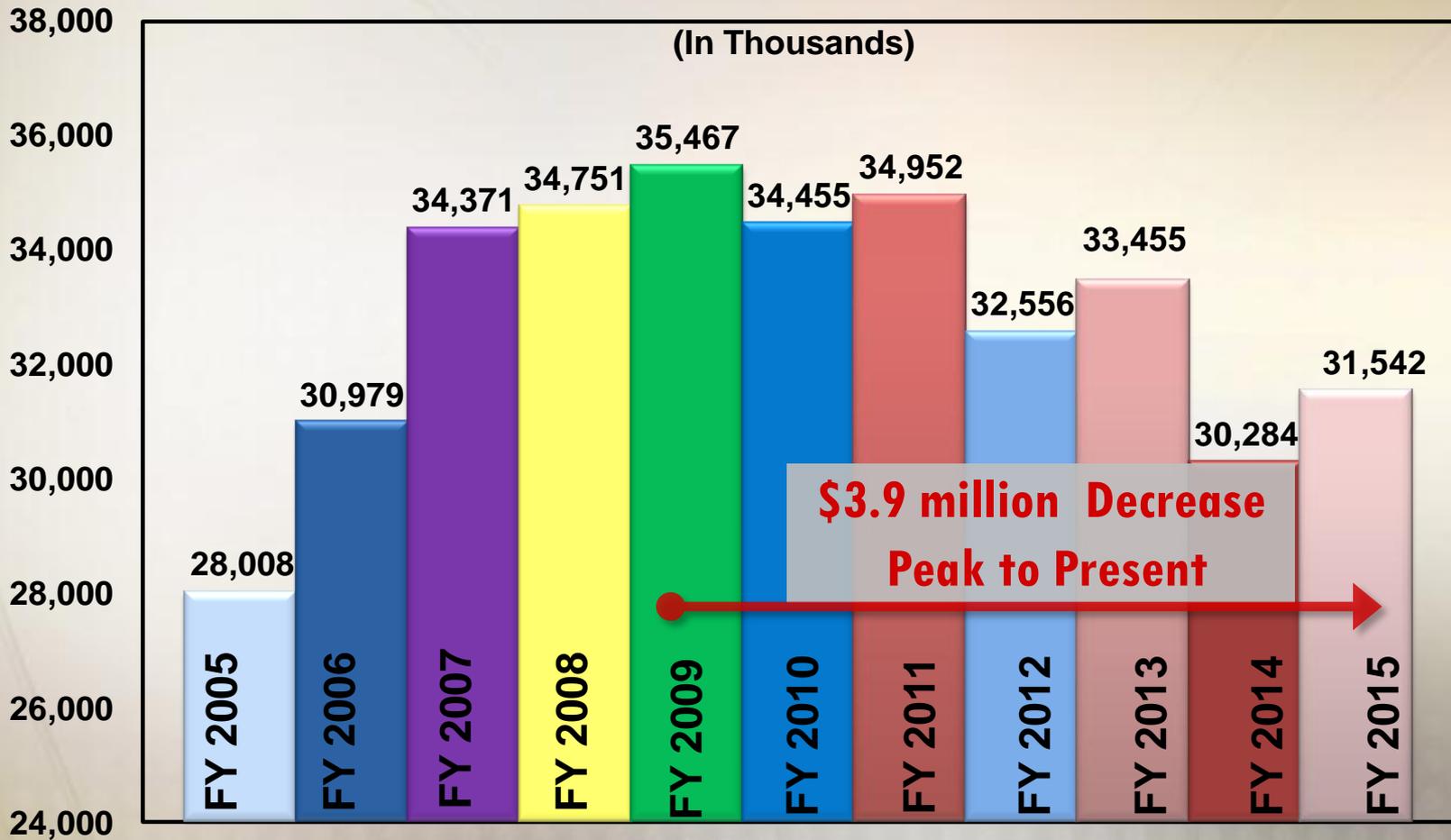


FY15 increase due to Round Mountain Gold Audit in the amount of \$678,953



All General Fund Revenue

FY2005 - FY2015



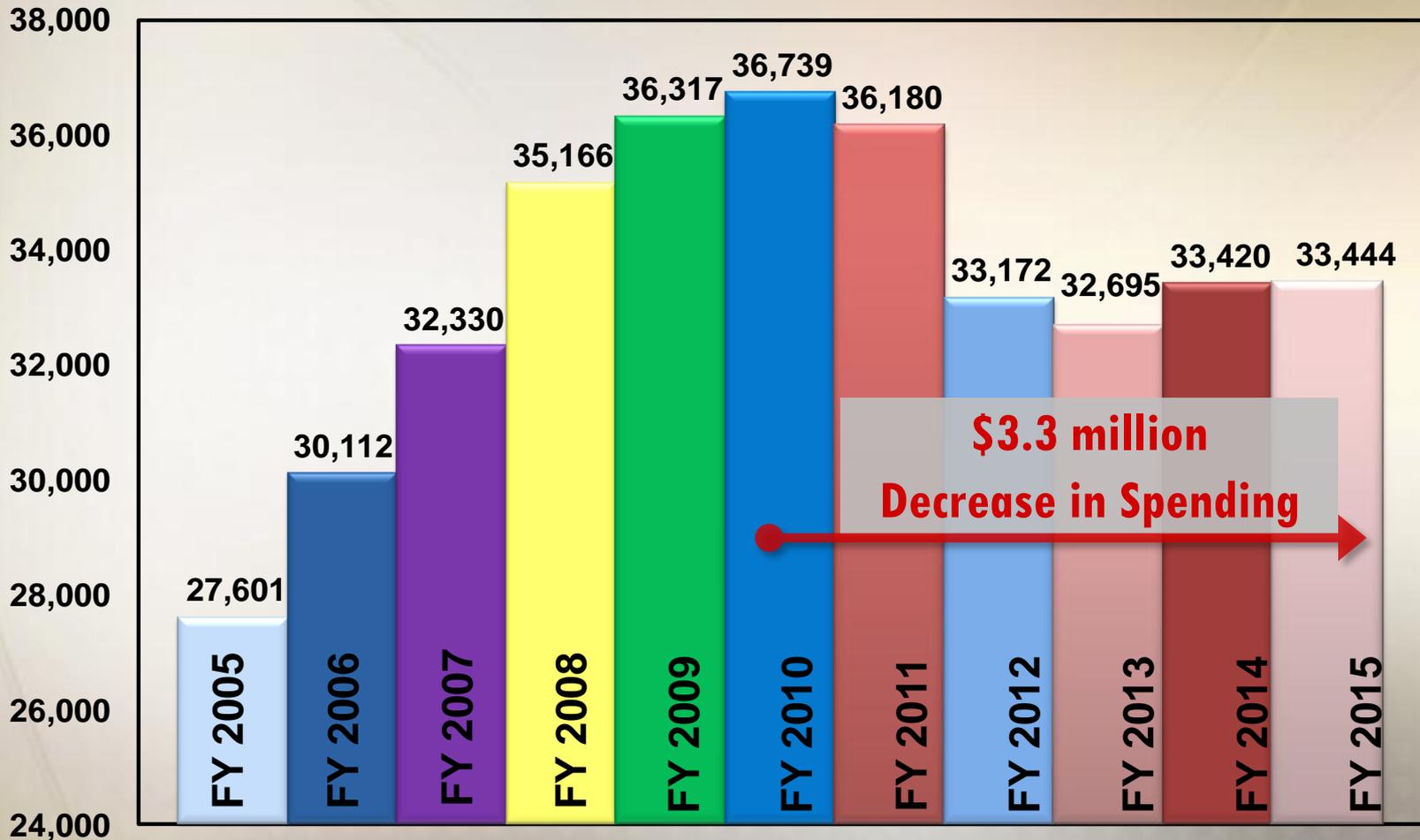


Expenditures

Salaries, Benefits, Services & Supplies

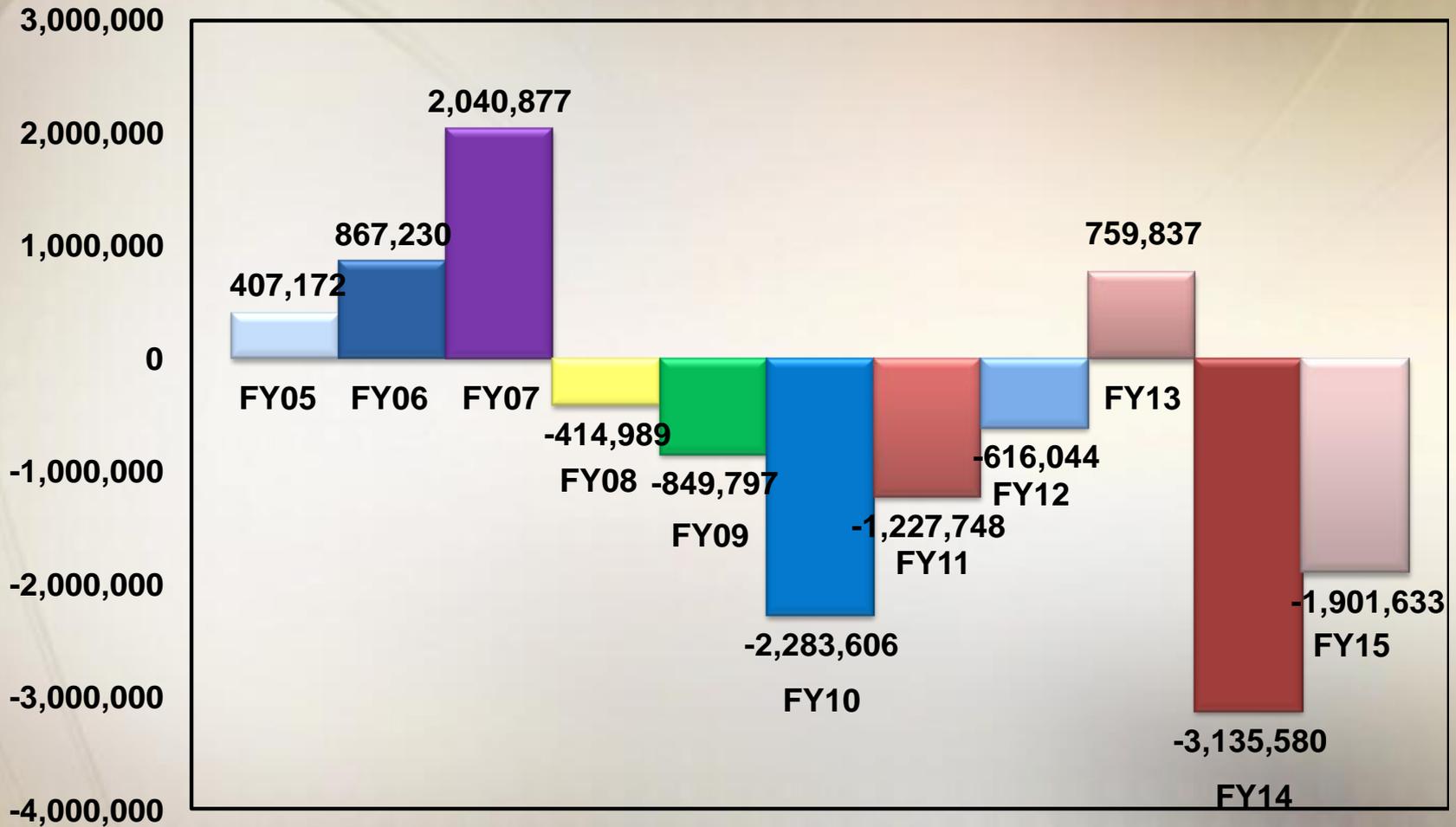
FY2005 - FY2015

(In Thousands)





Excess (deficiency) of revenues over expenditures FY2005 - FY2015



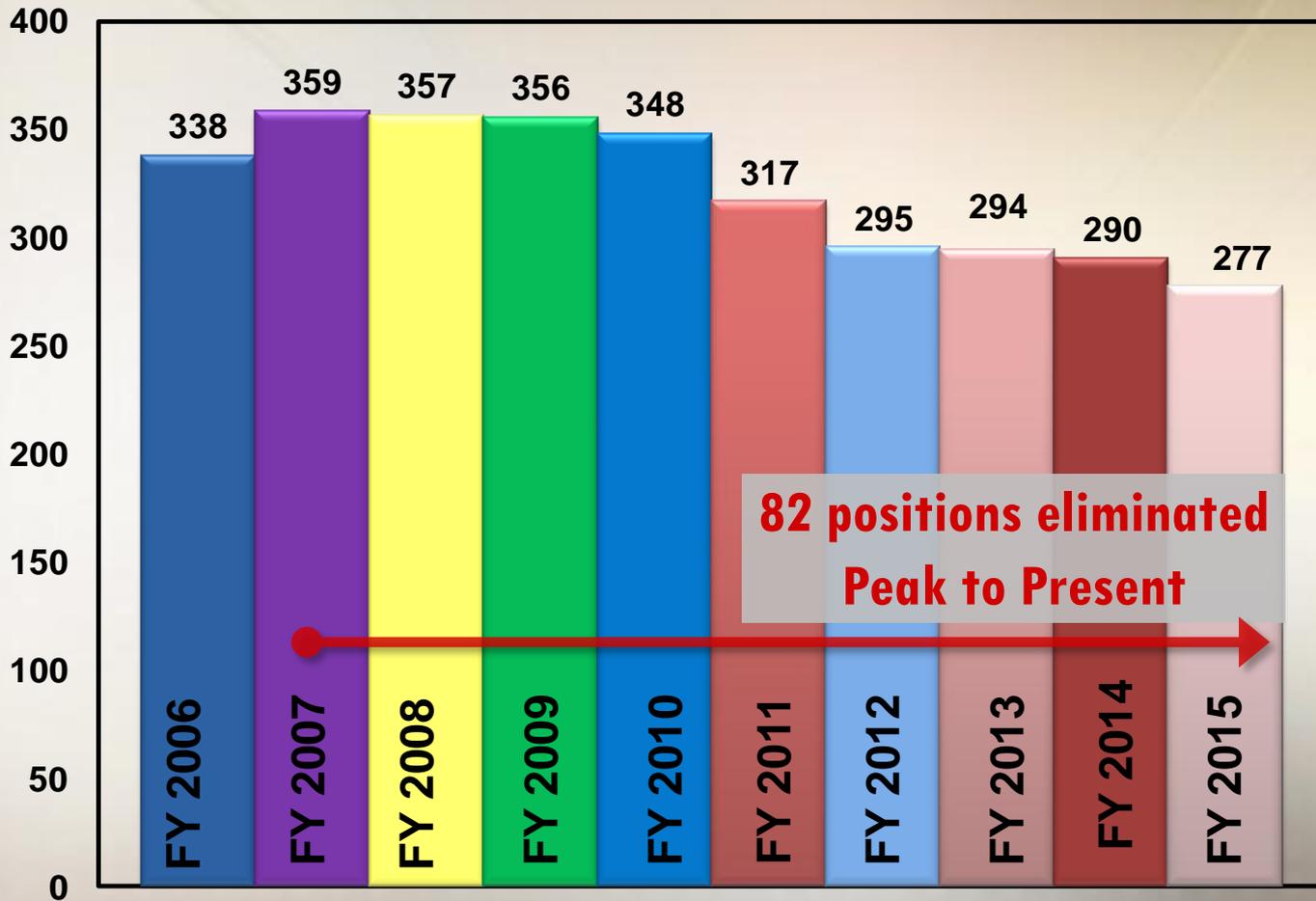
(Does not include Ending Fund Balance or Operating Transfers)



Positions

FY2006 - FY2015

Per Nye County Human Resources





FY16 Tax Rate Disbursement

	Tax Rate FY16 Budget	
General (10101)	1.0534	11,588,367
Ag Extension (10218)	0.0100	110,009
Museum (10214)	0.0079	86,907
Juvenile Probation (10230)	0.0728	800,867
Medical Indigent (10283)	0.0798	877,873
Health Clinics (10285)	0.0244	268,422
	1.2483	13,732,446
*Override Funds		
911 Emergency (10213)	0.0050	55,005
Youth Services (10230)	0.0083	91,308
Special Capital Projects (10402)	0.0500	550,046
Dedicated County Medical Indigent (10284)	0.0202	222,219
Auto Accident Indigent (74712)	0.0150	165,014
	0.0985	1,083,590
Total Rate and Revenue	1.3468	14,816,037

**Property Tax Override - an increase in the allowed property tax rate, either legislatively or by voter approval and used for operating expenditures.*



Revenue Collected Fiscal Year 2015

Revenues:	2015 Projected	Collected	% Received (of projection)
Beginning Fund Balance	622,267	622,267	100%
Real Property Taxes	7,294,982	7,408,678	102%
Personal & Centrally Assessed Property Taxes	2,698,740	2,749,333	102%
Net proceeds	1,623,470	1,583,573	98%
Net Proceeds - Round Mtn Audit	1,300,000	678,953	52%
Federal in lieu tax	3,073,375	2,834,250	92%
Consolidated tax	11,354,000	11,698,465	103%
Charges for services (<i>Department fees</i>)	2,152,000	2,303,787	107%
Licenses and Permits (<i>Liquor, gaming, etc.</i>)	371,985	356,970	96%
Intergovernmental	601,480	507,882	84%
Fines and forfeitures (<i>Court fines, etc.</i>)	430,000	559,443	130%
Other	2,425,438	2,449,2587	101%
Emergency Endowment Fund		887,000	
Total Revenue	33,947,737	34,639,858	102%

Original FY15 Projection reflected approximately \$478,000 shortfall for FY16; due to increase collection in Property Tax, C-Tax, Charges for Service and Fines & Forfeitures, with \$500,000 in position savings still being adhered to, FY16 ending fund balance is now in the positive.



Revenue & Expenditure Comparison

Fiscal Year 2015 - 2017

Revenues:	2015 Actual	2016 Budget	2017 Projection
Beginning Fund Balance	622,267	1,195,243	78,892
Real Property Taxes	7,408,678	7,748,894	7,748,894
Personal & Centrally Assessed Property Taxes	2,749,333	2,900,966	2,900,966
Net proceeds	1,583,573	1,087,020	-
Net Proceeds - Round Mtn Audit	678,953	-	-
Federal in lieu tax	2,834,250	3,073,375	3,073,375
Federal in lieu tax <i>(remainder of FY14/15 payment)</i>	-	239,000	-
Consolidated tax	11,698,465	11,152,822	11,450,000
Medical Marijuana Sales Taxes	-	-	500,000
Charges for services	2,303,787	1,755,735	1,855,735
Licenses and Permits	356,970	344,545	350,000
Intergovernmental	507,882	694,394	700,000
Fines and forfeitures	559,443	450,000	500,000
Other	2,449,257	1,380,006	1,450,000
Emergency Endowment Fund	887,000	-	-
Total Revenue	34,639,858	32,022,000	30,607,862
Expenditures (as budgeted):	33,444,615	31,943,108	32,443,108
Ending Fund Balance	1,195,243	78,892	(1,835,246)

FY % Shortfall →

0.25%

-5.66%

2015 Actual reflects unaudited values

2016 Expenditure Budget reflects (\$500,000) to be made up by position savings throughout FY

2017 Medical Marijuana Sales Tax Revenue value unknown

Nye Regional Medical Center shutting down operations

[PVT pvtimes.com /news/nye-regional-medical-center-shutting-down-operations.html](http://pvtimes.com/news/nye-regional-medical-center-shutting-down-operations.html)



The Nye Regional Medical Center will close for business on Friday at noon, with the outpatient clinic closing on Friday, Sept. 4 at 5 p.m., CEO Wayne C. Allen said Wednesday. Special to the Times-Bonanza & Goldfield News

By Daria Sokolova
Times-Bonanza & Goldfield News

Nye Regional Medical Center will close its doors in September following a series of attempts by the county to loan the struggling facility additional funding to keep the center's doors open.

In a surprise announcement Wednesday, Nye Regional Medical Center CEO, Wayne Allen, said that the center will shutter at noon on Friday and the outpatient clinic will close on Sept. 4. All acute care patient services within the hospital, including the emergency department, inpatient care, laboratory, radiology, respiratory and outpatient therapies will also cease operations.

Earlier efforts to save the hospital by arranging partnerships with other health care organizations proved unsuccessful due to the hospital's small size and remote location, he said.

"NRMC has struggled financially for the past several years," Allen said. "The hospital operations cannot be sustained any longer with expenses greater than revenues."

Most recently, Nye County approved an additional \$500,000 loan for Prime Care Nevada Inc., parent of Nye Regional Medical Center, in addition to the initial \$2 million the county already loaned the facility. However, the loan item was pulled from the Nye County Commission agenda on Tuesday without comment. The county was also in the process of establishing a hospital tax district.

The loaned money was supposed to buy another month for the hospital and officials said the funds are now expected to come back to the county.

"We are working with several people in the county and in the state of Nevada," Tonopah Town Manager James Eason said. "We are trying to postpone it, (but) we aren't trying to sugarcoat anything."

Nye County Commissioner Chairperson Lorinda Wichman said Tonopah residents could use Kingston Health Center, located more than 90 miles away.

"I think that it's absolutely horrible," Wichman said about the coming closure.

"We did everything we could possibly do to help them."

Wichman and Allen said a private entity would have to take over the operations.

"This is a tragic loss for the population served by our hospital," Allen said. "This is a decision that will ultimately jeopardize the health and well-being of our community and surrounding areas. We are hopeful that another health care entity will see this lack of access to health care as an opportunity."

Prime Care took over operations following last year's bankruptcy by the previous operator.

Contact Daria Sokolova at dsokolova@pvtimes.com.

DANIEL C. McARTHUR, LTD.
Certified Public Accountant

Quail Park III • 501 So. Rancho Dr., Ste. E-30 • Las Vegas, NV 89106 • (702) 385-1899 • FAX (702) 385-9619

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FEB 06 2015
STATE OF NEVADA
DEPARTMENT OF TAXATION

INDEPENDENT AUDITOR'S REPORT

Honorable Board of County Commissioners
Nye County, Nevada
Tonopah, Nevada

I have audited in accordance with auditing standards generally accepted in the United States of America the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of Nye County, Nevada (the County), as of and for the year ended June 30, 2014, and the related notes to the financial statements which collectively comprise the County's basic financial statements and have issued my report thereon dated January 10, 2015.

In connection with my audit, nothing came to my attention that caused me to believe that the funds established by the County as listed in Nevada Revised Statutes (NRS) 354.624 Sec 5 (a)(1) through (5)(II), and NRS 354.6113 failed to comply with the express purposes required by NRS 354.6241 Sec 1 (a), (b), (c), (d), (e), and (f), and NRS 354.6113 Sec 4 (a), (b),(c), and (d), respectively. Nothing came to my attention that caused me to believe there were instances of noncompliance that are required to be reported under Nevada Revised Statutes (NRS) 354.624 Sec 4, except as listed in the accompanying appendix C.

As required by NRS 354.6113 Sec 4 and NRS 354.598155 Sec 4 a schedule of capital projects activity is included in appendix A.

As required by Nye County Ordinance, a schedule of project activity for specified funds is included in appendix B.

This report is intended solely for the information and use of the members of the County Commission, management, others within the County, and the Nevada Department of Taxation and is not intended to be, and should not be, used by anyone other than these specified parties.

Las Vegas, Nevada
January 10, 2015

Appendix A

Indicate capital projects that have been expended from the fund.

Nye County, Nevada
Reporting Requirements - Nevada Revised Statutes 354.6113 and 354.598155
Capital Project Funds
Year Ended June 30, 2014

Project Name	10401 - Capital Projects	10402 - Co. Special Capital Projects	10493 - Endowment Capital Projects	10451 - Bond Proceeds Capital Projects	24401 - Beatty Capital Projects	Totals
Amargosa Senior Center Modular Relocation	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ 35,000
Ambulance cots	-	19,880	-	-	-	19,880
Air conditioning unit	-	4,375	-	-	-	4,375
ATVs - Kawasaki Mule	-	34,486	-	-	-	34,486
Beatty Airport	-	6,875	-	-	-	6,875
Equipment - smaller items	6,175	52,022	-	-	-	58,197
Forklift	-	3,400	-	-	-	3,400
Information Technology Facility	-	-	-	641,619	-	641,619
Information Technology Vehicle	-	17,000	-	-	-	17,000
Manhattan Church Roof Repair	-	9,543	-	-	-	9,543
Mt. Moriah Cemetery Land	15,000	-	-	-	-	15,000
Mural lighting system	-	-	-	-	5,442	5,442
One Stop Shop at Calvada	-	-	-	227,161	-	227,161
Public works	-	-	-	-	13,813	13,813
Pahrump Chip Seal	-	-	609,908	-	-	609,908
Pahrump Justice Court Roof	-	-	54,650	-	-	54,650
Radio Purchase	18,411	714,053	-	-	-	732,464
Software - Justware	-	47,089	-	-	-	47,089
Spacesaver	-	9,915	-	-	-	9,915
Stryker Power Cots	26,913	-	-	-	-	26,913
Tonopah Helipad	-	7,566	-	-	-	7,566
Tonopah Justice Court Remodel	-	17,000	-	-	-	17,000
Tonopah DA's office/law library remodel	-	38,739	-	-	-	38,739
Transfer to towns	-	71,470	-	-	-	71,470
Translator replacement	-	-	-	-	12,200	12,200
VOIP Telephone System - County Wide	-	-	175,725	-	-	175,725
	<u>101,499</u>	<u>1,053,413</u>	<u>840,283</u>	<u>868,780</u>	<u>31,455</u>	<u>2,895,430</u>

NYE COUNTY, NEVADA
 REPORTING REQUIREMENTS-NEVADA REVISED STATUTES 354.6113(CONTINUED)
 APPENDIX A
 SCHEDULE OF CAPITAL PROJECTS ACTIVITY

Specify the amount of money that will be deposited in the fund for the next fiscal year.

Response:

The following amounts and their sources are planned to be deposited into the funds:

County Capital Projects	
Ad valorem taxes	\$ 203,964
Net proceeds	\$ 15,100
Investment income	\$ 2,000
Transfers in from special revenue funds	\$ 6,400
Special Capital Projects Ad Valorem	
Ad valorem taxes	\$ 576,168
Net proceeds	\$ 42,654
Investment income	\$ 3,000
Endowment Capital Projects	
Investment income	\$ 20,000
Bond Proceeds Capital Projects	None
Beatty Capital Projects	
Investment income	\$ 2,000
Beatty Special Capital Projects	
Intergovernmental	\$ 20,959
Beatty Room Tax Capital Projects	
Room taxes	\$ 17,000
Gabbs Special Capital Projects	
Intergovernmental	\$ 3,445
Manhattan Special Capital Projects	
Intergovernmental	\$ 3,015

NYE COUNTY, NEVADA
 REPORTING REQUIREMENTS-NEVADA REVISED STATUTES 354.6113(CONTINUED)
 APPENDIX A
 SCHEDULE OF CAPITAL PROJECTS ACTIVITY

Specify any proposed capital projects that will be constructed with money from the fund during the next fiscal year.

Response:

The following costs are planned to be expended during the next fiscal year:

County Capital Projects	
Various capital projects	\$ 350,740
Transfer out to General Fund	<u>\$ 219,063</u>
	<u>\$ 569,803</u>
Special Capital Projects Ad Valorem	
Various capital projects	\$ 1,265,827
Intergovernmental transfer	<u>\$ 107,675</u>
	<u>\$ 1,373,502</u>
Endowment Capital Projects	
Various capital projects	\$ 2,423,333
Transfer to Debt Service Fund for bond payment	<u>\$ 2,208,659</u>
	<u>\$ 4,631,992</u>
Bond Proceeds Capital Projects	
Various capital projects	<u>\$ 85,663</u>
Beatty Capital Projects	
Various capital projects	<u>\$ 516,689</u>
Beatty Special Capital Projects	
Various capital projects	<u>\$ 172,325</u>
Beatty Room Tax Capital Projects	
Various capital projects	<u>\$ 139,807</u>
Gabbs Special Capital Projects	
Various capital projects	<u>\$ 33,551</u>
Manhattan Special Capital Projects	
Various capital projects	<u>\$ 30,939</u>

Identify any planned accumulation of money in the fund.

Response:

There is no planned accumulation of money in the capital projects funds.

Appendix B

Nye County, Nevada
 Payments Equal to Taxes Project Expenditures
 Year Ended June 30, 2014

Project Name	10301 - Nye County Special Projects	10493 - Capital Project Endowment	10302- Education Endowment	10303 - Health Fund	10304- Emergency Fund	Totals
Belmont Courthouse Reroof	\$ 8,727	\$ -	\$ -	\$ -	\$ -	\$ 8,727
Educational Trips	13,085	-	-	-	-	13,085
Gabbs Community Center	79,203	-	-	-	-	79,203
General Services Facility	77	-	-	-	-	77
Golden Mountain Lane	1,214	-	-	-	-	1,214
Historical Roads Jurisdiction	48,437	-	-	-	-	48,437
Nevada Forestry Division Local Contract	-	-	-	-	37,500	37,500
Beatty Ambulance Barn	11,582	-	-	-	-	11,582
County 50/50 Match	176,234	-	-	-	-	176,234
Pahrump Chip Seal	-	609,908	-	-	-	609,908
Pahrump Justice Court Roof	-	54,650	-	-	-	54,650
Reserve Program	18,639	-	-	-	-	18,639
Siebert Mountain House Refurbish	21,309	-	-	-	-	21,309
Youth Parole Services	76,744	-	-	-	-	76,744
Pre-sentence Investigators	101,099	-	-	-	-	101,099
Rural Child Protective Services	255,487	-	-	-	-	255,487
Technology	3,795	-	-	-	-	3,795
VOIP Telephone System - County Wide	-	175,725	-	-	-	175,725
Nye Regional Hospital Bankruptcy	-	-	-	283,410	-	283,410
Miscellaneous	-	-	-	9,000	-	9,000
	<u>\$ 815,632</u>	<u>\$ 840,283</u>	<u>\$ -</u>	<u>\$ 292,410</u>	<u>\$ 37,500</u>	<u>\$ 1,985,825</u>

**NYE COUNTY, NEVADA
SCHEDULE OF FINDINGS
Compliance with Laws and Regulations**

Expenditures in Excess of Appropriations

Chapter 354.626 of the Nevada Revised Statutes provides that no governing body or officer or department thereof shall expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that function or fund for any fiscal year.

The following functions were overexpended in the General Fund:

General Government	\$ 68,710
Public Safety	\$ 478,137

The following fund functions were overexpended:

State and County Room Tax –Intergovernmental	\$ 30,697
Impact Fees-Intergovernmental	\$ 4,428

The following enterprise funds were overexpended:

Gabbs Utility Water	\$ 9,393
Manhattan Utility	\$ 103,229

Audit of Apportionments

Chapter 354.290(1) (a) of the Nevada Revised Statutes indicates that the County Auditor (Comptroller) shall audit all apportionments made by the County Treasurer. Records suggest apportionments were not audited by the Comptroller's office for the first five months of the year.

Deposit of Money

Chapter 356.200 of the Nevada Revised Statutes indicates that a County officer, other than a County Treasurer, may deposit county money received by the office of the County officer in an insured bank located in the State of Nevada. The County officer, maintaining a deposit in a depository bank, is to draw upon the deposit not later than the first Monday of each month by check or order payable to the County Treasurer, and deliver the withdrawal to the County Treasurer.

Monies collected by the Sheriff's department were not remitted to the County Treasurer timely.

Monthly Statement of Cash Balances

Chapter 354.280(2) of the Nevada Revised Statutes indicates that the Treasurer is to submit to the County Commissioners each month at any regular meeting, or at a special meeting, a statement of the balance of each fund together with the money on deposit, outstanding checks, and cash on hand. The statement was not submitted timely to the County Commission for certain months.

Capital Asset Inventory

Chapter 354.625 of the Nevada Revised Statutes and Chapter 354.750 of the Nevada Administrative Code require the County to designate a capital asset manager and to inventory County equipment at least every two years. Each asset of the County is to be assigned an identifying number and be labeled as belonging to the County. The County began an inventory of equipment, but it was not completed.

NYE COUNTY, NEVADA
SCHEDULE OF FINDINGS (Continued)
Compliance with Laws and Regulations

Installment-Purchase Agreement

Chapter 350.0055 of the Nevada Revised Statutes defines an installment-purchase agreement as an agreement for the purchase of personal property by installment or lease. Chapter 350.087 indicates that the County Commission may authorize by resolution the issuance of an installment-purchase agreement. The Statute addresses what is required in the resolution and publication notices required prior to acting on the resolution. Chapter 350.089 indicates that the approved resolution, along with required supporting documentation, must be sent to the Nevada Department of Taxation for approval by the Executive Director.

The County entered into a non-funding lease purchase agreement for equipment during the year, which required a down payment of \$60,000 and the balance of \$264,861 due in installments over a two year period. Upon payment of the terms of the non-funding lease, the equipment title will be transferred to the County.

There are no records available to indicate that the County followed procedures per Chapter 350.087 and 350.089 of the Nevada Revised Statutes for entering into the new non-funding lease purchase agreement for equipment.

DANIEL C. McARTHUR, LTD.
Certified Public Accountant

Quail Park III • 501 So. Rancho Dr., Ste. E-30 • Las Vegas, NV 89106 • (702) 385-1899 • FAX (702) 385-9619

MANAGEMENT LETTER

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FEB 06 2015

STATE OF NEVADA
DEPARTMENT OF TAXATION

January 10, 2015

To the Honorable Board of County Commissioners
Nye County, Nevada

In planning and performing my audit of the financial statements of Nye County, Nevada (the County), as of and for the year ended June 30, 2014 (on which I have issued my report dated January 10, 2015), in accordance with auditing standards generally accepted in the United States of America, I considered Nye County's internal control over financial reporting as a basis for designing my auditing procedures for the purpose of expressing my opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control. Accordingly, I do not express an opinion on the effectiveness of the County's internal control.

However, during my audit I noted certain matters involving the internal control structure and other administrative matters that are presented for your consideration. These findings and recommendations, which have been discussed with the members of management, are intended to improve the internal control structure or result in other operating efficiencies and are summarized as follows:

CURRENT YEAR

General Fund Revenues

General fund revenues decreased by \$3.1 million, or 9.5%, compared to the prior year. Expenditures increased \$0.7 million compared to the prior year, or 2.2%.

Property tax and consolidated tax represent 76% of the revenue of the General fund.

Property tax revenues have dropped from a high in 2010 of \$16.4 million to \$11.8 million in 2014. The decline is due to falling property values. Also included in property tax revenue is tax from net proceeds of mines. Due to production and market values of ore, the collection of the net proceeds of mines tax may vary significantly each year causing reliance on net proceeds tax of mines for operating purposes to be risky.

Consolidated taxes have declined from a high in 2007 of \$13.5 million to \$11.2 million in 2014. The primary component of consolidated tax is sales tax. The collection of sales tax declined due to the economic slowdown over the past several years. Sales tax will remain stagnant or grow slowly depending on the economic conditions of the County.

The increases in expenditures in the General fund are primarily due to an increase in service and supply costs.

The significant decrease in revenues in the General fund, due generally to lower property and sales tax revenues creates budget and cash flow issues for the fund. The timing of the receipt of the revenue impacts the cash flow of the General Fund. Net proceeds tax from mines is generally received in April and May each year. Federal in lieu taxes are received in June of each year. Consolidated taxes are received on a monthly basis two months after the month for which the taxes were collected. Therefore, at the end of each budget year there are two months of consolidated taxes that have yet to be received. Real property taxes are to be paid at least quarterly with the first quarterly payment due in August.

I recommend that the County develop a short-term and long-term plan to address the revenue decreases in the General fund and cash flow requirements.

Reconciliation of Balance Sheet Accounts

During my audit, I noted several balance sheet accounts that had not been reconciled. The County should reconcile the balance sheet general ledger accounts to supporting documentation on a monthly basis. The benefit of monthly reconciliation is that errors do not accumulate and can be identified and attributed to a specific accounting period and corrected on a timely basis. Reconciliation of the following accounts on a regular basis will improve the accuracy of financial statements:

- Prepaid expenses
- Inventory
- Ambulance accounts receivable
- Payroll benefits liability accounts

Utility Debt Reserve

Bond agreements for the Gabbs Town Water Utility and the Manhattan Town Water Utility require the Towns to establish and fund a debt service reserve fund equal to 10% of the annual debt payment until they accumulate one annual debt installment. The Manhattan Town Water Utility has not set up or funded the debt reserve fund. The Gabbs Town Water Utility has funded the reserve inside the Water utility fund. The debt reserve amounts should be placed in separate debt reserve funds. The Manhattan reserve requirement of \$7,308 as of June 30, 2014 should be transferred to the debt reserve fund. The \$42,620 reserved in the Gabbs Water Utility fund should be transferred from the Utility fund to a debt reserve fund.

PRIOR YEAR

Control of Items of Value-Capital Assets

It was recommended the County adopt a policy and procedure for the safeguard of "items of value" by each department and employee. As part of an employee's annual performance review, the employee should be required to account for the "items of value" assigned to them.

Status

The County has prepared a policy for the safeguarding of "items of value." The policy has not been implemented. The County is accumulating information to safeguard "items of value." This recommendation is tied to the new data processing system the County is implementing. A capital asset manager has been assigned the responsibility of updating the listing.

Petty Cash Procedures

To improve controls over petty cash and related reimbursements it was recommended that: 1) petty cash reimbursements be accompanied by a petty cash report that reconciles the imprest balance of petty cash to the cash on hand and the receipts being reimbursed; 2) the auditing accounts payable clerk agrees the imprest balance as listed on the petty cash report to the master listing of petty cash authorized by the County Commission; 3) petty cash reports to be filed monthly with the Comptroller's office even if no activity occurred for the month; and 4) assign an employee independent of the petty cash fund to perform periodic on-site audits of the petty cash.

Status

The recommendations have been implemented with the exception of item 4, periodic on-site audits of petty cash.

Written Policies and Procedures

Written accounting policies and procedures ensure that proper accounting principles are being applied, budget reports are produced properly, law, regulation and grant agreements are complied with, and that policies adopted by the County Commission are being followed. In addition, written policies and procedures instruct employees and provide guidance for consistent reporting of financial transactions. The County has written policies and procedures that have been developed and adopted over several years. These policies and procedures are not consolidated into an accounting policies and procedures manual. In order to standardize the accounting procedures of the various departments of the County, and to eliminate misunderstanding of accounting procedures, it was recommended that the County review and update its present accounting policies and procedures, including the preparation of a single accounting policies and procedures manual.

Status

The County continues to work on this project.

CONCLUSION

I believe that the implementation of these recommendations will provide the County with a stronger system of internal accounting control while also making its operation more efficient. I will be happy to discuss the details of these recommendations with you and assist in any way possible with the implementation. This letter is intended solely for the information and use of the members of the County Commission, management, others within the County, and the Nevada Department of Taxation and is not intended to be, and should not be, used by anyone other than these specified parties.

Yours truly,



DANIEL C. MCARTHUR, LTD.



Office of the Comptroller
Finance Department
Tonopah, Nevada

Tonopah Office
Nye County Courthouse
William P. Beko Justice Facility
PO Box 153
Tonopah, NV 89049
Phone (775) 482-8186
Fax (775) 482-8198

February 18, 2014

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FEB 21 2014

State of Nevada
Department of Taxation

Nevada Department of Taxation
Warner Ambrose
1550 College Pkwy #115
Carson City, NV 89706-7937

Subject: Nye County Nevada
Plan of Corrective Action
June 30, 2013

Dear Mr. Ambrose:

Attached please find Nye County Plan of Corrective Actions in response to the audit findings for the year ended June 30, 2013, which was approved by the Nye County Board of County Commissioners at the February 18, 2014 regular meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan Paprocki".

Susan Paprocki
Nye County Comptroller

SP/

A small, handwritten mark or signature in the bottom right corner of the page.

RECEIVED

FEB 21 2014

STATE OF NEVADA
DEPARTMENT OF TAXATION

Nye County
Corrective Action
Compliance with Law and Regulation
Audit for year ended June 30, 2013

Expenditures in Excess of Appropriations

Chapter 354.626 of the Nevada Revised Statutes provides that no governing body or officer or department thereof shall expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that function or fund for any fiscal year.

The following function was overexpended in the General Fund:

Public Safety	\$ 239,837
---------------	------------

The following funds were overexpended:

Medical and General Indigent	\$ 18,581
Gabbs Utility Sewer	\$ 9,808 (Depreciation)
Manhattan Utility	\$ 4,107 (Depreciation)

Status: General fund budget and expenditure reports are run at least monthly, including an annualization estimate to give department managers adequate information to insure expenditures stay within budget limits. At June 30, the Sheriff's office was not over expended, however, due to a delay in processing of invoices and final payroll for the year, they exceeded budget in the period following the June 30 deadline for budget adjustments. Medical & General indigent fund was over expended due to an increase in the interfund transfer to Dedicated Medical indigent to cover the 50/50 match, this increase caused the service and supplies budget to be reduced.

Gabbs and Manhattan utilities experienced higher than budgeted depreciation expense due to the acquisition of new assets, which increased the depreciation cost.

County Response: Budget to actual expenditures are monitored on a continual basis, augmentations were made when requested and excess funds were available, however, delayed processing of invoices after June 30 prevented any further budget adjustments from being made to the Sheriff's Office budget. The Medical & General Indigent fund was over expended due to a needed transfer to cover the 50/50 match. This transfer and expenditure are budgeted in the current year. In the current year, Gabbs Sewer Utility fund has adequate budget for depreciation, a budget adjustment has been completed in the Manhattan Utility fund for increased depreciation expense.

Completion-Monitoring of budget performance is ongoing. All budget revisions needed to correct potential issues in current year are completed as of January 30, 2014.

Capital Asset Inventory

Chapter 354.625 of the Nevada Revised Statutes and Chapter 354.750 of the Nevada Administrative Code require the County to designate a capital asset manager and to inventory County equipment at least every two years. Each asset of the County is to be assigned an identifying number and be labeled as belonging to the County. The County began an inventory of equipment, but it was not completed for all departments within the County.

Status: Asset manager has been designated and has identified the assets held by the county. Departments have completed asset inventory worksheets and submitted them to the Asset Manager. Physical inventory has been started.

County Response: Each item has been entered into the system, verified by the responsible department, and the physical inventory of all fixed assets has been started.

Completion- Complete physical inventory and tagging to be completed by June 30, 2014, and inventory of items of value scheduled for completion by June 30, 2015.

Audit of Apportionments

Chapter 354.290(1) (a) of the Nevada Revised Statutes indicates that the County Auditor (Comptroller) shall audit all of apportionments made by the County Treasurer. All apportionments were not audited by the Comptroller's office.

Status: All revenue posting are being reviewed by Comptroller and staff to insure accuracy.

County Response: All revenue submitted is reviewed by Comptroller and staff, and backup documentation attached to entry.

Completion-This item was completed as of December 31, 2013.

Deposit of Money

Chapter 356.200 of the Nevada Revised Statutes indicates that a County officer, other than a County Treasurer, may deposit county money received by the office of the County officer in an insured bank located in the State of Nevada. The County officer maintaining a deposit in a depository bank is to draw upon the deposit not later than the first Monday of each month by check or order payable to the County Treasurer, and deliver the withdrawal to the County Treasurer.

Monies collected by the Drug Court were not been remitted to the County Treasurer timely.

Monies collected by the Sheriff's department were not remitted to the County Treasurer timely.

Status: The Drug Court has remitted all funds to the Treasurer in a timely manner. The Sheriff's office deposits appear to be a month behind at this time.

County Response: All drug court funds have been remitted, and continue to be submitted on a monthly basis. At this time, the Sheriff's office has deposited revenue up to date.

Completion-This item was completed as of December 31, 2013.

Monthly Statement of Cash Balances

Chapter 354.280(2) of the Nevada Revised Statutes indicates that the treasurer is to submit to the county commissioners each month at any regular meeting or at a special meeting a statement of the balance of each fund together with the money on deposit, outstanding checks and cash on hand. The statement was not submitted timely to the county commission for certain months.

Status: There have been no submissions from the Treasurer's office for current year. The last reports submitted to the BOCC covered the period of July-December 2012.

County Response: The Treasurers Reports(January 2013 through September 2013) will be submitted at the BOCC meeting February 18th, and October through February will be submitted before or by the end of March 2014.

Completion-End of March 2014.



STATE OF NEVADA
DEPARTMENT OF TAXATION

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

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Grant Sawyer Office Building, Suite 1300
555 E. Washington Avenue
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HENDERSON OFFICE
2550 Paseo Verde Parkway, Suite 130
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

June 25, 2015

Ms. Amy Fanning
Nye County Comptroller
Finance Office
P.O. Box 3999
Tonopah, NV 89049

Re: Annual Audit Report – Fiscal Year ending June 30, 2014 for Nye County Nevada

Dear Ms. Fanning:

Pursuant to NRS 354.6245, the Department of Taxation is charged with the review of all annual audits to determine their compliance with statutes and/or regulations. The Department must also identify all violations of statute and/or regulations reported therein.

In our review of the audit report of the above named entity we identified violations of NRS 354.626 as noted in our letter dated February 13, 2015. The Department has reviewed the plan of corrective action and received the Board approval of the plan and no further action is necessary.

If you should have any questions, please do not hesitate to call me at 775-684-2077. My e-mail address is bfarrar@tax.state.nv.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill D. Farrar", written over a horizontal line.

Bill D. Farrar, Budget Analyst
Local Government Finance
cc: file

27. For Possible Action – Discussion and deliberation to approve a Memorandum of Understanding (MOU) with Nevada Rural Housing Authority (NRHA) in pursuit of development opportunities to meet the growing housing and community needs of the citizens of Tonopah.-Cont'd.

Mrs. Webster stated there was no financial agreement at all in this document and it was not binding except to establish a relationship.

Angela Bello stated that was also her understanding and if it changed she would be happy to bring it back. Part of why it was previously taken off and had to come back was to clarify the provision dealing with costs and the County would not bear any of those costs.

The motion to approve passed with 4 yeas. Commissioner Cox voted no.

FINANCE

28. Financial Reports

Amy Fanning said the revenue report was in the back-up. On the expenditure side there were two departments in the red, Planning and Natural Resources, and the Board did take action to do budget cuts in those departments. She would have a firm number of how those cuts would help through the fiscal year at the next meeting.

30. For Possible Action – Discussion and deliberation regarding the Corrective Action Letter for the Annual Audit Report for Fiscal Year ending June 30, 2014 to be submitted to the Department of Taxation.

Commissioner Schinhofen made a motion to approve based on staff recommendation; seconded by Commissioner Cox.

Richard Goldstein said he and his wife had reviewed the letter along with the letter sent at the end of 2013 and noticed they were almost word for word. He wondered how many more years the County was going to go through this.

Commissioner Schinhofen believed since 2007 when the County took the downturn and lost \$9 million they had tried every year to cut and this year they made some big cuts. He thought with the last cuts the County took some good steps to get a handle on it and he commended staff for what they had to work with.

The motion to approve passed with 5 yeas.

Nye County Comptroller Finance Department



Pahrump Office:

2100 E. Walt Williams Dr. #100
Pahrump, NV 89048

Tonopah Office:

PO Box 3999 | 101 Radar Road
Tonopah, NV 89049

• Accounting (775)482-8107 • Grants (775)751-4281 • Purchasing (775)482-7256

March 17, 2015

Nevada Department of Taxation
Bill Farrar, Budget Analyst
1550 College Pkwy #115
Carson City, NV 89706

**Subject: Nye County Nevada Plan of Corrective Action
FY Ending: June 30, 2014**

Dear Mr. Farrar:

Attached please find Nye County's Plan of Corrective Action, which was presented and approved by the Board of County Commissioners at their regularly scheduled meeting on March 17, 2015.

The Plan of Correct Action is in response to the audit findings for fiscal year ending June 30, 2014, which was approved by the Nye County Board of County Commissioners at their January 20, 2015 regular meeting.

Sincerely,

Amy Fanning
Nye County Comptroller

AF/

Nye County
Corrective Action
Compliance with Law and Regulation
Audit for year ended June 30, 2014

Expenditures in Excess of Appropriations

Chapter 354.626 of the Nevada Revised Statutes provides that no governing body or officer or department thereof shall expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that function or fund for any fiscal year.

The following functions were overexpended in the General Fund:

General Government	\$ 68,710
Public Safety	\$ 478,137

The following fund functions were overexpended:

State and County Room Tax –Intergovernmental	\$ 30,697 (Payments to State of Nevada)
Impact Fees-Intergovernmental	\$ 4,428 (Payments to Town of Pahrump)

The following enterprise funds were overexpended:

Gabbs Utility Water	\$ 9,393
Manhattan Utility	\$ 103,229

County Response: Budget to actual expenditures are monitored on a continual basis, augmentations were made when requested and excess funds were available, however, delayed processing of invoices after June 30 prevented any further budget adjustments from being made to the Public Safety budget. Both the State & County Room Tax and Impact fees were over spent due to required pass-through payments. In future years the intergovernmental function will be budgeted high enough to compensate for any unforeseen collections. Gabbs and Manhattan utilities experienced higher than budgeted depreciation expense due to the acquisition of new assets, which increased the depreciation cost. In the current year, Gabbs Sewer Utility fund and the Manhattan Utility fund have adequate budget for depreciation. Monitoring of budget performance is ongoing. Fund budget and expenditure reports are ran at least monthly, including an annualization estimate to give department managers adequate information to ensure expenditures stay within budget limits.

Audit of Apportionments

Chapter 354.290(1) (a) of the Nevada Revised Statues indicates that the County Auditor (Comptroller) shall audit all apportionments made by the County Treasurer. Records suggest apportionments were not audited by the Comptroller’s office for the first five months of the year.

County Response: The County was informed of this deficiency during the prior year audit. The County took action to remedy the finding. Equipment and technology were purchased and placed in service in

September of 2013 to provide electronic documents supporting revenue apportionment for review by the Comptroller's office. The Comptroller's office began to review the apportionment of revenue in December of 2013.

Deposit of Money

Chapter 356.200 of the Nevada Revised Statutes indicates that a County officer, other than a County Treasurer, may deposit county money received by the office of the County officer in an insured bank located in the State of Nevada. The County officer, maintaining a deposit in a depository bank, is to draw upon the deposit not later than the first Monday of each month by check or order payable to the County Treasurer, and deliver the withdrawal to the County Treasurer.

Monies collected by the Sheriff's department were not remitted to the County Treasurer timely.

Status: The Sheriff's office deposits appear to be a month behind at this time.

County Response: *The Sheriff's office has been informed of its failure to remit collections timely to the County Treasurer. Training has been provided to the Sheriff Office staff concerning the importance of this requirement.*

Monthly Statement of Cash Balances

Chapter 354.280(2) of the Nevada Revised Statutes indicates that the Treasurer is to submit to the County Commissioners each month at any regular meeting, or at a special meeting, a statement of the balance of each fund together with the money on deposit, outstanding checks, and cash on hand. The statement was not submitted timely to the County Commission for certain months.

County Response: *The County was informed of this deficiency during the prior year audit. The County took action to correct the finding; however the finding could not be remedied by June 30, 2014.*

Capital Asset Inventory

Chapter 354.625 of the Nevada Revised Statutes and Chapter 354.750 of the Nevada Administrative Code require the County to designate a capital asset manager and to inventory County equipment at least every two years. Each asset of the County is to be assigned an identifying number and be labeled as belonging to the County. The County began an inventory of equipment, but it was not completed.

County Response: *The County was informed of this deficiency during the prior year audit. The County took action to remedy the finding, however the finding was not remedied by June 30, 2014, the end of the current year audit. Departments have performed an inventory of capital assets within their departments and provided the results to the capital assets manager. The capital asset manager is reviewing location, custodial care and asset tag and ID information. Assets that cannot be located will be investigated to determine the disposition of the asset. Reconciliation of the capital asset listing on a monthly basis will be performed.*

Installment-Purchase Agreement

Chapter 350.0055 of the Nevada Revised Statutes defines an installment-purchase agreement as an agreement for the purchase of personal property by installment or lease. Chapter 350.087 indicates that the County Commission may authorize by resolution the issuance of an installment-purchase agreement. The Statute addresses what is required in the resolution and publication notices required prior to acting on the resolution. Chapter 350.089 indicates that the approved resolution, along with required supporting documentation, must be sent to the Nevada Department of Taxation for approval by the Executive Director.

The County entered into a non-funding lease purchase agreement for equipment during the year, which required a down payment of \$60,000 and the balance of \$264,861 due in installments over a two year period. Upon payment of the terms of the non-funding lease, the equipment title will be transferred to the County.

There are no records available to indicate that the County followed procedures per Chapter 350.087 and 350.089 of the Nevada Revised Statutes for entering into the new non-funding lease purchase agreement for equipment.

***County Response:** The County is taking the required steps for medium-term financing as required for a non-funding lease purchase agreement after the fact. Required notices will be published and hearings held. All required documentation will be sent to the Department of Taxation for approval. The County's indebtedness report as of July 1, 2014 will be amended and filed with the Department of Taxation. In addition schedule C-1 of the 2014/2015 Budget will be amended to reflect the debt.*

AGENDA ITEM 7(b)

**TO DETERMINE WHETHER NAC 354.660
MAY BE UPDATED TO CONFORM
WITH SB168 (2015)**

NAC 354.660 Ending balance not subject to negotiations. ([NRS 354.107](#)) A budgeted ending fund balance of not more than **8.3** percent of the total budgeted expenditures, less capital outlay, for a general or special revenue fund which receives revenue from property taxes or the Local Government Tax Distribution Account is not subject to negotiations with other local governments or employee organizations.

[Tax Comm'n, Local Gov't Reg. part No. 13, eff. 1-11-73; A 2-29-80]—(NAC A 1-10-84; A by Com. on Local Gov't Finance by R201-01, 4-5-2002)

Senate Bill No. 168—Senators Settelmeyer,
Goicoechea, Gustavson and Lipparelli

Joint Sponsors: Assemblymen Kirner,
O’Neill, Trowbridge and Wheeler

CHAPTER.....

AN ACT relating to local governments; revising provisions relating to the reopening of a collective bargaining agreement during a period of fiscal emergency; excluding certain money from collective bargaining negotiations and from consideration in determining the ability of local governments, other than school districts, to pay compensation and monetary benefits; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes certain mandatory subjects of bargaining in the negotiation of a collective bargaining agreement between a local government employer and a recognized employee organization. Among these mandatory subjects is a requirement that the parties bargain over procedures and requirements for the reopening and renegotiation of the agreement during periods of fiscal emergency. Currently, the existence of such an emergency is determined on the basis of revenue shortfalls or other criteria agreed to by the parties. (NRS 288.150) **Section 1** of this bill authorizes a local government to reopen a collective bargaining agreement during a fiscal emergency and sets forth the circumstances under which such an emergency shall be deemed to exist. The procedural requirements relating to the reopening of the agreement remain a mandatory subject of bargaining.

Existing law provides for the resolution of an impasse in collective bargaining through fact-finding, arbitration or both, but imposes limitations on the money that a fact finder or arbitrator may consider in determining the financial ability of a local government employer to pay compensation or monetary benefits. (NRS 288.200, 288.215, 288.217, 354.6241) **Section 2** of this bill provides, for certain governmental funds of a local government other than a school district, that a budgeted ending fund balance of not more than 25 percent of the total budgeted expenditures, less capital outlay, is not subject to negotiation and cannot be considered by a fact finder or arbitrator in determining ability to pay.

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

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

Section 1. NRS 288.150 is hereby amended to read as follows:
288.150 1. Except as *otherwise* provided in subsection 4 ~~5~~
and NRS 354.6241, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set

forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

(a) Salary or wage rates or other forms of direct monetary compensation.

(b) Sick leave.

(c) Vacation leave.

(d) Holidays.

(e) Other paid or nonpaid leaves of absence.

(f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days' work required of an employee in a work year.

(i) Discharge and disciplinary procedures.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

(q) Duration of collective bargaining agreements.

(r) Safety of the employee.

(s) Teacher preparation time.

(t) Materials and supplies for classrooms.

(u) The policies for the transfer and reassignment of teachers.

(v) Procedures for reduction in workforce consistent with the provisions of this chapter.

(w) Procedures ~~[and requirements]~~ *consistent with the provisions of subsection 4* for the reopening of collective bargaining agreements ~~[that exceed 1 year in duration]~~ for additional, further, new or supplementary negotiations during periods of fiscal emergency. ~~[The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of~~

~~revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.]~~

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to **[take]**:

(a) Reopen a collective bargaining agreement for additional, further, new or supplementary negotiations relating to compensation or monetary benefits during a period of fiscal emergency. Negotiations must begin not later than 21 days after the local government employer notifies the employee organization that a fiscal emergency exists. For the purposes of this section, a fiscal emergency shall be deemed to exist:

(1) If the amount of revenue received by the general fund of the local government employer during the last preceding fiscal year from all sources, except any nonrecurring source, declined by 5 percent or more from the amount of revenue received by the general fund from all sources, except any nonrecurring source, during the next preceding fiscal year, as reflected in the reports of the annual audits conducted for those fiscal years for the local government employer pursuant to NRS 354.624; or

(2) If the local government employer has budgeted an unreserved ending fund balance in its general fund for the current fiscal year in an amount equal to 4 percent or less of the actual expenditures from the general fund for the last preceding fiscal

year, and the local government employer has provided a written explanation of the budgeted ending fund balance to the Department of Taxation that includes the reason for the ending fund balance and the manner in which the local government employer plans to increase the ending fund balance.

(b) *Take* whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency.

↳ Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

7. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 2. NRS 354.6241 is hereby amended to read as follows:

354.6241 1. The statement required by paragraph (a) of subsection 5 of NRS 354.624 must indicate for each fund set forth in that paragraph:

(a) Whether the fund is being used in accordance with the provisions of this chapter.

(b) Whether the fund is being administered in accordance with generally accepted accounting procedures.

(c) Whether the reserve in the fund is limited to an amount that is reasonable and necessary to carry out the purposes of the fund.

(d) The sources of revenues available for the fund during the fiscal year, including transfers from any other funds.

(e) The statutory and regulatory requirements applicable to the fund.

(f) The balance and retained earnings of the fund.

2. Except as otherwise provided in *subsection 3 and* NRS 354.59891 and 354.613, to the extent that the reserve in any fund set forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the

amount that is reasonable and necessary to carry out the purposes for which the fund was created, the reserve may be expended by the local government pursuant to the provisions of chapter 288 of NRS.

3. For any local government other than a school district, for the purposes of chapter 288 of NRS, a budgeted ending fund balance of not more than 25 percent of the total budgeted expenditures, less capital outlay, for a general fund:

(a) Is not subject to negotiations with an employee organization; and

(b) Must not be considered by a fact finder or arbitrator in determining the financial ability of the local government to pay compensation or monetary benefits.

Sec. 3. The amendatory provisions of this act do not apply during the current term of any collective bargaining agreement entered into before the effective date of this act, but do apply to any extension or renewal of such an agreement and to any such agreement entered into on or after the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

STEVEN A. HORSFORD

SENATOR
Clark No. 4

MAJORITY FLOOR LEADER

COMMITTEES:

Chair
Finance

Vice Chair
Revenue

Member

Legislative Operations and Elections



State of Nevada Senate

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Email: shorsford@sen.state.nv.us
www.leg.state.nv.us

September 11, 2012

Committee on Local Government Finance
Martin Leavitt, Chair
Division of Local Government Services
Department of Taxation
1550 College Parkway
Suite 115
Carson City NV 89706

Dear Mr. Leavitt:

It appears from a recently posted agenda that the Committee on Local Government Finance is planning to consider a proposed regulation to amend the provisions of NAC 354.660 to increase the budgeted ending fund balance for a general or special revenue fund from 8.3 to 16.6 percent. I have been informed by legal counsel that the necessary specific statutory authority for such a regulation does not exist and therefore respectfully request that this issue be left to the Nevada Legislature to determine.

Before 2001, the Department of Taxation had the statutory responsibility for adopting regulations to carry out the Local Government Budget and Finance Act. Pursuant to its authority to prescribe regulations for carrying on the business of the Department, the Nevada Tax Commission adopted the original provisions of NAC 354.660 in 1973, then subsequently adopted amendments to those provisions which became effective on February 29, 1980 and January 10, 1984, respectively. After that last amendment by the Nevada Tax Commission, NAC 354.660 read as follows:

NAC 354.660 A budgeted ending fund balance of not more than 8.3 percent of the total budgeted expenditures, less capital outlay, for a general or special revenue fund which receives revenue from taxes ad valorem or the supplemental city-county relief tax, is not subject to negotiations with other local governments or employee organizations.

The authority to adopt regulations to carry out the Local Government Budget and Finance Act was conferred upon the Committee on Local Government Finance by the Nevada Legislature in

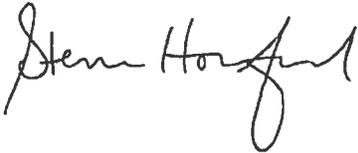
SB 553 of the 2001 Session. Pursuant to that authority, the Committee on Local Government Finance subsequently adopted an amendment to NAC 354.660 which became effective on April 5, 2002. That amendment read as follows:

NAC 354.660 A budgeted ending fund balance of not more than 8.3 percent of the total budgeted expenditures, less capital outlay, for a general or special revenue fund which receives revenue from *property* taxes ~~{ad valorem}~~ or the ~~{supplemental city county relief tax,}~~ *local government tax distribution account* is not subject to negotiations with other local governments or employee organizations.

As indicated above, this amendment did not include any substantive changes. The changes to the section were adopted merely to update the language of the section to match changes made during the 2001 Session by the Nevada Legislature. There have been no subsequent changes to NAC 354.660 since this amendment on April 5, 2002.

There was no specific statutory authority added by the 2001 Legislature, or at any other time, for the Committee on Local Government Finance to determine a specific percentage ending fund balance for general or special revenue funds, nor was there any indication in the legislative history of SB 553 of the 2001 Session that any such authority was intended. With this in mind, it appears clear that this is a subject that the Nevada Legislature has reserved for legislative action.

Sincerely,



Steven Horsford
Nevada Senate Majority Leader

AGENDA ITEM 8(a)

BRIEFING TO AND FROM THE COMMITTEE ON LOCAL GOVERNMENT FINANCE AND LOCAL GOVERNMENT FINANCE STAFF

- a) Report by Department on legislative changes;
- b) Report by Department on “More Cops” activities in Clark County;
- c) Discussion and explanation of travel claims

For a copy of the 2015 Legislative Summary

Please go to the Department of Taxation Website at:

http://tax.nv.gov/LocalGovt/PolicyPub/ArchiveFiles/Legislative_Summary/

Assembly Bill No. 54—Committee
on Government Affairs

CHAPTER.....

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 generally provide for the withholding of certain payments to which a local government may otherwise be entitled for failing to file 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 and after giving consideration to the severity of each such condition, 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, including requiring the Department to: (1) negotiate and approve employment contracts of the local government; (2) open and renegotiate, or assist the local government in renegotiating, existing collective bargaining agreements and employment contracts; and (3) meet and negotiate in good faith with creditors of the local government. **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 9** further requires the Department to prepare and submit to the Legislature a report relating to local governments existing in a severe financial emergency. **Section 11** of this bill authorizes the distribution of money in the Severe Financial Emergency Fund to a local government as a loan for the purpose of discharging the general obligations of the local government. **Section 11** further



extends the period within which a local government may repay certain interest-free loans distributed by the Executive Director of the Department to the local government from the Fund. **Section 12** of this bill authorizes the Commission to require a local government that is found to exist in a severe financial emergency to take remedial action in accordance with the recommendations of the Committee. **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.

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

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~~ *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 ~~of~~ *, 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.
7. *The members of the Committee shall elect by majority vote a member as Chair and another member as Vice Chair, who shall serve for terms of 3 years or until their successors are elected.*
8. *The Committee shall meet not less than twice per year and may meet at other times upon the call of the Chair or a majority of the members of the Committee.*
9. *A majority of the members of the Committee constitutes a quorum, and a quorum may exercise all the power and authority conferred on the Committee.*
10. *Members of the Committee serve without compensation, except that for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is*



otherwise engaged in the business of the Committee, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

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

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

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

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

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

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

~~{2-}~~ 4. *“Department” means the Department of Taxation.*

~~{3-}~~ 5. *“Executive Director” means the Executive Director of the Department.* ~~{of Taxation-}~~

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

7. *“Holder” includes, without limitation, any owner or other person described in NRS 350.530, a trustee, guarantor, insurer and credit enhancer, and a bank that issues a letter of credit.*

8. *“Local government” means any local government subject to the provisions of the Local Government Budget and Finance Act.*

~~{5- The}~~

9. *“Technical financial assistance” means assistance provided by the Department to a local government, including, without limitation, assistance with developing budgets, reviewing contracts, analyzing cost allocations, debt management, feasibility analyses and revenue forecasting.*

10. *The words and terms defined in the Local Government Budget and Finance Act have the meanings ascribed to them in that act.*

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

354.657 1. The purpose of NRS 354.655 to 354.725, inclusive, is to ~~{provide specific methods for the treatment of delinquent documents, payments, technical financial assistance and}~~

:

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



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

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

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

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

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

2. If the required report is not received by the Department within 45 days after the day on which the report was due, 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 report has not been filed. 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.

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, ~~for 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 ~~or~~, **except that the State**



Treasurer shall not withhold any payment necessary for the local government to make a timely payment that is due and owing to a holder.

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 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, ~~for off~~ 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 Department ~~or~~, ***except that the State Treasurer shall not withhold any payment necessary for the local government to make a timely payment that is due and owing to a holder.*** The Department shall transmit the delinquent payment to the Public Employees' Benefits Program upon receipt.

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

354.675 1. ~~[A governing body which determines that the local government is in need of technical financial assistance may adopt a resolution requesting an appearance before the Nevada Tax Commission to request technical financial assistance from the Department.]~~ ***If the Department determines that one or more of the conditions identified in paragraphs (a) to (aa), inclusive, of subsection 2 of NRS 354.685 exist in a local government, and after***



giving consideration to the severity of each such condition, the Department shall provide written notice to the local government, the Commission and the Committee that the local government has been placed on fiscal watch by the Department. The Department shall not remove a local government from fiscal watch until the Executive Director determines that such conditions no longer exist or the Executive Director submits a recommendation to the Committee pursuant to subsection 2 of NRS 354.685.

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

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

~~3~~ 4. After hearing the request for technical financial assistance ~~1~~ and any recommendations of the Committee, if the Nevada Tax Commission finds that the local government is in need of technical financial assistance, ~~the~~ the Commission shall order the Department to provide the assistance. The order must include such terms and conditions as the Commission deems appropriate and may include a schedule or rate of payment for the services of the Department.

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

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

*~~6~~ 7. The Department shall continue to provide assistance to the local government pursuant to this section until the Nevada Tax Commission ~~adopts~~ issues an order requiring the Department to cease providing the assistance. The Nevada Tax Commission may ~~adopt~~ issue such an order upon its own motion, ~~or~~ upon receipt of a *request for such an order from the Department or the**



Committee, or upon receipt of a resolution adopted by the governing body requesting such an order.

~~7~~ 8. If no payment for the services of the Department is required by the order or such payments are not sufficient to pay the costs of providing the technical financial assistance required pursuant to this section, 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 to pay the costs of providing the technical financial assistance required pursuant to this section.

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

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

2. *The Executive Director may, after giving consideration to the severity of each condition identified in paragraphs (a) to (aa), inclusive, which is found to exist in a local government, recommend that the Committee conduct one or more hearings to determine whether a severe financial emergency exists in a local government if* the Department finds that one or more of the following conditions exist in ~~any~~ *the* local government : ~~[, after giving consideration to the severity of the condition, it may determine that one or more hearings should be conducted to determine the extent of the problem and to determine whether a recommendation of severe financial emergency should be made to the Nevada Tax Commission:]~~

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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;*
- (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 10 days before the date on which the hearing will be held.

~~7.~~ 8. If the ~~Department,~~ *Committee*, following ~~the~~ *a* hearing ~~for 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 1 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.~~

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 *all* collective bargaining contracts *and other employment contracts* to be entered into by the local government ~~†~~ *with an employee organization or any employee*, except *that the Department shall not negotiate or approve* 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) *If the Committee made a recommendation to the Commission that a severe financial emergency exists in the local government based upon the existence of one or more conditions described in paragraph (c), (d), (g), (h), (n) to (p), inclusive, (r) or (aa) of subsection 2 of NRS 354.685:*

(1) Open and renegotiate in good faith, or assist the local government in renegotiating, any existing collective bargaining agreement or other employment contract relating to compensation or monetary benefits during the period of severe financial emergency; and

(2) Assume all rights, duties and powers pursuant to NRS 288.150 that are otherwise reserved to the local government during a period of severe financial emergency;

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

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

~~†~~ (k) Meet with *any holders and* the creditors of the local government *to negotiate in good faith* 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)~~ (l) 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)~~ (m) Approve the issuance of bonds or other forms of indebtedness by the local government;

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

~~†(n)~~ (o) 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 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. 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. 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. 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.†~~ *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.*

6. 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 ~~†~~ *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 ~~{}~~, *with priority given to public safety and the maintenance of roads and highways;*

(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. ~~{}~~ *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 coterminous 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 on each vehicle based in the county except those vehicles exempt from the governmental services tax imposed pursuant to chapter 371 of NRS or a vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations. As used in this subparagraph, "based" has the meaning ascribed to it in NRS 482.011.

3. Upon receipt of the plan from the Committee, a panel consisting of three members of the Nevada Tax Commission appointed by the Nevada Tax Commission and three members of the Committee appointed by the Committee shall hold a public hearing at a location within the boundaries of the local government in which the severe financial emergency exists after giving public notice of the hearing at least 10 days before the date on which the hearing will be held. In addition to the public notice, the panel shall give notice 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 in which the severe financial emergency exists.

4. After the public hearing conducted pursuant to subsection 3, the Nevada Tax Commission may adopt the plan as submitted or adopt a revised plan. *If the Commission adopts a revised plan, the revised plan must be approved by the members of the Committee serving on the panel described in subsection 3.* Any plan adopted pursuant to this section must include the duration for which any new or increased taxes or charges may be collected which must not exceed 5 years.

5. Upon adoption of the plan by the Nevada Tax Commission, the local government in which the severe financial emergency exists shall impose or cause to be imposed the additional taxes and charges included in the plan for the duration stated in the plan or until the severe financial emergency has been determined by the ~~Nevada Tax Commission~~ *Committee* to have ceased to exist. *Any levy of additional property tax applies to all taxpayers, regardless of whether the taxes previously imposed have been partially or fully paid pursuant to NRS 361.483.*



6. The allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 does not apply to any additional property tax levied pursuant to this section.

7. If a plan fails to satisfy the expenses of the local government to the extent expected, the Committee shall report such failure to:

(a) The county for consideration of absorption of services; or

(b) If the local government is a county, to the next regular session of the Legislature.

8. For any local government that is found to exist in a severe financial emergency, the Department shall:

(a) Prepare a report regarding the financial condition of the local government not less frequently than once every 6 months until the severe financial emergency ceases; and

(b) Not later than 10 days after preparing a report pursuant to paragraph (a), submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, if the Legislature is in session, or to the Legislative Commission, if the Legislature is not in session.

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 *and general obligations* 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 *and general obligations* 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 *and general obligations* 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 loan must not exceed ~~12~~ 24 months after the date on which the loan was made. The Executive Director shall not charge interest on a loan made pursuant to this section.

5. The Executive Director shall report to the Committee on Local Government Finance and to the Nevada Tax Commission as soon as practicable after the date that the loan is approved concerning:

(a) The status of the loan;

(b) The purposes for which the local government will use the money from the loan; and

(c) The resources that the local government will use to repay the loan.

Sec. 12. NRS 354.723 is hereby amended to read as follows:

354.723 1. If the Executive Director determines that a severe financial emergency which exists in a local government under management by the Department is unlikely to cease to exist within 3 years, the Executive Director shall determine:

(a) The amount any tax or mandatory assessment levied by the local government must be raised to ensure a balanced budget for the local government; and



(b) The manner in which the services provided by the local government must be limited to ensure a balanced budget for the local government,

↳ and submit his or her findings to the Committee.

2. The Committee shall review the findings submitted by the Executive Director pursuant to subsection 1. If the Committee determines that the severe financial emergency which exists in the local government is unlikely to cease to exist within 3 years and that the findings made by the Executive Director are appropriate, the Committee shall submit its recommendation *and findings* to the Nevada Tax Commission. If the Committee determines that the financial emergency is likely to cease to exist within 3 years, that decision is not subject to review by the Nevada Tax Commission.

3. The Nevada Tax Commission shall schedule a public hearing ~~within~~ *not later than* 30 days after the Committee submits its recommendation ~~and findings~~. The Nevada Tax Commission shall provide public notice of the hearing at least 10 days before the date on which the hearing will be held. The Executive Director shall provide copies of all documents relevant to the recommendation *and findings* of the Committee to the governing body of the local government *existing in a* severe financial emergency.

4. If, after the public hearing, the Nevada Tax Commission ~~determines that~~ *adopts* the recommendation *and findings* of the Committee ~~is appropriate,~~ *the Commission may:*

(a) *Require the submission of* a question ~~must be submitted~~ to the electors of the local government at the next primary or general municipal election or primary or general state election, as applicable, asking whether the local government should be disincorporated or dissolved ~~and~~ *;* ~~or~~

(b) *Require the local government to take any other remedial action in accordance with the recommendation and findings of the Committee.*

5. If the electors of the local government do not approve the disincorporation or dissolution of the local government:

(a) The maximum ad valorem tax levied within the local government, if any, must be raised to \$5 on each \$100 of assessed valuation;

(b) Any other taxes or mandatory assessments levied in the local government, notwithstanding any limitation on those taxes or assessments provided by statute, must be raised in an amount the Nevada Tax Commission determines is necessary to ensure a balanced budget for the local government; and



(c) The services provided by the local government must be limited in a manner the Nevada Tax Commission determines is necessary to ensure a balanced budget for the local government.

~~5.1~~ 6. If the electors of the local government approve the disincorporation or dissolution of a local government that is:

(a) Created by another local government, it must be disincorporated or dissolved:

(1) Pursuant to the applicable provisions of law; or

(2) If there are no specific provisions of law providing for the disincorporation or dissolution of the local government, by the entity that created the local government. If, at the time of the disincorporation or dissolution of the local government pursuant to this paragraph, there are any outstanding loans or bonded indebtedness of the local government, including, without limitation, loans made to the local government by the county in which the local government is located, the taxes for the payment of the bonds or other indebtedness must continue to be levied and collected in the same manner as if the local government had not been disincorporated or dissolved until all outstanding indebtedness is repaid, but for all other purposes the local government shall be deemed disincorporated or dissolved at the time that the entity which created the local government disincorporates or dissolves the local government. Any other liabilities and any remaining assets shall revert to the entity that created the local government which is being disincorporated or dissolved.

(b) Created by a special or local act of the Legislature, it may only be disincorporated or dissolved by the Legislature. The Executive Director shall submit notification of the vote approving the disincorporation or dissolution of the local government to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. At the first opportunity, the Legislature shall consider the question of whether the special or local act will be repealed.

(c) Created in any other manner, it must be disincorporated or dissolved:

(1) Pursuant to the applicable provisions of law; or

(2) If there are no specific provisions of law providing for the disincorporation or dissolution of the local government, by the governing body of that local government. If, at the time of the disincorporation or dissolution of the local government pursuant to this paragraph, there are any outstanding loans or bonded indebtedness of the local government, including, without limitation, loans made to the local government by the county or counties in which the local government is located, the taxes for the payment of the bonds or other indebtedness must continue to be levied and



collected in the same manner as if the local government had not been disincorporated or dissolved until all outstanding indebtedness is repaid, but for all other purposes the local government shall be deemed disincorporated or dissolved at the time that the governing body of the local government disincorporates or dissolves the local government. Except as otherwise provided in this subparagraph, any other liabilities and any remaining assets of the local government shall revert to the board of county commissioners of the county in which the local government is located. If the local government is located in more than one county, the governing body of the local government shall apportion the remaining liabilities and assets among the boards of county commissioners of the counties in which the local government is located.

~~6. Within~~

7. Not later than 10 days after the Nevada Tax Commission ~~makes a determination~~ **requires the submission of a question to the electors to disincorporate or dissolve a local government** pursuant to subsection 4, the Executive Director shall notify:

- (a) The city clerk, if the local government is a city; or
- (b) The county clerk in all other cases,

→ and provide the clerk with the amount any tax or mandatory assessment levied by the local government must be raised and a description of the manner in which the services provided by the local government must be limited to ensure a balanced budget for the local government.

~~7. 8.~~ After the Executive Director notifies the city clerk or the county clerk, as applicable, pursuant to subsection ~~6. 7,~~ the clerk shall cause to be published in a newspaper of general circulation that is printed in the local government a notice of the election once in each calendar week for 2 successive calendar weeks by two weekly insertions a week apart, the first publication to be not more than 30 days nor less than 22 days next preceding the date of the election. If no newspaper is printed in the local government, publication of the notice of election must be made in a newspaper printed in this State and having a general circulation in the local government.

~~8. 9.~~ The notice required pursuant to subsection ~~7. 8~~ must contain the following information:

- (a) That the Nevada Tax Commission has determined that the severe financial emergency which exists in the local government is unlikely to cease to exist within 3 years;
- (b) That the question of whether the local government should be disincorporated or dissolved will be submitted to the electors of the



local government at the next primary or general municipal election or the next primary or general state election, as applicable; and

(c) That if the electors do not approve the disincorporation or dissolution:

(1) The maximum ad valorem tax levied within the local government, if any, will be raised to \$5 on each \$100 of assessed valuation;

(2) Any taxes or mandatory assessment levied in the local government will be raised to ensure a balanced budget for the local government and the amount by which those taxes or mandatory assessments will be raised; and

(3) The services the local government provides will be limited to ensure a balanced budget for the local government and the manner in which those services will be limited.

~~9-1~~ 10. If any provisions providing generally for the disincorporation or dissolution of the local government require that the question of disincorporating or dissolving be published or submitted to a vote of the electors of the local government, the publication required by subsection 3 and the election required by subsection 4 satisfy those requirements. If:

(a) There is any other conflict between the provisions of this section and any provisions providing generally for the disincorporation or dissolution of a local government; or

(b) The provisions providing generally for the disincorporation or dissolution of a local government provide additional rights to protest the disincorporation or dissolution of a local government not provided by this section,

↳ the provisions of this section control a disincorporation or dissolution pursuant to this section and any person wishing to protest such a disincorporation or dissolution must proceed in accordance with the provisions of this section.

~~10-1~~ 11. As used in this section, "local government" does not include a county, a school district or any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

Sec. 13. NRS 354.725 is hereby amended to read as follows:

354.725 1. The Nevada Tax Commission may, on its own motion or at the request of a local government ~~H~~ *or the Committee*, terminate the management of a local government by the Department at any time upon a finding that the severe financial emergency has ceased to exist.

2. The governing body of a local government which has complied with all requests made by the Department pursuant to NRS 354.695 may petition the Nevada Tax Commission for



termination or modification of the management of the local government by the Department or of any request made by the Department pursuant to NRS 354.695.

3. *The Commission shall not terminate or modify the management of a local government pursuant to subsection 1 or 2 without first obtaining a recommendation from the Committee as to the termination or modification.*

4. The Nevada Tax Commission shall provide notice, a hearing and a written decision on each such petition.

~~44~~ 5. In determining whether a condition of severe financial emergency should be terminated, the Nevada Tax Commission shall give consideration to the following:

(a) The local governing body has shown a desire and capability to manage the financial affairs of the local government in accordance with the provisions of NRS.

(b) The local government has staff available with sufficient financial expertise that they can adequately control the finances of the local government.

(c) All violations of statutes have been corrected.

(d) The local government has no funds with deficit fund balances.

(e) The local government has increased ~~their~~ *its* revenues or made appropriate expenditure reductions so that it is anticipated ~~they~~ *that it* can operate for the next fiscal year in a positive cash and fund balance position ~~it~~ *without imposing any increased or additional tax pursuant to NRS 354.705.*

(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 each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

2. The amount of any tax imposed pursuant to NRS **354.705** *and* 387.3288 is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

3. For the purposes of this section, "taxing entity" does not include the State.

Sec. 16. NRS 450.090 is hereby amended to read as follows:

450.090 1. In any county whose population is 700,000 or more, the board of county commissioners is, ex officio, the board of hospital trustees, and the county commissioners shall serve as hospital trustees during their terms of office as county commissioners.

2. In any county whose population is less than 700,000, the board of county commissioners may enact an ordinance providing that the board of county commissioners is, ex officio, the board of hospital trustees. If such an ordinance is enacted in a county:



(a) The county commissioners shall serve as hospital trustees during their terms of office as county commissioners; and

(b) If hospital trustees have been elected pursuant to NRS 450.070 and 450.080, the term of office of each hospital trustee who is serving in that capacity on the effective date of the ordinance is terminated as of the effective date of the ordinance.

3. A board of county commissioners shall not enact an ordinance pursuant to subsection 2 unless it determines that:

(a) The county has fully funded its indigent care account created pursuant to NRS 428.010;

(b) The county has fulfilled its duty to reimburse the hospital for indigent care provided to qualified indigent patients; and

(c) During the previous calendar year:

(1) At least one of the hospital's accounts payable was more than 90 days in arrears;

(2) The hospital failed to fulfill its statutory financial obligations, such as the payment of taxes, premiums for industrial insurance or contributions to the Public Employees' Retirement System;

(3) One or more of the conditions relating to financial emergencies set forth in subsection ~~1~~ 2 of NRS 354.685 existed at the hospital; or

(4) The hospital received notice from the Federal Government or the State of Nevada that the certification or licensure of the hospital was in imminent jeopardy of being revoked because the hospital had not carried out a previously established plan of action to correct previously noted deficiencies found by the regulatory body.

4. Except in counties where the board of county commissioners is the board of hospital trustees, in any county whose population is 100,000 or more but less than 700,000, the board of hospital trustees for the public hospital must be composed of the five regularly elected or appointed members, and, in addition, three county commissioners selected by the chair of the board of county commissioners shall serve as voting members of the board of hospital trustees during their terms of office as county commissioners.

5. Except in counties where the board of county commissioners is the board of hospital trustees, in any county whose population is less than 100,000, the board of hospital trustees for the public hospital must be composed of the five regularly elected or appointed members, and, in addition, the board of county commissioners may, by resolution, provide that:



(a) One county commissioner selected by the chair of the board of county commissioners shall serve as a voting member of the board of hospital trustees during his or her term of office as county commissioner;

(b) A physician who is the chief of the staff of physicians for the public hospital shall serve as a voting member of the board of hospital trustees; or

(c) Both a county commissioner appointed pursuant to the provisions of paragraph (a) and a physician appointed pursuant to the provisions of paragraph (b) shall serve as voting members of the board of hospital trustees.

➔ The term of office of a member appointed pursuant to the provisions of paragraph (b) is 2 years and begins on the date the board of county commissioners appoints the member.

Sec. 17. NRS 450.620 is hereby amended to read as follows:

450.620 1. Except as otherwise provided in subsection 2 and NRS 450.625, if a hospital district is created pursuant to NRS 450.550 to 450.750, inclusive, the board of county commissioners shall provide by ordinance for:

(a) The number of members of the board of trustees;

(b) The term of office of the trustees, which must not exceed 4 years; and

(c) The times and manner of the election of the trustees, which must be nonpartisan.

2. If a hospital district specified in subsection 1 does not include territory within more than one county, the board of county commissioners may enact an ordinance providing that the board of county commissioners is, ex officio, the board of hospital trustees of the district hospital. If such an ordinance is enacted in a county:

(a) The county commissioners shall serve as the hospital trustees of the district hospital during their terms of office as county commissioners; and

(b) If hospital trustees have been elected pursuant to subsection 1, the term of office of each hospital trustee of the district hospital who is serving in that capacity on the effective date of the ordinance is terminated as of the effective date of the ordinance.

3. Except as otherwise provided in NRS 450.710, a board of county commissioners shall not enact an ordinance pursuant to subsection 2 unless it determines that:

(a) The county has fully funded its indigent care account created pursuant to NRS 428.010;

(b) The county has fulfilled its duty to reimburse the hospital for indigent care provided to qualified indigent patients; and

(c) During the previous calendar year:



(1) At least one of the hospital's accounts payable was more than 90 days in arrears;

(2) The hospital failed to fulfill its statutory financial obligations, including the payment of taxes, premiums for industrial insurance or contributions to the Public Employees' Retirement System;

(3) One or more of the conditions relating to financial emergencies set forth in subsection ~~H~~ 2 of NRS 354.685 existed at the hospital; or

(4) The hospital received notice from the Federal Government or the State of Nevada that the certification or license of the hospital was in imminent jeopardy of being revoked because the hospital had not carried out a previously established plan of action to correct previously noted deficiencies found by the regulatory body.

Sec. 18. The Committee on Local Government Finance shall, at its next regular meeting after the effective date of this act, elect from among its members a Chair and Vice Chair pursuant to NRS 354.105, as amended by section 1 of this act.

Sec. 18.3. If a court of competent jurisdiction finds that any provision of this act conflicts with and cannot be harmonized with any provisions of the Local Government Securities Law, as set forth in NRS 350.500 to 350.720, inclusive, the provisions of the Local Government Securities Law shall be deemed to control to the extent of the conflicts.

Sec. 18.7. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 19. NRS 354.686 and 354.701 are hereby repealed.

Sec. 20. This act becomes effective upon passage and approval.



**CLARK COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM**

Petitioner: Donald G. Burnette, County Manager

Recommendation:

**That the Board of County Commissioners conduct a public hearing; and approve, adopt, and authorize the Chairman to sign an ordinance to amend Title 4, Chapter 4.18 of the Clark County Code to increase the rate of sales and use tax imposed for the purpose of employing and equipping more police officers in Clark County, as authorized by Chapter 249 of the 2005 Nevada Legislature, and as amended by SB 1 of the 2013 Special Session of the Nevada Legislature; and providing for other matters properly relating thereto.
(For possible action)**

FISCAL IMPACT:

The proposed sales tax increase is estimated to generate approximately \$19.4 million a year in total Countywide, and roughly \$14.6 million in the jurisdiction of the Las Vegas Metropolitan Police Department.

BACKGROUND:

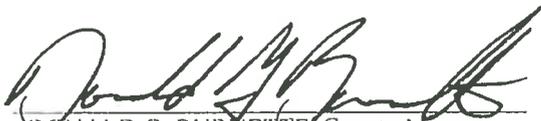
SB 1 of the 2013 Special Session of the Nevada Legislature authorized the Board of County Commissioners of Clark County to increase the rate of tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005 in the amount of not more than fifteen-hundredths of 1 percent.

The proposed ordinance amendment will impose additional tax upon all retailers at the rate of 0.05% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the County on or after January 1, 2016, for the purpose of employing and equipping police officers to protect the residents of Clark County.

Commissioners Brown and Sisolak have requested the proposed ordinance amendment which was introduced at the August 18, 2015 Board of County Commission meeting. A public hearing is scheduled for Tuesday, September 1, 2015, meeting at 10:00 a.m.

ACTION: APPROVED (INCLUDING ADOPTION OF ORDINANCE NO. 4321) AS RECOMMENDED

Respectfully submitted,


DONALD G. BURNETTE, County Manager

Cleared for Agenda
9/1/15 MD

Agenda Item #

61

[Bracketed] material is that portion being deleted
Underlined material is that portion being added

BILL NO. 8-18-15-2

SUMMARY – An ordinance amending Title 4, Chapter 4.18, to increase the rate of sales and use tax imposed for the purpose of employing and equipping more police officers in Clark County, as authorized by Chapter 249 of the 2005 Nevada Legislature, and as amended by SB 1 of the 2013 Special Session of the Nevada Legislature.

ORDINANCE NO. 4321
(of Clark County, Nevada)

AN ORDINANCE AMENDING TITLE 4, CHAPTER 4.18, TO INCREASE THE RATE OF SALES AND USE TAX IMPOSED FOR THE PURPOSE OF EMPLOYING AND EQUIPPING MORE POLICE OFFICERS IN CLARK COUNTY, AS AUTHORIZED BY CHAPTER 249 OF THE 2005 NEVADA LEGISLATURE, AND AS AMENDED BY SB 1 OF THE 2013 SPECIAL SESSION OF THE NEVADA LEGISLATURE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK,
STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE Section 4.18.003 of the Clark County Code is amended to read as follows:

4.18.003 Findings and declarations. (a) Chapter 543 of the Nevada Revised Statutes was amended by Chapter 425 of the 1985 Session of the Nevada Legislative (Assembly Bill No. 169).

(b) The board of county commissioners of Clark County created a flood control district by ordinance codified as Chapter 3.16 of this code which is subject to the provisions of NRS 543.160

through 543.830, inclusive, and any amendments thereto. The district is known as the Clark County regional flood control district.

(c) The board of county commissioners of Clark County selected the tax for the source of revenue for the support of the district to be a tax of 0.25 percent on retail sales and the storage, use or other consumption of tangible personal property in Clark County.

(d) A majority of the voters voting upon the question in the primary election held throughout Clark County on September 2, 1986, approved the tax selected by the board of county commissioners of Clark County.

(e) Chapter 19 of the 1991 Nevada Session Laws permits the county to impose an additional one-fourth of one percent tax as provided in Sections 4.18.095(b) and 4.18.175(b), as approved by the voters in Question 10 at the November 6, 1990 general election, to be used for public mass transportation and the construction of public roads,

(f) Senate Bill 237 of the 2003 Nevada Legislature permits the County to impose an additional one-quarter of one percent as provided in Sections 4.18.095(d) and 4.18.175(d), as approved by the voters in Advisory Question 10 of the November 5, 2003 General Election, to be used for the public transit system, for the construction, maintenance and repair of public roads, and for the improvement of air quality, ~~and~~

(g) Chapter 249 of the 2005 Nevada Legislature ("Clark County Sales and Use Tax Act of 2005") authorizes the Board of County Commissioners of Clark County to increase the sales and use tax to employ and equip additional police officers for the Boulder City Police Department, the Henderson Police Department, the Las Vegas Metropolitan Police Department, the Mesquite Police Department, and the North Las Vegas Police Department, and ~~and~~

(h) SB 1 of the 2013 Special Session of the Nevada Legislature authorized the Board of County Commissioners of Clark County to increase the rate of tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005 (Chapter 249, Statutes of Nevada 2005) in the amount of not more than fifteen-hundredths of 1 percent.

SECTION TWO. Section 4.18.095 of the Clark County Code is amended to read as follows:

4.18.095 Imposition and rate. (a) For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 0.25 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the county on or after March 1, 1987.

(b) For the privilege of selling tangible personal property at retail an additional tax is hereby imposed upon all retailers at the rate of 0.25 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the county on or after July 1, 1991. The proceeds of this additional tax shall be deposited into the Clark County public transit fund and used for public mass transportation and the construction of public roads.

(c) For the privilege of selling tangible personal property at retail an additional tax is hereby imposed upon all retailers at the rate of 0.25 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the county on or after April 1, 1999. The proceeds of this additional tax shall be deposited into the Southern Nevada Water Authority in a separate account of the Southern Nevada Water Authority to be known as the infrastructure fund. The infrastructure fund must be accounted for as a separate fund and not as a part of any other fund of the Southern Nevada Water Authority. Proceeds from the infrastructure fund may

only be expended or distributed for water and wastewater facilities as set forth in Assembly Bill 291 as enacted by the 69th Nevada Legislature.

(d) For the privilege of selling tangible personal property at retail an additional tax is hereby imposed upon all retailers at the rate of 0.25 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the county on or after October 1, 2003 for the construction, maintenance and repair of public roads, and for the improvement of air quality. The proceeds of this additional tax shall be deposited into the public transit fund. A minimum of eight percent (.08) of those proceeds shall be transferred immediately to the air quality fund, up to a total of One Hundred Ninety Four Million Dollars (\$194,000,000), to be administered by the local pollution control agency established pursuant to NRS 445B.500, to support activities, services and programs related to the improvement of air quality.

(e) For the privilege of selling tangible personal property at retail an additional tax is hereby imposed upon all retailers at the rate of 0.25 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the county on or after October 1, 2005 for the purpose of employing and equipping more police officers to protect the residents of Clark County.

(f) For the privilege of selling tangible personal property at retail an additional tax is hereby imposed upon all retailers at the rate of 0.05 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the county on or after January 1, 2016, for the purpose of employing and equipping police officers to protect the residents of Clark County.

SECTION THREE. Chapter 4.18.175 of the Clark County Code is amended to read as follows:

4.18.175 Imposition and rate. (a) An excise tax is imposed on the storage, use or other consumption in the county of tangible personal property purchased from any retailer on or after

March 1, 1987, for storage, use or other consumption in the county at the rate of 0.25 percent of the sales price of the property.

(b) An additional excise tax is imposed on the storage, use or other consumption in the county of tangible personal property purchased from any retailer on or after July 1, 1991, for storage, use or other consumption in the county at the rate of 0.25 percent of the sales price of the property. The proceeds of this additional tax shall be deposited into the Clark County public transit fund and used for public mass transportation and the construction of public roads.

(c) An additional excise tax is imposed on the storage, use or other consumption in the county of tangible personal property purchased from any retailer on or after April 1, 1999, for storage, use or other consumption in the county at the rate of 0.25 percent of the sales price of the property. The proceeds of this additional tax shall be deposited with the Southern Nevada Water Authority in the infrastructure fund and held, expended or disbursed as set forth in Clark County Code Section 4.18.095(c).

(d) An additional excise tax is imposed on the storage, use or other consumption in the county of tangible personal property purchased from any retailer on or after October 1, 2003, for storage, use or other consumption in the county at the rate of 0.25 percent of the sales price of the property for the construction, maintenance and repair of public roads, and for the improvement of air quality. The proceeds of this additional tax shall be deposited into the public transit fund. A minimum of eight percent (.08) of those proceeds shall be transferred immediately to the air quality fund, up to a total of One Hundred Ninety Four Million Dollars (\$194,000,000), including funds deposited pursuant to Section 4.18.095(d), to be administered by the local pollution control agency established pursuant to NRS 445B.500, to support activities, services and programs related to the improvement of air quality.

(e) An additional excise tax is imposed on the storage, use or other consumption in the county of tangible personal property purchased from any retailer on or after October 1, 2005, for storage, use or other consumption in the county at the rate of 0.25 percent of the sales price of the

property for the purpose of employing and equipping more police officers to protect the residents of Clark County.

(f) An additional excise tax of 0.05 percent is imposed on the sales price or fees for the storage, use or other consumption in the county of tangible personal property purchased from any retailer on or after January 1, 2016, for the purpose of employing and equipping more police officers to protect the residents of Clark County.

(g) The taxes imposed by subsections (a), (b), (c), (d) ~~[and]~~, (e), and (f) are imposed on all property which was acquired out of the state of Nevada in a transaction which would have been a taxable sale if it occurred within the state.

SECTION FOUR. Section 4.18.300 of the Clark County Code is amended to read as follows:

4.18.300 Personal property used for performance of written contract executed before certain dates. (a) There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in the county of, tangible personal property used for the performance of a written contract entered into prior to March 1, 1987.

(b) There are exempted from the additional taxes imposed by subsection (b) of the Section 4.18.095 and subsection (b) of Section 4.18.175 the gross receipts from the sale of, and the storage, use or other consumption in the county of tangible personal property used for the performance of a written contract entered into prior to July 1, 1991.

(c) There are exempted from the additional taxes imposed by subsections (c), (d), ~~and (e)~~, and (f) of Section 4.18.095 and subsections (c), (d), ~~and (e)~~, and (f) of Section 4.18.175 the gross receipts from the sale of, and the storage, use or other consumption in the county of tangible personal property used for the performance of a written contract:

(1) Entered into on or before the effective date of the tax or the increase in the tax provided in those subsections; or

(2) For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the tax or the increase in the tax provided in those subsections if the bid was afterward accepted, and if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax or the increase in the tax.

SECTION FIVE. Section 4.18.785 of the Clark County Code is amended to read as follows:

4.18.785 Sales and use tax account—Remittances—Deposits—Transfers. (a) All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to Clark County or the Southern Nevada Water Authority under this chapter must be paid to the department in the form of remittances payable to the department.

(b) The department shall deposit the payments in the state treasury to the credit of the sales and use tax account in the state general fund.

(c) The state controller, acting upon the collection data furnished by the department, shall, each month, from the sales and use tax account in the state general fund:

(1) Transfer one-half of one percent of all fees, taxes, interest and penalties collected in Clark County during the preceding month to the appropriate account in the state general fund as compensation to the state for the costs of collecting the tax for Clark County;

(2) Determine for Clark County the amount of money equal to the fees, taxes, interest and penalties collected in the county pursuant to this chapter during the preceding month

less the amount transferred pursuant to subsection (c)(1) of this section and the sum of any amounts determined pursuant to subsection (c)(2) of this section;

(3) Remit the entire amount determined to be owed to Clark County to the Clark County treasurer or the treasurer of the Southern Nevada Water Authority for deposit as follows:

(A) The amount derived from the taxes imposed by subsection (a) of Section 4.18.095 and subsection (a) of Section 4.18.175 of this chapter must be deposited in the Clark County regional flood control district fund

(B) The amount derived from the taxes imposed by subsection (b) of Section 4.18.095 and subsection (b) of Section 4.18.175 of this chapter must be deposited in the Clark County public transit fund.

(C) The amount derived from the taxes imposed by subsection (c) of Section 4.18.095 and subsection (c) of Section 4.18.175 of this chapter must be deposited with the treasurer for the Southern Nevada Water Authority for deposit in the infrastructure fund.

(D) The amount derived from the taxes imposed by subsection (d) of Section 4.18.095 and subsection (d) of Section 4.18.175 of this chapter must be deposited with the Treasurer for distribution to the Clark County Public Transit Fund, and the Air Quality Fund.

(E) The amount derived from the taxes imposed by subsections (c) and (f) of Section 4.18.095 and subsections (c) and (f) of Section 4.18.175 of this chapter must be deposited with the treasurer in a separate fund created for the use of the proceeds as authorized by Chapter 249 of the 2005 Nevada Legislature, who shall, upon receipt, distribute the proceeds among the Boulder City Police Department, the Henderson Police Department, the Las Vegas Metropolitan Police Department, the Mesquite Police Department, and the North Las Vegas Police Department in the same ratio that the population served by each of those departments bears to the total population of Clark County. As used in this paragraph, "population" means the estimated annual population determined pursuant to NRS 360.283. The fiscal agents of Boulder City, Henderson, Mesquite, Las Vegas Metropolitan Police Department and North Las Vegas

shall each deposit the proceeds received from the treasurer into a special revenue fund created for the use of such proceeds. Any expenditure of these proceeds must be made in compliance with Section 13 of Chapter 249 of the 2005 Nevada Legislature, as that is amended from time to time.

(d) For the purpose of the distribution required by this section, the occasional sale of a vehicle shall be deemed to take place in the county to which the privilege tax payable by the buyer upon that vehicle is distributed.

SECTION SIX. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION SEVEN. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION EIGHT. The additional taxes imposed by this ordinance shall take effect and be in force commencing January 1, 2016, and shall expire by limitation on October 1, 2025.

PROPOSED on the 18th day of August, 2015.

PROPOSED BY: Commissioner Steve Sisolak

AYES: Susan Brager

Lawrence L. Brown III

Marilyn Kirkpatrick

Mary Beth Scow

Steve Sisolak

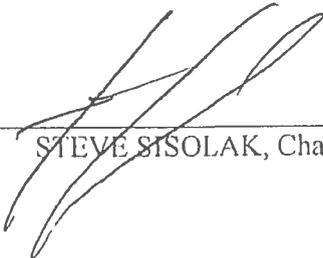
Lawrence Weekly

NAYS: Chris Giunchigliani

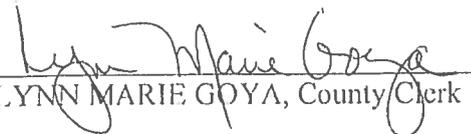
ABSTAINING: None

ABSENT: None

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

BY: 
STEVE SISOLAK, Chairman

ATTEST:


LYNN MARIE GOYA, County Clerk

This ordinance shall be in force and effect from and after
the 1st day of January, 2016

AMENDED COOPERATIVE AGREEMENT

THIS AMENDED AGREEMENT is made and entered into this 6th day of October, 2015, by and between Clark County, a political subdivision of the State of Nevada, the "County," and the State of Nevada Department of Taxation, the "Department," collectively the "Parties."

WHEREAS, pursuant to Assembly Bill No. 418 of the 73rd Session of the Nevada Legislature, entitled the "Clark County Sales and Use Tax Act of 2005" (the "Act"), the County by ordinance imposed a tax of one-quarter of 1 percent on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County.

WHEREAS, pursuant to the Act and the ordinance, the County entered into a contract on September 20, 2005, with the Department to perform all functions incident to the administration or operation of the tax in the County; and

WHEREAS, pursuant to Senate Bill 1 of the 2013 Special Session of the Nevada Legislature, the County has adopted an ordinance designated Bill No. 8-18-15-2, imposing an additional tax under the Act and setting the combined rate at .30% effective January 1, 2016;

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the County and the Department agree as follows:

1. The Department shall continue to administer and enforce all provisions of the Clark County Sales and Use Tax Act of 2005, as amended by the Nevada Legislature, incident to the collection of the tax provided for by ordinances enacted by the County.
2. The County shall continue to reimburse the Department for the costs of collecting the tax imposed by its ordinances adopted pursuant to the Act, as amended. The amount of the collection costs to be reimbursed by the County hereunder shall be computed in the manner provided by NRS 374.785(3). Before distributing any revenue to the County pursuant to paragraph 3 below, the Department shall deduct said collection costs from the amount to be distributed.
3. Except for the amount described in paragraph 2, above, the Department shall distribute to the County once each month the revenue collected pursuant to this Agreement. With each distribution, the Department shall provide the County Treasurer with a monthly statement setting forth the amount collected and any collection costs deducted by the Department.
4. The County agrees that the Department shall have the power to make all necessary rules and regulations and prescribe all necessary forms or other requirements for the purpose of making the administration of the County ordinances effective.

5. The Department shall have all the powers, duties, and responsibilities as provided by the County ordinances and Chapter 374 of the Nevada Revised Statutes and all amendments thereto, and all other State laws pertaining to the collection of sales and use taxes.

6. This Agreement shall remain in effect while the Clark County Sales and Use Tax Act of 2005 Ordinance, as amended from time to time, is in effect.

7. This Agreement may be executed in counterparts.

8. If any term or provision of this Agreement is deemed to be invalid or unenforceable to any extent, the remainder of this Agreement will not be affected thereby, and each remaining term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.

9. No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision contained herein. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which will be extended by a period of time equal to the period of the delay.

10. This Agreement is binding upon and inures to the benefit of the permitted successors and assigns of the parties hereto. None of these parties shall assign any of the rights or delegate any of the duties of this Agreement without the express written consent of the other party.

11. Except as otherwise expressly provide, this Agreement (including all Exhibits attached hereto) constitutes the entire contract between the Parties hereto and may not be modified except by an instrument in writing signed by the party to be charged.

12. The Parties hereto expressly agree that this Agreement will be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Nevada.

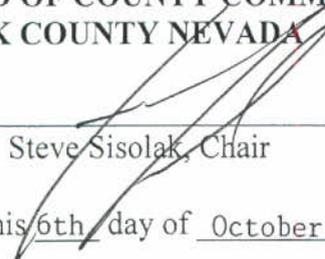
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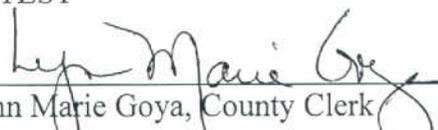
IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed on its behalf by an authorized representative.

**BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY NEVADA**

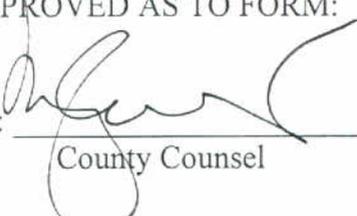
By: 
Steve Sisolak, Chair

Dated this 6th day of October, 2015.

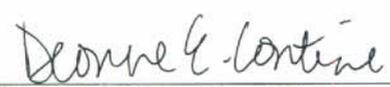
ATTEST


Lynn Marie Goya, County Clerk

APPROVED AS TO FORM:

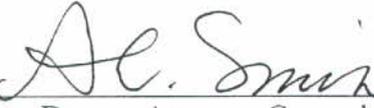
By: 
County Counsel

DEPARTMENT OF TAXATION

By: 
Deonne E. Contine, Director

Dated this 19th day of October, 2015.

APPROVED AS TO FORM:

By: 
Deputy Attorney General

AGENDA ITEM 9

REVIEW AND APPROVAL OF MINUTES

DRAFT
Minutes of the Meeting
COMMITTEE ON LOCAL GOVERNMENT FINANCE
SUBCOMMITTEE ON ENTERPRISE AND SPECIAL REVENUE FUND GUIDANCE
April 24, 2015
1:30 p.m.

The meeting was held at Reno City Hall located at 1 East First Street, 7th Floor, Reno, Nevada. This meeting was also part of a teleconference.

COMMITTEE MEMBERS PRESENT:

Beth Kohn-Cole, Chairman
Alan Kalt
John Sherman

COUNSEL TO COMMITTEE

Dawn Buoncristiani

DEPT OF TAXATION STAFF PRESENT:

Terry Rubald
Kelly Langley
Janie Ware

MEMBERS OF THE PUBLIC PRESENT:

Name	Representing
Dan Krueger	
Dave Empey	City of Mesquite
Aaron Katz	Incline Village Resident
Frank Wright	Incline Village
Gerald Eick	IVGID
Jason Guinasso	IVGID / Reese Kintz, LLC
Steve Boline	Nevada Rural Hospital Partners
Chris Mulkerns	Town of Tonopah
Mark Mathers	Washoe County

1. Roll Call and Opening Remarks

Chairman Beth Kohn-Cole called the meeting to order at 1:40 p.m. Jane Ware, Administrative Assistant, Department of Taxation (Department), took roll call. All Subcommittee members were present, and there was a quorum. Chairman Kohn-Cole asked if there were any other members of the Committee on Local Government Finance (CLGF) on the teleconference, and there were not.

2. Public Comment

Chairman Kohn-Cole asked if there was any public comment.

Aaron Katz, resident of Incline Village, stated he was here because there is a problem in his community with financial reporting. On February 6th, Mr. Eick, Director of Finance, Incline Village General Improvement District (IVGID), made a presentation to the CLGF. Mr. Katz was supposed to be noticed so he would have an opportunity to speak. Through inadvertence, he did not get the notice and was unable to speak. He is here because he is interested in the enterprise fund and the special revenue fund distinction. He has public comment to make and a written statement to produce. In his opinion, Mr. Eick's representations to the CLGF were false. He stated that the reason for making the wholesale change of the accounting funds was to create greater financial transparency. Mr. Eick stated that the constituents would welcome these changes. Mr. Katz stated there is no added transparency. It is the exact opposite, and he is very much against a change like this. He had to wait for a copy of what the fund structure was going to look like under this new plan. Mr. Eick presented it IVGID Board for the first time several weeks ago. Mr. Eick used horizontal orientation of the paper instead of vertical. He changed the name of the Community Services Fund to the Special Revenue Fund. He took columns that were horizontal for capital expenditures and debt service and turned them into columns instead.

Mr. Eick then added in a breakdown of capital projects by recreational venue. They already have a far greater disclosure of what those are in their current budget, which is included in his written statement. That is it. There is no added transparency. Furthermore, this now opens the door for making improper transfers from an enterprise fund to the general fund. Mr. Katz has complained about IVGID doing this for quite a period of time. It is his understanding that if this fund structure changes to special revenue, there will no longer be a restriction under NRS 354.613 for making transfers out of the enterprise fund. His other concern is that when reporting an enterprise fund it shows cash flows. If it is a special revenue fund, you do not have to show cash flows. Cash flows are important to Incline Village residents. Although Incline Village is a political subdivision, it is really a series of commercial businesses. These business enterprises are losing over \$8 million a year. That \$8 million is involuntarily subsidized by what Mr. Katz considers an invalid tax and what the IVGID calls AP. People want to know if these venues are making money, losing money, how much and what they are spending the money on. They cannot get a clear picture venue by venue so they can go to their governing board to say they should not be in this business. It was his hope it would improve with the new accounting fund structure, but it is now evident that it did not. Mr. Katz objects to any approval that Mr. Eick received for making this change.

3. For Possible Action: Discussion and Consideration of Proposed Guidance Letter regarding the nature and use of special revenue funds and enterprise funds

Terry Rubald, Deputy Executive Director, Department of Taxation, stated she asked this Subcommittee to convene today to provide a technical review of a proposed guidance letter from the Department on the subject of special revenue funds and enterprise funds. The purpose of providing guidance on this subject is to let local governments know what the requirements are for creating each kind of fund. GASB Statement No. 54 provides the standards for fund balance reporting. We have received questions about whether those fund balance classifications were necessary for budgeting purposes. With changes in NRS 354.613 governing enterprise funds, we felt it was time to provide general guidance on the use of those two types of classifications. We feel the authority for providing guidance on this can be found in the overview of the Local Government Budget and Finance Act, which has several clauses. One of them is to provide for the oversight of revenues, expenditures and expenses. Also, NRS 354.612 Subparagraph 2 states that fund financial statements and other schedules must be prepared in accordance with generally accepted accounting principles. It seems important to recognize that the general Accounting Standards Board would be recognized specifically as a generally accepted accounting principle. So that is why you see the specific statement in the draft under the application section. It says that all of the GASB Statements are recognized, but specifically No. 34 and No. 54 as they relate to enterprise and special revenue funds.

On Page 2 of the draft, we are trying to distinguish between the special revenue fund as a type of governmental fund as opposed to an enterprise fund which is a proprietary-type fund. There is also a paragraph on the difference between a major and non-major fund. The next section is devoted to the discussion of an enterprise fund and the definition of an enterprise fund. It is especially important to point out the GASB Statement No. 34 states that an enterprise fund must be used whenever the conditions in Paragraphs (a), (b) or (c) exist. Paragraph (a) states the activity is financed with debt solely secured by a pledge of the net revenues from fees and charges of the activity. Paragraph (b) states there are laws and regulations require that the cost of providing services must be recovered with fees and charges. Paragraph (c) states that pricing policies of the activity establish fees and charges.

The next section is special revenue funds about how GASB Statement No. 54 establishes five new classifications of fund balance. We are specifically referencing Paragraphs 30 and 31. There is also a short discussion of what the terms restricted and committed mean pertaining to the types of funds. In bold print on Page 4, we note specifically that the change in classifications of fund balances do not affect budgeted. This is why the budget forms that are prepared by the Department have not changed. Further down on Page 4, you

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will see that GASB Statement No. 54 states that the restricted or committed proceeds should be expected to continue to comprise a substantial portion. Regarding what is substantial, Ms. Rubald stated she tried to do a survey of literature. One source said the Government Finance Officer's Association (GFOA) says 20%. There was a ratio formula that she borrowed. On Page 5, there is a generic example trying to compare what is in our statutes with what is in our GASB statements to see how the two fit together. Ms. Rubald asked for feedback.

There was a two minute recess for IVGID's Council, Jason Guinasso, to speak with the Department's Counsel, Dawn Buoncristiani, for clarification before discussion ensued. Dawn Buoncristiani firmly stated she could not give legal advice. Mr. Guinasso stated the recess was not for legal advice. Chairman Kohn-Cole firmly stated that it could only be for two minutes.

Chairman Kohn-Cole stated that she believes there is no conflict of interest in connection with this guidance letter because it solely relates to GASB and has nothing to do with any services she provides. At every Committee on Local Government Finance (CLGF) meeting she disclosed that she works with a number of union representatives. She works with Devon Reese as part of a team during arbitrations with various local governments. He has nothing to do with her firm, and it is totally unrelated. She does not receive any revenue from Mr. Reese. She is hired as an expert witness through the union – not through Mr. Reese. Chairman Kohn-Cole does not perceive any conflict, especially in connection with this guidance letter.

Gerald Eick, on behalf of IVGID, stated that he does not see any conflict, as well.

Member Kalt clarified that Beth Kohn-Cole was appointed by the Nevada State Board of Accountancy to be the technical advisor that serves on the CLGF to represent the C.P.A. profession. Chairman Kohn-Cole stated this was correct. Since we are here to discuss technical guidance, Member Kalt stated Chairman Kohn-Cole was fulfilling her goal by the appointment of the Nevada State Board of Accountancy, and he did not see a conflict. He believes her input is valuable.

Member Sherman stated the matter before us is broadly applicable and not designed to benefit or harm any entity or person. It is designed for local governments that may have questions regarding classifications of fund types.

Terry Rubald stated that this guidance letter was written by the Department's initiative. CLGF did not necessarily request it, although it was discussed at the last CLGF meeting. This guidance letter has no force and effect of law. It is simply a guidance letter. It is not rulemaking, and it is not statutory. It is simply to provide with a synopsis of what GASB Statement No. 34 and GASB Statement No. 54 say with regard to enterprise funds and special revenue funds. There is not very much independent thinking in this with the exception of the fact that the Department finds that GASB Statements, including but not limited to, Statement No. 34 and Statement No. 54, are appropriate standards for the preparation of financial statements of all funds and comply with the requirements of NRS 354.612 as a generally accepted accounting principle. We at the Department wanted to get on the record that GASB Statements are generally accepted because they are not specifically recognized in our statutes or regulations. We are interpreting that GASB Statements fulfill the requirements to follow generally accepted accounting principles. That is the only part that is an opinion of the Department. The rest is summarizing and quoting. The second thing that is not a summary or a quote is the fact that we at the Department determined that the fund balance classifications mentioned in GASB Statement No. 54 are not required in our government budgets, and therefore, our forms do not require those subclassifications.

Member Sherman stated because the guidance letter is distinguishing between special revenue funds and enterprise funds, this may need to be expanded. The Government Improvement District (GID) is used as an example for an enterprise fund, but we may need to add an example of a special revenue fund. We need to

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specifically recognize that just because an entity is a GID, does not necessarily mean there is a requirement to report as an enterprise fund. There may be different fund types in a GID.

Chairman Beth Kohn-Cole suggested examples for different types of entities.

Member Sherman suggested examples for restricted funds. Member Sherman would like some more discussion on substantial portion which is talked about on Page 4.

Member Kalt stated he brought a spreadsheet from his entity. It is a math calculation. They looked back at three fiscal years and identified the revenue resources that by definition are restricted, committed, assigned or unassigned. The 20% rule guidance came from GFOA. That became the standard that everyone used. Member Kalt further explained his accounting practices.

Chairman Kohn-Cole suggested having a sample of that worksheet in the guidance letter. Member Sherman agreed.

Member Kalt stated that everyone should have implemented GASB Statement No. 54 long ago. He stated they had to prove to their auditors that it meets the technical definitions under GASB Statement No. 54. One of the concerns that Chairman Kohn-Cole brought up at the CLGF meeting was the feeling that there may not be proper due diligence or classification between restricted, committed, assigned and unassigned, at some level. Perhaps a workshop or a training session could be recommended to the Association of Governmental Accountants (AGA). There may be some confusion.

Member Sherman stated the classification of fund balance is a broader scope. We may need to have a discussion at the full Committee about the administrative code which has not been updated for over a decade. This is a significant challenge. If the full Committee would like this Subcommittee to do that, we should pick a couple of areas. GASB Statement No. 54 might be one of those areas. We may need to look at it in the context of statute and administrative code. One way to be sure the practitioners in the field are educated and have an understanding of this is to make sure the statutes and administrative codes are in better alignment with Governmental Accounting Standards.

Chairman Kohn-Cole stated this was a good idea. She stated that the summary should indicate that this does not change any existing accounting principles, and that it is just providing guidance.

Member Sherman stated that regarding statutory references on Page 2, it was helpful to have them footnoted. In the second paragraph on Page 2 where it talks about non-exchange revenues, we may want to give an explanation.

Terry Rubald stated she would incorporate some definitions.

Chairman Kohn-Cole asked for public comment.

Gerald Eick, Director of Finance, Accounting and Risk Management and Information Technology, Incline Village General Improvement District, stated he was here to help with guidance. He believes the reason people are having trouble understanding this is because, in the current situation, we are using an enterprise fund to present information that is hard to find. If you tell someone you are collecting revenue from capital expenditures, and they go to your operating statement and cannot find it, they wonder where their money went. You can say it may be found in the cash flow statement, but that only gets posted with the audit. He found the discussion about exchange and non-exchange transactions helpful as to which way they wanted to go. Under proprietary fund accounting, it pushes it to full accrual. Full accrual takes you to interperiod equity and costing. That takes you away from capital expenditure and what you are paying now to acquire something. Full accrual

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and interperiod equity uses historical cost. People cannot relate to this. He believes the guidance letter is very good. He also believes the issue of whether you are dealing with exchange or non-exchange transactions is a valid point of reference in terms of enterprise and special revenue. Also, enterprise or proprietary fund accounting as opposed to governmental fund accounting does push you to this full costing interperiod equity. It puts a focus on certain types of measurements and accounting that may or may not be appropriate. This is why one serves better than the other. One of the problems with enterprises is they do not have the classifications of fund balance. So if you really have an amount of money that is part of your net position of a fund, you cannot give the true credibility that it is a commitment or an assignment, etc. We obviously have restricted and unrestricted, and most people are familiar with the net position of fixed assets. In their organization, they have some very real credible slices and dices that are now made available to them by using special revenue. They can use assignment and state that it is for this or that as opposed to it being aggregated and almost worthless. Regarding the guidance letter, he believes it is an appropriate document which is going in the right direction. He concurs with all of the observations about good examples.

Chairman Kohn-Cole asked whether accrual versus modified accrual needs to be mentioned. She summarized the changes they were going to make. We will add more definitions regarding non-exchange revenue, add some additional examples for other types of entities and an example of the math worksheet. At the next CLGF meeting, we will discuss possibly looking at the administrative code and whether we want to make any modifications because of GASB Statement No. 54. We will need another meeting to look at the revised draft before we go to the Committee.

Terry Rubald stated she put the report on the CLGF agenda. We could just say that it is in progress.

Member Kalt asked if this could be sent out via email. If the budget analyst could state in the email to the local government that the Department is providing this to all entities to provide clarification and guidance, and this may or may not affect you.

Terry Rubald stated that we also have a place on the Department website where we put all the guidance letters. She stated she is hopeful that if this format works, we can fill in a lot of topics this way in the future.

Member Kalt believes this is going to be an effective tool.

Aaron Katz asked to make public comment at this time. Chairman Kohn-Cole asked if he would wait because we were almost to Item 5, Public Comment.

4. BRIEFING TO AND FROM THE SUBCOMMITTEE ON LOCAL GOVERNMENT FINANCE AND LOCAL GOVERNMENT FINANCE STAFF
 - a) Discussion of Matters Affecting Local Governments
 - b) For Possible Action: Schedule Date and Review Agenda Topics for the Next Meeting**

There was no discussion under Item 4(a).

There is a CLGF meeting next week. Terry Rubald stated the next CLGF meeting following that would be in July or August. Chairman Kohn-Cole stated she would like to have a Subcommittee meeting prior to the full Committee meeting in July or August. She suggested July. Various dates were discussed but no specific date was decided upon.

5. PUBLIC COMMENT (See Note 2)

Aaron Katz stated he was a lay person. He does not interpret the guidance letter as merely being guidance. He finds it very unique that General Improvement Districts were specifically selected to show how it would apply. As he reads through this discussion on GIDs, it sounds to him like a legal opinion. A GID can make a switch to a special revenue fund. Why? Because it has a general obligation bond that partially pays for general obligation debt. It purportedly has committed funds coming in for a particular purpose. It goes through the GASB list. But this is a lot more than just mere guidance, and he takes issue with some of the factual determinations that are made there. He did a written statement on this, but there are three items in there that are telling him, and will tell other people of his community, that Mr. Eick can do whatever Mr. Eick wants to do. Mr. Katz believes there will be less transparency. IVGID is required by a regulation to recover costs, rates, tolls and charges. IVGID has adopted a policy which is intended to ensure prudent financial practices. One of these is a balanced budget. IVGID cannot balance any of its budgets unless it accesses this improper fee. This is about \$7 million per year. This is why people are complaining about it. IVGID's pricing policies are designed to recover its costs for providing services, including capital costs, for which management establishes the fees. IVGID establishes a budget of what it wants to spend, and it comes up with a deficiency. The rec fee becomes the payment for the deficiency. It is designed to recover the cost. He does not know any jurisdiction in the state which issues general obligation bonds and does not go to the voters to get approval. IVGID found a loophole in the statute. It says that if you additionally secure the repayment of the general obligation bonded indebtedness with a revenue source then you do not have to go to the public to get approval. This rec fee becomes the additional pledge source. Again, IVGID has adopted policies that say you will use this designated source to pay off general obligation bonded indebtedness. Maybe in a vacuum it is possible that some taxes could be used to pay general obligation bond. It never happens at IVGID, and it has not happened for at least 40 years. There are hardly any revenues that are designated for restricted or committed purposes. All of this money is used for everything under the sun. There is not a minimum of 20% for restricted or committed purposes. This guidance letter seems to be a sanction to do that. He knows this is going to go back to IVGID, and Mr. Eick is going to tell them he came before the Committee, and they approved what he wanted to do. He is going to change the fund structure. The board members are lay persons who will not understand. His fear is that now there will be all these transfers that are impermissible under NRS 354 because they come from an enterprise fund. The Committee needs to protect us if they are going to change over. IVGID cannot make all these transfers. That is why there was a change in the law. He hopes the Committee will read his written statement and look at his documents. The public only sees the budgets that IVGID publishes. They are in a format that is different than the format that goes to the Department. When they want to see revenue and expenses, they look at what is published online. One does not need to go through this for transparency. Please protect them with the guidance so it does not open up the door.

6. **For Possible Action: ADJOURNMENT**

The meeting was adjourned at 2:34 p.m.

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Minutes of the Meeting
COMMITTEE ON LOCAL GOVERNMENT FINANCE
April 30, 2015
9:00 a.m.

The meeting was held at the Nevada Gaming Control Board located at 1919 College Parkway, Board Room #100, Carson City, Nevada, and video-conferenced to the Nevada Gaming Control Board located at 555 East Washington Avenue, Room 2450, Las Vegas, Nevada.

COMMITTEE MEMBERS PRESENT:

Marvin Leavitt, Chairman
John Sherman, Vice Chairman
Andrew Clinger
Beth Kohn-Cole
Marty Johnson
George Stevens
Jeff Zander

COMMITTEE MEMBERS ABSENT:

Alan Kalt
Jim McIntosh
Mark Vincent
Mary Walker

COUNSEL TO COMMITTEE

Gina Sessions

DEPT OF TAXATION STAFF PRESENT:

Terry Rubald
Kelly Langley
Heidi Rose
Bill Farrar
Penny Hampton
Susan Lewis
Janie Ware

MEMBERS OF THE PUBLIC PRESENT:

Name	Representing
Dave Empey	City of Mesquite
Darren Adair	City of North Las Vegas
Debbie Barton	City of North Las Vegas
Ryann Juden	City of North Las Vegas
Linda Poleski	City of North Las Vegas
Jeffrey Share	Clark County
Michael Ramirez	LVPPA/SNCOPS
Ricardo Bonvicin	NLVPSA
Leonard Cardinale	NLVPSA
Joni Eastley	Nye County
Tim Ross	PORAN
Jeanne Bleecker	Smoky Valley Library District
Andrea Madziarek	Smoky Valley Library District
Lisa Schwarz	Smoky Valley Library District
Michael Sullivan	Town of Pahrump
Dan Sweeney	Town of Round Mountain
James Eason	Town of Tonopah

1. Roll Call and Opening Remarks

Chairman Leavitt called the meeting to order at 9:02 a.m. Kelly Langley, Supervisor, Local Government Finance, Department of Taxation (Department), took roll call. Chairman Leavitt stated there was a quorum.

2. Public Comment

Chairman Leavitt requested public comment. There was no public comment in Carson City, Las Vegas or on the teleconference.

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 the following matters:

- a) FY 15/16 Tentative Budget, including revenue, expenditures, cash flow analysis and scheduled debt repayments;**
- b) Status of payments made to date regarding Writ of Garnishment by 5th & Centennial, LLC et al;**
- c) Status of collective bargaining agreements expiring 6/30/15;**

2) Report by Department on cash flow statements received from the City and monthly reports of cash balance in General Fund.

Member Johnson disclosed that he owns bonds that were issued by the City of North Las Vegas (CNLV) and Member Kohn-Cole recused herself in connection with discussion regarding the City of North Las Vegas.

Bill Farrar, Budget Analyst, Local Government Finance, Department of Taxation, stated that he oversees the City of North Las Vegas for the Department, and wanted to allow the City of North Las Vegas an opportunity to provide updates to the Committee on Local Government Finance

Darren Adair, Director of Finance, City of North Las Vegas, referenced the presentation that was recently given to the North Las Vegas City Council during their recent Budget Workshop on April 15, 2015 (*See Page 8 of the Exhibit Packet*) discussing the following highlights:

- Striving to achieve FY15 Ending Fund Balance of \$10.1 million 8% as required by their commission
- CNLV has experienced a 3.6% increase in franchise, business license and medical marijuana taxes
- FY16 CNLV does not anticipate any property tax increased rates
- CNLV will be adding 5 new positions – public safety (police and fire)
- Contingency fund of \$500,000 will be achieved; this is small and they realize this
- Add 2 financial positions to ensure better timely reporting
- FY16 assumptions include \$2.0 million in medical marijuana, 3.95% increase in benefits, merits and COLAS frozen, which allow for a balanced budget
- FY16 there will be no increase in PILT or Sewer, consistent with previous communication, and they will receive \$24 million as in prior years
- FY16 CNLV has seen further appreciation in property values
- Grow-nomics – with streamlined permitting policies, they will be able to grow out of this problem
- Expenditures in FY16 – shift of \$2 million from Judicial to Public Safety and Public Works able to accomplish 5 new staff due to award of grant funding
- No changes in Community Services
- Cannot continue to fund via attrition; they will need to hire soon, starting with 2 new financial analysts

Chairman Leavitt inquired regarding the FY14 audit. He noted that it was late, and that the Department had granted numerous extensions to the deadline.

Darren Adair acknowledged that they FY14 audit was late. He further stated that it was their goal to have this FY15 audit done in a timely fashion. Although the FY14 audit was not, he cited that there were only two material weaknesses, and that these issues are being addressed. One weakness was that the financial staff was insufficient to meet the demands and could not keep up with the requests from the auditors. They are

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hiring two new positions which will bring them back to pre-FY13 staffing levels to address this concern. These new positions in Finance should ensure more timely filings to the Department, as well.

7-Year Projections: These should be revised later in the year to reflect the audit and the bargaining union negotiations; yet to date these have been accurate and a fair reflection of fund balances.

Concerns: Succession planning, PILT transfer, Grow-nomics, risk of shortfall in the Utility Enterprise Funds, budget stabilization, no current rainy day fund, and bond ratings

Ryann Juden, Executive Government Affairs Liaison, City of North Las Vegas, spoke regarding legislative impacts. He commented that the City of North Las Vegas is not going from crisis to crisis anymore and is headed in the right direction. He stated that the State of Nevada now realizes the importance of helping with APEX, and the need for infrastructure. There was discussion regarding SB 1. The tax abatement recently provided to Tesla needs to be considered when creating an economic package for the City of North Las Vegas. Mr. Juden mentioned a potential large multi-developer who has put \$150,000 into a feasibility study. Potential abatements would go into the Utility Enterprise Fund to ensure funds for the infrastructure necessary for the APEX. Meeting with the Legislature is good public policy.

Chairman Marvin Leavitt inquired whether the City is current and up-to-date on all PERS payments, accounts payable, and employee obligations. Mr. Adair responded yes. Chairman Leavitt inquired whether all debt obligations are current with necessary funding available. Mr. Adair responded yes. With regard to the 5th Street condemnation payments, Chairman Leavitt inquired whether the settlement payments have been made.

Darren Adair responded the total settlement is \$6.3 million. The City has made the first \$1.5 million payment, expects to make another \$1 million payment later this year, and has or will deposit \$3.8 million with the Bank of Nevada for disbursement on the following payment plan:

- a. \$1.9 million on 7/1/15
- b. \$1.9 million on 7/1/16

Chairman Leavitt inquired whether there was sufficient cash on hand going into FY16 to meet monthly obligations, and Mr. Adair responded yes. Mr. Adair was also asked to provide an update regarding the FY17 debt payments.

Darren Adair responded that the summary debt exhibit reflects the General Fund Obligations and that the payments for these maturities were included in the 7-year forecast. Currently there is a shortfall. They will keep the Committee posted, but hopes for Grow-nomics to help them grow out of the long-term problems. Mr. Adair further discussed that the cash flow reports that the City of North Las Vegas shares with the Department reflects the best information and the summary reports are up-to-date.

Vice-Chairman Sherman asked whether the acting City Manager and City Finance Director positions have been made permanent. Mr. Adair responded that both positions have now been made permanent.

Chairman Leavitt requested that the City report back to this Committee at its next meeting in August or September, as they will be preparing for their audit, and can provide additional updates at that time.

3. FINANCIAL CONDITION REPORTS BY THE DEPARTMENT; CONSIDERATION AND POSSIBLE ADOPTION OF RECOMMENDATIONS AND ORDERS

- b) For Possible Action: Discussion Regarding Smoky Valley Library District Financial Condition**
- 1) Report by Library District regarding going concern audit opinion in the FY13/14 Annual Audit Report**

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Bill Farrar explained he requested that the Smoky Valley Library District appear at the Committee on Local Government Finance meeting to discuss their recent audit for FY13/14 in which their auditor referenced a "going concern."

Jeannie Bleecker, Co-Director, Smoky Valley Library District, stated they did not know of this problem until the audit highlighted it, and that they are taking the following actions to remedy this issue:

- Terminated excess staff
- Eliminated overtime
- 5% reduction in staff pay
- Fundraisers
- Net proceeds receipt
- Internet provider allowing free internet reduces expense
- \$0.09 tax increase in budget. It came to her attention yesterday that the county was considering creating a hospital district
- \$300,000 loan from town of Round Mountain
- Budget for this year was \$1,020,000. They have spent \$800,000 leaving approximately \$220,000 in the budget which gets them to approximately \$500,000 Ending Fund Balance.

Chairman Leavitt asked if someone was in the audience to talk about the hospital district. He stated net proceeds of mines is a volatile revenue source. For long-term stability, they need to wean off of the net proceeds of mines. Both the library and the hospital have a big problem just a month away from the final budget.

James Eason, Tonopah Town Manager and Chairman of the Board for PrimeCare 501(c)3 Nye Regional Hospital, discussed that they are considering reinstating a county hospital district in Tonopah. The biggest issue is how this would be funded to pay off the debt that was assumed when they came out of bankruptcy. The amount of debt is approximately \$4.3 million. The hospital district would cover most of Nye County with the exception of Pahrump and Beatty. Pam Webster, County Manager, is working on a plan.

Chairman Leavitt asked if the negotiations with the county include the Department of Taxation. He stated that he would like Nye County at the August meeting.

4. For Possible Action: REQUEST TO INITIATE RULE-MAKING REGARDING AMENDING NAC 287.788 TO CLARIFY THE ROLE OF CLGF IN THE APPROVAL OF OPEB TRUST FUND INVESTMENT PLANS

Vice-Chairman Sherman discussed the possibility of initiating rule-making regarding amending NAC 287.788. He asked if a subcommittee needs to be formed to look at this entire matter again.

Chairman Leavitt agreed to the formation of a subcommittee for this rule-making initiative. Member Sherman will be the Chair, along with Member Walker and Member Stevens. If the subcommittee meets after the Legislature, possibly Member Kohn-Cole can participate.

5. For Possible Action: REPORT FROM SUBCOMMITTEE REGARDING GUIDANCE ON ENTERPRISE FUNDS AND SPECIAL REVENUE FUNDS

Beth Kohn-Cole, Chairman of the Subcommittee on Enterprise and Special Revenue Fund Guidance, reported that the Subcommittee met on April 24th to discuss the proposed guidance letter. The Subcommittee accepted

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comments from the public. Subcommittee members suggested some modifications to the guidance and will meet again in July to consider the amended letter.

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

a) Report by Department on legislative bill drafts

Terry Rubald, Deputy Executive Director, Department of Taxation, discussed two bills currently working their way through the Legislature. AB 19 proposes to change the budget hearing dates to provide more flexibility to governing boards in setting hearing dates. Right now the language permits a governing body to hold hearings anytime between the third Monday in May but not later than the last day in May. The Department informed the sponsor of the bill about the deadline of June 1st for getting budgets into Taxation, so they are aware of the difficulties that local government fiscal staff will have should a budget adoption hearing be held at the end of May.

Terry Rubald also reported on AB 54 regarding updates to the Severe Financial Emergency laws. AB 54 has passed the Assembly and is scheduled to be heard on May 11th in the Senate Government Affairs Committee. The original bill called for the ability to suspend collective bargaining agreements, if necessary, but there was quite a bit of opposition to that proposal. The Department was able to work out a compromise with union representatives, which is in Section 8 on Page 231 of the Exhibit Packet. Basically, if certain financial conditions exist, such as deficit fund balances in the audit report, then the existing collective bargaining agreement can be reopened, and we can negotiate in good faith. There were also amendments from bond guarantee insurance companies to renegotiate, in good faith, the terms of bonded indebtedness.

7. REVIEW AND APPROVAL OF MINUTES
For Possible Action: CLGF Meeting – February 6, 2015

Member Kohn-Cole moved to approve the minutes of February 6, 2015, with a second from Vice-Chairman Sherman. The motion carried and the minutes were approved unanimously.

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

Chairman Leavitt discussed that he is scheduled for travel in June and July. Possibly the next meeting could be in August or September. Chairman Leavitt suggested the following items be considered for the agenda for that next meeting in September.

- Nye County/Tonopah Town Hospital – creation of new district
- Smoky Valley Library
- City of North Las Vegas to discuss ongoing issues and audit plan
- Report from Subcommittee on Enterprise and Special Revenue Fund Guidance
- Subcommittee meeting on recommendation for initiating rule-making regarding NAC 287.788
- Legislative update and potential action required

9. Public Comment

There was no public comment.

10. For Possible Action: ADJOURNMENT

The meeting was adjourned at 10:32 a.m.

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Minutes of the Meeting
COMMITTEE ON LOCAL GOVERNMENT FINANCE
SUBCOMMITTEE ON AMENDING NAC 287.788
August 18, 2015
10:00 a.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 4412, Las Vegas, Nevada.

COMMITTEE MEMBERS PRESENT:

John Sherman, Chairman
George Stevens
Mary Walker

COUNSEL TO COMMITTEE

Dawn Buoncristiani

DEPT OF TAXATION STAFF PRESENT:

Terry Rubald
Kelly Langley
Bill Farrar
Janie Ware

MEMBERS OF THE PUBLIC PRESENT:

Name	Representing
Tom Grady	City of Fallon
David Cherry	City of Henderson
Brian McAnallen	City of Las Vegas
Jill Olsen	City of Reno
Debbie Kinder	City of Sparks
Wayne Webber	City of Sparks
Rana Lacer	Las Vegas Convention and Visitors Authority
Renny Ashleman	Las Vegas Valley Water District
Jamie Rodriguez	Lewis Roca Rothgerber, LLP

1. Roll Call and Opening Remarks

Chairman John Sherman called the meeting to order at 10:02 a.m. Janie Ware, Administrative Assistant, Department of Taxation (Department), took roll call. All Subcommittee members were present, and there was a quorum.

2. Public Comment

There was no public comment.

3. For Possible Action: Consideration of proposals to amend NAC 287.788, clarifying the conditions under which the Committee on Local Government Finance ("CLGF") is required to approve an OPEB trust investment plan; and specifically considering limiting CLGF approval to investment plans of trusts that will invest in equity securities outside of the retirement Benefits Investment Fund

Chairman John Sherman stated this administrative code was written seven or eight years ago. It was written shortly after statutory authorization to allow local governments to set up OPEB trusts. There were three possibilities in investments which were a retirement benefit investment fund (RBIF) managed by the retirement benefit investment board, basically PERS; authorization to invest in fixed income securities with a maturity of 10 years or less; and authorization to invest in equity securities. It was the investment in equity securities which was the reason for the statute change and the need for the administrative code. As he recalls, the committee, at the time, was fine with the first two investment options. However, if a local government wanted to invest in equity securities as a trust by itself, there were conditions. The main conditions were that the portfolio had to be valued at \$100 million or more and that the CLGF would approve the investment plan. Less than a year ago, Clark County established an OPEB trust. Clark County interpreted the NAC to read that

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Chairman Sherman made note that the proposed amendment language has a reference to NRS 351.170. This is a typo, and it should be NRS 355.170.

Member Walker commented that the policy of not requiring a local government to come before the CLGF if they are going into the PERS system is a good change.

Member Stevens stated that he agrees with the change. NAC 287.778 regarding the appointment of the members, Section 1(c) talks about whether the assets qualify to be invested pursuant to NAC 287.790. A board of five members, two of which are experienced with the securities exchange market, is required. Member Stevens asked if the intent was, when a local government has more than \$100 million to invest in equities themselves, then a board of five would be more qualified than what three members provide.

Chairman Sherman answered that this is correct.

Renny Ashleman, Counsel for the Las Vegas Valley Water District's pension fund and for their proposed OPEB, came forward for comment. One concern is that they already manage a pension fund with \$300 million, outside of PERS. Their investment managers, Milliman, are one of the largest actuarial firms. They would like to be able to use them for their OPEB, which will probably have \$300 million per year put into it. They will pay out about half of that, depending on what happens here today. Several members of their Board of Commissioners are sophisticated in investments. He suggested the possibility of waiving the \$100 million upon application so the Committee could look at who is applying, how they make up their board, who are their investment managers, etc.

Terry Rubald, Deputy Executive Director, Department of Taxation, pointed out that should this Committee want to go forward, the next step would be to have a workshop. This meeting has not been noticed as a workshop. We would go through that additional step and concurrently take it to LCB for the final drafting.

Chairman Sherman asked if we could have a workshop preceding the full CLGF meeting. This would be more efficient. He asked what the action item would be.

Terry Rubald responded this could be done prior to the full CLGF meeting, and the action item would be to ask the Department to go forward in drafting the regulation and holding a workshop.

Member Walker moved to approve the drafting of the regulation as proposed to amend NAC 287.788 and to proceed forward with the regulatory process.

Chairman Sherman asked if this motion includes changing the reference to NRS 351.170 to NRS 355.170. Member Walker responded yes. Chairman Sherman made the second motion. The motion carried.

4. For Possible Action: Discussion and Consideration of other regulatory amendments to NAC Chapter 287 regarding administration and interpretation of the provisions of NRS 287.017 relating to trust funds for future retirement benefits of local governmental employees.

Member Stevens stated there is really no reason to have five board members if you are only going to invest with RBIF or the county treasurer. It would not require actively managing the money. He suggested clarifying NAC 287.778 1(c).

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Chairman Sherman asked if Member Stevens had suggested language changes for NAC 287.778 1(c).

Member Stevens responded it would read "If the assets of the trust fund are invested pursuant to NRS 287.017 2 (g)(3)." Then delete the first part of (c) up to the end of the NAC reference. Everything else in the section would remain the same.

Chairman Sherman stated NAC 287.791 2 is the key section regarding permitted investments if under or over \$100 million. There was testimony suggesting we may want to change this threshold. The original intent, in both drafting of the statute and the administrative code, was if a local trust wanted to invest in equity securities on their own, outside of RBIF, they should be large enough to be sophisticated investors. There would not be a small local government with a few million dollars and without the necessary sophistication entering into the equity securities market. The \$100 million was a judgment call of the committee at the time. There are eight or nine trusts in the state already, only one of which is in excess of \$100 million. This Subcommittee may want to consider revising this. One suggestion is to keep the \$100 million threshold but allow the CLGF to waive that requirement. There is a local government in Las Vegas that manages a retirement portfolio far in excess of that, and they have the necessary expertise. This is going to be the same group that manages an OPEB trust of more than \$100 million. The CLGF may want the option to waive this requirement based on the proposal. He is still hesitant to lower it to less than \$100 million.

Member Walker stated she would like to have some criteria on top of coming before the CLGF, allowing only certain entities to ask for this. Otherwise, we are opening it up to 280 local governments. If a local government is already investing and has their own retirement, not in PERS, and they are already investing an amount greater than \$100 million, that should give us the comfort that they are large enough to be sophisticated investors. She would recommend this being the criteria.

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Dawn Buoncristiani, Deputy Attorney General, State of Nevada, recommended adding a general phrase to include other things.

Chairman Sherman suggested the phrase, "include, but not limited to having a pension fund outside of PERS."

Terry Rubald stated she has a phrase "upon application by a local government, the Committee may waive the minimum market value of the investment portfolio." She asked if the Subcommittee wanted to wait until there is an application or if there would be situations where they would want to look at it without waiting for the local government to ask.

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Terry Rubald asked if the initiating act needed to be an application by the local government.

Chairman Sherman and Member Walker responded yes.

Member Stevens asked if, based on the other change we made, anyone who wants to invest on their own in equity securities has to have an investment plan approved by the CLGF.

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Member Stevens stated we also have the protection of this regardless of whether they request a waiver. This requirement will be there no matter what the threshold is. If we do not approve their investment plan, they cannot invest in equities.

Chairman Sherman stated this was correct. This proposal informs the local governments that they can invest in equity securities with an OPEB trust portfolio of less than \$100 million, but they must meet these other requirements, including having a portfolio in a pension plan outside of PERS that has a value in excess of \$100 million. This connects the pension plan portfolio to an OPEB trust portfolio, and the pension plan can be less than \$100 million. If all they had was an OPEB trust less than \$100 million, they would not be able to apply. We need to make it clear that the pension plan investment must be outside of PERS.

Chairman Sherman stated that there are two separate proposals under Agenda Item 4. He will take them separately for voting purposes.

Regarding Member Steven's request to clarify the requirements of membership of the board of trustees, Terry Rubald read the language revision. "If the assets of the trust fund will be invested in equities pursuant to NRS 287.017 2 (g)(3), the governing body shall appoint five persons to the board of trustees, including..."

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a) Discussion of Matters Affecting Local Governments

b) For Possible Action: Schedule Date and Review Agenda Topics for the Next Meeting and for possible workshop to take public comment on amendments to NAC Chapter 287.

Terry Rubald stated that she will draft this and send it to LCB. They will take at least 30 days or longer. When she gets it back, she will schedule a workshop, or it will be scheduled at the next CLGF meeting.

6. Public Comment

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7. For Possible Action: ADJOURNMENT

The meeting adjourned at 10:38 a.m.

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6. Public Comment

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7. For Possible Action: ADJOURNMENT

The meeting adjourned at 10:38 a.m.

DRAFT
Minutes of the Meeting
COMMITTEE ON LOCAL GOVERNMENT FINANCE
SUBCOMMITTEE ON ENTERPRISE AND SPECIAL REVENUE FUND GUIDANCE
August 27, 2015
10:00 a.m.

The meeting was held at Reno City Hall located at 1 East First Street, 7th Floor Caucus Room, Reno, Nevada. This meeting was also part of a teleconference.

COMMITTEE MEMBERS PRESENT:

Beth Kohn-Cole, Chairman
Alan Kalt
John Sherman

COUNSEL TO COMMITTEE

Melissa Flatley

DEPT OF TAXATION STAFF PRESENT:

Terry Rubald
Kelly Langley
Susan Lewis
Janie Ware

MEMBERS OF THE PUBLIC PRESENT:

Name	Representing
Jill Olsen	City of Reno
Fred James	Clark County Library District
Jim McIntosh	Clark County School District
Gerald Eick	IVGID
Amy Fanning	Nye County

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

1. Roll Call and Opening Remarks

Chairman Beth Kohn-Cole called the meeting to order at 10:02 a.m. Jane Ware, Administrative Assistant, Department of Taxation (Department), took roll call. All Subcommittee members were present, and there was a quorum.

2. Public Comment

There was no public comment.

3. **For Possible Action: Discussion and Consideration of Proposed Guidance Letter regarding the nature and use of special revenue funds and enterprise funds; discussion of revisions since last meeting**

Terry Rubald, Deputy Executive Director, Department of Taxation, went through the revisions to the guidance letter. She incorporated the comments from the last meeting. Chairman Kohn-Cole had asked for clarification that this guidance letter would not change anything that is being done now. The intent is not to change any procedures but just have a discussion about the difference between a special revenue fund and an enterprise fund and provide additional resource material. The second paragraph added under the summary gives clarification. We want to reassure everyone that this does not change any current interpretations of accounting principles. It is just to raise awareness of the issues in using special revenue funds and enterprise funds. To answer some of the other questions, she referenced GASB 33, Accounting and Financial Reporting for Nonexchange Transactions. At the last meeting Member Sherman commented that it would be helpful to

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explain the references pertaining to the NAC. Ms. Rubald added this in two places. On the top of the second page, it now states that NRS 354.553 and NRS 354.570 are the references to the definitions of a proprietary and special revenue fund. Also, there is now an Exhibit 5 that lists the main NRS referenced in the entire document. At the last meeting, there was discussion regarding the difference between exchange and nonexchange transactions. So in the second paragraph on the second page, Ms. Rubald referenced GASB 33. It is a direct quote regarding the difference. Ms. Rubald added the sentence that an enterprise fund is generally an exchange transaction. The material describing an enterprise fund is essentially the same, quoting GASB 34. As suggested, more examples are provided. Ms. Rubald gave a background of the NRS framework of a typical enterprise fund. Special revenue fund is the same as last time. Member Sherman wanted to have further discussion on substantial portion of inflows. Member Kalt provided Ms. Rubald with what he does, and she added some examples of a special revenue fund in the appendix. Ms. Rubald put a sentence at the bottom of each example that states "the revenue source meets the definition of a committed fund source because the governing board took formal action to restrict the use of the revenue. However, we would need more information to determine whether those committed funds represent a substantial portion, at least 20%." The next example of a special revenue fund is a fire district, or is it a special revenue fund? If you have a fund that is set aside for emergencies, an analysis in GASB 54 states you have to be more specific. You have to state exactly what kind of expenditures you must have. This is why Ms. Rubald changed the title on fire districts. You might think of the emergency fund on fire districts as a special revenue fund, but it may not be if you do not have a resolution backing it up with a restriction. The original example is a General Improvement District (GID). You usually think of GIDs as enterprise funds, but it is possible to consider them as special revenue funds depending on the criteria. This is what is taking place with Incline Village General Improvement District (IVGID).

Chairman Kohn-Cole stated Terry Rubald did an amazing job on this.

Member Sherman suggested on Page 6, the second example of a special revenue fund, regarding the revenue source tax of 1/8th of 1%, that "sales tax" be inserted.

Terry Rubald commented that she hopes this will be helpful for people without a financial background.

Member Kalt stated he appreciates the hard work. In small rural communities, sometime general obligation (GO) backing is needed for enterprise funds so they can go to the state bond bank to get a lower interest rate. It would still remain an enterprise fund. He wanted to point this out because some of the language is lifted straight from the standards in practice.

Terry Rubald asked where she should add this comment.

Chairman Kohn-Cole suggested adding this to (a) on the third page, where it talks about activity finance solely by debt.

Member Sherman stated this requirement is good guidance, but there are exceptions. If you do GO backed revenue bonds, it does not automatically flip you from an enterprise fund to a special revenue fund. He understands this to say that if it meets these criteria, it would most likely be an enterprise fund. However, the reverse is not true.

Chairman Kohn-Cole stated they cannot rely totally on this guidance letter for everything. They must understand the full impact of what they are doing.

Terry Rubald suggested putting a caveat after these paragraphs from GASB 34 and state that in practice there are exceptions.

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Member Sherman stated that (a) is the only one where there is this exception.

Member Kalt asked if we should have something in the guidance letter regarding the flow of funds. It does address this in the standards.

Terry Rubald asked if she should have another caveat in bold that each local government should have a flow of fund policy, and if there is no formal election, then by default the categories in GASB 54 apply.

Member Kalt responded that this would be restating the obvious for a technical person. For a person that does not understand the standard, that sentence may be helpful.

Chairman Kohn-Cole stated we will not be able to put everything in.

Member John Sherman suggested inserting "financial statement reporting requirements." The Subcommittee members agreed.

Member Kalt stated that you can have a special revenue fund stabilization agreement if you meet the very strict application of GASB 54. If you have a rainy day fund or stabilization fund, it does not have to automatically be in the general fund if it is done properly.

Gerry Eick stated that the guidance letter is well done. From a user perspective, it is very effective in terms of the examples.

Member Kalt moved that we take this guidance letter to full Committee with the suggested changes discussed today. Member Sherman made the second motion. The motion carried.

Chairman Kohn-Cole suggested taking the administrative code modifications pertaining to GASB 54 to the full Committee.

4. BRIEFING TO AND FROM THE SUBCOMMITTEE ON LOCAL GOVERNMENT FINANCE AND LOCAL GOVERNMENT FINANCE STAFF
 - a) Discussion of Matters Affecting Local Governments
 - b) For Possible Action: Schedule Date and Review Agenda Topics for the Next Meeting**

Terry Rubald asked if the Subcommittee wanted her to put on the agenda of the full CLGF meeting that they would like to pursue changes to conform with GASB.

Member Sherman responded that we should see how they feel about this. He had some thoughts about the minutes from the last meeting.

Terry Rubald stated the minutes can be approved at the full CLGF meeting.

5. Public Comment

There was no public comment.

6. **For Possible Action: ADJOURNMENT**

The meeting adjourned at 10:27 a.m.