

**Minutes of the Subcommittee Meeting of the
COMMITTEE ON LOCAL GOVERNMENT FINANCE
October 16, 2019, 8:30 a.m.**

The meeting was held at the Nevada Department of Taxation, 1550 College Pkwy, Large Conference Room, Carson City, Nevada with videoconference to Nevada Department of Taxation, Training Room, 2550 Paseo Verde Pkwy, Henderson, Nevada. This meeting was also part of a teleconference.

COMMITTEE MEMBERS PRESENT:

Mary Walker, Chairman
Marty Johnson
Tom Ciesynski
Paul Johnson
Jim McIntosh

MEMBERS OF THE PUBLIC PRESENT:

Name	Representing
Beth Kohn-Cole	Self
Sherry Wideman	Churchill County
Maria Gueder	Clark County School District
Vinson Guthreau	NACO

COUNSEL TO COMMITTEE:

Peter Keegan

**DEPT OF TAXATION STAFF
PRESENT:**

Jeff Mitchell
Christina Griffith
Denesa Johnston
Hector Sepulveda

ITEM 1. ROLL CALL AND OPENING REMARKS

All members were present.

ITEM 2. PUBLIC COMMENT

There was none.

ITEM 3. FOR POSSIBLE ACTION: REVIEW AND ADOPTION OF AGENDA AS SUBMITTED OR REVISED

No changes were made to the Agenda.

**ITEM 4. FOR POSSIBLE ACTION: DISCUSSION AND CONSIDERATION OF REGULATORY MATTERS
AND SB48**

- (a) To discuss opening a regulation to describe conditions and reports necessary for entities on fiscal watch**
- (b) Discussion on SB48 and impact on local governments and determination if regulations or guidance is needed and review of ballot language templates.**
- (c) Discussion on various legislation changing ending fund balance from 25% to 16.6% for school districts and 16.67% for local governments and action needed.**

Chairman Walker explained she discussed the differences in the law regarding NAC and NRS with the Department of Taxation (Department). Fiscal watch provisions center around severe fiscal emergency. The Committee of Local Government Finance (CLGF) and the Department believe it is time to look at fiscal watch provisions. The Department has received little response from entities when requesting information to determine if a local government is financially sound. This meeting is to look at developing a NAC to require the submittal and preparation of certain records.

Member Marty Johnson recalled when this subcommittee was created, he brought the school districts 3yr declining balance to Chairman Leavitt's attention; and suggested putting parameters in place to expand it to other entities. He is unsure if that fits into today's Agenda, but if this subcommittee goes further, he would like it discussed.

Chairman Walker mentioned one item to look at on this Agenda is fund balance. Member Ciesynski noted when an entity is on fiscal watch, they don't always bring their CEO to the CLGF meetings. He thinks they should be aware of what is going on. Chairman Walker agreed, adding the fiscal watch letter should be sent to the entity and a copy to the CEO and the CFO. Member Marty Johnson suggested it be acknowledged at a public board meeting. Chairman Walker agreed.

Member Paul Johnson echoed Member Ciesynski comment, adding that the School Board and executive officers do not have to take recommendations from the CLGF. He thinks the board and superintendent are insulated from the scrutiny of the CLGF and thinks it would be good to bring them up front.

Member McIntosh agreed, while working with the Clark County School District, he noted having to answer to the Department doesn't always rise to the level of the superintendent or Board of Trustees. He is not sure the finance departments understand what fiscal watch means. Chairman Walker agreed and asked if fiscal watch is defined. Jeffrey Mitchell, with the Department, read the NAC definition for fiscal watch.

Chairman Walker had Mr. Mitchell read the first paragraph on the handout NAC 354.XXX regarding fiscal watch. He clarified it is a rough draft to see if there is a need to open this up for a regulation change.

Chairman Walker suggested adding governing board to the third line, and on the fifth line where it reads "local governments shall provide" to add "prepare and provide". Regarding the second paragraph, Member Ciesynski suggested changing amended final budgets to any final budgets. Member Marty Johnson suggested it read budgets for the current fiscal year, so the committee can see changes from the amended to the final budgets.

Chairman Walker noted the Department will have the budgets. Mr. Mitchell confirmed clarifying this stems from the language during the legislative session "local governments may submit amended final budget after the close of legislature". Member Ciesynski added the key issue was the word may. Chairman Walker noted this would be a requirement if the Department chose to get the amended, suggesting they add "the preparation and submittal of" to paragraph 2 where it says such documentation may include but is not limited to. She would add amended final budgets under A, including budgets impacted by the Legislature, as that was the issue.

Member Ciesynski agreed, Member Marty Johnson mentioned if they do not do an amended budget they won't have anything to provide. Chairman Walker clarified this would allow the Department to require them to do one if they are on fiscal watch.

Member McIntyre expressed concern that the NAC would supersede what the law says. Peter Keegan, with the Attorney General's Office, commented that at the beginning of the regulation they can refer to that noting "notwithstanding provisions of NRS 354.598005 or any applicable law".

Chairman Walker questioned if they should be more specific on the projected cash flow for a requested period and fund type or leave it general for the Department to provide that direction. She thinks the more definitive they can be to take pressure off the Department. She noted the historical cash flow is important to see how they got to the point of having financial problems. She would like to say at least two years of historical cash flow by fund by month. On the projected cash flow, she thinks it needs to be five years by fund by month. If they just bring it all together like Clark County Schools did it gets hidden. Otherwise they can just take money from other funds for their general fund, which is illegal. Some do it as long as they aren't getting caught. She thinks having all funds, by month, for these time periods are important so if they are deficit in some funds they can see where they are pulling the money from. Some funds are restricted by law.

Member Ciesynski clarified five years for the projected cash flow, Chairman Walker confirmed. He added school districts generally only know their funding for two years and suggested it only be two years. Anything more is guesswork for school districts. Member Marty Johnson agreed it would be guesswork for any local government to go five years out and the school districts would have a tough time with that.

Chairman Walker then suggested a minimum of two years. They agreed, noting the historical could go back at least four. Chairman Walker suggested a minimum of two years on both and let the Department make that decision. Members Marty Johnson and Ciesynski agreed.

Member Marty Johnson cautioned them not to get so specific they tie the hands for what they are asking for and not receive what they are asking for. He suggested when the local governments give them the funds, they can specify if any are restricted. Chairman Walker agreed, noting she would like to try and do what they can to eliminate conflicts or push backs from a local government to the Department of Taxation.

Mr. Mitchell commented that his idea of this is to let the local governments know what may be requested, so if they are approaching fiscal watch, they can take steps to avoid getting there. He added that each instance is unique and does not think they should limit themselves; the Department may not need the same information for each entity depending on why they are on fiscal watch. Chairman Walker asked Mr. Mitchell if this language would work for him. He stated it would.

Member McIntosh agrees, and agreed with Member Ciesynski's comments regarding the issues for school districts. Mr. McIntosh mentioned school districts may be able to project their expenditures. Member Marty Johnson agreed, adding that would give them more information.

Chairman Walker asked if it should be a minimum two years projected revenue and expenditures, without that they can't do cash flows. Member Paul Johnson agreed and thinks that ties in with the quarterly economic reports (QES), noting school districts do not necessarily have restricted funds, but do have grants and donations. Regarding a report by fund type, he envisions they would need to provide the general fund, revenue and expenditures, state grants rolled into one category, and federal grants in one category. He asked if that was what they meant by fund type. Chairman Walker believes it is. she thinks it needs to be by requested fund or fund type and leave the decision up to the Department. She noted they don't want them to put it all together, so if there is a deficit they can see where they are taking it from.

Mr. Mitchell suggested historical expenditures and revenues for a requested time period and fund or fund type. Chairman Walker agreed suggesting adding fund or fund type. Member Ciesynski suggested requesting a quarterly budget to actual report for entities on fiscal watch to check their progress. Chairman Walker agreed. Member Marty Johnson mentioned if they are not completing bank reconciliations, they don't know how much cash they have. Member Ciesynski agreed.

Member Paul Johnson agreed with Marty's comment about creating more work for already distressed entities and the possibility of setting them up for failure.

Chairman Walker noted during their meeting Ms. Langley brought up a timeline of the annual audit. Requiring a schedule of the annual audit delineating how the local government will meet the statutory audit deadline. She thinks it is important and a good planning tool. It may help with staff turnover to organize the workload. She doesn't believe it is more than what they should already be doing and would be defining it to eliminate conflict.

Chairman Walker noted Member Marty Johnson had a good idea to have the notice of fiscal watch go to the governing board and for them to acknowledge receipt at a public meeting. It is the boards job to provide the resources to do the fiscal work. She thinks that may help a lot. Member Paul Johnson agrees and thinks the CLGF or the Department should receive minutes reflecting acknowledgement. It would need a fiscal officer or CPA to provide a session in front of an outside entity to say we have had recommendations for resources, but that hasn't happened, and here is the consequence.

Chairman Walker noted they will add minutes from the governing board acknowledging receipt of the fiscal watch letter from the Department. She stated they need to be told the board must acknowledge receipt. Peter Keegan suggested it say they must place it on their next agenda as a discussion item, noted he would come up with that wording. Member Ciesynski added they need to get the CEO and a board member along with the finance officer, or their designee to be present at the CLGF meetings.

Peter Keegan noted when looking at the statute that authorizes fiscal watch, it is a little bit of a paper tiger. The CLGF and Chairman Leavitt have instructed the subcommittee to give fiscal watch more power, having those individuals there is up to the governing body, and to request technical assistance from the CLGF. Fiscal watch is "don't do that", it is up to the local governing body to ask for assistance. The law allows the CLGF to ask for everything, but it remains up to the local body to ask for technical assistance. That thereby gives the CLGF and the Department authority to make definitive recommendations which can be appealed to the Tax Commission, and that they can't be removed or get out of that position. Subsection 2 of 354.675 says the governing body "may" adopt a resolution requesting permission to order the Department in consultation with the CLGF. Chairman Walker noted they can also handle this themselves.

Member McIntosh agrees they need the board, CEO's, city managers and superintendents to be involved in the process. There needs to be regular communication, maybe a quarterly letter. The local governments should have a plan to get off fiscal watch, and that should be approved by their board. Maybe on a quarterly or semi-

annual basis there should be a report that has to be acknowledged by the board explaining when they were put on fiscal watch, what the plan to get off was and where they are now. It keeps them in the loop and lets them know they can request technical assistance because he doesn't believe any board knows they can do that, and they need to be reminded regularly. Member Marty Johnson agreed nobody knows they can ask for technical assistance. He thought they were trying to accomplish making sure the boards understand. The finance guy comes, they beat him up, he goes back, and the CLGF has no control after that. He thinks Jim's suggestions are excellent.

Chairman Walker noted they will add the plan to get off fiscal watch, and that it must be approved by their board. She asked if they wanted to add quarterly updates to the board. Member Marty Johnson suggested periodic.

Peter Keegan asked what the effect of fiscal watch is on a local government's bond rating. Member Marty Johnson recalled that when Clark County School District was placed on fiscal watch, it did not affect their bond rating. Chairman Walker thinks it would affect it if it goes to severe financial emergency.

Mr. Keegan asked if the bond agency's look at these meetings and see if a local government is placed on fiscal watch. Member Marty Johnson noted in terms of the bond rating process; they have their own version of fiscal watch. Downgrading or negative outlook, they take their own action. He added many entities in this state were downgraded that were never on fiscal watch, they do their own independent analysis.

Chairman Walker asked if this would be the place for Marty and Tom to talk about the 3 years declining fund balance for school districts. Member Marty Johnson noted it would likely be a separate thing. She asked if they have jurisdiction over 387. Mr. Mitchell does not believe so, Mr. Keegan will look into it.

Member Marty Johnson noted they may not be able to do anything about what 387 says, but they can put something in 354 that says if the fund balance is still over 8.3 to send a letter, if below, CLGF will want to see them. Chairman Walker noted they could have another NAC changed to add what they are talking about.

Mr. Mitchell noted that 354.685 shows possible items that if a government qualifies they are put on fiscal watch. One of the qualifications is they have a declining ending fund balance (EFB) and general fund balance for the past two years. He added that this is a little more restrictive than 387.

Member Marty Johnson believes they should be trying to get a handle on it before they are put on fiscal watch. Chairman Walker noted this is for once they are on fiscal watch.

Mr. Mitchell explained decline is defined to mean a decline of 20% or more in the balance. Member Ciesynski noted there have been times when there were 3 years of declining fund balance and an entity had to come before the CLGF, they still had an adequate balance of 8% and the committee didn't understand why they were there. Mr. Mitchell noted he would work on that.

Chairman Walker mentioned they may want to meet again in mid-December, as it was not on the Agenda. Mr. Mitchell noted he would also hold a workshop. Chairman Walker asked if the CLGF needs this to go before them before a workshop, Mr. Keegan believes the CLGF would have to request the workshop. Mr. Mitchell noted they could have another meeting and he could submit language to LCB and bring that to the CLGF for approval. Chairman Walker added the Full Committee can comment on it then as well. Mr. Mitchell noted if they don't start the process soon July 1st will come up quick.

Member Paul Johnson noted the reason they request the documentation is to get a better understanding of what is going on in the local government. He noted that the QES asks for detailed information, and wonders if they should ask for that as well. Chairman Walker noted the Department receives QES reports, Mr. Mitchell confirmed. Chairman Walker added the quarterly reports are one of the flags used to determine if someone should be on fiscal watch.

Mr. Mitchell's intent in paragraph three is for a government on fiscal watch to have an out to explain why this wouldn't be probable or possible to provide, they don't want to be overly burdensome. Chairman Walker would say instead of the request for documentation that the petition doesn't go to the Committee but to the Department instead. On the last line she would change it to the decision of the CLGF or the Department is final, if they say no, and the next meeting is months away, the Department is left with nothing. She thinks the Department should have final say on granting extensions. Mr. Mitchell warned the Department may or may not go along with the Committee's desire for more information. Chairman Walker suggested the Department work with the Chairman regarding that. Member Marty Johnson suggested a recommendation to the Committee if someone is

on fiscal watch to create a subcommittee for the item. It would be an easier group to get together, they could get on the phone and meet, Chairman Walker agreed, noting a subcommittee could be created informally.

Member McIntosh noted they didn't discuss employee contracts, or the impacts of them and is not sure if that is something they will require in session two.

Chairman Walker went over a list of possible required documentation. They talked about periodic updates. The petition will go to the Department, and at the end, the decision of the Committee or the Department will be final.

Member Paul Johnson questioned what happens if the local government is not progressing, if there is something in statute for receivership. Chairman Walker noted under severe financial emergency there is a notice that if they don't do it, they lose their job. She thinks they have the same provision under over expenditures and could add that. She added one of their goals is to make things easier for the Department, add some teeth to make it easier for them to get these things.

Chairman Walker discussed SB48, regarding the special fuel tax. She noted the Board can enact this by a vote of the board or a vote at a general election. The CLGF is required to provide forms for submitting a question to the voters. The last time they provided ballot templates was in 2012. They now need one for this 5-cent tax. It can be an advisory question or one to enact the tax.

Member Marty Johnson questioned if this is more of a fee imposition, Chairman Walker confirmed. Chairman Walker thinks it needs to be stated in a way that is legally consistent with SB48. They went over sample language and decided they need both an advisory question and a ballot question. She will draft language to bring back to the subcommittee.

Member Marty Johnson noted getting the entities to follow the template may be an issue. Member Ciesynski questioned if the bond council was involved in the original templates. Chairman Walker noted they were and will need to be again. Member Marty Johnson clarified this is only for counties with populations under 100,000.

Chairman Walker brought up the EFB balance changes with SB111, from 25% to 16.67%, as well as SB543 which allowed a school district to have a 16.6% fund balance not subject to negotiations. She wasn't sure if a NAC was needed, there are two NRS's. After discussing it with the Department she thinks they do for educational value and because the NAC has more to it than the NRS. She referred to NAC 354.660, NRS does not address special revenue funds. Beth Kohn-Cole requested they talk about budgeted vs EFB, there is a huge difference and it needs to be clear. Chairman Walker agreed and read the terms, noting they would keep those terms.

Member Paul Ciesynski thinks they need to differentiate the type of fund balance. Chairman Walker replied that would require legislation, the law does not address it, this will provide more financial stability.

ITEM 5. FOR POSSIBLE ACTION: SCHEDULE DATE AND REVIEW AGENDA TOPICS FOR THE NEXT MEETING

Chairman Walker noted she will work with Peter and the Department and bring some things back to the subcommittee. She requested the next meeting be in mid-December. She would like to add the declining fund balance requirements to the next meeting.

ITEM 6. PUBLIC COMMENT (See Note 2)

There was none.

ITEM 7. FOR POSSIBLE ACTION: ADJOURNMENT

Meeting was adjourned at 9:53 a.m.

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COUNSEL TO COMMITTEE:

Peter Keegan

**DEPT OF TAXATION STAFF
PRESENT:**

Jeff Mitchell
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