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Agency: Committee on Local
Government Finance

Permanent Regulation
LCB File No. **R092-22**

Governor's signature

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Classification: ADOPTED BY AGENCY

Brief description of action: The Committee on Local Government Finance adopted LCB File No. **R092-22**, amending Nevada Administrative Code (NAC) Chapter 354 to comply with statutory amendments relating to the ending fund balance of a school district not subject to collective bargaining negotiations and from consideration in determining the ability of a local government to pay compensation and monetary benefits.

Authority citation other than 233B: NRS 354.107 and 354.6241

Notice date: November 10, 2022

Date of Adoption by Agency: December 13, 2022

Hearing date: December 13, 2022



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

LCB File No. R092-22

Filed December 29, 2022

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

AUTHORITY: § 1, NRS 354.107.

A REGULATION relating to local government finance; amending provisions governing the exclusion of certain money from collective bargaining negotiations and from consideration in determining the ability of a local government to pay compensation and monetary benefits; requiring certain money to be transferred from a county school district fund to the Education Stabilization Account in the State Education Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that for a county school district fund of a school district: (1) a budgeted ending fund balance of not more than 12 percent of the total budgeted expenditures; and (2) any portion of a budgeted ending fund balance which exceeds 16.6 percent of the total budgeted expenditures for a county school district fund is not subject to collective bargaining negotiations and must not be considered by a fact finder or arbitrator in determining the financial ability to pay compensation or monetary benefits. (NRS 354.6241) Existing regulations provide that a budgeted ending fund balance of not more than 16.6 percent of the total budgeted expenditures is not subject to negotiations and must not be considered by a fact finder or arbitrator in determining the financial ability to pay. (NAC 354.660) This regulation adopts the percentage set forth in the statutory language to provide that for a school district, a budgeted ending fund balance of not more than 12 percent of the total budgeted expenditures for a county school district fund is not subject to negotiations and must not be considered by a fact finder or arbitrator in determining the financial ability to pay. This regulation also provides that any portion of a budgeted ending fund balance which exceeds 16.6 percent of the total budgeted expenditures for a county school district fund is not subject to collective bargaining negotiations, must not be considered by a fact finder or arbitrator in determining the financial ability to pay compensation or monetary benefits and must be transferred to the Education Stabilization Account in the State Education Fund.

Section 1. NAC 354.660 is hereby amended to read as follows:

354.660 1. Except as otherwise provided in this section, for the purposes of chapter 288 of NRS, a budgeted ending fund balance of not more than 16.67 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.

2. For the purposes of chapter 288 of NRS, a budgeted ending fund balance of not more than 8.3 percent of the total budgeted expenditures for a local government special revenue fund which receives revenue from property taxes or the Local Government Tax Distribution Account:

(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.

3. For a school district, for the purposes of chapter 288 of NRS ~~16.6~~:

(a) *A budgeted ending fund balance of not more than ~~16.6~~ 12 percent of the total budgeted expenditures for a county school district fund:*

~~(a)~~ (1) Is not subject to negotiations with an employee organization; and

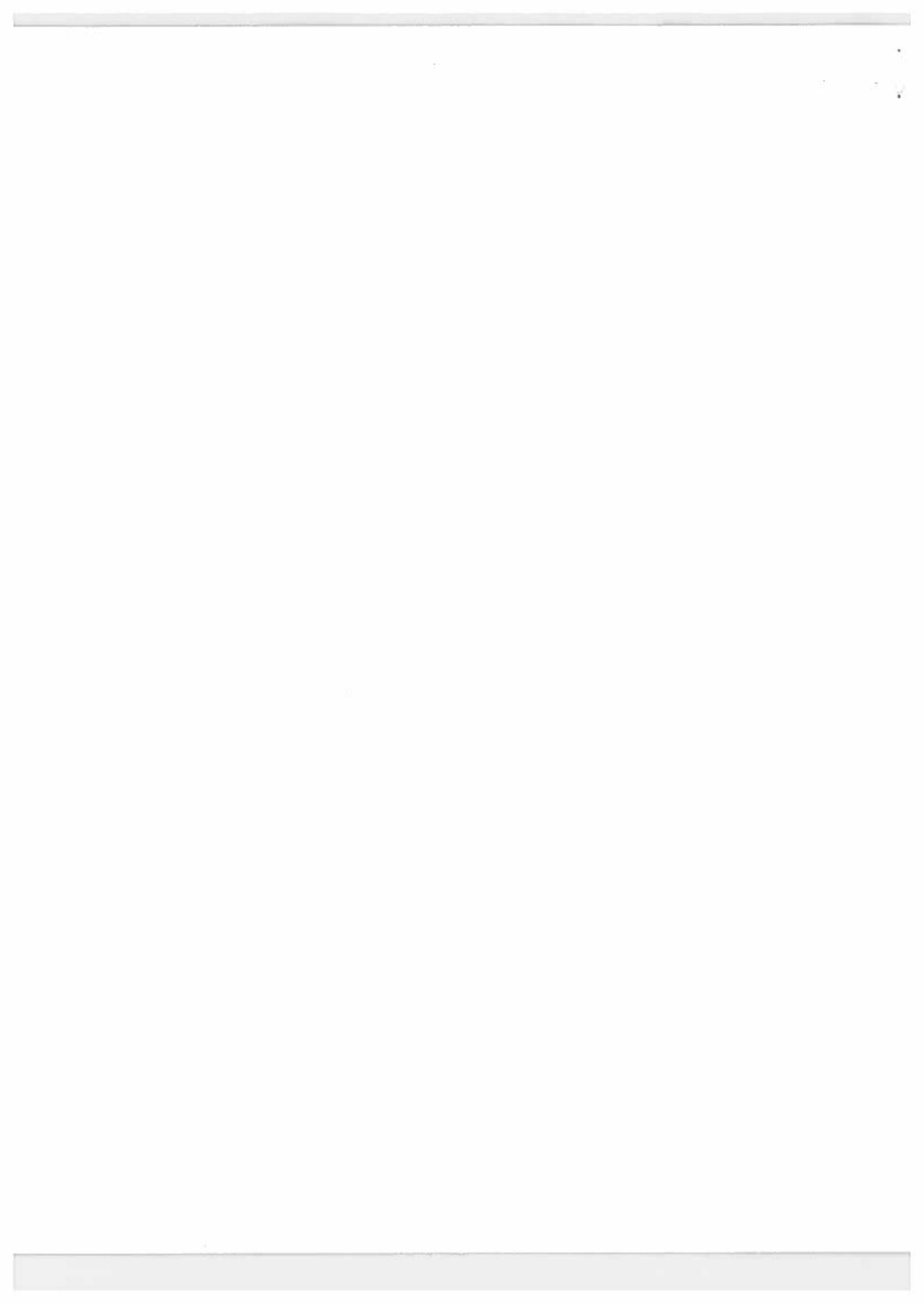
~~(b)~~ (2) Must not be considered by a fact finder or arbitrator in determining the financial ability of the local government to pay compensation or monetary benefits ~~16.6~~; and

(b) Any portion of a budgeted ending fund balance which exceeds 16.6 percent of the total budgeted expenditures for a county school district fund:

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

(2) 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; and

(3) Except as otherwise provided in section 77 of chapter 624, Statutes of Nevada 2019, at page 4252, must be transferred to the Education Stabilization Account pursuant to NRS 387.1213.



LEGISLATIVE REVIEW OF ADOPTED REGULATIONS - NRS 233B.066
Informational Statement
LCB FILE R092-22

1. A clear and concise explanation of the need for the adopted regulation.

The need for the proposed permanent regulation (R092-22) is to amend NAC 354.660 to comply with the current provisions of NRS 354.6241, as amended during the 2019 Legislative Session (SB 543) and the 2021 Legislative Session (SB439).

Existing regulations provide that a budgeted ending fund balance of not more than 16.6 percent of the total budgeted expenditures is not subject to negotiations and must not be considered by a fact finder or arbitrator in determining the financial ability to pay. (NAC 354.660) This regulation adopts the percentage set forth in the statutory language to provide that for a school district, a budgeted ending fund balance of not more than 12 percent of the total budgeted expenditures for a county school district fund is not subject to negotiations and must not be considered by a fact finder or arbitrator in determining the financial ability to pay. This regulation also provides that any portion of a budgeted ending fund balance which exceeds 16.6 percent of the total budgeted expenditures for a county school district fund is not subject to collective bargaining negotiations, must not be considered by a fact finder or arbitrator in determining the financial ability to pay compensation or monetary benefits and must be transferred to the Education Stabilization Account in the State Education Fund.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Department of Taxation (Department), as staff to the Committee on Local Government Finance ("CLGF") solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
9-29-2022	Workshop	10-24-2022	119	41
11-10-2022	Hearing	12-13-2022	116	40

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions. These documents were also made available on the website of the Department of Taxation, www.tax.nv.gov, the legislative website at www.leg.state.nv.us and the Department of Administration website at <https://notice.nv.gov/>. These documents were also posted at the following locations:

Department of Taxation 1550 College Parkway Carson City, NV	700 E. Warm Springs Rd Second Floor Las Vegas, NV
Department of Taxation	Department of Taxation

4600 Kietzke Lane
Building L, Suite 235
Reno, NV

Nevada Attorney General's Office
100 North Carson Street
Carson City, NV

Nevada Gaming Control Board
1919 College Parkway
Carson City, NV

Nevada Gaming Control Board
Grant Sawyer State Office Building
555 East Washington Avenue

Las Vegas, NV

Legislative Counsel Bureau
4041 South Carson Street
Carson City, NV

Clark County Government Center
500 South Grand Central Parkway
Las Vegas, NV

Nevada State Library and Archives
100 N. Stewart Street
Carson City, NV

In addition, the notices were faxed to the following libraries for posting:

Amargosa Valley Library
829 E. Farm Road
Amargosa Valley, NV

Boulder City Library District
701 Adams Blvd
Boulder City, NV

Clark County Library
1401 East Flamingo Road
Las Vegas, NV

Churchill County Library
553 South Maine Street
Fallon, NV 89406
Douglas County Library
1625 Library Lane
Minden, NV

Elko County Library
720 Court Street
Elko, NV

Esmeralda County Library District
Goldfield Public Library
Corner of Crook and Fourth Street
Goldfield, NV 89013-0430

Henderson District Public Libraries
Paseo Verde Library
280 S. Green Valley parkway
Henderson, NV 89012

Humboldt County Library
85 East Fifth Street
Winnemucca, Nevada 89445

Lincoln County Library
63 Main Street
Pioche, NV 89043-0330

Mineral County Library
First & "A" Street
Hawthorne, NV 89415

Pahrump Community Library
701 East Street
Pahrump, NV 89048

Pershing County Library
1125 Central Avenue
Lovelock, NV

Comments were received from CLGF members and Department staff during the workshops, and adoption hearing.

A copy of the recorded comments, the record of proceedings, and/or the Small Business Impact Statement may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Nevada Department of Taxation, 1550 College Parkway, Carson City, Nevada 89706, or by e-mailing the Nevada Department of Taxation at CSpurlock@tax.state.nv.us.

The Legislative Counsel Bureau (LCB) completed its review of submitted revisions on July 12, 2022. CLGF adopted the regulation at the hearing held on December 13, 2022.

3. **The number of persons who:**
 (a) **Attended each hearing:**
 (b) **Testified at each hearing:**
 (c) **Submitted written comments:**

<u>Date of Workshop</u>	<u>Committee/ Public Attended</u>	<u>Testified</u>
10-24-2022	19	0

<u>Date of Hearing</u>	<u>Committee/Public Attended</u>	<u>Testified</u>
12-13-2022	15	0

Written comments:

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
10-24-2022	0
12-13-2022	0

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.

5. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected and interested local governments, businesses and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct email to county officials and other interested parties on the list maintained by the Department. Approximately 33% of the 119 direct notices for the 10-24-2022 Workshop, and 34% of the

116 direct notices for the 12-13-2022 Hearing were sent to individuals or associations representing business.

Because of the nature of the regulation, the Department believes there is no impact on a small business.

Local government officials commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearing of the Committee on Local Government Finance. No comments from small businesses were made.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Nevada Department of Taxation, 1550 College Parkway, Carson City, Nevada 89706, or by e-mailing the Nevada Department of Taxation at CSpurlock@tax.state.nv.us.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Department received no public comment or testimony requesting any change to the proposed regulation, and the Committee on Local Government Finance adopted the regulation without change to amend NAC 354.660 to comply with the current provisions of NRS 354.6241, as amended during the 2019 Legislative Session (SB 543) and the 2021 Legislative Session (SB439).

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

Adverse and Beneficial Effects

The proposed permanent regulation does not present any reasonable, foreseeable or anticipated adverse economic effects on small businesses.

The beneficial effects would be to comply with the current provisions of NRS 354.6241, as amended during the 2019 Legislative Session (SB 543) and 2021 Legislative Session (SB439).

Direct and Indirect Effects

The direct effect will be to provide guidance to local governments with regard to the level of ending fund balances for the general fund and other funds subject to negotiations with local governments and employee organizations.

There is no Indirect Effect.

8. The estimated cost to the agency for enforcement of the adopted regulation.

The Department does not anticipate any cost to the agency for enforcement.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

Not Applicable.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not provide for a new fee and does not increase an existing fee.

12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restricted the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

No direct or significant economic burden is anticipated or any effect upon the formation, operation or expansion of a small business. Please see attached Small Business Impact Statement.

