

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

CITY OF FERNLEY, NEVADA, a  
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.  
DEPARTMENT OF TAXATION;  
THE HONORABLE DAN  
SCHWARTZ, in his official capacity  
as TREASURER OF THE STATE OF  
NEVADA; and THE LEGISLATURE  
OF THE STATE OF NEVADA,

Respondents.

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

**JOINT APPENDIX**

**VOLUME 2 PART 4**

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Government Finance to the governing body of each local government and special district that is located in the same county as the new local government or special district.

6. If, after the public hearing, the Nevada Tax Commission determines that the recommendation of the Committee on Local Government Finance is appropriate, it shall order the Executive Director to distribute money in the Account to the new local government or special district pursuant to the provisions of NRS 360.680 and 360.690.

7. For the purposes of this section, the local government or special district may enter into an interlocal agreement with another governmental entity for the provision of the services set forth in subsection 1 if that local government or special district compensates the governmental entity that provides the services in an amount equal to the value of those services.

8. As used in this section:

(a) "Construction, maintenance and repair of roads" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a road and that is necessary for the safe and efficient use of the road except alleys and pathways for bicycles that are separate from the roadway and, including, without limitation:

- (1) Grades or regrades;
- (2) Gravel;
- (3) Oiling;
- (4) Surfacing;
- (5) Macadamizing;
- (6) Paving;
- (7) Cleaning;
- (8) Sanding or snow removal;
- (9) Crosswalks;
- (10) Sidewalks;
- (11) Culverts;
- (12) Catch basins;
- (13) Drains;
- (14) Sewers;
- (15) Manholes;
- (16) Inlets;
- (17) Outlets;
- (18) Retaining walls;
- (19) Bridges;
- (20) Overpasses;
- (21) Tunnels;
- (22) Underpasses;
- (23) Approaches;
- (24) Sprinkling facilities;
- (25) Artificial lights and lighting equipment;
- (26) Pathways;
- (27) Fences or barriers that control access to the road;
- (28) Control of vegetation;
- (29) Rights-of-way;
- (30) Grade separators;
- (31) Traffic separators;
- (32) Devices and signs for control of traffic;
- (33) Facilities for personnel who construct, maintain or repair roads; and
- (34) Facilities for the storage of equipment or materials used to construct, maintain or repair roads.

(b) "Fire protection" includes the provision of services related to:

- (1) The prevention and suppression of fire; and
- (2) Rescue,

→ and the acquisition and maintenance of the equipment necessary to provide those services.

(c) "Parks and recreation" includes the employment by the local government or special district, on a permanent and full-time basis, of persons who administer and maintain recreational facilities and parks. "Parks and recreation" does not include the construction or maintenance of roadside parks or rest areas that are constructed or maintained by the local government or special district as part of the construction, maintenance and repair of roads.

(d) "Police protection" includes the employment by the local government or special district, on a permanent and full-time basis, of at least three persons whose primary functions specifically include:

- (1) Routine patrol;
- (2) Criminal investigations;
- (3) Enforcement of traffic laws; and
- (4) Investigation of motor vehicle accidents.

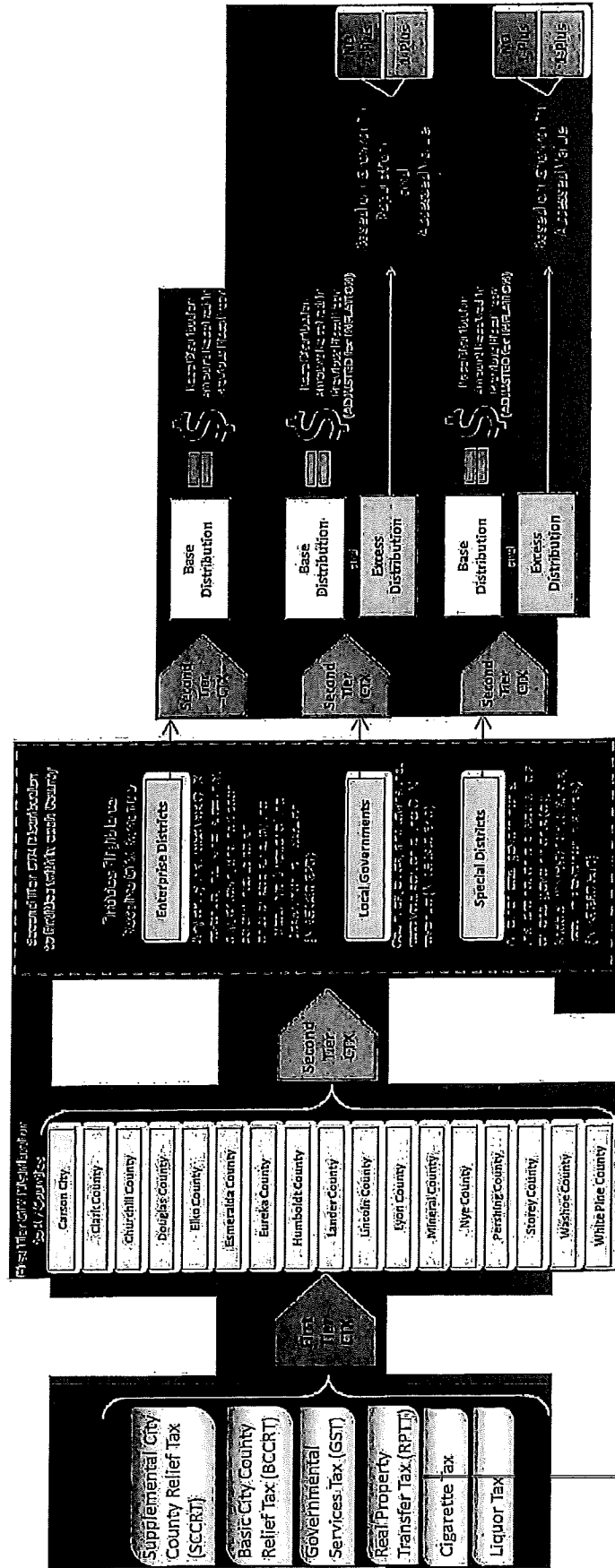
(Added to NRS by 1997, 3283; A 1999, 15)



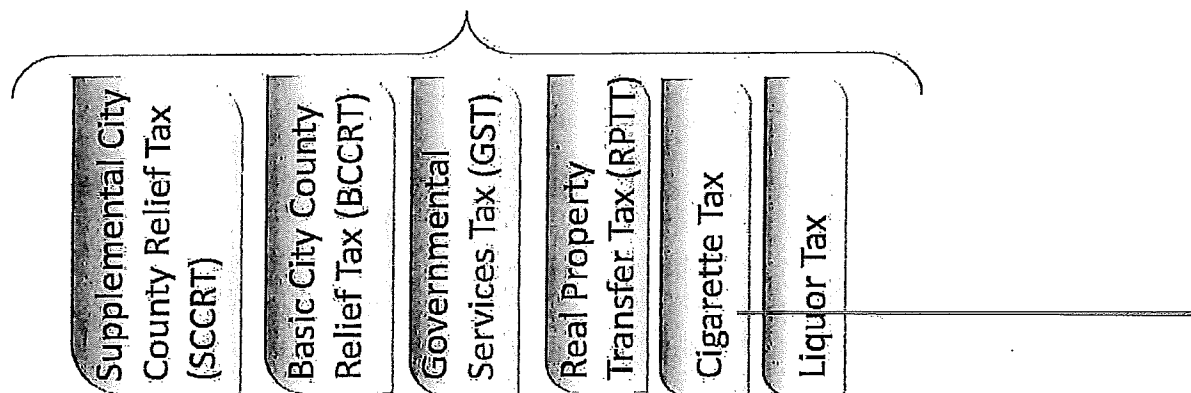


# Overview of the CTX Agenda Item IV

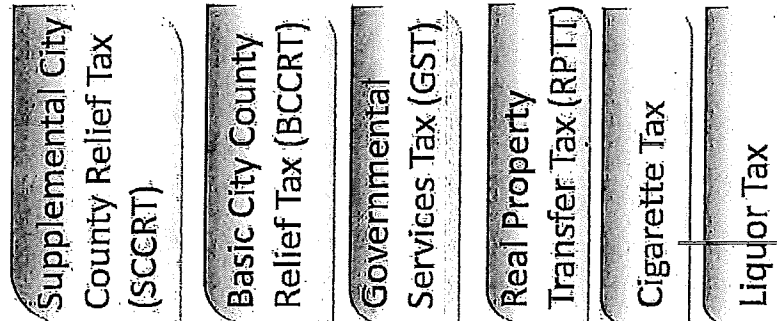
## OVERVIEW OF THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT AND THE CONSOLIDATED TAX DISTRIBUTION (CTX)



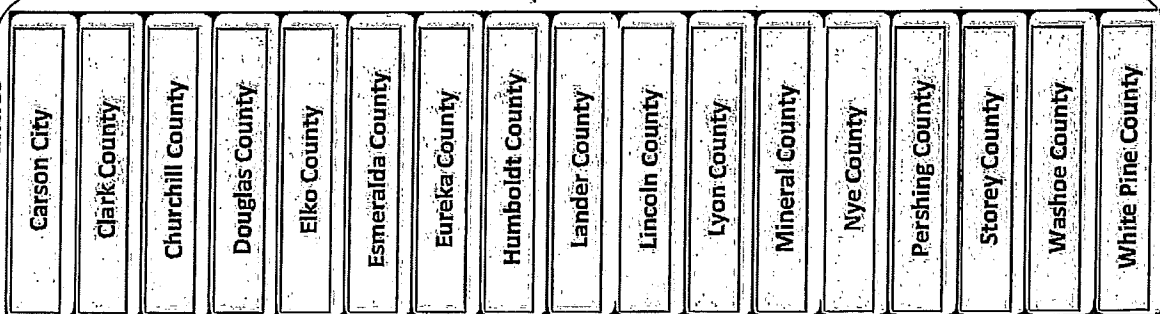
## Overview of the CTX Agenda Item IV



# Overview of the CTX Agenda Item IV



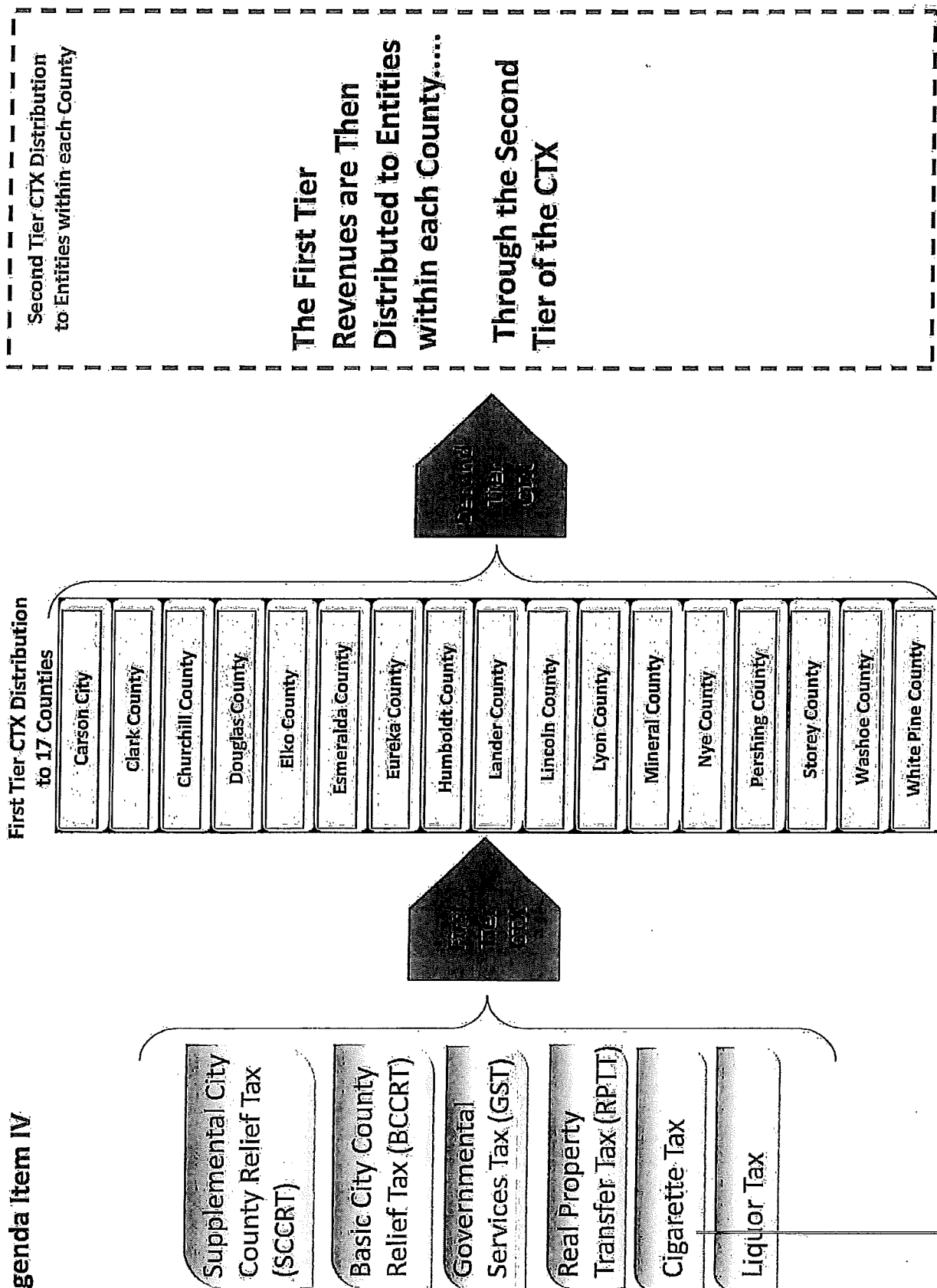
First Tier CTX Distribution  
to 17 Counties



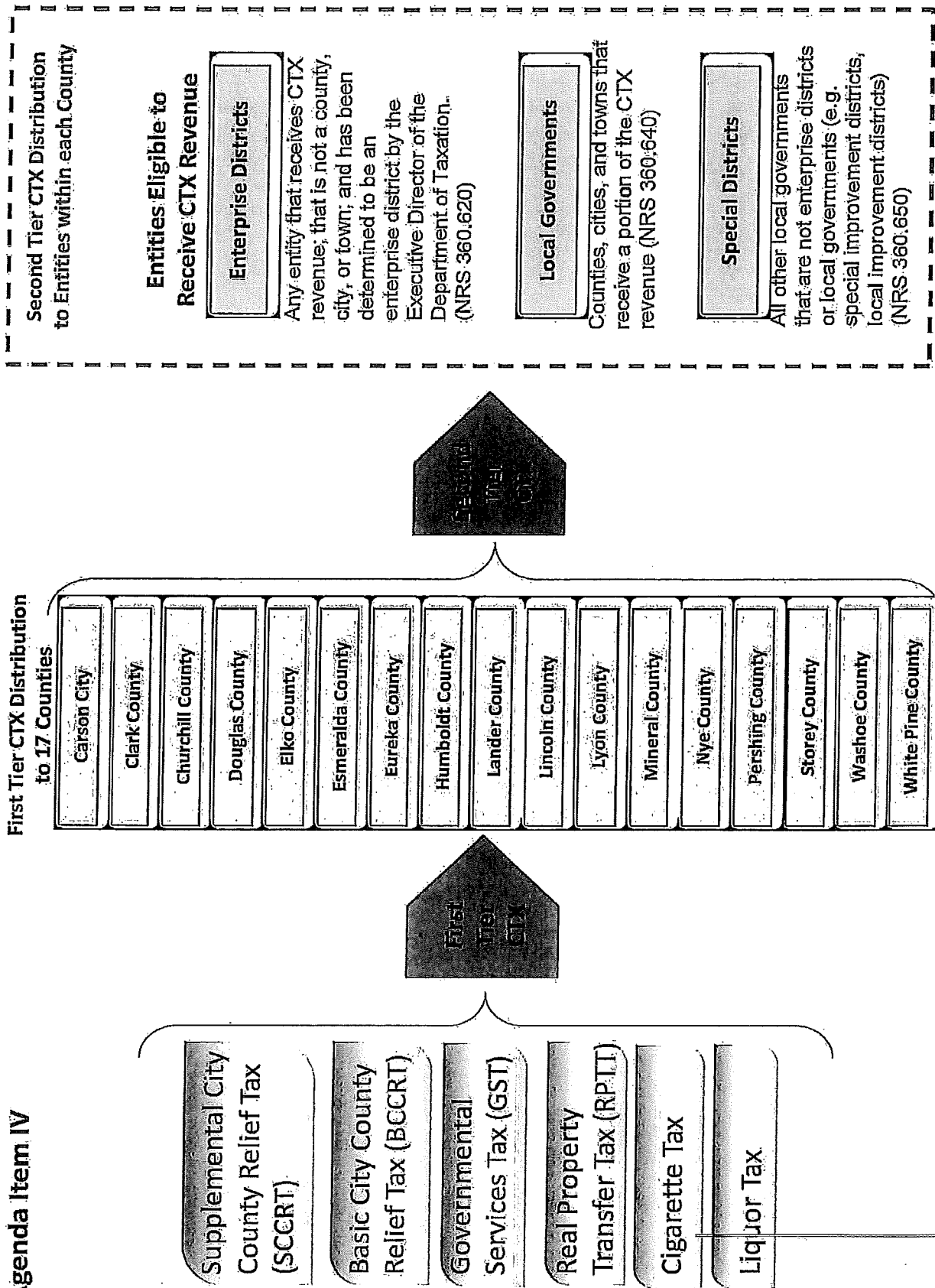
The 6 Revenue Sources are  
Distributed to the Counties  
Through the First Tier of the CTX



## Overview of the CTX Agenda Item IV

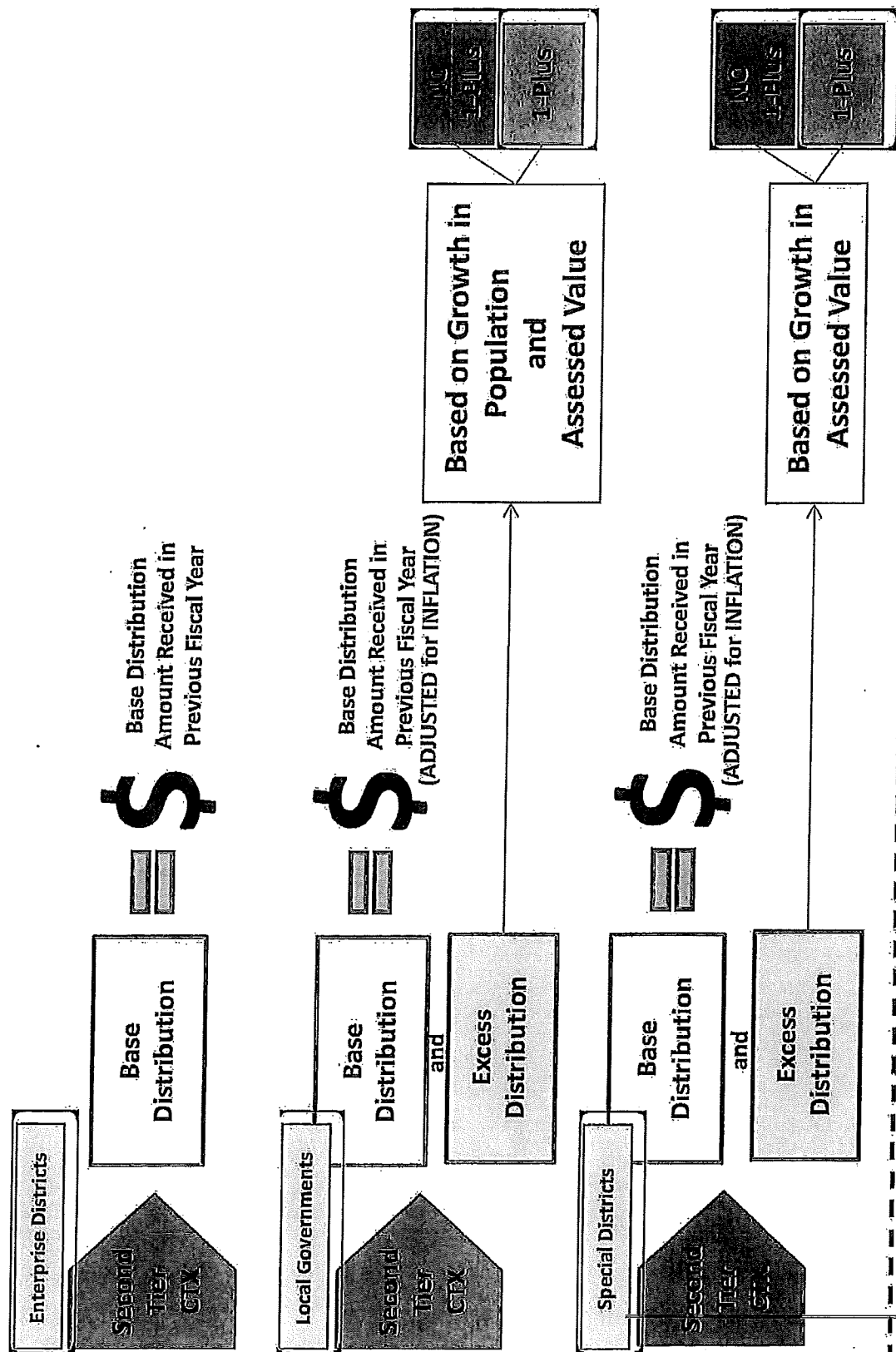


# Overview of the CTX Agenda Item IV



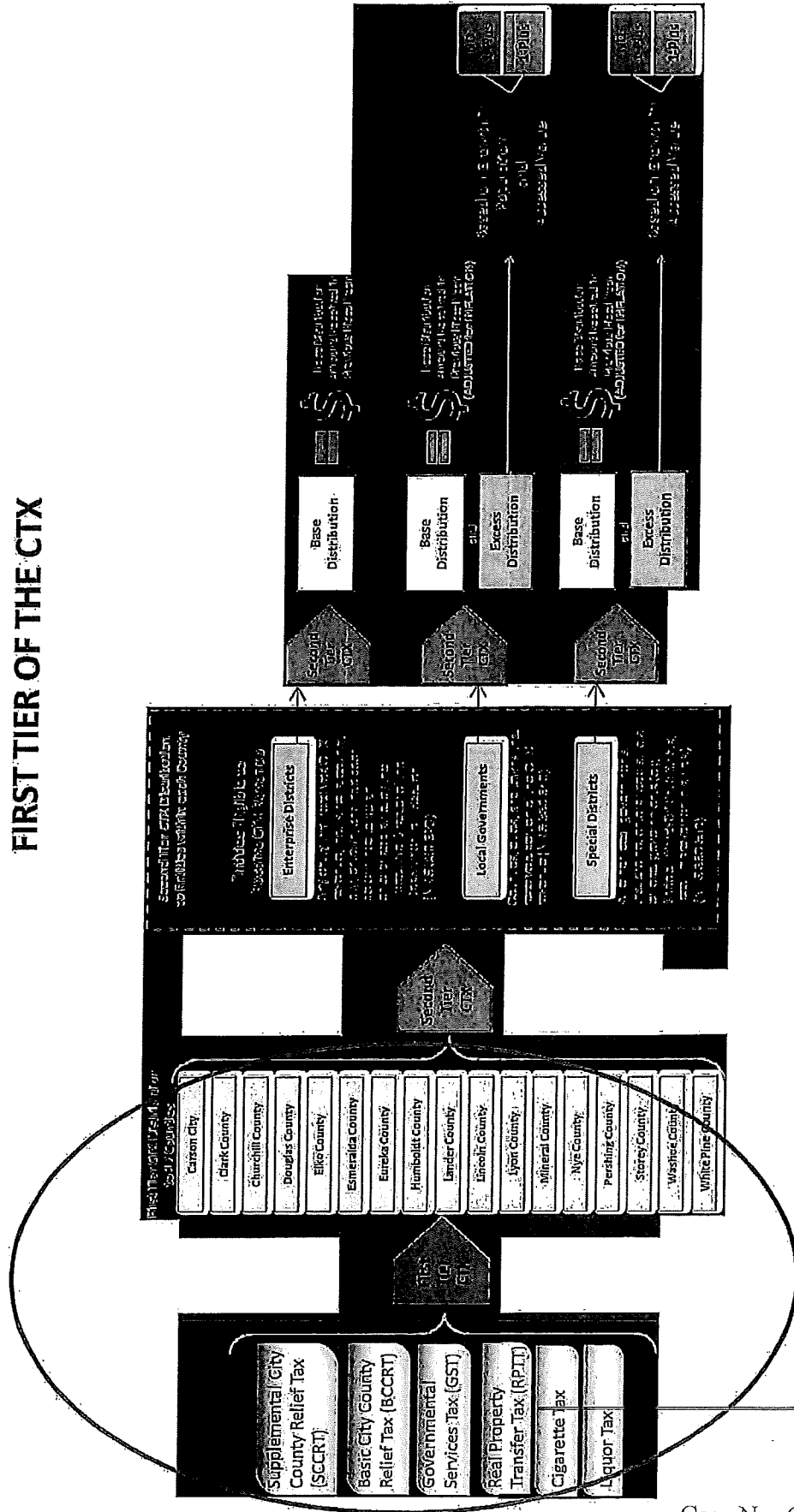
## Overview of the CTX Agenda Item IV

Second Tier CTX Distribution to Entities within each County

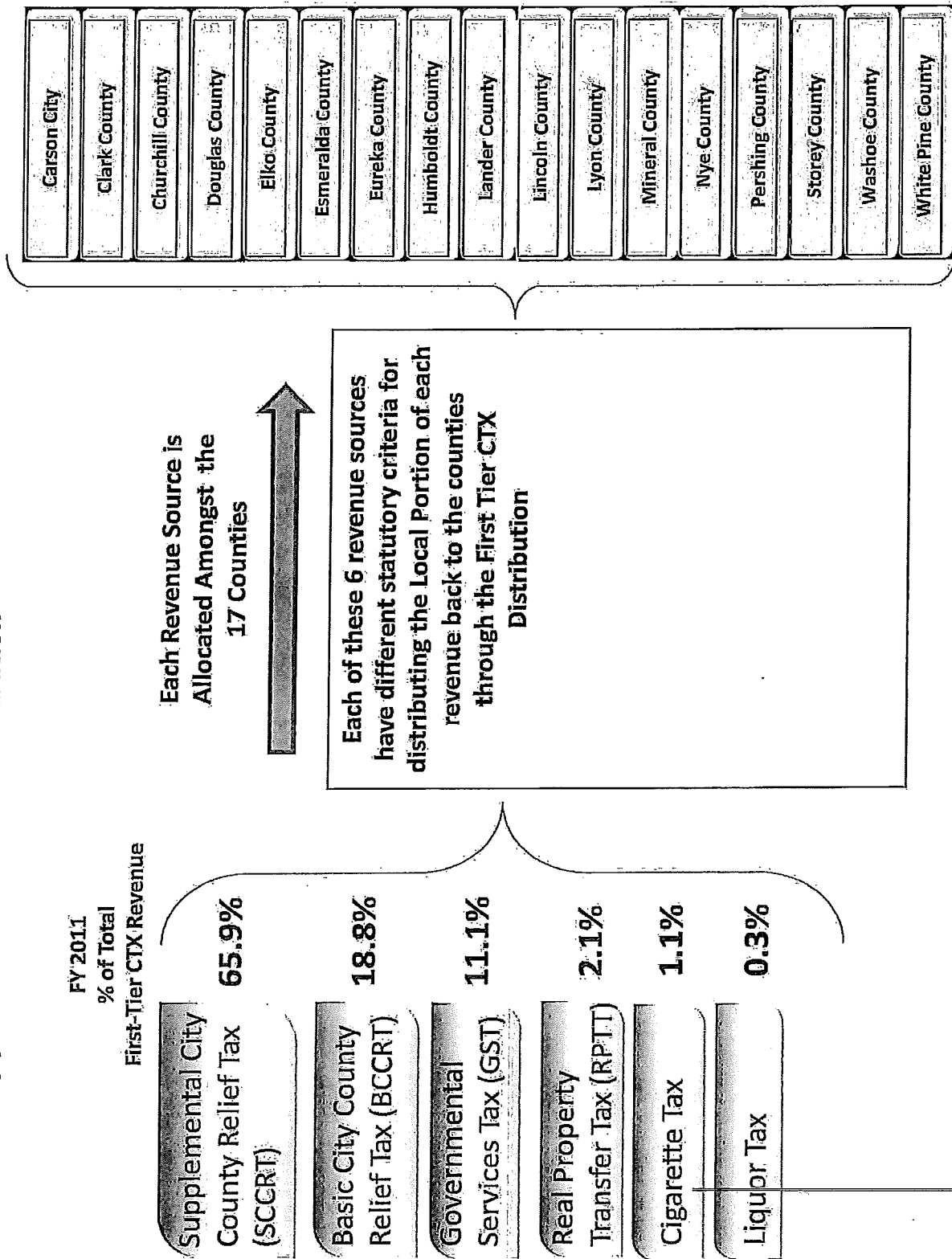


# Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V

## OVERVIEW OF THE SIX REVENUE SOURCES DEDICATED TO THE CTX AND THEIR DISTRIBUTION TO COUNTIES UNDER THE FIRST TIER OF THE CTX



# **Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution** **Agenda Item V(a) – Current Rates and Distribution**

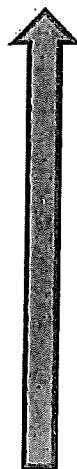


# Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V(a) – Current Rates and Distribution

FY 2011  
% of Total  
First-Tier CTX Revenue

Supplemental City  
County Relief Tax **65.9%**  
(SCCRT)

Each Revenue Source is  
Allocated Amongst the  
17 Counties



❖ Summary: Portion of the statewide 6.85 percent sales and use tax rate. (State General Fund: 2 percent; Local School Support Tax: 2.6 percent; BCCRT: 0.5 percent; SCCRT: 1.75 percent).

Additional local option rates imposed in 12 of Nevada's 17 counties create a total sales tax rate between 6.85 percent and 8.1 percent, depending on the county.

❖ Rate: 1.75 percent (NRS Chapter 377). The tax is collected and remitted to the Department of Taxation, less a 0.25 percent collection allowance that may be kept by the taxpayer. The proceeds from the 1.75 percent portion of the rate, less a 1.75 percent collection commission deposited in the State General Fund, are distributed to the Local Government Tax Distribution Account.

## SCCRT

Distributed based on a statutory  
formula to Guaranteed Counties and  
Non-Guaranteed Counties

FY 2012	Status
Carson City	Non-Guaranteed
Clark County	Non-Guaranteed
Churchill County	Non-Guaranteed
Douglas County	Guaranteed
Elko County	Non-Guaranteed
Esmeralda County	Guaranteed
Eureka County	Non-Guaranteed
Humboldt County	Non-Guaranteed
Lander County	Guaranteed
Lincoln County	Guaranteed
Lyon County	Guaranteed
Mineral County	Guaranteed
Nye County	Non-Guaranteed
Pershing County	Guaranteed
Storey County	Guaranteed
Washoe County	Non-Guaranteed
White Pine County	Guaranteed

# **Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution** **Agenda Item V(a) – Current Rates and Distribution**

FY 2011  
 % of Total  
 First-Tier CTX Revenue

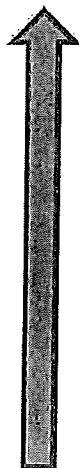
Supplemental City  
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Each Revenue Source is  
 Allocated Amongst the  
 17 Counties



## **SCCRT**

Distributed based on a statutory formula to Guaranteed Counties and Non-Guaranteed Counties

**Guaranteed Counties**

Receive an annual distribution equal the amount distributed to the county in the prior fiscal year, adjusted by the lesser of:

The growth in statewide  
 SCCRT revenue  
 or

The sum of inflation and the county's population growth

FY 2012  
 Status

Carson City	Guaranteed
Clark County	Guaranteed
Churchill County	Guaranteed
Douglas County	Guaranteed
Elko County	Guaranteed
Esmeralda County	Guaranteed
Eureka County	Guaranteed
Humboldt County	Guaranteed
Lander County	Guaranteed
Lincoln County	Guaranteed
Lyon County	Guaranteed
Mineral County	Guaranteed
Nye County	Guaranteed
Pershing County	Guaranteed
Storey County	Guaranteed
Washoe County	Guaranteed
White Pine County	Guaranteed

# Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V(a) – Current Rates and Distribution

FY 2011  
% of Total  
First-Tier CTX Revenue

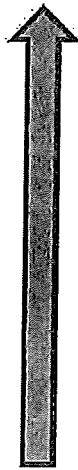
Supplemental City  
County Relief Tax **65.9%**  
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Each Revenue Source is  
Allocated Amongst the  
17 Counties



## SCCRT

Distributed based on a statutory formula to Guaranteed Counties and Non-Guaranteed Counties

## Non-Guaranteed Counties

Receive the revenue remaining after distributions have been made to guaranteed counties, in proportion to each non-guaranteed county's SCCRT collections as a share of total SCCRT collections from all the non-guaranteed counties.

FY 2012

County	Status
Carson City	Non-Guaranteed
Clark County	Non-Guaranteed
Churchill County	Non-Guaranteed
Douglas County	Non-Guaranteed
Elko County	Non-Guaranteed
Esmeralda County	Non-Guaranteed
Eureka County	Non-Guaranteed
Humboldt County	Non-Guaranteed
Lander County	Non-Guaranteed
Lincoln County	Non-Guaranteed
Lyon County	Non-Guaranteed
Mineral County	Non-Guaranteed
Nye County	Non-Guaranteed
Pershing County	Non-Guaranteed
Storey County	Non-Guaranteed
Washoe County	Non-Guaranteed
White Pine County	Non-Guaranteed



# **Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution** **Agenda Item V(a) – Current Rates and Distribution**

**FY 2011**  
**% of Total**  
**First-Tier CTX Revenue**

**Basic City County**  
**Relief Tax (BCCRT)**  
**18.8%**

❖ **Summary:** Portion of the statewide 6.85 percent sales and use tax rate. (State General Fund: 2 percent; Local School Support Tax: 2.6 percent; BCCRT: 0.5 percent; SCCRT: 1.75 percent).

Additional local option rates imposed in 12 of Nevada's 17 counties create a total sales tax rate between 6.85 percent and 8.1 percent, depending on the county.

❖ **Rate:** 0.5 percent (NRS Chapter 377). The tax is collected and remitted to the Department of Taxation, less a 0.25 percent collection allowance that may be kept by the taxpayer. The proceeds from the 0.5 percent portion of the rate, less a 1.75 percent collection commission deposited in the State General Fund, are distributed to the Local Government Tax Distribution Account.

**Each Revenue Source is**  
**Allocated Amongst the**  
**17 Counties**



## **BCCRT**

**Distributed to counties based on tax collections from in-state sales versus out-of-state sales**

## **In-State-Sales**

**Proceeds from in-state sales are remitted to the Local Government Tax Distribution Account and distributed to counties based on where the taxable activity occurred.**

Carson City
Clark County
Churchill County
Douglas County
Elko County
Esmeralda County
Eureka County
Humboldt County
Lander County
Lincoln County
Lyon County
Mineral County
Nye County
Pershing County
Storey County
Washoe County
White Pine County

# Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V(a) – Current Rates and Distribution

FY 2011  
 % of Total  
 First-Tier CTX Revenue

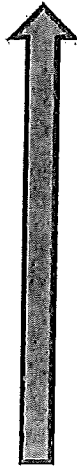
Basic City County  
 Relief Tax (BCCRT)  
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Each Revenue Source is  
 Allocated Amongst the  
 17 Counties



## BCCRT

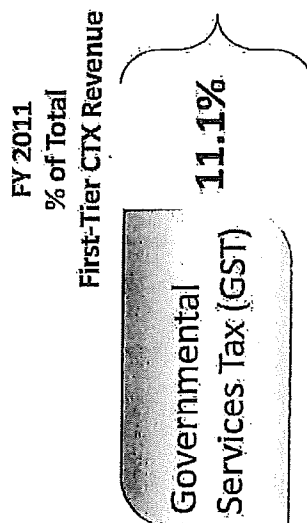
Distributed to counties based on tax collections from in-state sales versus out-of-state sales

## Out-of-State Sales

Proceeds from businesses not maintaining a fixed place of business in the state (out-of-state sales) are remitted to the Local Government Tax Distribution Account and distributed to each county based on its proportional share of the statewide population.

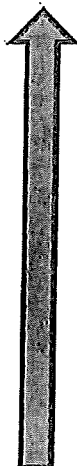
Carson City
Clark County
Churchill County
Douglas County
Elko County
Esmeralda County
Eureka County
Humboldt County
Lander County
Lincoln County
Lyon County
Mineral County
Nye County
Pershing County
Storey County
Washoe County
White Pine County

# **Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution** **Agenda Item V(a) – Current Rates and Distribution**



- ❖ **Summary:** Tax imposed in lieu of a personal property tax upon motor vehicles operated in the state. Pursuant to Article 10, Section 1 of the *Nevada Constitution*, the rate imposed may not exceed 5 cents per dollar of the value of the vehicle. (NRS Chapters 371 and 482)
- ❖ **Rate:** Statewide rate of 4 cents per dollar of determined value; value is determined by taking 35 percent of the vehicle's original manufacturer's suggested retail price times a depreciation factor based on the age of the vehicle. Proceeds from the 4-cent portion are divided between the State General Fund, school districts, and the Local Government Tax Distribution Account via statutory formulas.

Each Revenue Source is  
Allocated Amongst the  
17 Counties

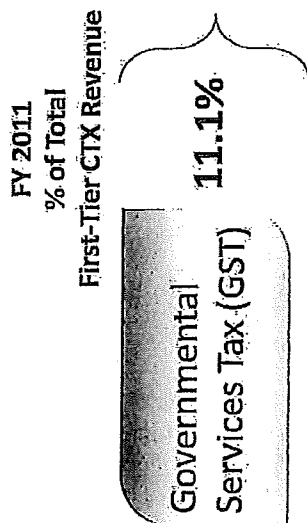


## **GST**

After a portion of the revenue is distributed to the State General Fund, the remaining revenue is distributed to the county in which the vehicle is registered and distributed between the county's school district and the Local Government Tax Distribution Account.

Carson City
Clark County
Churchill County
Douglas County
Elko County
Esmeralda County
Eureka County
Humboldt County
Lander County
Lincoln County
Lyon County
Mineral County
Nye County
Pershing County
Storey County
Washoe County
White Pine County

# Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V(a) – Current Rates and Distribution



Each Revenue Source is  
Allocated Amongst the  
17 Counties

Carson City
Clark County
Churchill County
Douglas County
Elko County
Esmeralda County
Eureka County
Humboldt County
Lander County
Lincoln County
Lyon County
Mineral County
Nye County
Pershing County
Storey County
Washoe County
White Pine County

## GST

### Distribution of County GST Revenue Between School Districts and the First Tier of the CTX

After revenue has been distributed to the State General Fund, the remaining GST revenue is returned to the county in which the vehicle is registered and divided between the school district and the Local Government Tax Distribution Account based upon the share of property taxes calculated for the school district and each eligible enterprise district, local government, and special district.

- The school district's share of the GST is calculated by taking the district's total current assessed value times its property tax operating and debt rates from FY 1979 (or, if the current debt rate is higher in any fiscal year, that higher debt rate)
- The share for the Local Government Tax Distribution Account is calculated by taking each enterprise district, local government, and special district tax rate from FY 1981 times its current assessed value.

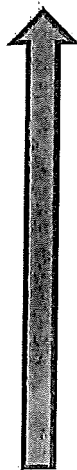
Pursuant to NRS 482.181, school districts and the Local Government Tax Distribution Account receive GST revenue based on their proportionate shares from these calculations based on property tax rates.

## Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V(a) – Current Rates and Distribution

FY 2011  
% of Total  
First-Tier CTX Revenue

**Real Property  
Transfer Tax (RPTT)**  
**2.1%**

Each Revenue Source is  
Allocated Amongst the  
17 Counties



❖ Summary: Tax levied on the value of real property transferred where the value of the transfer, exclusive of any encumbrance, exceeds \$100. The tax is collected by the county recorder when the deed showing the transfer of title is to be recorded. (NRS Chapter 375)

### RPTT

The revenue generated from 55 cents per \$500 in value is distributed to the Local Government Tax Distribution Account for credit to the county in which the transfer was recorded.

### ❖ Rates:

Clark County: \$2.55 per \$500 of value (\$1.30 to State General Fund; \$0.60 to Clark County School District Capital Construction Fund; \$0.55 to Local Government Tax Distribution Account; \$0.10 to Low-Income Housing Trust Fund)

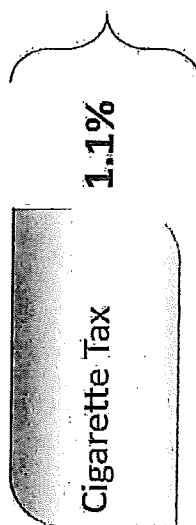
Churchill and Washoe Counties: \$2.05 per \$500 of value (\$1.30 to State General Fund; \$0.55 to Local Government Tax Distribution Account; \$0.10 to Low-Income Housing Trust Fund; \$0.10 to respective county general fund pursuant to Local Government Tax Act of 1991)

All other counties: \$1.95 per \$500 of value (\$1.30 to State General Fund; \$0.55 to Local Government Tax Distribution Account; \$0.10 to Low-Income Housing Trust Fund).

Carson City
Clark County
Churchill County
Douglas County
Elko County
Esmeralda County
Eureka County
Humboldt County
Lander County
Lincoln County
Lyon County
Mineral County
Nye County
Pershing County
Storey County
Washoe County
White Pine County

# Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V(a) – Current Rates and Distribution

FY 2011  
 % of Total  
 First-Tier CTX Revenue



❖ Summary: Excise tax levied on each cigarette sold at wholesale in the state. The tax is paid by wholesalers based on the stamp affixed to each package of cigarettes.  
 (NRS Chapter 370)

❖ Rate: 40 mills per cigarette (80 cents per pack of 20) – 35 mills per cigarette (70 cents per pack of 20) to State General Fund; 5 mills per cigarette (10 cents per pack) to Local Government Tax Distribution Account

Each Revenue Source is  
 Allocated Amongst the  
 17 Counties



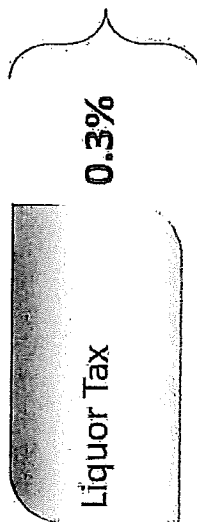
## Cigarette Tax

Proceeds are distributed to the counties in proportion to each county's population.

Carson City
Clark County
Churchill County
Douglas County
Elko County
Esmeralda County
Eureka County
Humboldt County
Lander County
Lincoln County
Lyon County
Mineral County
Nye County
Pershing County
Storey County
Washoe County
White Pine County

# **Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution** **Agenda Item V(a) – Current Rates and Distribution**

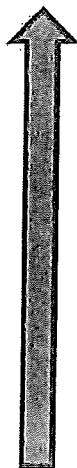
FY 2011  
% of Total  
First-Tier CTX Revenue



**Liquor Tax**

**0.3%**

Each Revenue Source is  
Allocated Amongst the  
17 Counties



❖ Summary: Excise tax imposed upon wholesalers of intoxicating beverages sold in the state. (NRS Chapter 369)

❖ Rates: Malt beverages (including beer): 16 cents per gallon (all to State General Fund)

Liquor containing 1/2 percent up to and including 14 percent alcohol by volume: 70 cents per gallon or proportionate part thereof (all to State General Fund)

Liquor containing more than 14 percent, up to and including 22 percent alcohol by volume: \$1.30 per gallon or proportionate part thereof (all to State General Fund)

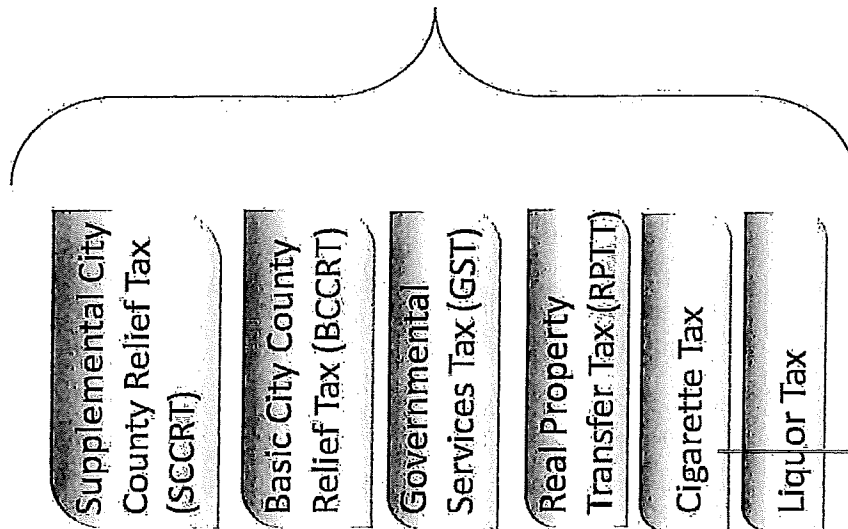
## **Liquor Tax**

Proceeds from the amount equivalent to 50 cents per gallon on the tax from liquor containing more than 22 percent of alcohol by volume are distributed to the counties in proportion to each county's population.

Liquor containing more than 22 percent alcohol by volume: \$3.60 per gallon or proportionate part thereof (\$2.95 to State General Fund; 50 cents to Local Government Tax Distribution Account; 15 cents to Tax on Liquor Program Account)

Carson City
Clark County
Churchill County
Douglas County
Elko County
Esmeralda County
Eureka County
Humboldt County
Lander County
Lincoln County
Lyon County
Mineral County
Nye County
Pershing County
Storey County
Washoe County
White Pine County

**Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution  
Agenda Item V(b) – Historical Overview of the Structure and Distribution of Each Revenue**



**Major Legislation Affecting Local Government Tax Rates  
or Distributions of Revenue to Local Governments  
Before the CTX and Under the CTX**



## Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V(b) – Historical Overview of the Structure and Distribution of Each Revenue

Supplemental City  
County Relief Tax  
(SCCRT)

**Major Legislation Affecting Local Government Tax Rates  
or Distributions of Revenue to Local Governments  
Before the CTX and Under the CTX**

**Major legislation affecting the SCCRT:**

1981 – Assembly Bill 369  
1983 – Assembly Bill 449  
1989 – Assembly Bill 801  
1991 – Assembly Bill 104  
1993 – Senate Bill 506  
1997 – Senate Bill 254

**Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution  
Agenda Item V(b) – Historical Overview of the Structure and Distribution of Each Revenue**

Basic City County  
Relief Tax (BCCRT)

**Major Legislation Affecting Local Government Tax Rates  
or Distributions of Revenue to Local Governments  
Before the CTX and Under the CTX**

**Major legislation affecting the BCCRT:**

- 1969 – Senate Bill 365
- 1971 – Assembly Bill 288
- 1981 – Assembly Bill 369
- 1997 – Senate Bill 254

## Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution Agenda Item V(b) – Historical Overview of the Structure and Distribution of Each Revenue

### Governmental Services Tax (GST)

#### Major Legislation Affecting Local Government Tax Rates or Distributions of Revenue to Local Governments Before the CTX and Under the CTX

##### Major legislation affecting the GST:

- 1960 – Assembly Joint Resolution 6
- 1963 – Senate Bill 256
- 1971 – Senate Bill 577
- 1975 – Assembly Bill 341
- 1977 – Assembly Bill 422
- 1979 – Senate Bill 204
- 1981 – Senate Bill 43
- 1985 – Assembly Bill 292
- 1987 – Senate Bill 56
- 1995 – Senate Bill 556
- 1997 – Senate Bill 254

**Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution  
Agenda Item V(b) – Historical Overview of the Structure and Distribution of Each Revenue**

**Major Legislation Affecting Local Government Tax Rates  
or Distributions of Revenue to Local Governments  
Before the CTX and Under the CTX**

**Major legislation affecting the RPTT:**

- 1967 – Senate Bill 456
- 1971 – Assembly Bill 196
- 1979 – Assembly Bill 268
- 1997 – Senate Bill 254

Real Property  
Transfer Tax (RPTT)

## Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution

### Agenda Item V(b) – Historical Overview of the Structure and Distribution of Each Revenue

#### Major Legislation Affecting Local Government Tax Rates or Distributions of Revenue to Local Governments Before the CTX and Under the CTX

#### Major legislation affecting the Cigarette Tax:

- 1949 – Assembly Bill 309
- 1961 – Senate Bill 139
- 1965 – Assembly Bill 389
- 1967 – Senate Bill 379
- 1969 – Senate Bill 236
- 1981 – Assembly Bill 369
- 1997 – Senate Bill 254

Cigarette Tax

**Overview of the Six Revenues Dedicated to the CTX and First-Tier Distribution  
Agenda Item V(b) – Historical Overview of the Structure and Distribution of Each Revenue**

**Major Legislation Affecting Local Government Tax Rates  
or Distributions of Revenue to Local Governments  
Before the CTX and Under the CTX**

**Major legislation affecting the Liquor Tax:**

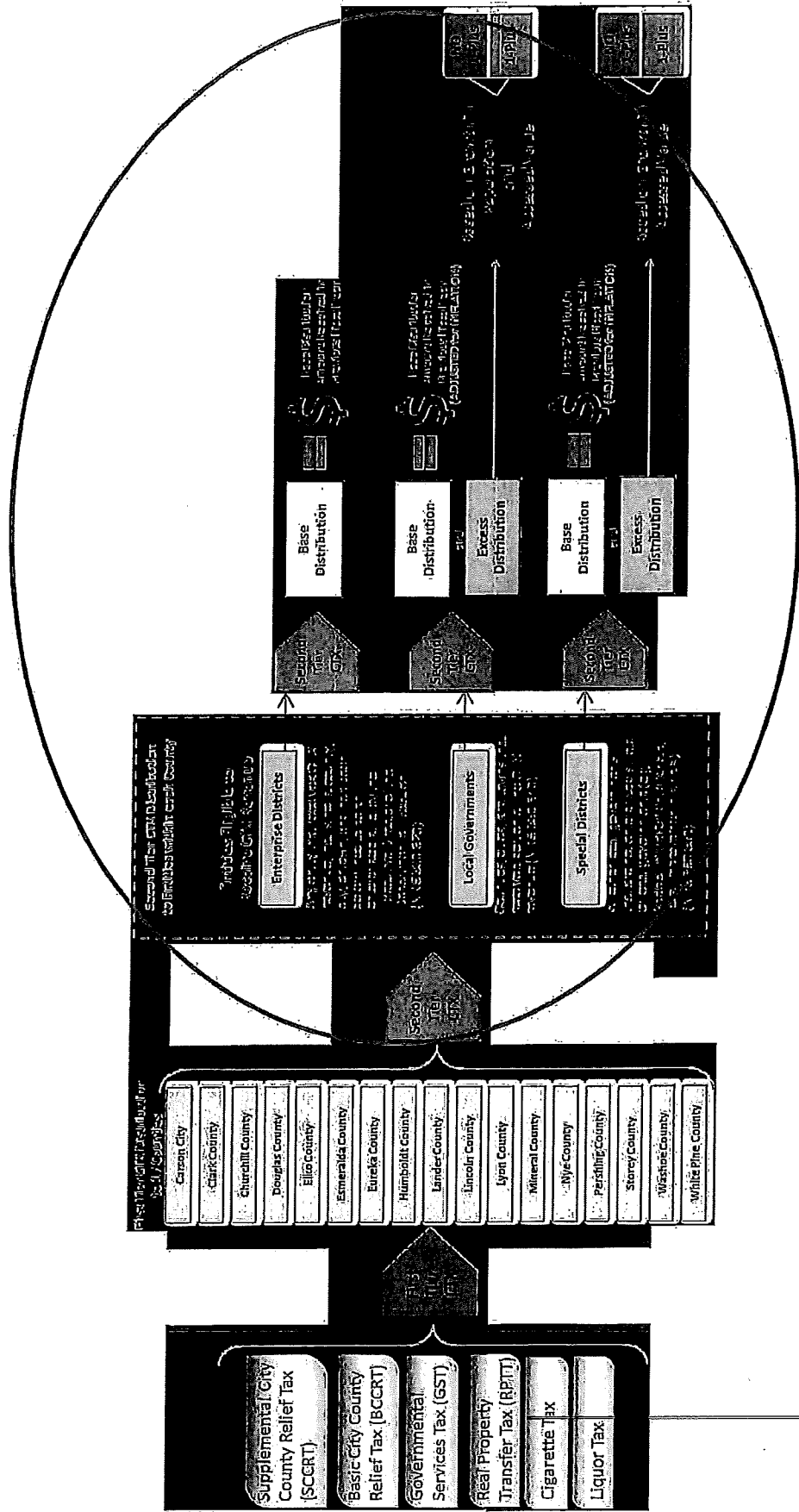
- 1933 – Senate Bill 199
- 1935 – Assembly Bill 40
- 1969 – Senate Bill 439
- 1981 – Assembly Bill 369
- 1997 – Senate Bill 254

Liquor Tax

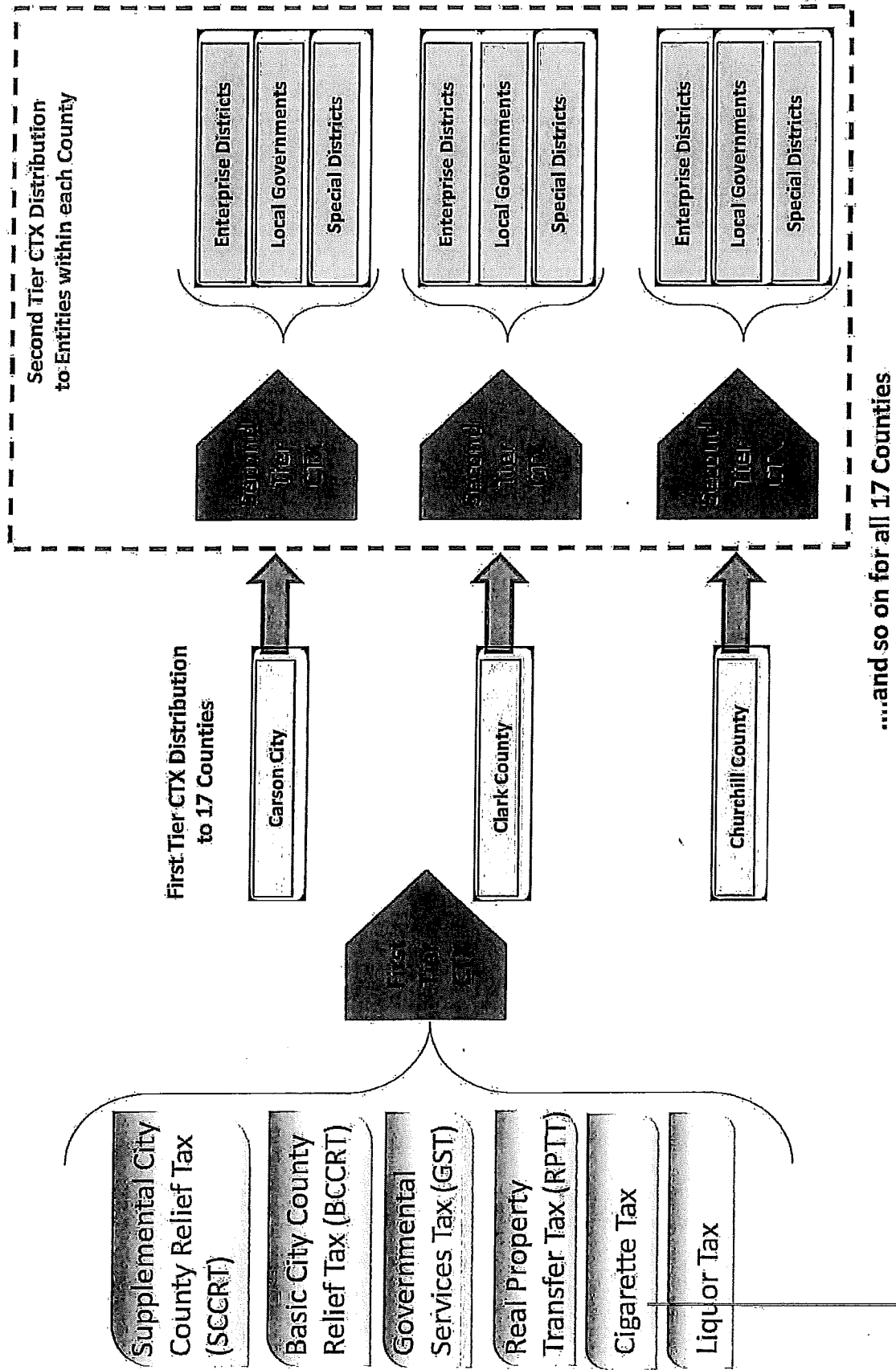
Case No. 66851  
JA 415  
39

# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI**

## **OVERVIEW OF THE DISTRIBUTION OF FIRST-TIER REVENUES TO ENTITIES WITHIN A COUNTY AT THE SECOND TIER OF THE CTX**



# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI(a)- Entities within a County Eligible to Receive CTX Revenue**





## Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(a)- Entities within a County Eligible to Receive CTX Revenue

Second Tier CTX Distribution to Entities within each County

### Entities Eligible to Receive CTX Revenue within each County

#### Enterprise Districts

Any entity that receives CTX revenue; that is not a county, city, or town; and has been determined to be an enterprise district by the Executive Director of the Department of Taxation. (NRS 360.620)

In determining whether an entity is an enterprise district, the Executive Director may use the following:

- (a) Whether the governmental entity should account for substantially all of its operations in an enterprise fund;
- (b) The number and type of governmental services that the governmental entity provides;
- (c) Whether the governmental entity provides a product or a service directly to a user of that product or service, including, without limitation, water, sewerage, television and sanitation; and
- (d) Any other factors the Executive Director deems relevant. (NRS 360.710)

#### Local Governments

Counties, cities, and towns that receive a portion of the CTX revenue (NRS 360.640)

#### Special Districts

All other local governments that are not enterprise districts or local governments (e.g. special improvement districts, local improvement districts) (NRS 360.650)

# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI(b)- Base and Excess Distribution at the Second Tier**

Second Tier CTX Distribution to Entities within each County

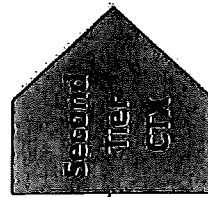
## **Determination of Fiscal Year Base Distribution Amount (NRS 360.680)**

Entities Eligible to  
Receive CTX Revenue

**Enterprise Districts**  
Any entity that receives CTX revenue; that is not a county, city, or town; and has been determined to be an enterprise district by the Executive Director of the Department of Taxation. (NRS 360.620)

**Local Governments**  
Counties, cities, and towns that receive a portion of the CTX revenue (NRS 360.640)

**Special Districts**  
All other local governments that are not enterprise districts or local governments (e.g. special improvement districts, local improvement districts) (NRS 360.650)



**Fiscal Year  
Base Distribution**



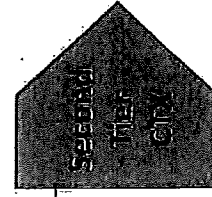
**Base Distribution  
Amount Received in  
Previous Fiscal Year**



**Fiscal Year  
Base Distribution**



**Base Distribution  
Amount Received in  
Previous Fiscal Year  
(ADJUSTED for INFLATION)**



**Fiscal Year  
Base Distribution**



**Base Distribution  
Amount Received in  
Previous Fiscal Year  
(ADJUSTED for INFLATION)**

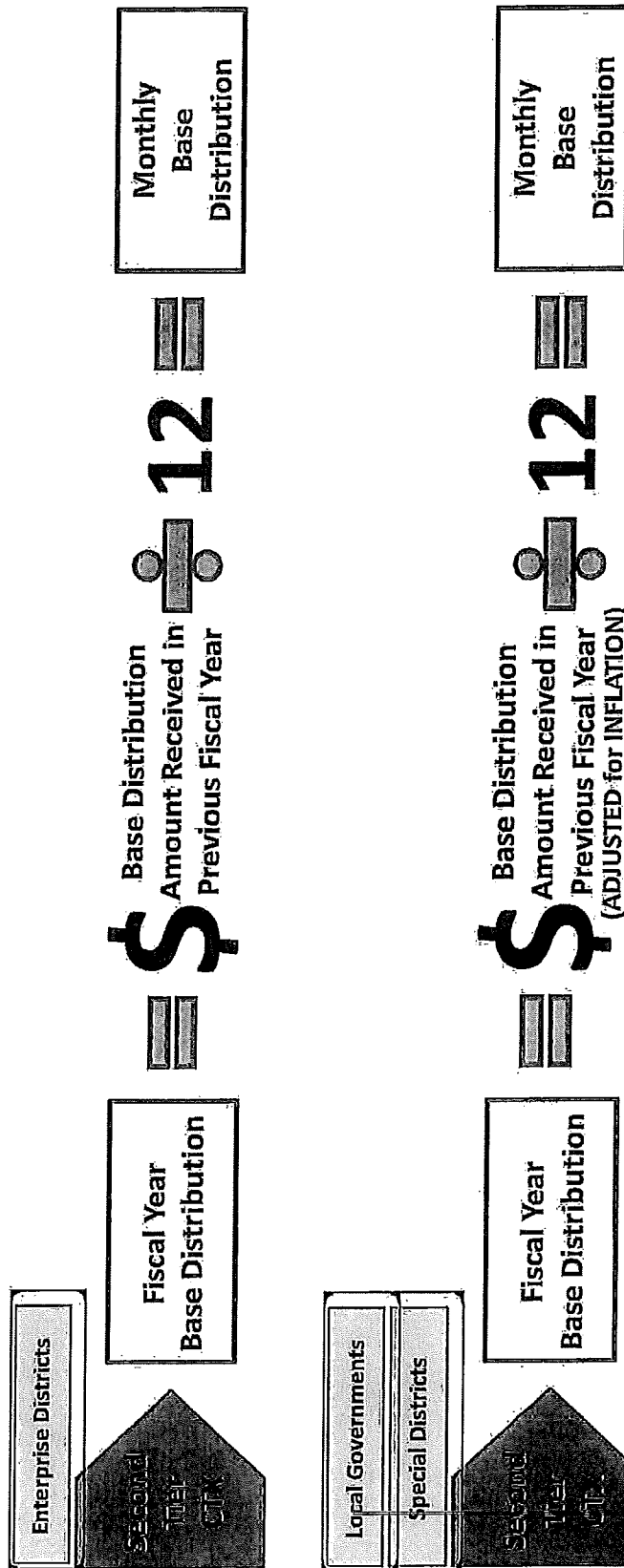
# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI(b)- Base and Excess Distribution at the Second Tier**

Second Tier CTX Distribution to Entities within each County

## **Determination of Monthly Base Distribution Amount (NRS 360.690)**

CTX revenues are collected and distributed on a monthly basis.

The amount of the Fiscal Year Base Distribution is divided by 12 to determine the Monthly Base Distribution amount to be distributed to each entity as the actual CTX revenues are collected and distributed each month of the fiscal year.



# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI(b) - Base and Excess Distribution at the Second Tier**

Second Tier CTX Distribution to Entities within each County

## **Determination of Monthly Base Distribution Amount (NRS 360.690)** **Enterprise Districts**

Each month the CTX revenue available for distribution within a county at the second-tier is first distributed to the enterprise districts in the county in an amount equal to 1/12 of the base amount established under NRS 360.680 for the fiscal year.



The Monthly Base Distributions to Enterprise Districts within each County are made **BEFORE** any Monthly Base Distributions are made to Local Governments and Special Districts.

**Distribution of Revenues to Entities Within a County at the Second Tier of the CTX  
Agenda Item VI(b) - Base and Excess Distribution at the Second Tier**

Second Tier CTX Distribution to Entities within each County

**Determination of Monthly Base Distribution Amount (NRS 360.690)  
Local Governments and Special Districts**

The amount of revenue available for distribution remaining after making the Monthly Base Distribution to Enterprise Districts is distributed each month to local governments and special districts as follows:

- 1.) If the remaining amount is less than the amount necessary to distribute the full monthly base allocation amount to each local government and special district in the county for the month:

The remaining amount is distributed to the local governments and special districts in the proportion of each local government's or special district's fiscal year base amount to the total fiscal year base amount for all local governments and special districts in the county based on the base amounts established under NRS 360.680 for the fiscal year.

**Distribution of Revenues to Entities Within a County at the Second Tier of the CTX  
Agenda Item VI(b) - Base and Excess Distribution at the Second Tier**

**Second Tier CTX Distribution to Entities within each County**

**Determination of Monthly Base Distribution Amount (NRS 360.690)**

**Local Governments and Special Districts**

2.) If the remaining amount is greater than or equal to the amount necessary to distribute the full base allocation amount to each local government and special district in the county for the month:

A.) Distribute an amount to each local government and special district equal to 1/12 its base amount established under NRS 360.680 for the fiscal year.

B.) If additional revenue remains after making base allocations to the local governments and special districts for the month, the Department of Taxation must:

Determine whether any local governments or special districts in the county did not receive the full base allocation amount in any months of the fiscal year preceding the current distribution month.

If the answer is yes, then the revenue must first be allocated to local governments and special districts to true-up their monthly base allocation shortfalls from preceding months of the fiscal year.

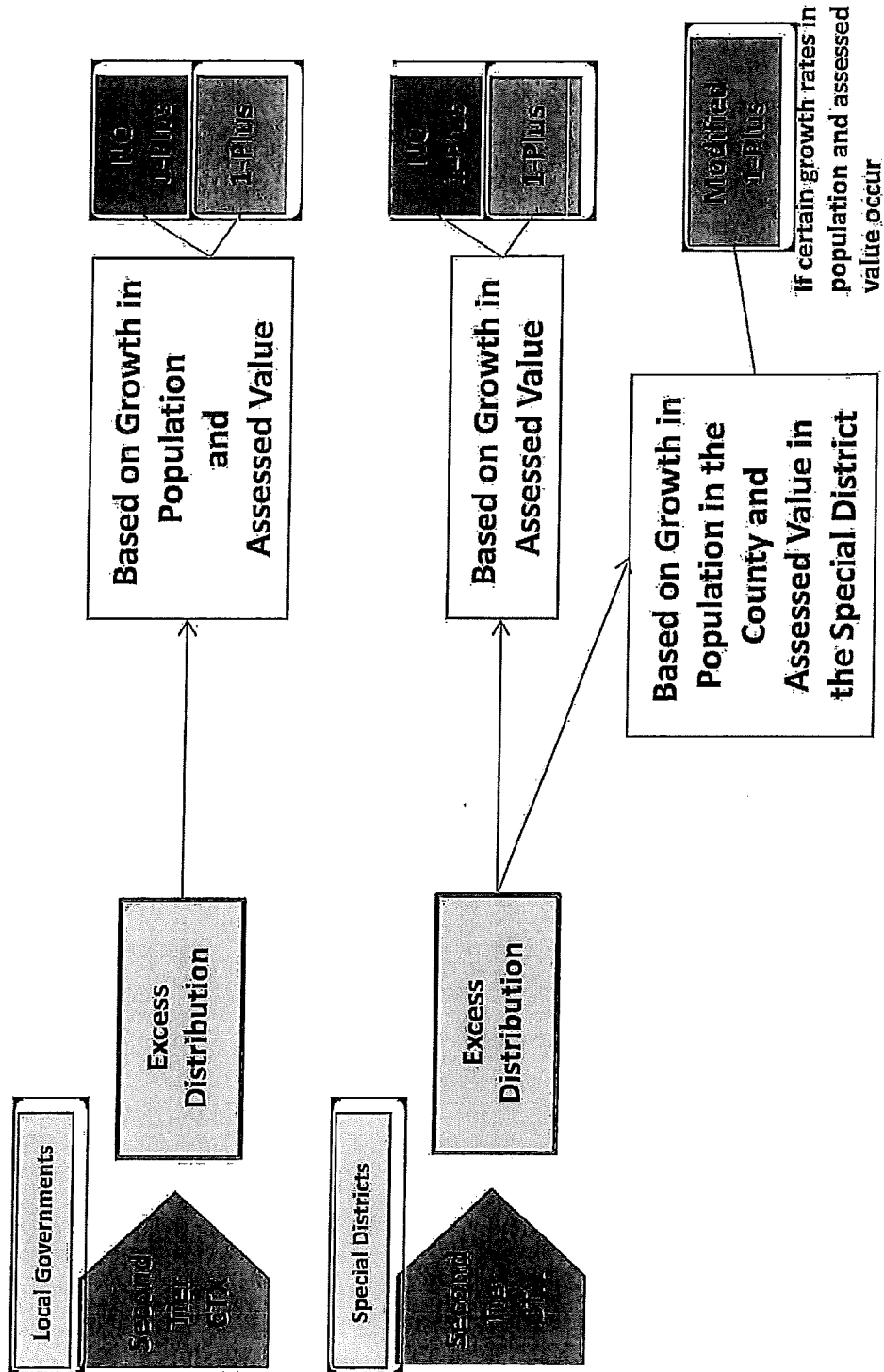
Any revenue remaining after this true-up against base allocation shortfalls in preceding months, is deemed to be "excess" available for distribution to local governments and special districts.

If the answer is no, then additional revenue remaining after the base allocations to local governments and special districts is deemed to be "excess" available for distribution to local governments and special districts.

# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI(c)- One-Plus and No One-Plus Factors Used to Determine Excess**

Second Tier CTX Distribution to Entities within each County

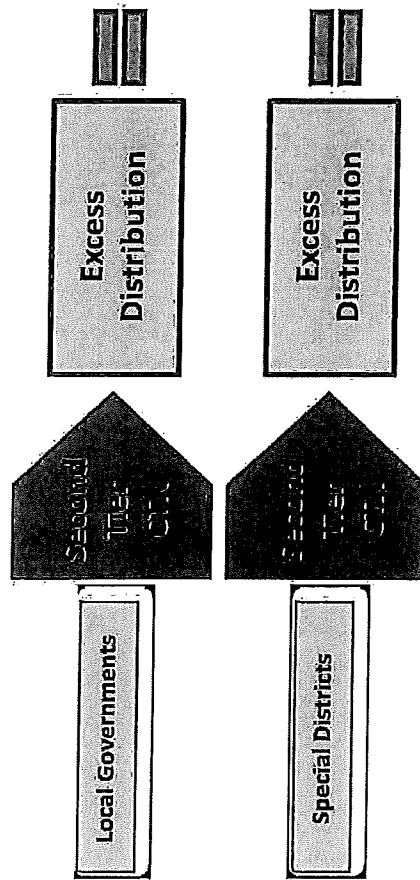
## **Distribution of Excess Revenue to Local Governments and Special Districts (NRS 360.690)**



# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(c)- One-Plus and No One-Plus Factors Used to Determine Excess**

Second Tier CTX Distribution to Entities within each County

## **Distribution of Excess Revenue to Local Governments and Special Districts (NRS 360.690)**



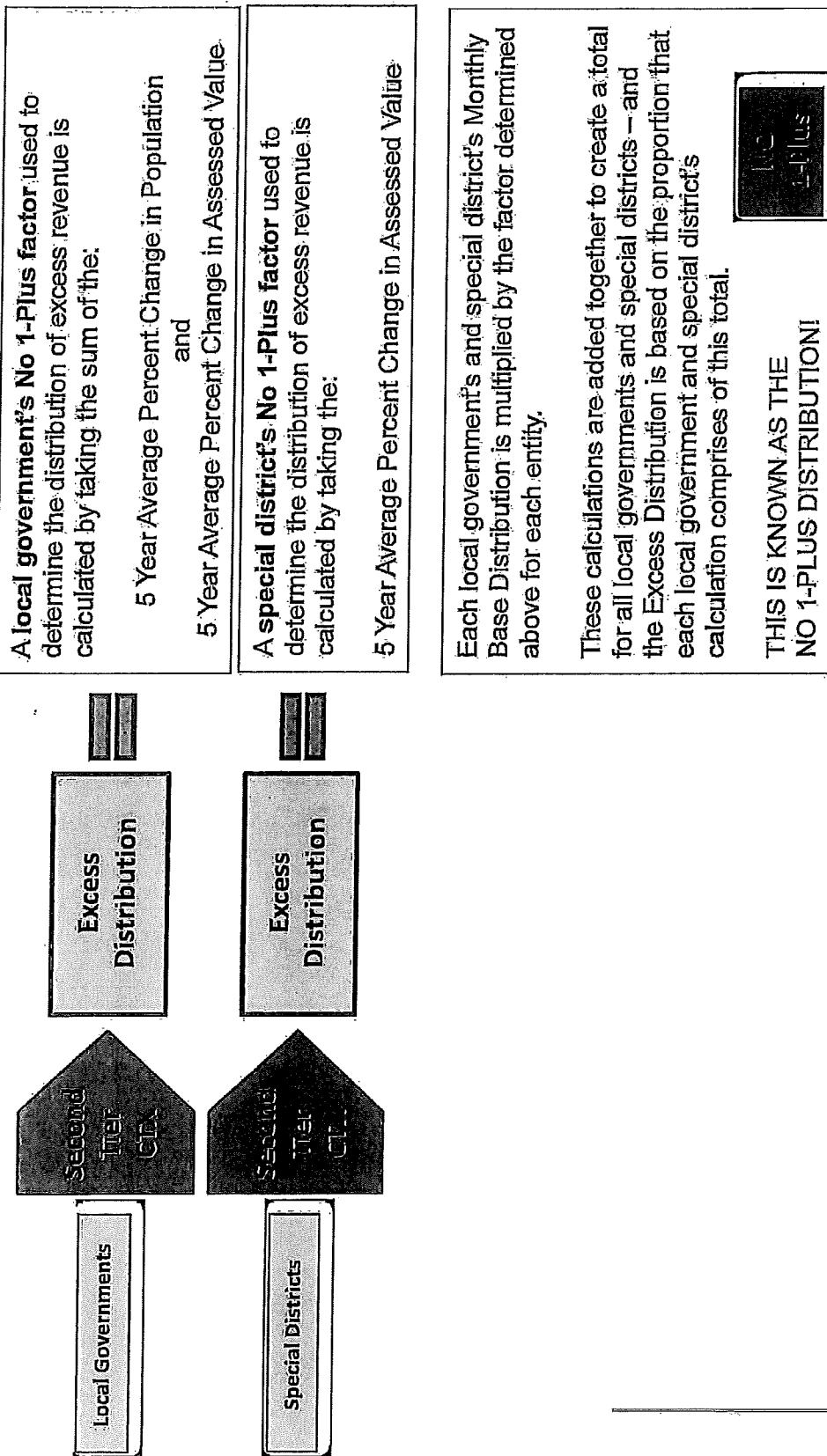
Formulas based on growth in population and assessed value are used to determine factors (No 1-Plus or 1-Plus) that are used to determine the share of the excess revenue to be distributed among the Local Governments and Special Districts



# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI(c)- One-Plus and No One-Plus Factors Used to Determine Excess**

Second Tier CTX Distribution to Entities within each County

## **Calculation of No One-Plus**



# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI(c)- One-Plus and No One-Plus Factors Used to Determine Excess**

Second Tier CTX Distribution to Entities within each County



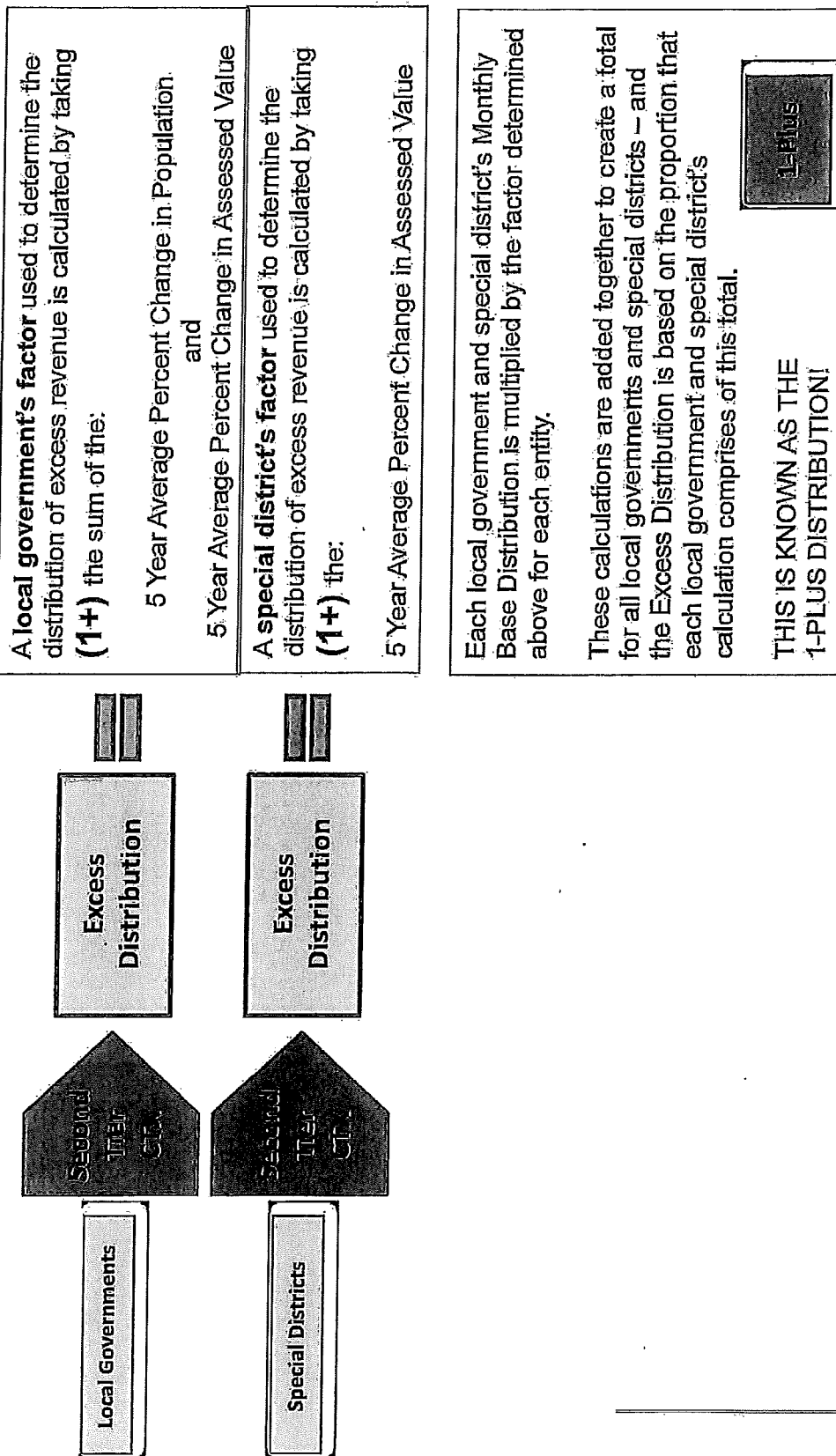
## **Hypothetical Example of Excess Revenue Distribution** **Under No One-Plus**

	A	B	(A+B)	(C/100)	E	F	(DxE)	H	I	(HxI)	K
	Population Growth 5-Year Average	Assessed Value Growth 5-Year Average	Population Growth + Assessed Value Growth	No 1-Plus Factor	Monthly Base Distribution Amount	% of Total Base	Monthly Base Distribution X No 1-Plus Factor	No 1-Plus Distribution Share	Total Excess Available for Distribution to All Entities	No 1-Plus Excess Distribution	No 1-Plus % of Excess
Sample County											
County	1.5%	3.0%	4.5%	0.045	\$300,000	30%	\$13,500	25.0%	\$100,000	\$25,000	25.0%
City 1	2.5%	5.0%	7.5%	0.075	\$300,000	30%	\$22,500	41.7%	\$100,000	\$41,667	41.7%
City 2	2.0%	4.0%	6.0%	0.060	\$250,000	25%	\$15,000	27.8%	\$100,000	\$27,778	27.8%
Special District 1		2.0%	2.0%	0.020	\$100,000	10%	\$2,000	3.7%	\$100,000	\$3,704	3.7%
Special District 2		2.0%	2.0%	0.020	\$50,000	5%	\$1,000	1.9%	\$100,000	\$1,852	1.9%
Total					\$1,000,000	100%	\$54,000	100.0%	\$100,000	\$100,000	100.0%

# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX** **Agenda Item VI(c)- One-Plus and No One-Plus Factors Used to Determine Excess**

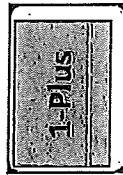
Second Tier CTX Distribution to Entities within each County

## **Calculation of One-Plus**



# Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(c)- One-Plus and No One-Plus Factors Used to Determine Excess

Second Tier CTX Distribution to Entities within each County



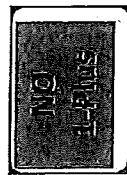
## Hypothetical Example of Excess Revenue Distribution Under One-Plus

	A	B	(A+B)	1+(C/100)	E	F	(DxE)	H	I	(HxI)	K
	Population Growth 5-Year Average	Assessed Value Growth 5-Year Average	Population Growth + Assessed Value Growth	1-Plus Factor	Monthly Base Distribution Amount	% of Total Base	Monthly Base Distribution X 1-Plus Factor	1-Plus Distribution Share	Total Excess Available for Distribution to All Entities	1-Plus Excess Distribution	1-Plus % of Excess
Sample County											
County	1.5%	3.0%	4.5%	1.045	\$300,000	30%	\$313,500	29.7%	\$100,000	\$29,744	29.7%
City 1	2.5%	5.0%	7.5%	1.075	\$300,000	30%	\$322,500	30.6%	\$100,000	\$30,598	30.6%
City 2	2.0%	4.0%	6.0%	1.060	\$250,000	25%	\$265,000	25.1%	\$100,000	\$25,142	25.1%
Special District 1		2.0%	2.0%	1.020	\$100,000	10%	\$102,000	9.7%	\$100,000	\$9,677	9.7%
Special District 2		2.0%	2.0%	1.020	\$50,000	5%	\$51,000	4.8%	\$100,000	\$4,839	4.8%
Total					\$1,000,000	100%	\$1,054,000	100.0%	\$100,000	\$100,000	100.0%

## Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(c) - One-Plus and No One-Plus Factors Used to Determine Excess

Second Tier CTX Distribution to Entities within each County

### Comparison of Hypothetical Examples of Excess Revenue Distribution Under No One-Plus vs. One-Plus

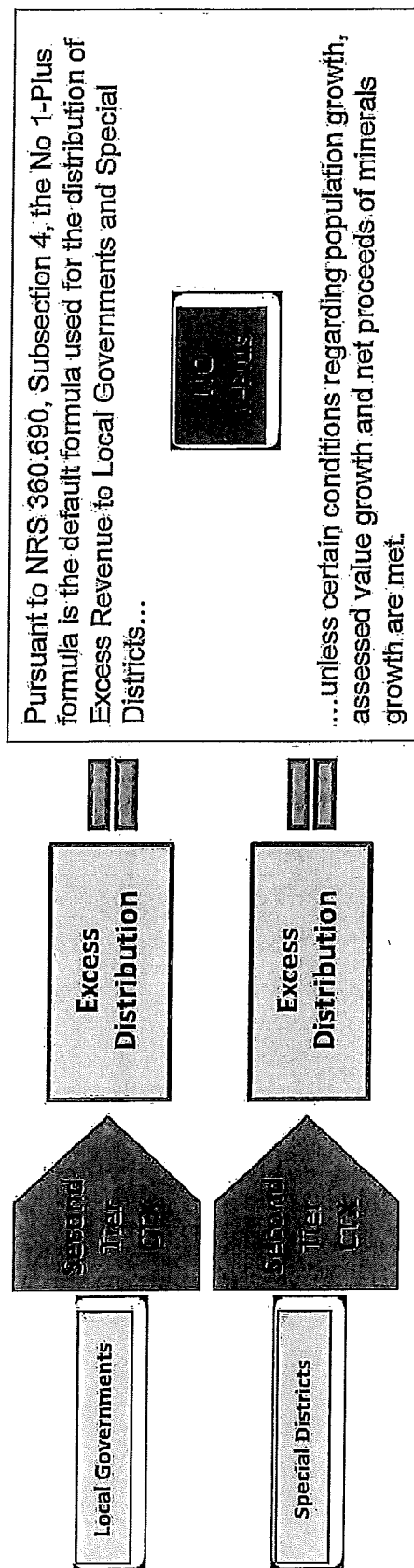


			(A+B)	(C/100)	1+(C/100)			(D+E)						(H1xI)	(H2xJ)		
	A	B	C	D1	D2	E	F	G1	G2	H1	H2	I	J1	J2	K	K	
				Factor													

# **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(c)- One-Plus and No One-Plus Factors Used to Determine Excess**

Second Tier CTX Distribution to Entities within each County

## **Use of the One-Plus Factor for Distribution Under NRS 360.690, Subsection 5**



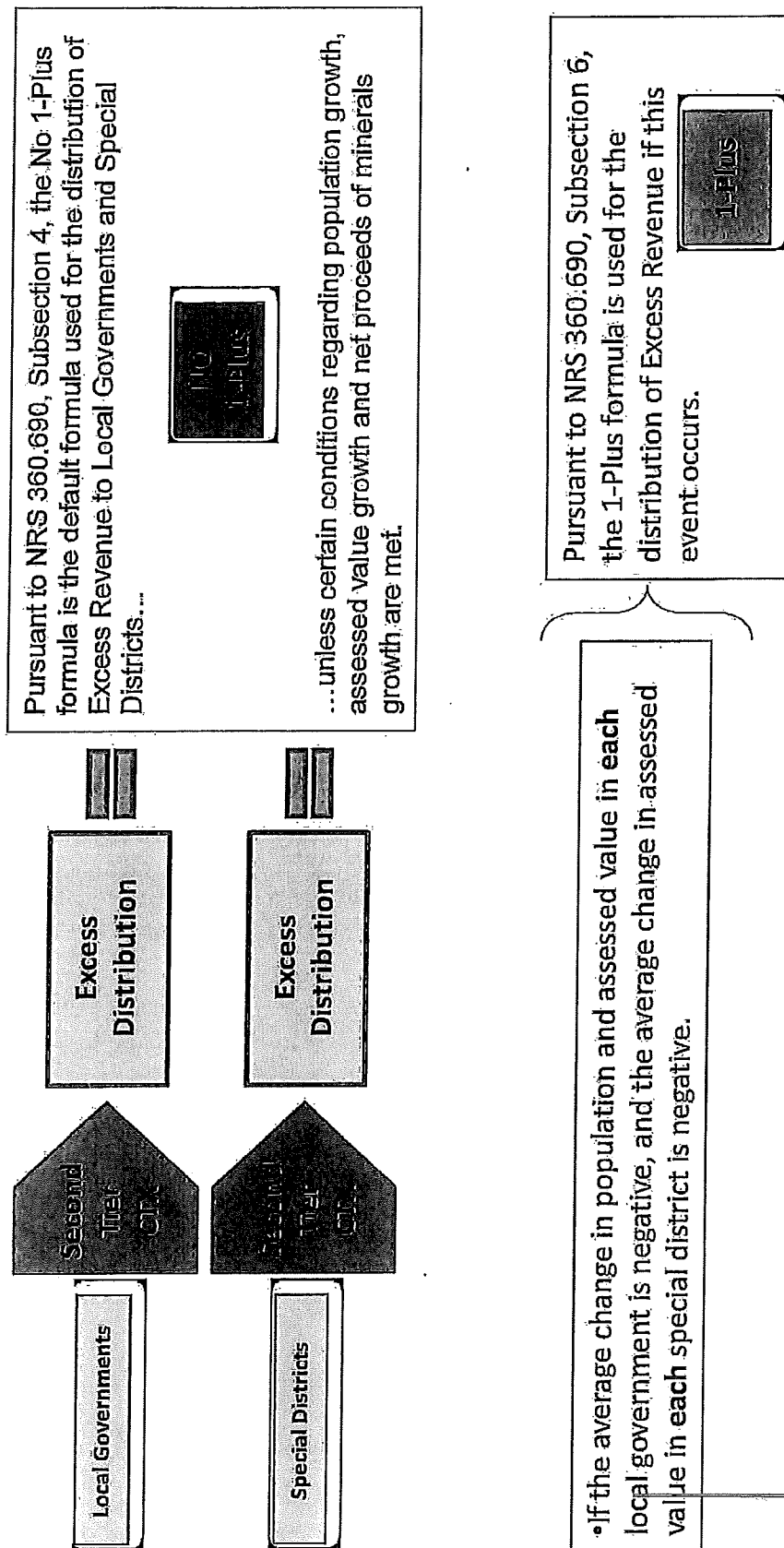
Pursuant to NRS 360.690, Subsection 5, the 1-Plus formula is used for the distribution of Excess Revenue if any of these events occur.

**1-Plus**

- If the average net proceeds of minerals in the county over the previous five fiscal years exceeds \$50 million;
  - If the average change in population in the county over the previous five fiscal years is negative;
- Or Both**
- If the average net proceeds of minerals in the county over the previous five fiscal years exceeds \$50 million; and
  - If the average change in population in the county over the previous five fiscal years is negative;

## Second Tier CTX Distribution to Entities within each County

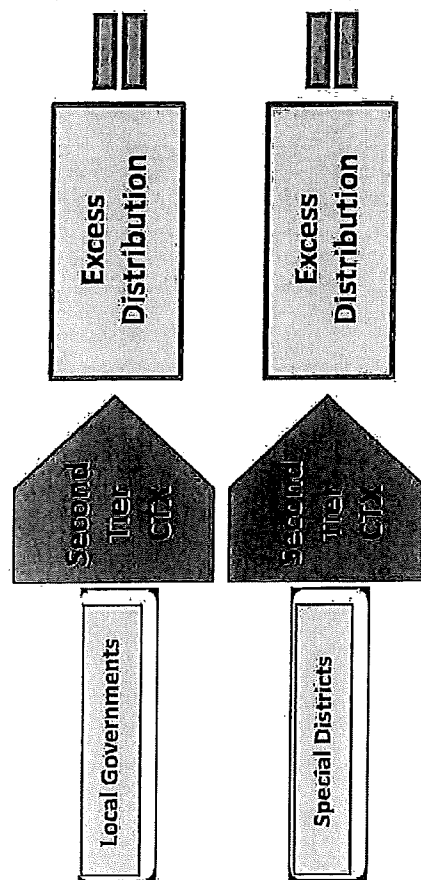
### Use of the One-Plus Factor for Distribution Under NRS 360.690, Subsection 6



# Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(c)- One-Plus and No One-Plus Factors Used to Determine Excess

Second Tier CTX Distribution to Entities within each County

## Use of the One-Plus Factor for Distribution Under NRS 360.690, Subsection 7



Pursuant to NRS 360.690, Subsection 4, the No 1-Plus formula is the default formula used for the distribution of Excess Revenue to Local Governments and Special Districts...

No 1-Plus

...unless certain conditions regarding population growth, assessed value growth and net proceeds of minerals growth are met.

• If the average change in population and assessed value in each local government is negative, but the average change in assessed value in any special district is positive.

Special Districts

1-Plus

Under 1-Plus - The 1-Plus factor for Special Districts is based on Assessed Value growth within the Special District only.

Modified 1-Plus

Under the Modified 1-Plus, the 1-Plus factor for Special Districts is based on Population growth within the County and Assessed Value growth within the Special District

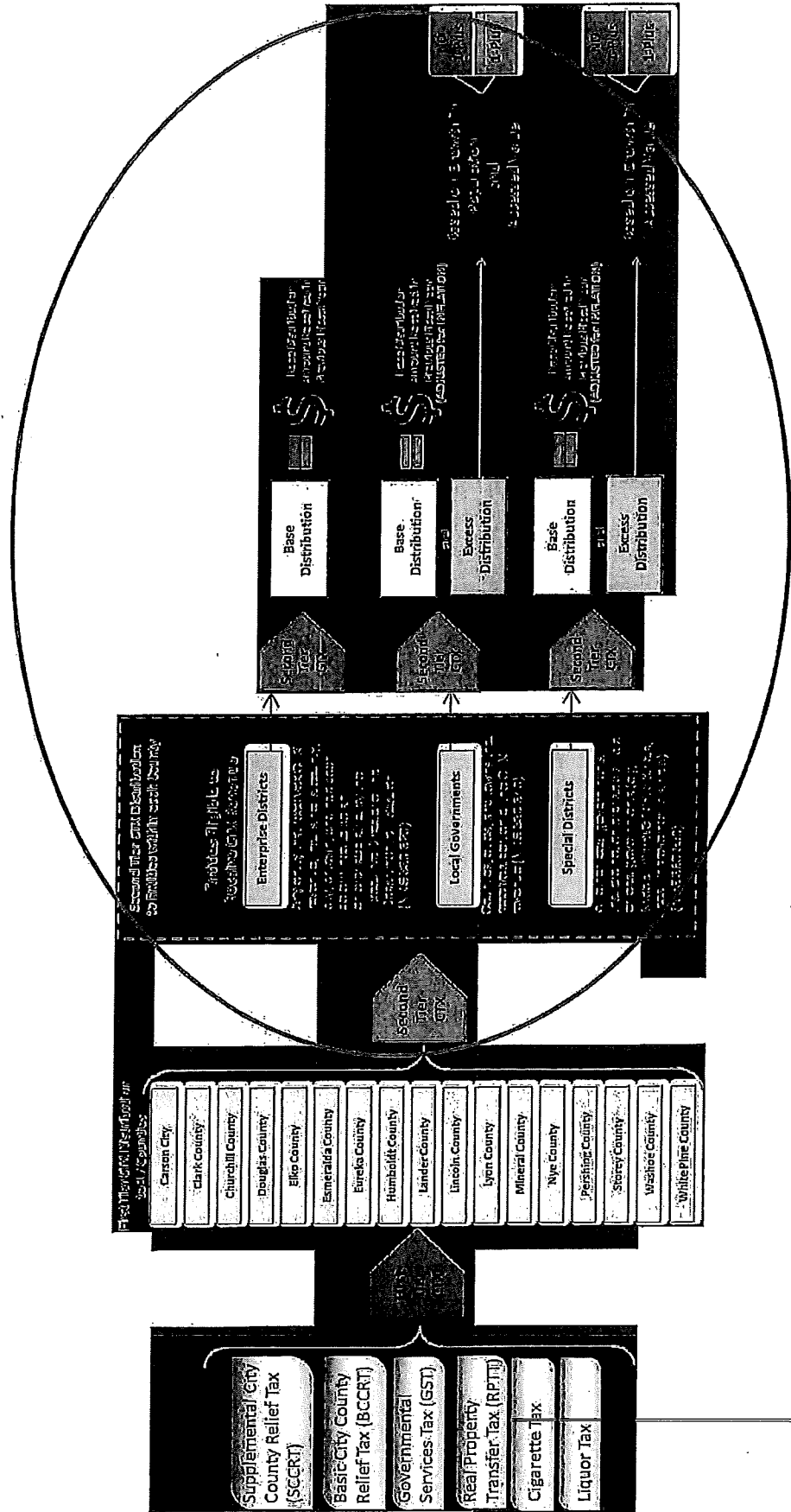
Pursuant to NRS 360.690, Subsection 7, a modified 1-Plus formula is used for the distribution of Excess Revenue

Modified 1-Plus



# Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(d)

## ADDITIONAL ISSUES RELATED TO DISTRIBUTION AND USE OF SECOND-TIER CTX REVENUES



**Distribution of Revenues to Entities Within a County at the Second Tier of the CTX  
Agenda Item VI(d) – Additional Issues Related to Distribution and Use of Second-Tier CTX Revenues**

**Possible Adjustment to Local Government's or Special District's Base Annual Allocation Amount after Decrease in  
Population and Assessed Value  
NRS 360.695**

If the population and assessed value for a local government or special district in a county has decreased each of the three fiscal years preceding the current fiscal year, the Department of Taxation is required to review the base annual allocation amount, calculated under NRS 360.680, to determine whether to adjust the amount.

If the Department determines an adjustment to the base annual allocation amount is necessary, the Department shall submit its findings to the Committee on Local Government Finance (CLGF).

The CLGF is required to review the Department's findings and make a determination whether an adjustment is appropriate or not.

If the CLGF finds an adjustment is appropriate, it must submit a recommendation to the Nevada Tax Commission on the amount of the recommended adjustment.

If the CLGF determines an adjustment is not appropriate, the decision is not subject to review by the Commission.

The Commission is required to hold a public hearing after receiving the recommendation on the adjustment from the CLGF with material relevant to the recommendation provided to each local government and special district in the county.

If the Commission determines the CLGF's recommended adjustment is appropriate, it must order the Department to adjust the annual base allocation amount determined pursuant to NRS 360.680.

## **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(d) – Additional Issues Related to Distribution and Use of Second-Tier CTX Revenues**

### **Provisions Relating to the Pledge of CTX Revenue to the Payment of Bonds NRS 360.700, 360.698, and 360.720**

Under NRS 360.700, the Department of Taxation is required to ensure that each enterprise district, local government, or special district receives CTX revenue at least equal to the amount which would have been received before July 1, 1998, that was pledged to the payment of bonds or other types of obligations that:

- 1.) on or before July 1, 1998, received any portion of one of the six revenue sources included in the CTX; and
- 2.) pledged a portion of any of these six revenue sources to secure the payment of bonds or other types of obligations,

Under NRS 360.698, a local government or special district, which receives CTX revenue, may pledge not more than 15 percent of that revenue to the payment of any general obligation bond or revenue bond issued pursuant to NRS Chapter 350.

For bonds issued under this section of NRS before July 1, 1998, a pledge of 15 percent of the CTX revenue is substituted for the pledge of 15 percent of the SCCRT revenue distributed under NRS 377.057 as the section existed on January 1, 1997.

The percentage is required to be increased to the extent necessary to provide a pledge to those bonds that is equivalent to the of 15 percent of the SCCRT revenue distributed under NRS 377.057 as the section existed on January 1, 1997.

Under NRS 360.720, an enterprise district cannot pledge any portion of their CTX revenue to secure the payment of bonds or other obligations.

**Distribution of Revenues to Entities Within a County at the Second Tier of the CTX  
Agenda Item VI(d) – Additional Issues Related to Distribution and Use of Second-Tier CTX Revenues**

**Inter-local Agreement to Establish Alternative Formula for Distribution of CTX Revenue at the Second-Tier  
NRS 360.730**

The governing bodies of two or more local governments or special districts, or any combination thereof, may enter into an inter-local agreement that establishes an alternative formula for the distribution of the second-tier CTX revenue amongst the parties in the agreement.

The governing bodies of each local government or special district that is a party to the agreement must approve the alternative formula by a majority vote.

An inter-local agreement may not be terminated unless the governing body of each local government or special district that is a party to the agreement agrees to terminate the agreement.

The governing bodies of the local governments and special districts that have entered into an inter-local agreement may amend the terms of the agreement by majority vote.

The terms of the agreement cannot be amended more than once during the first two years after the agreement is effective and once every year thereafter, unless the CLGF approves the amendment.

## **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(d) – Additional Issues Related to Distribution and Use of Second-Tier CTX Revenues**

### **Inter-local Agreement to Establish Alternative Formula for Distribution of CTX Revenue at the Second-Tier (Continued) NRS 360.730**

County clerk is required to transmit a copy of the agreement to the Department of Taxation:

Within 10 days after the agreement is approved by each of the governing bodies that parties to the agreement; and

Not later than December 31 of the year preceding the fiscal year that will be governed by the agreement.

Department of Taxation is required to continue to calculate the amount of CTX revenue each entity that is a party to the agreement would receive under the base and excess distribution provisions in NRS 360.680 and 360.690.

If an agreement is terminated, the Department must distribute the CTX revenue according to these calculations and the provisions of NRS 360.680 and 360.690.

The CTX revenue continues to be distributed under the base and excess allocation formulas in NRS 360.680 and 360.690 to any local governments and special districts in the county not a party to the inter-local agreement.

## **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(d) – Additional Issues Related to Distribution and Use of Second-Tier CTX Revenues**

### **Governmental Entity Created between July 1, 1996, and July 1, 1998, Ability to Receive CTX Revenue NRS 360.720**

Under NRS 360.720, a governmental entity created between July 1, 1996, and July 1, 1998, cannot receive CTX revenue unless it provides police protection and at least two of these three services: 1.) fire protection, 2.) construction, maintenance, and repair of roads; or 3.) parks and recreation, using the definitions for these four government service categories as provided in subsection 8 of NRS 360.740.

### **Newly Created Local Government or Special District Ability to Receive CTX Revenue NRS 360.740**

The governing body of a local government or special district that is created after July 1, 1998, (New Entity) may, by majority vote, request the Nevada Tax Commission to direct the Department of Taxation to make base and excess allocations of CTX revenue to the New Entity pursuant to the provisions of NRS 360.680 and 360.690.

To be eligible to make the request to the Commission, the New Entity must provide police protection and at least two of these three services: 1.) fire protection, 2.) construction, maintenance, and repair of roads; or 3.) parks and recreation, using the definitions for these four government service categories as provided in subsection 8 of NRS 360.740.

The New Entity may enter into an inter-local agreement with another governmental entity for the provision of these services if the New Entity compensates the governmental entity in amount equal to the value of those services provided.

A governing body of a New Entity that submits a request to the Commission must submit the request to the Department of Taxation on or before December 31 of the year preceding the fiscal year in which CTX revenue would be distributed to the New Entity.

Copies of the request and any information submitted to the Department supporting the request must be provided to each existing local government and special district in the county receiving CTX revenue.

## **Distribution of Revenues to Entities Within a County at the Second Tier of the CTX Agenda Item VI(d) – Additional Issues Related to Distribution and Use of Second-Tier CTX Revenues**

### **Newly-Created Local Government or Special District Ability to Receive CTX Revenue (Continued) NRS 360.740**

The Department is required to review the request and submit its findings to the Committee on Local Government Finance (CLGF).

The Department is required to establish an amount of CTX revenue to be allocated to the New Entity under the provisions of NRS 360.680 and 360.690 for the initial fiscal year of distribution to the new entity.

If the New Entity will provide a service that was provided by another local government or special district before the creation of the New Entity, the amount of CTX revenue allocated to the existing governmental entity which previously provided the service must be decreased by the amount allocated to the New Entity.

The Department must consider the effect of the distribution of CTX revenue to the New Entity on the amount of CTX revenue that existing local governments and special districts in the county will receive.

The Department must also compare the amount of CTX revenue that would be allocated to the New Entity to the amount of CTX revenue allocated to the other existing local governments and special districts in the county.

The CLGF is required to review the Department's findings and:

If the CLGF determines the distribution of CTX revenue to the New Entity is appropriate, it must submit a recommendation to the Nevada Tax Commission.

If the CLGF determines a distribution is not appropriate, the decision is not subject to review by the Commission.

The Commission is required to hold a public hearing after receiving the recommendation on the adjustment from the CLGF with material relevant to the CLGF's recommendation provided to each local government and special district in the county.

If the Commission determines the CLGF's recommended adjustment is appropriate, it must order the Department to distribute CTX revenue to the new local government or special district pursuant to NRS 360.680 and 360.690.

**Distribution of Revenues to Entities Within a County at the Second Tier of the CTX  
Agenda Item VI(d) – Additional Issues Related to Distribution and Use of Second-Tier CTX Revenues**

**Initial Calculation of Base Revenue Amounts for Enterprise Districts, Local Governments and Special Districts  
Senate Bill 254 of the 1997 Session**

**Entities that received at least one of the six revenue sources making up the CTX before July 1, 1998, were eligible to  
receive a base allocation at the second tier of the CTX**

**For the initial base calculation for the first distribution in FY 1999, the Department of Taxation was required to distribute base  
revenues as follows:**

- ❖ Enterprise districts received the average amount of proceeds received from each of the six taxes that the district received during Fiscal Years 1996 and 1997.
- ❖ Local Governments and Special Districts received the average amount of proceeds received from each of the six taxes that the district received during Fiscal Years 1996 and 1997, multiplied by one plus the percentage change between the:
  - o Total amounts received by the local governments and special districts located in the same county during FY 1997;  
and
  - o Average of the total amounts received by the local governments and special districts in the same county during FY 1996 and FY 1997.

This product was then multiplied by one plus the percentage change in the Consumer Price Index between July 1, 1997, and December 1, 1997, to determine the base amount for each entity in FY 1999.

For unincorporated towns who were allowed to include a debt rate in its maximum allowed property tax revenue pursuant to NRS 354.5087, the average and total amounts used for the base calculation were required to be adjusted to determine the initial base for FY 1999.



**IN THE SUPREME COURT OF THE STATE OF NEVADA**

CITY OF FERNLEY, NEVADA, a  
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.  
DEPARTMENT OF TAXATION;  
THE HONORABLE DAN  
SCHWARTZ, in his official capacity  
as TREASURER OF THE STATE OF  
NEVADA; and THE LEGISLATURE  
OF THE STATE OF NEVADA,

Respondents.

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

**JOINT APPENDIX**

**VOLUME 2 PART 3**

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7	Answer	State of Nevada/Dept Tax/ Treasurer	02/01/13	1384-1389
7	Answer to Plaintiff's Complaint	Nevada Legislature	01/29/13	1378-1383
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22	Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs (Cont.)	State of Nevada/Dept Taxation	10/03/14	3929-3947
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2	Exhibits to Joinder in Motion to Dismiss (Cont.)	Nevada Legislature	08/16/12	221-332
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7	Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/06/14	1421-1423
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7	Nevada Department of Taxation and Nevada Treasurer's Reply to Response to Renewal of Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	05/23/14	1433-1437
12	Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment	State of Nevada/Dept Taxation	07/11/14	2053-2224
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22	Notice of Entry of Order	Nevada Legislature	10/08/14	4001-4057
23	Notice of Entry of Order	State of Nevada/Dept	10/17/14	4195-4204
7	Notice of Entry of Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	State of Nevada/Dept Tax/ Treasurer	12/19/12	1364-1370
7	Notice of Entry of Order Granting A Continuance to Complete Discovery	City of Fernley	10/19/12	1344-1350
3	Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene	Nevada Legislature	09/04/12	651-657
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2	Opposition to Motion to Nevada Legislature's Motion to Intervene	City of Fernley	08/20/12	324-330
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15	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2666-2819
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19	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3292-3512
20	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3515-3567
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20	Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendant Nevada Legislature	City of Fernley	07/25/14	3606-3640
21	Reply to Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Taxation	08/01/14	3769-3772
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20	Reply to Plaintiff's Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	State of Nevada/Dept Taxation	07/25/14	3583-3605
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MEMORANDUM OF POINTS AND AUTHORITIES

**I. BACKGROUND**

On June 6, 2012, Fernley filed its Complaint alleging a variety of legal defects in the construction and administration of the Consolidated Tax ("C-Tax") system utilized in Nevada to provide partial funding for local governments. The C-Tax system was implemented in 1997, and is a means by which revenues from six different taxes are distributed to local governments, including counties and municipalities, among others. (Complaint, ¶¶ 4-7).

At the time the C-Tax system was implemented in 1997, Fernley was an unincorporated town with a population of approximately 8,000. (Id., ¶4). In 2001, Fernley incorporated and in fact, is the only municipality in Nevada to incorporate since the implementation of the C-Tax system in 1997. (Id., ¶9).

Today, Fernley has a population of approximately 19,000, making it the seventh most populous city in Nevada. (Id., ¶10). Fernley is located in Nevada's fourth largest county, Lyon County, and has around a third of the population of Lyon County. (Id.).

Despite the dramatic increase in Fernley's population, its share of C-Tax distributions has remained stagnant. For example, in 1997, Fernley (as an unincorporated town) received approximately \$86,000 in C-Tax distributions. (Id., ¶9). In 2001, when Fernley incorporated, it received just over \$110,000 in C-Tax distributions. (Id.). In 2011, Fernley received just over \$143,000 in C-Tax distributions. (Id.).

Comparisons to municipalities of comparable size demonstrate the disparity in the system. For example, in 2010-2011 Fallon received \$1,409,664 in C-Tax distributions, Boulder City received \$7,935,323, Elko received \$11,015,989, West Wendover received \$2,275,011, Winnemucca received \$3,552,393, Mesquite received \$7,046,690 and Ely received \$1,142,528. (Id., ¶12). Fernley received \$143,000. (Id.).

Viewed on a per capita basis, Fernley residents received approximately \$7 in C-Tax. Meanwhile, residents of Boulder City and Mesquite (with smaller populations than Fernley)

1 received between \$450-\$550 per resident, and Elko residents received almost 100 times more in C-  
2 Tax per resident than Fernley. (Id., ¶13).

3 C-Tax revenues are usable by a local government for any purpose – there are no restrictions  
4 on where revenues can be used and in fact, C-Tax revenues are commonly used for general  
5 operating purposes. (Id., ¶8). It is important to remember this point as the State suggests in its  
6 Motion to Dismiss that C-Tax revenues are tied to the provision of specific services.

7 The C-Tax system is a complex formula designed to re-distribute taxes collected  
8 throughout Nevada. What it is not designed to do, however, is provide any flexibility for  
9 meaningful adjustments. The ability to seek adjustments is extremely limited. For example,  
10 adjustments can be sought within 12 months of incorporation. (Id., ¶14). Adjustments can also be  
11 made if there is an agreement between local government entities to share services. (Id.). Of  
12 course, asking one local government entity to give up any significant share of revenues is simply  
13 not a realistic expectation.

14 Regardless, even with adjustments within 12 months of incorporation or with a service-  
15 sharing agreement, the C-Tax system is not designed to make significant adjustments. And as  
16 demonstrated in more detail below and as will be further developed during discovery, there have  
17 been very few significant adjustments to any local government's C-Tax share since 1997. Simply  
18 put, the system is designed to preserve the status quo established in 1997. An entity like Fernley,  
19 which started with a significantly low allocation in 1997, therefore has no realistic hope of  
20 obtaining a meaningful adjustment within the confines of the existing C-Tax system.

21 Fernley has sought relief from the Nevada Legislature, but has found no support from that  
22 body. (Id., ¶16). Fernley also continues to participate in good faith with the Legislative  
23 Commission's Subcommittee to Study the Allocation of Money Distributed From the Local  
24 Government Tax Distribution Account, which has conducted several meetings since February of  
25 2012. Although the work of that Subcommittee is not yet done, and as discovery is expected to  
26 show, the Subcommittee will recommend continuing the practice of preserving the status quo of  
27 the C-Tax system.

1 Having exhausted its options to find relief elsewhere, Fernley filed its Complaint.

2 **II. DISCUSSION**

3 **A. Standard of Review**

4 The State seeks dismissal of all claims pursuant to NRCP 12(b). Under that rule, Fernley's  
5 Complaint "should be dismissed only if it appears beyond a doubt that it could prove no set of  
6 facts, which, if true, would entitle it to relief." *Buzz Stew LLC v. City of North Las Vegas*, 124  
7 Nev. 224, 228, 181 P.3d 670 (2008) (citation omitted). It is important to note that the appropriate  
8 standard for dismissal is "beyond a doubt" and not "beyond a reasonable doubt." *Id.*, at fn. 6 ("The  
9 appropriate standard requires a showing beyond a doubt. To the extent that these cases required a  
10 showing of proof beyond a reasonable doubt, they are disavowed.").

11 In reviewing a motion to dismiss brought pursuant to NRCP 12(b), a court must accept the  
12 allegations of the complaint as true, and draw all inferences in favor of the non-moving party. *Id.*,  
13 124 Nev. at 228 (citations omitted).

14 The State attached to its Motion to Dismiss an exhibit called "CTX Distributions for  
15 Nevada Cities Public Safety Costs for Nevada Cities." (Motion to Dismiss, Exhibit 1). A Rule  
16 12(b) motion to dismiss "shall be treated as one for summary judgment and disposed of as  
17 provided in Rule 56" if "matters outside the pleading are presented to and not excluded by the  
18 court." *Schneider v. Continental Assurance Company*, 110 Nev. 1270, 1271, 885 P2d 572 (1994);  
19 NRCP 12(b). Accordingly, and although the State couches its brief as a Motion to Dismiss, it is  
20 more appropriately considered as a Motion for Summary Judgment.

21 A motion for summary judgment is appropriate "if the pleadings, depositions, answers to  
22 interrogatories, and admissions on file, together with the affidavits, if any, show that there is no  
23 genuine issue as to any material fact and that the moving party is entitled to judgment as a matter  
24 of law." NRCP 56(c); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026 (2005) (citation  
25 omitted). In determining whether a genuine issue of material fact exists, the court must accept as  
26 true all evidence favorable to the non-moving party and grant the non-moving party all favorable  
27 inferences that may reasonably be drawn from such evidence. *Anderson v. Liberty Lobby, Inc.*,  
28



1 477 U.S. 242, 255 (1986). "A factual dispute is genuine when the evidence is such that a rational  
2 trier of fact could return a verdict for the nonmoving party." *Id.* (citation omitted). The pleadings  
3 and proof "must be construed in a light most favorable to the nonmoving party," but the  
4 nonmoving party must "do more than show that there is some metaphysical doubt' as to the  
5 operative facts in order to avoid summary judgment . . ." *Wood*, 121 Nev. at 732 (citation  
6 omitted).

7 As demonstrated below, the State's request should be denied under either a Rule 12(b) or  
8 Rule 56 standard. Additionally, and because discovery has not even begun in this case, the State's  
9 motion should be continued until the conclusion of discovery.

10 **B. The Motion to Dismiss Should be Denied or Continued Pursuant to NRCP**  
11 **56(f).**

12 A summary judgment motion is considered premature when it is filed before discovery has  
13 even commenced. *Aviation Ventures Inc. v. Joan Morris, Inc.*, 121 Nev. 113, 118-119, 110 P.3d  
14 59, 63 (2005). Moreover, summary judgment is premature when made at an early stage of the case  
15 where the record has not been sufficient developed to allow the Court to make a fully informed  
16 decision on complex and far-reaching issues. *Dennison v. Allen Group Leasing Corp.*, 110 Nev.  
17 181, 184, 871 P.2d 288 (1994). A party defending against a motion for summary judgment should  
18 be given a reasonable opportunity to complete discovery and therefore have a chance to  
19 demonstrate a genuine issue of material fact. NRCP 56(d); NRCP 56(f); *Aviation Ventures Inc.*,  
20 121 Nev. at 118-119.

21 Here, Fernley's Complaint was filed with this Court on June 6, 2012 and the State was duly  
22 served thereafter. Discovery has not yet begun in this case. Yet the very first document filed by  
23 the State in this case is the present motion to dismiss the entire case. Moreover, this case raises  
24 significant constitutional questions about the validity of a complex tax collection and distribution  
25 scheme used to fund a portion of the budgets of local governments in Nevada. For example, the  
26 State suggests that the utilization of certain services is relevant to the C-Tax distributions to a local  
27 government. (Motion to Dismiss, 8). The State even goes so far as to attach an Exhibit to its  
28

1 Motion clearly designed to imply that the provision of C-Tax revenues is somehow tied to the  
2 costs a local government incurs in providing public safety. (Motion to Dismiss, Exhibit 1).

3 Whether the State's suggestion is accurate is, of course, a factual question that will require  
4 discovery to determine the facts and circumstances of how various local governments utilize their  
5 C-Tax revenues, and whether there truly is some kind of service-based requirement to receive C-  
6 Tax revenues. For example, the first city listed in Exhibit 1 is Fallon and the exhibit shows  
7 \$4,740,982 in public safety costs. What is included in "public safety?" How much of these costs  
8 are funded by C-Tax and how much by other revenue sources? These are important factual  
9 questions that need to be developed rather than just taking the State's claims at face value before  
10 there has been any discovery whatsoever. The issues are complex and will require discovery.

11 A premature motion for summary judgment may be denied or continued pursuant to NRCP  
12 56(f). That rule provides as follows:

13 Should it appear from the affidavits of a party opposing the motion that the party  
14 cannot for reasons stated present by affidavit facts essential to justify the party's  
15 opposition, the court may refuse the application for judgment or may order a  
16 continuance to permit affidavits to be obtained or depositions to be taken or  
17 discovery to be had or may make such other order as is just.

18 As noted earlier, there are significant facts that need to be developed in this case. At a very  
19 high level, why do some local governments receive more than others? Are C-Tax revenues really  
20 tied to the provision of certain services? How much authority does the Executive Branch have  
21 over appropriating money to local governments, traditionally a function of the Legislative Branch?  
22 How often is that authority exercised? All of these are important fundamental fact-based questions  
23 that must be resolved before this case can be fully and finally adjudicated. Certainly the persons  
24 most knowledgeable at the State, as well as persons most knowledgeable at various local  
25 governments will be able to testify to such matters. Moreover, local governments must file copies  
26 of their budgets with the Department on an annual basis. See NRS 354.598 (Local government  
27 budgets must be submitted to the Nevada Tax Commission). These avenues must be explored  
28 during discovery to determine if there truly are no disputes of material fact. As such, it is  
appropriate for this Court to deny the State's motion or alternatively, to grant a continuance

1 pursuant to NRCP 56(f) in order to allow discovery to proceed. (Exhibit 1, Affidavit of Joshua J.  
2 Hicks).

3 Moreover, the State's Motion for Summary Judgment is legally deficient under Rule 56(c).  
4 A summary judgment motion must "include a concise statement setting forth each fact material to  
5 the disposition of the motion which the party claims is or is not genuinely in issue, citing the  
6 particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission, or other  
7 evidence upon which the party relies." NRCP 56(c). Such a statement is absent from the State's  
8 motion. This is an important procedural rule that conserves judicial time and resources and assists  
9 the Court in ruling on a summary judgment motion. See *Simmons v. Navajo County, Arizona*, 609  
10 F.3d 1011 (9<sup>th</sup> Cir. 2010). The failure to include the concise statement is additional grounds to  
11 deny the State's Motion.

12 **C. Fernley Has Standing to Bring 14<sup>th</sup> Amendment Claims Against the State.**

13 The State accurately sets forth the general rule that a municipality lacks standing to bring a  
14 14<sup>th</sup> Amendment claim against the State. However, that general rule is not absolute and there are  
15 limited exceptions.

16 In *City of New York v. New York*, 86 N.Y.2d 286, 291-92, 655 N.E.2d 649 (1995), the  
17 Court noted that although a municipality is a "mere political subdivision of the State, created by  
18 the State Legislature and possessing no more power save that deputed to them by that body," there  
19 are nonetheless exceptions to the general lack of standing to bring federal constitutional claims in  
20 four circumstances, including where "State legislation adversely affects a municipality's  
21 proprietary interest in a specific fund of moneys . . ." *Id.* (citations omitted); See also *Rogers v.*  
22 *Brockette*, 588 F.2d 1057, 1068 (5<sup>th</sup> Cir. 1979) (rejecting the notion that a municipality never has  
23 standing to sue the state for violations of the federal constitution); *Fulton Foundation v. Wisconsin*  
24 *Department of Taxation*, 13 Wis.2d 1, 11, 108 N.W.2d 312, 317 (1961) (holding that public  
25 officers may challenge the constitutionality of a statute if it is their official duty to do so or they  
26 will be personally affected if they fail to do so); *Sanchez v. City of Modesto*, 145 Cal.App.4<sup>th</sup> 660,  
27  
28

1 676 (Cal.Ct.App. 2006) (recognizing an exception to the rule in situations where usual standards  
2 for third-party standing are satisfied).

3 Other courts have identified an exception to the general rule when the issue presented is of  
4 great public concern. See *Associated Hospital Service, Inc. v. City of Milwaukee*, 13 Wis.2d 447,  
5 469-70, 109 N.W.2d 271, 282 (1961); *Thompson v. South Carolina Commission on Alcohol and*  
6 *Drug Abuse*, 267 S.C. 463, 466, 229 S.E.2d 718, 719 (1976); *Minnesota State Bd. of Health v. City*  
7 *of Brainerd*, 308 Minn. 24, 29, 241 N.W.2d 624, 628 (1976) (quoting *State ex. r. Clinton Falls*  
8 *Nursery Co. v. County of Steele*, 181 Minn. 427, 430, 232 N.W. 737, 738 (1930)).

9 In particular, issues related to taxation are of great public interest and municipalities have  
10 been permitted to raise 14<sup>th</sup> Amendment challenges to them. *Associated Hospital Service*, 13  
11 Wis.2d at 469-70, 109 N.W.2d at 282; *Fulton Foundation v. Wisconsin Dept. of Taxation*, 13  
12 Wis.2d 1, 14A-14B, 109 N.W.2d 285, 285-86 (1961). On a motion for consideration, the *Fulton*  
13 *Foundation* court acknowledged that the disparate treatment of taxpayers affected more than just a  
14 few taxpayers, but affected the public at large. *Fulton Foundation*, 13 W.2d at 14A-14B, 109  
15 N.W.2d at 286. The court found that "extending special privileges by way of discriminating tax  
16 exemptions, which deny the equal-protection-of-the-laws requirement of the Fourteenth  
17 Amendment have a tendency to undermine the faith of citizens in the integrity of their state  
18 government." *Id.*

19 Fernley brought this suit on behalf of its approximately 19,000 residents. As alleged by  
20 Fernley, those residents are not receiving the benefit of a legally appropriate share of C-Tax  
21 revenues. In fact, Fernley has alleged and believes that discovery will show that its residents are  
22 paying significantly more into the C-Tax system than they are receiving from it. (Complaint, ¶39).  
23 Moreover, other local governments, and the numerous residents served by such local governments,  
24 may similarly be receiving either too much or not enough in terms of C-Tax distributions, and  
25 therefore are deprived of guarantees of equal protection and due process. Such allegations justify  
26 an exception to the general rule on municipal standing to bring 14<sup>th</sup> Amendment claims, as a  
27 matter of taxation that is of great public interest.

1 The State bases its standing argument primarily on *Nevada v. County of Douglas*, 90 Nev.  
2 272, 524 P.2d 1271 (1974). In that case, Douglas County sought to bring a 14<sup>th</sup> Amendment claim  
3 against the State with respect to the State's efforts to require Douglas County to pay a portion of  
4 the expenses of the Tahoe Regional Planning Agency. Without much discussion, and in reliance  
5 on century-old precedent, the Nevada Supreme Court held that Douglas County lacked standing to  
6 bring a 14<sup>th</sup> Amendment challenge against the State. *Id.*, 90 Nev. at 279-280. The Nevada  
7 Supreme Court did not consider whether there should be limited exceptions for issues of taxation  
8 and great public interest. Moreover, *County of Douglas* did not address a 14<sup>th</sup> Amendment  
9 challenge to a tax collection and distribution scheme. Accordingly, *County of Douglas* is nothing  
10 more than the general rule, and does not mean that this Court cannot utilize an exception.<sup>1</sup>

11 Fernley has standing to allege 14<sup>th</sup> Amendment claims against the State in this case, as a  
12 matter of taxation and great public interest. Accordingly, the State's Motion to Dismiss, or  
13 alternatively its motion for summary judgment, with respect to Fernley's standing to bring these  
14 claims should be denied.

15 **C. Fernley Has Adequately Stated a Claim Based on Article 3, Section 1 of the**  
16 **Nevada Constitution.**

17 The State argues that dismissal is appropriate because the C-Tax system is nothing more  
18 than a "tax law" and that the State is "simply performing their duties to execute the law as required  
19 by the Nevada Constitution." (Motion to Dismiss, 6). This is a gross oversimplification of the C-  
20 Tax System, and misunderstands Fernley's separation of powers argument.

21 As an initial matter, the C-Tax system is much more than a simple tax law. It is a complex  
22 system whereby revenues are collected from a variety of sources by the Department of Taxation,  
23 and then appropriated to local governments by the State based on a complex mathematical  
24 formula. See Exhibit 2 (*Consolidated Tax Distribution*, Department of Taxation, 1/21/11); see  
25 also NRS 370.260 (cigarette tax distribution); NRS 369.173 (liquor tax distribution); NRS

26 <sup>1</sup> The State also argues in a footnote that Fernley's 14<sup>th</sup> Amendment claims are "precluded by the principles articulated  
27 in *Madera v. SITS*, 114 Nev. 253, 956 P.2d 117 (Nev. 1998)." (Motion to Dismiss, 6 fn.2). With no pinpoint citation  
28 or any further explanation, it cannot be determined exactly what the State is arguing here. Nonetheless, *Madera*  
addressed the retroactivity of bad faith worker's compensation claims as well as the sufficiency of civil rights claims  
brought pursuant to 42 U.S.C. § 1983. Neither of those issues is germane to this case.

1 482.180 & 482.181 (government services tax distribution); NRS 375.070 (real property tax  
2 distribution); NRS 377.055 (basic city-county relief tax distribution); NRS 377.057  
3 (supplemental city-county relief tax distribution); NRS 360.680 (base allocations); NRS 360.690  
4 (excess allocations); NRS 360.600-360.740 (formula for distribution of C-Tax revenues); NRS  
5 354.598747 (limited adjustments to C-Tax revenues).

6 It is the appropriation aspect of the C-Tax system that gives rise to the fundamental  
7 separation of powers violation. It is true that the legislative branch can delegate rule and regulation  
8 making duties to other branches or administrative agencies. *Banegas v. State Indus. Ins. Sys.*, 117  
9 Nev. 222, 227, 19 P.3d 245, 248 (2001). It cannot, on the other hand, delegate its primary  
10 functions. See *Carmel Valley Fire Protection Dist. v State*, 25 Cal.4th, 287, 299, 20 P.3d 533, 540-  
11 41 (2001). Delegation of quasi-legislative functions is constitutional, but a delegation calls for an  
12 administrative branch to make a fundamental policy decision is not. *Id.* (citing *Loving v. U.S.*, 517  
13 U.S. 748 (1996)); *Plastic Pipe and Fitting Ass'n v. Cal.Bldg. Standards Com'n*, 124 Cal.App.4th  
14 1390, 1410, 22 Cal.Rptr.3d 393, 405 (2004).

15 One of the primary functions of the legislative branch is the power to appropriate funds, the  
16 "power of the purse" *State of Nev. Employees Ass'n, Inc. v. Daines*, 108 Nev. 15, 21, 824 P.2d 276,  
17 279 (1992) ("Further, it is well established that the power of controlling the public purse lies  
18 within legislative, not executive authority."); Nevada Constitution, Article 4 Sec. 19 ("No money  
19 shall be drawn from the treasury but in consequence of appropriations made by law."); NRS  
20 353.230 et. seq. (Appropriations made via bills passed by the Legislature); *Carmel Valley Fire*  
21 *Protection Dist.*, 25 Cal.4th at 299, 20 P.3d at 539 (stating that the core functions of the legislative  
22 branch include passing laws, levying taxes, and making appropriations).

23 As such, the Legislature may not constitutionally delegate the "power of the purse" to an  
24 administrative branch, *Folsom v. Wynn*, 631 So.2d 890, 894 (Alabama 1993). Appropriation  
25 determinations involve fundamental, wide policy and discretionary judgments, and cannot be  
26 delegated even with clear enough standards. *Id.* at 892-3.

1 The C-Tax system is set up to collect and appropriate funds without legislative  
2 participation or oversight. A review of the history of legislation passed that impacted the C-Tax  
3 system since 1997 demonstrates that with one exception, only minor legislative adjustments have  
4 been made to the C-Tax system. (Exhibit 3, *Legislative Commission's Subcommittee to Study the*  
5 *Allocation of Money Distributed From the Local Government Tax Distribution Account* (Assembly  
6 Bill 71, 2011 Legislature), Legislative Counsel Bureau, 109-118 (February 1, 2012)).<sup>2</sup> That one  
7 exception occurred in 2002, when Assembly Bill 10 of the 17<sup>th</sup> Special Session of the Legislature  
8 resulted in a \$4,000,000 adjustment to the City of Henderson's annual base allocation.<sup>3</sup> (Id., at  
9 115).

10 As alleged by Fernley and as discovery will further develop, the C-Tax system is set up to  
11 allow the executive branch to appropriate funds to local governments free of legislative oversight  
12 or intervention. When there is legislative involvement, and with only the aforementioned  
13 exception, it is only to tinker with minor adjustments to the formula. (Id., 109-118). Otherwise,  
14 the revenues are collected and appropriated via a complex mathematical formula by the executive  
15 branch without Legislative participation. The C-Tax system is appropriation by auto-pilot. The  
16 Legislature has abdicated its power of the public purse with respect to the C-Tax system and  
17 accordingly, Fernley has stated a claim that Article 3, Section 1 of the Nevada Constitution has  
18 been violated.

19 Taking the allegations of the Complaint as true, Fernley can present a set of facts to this  
20 Court to demonstrate how the C-Tax system results in an abdication of legislative authority and  
21 effectively appropriates funds without legislative approval. Even under a summary judgment  
22 standard, there are questions of material fact as to how the Legislature has overseen and approved  
23 the C-Tax system since 1997. Again viewing the allegations in a light most favorable to Fernley,  
24 these questions of material fact preclude the entry of summary judgment.

26 <sup>2</sup> This voluminous exhibit was prepared by the Legislative Counsel Bureau and disseminated to the public and to  
27 members of the Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local  
28 Government Tax Distribution Account at its first meeting on February 1, 2012. The length of this volume, which was  
intended to give a preliminary background into the C-Tax system, is indicative of just how complicated the C-Tax  
system is, and how many factual questions must be developed prior to an adjudication of this case on the merits.

<sup>3</sup> During that special session, the Speaker of the Assembly's district included the City of Henderson.

1           **D. Fernley Has Adequately Stated a Claim Based on Article 4, Section 20 of the**  
2 **Nevada Constitution.**

3           Article 4, Section 20 of the Nevada Constitution provides that the Legislature shall not pass  
4 local or special laws pertaining to the assessment and collection of taxes for state, county and  
5 township purposes. The State argues that Fernley fails to state a claim for relief because: (1)  
6 Fernley does not provide certain undefined services that would allow for an adjustment; (2)  
7 because Article 4, Section 20 does not apply to the distribution of tax revenues; and (3) because  
8 the C-Tax system itself is not a local or special law. These arguments are either based on facts that  
9 are not yet developed or are otherwise insufficient at this stage of the proceedings to justify  
10 dismissal.

11           As an initial matter, and as noted earlier in this memorandum, the type of services provided  
12 by Fernley as compared to other local governments is a fact-based question that must be developed  
13 during discovery. As noted earlier, there is no requirement that C-Tax revenues be used for any  
14 particular purpose and in fact, C-Tax revenues are commonly used by local governments for  
15 general operating purposes. (Complaint ¶8). Trying to tie C-Tax revenues to services reads  
16 requirements into the law that do not exist.

17           As Fernley should have a chance to develop during discovery, the C-Tax system is a  
18 mechanical formula designed to preserve the status quo since 1997 and is not tied to the provision  
19 of any services. Fernley expects discovery to show that any review by the State (or the  
20 Legislature) of how C-Tax funding levels related to services provided by local governments is  
21 effectively non-existent. Regardless, discovery is necessary to establish whether, as the State  
22 suggests, there is in fact some correlation between C-Tax revenues and services.

23           Moreover, because the State's suggestion about the funding of services is a fact-based  
24 inquiry, the issue requires a close examination of all local government budgets, which requires the  
25 parties to go through discovery.

26           It is also important to recognize that Article 4, Section 20 was enacted to "remedy an evil  
27 into which it was supposed the territorial legislature had fallen in the practice of passing local and  
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1 special laws for the benefit of individuals instead of enacting laws of a general nature for the  
2 benefit of the public welfare.” *Clean Water Coalition v. The M Resort LLC*, 127 Nev. Advance  
3 Opinion 24, 13 (2011) (citing to *Evans v. Job*, 8 Nev. 322, 333 (1873)). The Nevada Supreme  
4 Court went on to note that “[t]he problem with such lawmaking is that when ‘a law affects only  
5 one small area of the state, voters in most areas will be ignorant of and indifferent to it.’” *Id.*,  
6 (citing to *Municipal City of South Bend v. Kimsey*, 781 N.E.2d 683, 686 (Ind. 2003)). The ultimate  
7 purpose of this constitutional provision is “that when a statute affects the entire state, it is more  
8 likely to have been adequately considered by all members of the Legislature, whereas a localized  
9 statute is not apt to be considered seriously by those who are not affected by it.” *Id.* (citations  
10 omitted).

11 Fernley’s situation is precisely squared with the purposes of Article 4, Section 20. Fernley  
12 is a relatively small, rural city and is the only municipality to incorporate since the implementation  
13 of the C-Tax system in 1997. Fernley’s C-Tax distributions are undeniably significantly lower  
14 than comparably sized municipalities. (Complaint, ¶¶ 9-14). And has been demonstrated by way  
15 of Fernley’s efforts to obtain a C-Tax adjustment, there is very little concern over Fernley’s  
16 situation by anyone outside of Fernley. While Fernley has attempted to seek redress in the  
17 Legislature, and submitted a bill to the Legislature in 2011, that bill did not even get a committee  
18 vote and can hardly be said to have been “considered seriously” by the Legislature as a whole.  
19 (Complaint, ¶16). Further, the Legislature’s pending efforts to intervene in and dismiss this case is  
20 certainly indicative of how that body feels about Fernley’s concerns.

21 The State argues that the C-Tax system is not special or local “because it is applied to  
22 Fernley in the same manner as any other city incorporated after its passage.” (Motion to Dismiss,  
23 10). This ignores the fact that Fernley is the only municipality to incorporate since the  
24 implementation of the C-Tax system and that the root of the problem is that Fernley’s base  
25 allocation is so low that there is no opportunity for a meaningful adjustment. The State’s position  
26 ignores that Fernley, as a late arrival to the C-Tax system, started from a handicap that other  
27 participants did not experience. Fernley is simply not on equal footing with other participants in  
28

1 the C-Tax system and therefore, as applied to Fernley, the C-Tax system is a special or local law.  
2 See *Clean Water Coalition*, at 16 (holding that “the determination of whether a law is local or  
3 special is based on how it is applied, not on how it actually operates.”) (citation omitted).

4 For example, Fernley formally asked the Department to articulate the manner in which it  
5 could seek an adjustment of its C-Tax revenues. (Exhibit 4). The Department responded in  
6 writing. (Exhibit 5). In summary, the Department noted that adjustments are appropriate in two  
7 circumstances. First, an adjustment is appropriate pursuant to NRS 360.740, which allows a local  
8 government created after July 1, 1998 to petition the Nevada Tax Commission for additional  
9 revenues if that local government provides certain services. NRS 360.740(1); (Exhibit 5). It  
10 should be noted that this is no guarantee of an adjustment, as the request must be considered not  
11 only by the Department, but also by the Committee on Local Government Finance and the Nevada  
12 Tax Commission. NRS 360.740(1) & (4). Regardless, any requests for an adjustment made  
13 pursuant to NRS 360.740 must be made within a year of the creation of the local government or  
14 the local government. NRS 360.740(2). Since Fernley incorporated in 2001, that option is not  
15 available.

16 The only other option for an adjustment is set forth in NRS 354.598747.<sup>4</sup> (Exhibit 5).  
17 That statute allows for an adjustment if one local government “assumes the functions” of another  
18 local government. NRS 354.596747(1). However, this section does not address the situation that  
19 Fernley is in – when a local government has a base allocation that is so low that only a significant  
20 adjustment will provide relief, it is simply unrealistic to expect another local government to give  
21 up a significant share of its revenues, even if there is an agreement to assume some services. As  
22 alleged by Fernley, and as discovery is expected to show, Lyon County has been unwilling to  
23 agree to any meaningful adjustments and in fact, has taken no action on even relatively small  
24 requests for adjustments. (Complaint, ¶16); (Exhibit 6, Lyon County Commission Agenda, March  
25 3, 2011 Agenda Item #22) (Showing the Lyon County Commission tabling Fernley’s request for  
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27  
28 <sup>4</sup> Typically a statute has 3 numbers after the decimal point. The fact that the statutes governing the C-Tax system  
include up to 6 numbers after the decimal point is a good indicator of how complicated the system has become.

1 additional C-Tax money to be used for road construction). In other words, the supposed relief  
2 available to Fernley is nothing more than a mirage.

3       Regardless, and as noted earlier, C-Tax revenues do not need to be used for the provision  
4 of any particular service and can be used for general operating purposes. (Complaint, ¶8).  
5 Accordingly, NRS 354.598747, in addition to being an unrealistic option for meaningful  
6 adjustment, arbitrarily precludes a local government from seeking greater revenues when they may  
7 have needs that are unique to their situation and are not based on delineated services.

8       Ultimately, a system that “on its face advances statewide objectives” but burdens one  
9 particular entity is a local or special law for purposes of Article 4, Section 20. *Clean Water*  
10 *Coalition*, 127 Nev. Advance Op. 24, at 18 (citations omitted). The C-Tax system, on its face,  
11 appears to advance statewide objectives of providing collection and distribution of certain taxes to  
12 local governments. But the system heavily burdens the only municipality to incorporate since its  
13 implementation in 1997 by providing no avenues for meaningful adjustment.

14       Finally, with respect to the State’s argument that Article 4, Section 20 does not apply to the  
15 distribution of tax revenues, it should be noted at the outset that the C-Tax system is both a  
16 collection and distribution scheme. Collection and distribution are inextricably intertwined. This  
17 is not a system where taxes are collected and thereafter appropriated by the Legislature for various  
18 purposes. This is, instead, a system where taxes are collected and distributions of those same taxes  
19 are directed to specific locations without deviation or legislative participation. Moreover, Fernley  
20 has alleged that the collection of revenues from its residents vastly exceeds the amounts distributed  
21 is a violation in and of itself. (Complaint, ¶39).

22       Treating the C-Tax system as exclusively a “distribution” system free from the  
23 constitutional limitations set forth in Article 4, Section 20 of the Nevada Constitution would  
24 effectively allow the circumvention of constitutional protections. For example, taken to a logical  
25 conclusion this would mean the Legislature could pass a law that all sales tax revenue collected  
26 throughout the state should go, by statute and without further legislative approval, to the City of  
27 Las Vegas. According to the State’s interpretation, this would pass constitutional muster under  
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1 Article 4, Section 20 because it pertains only to the distribution of tax revenue. However, such  
2 legislation would clearly burden all local governments except the City of Las Vegas, and runs  
3 contrary to Article 4, Section 20's purpose to "remedy an evil into which it was supposed the  
4 territorial legislature had fallen in the practice of passing local and special laws for the benefit of  
5 individuals instead of enacting laws of a general nature for the benefit of the public welfare." *Id.*,  
6 127 Nev. Advance Opinion at 13 (2011) (citing to *Evans v. Job*, 8 Nev. 322, 333 (1873)).

7 For all of these reasons, and taking Fernley's allegations as true and reviewing the  
8 pleadings in a light most favorable to Fernley, Fernley has stated a claim for relief pursuant to  
9 Article 4, Section 20 of the Nevada Constitution.

10 **E. Fernley has Adequately Stated a Claim Based on Article 4, Section 21 of the**  
11 **Nevada Constitution.**

12 Article 4, Section 21 of the Nevada Constitution provides as follows:  
13 In all cases enumerated in the preceding section, and in all other cases where a  
14 general law can be made applicable, all laws shall be general and of uniform  
15 operation throughout the State.

16 As noted in the prior section of this memorandum, the C-Tax system is a local or special  
17 law. Even if it is not, it still must be analyzed for constitutional compliance with Article 4, Section  
18 21. See *Clean Water Coalition*, 127 Nev. Advance Op. at 25 ("Even if this court were to credit the  
19 State's argument that A.B. 6, section 18 involves only fees, not a tax, taking it outside Article 4,  
20 Section 20, the measure still fails because it violates Article 4, Section 21, which mandates general  
21 laws in all cases where they 'can be made applicable.'").

22 To determine whether a general law could be applicable for purposes of Article 4, Section  
23 21, the Court must evaluate "whether the challenged law 'best subserve[s] the interests of the  
24 people of the state, or such class or portion as the particular legislation is intended to affect." *Id.*,  
25 at 26 (citing to *Nevada v. Irwin*, 5 Nev. 111, 122 (1869)). Relevant to the inquiry is whether "the  
26 general legislation existing was insufficient to meet the peculiar needs of a particular situation."  
27 *Id.*, (quoting from *Cable v. Beemer*, 64 Nev. 77, 96, 177 P.2d 677 (1947)). Local or special laws  
28 are typically upheld where "an emergency situation existed within a certain county or locality and

1 a general law could not apply to address the situation because only that county or locality was  
2 affected.” *Id.* (citations omitted). Importantly, “political differences that might make it difficult to  
3 agree on a generally applicable law” are insufficient to withstand constitutional scrutiny. *Id.*, at 28.

4 The State argues that a general law cannot be made applicable because “the clear purpose  
5 of the C-Tax is to distribute State revenue to government entities that provide needed services such  
6 as law enforcement and fire protection.” (Motion to Dismiss, 12). No citation of authority or any  
7 evidence whatsoever is cited for the State’s claim, and it must fail on that ground alone.

8 Regardless, and if services are so germane to the provision of C-Tax revenues, then why  
9 are local governments not precluded from using C-Tax revenues for anything but these “needed  
10 services?” And if funding these services is so critical, why would the Legislature set up the C-Tax  
11 system in the first place and take no active role in reviewing the budgets of local governments and  
12 appropriating funds as necessary to fund such needed services? See NRS 354.598 (Providing that  
13 local government budgets are submitted to the Nevada Tax Commission, but making no  
14 requirement that such budgets be approved by the State or the Legislature).

15 Ultimately, a general law can easily be made applicable with respect to the collection and  
16 appropriation of the six taxes that make up the C-Tax system. Instead of an automatic  
17 appropriation based on a complex mathematical formula that preserves the status quo in place in  
18 1997, the taxes could simply be collected, deposited into a fund segregated for local governments,  
19 and appropriated biennially by the Legislature after a careful review of local government budgets.  
20 While this might result in challenges from “political differences,” that has been found by the  
21 Nevada Supreme Court to be an insufficient reason to satisfy constitutional requirements. *Id.*, at  
22 28.

23 The Nevada Supreme Court has also struck down similar legislation in *Anthony v. State*, 94  
24 Nev. 338, 580 P.2d 939 (1978). In *Anthony*, the challenged law provided that in a county with  
25 more than 200,000 people, 68.5% of certain tax revenues “shall be apportioned to the largest city  
26 and the remainder among the other cities in proportion to their respective populations.” *Id.*, 94  
27 Nev. at 340. In rejecting that law pursuant to Article 4, Section 20, the Nevada Supreme Court  
28

1 found that the "Legislature's intent, though commendable, was to protect the fiscal policy of Clark  
2 County and not the financial ability of smaller cities to provided needed services." *Id.*, 94 Nev. at  
3 341. Moreover, in finding that a general law could be made applicable to the situation, the Court  
4 stated that "[i]t is clear to us that the only purpose of the amendments is to perpetuate the existing  
5 state of affairs in Clark County." *Id.*

6 The situation here is the same. The C-Tax system perpetuates the state of affairs in place in  
7 1997, and to protect the fiscal policy of participants in the system in 1997 to the exclusion of new  
8 local governments.

9 Again taking the allegations of the Complaint as true as is appropriate when reviewing a  
10 motion pursuant to Rule 12(b), Fernley can present a set of facts to this Court to demonstrate how  
11 the C-Tax system is not of general and uniform operation, although it could be in different  
12 circumstances. Even under a summary judgment standard, there are questions of material fact as  
13 to whether the C-Tax system is not general and uniform, and whether there is a more general and  
14 uniform way to administer the C-Tax system. Again viewing the allegations in a light most  
15 favorable to Fernley, these questions of material fact preclude the entry of summary judgment. For  
16 all of these reasons, Fernley has adequately stated a claim for relief based on Article 4, Section 21  
17 of the Nevada Constitution.

### 18 III. CONCLUSION

19 The State's Motion to Dismiss is in reality a motion for summary judgment. As discovery  
20 has not commenced, the Motion should be denied or alternatively continued so there is an  
21 opportunity to develop the record prior to an adjudication on the merits.

22 Regardless, Fernley has stated a claim with respect to its 14<sup>th</sup> Amendment claims as they  
23 claims raise questions of taxation and public interest, justifying an exception to the general rule of  
24 standing for municipal actions against a state. Fernley has similarly adequately stated claims for  
25 relief under Article 3, Section 1, Article 4, Section 20 and Article 4, Section 21 of the Nevada  
26 Constitution. In reviewing those claims under a Rule 12(b) standard, Fernley can prove a set of  
27  
28

BROWNSTEIN HYATT FARBER SCHRECK  
50 West Liberty Street, Suite 1030  
Reno, Nevada 89501  
(775) 622-9450

1 facts that would entitle it to relief. In reviewing those claims under a Rule 56 standard, questions  
2 of material fact remain which preclude entry of summary judgment.

3 For all of these reasons, the State's Motion to Dismiss should be denied in its entirety.

4 DATED this 20<sup>th</sup> day of August, 2012.

5 BROWNSTEIN HYATT FARBER SCHRECK, LLP

6   
7 Joshua J. Hicks, Nevada Bar No. 6679

8 Clark V. Vellis, Nevada Bar No. 5533

9 Sean D. Lyttle, Nevada Bar No. 11640

10 BROWNSTEIN HYATT FARBER SCHRECK, LLP

11 50 West Liberty Street, Suite 1030

12 Reno, Nevada 89501

13 *Attorneys for Plaintiff the City of Fernley, Nevada*

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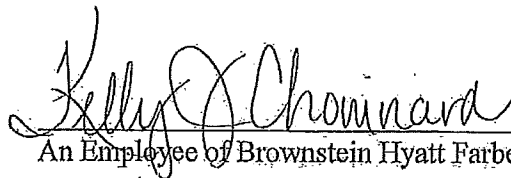
**CERTIFICATE OF SERVICE**

I certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and that on this 20<sup>th</sup> day of August, 2012, I caused to be hand delivered, a true and correct copy of the above and foregoing **CITY OF FERNLEY'S OPPOSITION TO MOTION TO DISMISS AND MOTION FOR CONTINUANCE PURSUANT TO NRCP 56(f)** properly addressed to the following:

Catherine Cortez Masto, Esq.  
Gina C. Session, Esq.  
Andrea Nichols, Esq.  
Office of the Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717

Courtesy copy to:

Kevin Powers, Esq.  
Legislative Counsel Bureau  
401 South Carson Street  
Carson City, Nevada 89701

  
An Employee of Brownstein Hyatt Farber Schreck, LLP



CITY OF FERNLEY, NEVADA, a Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA DEPARTMENT OF TAXATION; THE  
HONORABLE KATE MARSHALL, in her official capacity as TREASURER OF THE STATE  
OF NEVADA; and DOES 1-20, inclusive,

Defendants.

Case No.: 12 OC 00168 1B

Dept. No.: I

**INDEX OF EXHIBITS TO OPPOSITION TO MOTION TO DISMISS AND MOTION  
FOR CONTINUANCE PURSUANT TO NRCP RULE 56(f)**

EXHIBIT #	TITLE	# OF PAGES
1	Affidavit of Joshua J. Hicks in Support of Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP Rule 56(f)	2
2	"Consolidated Tax Distribution" Power Point -- Prepared by the Nevada Department of Taxation 1/21/2011	17
3	"Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account (Assembly Bill 71, 2011 Legislature)	238
4	Letter from Joshua Hicks to William Chisel, November 1, 2011	2
5	Letter from William Chisel to Joshua Hicks, December 20, 2011	3
6	Minutes of the Lyon County Commission Meeting of March 3, 2011	7

# EXHIBIT 1

1 Joshua J. Hicks, Nevada Bar No. 6679  
Clark V. Vellis, Nevada Bar No. 5533  
2 Sean D. Lyttle, Nevada Bar No. 11640  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
3 50 West Liberty Street, Suite 1030  
4 Reno, Nevada 89501  
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5 Facsimile: 775-622-9554  
Email: jhicks@bhfs.com  
6 Email: cvellis@bhfs.com  
Email: slyttle@bhfs.com  
7

8 *Attorneys for the City of Fernley, Nevada*  
9

10 **IN THE FIRST JUDICIAL DISTRICT COURT**  
11 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

12 CITY OF FERNLEY, NEVADA, a  
Nevada municipal corporation,

13 Plaintiff,

14 v.

15 STATE OF NEVADA ex rel. THE NEVADA  
16 DEPARTMENT OF TAXATION; THE  
HONORABLE KATE MARSHALL, in her  
17 official capacity as TREASURER OF THE  
STATE OF NEVADA; and DOES 1-20,  
18 inclusive,

19 Defendants.

Case No.: 12 OC 00168 1B

Dept. No.: I

**AFFIDAVIT OF JOSHUA J. HICKS  
IN SUPPORT OF OPPOSITION TO  
MOTION TO DISMISS AND  
MOTION FOR CONTINUANCE  
PURSUANT TO NRCP RULE 56(f)**

20 STATE OF NEVADA

21 COUNTY OF WASHOE

22 } ss:  
23 }

24 I, Joshua J. Hicks, Esq., being first duly sworn, depose and state:

25 1. I am an attorney duly licensed to practice law in the State of Nevada.

26 2. I am an attorney with the law firm Brownstein Hyatt Farber Schreck, LLP and am  
counsel for Plaintiff City of Fernley ("Fernley"), in the above-captioned matter.

27 3. I make this affidavit in support of Fernley's Opposition to Defendants' Motion to  
28 Dismiss and Fernley's contemporaneous Motion for Continuance Pursuant to NRCP 56(f).

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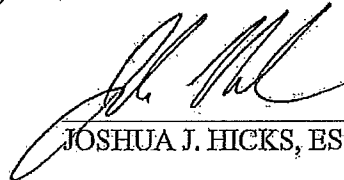
4. Fernley's Complaint in the above captioned matter was filed with this Court on June 6, 2012.

5. The only response to date from Defendants is their Motion to Dismiss the entire case. Defendant's Motion includes an exhibit entitled "CTX Distributions for Nevada Cities Public Safety Costs for Nevada Cities."

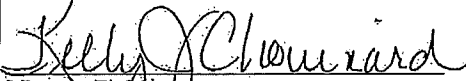
6. Discovery has not commenced in this case, and accordingly Fernley has not had an opportunity to develop the record in order to adequately rebut the facts alleged in the exhibit presented by the Defendants.

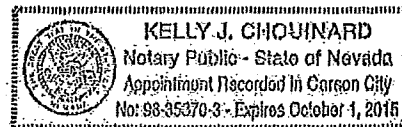
7. I declare under penalty of perjury that the foregoing is true and correct.

DATED this 19<sup>th</sup> day of August, 2012.

  
JOSHUA J. HICKS, ESQ.

SUBSCRIBED AND SWORN TO before  
me this 19<sup>th</sup> day of August, 2012.

  
Notary Public



# ***Consolidated Tax Distribution***

Or, "Can anyone explain the CTX?"

Prepared by the Nevada Department of Taxation 1/21/2011

Committee: Assembly Taxation  
Exhibit: C ; P. 1 of 17 ; Date: 2/22/11  
Submitted by: Marian Henderson.

## Introduction to the Consolidated Tax Distribution (CTX)

- CTX was implemented in 1997 as a way to combine the distribution of six different tax types into one monthly distribution.
- Each tax type may have various distribution formulas which are applied.
- Additional details may be found in the Nevada Revised Statutes, or by contacting the Department of Taxation.

# The Components of CTX

1) Cigarette Tax

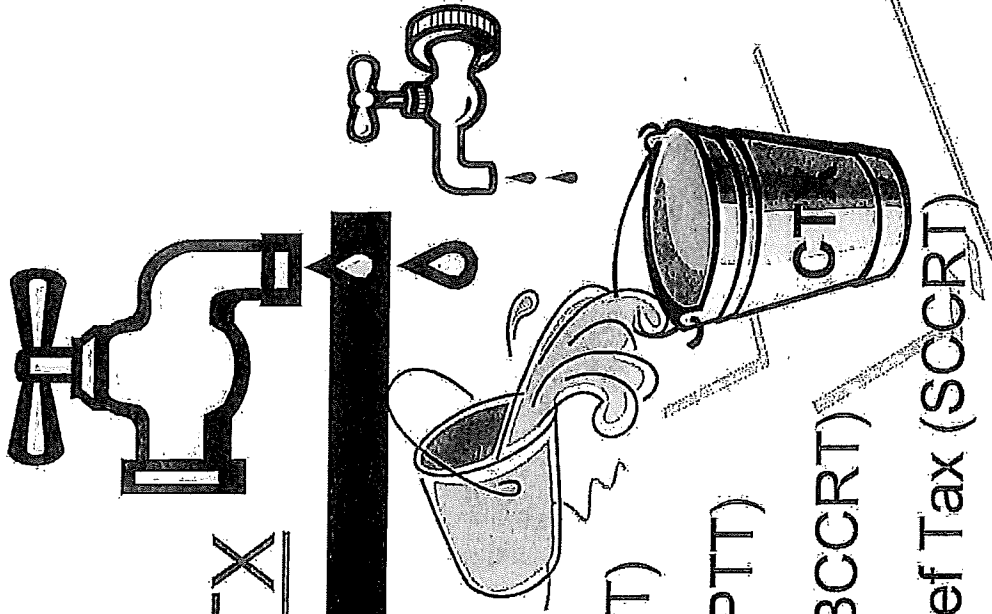
2) Liquor Tax

3) Government Services Tax (GST)

4) Real Property Transfer Tax (RPTT)

5) Basic City County Relief Tax (BCCRT)

6) Supplemental City County Relief Tax (SCCRT)



## The CTX components explained

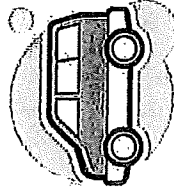
- **Cigarette Tax** -- 5 mills (1/2 cent) per cigarette/10 cents per pack of 20. The total amount of tax collected statewide is distributed amongst the counties on the basis of their population. NRS 370.260
- **Liquor Tax** -- 50 cents per gallon of liquor containing over 22% alcohol. The total amount of tax collected statewide is distributed amongst the counties on the basis of their population. NRS 369.173





## The CTX components explained

- **Government Services Tax (GST)** – formerly called Motor Vehicle Privilege Tax (MVPT) is collected by the Department of Motor Vehicles. It is based on the value of a motor vehicle at the time of registration. The GST is distributed back to the county of origin. NRS 482.180 and 482.181



- **Real Property Transfer Tax (RPTT)** – 55 cents per \$500 of value on real property transfers within each county. The RPTT is distributed back to the county of origin. NRS 375

## The CTX components explained

- **Basic City County Relief Tax (BCCRT)** -  $\frac{1}{2}\%$  of the 6.85% statewide sales/use tax rate. The BCCRT is distributed to the county where the company is located. For out-of-state companies, the BCCRT is distributed amongst all counties on the basis of population. NRS 377.055
- **Supplemental City-County Relief Tax (SCCRT)** -- 1.75% of the 6.85% statewide sales/use tax rate. SCCRT is distributed back to the counties based on a statutory distribution formula. NRS 377.057

## The CTX components explained

- **Supplemental City-County Relief Tax (SCCRT)**  
continued –

- Nine of Nevada's counties ("Guaranteed Counties") receive a guaranteed monthly allocation of SCCRT regardless of their SCCRT receipts per NRS 377.057
- The remaining counties' ("Point of Origin Counties") SCCRT distribution is in proportion to the amount of their in-state collections to the state as a whole after the Guaranteed Counties have first received their allocation

# Sample Calculation for SCRT

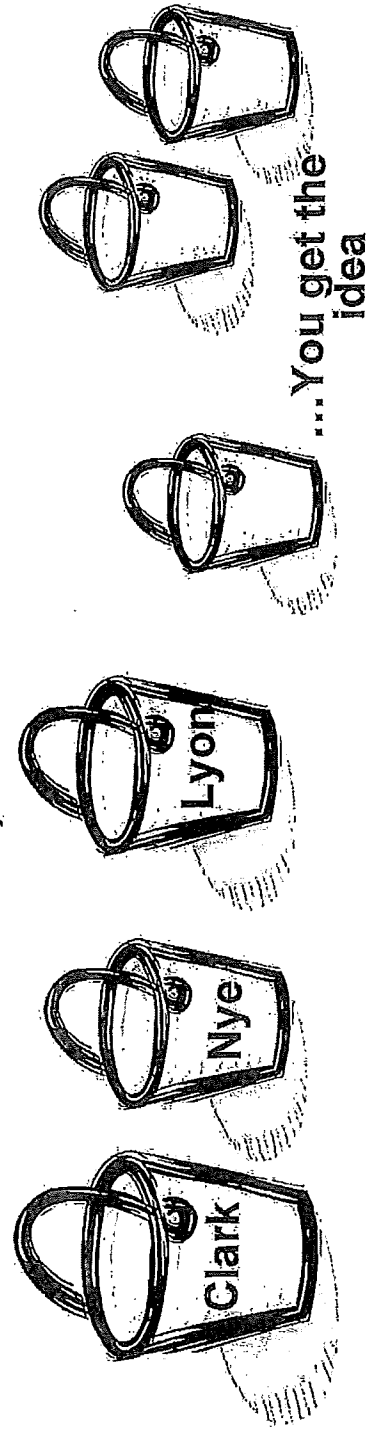
- 1) The Guaranteed counties' distribution is subtracted from the total in-state collections. (\$49,259,677.14 - \$3,035,034.16 = \$46,224,642.98)
- 2) The percentage of each Point of Origin county's in-state collections to the whole of the remaining in-state collections is determined. (Clark is \$36,690,800.22 ÷ \$47,349,827.60 = 77.4888%)
- 3) The above percentage is applied to the total amount remaining after the Guaranteed counties' distribution. (Clark is 77.4888% X \$50,165,027.06 = \$38,872,262.74)

## FY 10-11 CONSOLIDATED TAX DISTRIBUTION CALCULATION OF TAX TO COUNTIES

COUNTY	SCRT IN-STATE COLLECTIONS	GUARANTEED COUNTIES	COLLECTIONS	% OF TOTAL	DISTRIBUTION	SCRT CO ALLOCATION
CARSON CITY	943,842.47		943,842.47	1.9933%	999,958.93	999,958.93
CHURCHILL	279,467.63		279,467.63	0.5902%	296,083.47	296,083.47
CLARK	36,690,800.22		36,690,800.22	77.4888%	38,872,263.74	38,872,263.74
DOUGLAS	672,073.74					
ELKO	1,471,591.14		1,471,591.14	3.1079%	1,559,085.07	1,158,779.79
ESMERALDA	15,693.32					80,858.35
EUREKA	345,454.85		345,454.85	0.7296%	365,993.98	365,993.98
HUMBOLDT	732,106.66		732,106.66	1.5462%	775,634.30	775,634.30
LANDER	260,879.23					202,595.46
LINCOLN	37,652.70					97,674.90
LYON	352,415.79					861,255.23
MINERAL	45,102.43					129,566.69
NYE	530,694.20		530,694.20	1.1206%	562,246.80	562,246.80
PERSHING	49,773.63					153,564.91
STOREY	74,447.66					127,729.68
WASHOE	6,355,870.43		6,355,870.43	13.4232%	6,733,760.78	6,733,760.78
WHITE PINE	401,811.04					223,009.15
<b>TOTAL</b>	<b>49,259,677.14</b>	<b>3,035,034.16</b>	<b>47,349,827.60</b>	<b>100.0000%</b>	<b>50,165,027.06</b>	<b>53,200,061.23</b>
TOTAL SCRT IN-STATE COLLECTIONS						
TOTAL SCRT OUT-OF-STATE RECEIPTS						
OTHER ADDITIONS						
LESS SCRT GENERAL FUND COMMISSION						
SCRT AVAILABLE FOR DISTRIBUTION						
			49,259,677.14			
			4,891,239.56			
			<u>950,855.47</u>			
			<u>53,200,061.23</u>			

## First Tier vs. Second Tier distribution

- **First Tier** – Total amount of CTX available for distribution from all of the components is allocated among the 17 counties. (Think of 17 buckets, each containing one county's total distribution.)



# First Tier Distribution amounts

This spreadsheet is a sample of one month's distribution. The CTX Components are highlighted in green. The "Total" amount for Churchill (highlighted in orange) is the first tier distribution to that county.

COUNTY	BCCRT	SCCRT	CIGARETTE	LIQUOR	RPTI	GST	TOTAL
CARSON CITY	378,617.62	1,281,040.97	25,037.52	7,850.08	-	218,951.24	1,911,497.43
CHURCHILL	126,002.13	401,669.77	11,656.32	3,654.64	-	100,327.04	643,309.90
CLARK	14,352,887.88	49,775,656.81	787,631.47	246,948.18	-	8,766,218.67	73,929,343.01
DOUGLAS	293,459.99	1,297,776.06	21,970.09	6,888.34	-	230,668.53	1,850,763.01
ELKO	457,749.07	1,619,127.58	20,864.31	6,541.64	20,209.20	255,263.10	2,379,754.90
ESMERALDA	32,942.09	94,476.78	559.47	175.41	-	8,400.69	136,554.44
EUREKA	116,962.58	448,518.63	651.11	204.14	854.15	12,157.86	579,348.47
HUMBOLDT	186,310.44	665,744.07	7,582.20	2,377.27	-	105,983.71	967,997.69
LANDER	120,818.01	228,320.93	2,415.45	757.32	2,595.45	36,474.91	391,382.07
LINCOLN	12,385.40	110,150.94	1,703.84	534.21	-	30,196.07	154,970.46
LYON	163,365.53	931,466.37	21,422.90	6,716.78	39,896.45	239,807.78	1,402,675.81
MINERAL	17,628.11	153,553.59	2,029.61	636.35	-	23,624.31	197,471.97
NYE	255,279.01	854,688.94	18,109.06	5,677.78	-	243,619.07	1,377,373.86
PERSHING	30,631.70	172,098.95	2,953.43	926.00	-	26,943.21	233,553.29
STOREY	24,402.11	144,250.52	1,759.08	551.53	-	24,659.54	195,622.78
WASHOE	2,801,183.43	9,563,000.38	173,998.16	54,554.10	457,631.35	2,023,238.32	15,073,605.74
WHITE PINE	60,383.38	250,802.06	4,066.67	1,275.03	-	51,731.75	368,258.89
TOTAL	19,431,008.48	67,992,343.34	1,104,410.69	346,268.80	521,186.60	12,398,265.80	101,793,483.71

C-10

## First Tier vs. Second Tier distribution

- **Second Tier** – Each county's Second Tier distribution is a further breakdown of the First Tier distribution. The revenue is now allocated among the Local Governments and Special Districts in each county according to *Base and Excess Distribution* formulas.

## The Second Tier distribution

### The Base Distribution--

- Each entity (local government) has a base allocation that was determined when CTX was established in 1997.
- Base allocations are recalculated annually. The lesser of the prior year's base or actual allocation multiplied by the Consumer Price Index determines the next year's base allocation. NRS 360.680



# Sample Base Distribution

Note that the "Revenue Available to Distribute" is the same as the First Tier distribution amount. It is allocated among the local governments according to the Base Distribution percentage. In the case where revenue is less than the base distribution amount, a modified distribution is made prorating the amount of revenue available among the local governments in the same proportion as the base distribution.

	BASE MONTHLY ALLOCATION	% OF BASE	MODIFIED DISTRIBUTION	EXCESS DISTRIBUTION OR SHORTFALL	BASE DISTRIBUTION
FY 06-07					
THE COUNTY OF CHURCHILL					
REVENUE AVAILABLE TO DISTRIBUTE	643,309.90				
LOCAL GOVERNMENTS					
CHURCHILL COUNTY	423,136.25	0.7474	-	-	423,136.25
FAILLON	121,237.70	0.2141	-	-	121,237.70
SPECIAL DISTRICTS					
CARSON-TRUCKEE WATER CONSERVANCY	636.39	0.0011	-	-	636.39
CHURCHILL MOSQUITO ABATEMENT GID	21,164.79	0.0374	-	-	21,164.79
TOTAL CHURCHILL COUNTY	566,175.14	1.0000	-	77,134.76	566,175.14



# The Second Tier distribution

## Excess Distribution--

- The Excess Distribution is the amount of revenue available to distribute after the Base Distribution has been made.
- Excess is distributed based on a formula combining the 5 year moving average of the changes in population and assessed valuation for each local government. Special Districts have no associated population, so only the change in assessed valuation is used in calculating their excess distribution. NRS 360.690

# Sample Excess Distribution

The Revenue Available to Distribute less the Base Distribution equals the amount of excess distribution. In the case where the amount of revenue is less than the base distribution, there is no excess distribution.

FY06-07	THE COUNTY OF CHURCHILL	WITH 1 PLUS		NO 1 PLUS		EXCESS DISTRIBUTION	TOTAL DISTRIBUTION
		BASE DISTRIBUTION	EXCESS %	DISTRIBUTION	EXCESS %		
	REVENUE AVAILABLE TO DISTRIBUTE	643,309.90				77,134.76	
	LOCAL GOVERNMENTS						
	CHURCHILL COUNTY	423,136.25	-		0.7789	60,079.17	483,215.41
	FALLON	121,237.70	-		0.1909	14,725.43	135,963.14
	SPECIAL DISTRICTS						
	CARSON-TRUCKEE WATER CONSERVANCY	636.39	-		0.0009	67.96	704.36
	CHURCHILL MOSQUITO ABA TEMENT GID	21,164.79	-		0.0293	2,262.20	23,426.99
	TOTAL CHURCHILL COUNTY	566,175.14	0.0009		1.0000	77,134.76	643,309.90

This column is calculated according to a statutory formula

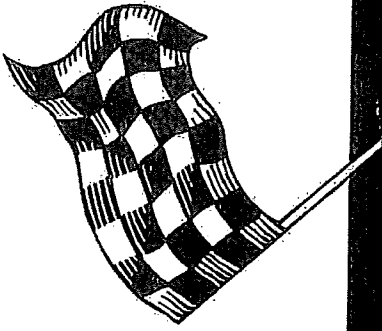
## Using "1 Plus" or "No 1 Plus"

- "No 1 plus" is always the default ~~(1+)~~

- Conditions for using "1 Plus" (NRS 360.690):

- The sum of the population growth factor & assessed value growth factor for each entity in the county is a negative number AND the average change of assessed value in each special district is negative; OR
- The sum of the population growth factor & assessed value growth factor for each entity is a negative number AND the average change of assessed value in any special district is positive; OR
- The county has a \$50 million or greater 5 year average in Net Proceeds of Minerals (NPM) OR the 5 year average of population is negative OR \$50 million in NPM and negative population

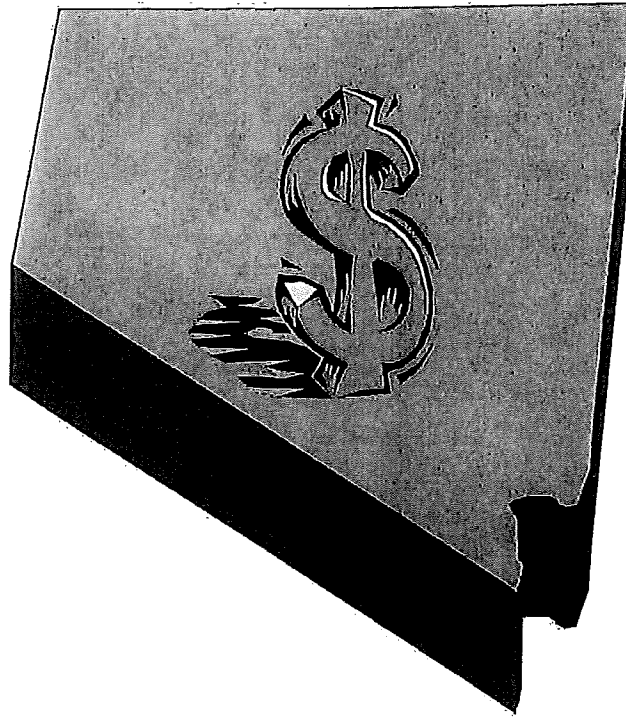
## Summary



- The CTX distributes six different tax types
- The first tier calculation is the gross revenue allocated to each of the 17 counties
- The second tier calculation allocates the revenue among the entities within a county
- The base distribution is calculated prior to the excess distribution
- The excess distribution may be distributed using the One Plus or No One Plus formula

# EXHIBIT 3

**LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY  
THE ALLOCATION OF MONEY DISTRIBUTED FROM THE  
LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT  
(ASSEMBLY BILL 71, 2011 LEGISLATURE)**



**Wednesday, February 1, 2012, 3:00 p.m.**

**Grant Sawyer State Office Building  
555 East Washington Avenue  
Las Vegas, Nevada  
Room 4401**

**Videoconference to:**

**Legislative Building  
401 South Carson Street  
Carson City, Nevada  
Room 3138**

**Great Basin College  
1500 College Parkway  
Elko, Nevada  
High Tech Center, Room 120**





STATE OF NEVADA  
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE COMMISSION (775) 684-6800  
STEVEN A. HORSFORD, *Senator, Chairman*  
Lorne J. Malkiewicz, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821  
DEBBIE SMITH, *Assemblywoman, Chair*  
Rick Combs, *Fiscal Analyst*  
Mark Krmpotic, *Fiscal Analyst*



CARSON CITY OFFICE:  
Legislative Building, 401 S. Carson Street  
Carson City, Nevada 89701-4747  
Fax No.: (775) 684-6800  
LORNE J. MALKIEWICH, *Director* (775) 684-6800  
BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830  
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815  
DONALD O. WILLIAMS, *Research Director* (775) 684-6825

LAS VEGAS OFFICE:  
555 E. Washington Avenue, Room 4400  
Las Vegas, Nevada 89101-1049  
Fax No.: (702) 486-2810  
BRIAN L. DAVIE, *Legislative Services Officer* (702) 486-2800

**MEETING NOTICE AND AGENDA**

**Name of Organization:** LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO  
STUDY THE ALLOCATION OF MONEY DISTRIBUTED  
FROM THE LOCAL GOVERNMENT TAX DISTRIBUTION  
ACCOUNT (ASSEMBLY BILL 71, 2011 LEGISLATURE)

**Date and Time of Meeting:** February 1, 2012 – 3:00 p.m.

**Place of Meeting:** Grant Sawyer State Office Building  
Room 4401  
555 East Washington Avenue  
Las Vegas, Nevada

**Note:** Some members of the committee may be attending the meeting and other persons may observe the meeting and provide testimony through a simultaneous videoconference conducted at the following locations:

Legislative Building  
Room 3138  
401 South Carson Street  
Carson City, Nevada

Great Basin College  
High Tech Center  
Room 120  
1500 College Parkway  
Elko, Nevada

*If you cannot attend the meeting, you can listen to or view it live over the Internet. The address for the Nevada Legislature website is <http://www.leg.state.nv.us>. Click on the link "Live Meetings – Listen or View."*

**Note:** Please provide the secretary with electronic or written copies of testimony and visual presentations if you wish to have complete versions included as exhibits with the minutes.

**AGENDA**

**Note:** Items on this agenda may be taken in a different order than listed. Two or more agenda items may be combined for consideration. An item may be removed from this agenda or discussion relating to an item on this agenda may be delayed at any time.

I. ROLL CALL.

II. INTRODUCTION AND OPENING REMARKS.  
ASSEMBLYWOMAN MARILYN KIRKPATRICK, CHAIR

- III. PUBLIC COMMENT.  
(Because of time considerations, the period for public comment by each speaker may be limited, and speakers are urged to avoid repetition of comments made by previous speakers.)
- IV. OVERVIEW OF THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT AND THE CONSOLIDATED TAX DISTRIBUTION (CTX).
- V. OVERVIEW OF THE SIX REVENUE SOURCES DEDICATED TO THE CTX AND THEIR DISTRIBUTION TO COUNTIES UNDER THE FIRST TIER OF THE CTX: SUPPLEMENTAL CITY-COUNTY RELIEF TAX (SCCRT), BASIC CITY-COUNTY RELIEF TAX (BCCRT), GOVERNMENTAL SERVICES TAX (GST), REAL PROPERTY TRANSFER TAX (RPTT), CIGARETTE TAX, AND LIQUOR TAX.  
a) Current Rates and Distribution  
b) Historical Overview of the Structure and Distribution of Each Revenue Source
- VI. OVERVIEW OF THE DISTRIBUTION OF FIRST-TIER REVENUES TO ENTITIES WITHIN A COUNTY AT THE SECOND TIER OF THE CTX.  
a) Entities within a County that are Eligible to Receive a Distribution at the Second Tier  
b) Base and Excess Distribution of First-Tier CTX Revenues at the Second Tier  
c) One-Plus and No One-Plus Factors Used to Determine Excess Distribution  
d) Additional Issues Related to Distribution and Use of Second-Tier CTX Revenues
- VII. OVERVIEW OF THE CREATION OF THE CTX AND CHANGES TO THE CTX.  
*Marvin Leavitt, Chair, Committee on Local Government Finance*  
*Guy Hobbs, Principal, Hobbs, Ong and Associates*
- VIII. PRESENTATION OF ACTUAL REVENUES DISTRIBUTED UNDER THE FIRST TIER AND SECOND TIER OF THE CTX AND OTHER STATISTICS RELATED TO THE CTX DISTRIBUTION.
- IX. POTENTIAL ISSUES FROM LOCAL GOVERNMENTS REGARDING THE CTX.  
*David Fraser, Executive Director, Nevada League of Cities and Municipalities*  
*Jeff Fontaine, Executive Director, Nevada Association of Counties*
- X. SCHEDULING OF FUTURE MEETINGS.
- XI. PUBLIC COMMENT.  
(Because of time considerations, the period for public comment by each speaker may be limited, and speakers are urged to avoid repetition of comments made by previous speakers.)
- XII. ADJOURNMENT.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Fiscal Analysis Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call the Fiscal Analysis Division at (775) 684-6821 as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Government Center, 500 South Grand Central Parkway; and Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was posted on the Internet through the Nevada Legislature's website at [www.leg.state.nv.us](http://www.leg.state.nv.us).

Assembly Bill No. 71-Committee on  
Legislative Operations and Elections

CHAPTER.....

AN ACT relating to taxation; directing the Legislative Commission to conduct an interim study concerning the equitable allocation of money distributed from the Local Government Tax Distribution Account; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the deposit of certain proceeds from liquor taxes, cigarette taxes, real property transfer taxes, city-county relief taxes and governmental services taxes into the Local Government Tax Distribution Account. (NRS 369.173, 370.260, 375.070, 377.055, 377.057, 482.181) Under existing law, the Executive Director of the Department of Taxation is required to allocate the money deposited in the Account to local governments, special districts and enterprise districts in each county in accordance with a specified formula. (NRS 360.680, 360.690)

This bill requires the Legislative Commission to appoint a subcommittee to conduct an interim study to examine whether the formula for the allocation of money distributed from the Local Government Tax Distribution Account results in an equitable allocation to all those governmental entities, including any local library districts that do not currently receive such an allocation, and, if not, to consider possible alternative methodologies to achieve a more equitable allocation.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets [omitted material] is marginal to be omitted.

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

**Section 1.** 1. The Legislative Commission shall appoint a subcommittee, consisting of three members of the Senate and three members of the Assembly, to conduct a study during the 2011-2013 interim concerning the formula for the allocation of money distributed from the Local Government Tax Distribution Account.

2. The subcommittee appointed pursuant to subsection 1 shall, without limitation:

(a) Review the structural components of the formula used for the allocation of money distributed from the Local Government Tax Distribution Account to local governments, special districts and enterprise districts from the inception of the formula to the present day; and

(b) Examine whether the formula results in an equitable allocation among all those governmental entities, including, without limitation, any local library districts which do not currently receive such an allocation, and, if not, consider possible alternative



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methodologies to achieve a more equitable allocation among all those governmental entities.

3. Any recommendations for legislation proposed by the subcommittee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the subcommittee.

4. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 77th Session of the Nevada Legislature.

Sec. 2. This act becomes effective on July 1, 2011.

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## DISTRIBUTION OF PROCEEDS OF CERTAIN TAXES TO LOCAL GOVERNMENTS

**NRS 360.600 Definitions.** As used in NRS 360.600 to 360.740, inclusive, unless the context otherwise requires, the words and terms defined in NRS 360.605 to 360.650, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1997, 3278; A 1999, 9, 1092)

**NRS 360.605 "Account" defined.** "Account" means the Local Government Tax Distribution Account created pursuant to NRS 360.660.

(Added to NRS by 1999, 9)

**NRS 360.610 "County" defined.** "County" includes Carson City.

(Added to NRS by 1997, 3278)

**NRS 360.620 "Enterprise district" defined.** "Enterprise district" means a governmental entity which:

1. Is not a county, city or town;
2. Receives any portion of the proceeds of a tax which is included in the Account; and
3. The Executive Director determines is an enterprise district pursuant to the provisions of NRS 360.710.

(Added to NRS by 1997, 3278; A 1999, 9)

**NRS 360.640 "Local government" defined.** "Local government" means any county, city or town that receives any portion of the proceeds of a tax which is included in the Account.

(Added to NRS by 1997, 3278; A 1999, 10)

**NRS 360.650 "Special district" defined.** "Special district" means a governmental entity that receives any portion of the proceeds of a tax which is included in the Account and which is not:

1. A county;
2. A city;
3. A town; or
4. An enterprise district.

(Added to NRS by 1997, 3278; A 1999, 10)

**NRS 360.660 Local Government Tax Distribution Account: Creation; administration by Executive Director.** The Local Government Tax Distribution Account is hereby created in the intergovernmental fund. The Executive Director shall administer the Account.

(Added to NRS by 1997, 3278; A 1999, 10)

**NRS 360.670 Eligibility for allocation from Account.** Except as otherwise provided in NRS 360.740, each:

1. Local government that receives, before July 1, 1998, any portion of the proceeds of a tax which is included in the Account;
2. Special district that receives, before July 1, 1998, any portion of the proceeds of a tax which is included in the Account; and
3. Enterprise district,

→ is eligible for an allocation from the Account in the manner prescribed in NRS 360.680.

(Added to NRS by 1997, 3278; A 1999, 10)

**NRS 360.680 Annual allocations from Account.**

1. On or before July 1 of each year, the Executive Director shall allocate to each enterprise district an amount equal to the amount that the enterprise district received from the Account in the immediately preceding fiscal year.

2. Except as otherwise provided in NRS 360.690 and 360.730, the Executive Director, after subtracting the amount allocated to each enterprise district pursuant to subsection 1, shall allocate to each local government or special district which is eligible for an allocation from the Account pursuant to NRS 360.670 an amount from the Account that is equal to the amount allocated to the local government or special district for the preceding fiscal year, minus any excess amount allocated pursuant to subsection 4, 5, 6 or 7 of NRS 360.690, multiplied by 1 plus the percentage change in the Consumer Price Index (All Items) for the year ending on December 31 immediately preceding the year in which the allocation is made.

(Added to NRS by 1997, 3279; A 1999, 10; 2001 Special Session, 109; 2003, 1626; 2005, 7)

**NRS 360.690 Establishment of base monthly allocations from Account; remission of allocations to local governments; estimates of allocations for future year for use in preparation of budgets.**

1. Except as otherwise provided in NRS 360.730, the Executive Director shall estimate monthly the amount each local government, special district and enterprise district will receive from the Account pursuant to the provisions of this section.

2. The Executive Director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to NRS 360.680 for each local government, special district and enterprise district by 12, and the State Treasurer shall, except as otherwise provided in subsections 3 to 8, inclusive, remit monthly that amount to each local government, special district and enterprise district.

3. If, after making the allocation to each enterprise district for the month, the Executive Director determines there is not sufficient money available in the county's subaccount in the Account to allocate to each local government and special district the base monthly allocation determined pursuant to subsection 2, he or she shall prorate the money in the county's subaccount and allocate to each local government and special district an amount equal to its proportionate percentage of the total amount of the base monthly allocations determined pursuant to subsection 2 for all local governments and special districts within the county. The State Treasurer shall remit that amount to the local government or special district.

4. Except as otherwise provided in subsections 5 to 8, inclusive, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, he or she shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

→ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

5. Except as otherwise provided in subsection 6 or 7, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district and that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 or that the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure or that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made is

the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 and the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure, the Executive Director shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➤ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

6. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district; that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in each of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a negative figure, he or she shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount;

→ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

7. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in any of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a positive figure, he or she shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

→ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

8. The Executive Director shall not allocate any amount to a local government or special district pursuant to subsection 4, 5, 6 or 7 unless the amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2,



subsection 2 and the Executive Director determines there is money remaining in the county's subaccount in the Account after the distribution for the month has been made, he or she shall:

(a) Determine the amount by which the base monthly allocations determined pursuant to subsection 2 for each local government and special district in the county for the preceding months of the fiscal year in which the allocation is to be made exceeds the amounts actually received by the local governments and special districts in the county for the same period; and

(b) Compare the amount determined pursuant to paragraph (a) to the amount of money remaining in the county's subaccount in the Account to determine which amount is greater.

➤ If the Executive Director determines that the amount determined pursuant to paragraph (a) is greater, he or she shall allocate the money remaining in the county's subaccount in the Account pursuant to the provisions of subsection 3. If the Executive Director determines that the amount of money remaining in the county's subaccount in the Account is greater, he or she shall first allocate the money necessary for each local government and special district to receive the base monthly allocation determined pursuant to subsection 2 and the State Treasurer shall remit that money so allocated. The Executive Director shall allocate any additional money in the county's subaccount in the Account pursuant to the provisions of subsection 4, 5, 6 or 7, as appropriate.

9. The percentage changes in population calculated pursuant to subsections 4 to 7, inclusive, must:

(a) Except as otherwise provided in paragraph (c), if the Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the Governor pursuant to NRS 360.285, be an estimate of the change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

(b) If a new method of determining population is established pursuant to NRS 360.283, be adjusted in a manner that will result in the percentage change being based on population determined pursuant to the new method for both the fiscal year in which the allocation is made and the fiscal year immediately preceding the year in which the allocation is made.

(c) If a local government files a formal appeal with the Bureau of the Census concerning the population total of the local government issued by the Bureau of the Census, be calculated using the population total certified by the Governor pursuant to NRS 360.285 until the appeal is resolved. If additional money is allocated to the local government because the population total certified by the Governor is greater than the population total issued by the Bureau of the Census, the State Treasurer shall deposit that additional money in a separate interest-bearing account. Upon resolution of the appeal, if the population total finally determined pursuant to the appeal is:

(1) Equal to or less than the population total initially issued by the Bureau of the Census, the State Treasurer shall transfer the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, to the Local Government Tax Distribution Account for allocation among the local governments in the county pursuant to subsection 4, 5, 6 or 7, as appropriate.

(2) Greater than the population total initially issued by the Bureau of the Census, the Executive Director shall calculate the amount that would have been allocated to the local government pursuant to subsection 4, 5, 6 or 7, as appropriate, if the population total finally determined pursuant to the appeal had been used and the State Treasurer shall remit to the local government an amount equal to the difference between the amount actually distributed and the amount calculated pursuant to this subparagraph or the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, whichever is less.

10. On or before February 15 of each year, the Executive Director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the Account for that fiscal year.

11. On or before March 15 of each year, the Executive Director shall:

(a) Make an estimate of the receipts from each tax included in the Account on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles, including an estimate for each county of the receipts from each tax included in the Account; and

(b) Provide to each local government, special district and enterprise district an estimate of the amount that local government, special district or enterprise district would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

12. A local government, special district or enterprise district may use the estimate provided by the Executive Director pursuant to subsection 11 in the preparation of its budget.

(Added to NRS by 1997, 3279; A 1999, 10, 1092, 1096; 2001, 70, 1821; 2001 Special Session, 109, 112, 115, 118; 2003, 259, 1626, 1632; 2005, 7; 2009, 1210)

**NRS 360.695 Adjustment of allocation to local government or special district after decrease in population and assessed valuation of taxable property.**

1. If the population and assessed valuation of the taxable property, except any assessed valuation attributable to the net proceeds of minerals, within a local government or special district has decreased in each of the 3 fiscal years immediately preceding the current fiscal year, the Executive Director shall review the amount allocated to the local government or special district from the Account pursuant to NRS 360.680, to determine whether to adjust the allocation. The local government or special district may submit information to assist the Executive Director in making a determination. If the Executive Director determines that an adjustment to the allocation of the local government or special district is necessary, the Executive Director shall submit his or her findings on the matter to the Committee on Local Government Finance.

2. The Committee on Local Government Finance shall review the findings submitted by the Executive Director pursuant to subsection 1. If the committee determines that an adjustment to the amount allocated to the local government or special district pursuant to NRS 360.680 is appropriate, the committee shall submit a recommendation to the Nevada Tax Commission that sets forth the amount of the recommended adjustment. If the Committee determines that the adjustment is not appropriate, that decision is not subject to review by the Nevada Tax Commission.

3. The Nevada Tax Commission shall schedule a public hearing within 30 days after the Committee on Local Government Finance submits its recommendation. 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 adjustment recommended by the Committee on Local Government Finance to the governing body of each local government and special district that is located in the same county as the local government or special district that is subject to the recommended adjustment.

4. If, after the public hearing, the Nevada Tax Commission determines that the recommended adjustment is appropriate, it shall order the Executive Director to adjust the amount allocated to the local government or special district pursuant to NRS 360.680.

(Added to NRS by 1999, 1091)

**NRS 360.698 Pledge of percentage of revenue to payment of bonds.**

1. A local government or special district which receives revenue pursuant to NRS 360.680, 360.690 and 360.700 may pledge not more than 15 percent of that revenue to the payment of any general obligation bond or revenue bond issued by the local government or special district pursuant to chapter 350 of NRS.

2. Any revenue pledged pursuant to subsection 1 for the payment of a general obligation bond issued by a local government or special district pursuant to chapter 350 of NRS shall be deemed to be pledged revenue of the project for the purposes of NRS 350.020.

3. For bonds issued pursuant to this section before July 1, 1998, by a local government, special district or enterprise district:

(a) A pledge of 15 percent of the revenue distributed pursuant to NRS 360.680, 360.690 and 360.700 is substituted for the pledge of 15 percent of the revenue distributed pursuant to NRS 377.057, as that section existed on January 1, 1997; and

(b) A local government, special district or enterprise district shall increase the percentage specified in paragraph (a) to the extent necessary to provide a pledge to those bonds that is equivalent to the pledge of 15 percent of the amount that would have been received by that local government, special district or enterprise district pursuant to NRS 377.057, as that section existed on January 1, 1997.

(Added to NRS by 1991, 2327; A 1997, 3292; 2003, 1316) — (Substituted in revision for NRS 377.080)

**NRS 360.700 Guaranteed allocation from Account for tax proceeds pledged to secure obligations.**  
The Executive Director shall ensure that each local government, special district or enterprise district that:

1. Received, before July 1, 1998, any portion of the proceeds of a tax which is included in the Account; and

2. Pledged a portion of the money described in subsection 1 to secure the payment of bonds or other types of obligations,

⇒ receives an amount at least equal to that amount which the local government, special district or enterprise district would have received before July 1, 1998, that is pledged to secure the payment of those bonds or other types of obligations.

(Added to NRS by 1997, 3281; A 1999, 13)

**NRS 360.710 Determination of whether governmental entity is enterprise district.**

1. The Executive Director shall determine whether a governmental entity is an enterprise district.
  2. In determining whether a governmental entity is an enterprise district, the Executive Director shall consider:
    - (a) Whether the governmental entity should account for substantially all of its operations in an enterprise fund as defined in NRS 354.517;
    - (b) The number and type of governmental services that the governmental entity provides;
    - (c) Whether the governmental entity provides a product or a service directly to a user of that product or service, including, without limitation, water, sewerage, television and sanitation; and
    - (d) Any other factors the Executive Director deems relevant.
- (Added to NRS by 1997, 3281)

**NRS 360.720 Enterprise districts prohibited from pledging revenue from Account to secure obligations; qualifications of certain governmental entities for allocations from Account.**

1. An enterprise district shall not pledge any portion of the revenues from any of the taxes included in the Account to secure the payment of bonds or other obligations.
  2. The Executive Director shall ensure that a governmental entity created between July 1, 1996, and July 1, 1998, does not receive money from the taxes included in the Account unless that governmental entity provides police protection and at least two of the following services:
    - (a) Fire protection;
    - (b) Construction, maintenance and repair of roads; or
    - (c) Parks and recreation.
  3. As used in this section:
    - (a) "Construction, maintenance and repair of roads" has the meaning ascribed to it in NRS 360.740.
    - (b) "Fire protection" has the meaning ascribed to it in NRS 360.740.
    - (c) "Parks and recreation" has the meaning ascribed to it in NRS 360.740.
    - (d) "Police protection" has the meaning ascribed to it in NRS 360.740.
- (Added to NRS by 1997, 3282; A 1999, 13)

**NRS 360.730 Establishment of alternative formula for distribution of taxes in Account by cooperative agreement.**

1. The governing bodies of two or more local governments or special districts, or any combination thereof, may, pursuant to the provisions of NRS 277.045, enter into a cooperative agreement that sets forth an alternative formula for the distribution of the taxes included in the Account to the local governments or special districts which are parties to the agreement. The governing bodies of each local government or special district that is a party to the agreement must approve the alternative formula by majority vote.
2. The county clerk of a county in which a local government or special district that is a party to a cooperative agreement pursuant to subsection 1 is located shall transmit a copy of the cooperative agreement to the Executive Director:
  - (a) Within 10 days after the agreement is approved by each of the governing bodies of the local governments or special districts that are parties to the agreement; and
  - (b) Not later than December 31 of the year immediately preceding the initial year of distribution that will be governed by the cooperative agreement.
3. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts.
4. If at least two cooperative agreements exist among the local governments and special districts that are located in the same county, the Executive Director shall ensure that the terms of those cooperative agreements do not conflict.
5. Any local government or special district that is not a party to a cooperative agreement pursuant to subsection 1 must continue to receive money from the Account pursuant to the provisions of NRS 360.680 and 360.690.
6. The governing bodies of the local governments and special districts that have entered into a cooperative agreement pursuant to subsection 1 may, by majority vote, amend the terms of the agreement. The governing bodies shall not amend the terms of a cooperative agreement more than once during the first 2 years after the cooperative agreement is effective and once every year thereafter, unless the Committee on Local Government Finance approves the amendment. The provisions of this subsection do not apply to any interlocal agreements for the consolidation of governmental services entered into by local governments or

special districts pursuant to the provisions of NRS 277.080 to 277.180, inclusive, that do not relate to the distribution of taxes included in the Account.

7. A cooperative agreement executed pursuant to this section may not be terminated unless the governing body of each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 agrees to terminate the agreement.

8. For each fiscal year the cooperative agreement is in effect, the Executive Director shall continue to calculate the amount each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 would receive pursuant to the provisions of NRS 360.680 and 360.690.

9. If the governing bodies of the local governments or special districts that are parties to a cooperative agreement terminate the agreement pursuant to subsection 7, the Executive Director must distribute to those local governments or special districts an amount equal to the amount the local government or special district would have received pursuant to the provisions of NRS 360.680 and 360.690 according to the calculations performed pursuant to subsection 8.

(Added to NRS by 1997, 3282; A 1999, 13; 2011, 399)

**NRS 360.740 Request of newly created local government or special district for allocation from Account.**

1. The governing body of a local government or special district that is created after July 1, 1998, and which provides police protection and at least two of the following services:

- (a) Fire protection;
- (b) Construction, maintenance and repair of roads; or
- (c) Parks and recreation,

→ may, by majority vote, request the Nevada Tax Commission to direct the Executive Director to allocate money from the Account to the local government or special district pursuant to the provisions of NRS 360.680 and 360.690.

2. On or before December 31 of the year immediately preceding the first fiscal year that the local government or special district would receive money from the Account, a governing body that submits a request pursuant to subsection 1 must:

(a) Submit the request to the Executive Director; and

(b) Provide copies of the request and any information it submits to the Executive Director in support of the request to each local government and special district that:

- (1) Receives money from the Account; and
- (2) Is located within the same county.

3. The Executive Director shall review each request submitted pursuant to subsection 1 and submit his or her findings to the Committee on Local Government Finance. In reviewing the request, the Executive Director shall:

(a) For the initial year of distribution, establish an amount to be allocated to the new local government or special district pursuant to the provisions of NRS 360.680 and 360.690. If the new local government or special district will provide a service that was provided by another local government or special district before the creation of the new local government or special district, the amount allocated to the local government or special district which previously provided the service must be decreased by the amount allocated to the new local government or special district; and

(b) Consider:

(1) The effect of the distribution of money in the Account, pursuant to the provisions of NRS 360.680 and 360.690, to the new local government or special district on the amounts that the other local governments and special districts that are located in the same county will receive from the Account; and

(2) The comparison of the amount established to be allocated pursuant to the provisions of NRS 360.680 and 360.690 for the new local government or special district to the amounts allocated to the other local governments and special districts that are located in the same county.

4. The Committee on Local Government Finance shall review the findings submitted by the Executive Director pursuant to subsection 3. If the Committee determines that the distribution of money in the Account to the new local government or special district is appropriate, it shall submit a recommendation to the Nevada Tax Commission. If the Committee determines that the distribution is not appropriate, that decision is not subject to review by the Nevada Tax Commission.

5. The Nevada Tax Commission shall schedule a public hearing within 30 days after the Committee on Local Government Finance submits its recommendation. 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 of the Committee on Local

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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

CITY OF FERNLEY, NEVADA, a  
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.  
DEPARTMENT OF TAXATION;  
THE HONORABLE DAN  
SCHWARTZ, in his official capacity  
as TREASURER OF THE STATE OF  
NEVADA; and THE LEGISLATURE  
OF THE STATE OF NEVADA,

Respondents.

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

**JOINT APPENDIX**

**VOLUME2 PART 2**

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Assemblywoman Lambert declared there was universal agreement that the interim study performed by the S.C.R. 40 committee was probably the most well managed interim study the legislature had ever conducted. She stated Senator O'Connell allowed the experts who had been assembled to participate in that study to utilize their expertise and "she should be praised on the record."

Chairman Bache thanked Senator O'Connell for her remarks.

Mr. Hobbs resumed his testimony. He explained some of the formulas currently used to establish revenue distribution were based on population while others were based on assessed valuation of property. He referred to the distribution chart (Exhibit D) and explained four separate formulas were used to distribute revenues from six revenue sources. The technical advisory committee believed the development of a single formula for revenue distribution might simplify the distribution system and result in a more equitable distribution of revenues.

Mr. Hobbs contended the lack of flexibility in the current revenue distribution system could result in problems if a new governmental entity was formed. He explained the creation of a new city in a county which already had more than one city would place a great deal of stress on the system for distribution of those revenues generated by the cigarette tax, liquor tax, real property transfer tax, and city-county relief tax.

Mr. Hobbs pointed out S.B. 254 would not affect the first tier of the current revenue distribution formula, which was the formula for inter-county revenue distribution. Therefore, the amount of money counties currently received from tax revenues would not change. However, S.B. 254 would change the way revenues were distributed among local governmental entities within those counties.

Mr. Hobbs asserted S.B. 254 contained no provisions which would result in the elimination of any existing special improvement district or general improvement district. Although the change in the distribution formula might, in the future, cause local governmental entities to receive either more or less money than they would have received if the current formulas had been used, implementation of the new formula should result in very little loss of revenue for at least some local governmental entities.

Mr. Hobbs said the S.C.R. 40 committee's primary objective was to create a revenue distribution system which would recognize growth and the fact that revenues were needed in areas which experienced growth. To accomplish that objective, the committee devised a distribution formula based on both population and assessed property valuation rather than on only one of those

factors. The formula would protect local governments " . . . in their base year from any shock that would occur if we . . . recreated the base year distributions."

Mary Walker, Director of Finance and Redevelopment, Carson City, Nevada, testified. She explained when applying the current revenue distribution formula, one factor considered in determining how tax revenues would be distributed was local governments' tax rates for Fiscal Year 1980-1981. She contended that factor had no bearing on the costs local governments incurred to provide services to their citizens and caused revenue distribution to remain static rather than to fluctuate in accordance with greater demands for services.

Ms. Walker stated using the new revenue distribution formula, " . . . revenues above and beyond a great base year and an inflationary amount . . . " would be distributed to local governmental entities, proportionately, based upon the growth they experienced in both assessed valuation and population. She said she conducted a study of several of Nevada's smaller local governmental entities to determine whether the new formula would work. Utilizing three years' worth of data, she compared the effect of the proposed new formula versus the effect of current formula.

Ms. Walker cited examples of problems which resulted from use of the current revenue distribution formula. She said Lander County was comprised of four local governmental entities, including the county government. In Fiscal Year 1992-1993, although the county experienced a higher rate of growth in both its assessed valuation and its population than was experienced by any of the local governmental entities within the county, it received the lowest increase in revenue distribution of any of Lander County's four governmental entities. However, the city of Kingston, which had a 24 percent decline in its population and assessed valuation, received the second highest increase in revenue distribution experienced by those four entities. Ms. Walker contended it was very important that taxpayer dollars be distributed in accordance with growth to enable local governmental entities to provide services to taxpayers.

Ms. Walker cited another example of inequitable distribution of tax revenues. She explained in Fiscal Year 1994-1995, the city of Minden experienced the highest, proportionate, increase in assessed valuation and population of the four local governmental entities in Douglas County but received only the third highest increase in revenue distribution. The city of Gardnerville experienced the smallest increase in assessed valuation and population but received the second highest increase in revenue distribution of Douglas County's four local governmental entities. Although Gardnerville experienced only one-fourth as

much growth as Minden experienced, Gardnerville received a higher percentage of increase in its revenues than did Minden.

Ms. Walker explained another objective of the SCR 40 committee, which would be accomplished through the new revenue distribution formula, pertained to competition among local governments for tax revenues. She explained under the current formula, basic sales tax revenues were distributed in the following manner:

- In a county which had no incorporated cities, the county government received the entire amount of those revenues;
- In a county which had only one incorporated city, those revenues were divided equally between the county government and the city government; and
- In a county which had two or more incorporated cities, those revenues were divided among the city governments, and the county government received none of them.

She said when citizens of a community considered incorporating or creating new governmental entities, one of the first questions they asked was how much money that entity would receive. Therefore, one objective of both the SCR 40 committee and its technical advisory committee was to remove the incentive to decentralize and create divisive governmental entities.

Ms. Walker discussed a problem the committees discovered with respect to enterprise districts. She stated an enterprise district was typically funded in the same manner as a private enterprise was funded, through user fees rather than tax dollars. She cited Douglas County as an example and said some sewer and water systems in Douglas County were subsidized with sales tax revenues. She explained a person living on one side of a street in Douglas County might be required to pay the full amount of his water and sewer service bills while he subsidized, through his tax dollars, the lower water and sewer bills paid by a person living on the other side of the street. She contended that situation was inequitable and pointed out there were 20 enterprise districts in Nevada which were subsidized by general taxpayers. She stated although S.B. 254 would not eliminate enterprise districts' subsidies, it would freeze the amount of those subsidies and allow no future increases.

Mary Henderson, representing Washoe County, testified. Ms. Henderson made the following comments for the record on behalf of the technical advisory committee, "We had excellent leadership from Senator O'Connell. Two

members of the committee are sitting today with you, Mr. Neighbors and Mrs. Lambert, and we'd like to thank them, too, because the policy guidance and direction that they gave us as a technical committee was really terrific, in the sense of allowing us to do our job and hopefully come forward with a bill that is going to simplify how we distribute these revenues to local governments, and also, I think, do some real positive things within our own communities and within our counties and cities."

Ms. Henderson asserted any formula applied statewide would have different effects in different areas of the state. She said S.B. 254 provided for an alternative method of revenue distribution. That method would not apply to revenues distributed throughout the state but only to those distributed within a county and would allow local governments within a county to enter into agreements as to how those revenues would be divided among them. She maintained local governments had never before had that flexibility, and having it would allow local elected officials an opportunity to work together to fulfill the needs of taxpayers as a whole.

Ms. Henderson contended it was critical, particularly for growing communities, to reduce competition for tax revenues. Reduction of such competition, she maintained, would allow local governmental entities' policy makers to make decisions regarding land use based on what was best for their communities rather than on a desire to promote commercial development in order to receive a greater distribution of tax revenues.

Ms. Henderson discussed the process utilized to develop S.B. 254. She characterized that process as "positive" and described it as a very open process in which everyone had an opportunity to participate, whether or not they were members of the technical advisory committee.

Marvin Leavitt, representing the city of Las Vegas, testified. He said although a financial schedule might appear simple, when an attempt was made to translate that schedule into words and place it in law, it became very complex. To exemplify his point, Mr. Leavitt read the language set forth on page 3, lines 26 through 32, of S.B. 254.

Mrs. Lambert asked Mr. Leavitt to identify the tax revenue sources addressed by S.B. 254. Mr. Leavitt identified those tax revenue sources as follows:

1. Basic city-county relief tax (BCCRT);
2. Supplemental city-county relief tax (SCCRT);

3. Vehicle privilege tax;
4. Real property transfer tax;
5. Liquor tax; and
7. Cigarette tax.

He indicated revenues from each of those sources were distributed pursuant to a separate distribution formula.

Ms. Henderson interjected that page 2 of Exhibit C described the revenues under discussion.

Mr. Hobbs pointed out page 2 of Exhibit C depicted in the form of a table the same thing Exhibit D depicted in the form of a flow chart, which was the manner in which the revenues from the six sources Mr. Leavitt had identified were currently distributed and the manner in which they would be distributed pursuant to the proposed new distribution system. He explained page 3 of Exhibit C described in condensed form how the proposed new distribution formula would work.

Mr. Hobbs explained revenues from the six revenue sources Mr. Leavitt had described were currently distributed pursuant to four different distribution formulas. He maintained those revenues were extremely important to each of Nevada's local governments and made up a significant portion of their budgets. The objective behind S.B. 254 was to produce a better method of distributing those revenues. If the manner in which revenues were distributed to local governmental entities within a county did not meet the needs of those entities, S.B. 254 contained a provision which would allow those entities to agree to distribute the revenues among themselves in an alternative manner. Mr. Hobbs maintained that provision might encourage more cooperation among local governmental entities.

Mr. Hobbs declared the "base year" was very important to local governments because the formula applied to their base year revenue distribution in future years would determine the amount of tax revenues distributed to them in those future years. Under S.B. 254, local governments had a one-time opportunity to appeal the determination of the amount of their base year revenue distribution.

Mr. Hobbs stated S.B. 254 contained a provision which would remove some disincentives for local governmental entities to consolidate. He explained in the

past, if one local governmental entity was absorbed by another, the absorbing entity would not necessarily receive the property tax revenues and sales tax revenues which were previously distributed to the entity it absorbed. He said, "So two plus two would not necessarily equal four. This allows for two plus two to equal four on rational combinations of entities. So it removes some of those barriers."

Mr. Hobbs said the information set forth in Exhibit C summarized what S.B. 254 was intended to accomplish.

Assemblyman Neighbors commented much discussion was held about gasoline tax during the early meetings of the SCR 40 committee. He said he believed an agreement was reached, during the committee's last meeting, that distribution of gasoline tax revenues would not be pursued at the legislative level because that issue required further study. He said he had since heard there was some discussion about gasoline tax in the Senate.

Ms. Walker responded to Mr. Neighbors' comment. She said the SCR 40 committee's technical advisory committee was seeking some changes with respect to gasoline tax revenues and had continued to meet with representatives of local governments until the end of January, 1997. She said the committee did not seek to change the formula for the distribution of gasoline tax revenues. Rather, it sought to: clarify statutory language pertaining to the use of some of those revenues, establish some accountability measures, and conduct the study to which Mr. Neighbors' referred.

Mr. Neighbors asked for confirmation that the formula for distribution of gasoline taxes revenues would not be changed by S.B. 254. Ms. Walker confirmed that formula would remain the same. She said S.B. 254 had nothing to do with revenues from gasoline taxes.

Mr. Hobbs discussed various sections of S.B. 254. He said sections 1 through 3 provided definitions and "directories."

Section 4 defined enterprise districts as governmental entities which were not counties, cities, or towns and which received revenues from the sources included in the revenue distribution fund. It provided that the Executive Director of the Department of Taxation (hereafter referred to as the Executive Director) would determine, pursuant to section 12.5 of S.B. 254, which local governmental entities were enterprise districts.

Section 5 established a local government tax distribution fund. Proceeds from the SCCRT, BCCRT, motor vehicle privilege tax, real property transfer tax,

cigarette tax, and liquor tax would be received into and distributed from that fund.

Section 6 defined as a "local government," for the purposes of S.B. 254, any county, city, or town which received funding from any of the tax revenues included in the distribution fund. He explained special districts, because they were not counties, cities, or towns as defined by S.B. 254, were not defined as local governments. He said S.B. 254 defined as a "special district" any entity which both received funding from any of the tax revenues included in the fund and was not a county, city, town, or enterprise district.

Section 8 established that a local government tax distribution fund would be created in the state treasury and would be administered by the Executive Director.

Section 9 established that any local government, special district, or enterprise district which previously received any of the revenues which were to be included in the distribution fund would be eligible to have revenues distributed to it from that fund in the manner prescribed by S.B. 254. The purpose of section 9 was to ensure that any entity which previously received funds from any of the six tax revenue sources whose revenues were to be included in the distribution fund would receive an amount of revenue from that consolidated fund based on what it previously received from any of those six revenue sources.

Section 10 provided that enterprise districts would receive from the revenue distribution fund an amount of revenue equal to the amount they received in the base year in each year subsequent to the base year. Special districts and local governments would receive an amount of revenue equal to the amount they received in the base year plus an increase based on the Consumer Price Index (CPI) in each year subsequent to the base year. Mr. Hobbs said the technical advisory committee believed it was important to apply the CPI to the base amount of revenues received by special districts and local governments, particularly with respect to revenues received by entities which grew less rapidly than others, in order to preserve the purchasing power of the money those entities received in years subsequent to the base year.

Mr. Hobbs said the remaining essential elements of the revenue distribution formula were set forth in section 11. Section 11 established the procedure for allocating revenue, on a monthly basis, to each eligible local government. That procedure required the Executive Director to first allocate monies distributable to enterprise districts and then allocate monies to local governments and special districts. The distribution formula called for each local government and special district to receive their base year allocation as adjusted by CPI. Any remaining



revenues in the distribution fund would then be distributed to local governments based on growth in their population and assessed valuation and to special districts based solely on growth in their assessed valuation. Mr. Hobbs explained the formula used to determine the distribution of excess revenues and said, "A five-year moving average for the change in the assessed valuation will be used to smooth the effects of the every fifth year reappraisal." He reiterated enterprise districts would receive revenues only in those amounts determined by their base year, with no CPI, population growth or assessed valuation growth adjustments.

Mr. Hobbs said if there was not sufficient money in the distribution fund to allocate to the various local governments and special districts the base amounts plus CPI increases due them, the Executive Director would distribute the money in the fund in proportion to the previous years' distributions.

Section 11 also proscribed procedures for adjusting monthly revenue allocations to ensure each local government and special district received the full amount of money to which it was entitled in any given year. The Executive Director, during the period for budget preparation, would provide a revenue estimate to each local government which was a recipient of revenues from the distribution fund.

Section 12 provided a safeguard related to debt service. If any local government, special district, or enterprise district had previously pledged all or any part of its revenue distribution as security for bonds, the provisions of section 12 would permit that entity to continue to receive revenues in an amount sufficient to allow it to fulfill its pledge.

Section 13 prohibited enterprise districts from pledging revenues they received from the distribution fund for repayment of bond indebtedness. In addition, it prohibited any new governmental entity created between the dates of July 1, 1996 and July 1, 1998, from participating in the revenue distribution unless that entity provided both police protection and at least two of the following services: fire protection, roads, and parks and recreation.

Section 14 established that two or more local governments could enter into an agreement to share revenue distributions in a manner other than that prescribed by the distribution formula.

Section 15 provided a mechanism for establishing revenue allocations to any new local governments or special districts created after July 1, 1998. In order to be eligible to receive a revenue distribution, a new governmental entity must provide police protection and at least two of the following services: fire

protection, roads, and parks. A newly created entity would have to request the Nevada Tax Commission to establish its initial revenue allocation, and both the Department of Taxation and the Committee on Local Government Finance would review that request.

Section 15 also established notification and hearing procedures for the process of establishing new governmental entities' initial revenue allocations. Those procedures would enable other governmental entities to be made aware of the emergence of a new governmental entity. In addition, section 15 defined "police protection," "fire protection," "construction, repair and maintenance of roads," and "parks and recreation."

Section 16 would cause regulations for determining population estimates for towns to be added to statute. In order to utilize the new formula for revenue distribution, it would be necessary to have statistics of towns' populations.

Mr. Leavitt testified regarding the remaining sections of S.B. 254. He explained sections 17 through 21 caused revenues from the six taxes previously enumerated to be made part of the revenue distribution fund.

Section 21.5 provided that if a local government had pledged its supplemental city-county relief tax revenues as a guarantee for its repayment of bonds, the money that local government received from the revenue distribution fund would replace its city-county relief tax revenues as the guarantee for bond repayment.

Section 22 merely effected a transition into chapter 354 of Nevada Revised Statutes (NRS).

Section 23 dealt with situations in which one local government assumed responsibility for functions previously performed by another local government which no longer existed. Mr. Leavitt explained there were many special purpose government throughout the state of Nevada, some of which might provide only one service. In some instances, special purpose governments so overlaid one another that, if combined, they would nearly comprise a city or town. Section 23 provided a method through which to combine special purpose governments to create local governments of more general purpose " . . . In such a way that the proportionate costs of the functions assumed can be brought into the base . . . " Mr. Leavitt maintained combining special purpose governments within a particular county would not affect other local governmental entities, within that county, which received monies from the revenue distribution fund.

Section 25 caused the provisions of sections 23 and 24 to be included in the Local Government Budget Act.

Mr. Leavitt informed the committee an emergency provision was enacted into law (in the early 1980s) which allowed local governments that knew their revenues from SCCRT would be decreased because of a reduction in sales tax revenues to make up for those lost revenues by levying property taxes. Under the proposed new revenue distribution system, it would no longer be possible to determine how much revenue a local government received as a result of SCCRT. Section 26 provided a method through which to overcome that problem and to ensure individual local governments received the same relief the law currently afforded them.

Section 27 eliminated from statute language which dealt with situations in which a local government assumed the functions of another local government which no longer existed.

Mr. Leavitt said because the use of ad valorem revenue as the basis for distributing SCCRT revenues to local governments would no longer be applicable under the new revenue distribution formula, section 28 would eliminate from statute language which addressed that use.

Section 29 related to sections 23 and 24 and to the assumption by one local government of a function or service previously provided by another local government.

Section 30 changed a statutory reference.

Mr. Leavitt explained that a portion of the revenues obtained from the vehicle privilege tax was currently distributed to schools. Because schools would not receive revenues from the proposed revenue distribution fund, the provisions of sections 31 and 32 guaranteed schools would continue to receive the same amount of money from revenues generated by the vehicle privilege tax as they presently received.

Mr. Leavitt explained the method which would be used to determine local governments' base year revenue distributions.

Mr. Leavitt said S.B. 254 contained provisions which would "... protect the town situation that comes from Senate Bill 556 from the previous session, the one that related to the Summerlin, Spring Valley towns that were mentioned by Guy. And since those provisions are being eliminated, there's some protection

language here to guarantee that the amount of money that they get is not going to be diminished as a result of this act."

Mr. Leavitt continued his explanation of specific sections of S.B. 254.

Section 36 established a procedure through which a local government could, no later than December 31, 1997, appeal the determination of its base year revenue distributions if, for any reason, it believed that determination to be unfair.

Section 37 required the Executive Director to notify any governmental entity which he determined was an enterprise district of that determination and established a governmental entity's right to appeal such a determination.

Section 38 established the effective dates of the various provisions of S.B. 254. The provisions relating to the revenue distribution formula would not become effective until July 1, 1978; however, most of the bill's remaining provisions would become effective upon its passage and approval, which would enable the Executive Director to accomplish a number of things, such as determining which local government entities constituted enterprise districts.

Mr. Leavitt maintained all Nevada's local governments agreed that the revenue distribution formula established by S.B. 254 was fair. He said after that formula was developed, it was applied to hundreds of statistical variations to determine its effect on local governments and to ensure it did not bestow a greater benefit on one type of local government than it did on another. The formula would cause revenue distributions to reflect local governments' growth and, at the same time, provide protection for local governments which did not experience growth.

Assemblywoman Freeman asked Mr. Leavitt to cite an example of special districts which overlapped to such an extent that, if combined, they would constitute a general purpose local government, such as a city or town. Mr. Leavitt replied the best example would be the special districts at Lake Tahoe. He explained there were many special districts at Lake Tahoe, each of which provided an individual service, such as road service, fire protection, or snow removal; however, there was no city or town at Lake Tahoe. He maintained although S.B. 254 would not require any of Lake Tahoe's special districts to combine, it would provide a method through which they could, if they wished, combine and form a town or city without greatly disrupting their revenue distributions.

Mrs. Freeman asked Mr. Leavitt to explain the use of the word "town" in section 16. Mr. Leavitt replied certain tax revenues were currently distributed based on population and were distributed to "counties" and "cities." Although "towns" existed throughout Nevada, there had been no need for the state's demographer to determine the populations of those towns. However, because population was one of the factors which would be used to determine revenue distributions pursuant to S.B. 254, section 16 of the bill required that the populations of "towns," as well as those of cities and counties, be determined on an annual basis.

Mrs. Freeman asked, "Is Summerlin, basically, the only one or the biggest one or whatever that you're considering right now?" Mr. Leavitt replied in the negative. He said there were many towns throughout Nevada, and towns were included under the provisions of S.B. 254, as well as cities and counties, because towns were a form of general purpose government which, essentially, provided a full range of services.

Mrs. Freeman asked whether Mr. Leavitt perceived S.B. 254 would assist in resolving conflicts between local taxing entities on the local government level or whether he perceived those conflicts would continue to be brought before the legislature for resolution. Mr. Leavitt responded although there was no guarantee that all such conflicts would be resolved on the local government level, he believed S.B. 254 provided a method through which such conflicts could be resolved at that level of government.

Mr. Leavitt discussed the effect which would be imposed on Nye County if Parumph was to incorporate. He explained there was currently only one city in Nye County, the city of Gabs, and under existing law, Gabs and Nye County shared in the tax revenues distributed to the county based on population. However, under existing law, if Pahrump was to incorporate, Pahrump and Gabs would share those revenues and Nye County would receive no share of them. Therefore, Parumph's incorporation could nearly bankrupt Nye County. Under the provisions of S.B. 254, Parumph's incorporation would not have that effect.

Assemblyman Mortenson referred to Mr. Leavitt's testimony that the state demographer would determine the populations of "towns" and asked whether monies from the revenue distribution fund would automatically be allocated to towns based on their population. Mr. Leavitt replied monies would automatically be allocated to towns based on the revenue distribution formula established by S.B. 254. He explained how that formula would be applied to determine the amount of revenue to be distributed to a town.

Mr. Mortenson asked whether a town would have any remedy if a determination was made that the amount of revenue distributed to that town in the base year was disproportionate to the town's population. Mr. Leavitt replied the town would have the right, pursuant to section 36 of S.B. 254, to appeal the determination of its base year revenue distribution.

Mr. Mortenson cited Spring Valley and asked who would be "the appealing entity" with respect to a town government. Mr. Leavitt replied in the case of Spring Valley, the appealing entity would be Clark County's Board of County Commissioners. He explained although there were towns throughout Nevada which had their own governing boards, Clark County's Board of County Commissioners was the governing body of towns within Clark County.

Mr. Mortenson referred to language in section 11, subsection 3, which established how money would be allocated to local government when the amount of money in the distribution fund was insufficient and which referred back to section 11, subsection 2. He asked whether the revenue distribution discussed in subsection 2 was the distribution a local government would have received in the year prior to the year in which there were insufficient monies in the distribution fund. In response, Mr. Leavitt posed a hypothetical situation in which there was not enough money in the revenue distribution fund to disburse to a local government the same amount of money it received in the previous year plus an increase based on CPI. He said in such a situation, an amount of money would be distributed to that local government based on " . . . the prior year relationship."

Mr. Mortenson pointed out one of the objective's of S.B. 254 was to cause revenue distribution to keep up with local government's growth. He asked whether it would not be better, when there was insufficient money to make the allocations which would be made if there was sufficient money to do so, to allocate to a local government a percentage of the money determined to be its appropriate allocation for the current year rather than a percentage of the money allocated to it in the previous year. Mr. Leavitt responded the amount allocated to a local government would be based on the formula for revenue distribution for the current year. He explained the amounts of money distributed to local governments in years subsequent to the base year would, if sufficient money was available, reflect increases based on CPI, population growth and assessed valuation growth. The amount of money a local government received in one year became the base for determining what it would receive in the subsequent year. He said the distribution formula was premised upon first keeping local

governments whole, in monetary terms, and then distributing any remaining money based upon growth.

Discussions ensued between Mr. Mortenson and Mr. Leavitt.

Mr. Mortenson asked what would happen to any excess monies in the revenue distribution fund in the event there was more money in the fund than was needed to make the appropriate revenue allocations to local governments. Mr. Leavitt replied any excess money would be distributed to local governments in accordance with the distribution formula. A local government could, if it chose to do so, use excess money to establish a "rainy day fund" for times when money was less plentiful.

Assemblywoman Tiffany asked whether the pooling of tax revenues would commence at the state level, in the Department of Taxation, and revenues calculated on a base year distribution amount plus an additional amount based on CPI would then be distributed to counties. Mr. Leavitt replied the amount of revenue to be distributed to counties would be calculated using the existing distribution formula rather than the proposed new distribution formula. He explained the pooling of revenues commenced in the state's Department of Taxation, and a separate pool was established for each county.

Ms. Tiffany asked if there was excess money in the revenue distribution fund, would that money would be used to establish another fund, such as a "rainy day fund." Mr. Leavitt replied the amount of money distributed to local governments would be based on the distribution formula, and it would be up to individual local governments to determine what they would do with excess monies.

Ms. Tiffany asked whether the legislature could determine that excess money distributed to a county was to be placed in a rainy day fund or whether that determination would be left to the individual counties. Mr. Leavitt said S.B. 254, as written, left that determination to the individual local governments within a county.

Ms. Tiffany asked Mr. Hobbs to respond to her last question. Mr. Hobbs said only when the money in the counties' overall fund exceeded the amount required to allocate to counties an amount of money equal to their base distribution plus an increase based on CPI was money distributed based on population and assessed valuation statistics. Those statistics caused money to be channeled to areas where growth was occurring. He maintained it was desirable to channel money based on growth because local governments in areas experiencing rapid growth would have greater expenditure needs than would local governments in areas experiencing slower growth.

Ms. Tiffany asked whether excess money which was to be distributed to the cities within a county on the basis of their assessed valuation would be immediately distributed by the county or, rather, would be retained by the county. Mr. Hobbs replied the money would be distributed to each individual governmental entity in accordance with the proposed new distribution formula.

Ms. Tiffany said, "So, really, it even goes down to another level when you're talking about surplus then, excess, growth related." Mr. Hobbs replied excess money would be distributed to individual local governments, and it would be up to the governing bodies of those local governments to determine how that money should be spent.

Ms. Tiffany asked, "Is there no way this can go to any bargaining units for salaries?" Mr. Hobbs replied he could not say with certainty that excess money distributed to a local government would not be considered by an arbitrator as justification for a collective bargaining award.

Ms. Tiffany asked whether anyone who was involved in the interim study which pertained to deconsolidation had considered how dividing existing school districts might impact revenue distribution under the new distribution formula. Mr. Leavitt replied the new distribution formula would have no effect on school districts.

Ms. Tiffany asked how the provisions of S.B. 254 which pertained to guarantees for repayment of bonds would affect school districts. Mr. Leavitt replied the provisions to which Ms. Tiffany referred pertained to the use of specific tax revenues to guarantee repayment of bonds, and those tax revenues were not available to school districts. He said the only provisions of S.B. 254 which pertained to schools were those which ensured that the amount of money schools received from the vehicle privilege tax would be unaffected by the bill.

Assemblyman Parks asked whether, in calculating the effect of the proposed new distribution formula on local governments, any calculations were made which dealt with situations such as Pahrump becoming an incorporated city and the impact that would have on Nye County and other local governments throughout the state. Mr. Leavitt said he did not recall whether any such calculations had been made and asked Mr. Hobbs whether he called any such calculations. Mr. Hobbs replied he did not recall any calculations having been made which would address the specific situation Mr. Parks cited. He explained most of the calculations performed were based on information which pertained to Clark County because of the number and diversity of Clark County's local governments. He said a number of "stress test" assumptions were made in



performing those calculations, but the incorporation of a new city was not one of them. However, the technical advisory committee understood that the creation of another city in Clark County would measurably intrude on revenue distributions to the five cities which currently existed in the county.

Mr. Parks said he was aware of discussions about potential legislation which would deal with general improvement districts. He asked whether that prospective legislation would greatly impact revenue distribution pursuant to the new distribution formula. Mr. Leavitt replied whether such legislation would greatly impact revenue distribution would depend on the form of the legislation. He said S.B. 254 provided a method through which money presently allocated to special improvement districts could be reallocated if those special improvement districts reorganized into some other form of local government.

Mr. Hobbs stated urban, unincorporated towns in Clark County had "an overlapping fire service district," and the county was considering a bill which would allow that fire service district to be consolidated with the towns' own fire districts. He contended providing fire service was a function of town government. He suggested the fact that S.B. 254 would remove disincentives to consolidate would allow the overlapping fire district in Clark County to be consolidated with the urban towns' fire districts. He said similar situations existed elsewhere in Nevada.

Mr. Parks asked whether the technical advisory committee had any estimate of how many of Nevada's local governments would appeal the determination of their base year revenue distribution. Mr. Hobbs replied the technical advisory committee was aware of two or three local governments which it believed would do so. Mr. Leavitt suggested the local governments which would appeal would most likely be those whose 1981 property tax base, for operating purposes, was low. He cited North Las Vegas as an example.

Mary Walker interjected local governments had complained about their base revenue distribution since Fiscal Year 1980-1981, and S.B. 254 would provide local government their first opportunity to protest the determination of their base revenue distribution and to attempt to resolve inequities in revenue distribution.

Mr. Neighbors pointed out under current law, Nye County would lose its share of basic sales tax revenues if Pahrump incorporated. However, Pahrump would then have to provide a number of services which were previously provided by the county. He said if Nye County was harmed in any way by Pahrump's incorporation, it could then increase its tax rate, and its doing so would affect Pahrump as well as the rest of the county.

Mr. Neighbors maintained the worst-case-scenario for Nye County would be if Tonopah incorporated. Under current law, if that occurred, the cities of Gabbs and Tonopah, both of which were very small, would receive a large amount of revenue while local governments in Nye County which were experiencing a great deal of growth would not.

Mr. Leavitt asserted it was important to stress that S.B. 254 would not create new revenues; the bill pertained only to the distribution of existing revenue. However, the bill would cause the distribution of those existing revenues to be accomplished in a more orderly fashion. He cited the hypothetical situation posed by Mr. Neighbors involving the incorporation of Pahrump. Under the provisions of S.B. 254, if that occurred it would not create a situation in which Nye County lost all of the revenues previously distributed to it and had no means to offset that loss other than to levy additional property taxes. He explained S.B. 254 established a three-tiered approach to determining how revenues should be distributed to local governments. First, the Executive Director would determine how much revenue was to be distributed to the various local governments. His determinations would then be reviewed first by the Committee on Local Government Finance and then by the Nevada Tax Commission. Mr. Leavitt said attempts were made to cause revenues to be distributed as fairly as possible.

For the benefit of the committee, Mr. Neighbors explained why revenues distributed to a county were currently divided between the cities within that county when there were two or more such cities.

Mr. Leavitt maintained the change S.B. 254 would make to the distribution of tax revenues would be the first major change to that process since the early 1980s.

Michael Pitlock, Executive Director, Department of Taxation, testified. He said S.B. 254 established a significant role for the Department of Taxation in the process of revenue distribution. The Department of Taxation would, essentially, administer the pool of revenue which was collected at the state government level and then distributed to local governments.

Mr. Pitlock stated in order to provide due process to all local governmental entities involved in the revenue distribution process, S.B. 254 placed responsibility for four duties, in addition to the ongoing duty to collect and distribute revenue, on the Department of Taxation. The first of those four duties consisted of determining which local governmental entities fell under the definition of "enterprise district." Mr. Pitlock explained any local governmental

entity which the Department of Taxation determined was an enterprise district could appeal that determination up to the level of the Nevada Tax Commission and, further, had the right to seek judicial review of the Nevada Tax Commission's decision.

Mr. Pitlock said the Department of Taxation would also be involved in disseminating information and in approving alternative distribution formulas proposed by local governments within the same county. He maintained the provisions of S.B. 254 which would allow local governments within a county to develop alternative distribution plans would benefit local governments by providing them with more flexibility than was provided them by current law.

Mr. Pitlock stated the Department of Taxation would also play a role if a new local governmental entity was created or existing local governmental entities combined into a new governmental entity and a new revenue distribution base had to be determined. He maintained due process procedures would be available to all local governments affected by such events.

Mr. Pitlock said the Department of Taxation would also have the one-time responsibility of dealing with inequities in local governments' initial revenue distribution bases and would probably be involved in dealing with some appeals by local governments from the base revenue distributions established for them in 1981.

Mr. Pitlock informed the committee the funding necessary for the Department of Taxation to fulfill the responsibilities S.B. 254 would place on it, including the additional duties of the State Demographer, had been included in the department's budget.

Mr. Pitlock said in the process of developing S.B. 254, many people, with competing interests, had reviewed the proposed revenue distribution system and the formulas it utilized and had discovered no fatal flaws. He contended if the system contained a fatal flaw, it would have been discovered. He declared the new revenue distribution system would enable local governments to do a better job of financial planning to ensure they had the necessary resources to provide the services demanded by taxpayers.

Mrs. Lambert referred to page 8, lines 21 and 22, of S.B. 254 and asked why the bill provided that a decision by the Committee on Local Government Finance that the Executive Director's determination regarding revenue distribution to a newly created local government was inappropriate was not subject to review by the Nevada Tax Commission. Mr. Pitlock said he believed the only basis for denying a newly created local government the right to participate in revenue

distribution would be if that local government failed to meet the statutory requirements for such participation, and the Nevada Tax Commission could not waive those statutory requirements.

Mrs. Lambert said the language to which she referred said nothing about determining whether a newly created local government met statutory requirements. She questioned whether that language created a due process problem and asked whether a newly created local government could seek judicial review of a decision rendered by the Committee on Local Government Finance. Mr. Leavitt explained if the Executive Director devised a plan for revenue distribution to a newly created local government which the Committee on Local Government Finance believed would be too harmful to other local governments, the Executive Director would have an opportunity to revise his plan in an attempt to develop one which was acceptable to the committee. The final decision regarding whether to proceed with the plan devised by the Executive Director rested with the Committee on Local Government Finance.

Mrs. Lambert pointed out the Committee on Local Government Finance was comprised of individuals who had a vested interest in whether a newly created local government shared in revenue distribution. She suggested that situation created a conflict of interest which could result in "mischief." Mr. Leavitt responded although Mrs. Lambert's observation was probably true, the membership of the Committee on Local Government Finance was very diverse, and any single dispute brought before the committee concerned no more than one county. Therefore, there was always an abundance of committee members who had no conflict of interest.

Mrs. Lambert asked what problem would be generated by making decisions of the Committee on Local Government Finance of the type being discussed subject to review by the Nevada Tax Commission. Mr. Leavitt replied he supposed those decisions could be made subject to review by the Nevada Tax Commission. However, the provisions of S.B. 254 guaranteed nothing would be presented to the Nevada Tax Commission which had not been agreed upon by local governments through their representatives on the Committee on Local Government Finance.

Discussions ensued between Mrs. Lambert and Mr. Leavitt.

Mr. Pitlock said other than in those cases in which a local government did not meet the statutory requirements to share in revenue distribution, the provisions of S.B. 254 essentially required that a consensus of opinion be reached regarding a revenue distribution determination before that determination was submitted to the Nevada Tax Commission for approval. He suggested it was

more appropriate for negotiations regarding revenue distributions to occur at the level where technical expertise was applied in determining those distributions than at the level of "the policy-setting board."

Mrs. Freeman asked whether she was correct in her assessment that S.B. 254 would provide state governments with a great deal of power to determine how local government taxed itself and how it used the revenues from those taxes. Mr. Pitlock replied S.B. 254 would provide state government with no additional authority over how local government used their tax revenues. The role of state government pertained to the distribution of tax revenues and not to their use.

Mrs. Freeman asked how S.B. 254 would affect the Nevada Plan and funding for schools. Mr. Leavitt explained the formula currently used to determine the amount of revenues to be distributed to schools districts and local governments from the vehicle privilege tax. He said under the provisions of S.B. 254, the same formula would be used to determine the amount of vehicle privilege tax revenues to be distributed to school districts; the remainder of those revenues would be placed in the revenue distribution fund for distribution to local governments. The effect of S.B. 254 was to ensure there would be no change in the amount of vehicle privilege tax revenues distributed to school districts.

Mr. Pitlock interjected there were members of the technical advisory committee who had both represented and protected the interests of school districts throughout the process of developing S.B. 254.

Chairman Baché asked what type of local government a library district was deemed to constitute. Mr. Leavitt replied a library district constituted a "special district."

Mr. Neighbors asked Ms. Walker whether the new formula for revenue distribution would have a significant effect on Lincoln County. He described Lincoln County as a huge county but one which had only one city, low assessed valuation, and little growth. Ms. Walker replied if the new formula was utilized, Lincoln County, as a whole, would receive the same amount of revenue as it previously received. However, revenues would be distributed to local governments within the county differently than they were previously distributed.

Mrs. Lambert commented she perceived it ironic that in the same legislative session in which the legislature was discussing depriving enterprise districts of general purpose taxes, Southern Nevada Water Authority was seeking authority to impose a one-quarter cent sales tax through which to supplement its revenues.

Mr. Leavitt and Ms. Walker, in response to questions by Ms. Tiffany, discussed the manner in which the technical advisory committee conducted its proceedings.

Chairman Bache recessed the hearing on S.B. 254.

- BDR S-1811 - Imposes separate tax on lodging to support Lake Tahoe Convention and Visitor's Authority.

Chairman Bache asked the committee to take action to introduce BDR S-1811.

ASSEMBLYMAN WILLIAMS MOVED FOR COMMITTEE INTRODUCTION  
OF BDR S-1811.

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION CARRIED.

The hearing on S.B. 254 resumed.

Carole Vilardo, representing Nevada Taxpayers Association, testified. She said the SCR 40 Committee established policies regarding the creation of a new revenue distribution system which she believed were important. One of those policies was that the system was to be ". . . revenue neutral to local government" and to cause no increase in taxes. Another policy was that the system should simplify distribution of revenues and provide local governments with greater flexibility.

Ms. Vilardo discussed the manner in which the technical advisory committee conducted its proceedings. She indicated everyone who attended those meetings was allowed to take part in them, even those who were not members of the committee.

Ms. Vilardo commented on the fact that it required several legislative sessions to correct the legislation enacted in 1981 which caused the tax shift from property taxes to sales taxes. She indicated there was no level of government in Nevada which had not been involved, to some extent, in the development of S.B. 254. She pointed out the bill would not go into effect until July 1, 1998. The state would operate under its provisions for only six months before the legislature reconvened, at which time any problems with the bill could be addressed. Therefore, she maintained, no one could be harmed by S.B. 254 to the degree they were harmed when the tax shift occurred.

Ms. Vilardo said in some instances, with respect to both revenues distributed to counties and revenues distributed to local governments within counties, distribution formulas used to allocate revenues were so convoluted that revenue distributions did not reflect growth. She stated S.B. 254, hopefully, would allow revenues to flow to areas of growth and thereby enable local governments to accommodate increases in their service and infrastructure needs.

Ms. Vilardo urged the committee to support S.B. 254.

Chairman Bache turned the meeting over to Vice Chairman Neighbors.

Robert Hadfield, representing Nevada Association of Counties (NACO), testified. He explained NACO was actively involved in the creation of S.B. 254. It was one of various organizations which appointed representatives to sit on the technical advisory committee, and its members were able to communicate directly with those representatives. He declared NACO supported S.B. 254 and urged the committee to pass it.

Thomas Grady, representing Nevada League of Cities, testified. He stated Nevada League of Cities appointed representatives to serve on the technical advisory committee, and those representatives were very involved in the workings of the committee.

Mr. Grady said he believed Mr. Neighbors had asked whether local governments would be able to understand the provisions of S.B. 254. He said Nevada League of Cities sent its members both a copy of S.B. 254 and a "white paper," prepared by Guy Hobbs, and recommended to its members that they read the white paper and not the bill.

Vice Chairman Neighbors closed the hearing on S.B. 254.

## OBJECTIVES

- A That any new tax distribution system be revenue neutral for each affected entity in the initial year. This objective further assumed constant, or current service levels for each entity.
- A That revenue growth in future years be channeled to where growth is occurring.
- A That any new tax distribution methodology help reduce competition among local governments.
- A That any new tax distribution system encourage regional cooperation among local governments.
- A That any new tax distribution system recognize tax effort on the part of local governments participating in the distribution of revenues.
- A That criteria and parameters be established for the creation of new units of local government and for the treatment of any new local governments and special districts in the distribution formulae.

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EXHIBIT C 3465Submitted to Committee on Government Affairs  
on 6/18/97 by Buy Hobbs of Hobbs, Ong+ Associates, Inc.

Case No. 66851

JA

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## FORMULA COMPARISON

CURRENT SYSTEM		
Revenue Source	Distribution	Basis
SCCRT	Counties, Cities, Towns, Special Districts	FY 80-81 Tax Rate; Assessed Valuation
BCCRT	Counties & Cities; Cities only if county has two or more cities	Population
MVPT	Counties, Cities, Towns, Special Districts	FY 80-81 Tax Rate; Prior Year Assessed Valuation
Cigarette Tax	Counties & Cities; Cities only if county has two or more cities	Population
Liquor Tax	Counties & Cities; Cities only if county has two or more cities	Population
Real Property Transfer Tax	Counties & Cities	75/25; Population

PROPOSED SYSTEM		
Revenue Source	Distribution	Basis
SCCRT, BCCRT, MVPT, Cigarette Tax, Liquor Tax, & Real Property Transfer Tax	Counties, Cities, Towns	Base + CPI; Population and Assessed Valuation
	Special Districts	Base + CPI; Assessed Value
	Enterprise Districts	Base

## DESCRIPTION OF PROPOSED FORMULA

1. Revenues from the Supplemental City-County Relief Tax (SCCRT), Basic City-County Relief Tax (BCCRT), Cigarette Tax, Liquor Tax, Motor Vehicle Privilege Tax, and Real Property Transfer Tax will be pooled at the county level for distribution to local governments under a single formula.
2. The base amount of revenue for each local government will be set at a level that recognizes what it received from any or all of the six revenue sources in fiscal years 1995-96 and 1996-97.
3. For counties, cities, towns and special districts, the base amount will be increased by a factor of 1 plus the change in the CPI over the prior calendar year. For "enterprise" districts, the base amount is the amount that will be distributed in subsequent fiscal years.
4. To the extent that there is revenue (from the six sources) in excess of what is necessary to allocate the base amounts (plus CPI) to the various local governments, the excess revenue will be distributed to counties, cities, towns, and special districts using the following statistics:
  - a. For counties, cities and towns, the annual percentage change in population will be added to the annual percentage change in the assessed valuation (on a five year moving average basis, to smooth the effects of periodic reappraisal cycles).
  - b. For special districts, the annual percentage change in assessed valuation (using the five year moving average technique) will be used.

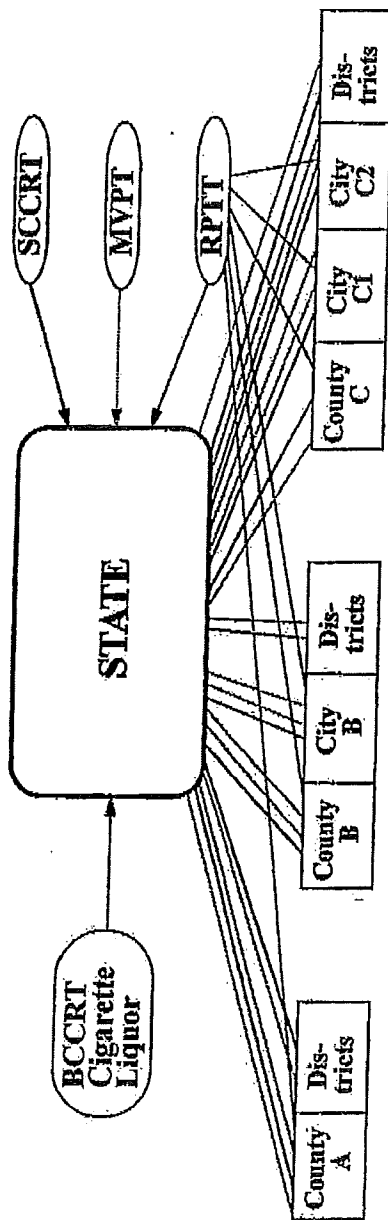
The excess revenues will be distributed to the counties, cities, towns and special districts in a proportionate relationship of the base amounts increased by the above statistics. This will cause the portions of the revenue in excess of the amount needed to fund the base amounts (plus CPI) to flow to areas in relation to relative growth.

## ATTRIBUTES

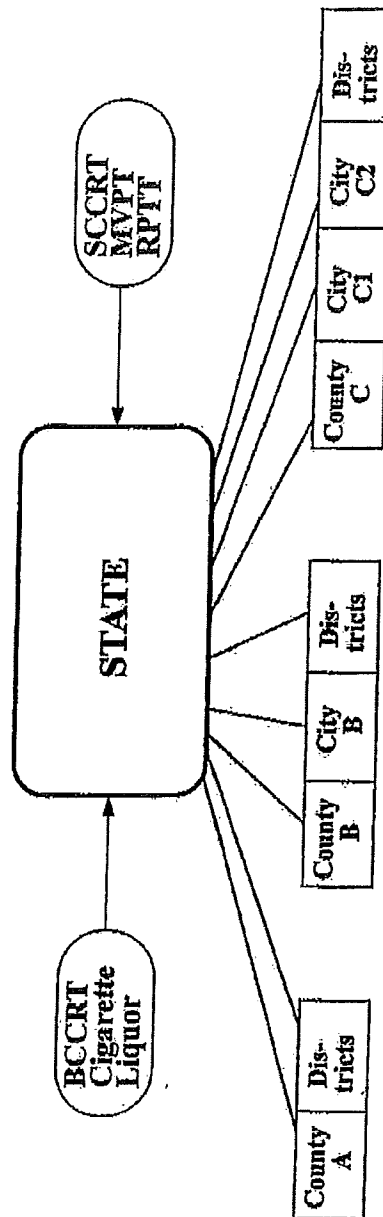
- Does not affect the distribution of revenues between counties.
- New formula is less complex. It replaces four separate formulae that used various combinations of population, assessed valuation and other factors with a single formula.
- Reduces competition among entities for funding.
- Recognizes growth by allowing revenues to be distributed based on demand for services.
- Establishes criteria and procedures for the creation of a new entity that would participate in distributions from the revenue pool.
- Eliminates the debate regarding cities only receiving BCCRT, Liquor and Cigarette Tax in certain counties.
- Recognizes inflationary impacts upon the funding needed to provide local government services.
- Does not cause disruption of revenue in the base year.
- Allows for alternative distribution system if entities within a County agree.
- Allows for appeal of the base year if an entity believes the it does not accurately reflect its comparative needs.
- Allows for mergers and consolidations of entities without penalties.
- Promotes the use of user fees to replace general tax subsidies for "enterprise" activities.

# SCR 40 Interim Subcommittee

## Existing Revenue Distribution



## Proposed Revenue Distribution



May 20, 1996

EXHIBIT D

133

3469

Submitted to Committee on Government Affairs

on 6/8/97 by Guy Hobbs of Hobbs & Associates, Inc.

JA

303

JOURNAL OF THE ASSEMBLY

7-5-97

2300

ONE HUNDRED AND SIXTY-SEVENTH DAY

Assemblyman Carpenter moved the adoption of the amendment.  
Remarks by Assemblymen Carpenter, Giunchigliani, Hettrick, de Braga  
and Close.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 103.

Bill read third time.

The following amendment was proposed by the Committee on Ways and  
Means:

Amendment No. 1224.

Amend sec. 4, page 2, line 23, after "*offenses*;" by inserting "*and*".

Amend sec. 4, page 2, line 29, by deleting "*; and*" and inserting an  
italicized period.

Amend sec. 4, page 2, by deleting lines 30 through 41.

Assemblyman Perkins moved the adoption of the amendment.

Remarks by Assemblymen Perkins, Nolan and Arberry.

Amendment adopted on a division of the house.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that the vote whereby Senate Bill No. 480  
was passed be rescinded.

Remarks by Assemblyman Anderson.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 480 be taken from the  
General File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 254.

Bill read second time.

The following amendment was proposed by the Committee on  
Government Affairs:

Amendment No. 1220.

Amend sec. 32, page 25, line 39, by deleting "*fund.]*" and inserting:  
"*fund. The 5 percent must be calculated in the same manner as the  
commission calculated for the department of motor vehicles and public  
safety.]*".

Assemblyman Bache moved the adoption of the amendment.

Remarks by Assemblyman Bache.

Amendment adopted.

JULY 5, 1997

2301

Assemblyman Bache moved that Senate Bill No. 254 be re-referred to the Committee on Government Affairs.

Motion carried.

Bill ordered reprinted, re-engrossed and to the Committee on Government Affairs.

Senate Bill No. 315.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1210.

Amend the bill as a whole by deleting sec. 2 and renumbering sections 3 and 4 as sections 2 and 3.

Amend sec. 3, page 1, line 11, by deleting "1."

Amend sec. 3, page 1, by deleting lines 15 through 18.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 319.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1213.

Amend the bill as a whole by deleting sections 6 and 7 and inserting:

"Secs. 6 and 7. (Deleted by amendment)."

Amend sec. 8, page 3, by deleting lines 35 through 44 and inserting:

"Sec. 8. 1. There is hereby appropriated from the state general fund to the state public works board the sum of \$140,000 for the renovation of building 7 at the".

Amend sec. 8, page 4, by deleting lines 5 through 44.

Amend sec. 8, page 5, line 1, by deleting "8." and inserting "2."

Amend sec. 8, page 5, line 3, by deleting "two".

Amend sec. 8, page 5, by deleting line 4 and inserting: "Washoe counties, including at least 8 beds in the facility located in Washoe County by October 1, 1997, and at least 16 beds in facilities located in Clark County by October 1, 1998, for persons in".

Amend sec. 8, page 5, line 6, by deleting "\$876,054" and inserting "\$236,227".

Amend sec. 8, page 5, line 7, by deleting "\$694,191" and inserting "\$471,372".

Amend sec. 8, page 5, by deleting lines 11 through 18.

185

Case No. 66851

JA 305

(REPRINTED WITH ADOPTED AMENDMENTS)  
THIRD REPRINT

S.B. 254

SENATE BILL NO. 254-COMMITTEE ON GOVERNMENT AFFAIRS

APRIL 2, 1997

Referred to Committee on Government Affairs

SUMMARY--Makes various changes to formulas for distribution of certain taxes.  
(BDR 32-314)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: Yes.

EXPLANATION - Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to taxation; revising the formulas for the distribution of the proceeds of certain taxes; prohibiting certain governmental entities from pledging certain revenues to secure the payment of bonds or other obligations; revising the rate certain governmental entities must not exceed if levying an additional tax ad valorem under certain circumstances; requiring the executive director to allocate to certain governmental entities an amount equal to an amount calculated by using the average amount received from certain taxes for 2 fiscal years under certain circumstances; and providing other matters properly relating thereto.

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

- 1 Section 1. Chapter 360 of NRS is hereby amended by adding thereto  
2 the provisions set forth as sections 2 to 15, inclusive, of this act.  
3 Sec. 2. *As used in sections 2 to 15, inclusive, of this act, unless the*  
4 *context otherwise requires, the words and terms defined in sections 3 to 7,*  
5 *inclusive, of this act have the meanings ascribed to them in those sections.*  
6 Sec. 3. "County" includes Carson City.  
7 Sec. 4. "Enterprise district" means a governmental entity which:  
8 1. *Is not a county, city or town;*  
9 2. *Receives any portion of the proceeds of a tax which is included in the*  
10 *fund; and*  
11 3. *The executive director determines is an enterprise district pursuant to*  
12 *the provisions of section 12.5 of this act.*  
13 Sec. 5. "Fund" means the local government tax distribution fund  
14 created pursuant to section 8 of this act.  
15 Sec. 6. "Local government" means any county, city or town that  
16 receives any portion of the proceeds of a tax which is included in the fund.

THIS BILL IS 32 PAGES LONG.  
CONTACT THE RESEARCH LIBRARY  
FOR A COPY OF THE COMPLETE BILL.



\* S B 2 5 4 R 3 \*

186  
Case No. 66851  
306

**MINUTES OF THE  
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Sixty-ninth Session  
July 4, 1997**

The Committee on Government Affairs was called to order at 8:00 a.m., on Friday, July 4, 1997. Chairman Douglas Bache presided in Room 3143 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List.

**COMMITTEE MEMBERS PRESENT:**

Mr. Douglas Bache, Chairman  
Mr. Roy Neighbors, Vice Chairman  
Mr. Mark Amodei  
Ms. Deanna Braunlin  
Mrs. Marcia de Braga  
Mr. Peter (Pete) Ernaut  
Mrs. Vivian Freeman  
Mr. Pat Hickey  
Mrs. Joan Lambert  
Mr. John Jay Lee  
Mr. Harry Mortenson  
Mr. David Parks  
Ms. Sandra Tiffany  
Mr. Wendell Williams

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Chris Giunchigliani, Clark County, District No. 9

**STAFF MEMBERS PRESENT:**

Denise Miller, Committee Policy Analyst, Research Division,  
Legislative Counsel Bureau (LCB)  
Eileen O'Grady, Legal Analyst, Legal Division, LCB  
Vicki Folstad, Committee Secretary



**SENATE BILL 254 - Makes various changes to formulas for distribution of certain taxes. (BDR 32-314)**

Chairman Bache asked for two separate motions on S.B. 254. He said there was a conflict amendment that had come up on this legislation and he would first like an amend and rerefer motion and then a second motion of do pass.

ASSEMBLYMAN WILLIAMS MOVED AMEND AND REREFER S.B. 254.

ASSEMBLYMAN NEIGHBORS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairman Bache said he would accept a motion upon return from reprint to do pass S.B. 254.

ASSEMBLYMAN LAMBERT MOVED DO PASS THE THIRD REPRINT OF S.B. 254.

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**SENATE BILL 383 - Establishes Southern Nevada Strategic Planning Authority. (BDR S-506)**

Chairman Bache called for a motion on S.B. 383 to amend and do pass with the amendment being A.B. 399 and A.B. 490 amended into S.B. 383.

ASSEMBLYMAN MORTENSON MOVED AMEND AND DO PASS S.B. 383 WITH THE AMENDMENT BEING A.B. 399 AND A.B. 490 AMENDED INTO S.B. 383.

ASSEMBLYMAN LEE SECONDED THE MOTION.

Chairman Bache stated if the Senate passed A.B. 399 and A.B. 490, the amendment would be moot and S.B. 383 would be passed as it was.

Mrs. Lambert asked if A.B. 399 was compatible with S.B. 383, and could they exist at the same time.

Chairman Bache replied affirmatively and said when A.B. 399 was amended the quality of life issues were amended to the advisory committee and were to take

JOURNAL OF THE ASSEMBLY

JULY 7, 1997

2659

Roll call on Senate Bill No. 196:

YEAS — 37.

NAYS — Chowning, Collins, Giunchigliani, Goldwater — 4.

Excused — Freeman.

Senate Bill No. 196 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 200.

Bill read third time.

Remarks by Assemblywoman Von Tobel.

Roll call on Senate Bill No. 200:

YEAS — 40.

NAYS — None.

Absent — Giunchigliani.

Excused — Freeman.

Senate Bill No. 200 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 254.

Bill read third time.

Remarks by Assemblyman Bache.

Roll call on Senate Bill No. 254:

YEAS — 40.

NAYS — None.

Absent — Giunchigliani.

Excused — Freeman.

Senate Bill No. 254 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 319.

Bill read third time.

Remarks by Assemblywoman Evans.

Roll call on Senate Bill No. 319:

YEAS — 40.

NAYS — None.

Absent — Giunchigliani.

Excused — Freeman.

Senate Bill No. 319 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 254-Committee on Government Affairs

CHAPTER 660

AN ACT relating to taxation; revising the formulas for the distribution of the proceeds of certain taxes; prohibiting certain governmental entities from pledging certain revenues to secure the payment of bonds or other obligations; revising the rate certain governmental entities must not exceed if levying an additional tax ad valorem under certain circumstances; requiring the executive director to allocate to certain governmental entities an amount equal to an amount calculated by using the average amount received from certain taxes for 2 fiscal years under certain circumstances; and providing other matters properly relating thereto.

[Approved July 17, 1997]

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. As used in sections 2 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "County" includes Carson City.

Sec. 4. "Enterprise district" means a governmental entity which:

1. Is not a county, city or town;
2. Receives any portion of the proceeds of a tax which is included in the fund; and
3. The executive director determines is an enterprise district pursuant to the provisions of section 12.5 of this act.

Sec. 5. "Fund" means the local government tax distribution fund created pursuant to section 8 of this act.

Sec. 6. "Local government" means any county, city or town that receives any portion of the proceeds of a tax which is included in the fund.

Sec. 7. "Special district" means a governmental entity that receives any portion of the proceeds of a tax which is included in the fund and which is not:

1. A county;
2. A city;
3. A town; or
4. An enterprise district.

Sec. 8. The local government tax distribution fund is hereby created in the state treasury as a special revenue fund. The executive director shall administer the fund.

Sec. 9. Except as otherwise provided in section 15 of this act, each:

1. Local government that receives, before July 1, 1998, any portion of the proceeds of a tax which is included in the fund;
2. Special district that receives, before July 1, 1998, any portion of the proceeds of a tax which is included in the fund; and
3. Enterprise district,

is eligible for an allocation from the fund in the manner prescribed in section 10 of this act.

Sec. 10. 1. On or before July 1 of each year, the executive director shall allocate to each enterprise district an amount equal to the amount that the enterprise district received from the fund in the immediately preceding fiscal year.

2. Except as otherwise provided in sections 11 and 14 of this act, the executive director, after subtracting the amount allocated to each enterprise district pursuant to subsection 1, shall allocate to each local government or special district which is eligible for an allocation from the fund pursuant to section 9 of this act an amount from the fund that is equal to the amount allocated to the local government or special district for the preceding fiscal year multiplied by one plus the percentage change in the Consumer Price Index (All Items) for the year ending on December 31 immediately preceding the year in which the allocation is made.

Sec. 11. 1. Except as otherwise provided in section 14 of this act, the executive director shall estimate monthly the amount each local government, special district and enterprise district will receive from the fund pursuant to the provisions of this section.

2. The executive director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to section 10 of this act for each local government, special district and enterprise district by 12 and the state treasurer shall, except as otherwise provided in subsections 3, 4 and 5, remit monthly that amount to each local government, special district and enterprise district.

3. If, after making the allocation to each enterprise district for the month, the executive director determines there is not sufficient money available in the county's account in the fund to allocate to each local government and special district the base monthly allocation determined pursuant to subsection 2, he shall prorate the money in the account and allocate to each local government and special district an amount equal to the percentage of the amount that the local government or special district received from the total amount which was distributed to all local governments and special districts within the county for the fiscal year immediately preceding the year in which the allocation is made. The state treasurer shall remit that amount to the local government or special district.

4. Except as otherwise provided in subsection 5, if the executive director determines that there is money remaining in the county's account in the fund after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(i) Multiplying one-twelfth of the amount allocated pursuant to section 10 of this act by one plus the sum of the:

(ii) Percentage change in the population of the local government for the fiscal year immediately preceding the year in which the allocation is made, as certified by the governor pursuant to NRS 360.285 except as otherwise provided in subsection 6; and

(1) Average percentage change in the assessed valuation of taxable property in the local government, except any assessed valuation attributable to the net proceeds of minerals, over the 5 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the account; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to section 10 of this act by one plus the average change in the assessed valuation of taxable property in the special district, except any assessed valuation attributable to the net proceeds of minerals, over the 5 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the account.

The state treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

5. The executive director shall not allocate any amount to a local government or special district pursuant to subsection 4, unless the amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2 and the executive director determines there is money remaining in the county's account in the fund after the distribution for the month has been made, he shall:

(a) Determine the amount by which the base monthly allocations determined pursuant to subsection 2 for each local government and special district in the county for the preceding months of the fiscal year in which the allocation is to be made exceeds the amounts actually received by the local governments and special districts in the county for the same period; and

(b) Compare the amount determined pursuant to paragraph (a) to the amount of money remaining in the county's account in the fund to determine which amount is greater.

If the executive director determines that the amount determined pursuant to paragraph (a) is greater, he shall allocate the money remaining in the county's account in the fund pursuant to the provisions of subsection 3. If

the executive director determines that the amount of money remaining in the county's account in the fund is greater, he shall first allocate the money necessary for each local government and special district to receive the base monthly allocation determined pursuant to subsection 2 and the state treasurer shall remit that money so allocated. The executive director shall allocate any additional money in the county's account in the fund pursuant to the provisions of subsection 4.

6. If the Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the governor pursuant to NRS 360.285, the percentage change calculated pursuant to paragraph (a) of subsection 4 must be an estimate of the change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

7. On or before February 15 of each year, the executive director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the fund for that fiscal year.

8. On or before March 15 of each year, the executive director shall:

(a) Make an estimate of the receipts from each tax included in the fund on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles, including an estimate for each county of the receipts from each tax included in the fund; and

(b) Provide to each local government, special district and enterprise district an estimate of the amount that local government, special district or enterprise district would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

9. A local government, special district or enterprise district may use the estimate provided by the executive director pursuant to subsection 8 in the preparation of its budget.

Sec. 12. The executive director shall ensure that each local government, special district or enterprise district that:

1. Received, before July 1, 1998, any portion of the proceeds of a tax which is included in the fund; and

2. Pledged a portion of the money described in subsection 1 to secure the payment of bonds or other types of obligations, receives an amount at least equal to that amount which the local government, special district or enterprise district would have received before July 1, 1998, that is pledged to secure the payment of those bonds or other types of obligations.

Sec. 12.5. 1. The executive director shall determine whether a governmental entity is an enterprise district.

2. In determining whether a governmental entity is an enterprise district, the executive director shall consider:

(a) Whether the governmental entity should account for substantially all of its operations in an enterprise fund as defined in NRS 354.517;

(b) The number and type of governmental services that the governmental entity provides;

(c) Whether the governmental entity provides a product or a service directly to a user of that product or service, including, without limitation, water, sewerage, television and sanitation; and

(d) Any other factors the executive director deems relevant.

Sec. 13. 1. An enterprise district shall not pledge any portion of the revenues from any of the taxes included in the fund to secure the payment of bonds or other obligations.

2. The executive director shall ensure that a governmental entity created between July 1, 1996, and July 1, 1998, does not receive money from the taxes included in the fund unless that governmental entity provides police protection and at least two of the following services:

- (a) Fire protection;
- (b) Construction, maintenance and repair of roads; or
- (c) Parks and recreation.

3. As used in this section:

(a) "Fire protection" has the meaning ascribed to it in section 15 of this act.

(b) "Parks and recreation" has the meaning ascribed to it in section 15 of this act.

(c) "Police protection" has the meaning ascribed to it in section 15 of this act.

(d) "Construction, maintenance and repair of roads" has the meaning ascribed to it in section 15 of this act.

Sec. 14. 1. The governing bodies of two or more local governments or special districts, or any combination thereof, may, pursuant to the provisions of NRS 277.045, enter into a cooperative agreement that sets forth an alternative formula for the distribution of the taxes included in the fund to the local governments or special districts which are parties to the agreement. The governing bodies of each local government or special district that is a party to the agreement must approve the alternative formula by majority vote.

2. The county clerk of a county in which a local government or special district that is a party to a cooperative agreement pursuant to subsection 1 is located shall transmit a copy of the cooperative agreement to the executive director:

(a) Within 10 days after the agreement is approved by each of the governing bodies of the local governments or special districts that are parties to the agreement; and

(b) Not later than December 31 of the year immediately preceding the initial year of distribution that will be governed by the cooperative agreement.

3. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts.

4. If at least two cooperative agreements exist among the local governments and special districts that are located in the same county, the executive director shall ensure that the terms of those cooperative agreements do not conflict.

5. Any local government or special district that is not a party to a cooperative agreement pursuant to subsection 1 must continue to receive money from the fund pursuant to the provisions of sections 10 and 11 of this act.

6. The governing bodies of the local governments and special districts that have entered into a cooperative agreement pursuant to subsection 1 may, by majority vote, amend the terms of the agreement. The governing bodies shall not amend the terms of a cooperative agreement more than once during the first 2 years after the cooperative agreement is effective and once every year thereafter, unless the committee on local government finance approves the amendment. The provisions of this subsection do not apply to any interlocal agreements for the consolidation of governmental services entered into by local governments or special districts pursuant to the provisions of NRS 277.080 to 277.180, inclusive, that do not relate to the distribution of taxes included in the fund.

7. A cooperative agreement executed pursuant to this section may not be terminated unless the governing body of each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 agrees to terminate the agreement.

8. For each fiscal year the cooperative agreement is in effect, the executive director shall continue to calculate the amount each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 would receive pursuant to the provisions of sections 10 and 11 of this act.

9. If the governing bodies of the local governments or special districts that are parties to a cooperative agreement terminate the agreement pursuant to subsection 7, the executive director must distribute to those local governments or special districts an amount equal to the amount the local government or special district would have received pursuant to the provisions of sections 10 and 11 of this act according to the calculations performed pursuant to subsection 8.

Sec. 15. 1. The governing body of a local government or special district that is created after July 1, 1998, and which provides police protection and at least two of the following services:

- (a) Fire protection;
- (b) Construction, maintenance and repair of roads; or
- (c) Parks and recreation,

may, by majority vote, request the Nevada tax commission to direct the executive director to allocate money from the fund to the local government or special district pursuant to the provisions of sections 10 and 11 of this act.

2. On or before December 31 of the year immediately preceding the first fiscal year that the local government or special district would receive money from the fund, a governing body that submits a request pursuant to subsection 1 must:

- (a) Submit the request to the executive director; and
- (b) Provide copies of the request and any information it submits to the executive director in support of the request to each local government and special district that:

- (1) Receives money from the fund; and  
 (2) Is located within the same county.

3. The executive director shall review each request submitted pursuant to subsection 1 and submit his findings to the committee on local government finance. In reviewing the request, the executive director shall:

(a) For the initial year of distribution, establish an amount to be allocated to the new local government or special district pursuant to the provisions of sections 10 and 11 of this act. If the new local government or special district will provide a service that was provided by another local government or special district before the creation of the new local government or special district, the amount allocated to the local government or special district which previously provided the service must be decreased by the amount allocated to the new local government or special district; and

(b) Consider:

(1) The effect of the distribution of money in the fund, pursuant to the provisions of sections 10 and 11 of this act, to the new local government or special district on the amounts that the other local governments and special districts that are located in the same county will receive from the fund; and

(2) The comparison of the amount established to be allocated pursuant to the provisions of sections 10 and 11 of this act for the new local government or special district to the amounts allocated to the other local governments and special districts that are located in the same county.

4. The committee on local government finance shall review the findings submitted by the executive director pursuant to subsection 3. If the committee determines that the distribution of money in the fund to the new local government or special district is appropriate, it shall submit a recommendation to the Nevada tax commission. If the committee determines that the distribution is not appropriate, that decision is not subject to review by the Nevada tax commission.

5. The Nevada tax commission shall schedule a public hearing within 30 days after the committee on local government finance submits its recommendation. 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 of the committee on local government finance to the governing body of each local government and special district that is located in the same county as the new local government or special district.

6. If, after the public hearing, the Nevada tax commission determines that the recommendation of the committee on local government finance is appropriate, it shall order the executive director to distribute money in the fund to the new local government or special district pursuant to the provisions of sections 10 and 11 of this act.

7. For the purposes of this section, the local government or special district may enter into an interlocal agreement with another governmental entity for the provision of the services set forth in subsection 1 if that local government or special district compensates the governmental entity that provides the services in an amount equal to the value of those services.

8. As used in this section:

- (a) "Fire protection" includes the provision of services related to:

- (1) The prevention and suppression of fire; and

- (2) Rescue,

and the acquisition and maintenance of the equipment necessary to provide those services.

(b) "Parks and recreation" includes the employment by the local government or special district, on a permanent and full-time basis, of persons who administer and maintain recreational facilities and parks. "Parks and recreation" does not include the construction or maintenance of roadside parks or rest areas that are constructed or maintained by the local government or special district as part of the construction, maintenance and repair of roads.

(c) "Police protection" includes the employment by the local government or special district, on a permanent and full-time basis, of at least three persons whose primary functions specifically include:

- (1) Routine patrol;

- (2) Criminal investigations;

- (3) Enforcement of traffic laws; and

- (4) Investigation of motor vehicle accidents.

(d) "Construction, maintenance and repair of roads" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a road and that is necessary for the safe and efficient use of the road except alleys and pathways for bicycles that are separate from the roadway and, including, without limitation:

- (1) Grades or regrades;

- (2) Gravel;

- (3) Oiling;

- (4) Surfacing;

- (5) Macadamizing;

- (6) Paving;

- (7) Cleaning;

- (8) Sanding or snow removal;

- (9) Crosswalks;

- (10) Sidewalks;

- (11) Culverts;

- (12) Catch basins;

- (13) Drains;

- (14) Sewers;

- (15) Manholes;

- (16) Inlets;

- (17) Outlets;

- (18) Retaining walls;

- (19) Bridges;

- (20) Overpasses;

- (21) Tunnels;

- (22) Underpasses;

- (23) Approaches;

- (24) Sprinkling facilities;

- (25) Artificial lights and lighting equipment;

- (26) Parkways;
- (27) Fences or barriers that control access to the road;
- (28) Control of vegetation;
- (29) Rights of way;
- (30) Grade separators;
- (31) Traffic separators;
- (32) Devices and signs for control of traffic;
- (33) Facilities for personnel who construct, maintain or repair roads;

and (34) Facilities for the storage of equipment or materials used to construct, maintain or repair roads.

Sec. 16. NRS 360.283 is hereby amended to read as follows:

360.283 1. The department shall adopt regulations to establish a method of determining annually the population of each town, township, city and county in this state and estimate the population of each town, township, city and county pursuant to those regulations.

2. The department shall issue an annual report of the estimated population of each town, township, city and county in this state.

3. Any town, city or county in this state may petition the department to revise the estimated population of that town, city or county. No such petition may be filed on behalf of a township. The department shall by regulation establish a procedure to review each petition and to appeal the decision on review.

4. The department shall, upon the completion of any review and appeal thereon pursuant to subsection 3, determine the population of each town, township, city and county in this state, and submit its determination to the governor.

5. The department shall employ a demographer to assist in the determination of population pursuant to this section and to cooperate with the Federal Government in the conduct of each decennial census as it relates to this state.

Sec. 17. NRS 369.173 is hereby amended to read as follows:

369.173 The department shall apportion, [and the state controller shall distribute,] on a monthly basis, from the tax on liquor containing more than 22 percent of alcohol by volume, the portion of the tax collected during the preceding month which is equivalent to 50 cents per wine gallon, among Carson City and the counties of this state in proportion to their respective populations. [The department shall apportion that money within the counties as follows:

1. If there are no incorporated cities within the county, the entire amount must go into the county treasury.

2. If there is one incorporated city within the county the money must be apportioned between the city and the county on the basis of the population of the city and the population of the county excluding the population of the city.

3. If there are two or more incorporated cities within the county, the entire amount must be apportioned among the cities in proportion to their respective populations:

4. In Carson City the entire amount must go into the city treasury.] *The state controller shall deposit the amounts apportioned to Carson City and each county in the local government tax distribution fund created by section 8 of this act for credit to the respective accounts of Carson City and each county.*

Sec. 18. NRS 370.260 is hereby amended to read as follows:

370.260 1. All taxes and license fees imposed by the provisions of NRS 370.001 to 370.430, inclusive, less any refunds granted as provided by law, must be paid to the department in the form of remittances payable to the department.

2. The department shall:

(a) As compensation to the state for the costs of collecting the taxes and license fees, transmit each month the sum the legislature specifies from the remittances made to it pursuant to subsection 1 during the preceding month to the state treasurer for deposit to the credit of the department. The deposited money must be expended by the department in accordance with its work program.

(b) From the remittances made to it pursuant to subsection 1 during the preceding month, less the amount transmitted pursuant to paragraph (a), transmit each month the portion of the tax which is equivalent to 12.5 mills per cigarette to the state treasurer for deposit to the credit of the account for the tax on cigarettes in the state general fund.

(c) Transmit the balance of the payments each month to the state treasurer for deposit [to the credit of the cigarette tax account in the intergovernmental fund.] *In the local government tax distribution fund created by section 8 of this act.*

(d) Report to the state controller monthly the amount of collections.

3. The money [in the cigarette tax account] deposited pursuant to paragraph (c) of subsection 2 in the local government tax distribution fund is hereby appropriated to Carson City and to each of the counties in proportion to their respective populations. [The amount in the account which was collected during the preceding month must be apportioned by the department and distributed by the state controller as follows:

(a) In a county whose population is 6,000 or more:

(1) If there are no incorporated cities within the county, the entire amount must go into the county treasury.

(2) If there is one incorporated city within the county the money must be apportioned between the city and the county on the basis of the population of the city and the population of the county excluding the population of the city.

(3) If there are two or more incorporated cities within the county, the entire amount must be apportioned among the cities in proportion to their respective populations.

(b) In a county whose population is less than 6,000:

(1) If there are no incorporated cities or unincorporated towns within the county, the entire amount must go into the county treasury.

(2) If there is one incorporated city or one unincorporated town within the county the money must be apportioned between the city or town and the

county on the basis of the population of the city or town and the population of the county excluding the population of the city or town.

(3) If there are two or more incorporated cities or unincorporated towns or an incorporated city and an unincorporated town within the county, the entire amount must be apportioned among the cities or towns in proportion to their respective populations.

(c) In Carson City the entire amount must go into the city treasury.

4. For the purposes of this section, "unincorporated town" means only those towns governed by town boards organized pursuant to NRS 269.016 to 269.019, inclusive, and must be credited to the respective accounts of Carson City and each county.

Sec. 18.5. NRS 371.230 is hereby amended to read as follows:

371.230 Except as otherwise provided in NRS 371.1035 [.] or 482.180, money collected by the department for privilege taxes and penalties pursuant to the provisions of this chapter must be deposited with the state treasurer to the credit of the motor vehicle fund.

Sec. 19. NRS 375.070 is hereby amended to read as follows:

375.070 [1.] The county recorder shall transmit the proceeds of the real property transfer tax at the end of each quarter in the following manner:

[(a)] 1. An amount equal to that portion of the proceeds which is equivalent to 10 cents for each \$500 of value or fraction thereof must be transmitted to the state treasurer who shall deposit that amount in the account for low-income housing created pursuant to NRS 319.500.

[(b)] 2. The remaining proceeds must be transmitted to the county treasurer, who shall in Carson City, and in any county where there are no incorporated cities, deposit them all in the general fund, and in other counties deposit 25 percent of them in the general fund and apportion the remainder as follows:

(1) If there is one incorporated city in the county, between that city and the county general fund in proportion to the respective populations of the city and the unincorporated area of the county.

(2) If there are two or more cities in the county, among the cities in proportion to their respective populations.

2. If there is any incorporated city in a county, the county recorder shall charge each city a fee equal to 2 percent of the real property transfer tax which is transferred to that city, state treasurer for deposit in the local government tax distribution fund created by section 8 of this act for credit to the respective accounts of Carson City and each county.

Sec. 20. NRS 377.055 is hereby amended to read as follows:

377.055 1. The department [.] shall monthly determine for each county an amount of money equal to the sum of:

(a) Any fees and any taxes, interest and penalties which derive from the basic city-county relief tax collected in that county pursuant to this chapter during the preceding month, less the corresponding amount transferred to the state general fund pursuant to subsection 3 of NRS 377.050; and

(b) That proportion of the total amount of taxes which derive from that portion of the tax levied at the rate of one-half of 1 percent collected pursuant to this chapter during the preceding month from out-of-state

businesses not maintaining a fixed place of business within this state, less the corresponding amount transferred to the state general fund pursuant to subsection 3 of NRS 377.050, which the population of that county bears to the total population of all counties which have in effect a city-county relief tax ordinance [.

2. The department shall apportion and the state controller shall remit the amount determined for each county in the following manner:

(a) If there is one incorporated city in the county, apportion the money between the city and the county general fund in proportion to the respective populations of the city and the unincorporated area of the county.

(b) If there are two or more cities in the county, apportion all such money among the cities in proportion to their respective populations.

(c) If there are no incorporated cities in the county, remit the entire amount to the county treasurer for deposit in the county general fund.

3. The provisions of subsection 2 do not apply to Carson City, where the treasurer shall deposit the entire amount determined for the city and received from the state controller in the general fund.

4., and deposit the money in the local government tax distribution fund created by section 8 of this act for credit to the respective accounts of each county.

2. 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.

Sec. 21. NRS 377.057 is hereby amended to read as follows:

377.057 1. The state controller, acting upon the relevant information furnished by the department, shall distribute monthly from the fees, taxes, interest and penalties which derive from the supplemental city-county relief tax collected in all counties and from out-of-state businesses during the preceding month, except as otherwise provided in subsection 2, to:

(a) Douglas, Esmeralda, Eureka, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey and White Pine counties, an amount equal to one-twelfth of the amount distributed in the immediately preceding fiscal year multiplied by one plus:

(1) The percentage change in the total receipts from the supplemental city-county relief tax for all counties and from out-of-state businesses, from the fiscal year 2 years preceding the immediately preceding fiscal year to the fiscal year preceding the immediately preceding fiscal year; or

(2) Except as otherwise provided in this paragraph, the percentage change in the population of the county, as certified by the governor pursuant to NRS 360.285, added to the percentage change in the Consumer Price Index for the year ending on December 31 next preceding the year of distribution,

whichever is less, except that the amount distributed to the county must not be less than the amount specified in subsection [10.] 5. If the [United States] Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the governor pursuant to NRS 360.285, the percentage change calculated pursuant to subparagraph (2) for the ensuing fiscal year must be an estimate of the



change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

(b) All other counties, the amount remaining after making the distributions required by paragraph (a) to each of these counties in the proportion that the amount of supplemental city-county relief tax collected in the county for the month bears to the total amount of supplemental city-county relief tax collected for that month in the counties whose distribution will be determined pursuant to this paragraph.

2. If the amount of supplemental city-county relief tax collected in a county listed in paragraph (a) of subsection 1 for the 12 most recent months for which information concerning the actual amount collected is available on February 15 of any year exceeds by more than 10 percent the amount distributed pursuant to paragraph (a) to that county for the same period, the state controller shall distribute that county's portion of the proceeds from the supplemental city-county relief tax pursuant to paragraph (b) of subsection 1 in all subsequent fiscal years, unless a waiver is granted pursuant to subsection 3.

3. A county which, pursuant to subsection 2, is required to have its portion of the proceeds from the supplemental city-county relief tax distributed pursuant to paragraph (b) of subsection 1 may file a request with the Nevada tax commission for a waiver of the requirements of subsection 2. The request must be filed on or before February 20 next preceding the fiscal year for which the county will first receive its portion of the proceeds from the supplemental city-county relief tax pursuant to paragraph (b) of subsection 1 and must be accompanied by evidence which supports the granting of the waiver. The commission shall grant or deny a request for a waiver on or before March 10 next following the timely filing of the request. If the commission determines that the increase in the amount of supplemental city-county relief tax collected in the county was primarily caused by:

(a) Nonrecurring taxable sales, it shall grant the request.

(b) Normal or sustainable growth in taxable sales; it shall deny the request.

A county which is granted a waiver pursuant to this subsection is not required to obtain a waiver in any subsequent fiscal year to continue to receive its portion of the proceeds from the supplemental city-county relief tax pursuant to paragraph (a) of subsection 1 unless the amount of supplemental city-county relief tax collected in the county in a fiscal year again exceeds the threshold established in subsection 2.

4. The amount apportioned to each county must [then] be apportioned among the several local governments therein, including the county and excluding the school district, any district created to provide a telephone number for emergencies, any district created under chapter 318 of NRS to furnish emergency medical services, any redevelopment agency, any tax increment area and any other local government excluded by specific statute, in the proportion which each local government's basic ad valorem revenue bears to the total basic ad valorem revenue of all these local governments.

5. As used in this section, the "basic ad valorem revenue" of each local government, except as otherwise provided in subsection 6 of NRS

354.5987, is its assessed valuation, including assessed valuation attributable to a redevelopment agency or tax increment area but excluding the portion attributable to the net proceeds of minerals, for the year of distribution, multiplied by the rate levied on its behalf for the fiscal year ending June 30, 1981, for purposes other than paying the interest on and principal of its general obligations. For the purposes of this subsection:

(a) A county whose actual tax rate, for purposes other than debt service, for the fiscal year ending on June 30, 1981, was less than 50 cents per \$100 of assessed valuation is entitled to the use of a rate not greater than 80 cents per \$100 of assessed valuation.

(b) A fire district in such a county whose tax rate was more than 50 cents per \$100 of assessed valuation is entitled to the use of a rate not greater than \$1.10 per \$100 of assessed valuation.

6. For the purposes of determining basic ad valorem revenue, the assessed valuation of a:

(a) Fire protection district includes property which was transferred from private ownership to public ownership after July 1, 1986, pursuant to:

(1) The Santini-Burton Act, Public Law 96-586; or

(2) Chapter 585, Statutes of Nevada 1985, at page 1866, approved by the voters on November 4, 1986.

(b) Local government includes property which was transferred from private ownership, after July 1, 1997, to property held in trust for an Indian tribe pursuant to the provisions of the Indian Reorganization Act, 25 U.S.C. §§ 461 et seq.

7. On or before February 15 of each year, the executive director shall provide to each local government a preliminary estimate of the revenue it will receive from the supplemental city-county relief tax in the next fiscal year.

8. On or before March 15 of each year, the executive director shall:

(a) Make an estimate of the receipts from the supplemental city-county relief tax on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles; and

(b) Provide to each local government an estimate of the tax that local government would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

9. A local government may use the estimate provided by the executive director pursuant to subsection 8 in the preparation of its budget.

10. be deposited in the local government tax distribution fund created by section 8 of this act for credit to the respective accounts of each county.

5. The minimum amount which may be distributed to the following counties in a month pursuant to paragraph (a) of subsection 1 is as follows:

Douglas .....	\$580,993
Esmeralda .....	53,093
Lander .....	155,106
Lincoln .....	72,973
Lyon .....	356,838
Mineral .....	118,299
Nye .....	296,609

Pershing.....	96,731
Storey.....	69,914
White Pine.....	158,863

[11.] 6. As used in this section, unless the context otherwise requires:

(a) ["Local government" includes a fire protection district organized pursuant to chapter 473 of NRS.] "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" [does not include the Nevada rural housing authority.] has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 21.5. NRS 377.080 is hereby amended to read as follows:

377.080 1. A local government or special district which receives revenue [from the supplemental city-county relief tax pursuant to NRS 377.057] pursuant to sections 10, 11 and 12 of this act may pledge not more than 15 percent of that revenue to the payment of any general obligation bond or revenue bond issued by the local government pursuant to chapter 350 of NRS.

2. Any revenue pledged pursuant to subsection 1 for the payment of a general obligation bond issued by a local government pursuant to chapter 350 of NRS shall be deemed to be pledged revenue of the project for the purposes of NRS 350.020.

3. For bonds issued pursuant to this section before July 1, 1998, by a local government, special district or enterprise district:

(a) A pledge of 15 percent of the revenue distributed pursuant to sections 10, 11 and 12 of this act is substituted for the pledge of 15 percent of the revenue distributed pursuant to NRS 377.057, as that section existed on January 1, 1997; and

(b) A local government, special district or enterprise district shall increase the percentage specified in paragraph (a) to the extent necessary to provide a pledge to those bonds that is equivalent to the pledge of 15 percent of the amount that would have been received by that local government, special district or enterprise district pursuant to NRS 377.057, as that section existed on January 1, 1997.

4. As used in this section, unless the context otherwise requires:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 22. Chapter 354 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 and 24 of this act.

Sec. 23. Except as otherwise provided in section 24 of this act, if one or more local governments assume the functions previously performed by a local government that no longer exists, the Nevada tax commission shall add to the allowed revenue from taxes ad valorem otherwise allowable to the local government or local governments pursuant to NRS 354.59811 an

amount equal to the allowed revenue from taxes ad valorem for the last fiscal year of existence of the local government whose functions were assumed. If more than one local government assumes the functions, the additional revenue must be divided among the local governments on the basis of the proportionate costs of the functions assumed. The Nevada tax commission shall not allow any increase in the allowed revenue from taxes ad valorem if the increase would result in a decrease in revenue of any local government in the county that does not assume those functions.

Sec. 24. 1. For the purpose of calculating the amount to be distributed pursuant to the provisions of sections 10 and 11 of this act from a county's account in the local government tax distribution fund to a local government, special district or enterprise district after it assumes the functions of another local government, special district or enterprise district:

(a) Except as otherwise provided in this subsection and subsection 2, the executive director of the department of taxation shall:

(1) Add the amounts calculated pursuant to subsection 1 or 2 of section 10 of this act for each local government, special district or enterprise district and allocate the combined amount to the local government, special district or enterprise district that assumes the functions; and

(2) If applicable, add the population and average change in the assessed valuation of taxable property that would otherwise be allowed to the local government or special district whose functions are assumed, except any assessed valuation attributable to the net proceeds of minerals, pursuant to subsection 3 of section 11 of this act to the population and average change in assessed valuation for the local government, special district or enterprise district that assumes the functions.

(b) If two or more local governments, special districts or enterprise districts assume the functions of another local government, special district or enterprise district, the additional revenue must be divided among the local governments, special districts or enterprise districts that assume the functions on the basis of the proportionate costs of the functions assumed.

The Nevada tax commission shall not allow any increase in the allowed revenue from the taxes contained in the county's account in the local government tax distribution fund if the increase would result in a decrease in revenue of any local government, special district or enterprise district in the county that does not assume those functions. If more than one local government, special district or enterprise district assumes the functions, the Nevada tax commission shall determine the appropriate amounts calculated pursuant to subparagraphs (1) and (2) of paragraph (a).

2. If a city disincorporates, the board of county commissioners of the county in which the city is located must determine the amount the unincorporated town created by the disincorporation will receive pursuant to the provisions of sections 2 to 15, inclusive, of this act.

3. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 25. NRS 354.470 is hereby amended to read as follows:

354.470 NRS 354.470 to 354.626, inclusive, and sections 23 and 24 of this act may be cited as the Local Government Budget Act.

Sec. 26. NRS 354.59813 is hereby amended to read as follows:

354.59813 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, [when] if the estimate of the revenue available from the supplemental city-county relief tax to the county as determined by the executive director of the department of taxation pursuant to the provisions of [NRS 377.057] subsection 8 of section 11 of this act is less than the amount of money that would be generated by applying a tax rate of \$1.15 per \$100 of assessed valuation to the assessed valuation of the [state,] county, the governing body of each local government may levy an additional tax ad valorem for operating purposes. The total tax levied by the governing body of a local government pursuant to this section must not exceed a rate calculated to produce revenue equal to the difference between the [amount]:

(a) Amount of revenue from supplemental city-county relief tax estimated to be received by [that local government and] the county pursuant to subsection 8 of section 11 of this act; and

(b) The tax that [it] the county would have been estimated to receive if the estimate for the total revenue available from the tax was equal to the amount of money that would be generated by applying a tax rate of \$1.15 per \$100 of assessed valuation to the assessed valuation of the [state,] county,

multiplied by the proportion determined for the local government pursuant to subparagraph (2) of paragraph (a) of subsection 3 of section 11 of this act.

2. Any additional taxes ad valorem levied as a result of the application of this section must not be included in the base from which the allowed revenue from taxes ad valorem for the next subsequent year is computed.

3. As used in this section, "local government" has the meaning ascribed to it in section 6 of this act.

Sec. 27. NRS 354.5982 is hereby amended to read as follows:

354.5982 1. The local government may exceed the limit imposed by NRS 354.59811 upon the calculated receipts from taxes ad valorem only if its governing body proposes to its registered voters an additional levy ad valorem, specifying the amount of money to be derived, the purpose for which it is to be expended and the duration of the levy, and the proposal is approved by a majority of the voters voting on the question at a primary or general election or a special election called for that purpose. The duration of the levy must not exceed 30 years. The governing body may discontinue the levy before it expires and may not thereafter reimpose it in whole or in part without following the procedure required for its original imposition.

2. A special election may be held only if the governing body of the local government determines, by a unanimous vote, that an emergency exists. The determination made by the governing body is conclusive unless

it is shown that the governing body acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the governing body must be commenced within 15 days after the governing body's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the governing body of the local government to prevent or mitigate a substantial financial loss to the local government or to enable the governing body to provide an essential service to the residents of the local government.

3. To the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 for a local government, the executive director of the department of taxation shall add any amount approved by the legislature for the cost to that local government of any substantial program or expense required by legislative enactment.

4. Except as otherwise provided in this subsection, if one or more local governments take over the functions previously performed by a local government which no longer exists, the Nevada tax commission shall add to the allowed revenue from taxes ad valorem and the basic ad valorem revenue, respectively, otherwise allowable to the local government or local governments pursuant to NRS 354.59811 and 377.057, an amount equal to the allowed revenue from taxes ad valorem and the basic ad valorem revenue, respectively, for the last fiscal year of existence of the local government whose functions were assumed. If more than one local government assumes the functions, the additional revenue must be divided among the local governments on the basis of the proportionate costs of the functions assumed. The Nevada tax commission shall not allow any increase in the allowed revenue from taxes ad valorem or basic ad valorem revenue if the increase would result in a decrease in revenue of any local government in the county which does not assume those functions.]

Sec. 28. NRS 354.5987 is hereby amended to read as follows:

354.5987 1. For the purposes of NRS 354.59811, [and 377.057,] the allowed revenue from taxes ad valorem [and the basic ad valorem revenue] of any local government:

(a) Which comes into being on or after July 1, 1989, whether newly created, consolidated, or both;

[(b) Which was in existence before July 1, 1989, but for which the basic ad valorem revenue was not established for the fiscal year ending June 30, 1989; or

(c)] or

(b) Which was in existence before July 1, 1989, but did not receive revenue from taxes ad valorem, except any levied for debt service, for the fiscal year ending June 30, 1989, must be initially established by the Nevada tax commission.

2. Except as otherwise provided in subsections 3 and [8,] 6, if the local government for which the allowed revenue from taxes ad valorem [and the basic ad valorem revenue are] is to be established performs a function previously performed by another local government, the total revenue allowed to all local governments for performance of substantially the same function in substantially the same geographical area must not be increased.

To achieve this result, the Nevada tax commission shall request the committee on local government finance to prepare a statement of the prior cost of performing the function for each predecessor local government. Within 60 days after receipt of such a request, the committee on local government finance shall prepare a statement pursuant to the request and transmit it to the Nevada tax commission. The Nevada tax commission may accept, reject or amend the statement of the committee on local government finance. The decision of the Nevada tax commission is final. Upon making a final determination of the prior cost of performing the function for each predecessor local government, the Nevada tax commission shall:

(a) Determine the percentage that the prior cost of performing the function for each predecessor local government is of the basic ad valorem revenue and of the allowed revenue from taxes ad valorem of that local government; and

(b) Apply the [percentages] percentage determined pursuant to paragraph (a) to the [basic ad valorem revenue and to the] allowed revenue from taxes ad valorem [ , respectively,] and subtract [those amounts respectively from the basic ad valorem revenue and] that amount from the allowed revenue from taxes ad valorem of the predecessor local government.

The [basic ad valorem revenue and] allowed revenue from taxes ad valorem [ , respectively,] attributable to the new local government for the cost of performing the function must equal the total of the amounts subtracted for the prior cost of performing the function from the [basic ad valorem revenue and] allowed revenue from taxes ad valorem [ , respectively,] of all of the predecessor local governments.

3. If the local government for which the basic ad valorem revenue is to be established pursuant to subsection 1 is a city, the Nevada tax commission shall:

(a) Using the basic ad valorem revenue of the town replaced by the city, if any, as a basis, set the basic ad valorem revenue of the city at an amount sufficient to allow the city, with other available revenue, to provide the basic services for which it was created;

(b) Reduce the basic ad valorem revenue of the county by the amount set for the city pursuant to paragraph (a);

(c) Add to the basic ad valorem revenue of the county the basic ad valorem revenue of any town which the city has replaced; and

(d) Add to the allowed revenue from taxes ad valorem of the county the allowed revenue from taxes ad valorem for any town which the city replaced.

4. If the local government for which the allowed revenue from taxes ad valorem [or the basic ad valorem revenue] is to be established is an unincorporated town which provides a service not previously provided by another local government, and the board of county commissioners has included the unincorporated town in a resolution adopted pursuant to the provisions of NRS 269.5755, the Nevada tax commission shall:

(a) Establish the basic ad valorem revenue of the town at an amount which is in the same ratio to the assessed valuation of the town as the combined basic ad valorem revenues are to the combined assessed

valuations of all other unincorporated towns included in the common levy authorized pursuant to NRS 269.5755; and

(b) If [ , if the unincorporated town [also] does not receive revenue from taxes ad valorem, establish the allowed revenue of the town from taxes ad valorem at an amount which is in the same ratio to the assessed valuation of the town as the combined allowed revenues from taxes ad valorem are to the combined assessed valuations of the other unincorporated towns included in the common levy.

[5. The basic ad valorem revenue and]

4. The allowed revenue from taxes ad valorem of an unincorporated town which provides a service not previously provided by another local government must be:

(a) Reduced by 75 percent for the first fiscal year following the fiscal year in which the [basic ad valorem revenue and] allowed revenue from taxes ad valorem [are] is established pursuant to subsection [4.] 3;

(b) Reduced by 50 percent for the second fiscal year following the fiscal year in which the [basic ad valorem revenue and] allowed revenue from taxes ad valorem [are] is established pursuant to subsection [4.] 3; and

(c) Reduced by 25 percent for the third fiscal year following the fiscal year in which the [basic ad valorem revenue and] allowed revenue from taxes ad valorem [are] is established pursuant to subsection [4.] 3.

5. In any other case, except as otherwise provided in subsection [8.] 6, the allowed revenue from taxes ad valorem of all local governments in the county, determined pursuant to NRS 354.5981, must not be increased, but the total [basic ad valorem revenue and] allowed revenue from taxes ad valorem must be reallocated among the local governments consistent with subsection 2 to accommodate the amount established for the new local government pursuant to subsection 1.

17. Any amount of basic ad valorem revenue allowable which is established or changed pursuant to this section must be used to determine a new tax rate for the fiscal year ending June 30, 1981, for each affected local government. This new tax rate must be used to make the distributions among the local governments in the county required by NRS 377.057 for each year following the year in which the amount was established or changed.

8.] 6. In establishing the allowed revenue from taxes ad valorem of a county, city or town pursuant to this section, the Nevada tax commission shall allow a tax rate for operating expenses of at least 15 cents per \$100 of assessed valuation in addition to the tax rate allowed for any identified and restricted purposes and for debt service:

[9.] 7. As used in this section:

(a) "Predecessor local government" means a local government which previously performed all or part of a function to be performed by the local government for which the allowed revenue from taxes ad valorem [and the basic ad valorem revenue are] is being established pursuant to subsection 1.

(b) "Prior cost of performing the function" means the amount expended by a local government to perform a function which is now to be performed.

by another local government. The amount must be determined on the basis of the most recent fiscal year for which reliable information is available.

Sec. 29. NRS 354.59874 is hereby amended to read as follows:

354.59874 Except as otherwise provided in [subsection 4 of NRS 354.5982] sections 23 and 24 of this act and subsection 2 of NRS 354.5987, if one local government takes over a function or provides a service previously performed by another local government pursuant to an agreement between the local governments, upon petition by the participating local governments, the executive director of the department of taxation shall:

1. Reduce the allowed revenue from taxes ad valorem calculated pursuant to NRS 354.59811 of the local government which previously performed the function or provided the service, for the first year the service is provided or the function is performed by an amount equal to the cost of performing the function or providing the service; and

2. Increase the allowed revenue from taxes ad valorem calculated pursuant to NRS 354.59811 of the local government which assumed the performance of the function or the provision of the service, for the first year the service is provided or the function is performed by an amount equal to the amount by which the reduction was made pursuant to subsection 1.

Sec. 30. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the state highway fund.

2. Except as otherwise provided in subsection [6] 7 of NRS 482.180, the proceeds from the imposition of any license or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this state and the proceeds from the imposition of any excise tax on gasoline or other motor vehicle fuel must be deposited in the state highway fund and must, except for costs of administering the collection thereof, be used exclusively for administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The interest and income earned on the money in the state highway fund, after deducting any applicable charges, must be credited to the fund.

4. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

6. All bills and charges against the state highway fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the director and must be presented to and examined by the state board of examiners. When allowed by the state board of examiners and upon being audited by the state controller, the state controller shall draw his warrant therefor upon the state treasurer.

Sec. 31. NRS 482.180 is hereby amended to read as follows:

482.180 1. The motor vehicle fund is hereby created as an agency fund. Except as otherwise provided in subsection 4 or by a specific statute,

all money received or collected by the department must be deposited in the state treasury for credit to the motor vehicle fund.

2. The interest and income on the money in the motor vehicle fund, after deducting any applicable charges, must be credited to the state highway fund.

3. Any check accepted by the department in payment of vehicle privilege tax or any other fee required to be collected under this chapter must, if it is dishonored upon presentation for payment, be charged back against the motor vehicle fund or the county to which the payment was credited, in the proper proportion.

4. All money received or collected by the department for the basic vehicle privilege tax must be deposited in the local government tax distribution fund, created by section 8 of this act, for credit to the appropriate county pursuant to subsection 6.

5. Money for the administration of the provisions of this chapter must be provided by direct legislative appropriation from the state highway fund, upon the presentation of budgets in the manner required by law. Out of the appropriation the department shall pay every item of expense.

[5.] 6. The privilege tax collected on vehicles subject to the provisions of chapter 706 of NRS and engaged in interstate or intercounty operation must be distributed among the counties in the following percentages:

Carson City .....	1.07 percent	Lincoln.....	3.12 percent
Churchill.....	5.21 percent	Lyon.....	2.90 percent
Clark .....	22.54 percent	Mineral .....	2.40 percent
Douglas .....	2.52 percent	Nye.....	4.09 percent
Elko .....	13.31 percent	Pershing .....	7.00 percent
Esmeralda .....	2.52 percent	Storey.....	.19 percent
Eureka .....	3.10 percent	Washoe .....	12.24 percent
Humboldt .....	8.25 percent	White Pine .....	5.66 percent
Lander .....	3.88 percent		

The distributions must be allocated among local governments within the respective counties pursuant to the provisions of NRS 482.181.

[6.] 7. As commission to the department for collecting the privilege tax on vehicles subject to the provisions of this chapter and chapter 706 of NRS, the department shall deduct and withhold 1 percent of the privilege tax collected by a county assessor and 6 percent of the other privilege tax collected.

[7.] 8. When the requirements of this section and NRS 482.181 have been met, and when directed by the department, the state controller shall transfer monthly to the state highway fund any balance in the motor vehicle fund.

[8.] 9. If a statute requires that any money in the motor vehicle fund be transferred to another fund or account, the department shall direct the controller to transfer the money in accordance with the statute.

Sec. 32. NRS 482.181 is hereby amended to read as follows:

482.181 1. Except as otherwise provided in subsection 4, the department shall certify monthly to the state board of examiners the amount

of the basic and supplemental privilege taxes collected for each county by the department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental privilege tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047.

3. The distribution of the basic privilege tax within a county must be made to local governments, [as defined in NRS 354.474, except redevelopment agencies and tax increment areas,] *special districts and enterprise districts pursuant to the provisions of sections 10 and 11 of this act. The distribution of the basic privilege tax must be made to the county school district within the county before the distribution of the basic privilege tax pursuant to the provisions of sections 10 and 11 of this act and in the same ratio as all property taxes were levied in the county in the previous fiscal year, but the State of Nevada is not entitled to share in that distribution. [and at least 5 percent of the basic privilege tax disbursed to a county must be deposited for credit to the county's general fund. The 5 percent must be calculated in the same manner as the commission calculated for the department of motor vehicles and public safety.] For the purpose of [this subsection,] calculating the amount of basic privilege tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.*

4. An amount equal to any basic privilege tax distributed to a redevelopment agency or tax increment area in the fiscal year 1987-1988 must continue to be distributed to that agency or area as long as it exists but must not be increased.

5. [Local governments, other than incorporated cities, are entitled to receive no distribution of basic privilege tax if the distribution to the local government is less than \$100. Any undistributed money accrues to the county general fund of the county in which the local government is located.

6.] The department shall make distributions of basic privilege tax directly to [counties,] county school districts, [and incorporated cities. Distributions for other local governments within a county must be paid to the counties for distribution to the other local governments.]

6. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 33. Section 10 of chapter 590, Statutes of Nevada 1995, at page 2187, is hereby amended to read as follows:

Sec. 10. [1.] This section and sections 1 to 7, inclusive, and 9 of this act become effective on July 1, 1995.

[2.] Section 8 of this act becomes effective on July 1, 2000.]

Sec. 34. NRS 354.489 and section 8 of chapter 590, Statutes of Nevada 1995, at page 2183, are hereby repealed.

Sec. 35. 1. Notwithstanding the provisions of subsection 1 of section 10 of this act, the executive director of the department of taxation shall, for the initial year of distribution of the money contained in the local government tax distribution fund, allocate to each enterprise district an amount in lieu of the amount allocated pursuant to subsection 1 of section 10 of this act that is equal to the average annual amount that the enterprise district received from the proceeds from each tax included in the fund for the fiscal years ending on June 30, 1996, and June 30, 1997.

2. Notwithstanding the provisions of subsection 2 of section 10 of this act, the executive director of the department of taxation shall, for the initial year of distribution of the money contained in the local government tax distribution fund, allocate to each local government and special district that receives, before July 1, 1998, any of the proceeds from a tax which is included in the local government tax distribution fund an amount in lieu of the amount allocated pursuant to the provisions of sections 10 and 11 of this act that is equal to an amount calculated by:

(a) Multiplying the average of the amount of each tax included in the fund that was distributed to the local government or special district for the fiscal years ending on June 30, 1996, and June 30, 1997, by one plus the percentage change between the:

(1) Total amounts received by the local governments and special districts located in the same county for the fiscal year ending on June 30, 1997; and

(2) Average of the total amounts received by the local governments and special districts located in the same county for the fiscal years ending on June 30, 1996, and June 30, 1997; and

(b) Multiplying the amount calculated in paragraph (a) by one plus the percentage change in the Consumer Price Index (All Items) for the period from July 1, 1997, to December 31, 1997.

3. For the purposes of this section:

(a) For any unincorporated town to which the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996, applied, the amounts described in subparagraphs (1) and (2) of paragraph (a) of subsection 2 must be adjusted to equal the amounts that could have been received by that unincorporated town but for the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996.

(b) The fiscal year ending on June 30, 1999, is the initial year of distribution.

4. For the fiscal year beginning on July 1, 2000, the executive director of the department of taxation shall increase the amount which would otherwise be allocated pursuant to subsection 2 of section 10 of this act to each unincorporated town that was created after July 1, 1980, and before July 1, 1997, for which the Nevada tax commission established the allowed revenue from taxes ad valorem or basic ad valorem revenue pursuant to subsection 4 of NRS 354.5987, as that section existed on July 1, 1996, by an amount equal to the amount of basic privilege tax that would have been distributed to the unincorporated town:

(a) Pursuant to NRS 482.181, as if the provisions of NRS 482.181 which existed on July 1, 1996, were still in effect; and

(b) As if the tax rate for the unincorporated town for the fiscal year beginning on July 1, 1980, were a rate equal to the average tax rate levied for the fiscal year beginning on July 1, 1980, by other unincorporated towns included in the same common levy authorized by NRS 269.5755 which were in existence on July 1, 1980.

5. The additional amount of money allocated to an unincorporated town pursuant to subsection 4 must continue to be treated as a regular part of the amount allocated to the unincorporated town for the purposes of determining the allocation for the town pursuant to subsection 2 of section 10 of this act for all future years.

6. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 36. 1. The governing body of a local government or special district that receives, before July 1, 1998, any portion of the proceeds from a tax which is included in the local government tax distribution fund may submit a request to the executive director of the department of taxation for an adjustment to the amount calculated pursuant to section 35 of this act.

2. A governing body that submits a request pursuant to subsection 1 must:

(a) Submit the request to the executive director of the department of taxation; and

(b) Provide copies of the request and any information it submits to the executive director in support of the request to each of the other local governments and special districts that receive any portion of the proceeds from a tax which is included in the local government tax distribution fund and which is located within the same county, on or before December 31, 1997.

3. The executive director of the department of taxation shall review a request submitted pursuant to subsection 1 and submit his findings to the committee on local government finance. In reviewing the request, the executive director shall:

(a) Analyze the revenues available to the local government or special district in the fiscal year ending on June 30, 1981, including, without limitation:

(1) The rate of property taxes levied for the fiscal year ending on June 30, 1981;

(2) The change in the rate of property taxes for the 5 years immediately preceding the fiscal year ending on June 30, 1981; and

(3) The change in the assessed valuation of the taxable property within the local government or special district over the 5 years immediately preceding the fiscal year ending on June 30, 1981, but excluding any assessed valuation attributable to the net proceeds of minerals; and

(b) Consider:

(1) The effect of an increase in the amount calculated pursuant to the provisions of sections 10 and 11 of this act for the local government or special district on the amounts that the other local governments and special districts that are located within the same county will receive from the local government tax distribution fund;

(2) Any other factors that may have caused the local government or special district to experience growth or other effects which are not reflected in the formula for distribution for the supplemental city-county relief tax set forth in NRS 377.057 as that formula exists before July 1, 1998; and

(3) The comparison of the amount calculated pursuant to the provisions of sections 10 and 11 of this act for the local government or special district to the amounts calculated pursuant to provisions of sections 10 and 11 of this act for the other local governments and special districts that are located in the same county.

The executive director shall not base his findings solely on the fact that a local government or special district did not levy a rate of property tax equal in rate to those levied by other similar local governments or special districts for the fiscal year ending on June 30, 1981.

4. The committee on local government finance shall review the findings submitted by the executive director of the department of taxation pursuant to subsection 3. If the committee determines that the adjustment to the amount calculated pursuant to subsection 2 of section 10 of this act is appropriate, it shall submit a recommendation to the Nevada tax commission that sets forth the amount of the recommended adjustment. If the committee determines that the adjustment is not appropriate, that decision is not subject to review by the Nevada tax commission.

5. The Nevada tax commission shall schedule a public hearing within 30 days after the committee on local government finance submits its recommendation. 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 of the department of taxation shall provide copies of all documents relevant to the adjustment recommended by the committee on local government finance to the governing body of each local government and special district that is located in the same county as the local government or special district that requests the adjustment.

6. If, after the public hearing, the Nevada tax commission determines that the recommended adjustment is appropriate, it shall order the executive

director of the department of taxation to adjust the amount calculated pursuant to the provisions of sections 10 and 11 of this act.

7. The executive director of the department of taxation, the committee on local government finance and the Nevada tax commission shall not consider any request for an adjustment to the amount calculated pursuant to the provisions of sections 10 and 11 of this act for a local government or special district that is submitted after December 31, 1997.

8. As used in this section:

(a) "Local government" has the meaning ascribed to it in section 6 of this act.

(b) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 37. 1. On or before January 1, 1998, the executive director of the department of taxation shall:

(a) Notify each governmental entity he determines is an enterprise district pursuant to section 12.5 of this act of that determination; and

(b) Calculate the amount each enterprise district will receive pursuant to subsection 1 of section 10 of this act.

2. Any governmental entity that the executive director determines is an enterprise district pursuant to section 12.5 of this act may appeal that determination to the Nevada tax commission on or before April 1, 1998. The governing body of the governmental entity must notify each of the other local governments and special districts that is located in the same county of the appeal.

3. The Nevada tax commission shall convene a hearing on the appeal and issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

4. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 38. 1. This section and sections 1 to 7, inclusive, 12, 12.5, 13 and 37 of this act become effective upon passage and approval.

2. Sections 8 to 11, inclusive, and 14 to 36, inclusive, of this act become effective on July 1, 1998.

Senate Bill No. 253-Committee on Government Affairs

# CHAPTER 661

AN ACT relating to the state legislature; creating a legislative committee to study the distribution among local governments of revenue from state and local taxes; providing the powers of the committee; and providing other matters properly relating thereto.

[Approved July 17, 1997]

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. As used in sections 2 to 7, inclusive, of this act, "committee" means a legislative committee to study the distribution among local governments of revenue from state and local taxes.

Sec. 3. 1. There is hereby established a legislative committee to study the distribution among local governments of revenue from state and local taxes consisting of:

(a) Two members appointed by the majority leader of the senate from the membership of the senate standing committee on government affairs during the immediately preceding session of the legislature;

(b) Two members appointed by the majority leader of the senate from the membership of the senate standing committee on taxation during the immediately preceding session of the legislature;

(c) Two members appointed by the speaker of the assembly from the membership of the assembly standing committee on government affairs during the immediately preceding session of the legislature; and

(d) Two members appointed by the speaker of the assembly from the membership of the assembly standing committee on taxation during the immediately preceding session of the legislature.

2. The committee shall consult with an advisory committee consisting of the executive director of the department of taxation and 10 members who are representative of various geographical areas of the state and are appointed for terms of 2 years commencing on July 1 of each odd-numbered year as follows:

(a) One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada League of Cities;

(b) One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada Association of Counties;

(c) One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada School Trustees Association;

(d) Three members involved in the government of a county appointed by the Nevada Association of Counties;

(e) Three members involved in the government of an incorporated city appointed by the Nevada League of Cities; and

(f) One member who is a member of a board of trustees for a general improvement district appointed by the legislative commission.



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IN THE FIRST JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a  
Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA  
DEPARTMENT OF TAXATION; THE  
HONORABLE KATE MARSHALL, in her  
official capacity as TREASURER OF THE  
STATE OF NEVADA; and DOES 1-20,  
inclusive,

Defendants.

Case No.: 120C001681B

Dept. No.: I

CITY OF FERNLEY'S OPPOSITION  
TO NEVADA LEGISLATURE'S  
MOTION TO INTERVENE

COMES NOW, Plaintiff, City of Fernley, Nevada ("Fernley"), a Nevada municipal corporation, by and through its attorneys of record, and hereby submits its Opposition to the Motion to Intervene filed by the Nevada Legislature ("Legislature"). This Opposition is based upon the Memorandum of Points and Authorities included herein, the pleadings and papers on file in this matter, and such other argument or evidence as may be considered by the Court.

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MEMORANDUM OF POINTS AND AUTHORITIES

**I. BACKGROUND**

This matter commenced when Fernley filed a Complaint with this Court on June 6, 2012. In its Complaint, Fernley made a variety of allegations, all of which challenged the legal sufficiency and constitutionality of Nevada's Consolidated Tax system, both on its face and as applied to Fernley. The named defendants include the Nevada Department of Taxation ("Department") and the Treasurer of the State of Nevada ("Treasurer"), as the entities charged with the enforcement and administration of the Consolidated Tax System. Both the Department and the Treasurer are represented by the Nevada Attorney General.

**II. DISCUSSION**

The Legislature argues that it qualifies for intervention in this matter under NRCP 24(a)(1), NRCP 24(a)(2), and NRCP 24(b). As discussed in greater detail below, intervention is not warranted under either provision.

**A. Intervention Pursuant to NRCP 24(a)(1).**

The Legislature argues it is allowed to intervene unconditionally pursuant to NRS 218F.720. Although the Legislature cites to NRS 218F.720(3) to argue that the right to intervene is "unconditional," there is a conflicting provision in NRS 218F.720(2).

NRS 218F.720(2) provides, in full, as follows:

2; If a party to any action or proceeding before any court, agency or officer:

(a) Alleges that the Legislature, by its actions or failure to act, has violated the Constitution, treaties or laws of the United States or the Constitution or laws of this State; or

(b) Challenges, contests or raises as an issue, either in law or in equity, in whole or in part, or facially or as applied, the meaning, intent, purpose, scope, applicability, validity, enforceability or constitutionality of any law, resolution, initiative, referendum or other legislative or constitutional measure, including, without limitation, on grounds that it is ambiguous, unclear, uncertain, imprecise, indefinite or vague, is preempted by federal law or is otherwise inapplicable, invalid, unenforceable or unconstitutional,

the Legislature may elect to intervene in the action or proceeding by filing a motion or request to intervene in the form required by the rules, laws or regulations applicable to the action or proceeding. The motion or request to intervene must be accompanied by an appropriate pleading, brief or dispositive motion setting forth the Legislature's arguments, claims, objections

1 or defenses, in law or fact, or by a motion or request to file such a pleading,  
2 brief or dispositive motion at a later time.

3 (emphasis added).

4 If the Legislature's right to intervene in any case where the constitutionality of a statute  
5 were challenged was truly "unconditional," then why would NRS 218F.720(2) require the  
6 Legislature to file a motion pursuant to the Rules of Civil Procedure also present "arguments,  
7 claims, objections or defenses" sufficient to justify intervention? Why wouldn't the Legislature  
8 just file a notice that it is intervening? The reason, of course, is that the Court retains the  
9 discretion, despite the Legislature's arguments to the contrary, to decide who may intervene. Any  
10 result to the contrary would effectively invalidate the requirements of NRS 218F.720(2), and  
11 similarly intrude on the judiciary's ability to govern its own proceedings. See NRS 2.120(2) ("The  
12 Supreme Court, by rules adopted and published from time to time, shall regulate original and  
13 appellate civil practice and procedure . . ."). Accordingly, the Legislature does not have an  
14 "unconditional" right to intervene in this case pursuant to NRCP 24(a)(1).

15 **B. Intervention Pursuant to NRCP 24(a)(2).**

16 To qualify for intervention pursuant to NRCP 24(a)(2), the Legislature must satisfy the  
17 following four elements: (1) the application for intervention is timely; (2) the applicant shows a  
18 "significantly protectable interest" in the subject matter of the action; (3) the applicant's interest  
19 may be impaired by a disposition of the action; and (4) the applicant's interest is not adequately  
20 represented by an existing party. *Am. Home Assurance Co. v. Eighth Jud. Dist. Ct. ex. rel. Cnty. of*  
21 *Clark*, 122 Nev. 1229, 1238-39, 147 P.3d 1120, 1126 (2006).

22 Fernley does not contest that the first three elements of an NRCP 24(a)(2) analysis are  
23 satisfied by the Legislature. However, the Legislature cannot satisfy the fourth element – that its  
24 interests are not adequately represented by either the Department or the Treasurer.

25 When the interests and objectives of an intervenor are identical to those of a party, there is  
26 a presumption that those interests are adequately represented, "absent 'adversity of interest,  
27 collusion or nonfeasance.'" *Id.*, 122 Nev. at 1241 (quoting from *Moore's Federal Practice* §  
28 24.03[4][a][ii] (3d. Ed. 2006)).

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1 Here, the Department and Treasurer are represented by the Attorney General. The  
2 Attorney General is charged with the duty to "protect and secure the interest of the State . . . in any  
3 federal or state court . . ." NRS 228.170(1). It cannot be disputed that the Attorney General  
4 routinely, competently and zealously defends legal challenges, including constitutional challenges,  
5 against Nevada statutes.

6 It also cannot be disputed that the Department and Treasurer, with the advice and assistance  
7 of the Attorney General, intend to vigorously defend the instant case and disagree with the causes  
8 of action set forth in Fernley's complaint. In fact, in this very case the first responsive pleading  
9 from either the Department or the Treasurer was a comprehensive motion to dismiss the entire  
10 case.

11 The Legislature, to establish justification to intervene pursuant to NRCP 24(a)(2), must  
12 establish that it somehow has either a different objective from the Department and Treasurer, or  
13 that there is some "adversity of interest, collusion or nonfeasance." *Am. Home Assurance Co.*, 122  
14 Nev. at 1241 (citation omitted). As an initial matter, the goals of the Legislature and the  
15 Department and Treasurer are identical – they all seek a full dismissal of the instant case. The  
16 Department and Treasurer have filed a motion to dismiss, and the Legislature's proposed answer  
17 makes it clear that the Legislature will seek the same outcome. The Department and Treasurer  
18 have identical interests, and there is certainly nothing alleged or suggested in terms of collusion or  
19 nonfeasance.

20 The Legislature claims that the Department and Treasurer are interested primarily in the  
21 "smooth administration" of the consolidated tax system, and by implication apparently, are not  
22 going to take a defense of the consolidated tax system as seriously as will the Legislature. (Motion  
23 to Intervene, 11). Again, however, the Department and Treasurer have already filed a  
24 comprehensive motion to dismiss this case in its entirety. These hardly seem like the actions of  
25 defendants with only a marginal interest in this case.

26 The Legislature's interests are adequately represented by the Department and Treasurer and  
27 by their counsel, the Attorney General. Accordingly, intervention pursuant to NRCP 24(a)(2) is  
28 not warranted.

1           C.     Intervention Pursuant to NRCP 24(b).

2           Intervention pursuant to NRCP 24(b) is a matter of convenience and is within the discretion  
3 of the Court, and is appropriate when a conditional right to intervene is provided by statute or  
4 when the applicant's claim or defense has a question of law or fact in common with the main  
5 action. NRCP 24(b). In making its determination, a Court "shall consider whether the intervention  
6 will unduly delay or prejudice the adjudication of the rights of the original parties." *Id.*

7           This case was brought by Fernley out of a concern that Fernley was not receiving a legal,  
8 fair and equitable share of consolidated tax revenues. (Complaint, ¶¶ 10-20). The lack of  
9 adequate consolidated tax revenues means that Fernley has limited financial resources. Already  
10 required to retain private counsel, and already facing a stiff opposition from the Department and  
11 Treasurer, Fernley is now faced with further costs and additional drains on its already limited  
12 resources to address what appears to be duplicative arguments sought to be raised by the  
13 Legislature, including an indication from the Legislature that it intends to file its own lengthy  
14 motion to dismiss. Such duplication of effort, and the resulting expenditure of resources to address  
15 that duplication, both prejudices Fernley and delays the adjudication of this case.

16           The Legislature argues that it has an expertise into the consolidated tax system that is  
17 possessed by neither the Department nor the Treasurer, and that such case warrants intervention. If  
18 so, there is nothing to prevent the Legislature from making itself available as a resource to the  
19 Department, Treasurer and Attorney General in their defense of this matter. But intervention into  
20 this case will serve only to increase the time and resources that the existing parties must already  
21 devote to the prosecution and defense of this matter.

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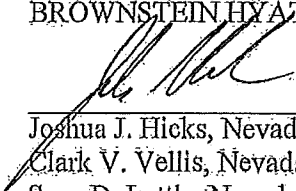
BROWNSTEIN HYATT FARBER SCHRECK  
50 West Liberty Street, Suite 1030  
Reno, Nevada 89501  
(702) 382-2101

1 **III. CONCLUSION**

2 For all the above reasons, the Legislature's motion to intervene should be denied.

3 DATED this 20<sup>th</sup> day of August, 2012.

4 BROWNSTEIN HYATT FARBER SCHRECK, LLP

5   
6 Joshua J. Hicks, Nevada Bar No. 6679

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CERTIFICATE OF SERVICE

I certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and that on this 20th day of August, 2012, I caused to be hand delivered, a true and correct copy of the above and foregoing **CITY OF FERNLEY'S OPPOSITION TO NEVADA LEGISLATURE'S MOTION TO INTERVENE** properly addressed to the following:

Catherine Cortez Masto, Esq.  
Gina C. Session, Esq.  
Andréa Nichols, Esq.  
Office of the Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717

Kevin Powers, Esq.  
Legislative Counsel Bureau  
401 South Carson Street  
Carson City, Nevada 89701

  
An Employee of Brownstein Hyatt Farber Schreck, LLP

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*Attorneys for the City of Fernley, Nevada*

IN THE FIRST JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a  
Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA  
DEPARTMENT OF TAXATION; THE  
HONORABLE KATE MARSHALL, in her  
official capacity as TREASURER OF THE  
STATE OF NEVADA; and DOES 1-20,  
inclusive,

Defendants.

Case No.: 120C001681B  
Dept. No.: I

CITY OF FERNLEY'S OPPOSITION  
TO MOTION TO DISMISS AND  
MOTION FOR CONTINUANCE  
PURSUANT TO NRCP 56(f)

COMES NOW, Plaintiff, City of Fernley, Nevada ("Fernley"), a Nevada municipal corporation, by and through its attorneys of record, and hereby submits its Opposition to the Motion to Dismiss filed by the Nevada Department of Taxation ("Department") and the Treasurer of the State of Nevada (collectively, the "State"). This Opposition is based upon the Memorandum of Points and Authorities included herein, the pleadings and papers on file in this matter, and such other argument or evidence as may be considered by the Court.

///

///

REC'D & FILED

AUG 20 PM 4:36

ALAN CLOVER  
C. GRIBBLE

BY CLERK  
DEPUTY



IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA, a  
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.  
DEPARTMENT OF TAXATION;  
THE HONORABLE DAN  
SCHWARTZ, in his official capacity  
as TREASURER OF THE STATE OF  
NEVADA; and THE LEGISLATURE  
OF THE STATE OF NEVADA,

Respondents.

Electronically Filed  
May 20 2015 10:23 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX

VOLUME 2 PART 1

Filed By:

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City of Fernley v. State of Nevada et al., Case No. 66851

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1	Affidavit of Service Taxation	City of Fernley	07/02/12	17
1	Affidavit of Service Treasurer	City of Fernley	06/20/12	13-16
23	Amended Memorandum of Costs and Disbursements	State of Nevada/Dept Taxation	10/09/15	4058-4177
7	Answer	State of Nevada/Dept Tax/ Treasurer	02/01/13	1384-1389
7	Answer to Plaintiff's Complaint	Nevada Legislature	01/29/13	1378-1383
23	Case Appeal Statement	City of Fernley	11/07/14	4208-4212
1	Complaint	City of Fernley	06/06/12	1-12
21	Defendant Nevada Legislature's Reply in Support of its Motion for Summary Judgment	Nevada Legislature	07/25/14	3747-3768
21	Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs	State of Nevada/Dept Taxation	10/03/14	3863-3928
22	Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs (Cont.)	State of Nevada/Dept Taxation	10/03/14	3929-3947
1	Exhibits to Joinder in Motion to Dismiss	Nevada Legislature	08/16/12	104-220
2	Exhibits to Joinder in Motion to Dismiss (Cont.)	Nevada Legislature	08/16/12	221-332
1	Joinder in Motion to Dismiss	Nevada Legislature	08/16/12	62-103
7	Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/06/14	1421-1423
21	Memorandum of Costs and Disbursements	State of Nevada/Dept Taxation	09/19/14	3788-3793
21	Motion for Costs	State of Nevada/Dept Taxation	09/19/14	3776-3788
12	Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order	City of Fernley	06/18/14	2005-2045
7	Motion for Summary Judgment	City of Fernley	06/13/14	1458-1512
8	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1513-1732
9	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1733-1916
10	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1917-1948
11	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1949-2004
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1	Motion to Intervene	Nevada Legislature	08/03/12	18-40
21	Motion to Retax Costs and Opposition to Motion for Costs	City of Fernley	09/24/14	3794-3845
7	Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	05/05/14	1414-1420
7	Nevada Department of Taxation and Nevada Treasurer's Reply to Response to Renewal of Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	05/23/14	1433-1437
12	Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment	State of Nevada/Dept Taxation	07/11/14	2053-2224
13	Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	State of Nevada/Dept Taxation	07/11/14	2225-2353

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23	Notice of Appeal	City of Fernley	11/07/14	4205-4207
22	Notice of Entry of Order	Nevada Legislature	10/08/14	4001-4057
23	Notice of Entry of Order	State of Nevada/Dept	10/17/14	4195-4204
7	Notice of Entry of Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	State of Nevada/Dept Tax/ Treasurer	12/19/12	1364-1370
7	Notice of Entry of Order Granting A Continuance to Complete Discovery	City of Fernley	10/19/12	1344-1350
3	Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene	Nevada Legislature	09/04/12	651-657
7	Notice of Entry of Order on Defendant's Motion for Extensions of Time to File Answer	State of Nevada/Dept Tax/ Treasurer	11/15/12	1354-1360
1	Notice of Non-Opposition to Legislature's Motion to Intervene	State of Nevada/Dept Tax/ Treasurer	08/06/12	59-61
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3	Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F) (Cont.)	City of Fernley	08/20/12	442-625
2	Opposition to Motion to Nevada Legislature's Motion to Intervene	City of Fernley	08/20/12	324-330
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14	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2446-2665
15	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2666-2819
16	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2820-2851
17	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2852-2899
4	Opposition to Nevada Legislature's Joinder in Motion to Dismiss	City of Fernley	09/28/12	662-881
5	Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.)	City of Fernley	09/28/12	882-1101
6	Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.)	City of Fernley	09/28/12	1102-1316
17	Opposition to Nevada Legislature's Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	City of Fernley	07/11/14	2900-2941
20	Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order	Nevada Legislature	07/11/14	3586-3582

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17	Opposition to Plaintiff's Motion for Summary Judgment	Nevada Legislature	07/11/14	2942-3071
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19	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3292-3512
20	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3515-3567
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22	Order and Judgment	First Judicial District Court	10/06/14	3948-4000
7	Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	First Judicial District Court	12/17/12	1361-1363
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23	Order Granting Nevada Department of Taxation's Motion for Costs	First Judicial District Court	10/15/14	4190-4194
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21	Order Vacating Trial	First Judicial District Court	09/03/14	3773-3775
23	Plaintiff's Motion to Strike, or Alternatively, Motion to Retax Costs	City of Fernley	10/14/14	4178-4189
21	Plaintiff's Objections to Nevada Legislature's Proposed Order and Request to Submit Proposed Order and Judgment	City of Fernley	10/02/14	3846-3862
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3	Reply in Support of Motion to Intervene	Nevada Legislature	08/24/12	626-635
21	Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant Nevada Legislature	City of Fernley	07/25/14	3709-3746

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20	Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant's Nevada Department of Taxation and Nevada Treasurer; Plaintiff's Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	City of Fernley	07/25/14	3641-3673
20	Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendant Nevada Legislature	City of Fernley	07/25/14	3606-3640
21	Reply to Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Taxation	08/01/14	3769-3772
3	Reply to Opposition to Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	08/27/12	636-647
20	Reply to Plaintiff's Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	State of Nevada/Dept Taxation	07/25/14	3583-3605
7	Response to Nevada Department of Taxation	City of Fernley	05/16/14	1424-1432
7	Second Stipulation and Order Regarding Change of Briefing Schedule	Parties/First Judicial District Court	03/17/14	1406-1409
7	Stipulation and Order for an Extension of Time to File Responses to Discovery Requests; Extend Certain Discovery Deadlines and Extend Time to File Dispositive Motions	Parties/First Judicial District Court	04/11/14	1410-1413
7	Stipulation and Order Regarding Change of Briefing Schedule and Plaintiff's Response to Defendant's Motion to Strike Plaintiff's Jury Demand	Parties/First Judicial District Court	02/19/14	1403-1405
12	Stipulation and Order Regarding Change of Briefing Schedule and Setting Hearing for Oral Argument	Parties/First Judicial District Court	06/25/14	2046-2048
7	Stipulation and Order Regarding Defendant's Motion to Strike Plaintiff's Jury Demand	Parties/First Judicial District Court	10/23/13	1400-1402
3	Stipulation and Order Regarding Joinder to Motion to Dismiss	Parties/First Judicial District Court	09/18/12	658-661
23	Transcript of Hearing	Court Reporter	01/07/15	4213-4267
7	Writ of Mandamus	Nevada Supreme Court	01/25/13	1371-1372

include IVGID by traveling to Lake Tahoe at the request of the chairman to meet with the group from the special districts, tried to explain and help them to understand. There were several advisory committee meetings in northern Nevada, the special districts were invited to all of those meetings, and there were representatives in Carson City when the meetings were held at the Legislative Building, Ms. Henderson declared. She expounded there was never an interim committee which tried, as hard as the S.C.R. 40 of the Sixty-eighth Session committee tried, to include every interested party. Ms. Henderson insisted the special districts were given ample opportunity to have their concerns addressed and heard.

Senator O'Donnell elucidated therein lied the problem. The senator explained it was as though there had been this adversarial or duality of governmental entities, when, in reality, Washoe County was Incline Village. Ms. Henderson maintained if Senator O'Donnell had viewed the testimony throughout the S.C.R. 40 of the Sixty-eighth Session technical committee hearings, he would have seen she had been a consistent advocate, bringing the issue of the special districts to the table time and time again, not just IVGID, but all the special districts.

Chairman O'Connell stressed it would be helpful for Senator O'Donnell to understand there were 17 counties. During one meeting, 3 hours were dedicated to nothing but trying to address the concerns of Douglas County and Incline Village. Besides the other meetings Lake Tahoe governments participated in, Senator O'Connell pointed out a full 3 hours was set aside for these entities.

Mr. Leavitt testified during these interim sessions, a fair process was established long before the results were viewed, in order to attempt to assess a formula which was fair for everyone concerned. He had never seen that done before.

The chairman inquired whether Mr. Finnigan had any comments regarding the amendment before the committee (Exhibit C). Mr. Finnigan expressed the amendments he had reviewed seemed to reflect the proposal set forth by the Sun Valley GID with regard to the definition and appeal avenues for an enterprise district. Mr. Finnigan requested a few more minutes to speak with regard to S.B. 254 in general.

Mr. Finnigan asserted it seemed to be the opinion of the Senate Committee on Government Affairs, and perhaps the entire Legislature, that general or special

improvement districts were lesser forms of government than other larger, more general governments. He opined most general improvement districts were formed due to the need in the rural areas of the state which required quasi-governmental services. Mr. Finnigan insisted GIDs were not formed to waste tax dollars, but to provide services to taxpayers. When IVGID was formed in the 1960s, it was formed to provide a number of services which otherwise could not have been provided by Washoe County at the time. He stressed his biggest gripe was the focus on GIDs with the assumption they were all formed to take tax dollars from other deserving entities. That was just not true, Mr. Finnigan maintained.

Senator O'Connell suggested there was the provision which allowed for an interlocal agreement. If the services were critical to the county, there was a provision for IVGID to negotiate with the county, she recited. The chairman reiterated it was felt the TV (television) district, convention authority, and swimming pool were critical as far as providing services, unless residents wanted to pay for them. Mr. Finnigan asserted GIDs were on the same level statutorily as any other government. He pointed out GIDs were political subdivisions of the state and stressed IVGID was not accountable to Washoe County and was not subordinate to Washoe County. Mr. Finnigan maintained the citizens of IVGID had needs and the GID was formed to serve those needs. In some cases, there were needs otherwise performed by the county that IVGID performed on the county's behalf through intergovernmental agreements, which was not what he was referencing. Mr. Finnigan defined the things he was discussing as sewer, trash, road maintenance, public recreation and water, services which were never provided by Washoe County.

Chairman O'Connell declared the bill did not change the money IVGID would receive or the service level IVGID could continue to provide. Mr. Finnigan responded he understood, and was not arguing with the end result, but with the underlying assumption GIDs or special districts were lower forms of government than counties and cities. He repeated these districts happened to exist in rural areas in need of services where other governments did not perform. Mr. Finnigan pointed out GIDs should not be targeted for this type of legislation and questioned why his tax dollars, as a taxpayer in Incline Village, should be utilized in southern Nevada to support the creation of infrastructure in Clark County. Chairman O'Connell responded tax dollars from Clark County have been supporting the GIDs through SCCRT for the last 16 years. Mr. Finnigan argued the residents of Incline Village live, work and shop in this state and were entitled to their share also.

Senate Committee on Government Affairs  
May 5, 1997  
Page 13

Chairman O'Connell inquired whether the concerns of the committee were addressed significantly through the amendment. Upon receiving affirmation, the chairman requested action on the amended bill.

SENATOR RAGGIO MOVED TO AMEND SENATE BILL 254 WITH AMENDMENT NO. 289 AND DO PASS.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR PORTER WAS ABSENT FOR THE VOTE.)

\*\*\*\*\*

The chairman indicated other business before the committee concerned a recede or do not recede on Assembly Bill (A.B.) 66.

ASSEMBLY BILL 66: Makes various changes regarding committee to approve schedules for retention and disposition of official state records. (BDR 19-454)

Chairman O'Connell explained when the bill was referred back to the Assembly for the Senate amendment to be reviewed, the local governments were allowed an advisory position regarding the records for the museum. The Assembly Committee on Government Affairs determined the committee designated by A.B. 66 was the final authority and disallowed the advisory language.

The chairman expressed the committee determined the local government position would remain in an advisory capacity and the Assembly Committee on Government Affairs contended the authority should be not advisory, but final approval.

SENATOR RAGGIO MOVED THE SENATE COMMITTEE ON GOVERNMENT AFFAIRS RECOMMEND THE SENATE NOT RECEDE ACTION ON ASSEMBLY BILL 66.

SENATOR O'DONNELL SECONDED THE MOTION.



**1997 REGULAR SESSION (69th)**

ASSEMBLY ACTION		SENATE ACTION		
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Senate Amendment to Senate Bill No. 254 BDR 32-314 Proposed by Committee on Government Affairs
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>	
Date:		Date:		
Initial:		Initial:		
Concurred In	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	
Not Concurred In	<input type="checkbox"/>	Not Concurred In	<input type="checkbox"/>	
Date:		Date:		
Initial:		Initial:		
<b>Amendment No. 289</b>		<b>Resolves conflict in section 21 with S.B. No. 146. Makes substantive changes.</b>		

Amend sec. 4, pages 1 and 2, by deleting lines 17 through 20 on page 1 and lines 1 through 12 on page 2 and inserting:

**"Sec. 4. "Enterprise district" means a governmental entity which:**

1. *Is not a county, city or town;*
2. *Receives any portion of the proceeds of a tax which is included in the fund; and*
3. *The executive director determines is an enterprise district pursuant to the provisions of section 12.5 of this act."*

Amend sec. 11, page 5, line 8, by deleting "3" and inserting "4".

Amend the bill as a whole by adding a new section designated sec. 12.5, following sec. 12, to read as follows:

Drafted by: KMG:nmm

Date: 5/2/97

S.B. No. 254—Makes various changes to formulas for distribution of certain taxes.



\* A S B 2 5 4 2 8 9 \*

1019

104

Case No. 66851  
EXHIBIT 224

*"Sec. 12.5. 1. The executive director shall determine whether a governmental entity is an enterprise district.*

*2. In determining whether a governmental entity is an enterprise district, the executive director shall consider:*

*(a) Whether the governmental entity should account for substantially all of its operations in an enterprise fund as defined in NRS 354.517;*

*(b) The number and type of governmental services that the governmental entity provides;*

*(c) Whether the governmental entity provides a product or a service directly to a user of that product or service, including, without limitation, water, sewerage, television and sanitation; and*

*(d) Any other factors the executive director deems relevant."*

Amend sec. 14, page 6, by deleting lines 30 and 31 and inserting:

*"3. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts."*

Amend sec. 14, page 7, line 10, by deleting "by unanimous consent".

Amend the bill as a whole by adding a new section designated sec. 18.5, following sec. 18, to read as follows:

*"Sec. 18.5, NRS 371.230 is hereby amended to read as follows:*

*371.230 Except as otherwise provided in NRS 371.1035 [.] or 482.180, money collected by the department for privilege taxes and penalties pursuant to the provisions of this chapter must be deposited with the state treasurer to the credit of the motor vehicle fund."*

Amend sec. 21, page 13, line 38, by inserting, after "shall" by inserting "distribute".

Amend sec. 21, page 13, line 41, by deleting ":" and inserting ", to:".

Amend sec. 21, page 13, line 42, by deleting "For".

Amend sec. 21, page 13, line 43, by deleting:

"distribute to each county".

Amend sec. 21, page 14, line 13, by deleting "6." and inserting "5.".

Amend sec. 21, page 14, by deleting line 20 and inserting:

"(b) All other counties, the amount remaining after making".

Amend sec. 21, page 14, line 21, by deleting "county" and inserting:

"of these counties".

Amend sec. 21, page 14, line 32, after "(b)" by inserting:

"of subsection 1".

Amend sec. 21, page 14, line 36, by deleting the comma.

Amend sec. 21, page 14, line 41, by deleting the comma.

Amend sec. 21, page 15, by deleting lines 36 through 41 and inserting:

"assessed valuation of a:

(a) Fire protection district includes property which was transferred from private ownership to public ownership after July 1, 1986, pursuant to:

(1) The Santini-Burton Act, Public Law 96-586; or

(2) Chapter 585, Statutes of Nevada 1985, at page 1866, approved by the voters on

November 4, 1986.

(b) Local government includes property which was transferred from private ownership, after July 1, 1997, to property held in trust for an Indian tribe pursuant to the provisions of the Indian Reorganization Act, 25 U.S.C. §§ 461 et seq.”.

Amend the bill as a whole by adding a new section designated sec. 21.5, following sec. 21, to read as follows:

“Sec. 21.5. NRS 377.080 is hereby amended to read as follows:

377.080 1. A local government or *special district* which receives revenue [from the supplemental city-county relief tax pursuant to NRS 377.057] *pursuant to sections 10, 11 and 12 of this act* may pledge not more than 15 percent of that revenue to the payment of any general obligation bond or revenue bond issued by the local government pursuant to chapter 350 of NRS.

2. Any revenue pledged pursuant to subsection 1 for the payment of a general obligation bond issued by a local government pursuant to chapter 350 of NRS shall be deemed to be pledged revenue of the project for the purposes of NRS 350.020.

3. *For bonds issued pursuant to this section before July 1, 1998, by a local government, special district or enterprise district:*

(a) *A pledge of 15 percent of the revenue distributed pursuant to sections 10, 11 and 12 of this act is substituted for the pledge of 15 percent of the revenue distributed pursuant to NRS 377.057, as that section existed on January 1, 1997; and*

(b) *A local government, special district or enterprise district shall increase the percentage specified in paragraph (a) to the extent necessary to provide a pledge to those bonds that is equivalent to the pledge of 15 percent of the amount that would have been received by that local*

*government, special district or enterprise district pursuant to NRS 377.057, as that section existed on January 1, 1997.*

4. *As used in this section, unless the context otherwise requires:*

(a) *"Enterprise district" has the meaning ascribed to it in section 4 of this act.*

(b) *"Local government" has the meaning ascribed to it in section 6 of this act.*

(c) *"Special district" has the meaning ascribed to it in section 7 of this act."*

Amend sec. 35, page 26, line 13, by deleting "average".

Amend sec. 35, page 26, line 22, by deleting "average".

Amend sec. 35, page 26, by deleting lines 24 and 25 and inserting:

"3. For the purposes of this section:

(a) For any unincorporated town to which the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996, applied, the amounts described in subparagraphs (1) and (2) of paragraph (a) of subsection 2 must be adjusted to equal the amounts that could have been received by that unincorporated town but for the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996.

(b) The fiscal year ending on June 30, 1999, is the initial year of distribution."

Amend sec. 35, page 26, line 26, by deleting "4." and inserting:

"4. For the fiscal year beginning on July 1, 2000, the executive director of the department of taxation shall increase the amount which would otherwise be allocated pursuant to subsection 2 of section 10 of this act to each unincorporated town that was created after July 1, 1980, and before July 1, 1997, for which the Nevada tax commission established the allowed revenue from

taxes ad valorem or basic ad valorem revenue pursuant to subsection 4 of NRS 354.5987, as that section existed on July 1, 1996, by an amount equal to the amount of basic privilege tax that would have been distributed to the unincorporated town:

(a) Pursuant to NRS 482.181, as if the provisions of NRS 482.181 which existed on July 1, 1996, were still in effect; and

(b) As if the tax rate for the unincorporated town for the fiscal year beginning on July 1, 1980, were a rate equal to the average tax rate levied for the fiscal year beginning on July 1, 1980, by other unincorporated towns included in the same common levy authorized by NRS 269.5755 which were in existence on July 1, 1980.

5. The additional amount of money allocated to an unincorporated town pursuant to subsection 4 must continue to be treated as a regular part of the amount allocated to the unincorporated town for the purposes of determining the allocation for the town pursuant to subsection 2 of section 10 of this act for all future years.

6.”

Amend sec. 37, page 28, line 26, by deleting:

“September 15, 1997,” and inserting:

“January 1, 1998,”.

Amend sec. 37, page 28, by deleting lines 27 through 30 and inserting:

“of the department of taxation shall:

(a) Notify each governmental entity he determines is an enterprise district pursuant to section 12.5 of this act of that determination; and

(b) Calculate the amount each enterprise district will receive pursuant to subsection 1 of section 10 of this act.

2. Any governmental entity that the executive director determines is an enterprise district pursuant to section 12.5 of this act may appeal that determination to the Nevada tax commission on or before April 1, 1998. The governing body of the governmental entity must notify each of the other local governments and special districts that is located in the same county of the appeal.

3. The Nevada tax commission shall convene a hearing on the appeal and issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

4. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act."

Amend the bill as a whole by adding a new section designated sec. 37.5, following sec. 37, to read as follows:

"Sec. 37.5. 1. There is hereby appropriated from the state general fund to the department of taxation for the personnel, equipment and costs of operation necessary to administer the provisions of this act:

For the fiscal year 1997-98..... \$137,814

For the fiscal year 1998-99..... \$127,200

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective

fiscal years and reverts to the state general fund as soon as all payments of money committed have been made.”.

Amend sec. 38, page 28, line 31, by deleting:

“13 and 37” and inserting:

“12.5, 13, 37 and 37.5”.

Amend the preamble of the bill, page 1, by deleting lines 1 through 6.

Amend the title of the bill, eighth line, after “circumstances;” by inserting:

“making an appropriation;”.



Section-by-Section Analysis of S.B. 254

(as amended by Amendment No. 289)

(The changes made to S.B. 254 by the amendment are highlighted.)

Sections 1-3. Directory language and definition sections.

Sec. 4. Defines, for the purposes of the bill, an enterprise district to be a governmental entity which receives any portion of the proceeds of a tax which is included in the fund, which is not a city, county or a town and which the executive director of the department of taxation determines is an enterprise district pursuant to section 12.5 of the act.

Sec. 5. Definition of the "fund" (the Local Government Tax Distribution Fund).

Sec. 6. Defines, for the purposes of the bill, a "local government" to be a city, county or town only.

Sec. 7. Defines, for the purposes of the bill, a "special district." A special district is any governmental entity which receives money from one of the taxes included in the fund and which is not a local government or an enterprise district. An example of a special district is a general improvement district.

Sec. 8. Creates the fund as a special revenue fund in the state treasury. Makes the executive director of the department of taxation the administrator of the fund. {The fund contains the following taxes: liquor tax, cigarette tax, real property transfer tax, basic city-county relief tax, supplemental city-county relief tax and the basic motor vehicle privilege tax, except a for a portion allocated to the school districts.}

**Sec. 9.** Qualifies the governmental entities that will receive money from the fund. Unless a governmental entity received, before July 1, 1998, money from one of the taxes included in the fund or unless the governmental entity complies with the provisions of section 15, it will not receive money from the fund.

**Sec. 10.** Sets forth the basic formula for distributing the money in the fund. After the establishment of the initial amount to be allocated to each enterprise district, special district and local government pursuant to section 35, the enterprise districts receive the same amounts that they received in the immediately preceding fiscal year and the local governments and special districts receive amounts equal to the amounts they received in the immediately preceding year adjusted for growth pursuant to the Consumer Price Index.

**Sec. 11.** Sets forth the calculations the executive director must perform each month for the allocation of the money in the fund. Also directs the state treasurer to distribute the money in the fund on a monthly basis.

**Subsection 2.** Establishes the base monthly allocation which is one-twelfth of the amount calculated in section 10.

**Subsection 3.** If the executive director determines there is not enough money in the account to allocate to each enterprise district, local government and special district the amounts they should receive pursuant to subsection 2, he must prorate and allocate to each governmental entity an amount equal to the percentage the governmental entity would have received pursuant to subsection 2.

**Subsection 4.** Unless a governmental entity received less than the amount it should have received pursuant to subsection 2 for a preceding month of the fiscal year (see

subsection 5), the executive director shall, after the base monthly allocation, allocate any money remaining in the account to the local governments in the county based on the change in population and the change in assessed valuation of property in the local government and to the special districts in the county based on the change in assessed valuation of property in the special district only.

**Subsection 5.** Requires the executive director to ensure that each enterprise district, special district and local government receives at least the base monthly allocation for each preceding month of the fiscal year before he allocates any extra money remaining in the account pursuant to subsection 4.

**Subsection 6.** Provides for the determination of the change in population of local governments for the purposes of subsection 4.

**Subsections 7, 8 and 9.** Requires the executive director to provide estimates to the governmental entities of the amounts they will receive from the fund for that fiscal year and allows the governmental entities to use those estimates for preparing their budgets.

**Sec. 12.** Requires the executive director to ensure that each governmental entity will receive at least the amount of money that was pledged to secure the payment of any bonds or other obligations from any tax which is included in the fund.

**Sec. 12.5.** Sets forth the criteria the executive director must use to determine whether a governmental entity is an enterprise district. The criteria include whether the governmental entity should account for substantially all of its operations in an enterprise fund, the number and type of governmental services that the governmental entity provides, whether the governmental entity provides services such as water, sewerage,

television or sanitation directly to a user of those services and any other factors the executive director deems to be relevant.

**Sec. 13. Subsection 1.** Prohibits an enterprise district from pledging any portion of the revenues from any of the taxes included in the fund before the effective date of the act (July 1, 1998) to secure the payment of bonds or obligations.

**Subsection 2.** Requires the executive director to ensure that a governmental entity that is created between July 1, 1996, and July 1, 1998, does not, before the effective date of the act, receive money from the taxes which will be included in the fund and thereby be able to participate in the distribution of the money in the fund unless they provide the same governmental services that governmental entities are required to provide pursuant to section 15 to be included in the distribution of the money in the fund.

**Sec. 14.** Sets forth the procedure by which a local government or special district within the same county may agree to distribute the money in the county's account in the fund pursuant to an alternative formula.

**Subsection 1.** The governing body of each party to a cooperative agreement must agree to the terms of the agreement by majority vote.

**Subsection 2.** Requires the executive director to be notified of any agreements for alternative formulas.

**Subsection 3.** Prohibits local governments or special districts from entering into more than one cooperative agreement that involves the same local governments or special districts.

**Subsection 4.** The terms of two or more cooperative agreements in a county must not conflict.

**Subsection 5.** A local government or special district that does not wish to participate in a cooperative agreement will continue to receive its share from the fund pursuant to the provisions of sections 10 and 11.

**Subsection 6.** The governing body of each party to a cooperative agreement must agree to the terms of the agreement by majority vote and may amend the terms of the agreement by majority vote. The terms may only be amended once during the first two years the agreement is in effect and once every year thereafter.

**Subsection 7.** The governing body of each party to a cooperative agreement must agree to terminate the agreement.

**Subsections 8 and 9.** The executive director must continue to calculate the amount that each party to a cooperative agreement would receive under the terms of the regular formula. If an agreement is terminated, the parties would receive the amounts to which they would be entitled under the terms of the regular formula.

**Sec. 15.** Provides the procedure by which a local government or special district that is created after July 1, 1998, may be included in the distribution of the money in the fund. Such a local government or special district must provide police protections and at least two of the following services: fire protection; construction, maintenance and repair of roads; or parks and recreation. The governing body must submit a request to the executive director on or before December 31 of the year immediately preceding the first fiscal year that the local government or special district would receive money from the fund. The executive director then analyzes the request and makes a recommendation to the committee on local government finance. The committee on local government finance reviews the findings of the executive director and if it determines that an adjustment is

appropriate, it submits a recommendation to the Nevada tax commission. If the Nevada tax commission determines that the adjustment is appropriate, it orders the executive director to make the adjustment.

Sec. 16. Makes changes necessary for consistency with new provisions.

Sec. 17. Includes the tax on liquor in the fund.

Sec. 18. Includes the tax on cigarettes in the fund.

~~Sec. 18.5. Resolves inconsistency between NRS 482.180 and NRS 371.230 which requires that all money collected by the department of motor vehicles and public safety for privilege taxes and penalties be deposited to the credit of the motor vehicle fund.~~

Sec. 19. Includes the tax on the transfer of real property in the fund.

Sec. 20. Includes the basic city-county relief tax in the fund.

Sec. 21. Includes the supplemental city-county relief tax in the fund.

~~Sec. 21.5. Amends NRS 377.080 to ensure that the effect of the changes made by the bill do not impair the bondholder contracts for any bonds issued before the effective date of the bill.~~

Sec. 22. Includes the supplemental city-county relief tax in the fund.

Secs. 23 and 24. Provides for adjustments in the allowed taxes ad valorem, population and assessed valuation of governmental entities when the functions of one governmental entity are assumed by another.

Sec. 25. Locates sections 23 and 24 within the Local Government Budget Act in Chapter 354 of NRS.

Secs. 26 to 30. Make changes necessary for consistency with new provisions.

**Secs. 31 and 32.** Includes the basic motor vehicle privilege tax in the fund. The portion of the tax which is allotted to the school district of the county must receive its share of the money in the county's account in the fund that is derived from this tax before any remaining money may be distributed to the other governmental entities.

**Secs. 33 and 34.** Make changes necessary for consistency with new provisions.

**Sec. 35.** Sets the amounts the executive director shall allocate to the enterprise districts, local governments and special districts for the initial year of distribution pursuant to the new formula. The initial year of distribution is the fiscal year ending on June 30, 1999.

**Subsection 1.** Sets the amount that each enterprise district will receive at the average amount that the enterprise district received from the proceeds from each tax included in the fund for the fiscal years ending on June 30, 1996, and June 30, 1997. Each enterprise district will receive this same amount each year pursuant to the new formula.

**Subsection 2.** Sets the amount that each local government and special district will receive in the initial year of distribution by taking the average amount that the local government or special district received for the fiscal years ending on June 30, 1996, and June 30, 1997, and adjusting that amount by the total of the amounts received by the local governments and special districts located in the same county and the percentage change in the Consumer Price Index for the period from July 1, 1997, to December 31, 1997.

**Subsection 3.** Requires the amount that an unincorporated town to which the provisions of subsection 5 of NRS 354.5987 applied on July 1, 1996, will receive pursuant to subsection 2 be adjusted so the amount that the unincorporated town actually

receives is not lessened by the effect of subsection 5 of NRS 354.5987 (as applied on July 1, 1996) (Ensures that the provisions of subsection 5 of NRS 354.5987 (added in S.B. 556 of the 68th session) do not apply to the calculations made pursuant to section 35 of the bill for an unincorporated town.

Subsection 4 increases the allocation made pursuant to subsection 2 of section 10 of the bill for the fiscal year 2000-2001 for unincorporated towns that would have received a distribution of the proceeds of the basic privilege tax beginning in fiscal year 2000-2001 by the amount the unincorporated town would have received but for the provisions of this bill and includes the amount in the base of the unincorporated town for future years.

Sec. 36. Provides the procedure by which the governing body of a local government or special district that receives, before July 1, 1998, any portion of the proceeds from a tax which is included in the fund may petition for an adjustment to the amounts it will receive from the fund for the initial year of distribution. The governing body must request the adjustment on or before December 31, 1997. The governing body submits the request to the executive director who then analyzes the request and makes a recommendation to the committee on local government finance. The committee on local government finance reviews the findings of the executive director and if it determines that an adjustment is appropriate, it submits a recommendation to the Nevada tax commission. If the Nevada tax commission determines that the adjustment is appropriate, it orders the executive director to make the adjustment.

Sec. 37. Requires the executive director, on or before January 1, 1998, to notify each governmental entity he determines is an enterprise district of that designation and to



calculate the amount each enterprise district will receive. Also allows an enterprise district to appeal the executive director's determination to the Nevada tax commission on or before April 1, 1998. Requires the appealing enterprise district to notify the other local governments and special districts that are located in the same county. Requires the Nevada tax commission to issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

Sec. 37.5. Adds an appropriation of \$137,814 for fiscal year 1997-1998 and an appropriation of \$127,200 for fiscal year 1998-1999 for the costs associated with the implementation of the bill. Provides that any balance of the funds appropriated reverts to the state general fund.

Sec. 38. Effective dates. Sections 1 to 7, inclusive, 12, 12.5, 13, 37 and 37.5 become effective upon passage and approval. All others become effective on July 1, 1998.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of this legislative body express their sincere condolences to the family and friends of the late Dr. Joseph D. Wilkin; and be it further

RESOLVED, That the death of such a highly respected doctor is a tremendous loss for Lincoln County and the State of Nevada; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the family members of Dr. Joseph D. Wilkin.

Senator McGinness moved the adoption of the resolution.

Remarks by Senator McGinness.

Senator McGinness requested that his remarks be entered in the Journal.

Thank you, Mr. President pro Tempore. Senate Concurrent Resolution No. 42 speaks for itself. We must recognize that Dr. Wilkin was a local boy. He grew up in Lincoln County. We must recognize the responsibility he felt to his hometown by returning there to practice medicine. At the age of 35, he went to medical school. If all of us think back to where we were at age 35, the thought of going to medical school would put a chill in most of our hearts. Dr. Wilkin did go to medical school, came back and became a "country" doctor. For those of you who know Lincoln County as rather remote, it is really more frontier medicine. For those people who know how much faith is put into a family doctor, you understand how much faith everyone had in Dr. Wilkin. There was a 15-month and another 9-month period where he was the only doctor in the county, not just in the community but in the county. Everyone came to his door, day and night. He delivered 155 babies. There are 155 alumni of Dr. Wilkin out there who are very happy. He showed great dedication to Lincoln County by recognizing that he was the only physician in the community and chose not to take a vacation or go away for weekends. His wife and daughters know exactly what that dedication meant to them as they were growing up. It gives me great pleasure to support Senate Concurrent Resolution No. 42.

Resolution adopted.

Senator McGinness moved that all rules be suspended and that Senate Concurrent Resolution No. 42 be immediately transmitted to the Assembly.

Motion carried.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 254, with Senator O'Connell as Chairman of the Committee of the Whole.

Remarks by Senator Raggio.

Motion carried.

#### IN COMMITTEE OF THE WHOLE

At 10:42 a.m.

Senator O'Connell presiding.

Senate Bill No. 254 considered.

The Committee of the Whole was addressed by Senator O'Connell, Mary Henderson, Washoe County; Guy Hobbs, Fiscal Consultant, Clark County; Marvin Leavitt, City of Las Vegas; Michael Pitlock, Executive Director, Department of Taxation and Mary Walker, City of Carson City.

Senator O'Connell requested that all remarks on Senate Bill No. 254 be entered in the Journal.

SENATOR O'CONNELL:

I hope the beginning of this morning isn't an indication as to how this hearing is going to go. When one of the members of our presentation group parked in the garage this morning he was surrounded by military people who would not let him out of the parking garage for the longest time because of the helicopters landing on the legislative grounds. The next thing: when we were going over the presentation, one of our members got an emergency call regarding a bomb threat in one of the court houses. I hope that is not an indication as to how the hearing will continue.

The interim committee on S.C.R. No. 40 (of the 68<sup>th</sup> Session) was established to study the laws relating to the laws relating to the distribution among local governments of revenue from state and local taxes. The objectives set forth for the committee were as follows:

1. The new tax distribution system be revenue neutral for the affected governments in the first year. The objective further assumed constant or current service levels for each entity.
2. The revenue growth in future years be directed to follow the population growth.
3. The new tax distribution should reduce competition and encourage cooperation between the local governments.
4. Both the criteria and the parameters be established for the creation of new units of local government and for the treatment of any new local government/special district in the distribution formulas.

In order to attain these lofty goals, the people to be chosen for the technical committee had to be Nevada's brightest financial minds. The people chosen certainly lived up to our expectations. They are fiscal analysts Mike Alstoy, Clark County School District; Gary Cords, City of Fallon; Marvin Leavitt, City of Las Vegas; Steve Hanson, City of Henderson; Mary Henderson, Washoe County; Terry Thomas, City of Sparks; Mary Walker, City of Carson City as well as Guy Hobbs, fiscal consultant, Clark County and Michael Pitlock, Executive Director, Department of Taxation, State of Nevada. These outstanding people accomplished the task that we set before them in S.C.R. No. 40 (of the 68<sup>th</sup> Session). Five of those analysts are here this morning to explain Senate Bill No. 254. On your desks should be a packet of additional information on the makeup of the committee as well as the information we will cover this morning. If you really need a lift, I recommend reading Bulletin No. 97-5, the Legislative Counsel Bureau's Law Relating to the Distribution Among Local Governments of Revenue from State and Local Taxes.

Let me draw your attention to the fourth page of the handout, the graphs showing the distribution before and after the passage of Senate Bill No. 254. The people making the presentation today are Guy Hobbs, Marvin Leavitt, Mary Walker, Mary Henderson and Michael Pitlock. On the seventh page of the handout, you will find the amendment which will be voted on today. The amendment will be explained along with a section by section discussion of the bill. After our five speakers finish their presentations, we will be happy to address any questions.

MR. GUY HOBBS (Fiscal Consultant, Clark County):

Thank you, Madam Chair and members of the committee. Chairman O'Connell covered many of the reasons why S.C.R. No. 40 (of the 68<sup>th</sup> Session) was initiated. The old system of distribution that we had been using since 1981, since the tax shift, was thought to be no longer effectively serving its purpose. The old system was cumbersome. For example, the six revenues on the chart on page 5 of the packet are distributed according to four different formulas some of which use assessed valuation, some of which use population. In some cases, some cities only receive those revenues. In some cases, counties only receive those revenues. In other cases where there are two or more cities in a county, counties do not share in those revenues. The old system has been thought to have little flexibility. The creation of a new city, town or other

form of entity is something that can create significant conflict. Also, in one of the fastest growing states, this system should be more responsive than it has been in the past. This was generally pointed out during the last legislative session with S.B. No. 556 (of the 68<sup>th</sup> Session), the creation of a new unincorporated town in Clark County, Summerland, and a previously unincorporated town of Spring Valley. There were no mechanisms in the law that would allow for either of those towns to participate in the distribution of the revenues under discussion today. I would draw your attention to page 2 of your packet which outlines the current system as compared to Senate Bill No. 254. In summary, Senate Bill No. 254 is recommending that six local intergovernmental revenues, specifically, the supplemental city-county relief tax, the basic city-county relief tax, the motor vehicle privilege tax, the cigarette tax, the liquor tax and the real property transfer tax, which had previously been apportioned according to several different formulas, be pooled into a common revenue distribution fund at the county level and be distributed among the local governments within a county according to a single formula. The flowchart on page 4 graphically shows the flow of funds for those six revenue sources prior to Senate Bill No. 254 and what they would be if Senate Bill No. 254 is adopted.

The revenues from the previously mentioned tax sources will be pooled at the county level for distribution to local governments under a single formula. The base amount of revenue that each local government will receive will be set at a level that recognizes what it received from any or all of those revenues during the prior two fiscal years, fiscal 1995-96 and fiscal 1996-97 will be used to establish the base distribution amounts for each local government. As Chairman O'Connell indicated, this was done to ensure some stability for the local governments transitioning from the old system to the new system. The revenue distribution would not be such a change that it would create a shock for any of the local governments. For counties, cities, towns and special districts, the amount of money that they will receive beyond the base amount will be increased by the Consumer Price Index (CPI) in all subsequent years. This was included to ensure that those local governments that are not growing as rapidly as others at least receive from year to year a constant dollar amount in terms of purchase power to take care of their basic needs.

To the extent that there is revenue in the common distribution fund at the county level from these six sources, above and beyond that amount which is needed to fund the base plus the CPI from year to year, the excess amount of revenue will be distributed among and between the local governments within a county according to a formula which recognizes percentage change in population from year to year and the percentage change in assessed value from year to year calculated on a five-year moving average. The five-year moving average was recommended by the technical committee to smooth out any effects from reappraisal cycles that occur within a county during the course of a year.

There are several other provisions of the bill that would allow for an alternative sharing of revenue within a county if two or more local governments determine that they wish to share the revenue differently between them than the formula otherwise prescribed. There are methods prescribed that would allow for the creation of a new local government, and the new local government would receive a distribution from the common distribution fund if it meets certain criteria. Some of the disincentives in the past for the merger or consolidation of certain units of local governments have been removed. In a sense, we have created incentives for pursuing rational mergers and consolidations of certain local governmental units. There is also an appeal process whereby if any local government feels the base amount set in the formula does not reflect its needs at the base year. There is a one time opportunity to appeal through the Nevada Tax Commission with the Department of Taxation and the Committee on Local Government Finance also reviewing the request ensuring that the base years are set at a level that would reflect a need.

Section 1 through section 3 of Senate Bill No. 254 contain the definitions and directories.

Section 4 defines enterprise districts as a governmental entity which is not a county, city or town but also receives funding from one of the six revenue sources that would be combined into the common distribution fund. It also indicates that the executive director shall determine which entities are enterprise districts pursuant to Section 12.5 of Senate Bill No. 254.

Section 5 establishes the local government tax distribution fund which is the fund receiving and distributing the proceeds of the six tax sources mentioned on page 5 of the packet.

Section 6 defines as a local government for purposes of this act any county, city or town that receives any funding from any of the taxes included in the fund.

Section 7 defines as a special district for purposes of this act any other entity that receives any revenues from any of the taxes included in the fund other than counties, cities, towns or enterprise districts.

Section 8 repeats the creation of the local government tax distribution fund in the state treasury under the administration of the executive director of the Department of Taxation.

Section 9 establishes any local government, special district or enterprise district that previously received any of the revenues included in the fund will be eligible for a distribution from the fund in the manner prescribed in Senate Bill No. 254.

Section 10 establishes that enterprise districts shall receive from the fund an amount equal to what they received in the base year for each succeeding year after the base year. Special districts and local governments shall receive the amount they received in the base year indexed forward by the CPI.

Section 11 contains the essential elements of the formula, the nuts and bolts. It establishes the procedure for allocating revenues on a monthly basis to each of the local governments eligible for a distribution from the fund. The procedure requires the executive director to first allocate money distributable to the enterprise districts and then proceed with the allocation to the local governments and special districts. The formula requires each local government and special district to receive their base year amounts adjusted by the CPI to the extent there are revenues in the fund in excess of the amount necessary to fund the base amounts plus the CPI increase. The excess revenues are to be distributed to the local governments and special districts using statistics relating to annual population growth and growth in assessed value. Local governments, cities, towns and will have the change in population and the assessed value multiplied by their respective base plus the CPI. A five-year moving average for change in assessed value will be used to smooth the effect of the every fifth year reappraisal cycles. Special districts will have the growth in assessed valuation also using the five-year moving average multiplied by their base plus the CPI. Population would not be used as a statistic for special districts. As previously noted, enterprise districts will receive their base-year amount only in each succeeding year with no CPI, population or assessed value adjustment. If there are not sufficient moneys in the fund to allocate the base plus the CPI to each of the local governments and special districts, the executive director shall use the proportionate distribution used in the prior fiscal year to make the allocation. This section also prescribes procedures for the adjustments to the monthly allocations to ensure each local government and special district receives its full entitlement each year. As before, the executive director will provide estimates of revenue to each local government during the budget preparation process.

Section No. 12 provides a safeguard relating to debt service. If any local government, special district or enterprise district has previously pledged all or part of the revenue affected by Senate Bill No. 254 as security for bonded indebtedness, the executive director shall ensure that the affected entity continues to receive an amount at least equal to the amount pledged.

Section No. 13 prohibits enterprise districts from pledging revenue received from the fund for bonded indebtedness. It also prohibits any new governmental entity created between July 1, 1996, and July 1, 1998, from participating in the distribution of revenues from the fund unless the new entity provides police protection and at least two of the three following services: fire protection; construction, repair and maintenance of roads; and parks and recreation.

Section No. 14 establishes two or more local governments within a county may enter into an alternative sharing of revenue that prescribed by the formula, thereby, giving the governments within the county more flexibility.

Section No. 15 provides a mechanism for establishing allocations to the new local governments or special districts created after July 1, 1998. To be eligible to receive a distribution, a new entity would be required to provide police protection and at least two of the three following services: fire protection; construction, repair and maintenance of roads; and

parks and recreation. A newly created entity must request the Nevada Tax Commission to establish the initial allocation with the Department of Taxation and the Committee on Local Government Finance also reviewing the request. The notice and hearing procedures for establishing initial allocations are outlined in this section as are the definitions of police protection; fire protection; construction, repair and maintenance of roads; and parks and recreation.

Section No. 16 causes regulations for the determination of population estimates for towns to be added to the current statutes. There was an amendment deleting population estimates for special districts as those are not used in the formula.

MR. MARVIN LEAVITT (City of Las Vegas):

Madam Chairman, members of the committee, one of the difficulties of tax bills is they make a subject that is already complex even more complex and difficult to understand and read. The language we sometimes have to use to explain a fairly simple concept becomes very difficult to read once it is put on paper. As an example, Section No. 11 states, "Using the figure calculated pursuant subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the account." Basically, the concept is to take taxes and distribute them in a manner that is fair to all entities. There are really three areas involved in the new formula. First, each government is allowed to have sufficient money to account for the changes in the value of the dollar in order to allow them to continue their current operation into the next year. This has not existed in current laws. Second, we have some measure to try to determine changes in the size of the government over time. There are probably two measures readily available. One is assessed valuation and the other is population. In the past, we have used these for different formulas, but they have varied from tax to tax. We have some communities with a high residential base, high population, but may also have a small business base and consequently a small assessed valuation. If we use strictly population in this instance, they look very good, but if we use assessed valuation, they come out very poorly, i.e., North Las Vegas. We have other communities with a high assessed valuation base and a low population base. The opposite is true for these communities. Taxes that are distributed based on assessed valuation will benefit these communities, but if population is used as the determining factor, they can be hurt. The plan is to combine population and assessed valuation in such a way to benefit governments whatever their base of growth may be, whether in population or assessed valuation. If we overlay those factors on the technical language then the formula makes sense. You may have to trust that the language in Senate Bill No. 254 indeed accomplishes what we say it accomplishes. We have run the formulas based on the language in Senate Bill No. 254 hundreds of times. We have tried every scenario we could possibly think of in order to make certain we have not interjected some unfairness to some type of government in this formula.

In Section No. 17 and the next several sections, we include the taxes involved in the fund, i.e., liquor tax, cigarette tax, real property transfer tax, basic city-county relief tax, supplemental city-county relief tax—the tax involved in the tax shift in 1981.

Section No. 21.5 protects the rights of bond holder in order to ensure their contract with a government is not impaired as a result of enacting Senate Bill No. 254. In the past, the city-county relief tax has been available to use for the repayment of debt. Each local government in the past received city-county relief tax identified as such. Under Senate Bill No. 254, the city-county relief tax will lose its identity when received by the local governments. When it is received at the county level, it has still retained its identity. We want to preserve the rights of bond holders as they exist under present statutes.

Senate Bill No. 254 does nothing to change the distribution of taxes between and among counties. In other words, we are not doing anything that changes how much money is available

to any one county in the state, Senate Bill No. 254 simply relates to what the distribution will be below the county level.

Section No. 22 is executive director language.

Section No. 23 discusses the functions of one government being assumed by another government. This has been a problem throughout Nevada. We have had a number of instances within the state where special districts overlap. In some cases, there can be five overlapping special districts and each one of them provides one service. If there was an overlapping board, the money would not be used the way it is now. One board would determine priorities. Senate Bill No. 254 is an attempt to make this change easier to accomplish, combine or even eliminate special districts.

Section No. 26 relates what happens when the sales tax does not equal the projection. In 1981, a supplemental city-county relief tax was used to offset property tax. There was a provision that if the sales tax fell below a certain level then an additional property tax could be levied to offset the loss. This was done with the city-county relief tax. This section is a means by which the same safeguard can be built into the system. Before we would multiply \$1.15 by the assessed valuation of the state then compare that figure with the available sales tax. The same formulas will be used except it will now be done at the county level instead of at the state level.

Sections Nos. 31 and 32 include the vehicle privilege tax. The school districts are not included in this formula and will preserve their funding allocation of the vehicle privilege tax under current statute.

Section No. 35 outlines the base-year calculations done on an average of two fiscal years then a multiplication factor applied to bring the total back up to the latest year. Some governments will benefit in the first year; other governments will benefit using the second year. This now becomes a combination of the two. Enterprise districts still use two years as the base. The amendment preserves the right of the incorporated towns to receive the same amount of money they would have received under the provisions of S.B.1 No. 556 of the 68<sup>th</sup> Session. It also preserves the right to receive the vehicle privilege tax. Some local governments have felt that by using 1981 as the base year, it had put them in a situation whereby they eternally had less money available to them than other local governments because 1981 was not a good year for them to use. For instance, North Las Vegas had a high debt rate and a low operating rate. Since the operation rate was used, they felt this was unfair to them. Senate Bill No. 254 provides a one-time appeal opportunity for local governments to have their base increased. It is a "due process" process whereby the other local governments are notified and have the opportunity to respond. The executive director of the Department of Taxation and the Committee on Local Government Finance and finally the Nevada Tax Commission will review the appeals and make a final ruling.

Section No. 36 states once the executive director of the Department of Taxation has determined what districts will be enterprise districts, the executive director will provide notification and due process for them also.

Section No. 37.5 contains an appropriation for implementation of Senate Bill No. 254.

Section No. 38 establishes effective dates.

On behalf of the technical committee, I would like to express our appreciation for the work of the legislators involved in this long process. One of the interesting aspects in determining this formula was that we worked out the specifics of the formula before running the numbers in the formula. We tried to determine what would be fair before any numbers were used in the formula. We feel Senate Bill No. 254 is a good, fair bill.

MARY WALKER (City of Carson City):

Thank you, Marvin, Madam Chair and members of the committee. Briefly, I would like to compare the old formula to the new formula. First, the old formula does not follow growth. In order for a local government to provide adequate service levels to its citizens, the funding levels must keep commensurate with the costs. Under the old formula, both the SCCRT and motor vehicle privilege tax was based upon a distribution system which included the 1980-81

tax rate and the recent assessed valuation. By having a distribution system based on an 1980-81 tax rate it kept the distribution fairly stagnant. As certain areas within counties grew, the money was not going to those areas of growth. Therefore, with moneys not going to the growth areas, it was very difficult for local governments to be able to provide the increased demands of service. Under the new formula for revenues above and beyond the base year, the revenues will be distributed based upon each entity proportionate share of growth using a growth factor of assessed valuation and population. Within an entity, the highest proportionate share of the growth will equal the highest proportionate share of new moneys.

We looked at a previous three-year period and compared the old formula and the new formula. Under the old formula, Lander County in 1992-93 had four governments receiving funding. The county itself had the highest increase in assessed valuation and population. Kingston had a decrease in assessed valuation in the amount of 24 percent that year. Yet, Kingston received the highest amount of additional revenues in the amount of a 30 percent increase in revenues while their population and assessed valuation declined. The county had the highest assessed valuation and population received the lowest increase in tax revenues. The old formula does not follow growth within the county.

Douglas County has four governmental entities receiving funding. In 1994-95, Minden had the highest proportionate share of increase of assessed valuation and population of 29 percent. They received the third highest level of increase in revenues. Gardnerville which had the lowest growth had the second highest increase in revenue of almost 15 percent. The new formula will follow growth so that service levels can match the demands of Nevada's citizens.

Senate Bill No. 254 should decrease the competition among local governments for new tax dollars. The BCCRT, cigarette and liquor tax are based upon a system within a county. If a county has no incorporated cities within the county, the basic city-county relief tax will go entirely to the city. If a county has one city, the money is divided between the city and the county. If a county has two cities, all the basic sales tax goes to the cities and none to the county. This has increased the competition among local entities to be formed in order to receive the tax moneys. When a new entity is formed, it should not be based upon how much money the new entity will be receiving but upon the service level needs of its citizens. This will take that competition away.

The last issue is the taxpayer equity issue regarding enterprise districts. Some enterprise districts may be receiving free services, i.e. television, sewer, water, etc., through state subsidies at the expense of other taxpayers not in those enterprise districts but located within the same county. Senate Bill No. 254 will freeze the amount of moneys enterprise districts may receive.

Other areas to be addressed later in this session are clarifications to the fuel tax. The formula is over 50 years old and the NRS provisions regarding the fuel tax are over 120 years old.

MARY HENDERSON (Representing Washoe County):

Thank you, Madame Chair and members of the committee. I think we would all like to thank you all for being so indulgent of your time today since this is a very complex issue for us to go through. Mary Walker and Marvin Leavitt have pretty much hit on the issue of competition for revenues in terms of what that does in creating a new jurisdiction. I think another aspect that this bill really brings forward to us is the elimination of planning and land use and growth decisions by our policymakers, the councils and commissioners within all the counties throughout the state, in terms of a formula. We are making policy decisions under this current formula about those very critical issues based upon distribution of revenues. We should be having the policy drive the formula, not vice versa. I think, when Marv made the statement that we actually created the formula before we ran the numbers, that is very significant because what it creates, many times, for local governments is a situation where we are making decisions based on how we can get revenue versus what is really best for the taxpayers where our master planning is taking us. I can give you a for instance on that: The Lincoln Land Institute, which really studies planning extensively throughout the country, a few years ago I remember a piece they had written talking about what's happened in California since passage of Proposition No.



13 and how local governments are currently making land use decisions based on their ability to bring in revenues. What that has created is shopping centers on almost every other block in California. When you look at the quality of life of a community, the type of community you want to have, policymakers have always been put in a situation where they have had to make those decisions based on revenues. I think, with this change, we can now make those decisions based on what is good for the community. We can have cores of urban development; we can have suburban development and eliminate some of that competition and need to drive the assessed valuation.

Another issue which was extremely important to Washoe County was an alternative method of distributing some of these revenues. For us, it is about \$54 million per year among Washoe County and the two cities of Reno and Sparks and some special districts. We know that any formula that you do statewide cannot reflect absolutely what goes on in each individual county. We are all unique and all different. By putting an alternative distribution method in place, what we are giving our local governments is some flexibility to be able to sit down at the table among themselves and decide if there are some critical issues or needs within the community that might need some funding that under the current formula they could not share those revenues. Now, they are going to have the ability to do that and effect their own distribution method within the county. This is very critical. I always use the example of Washoe County and a special district we have, Sun Valley. They have a General Improvement District in Sun Valley which provides a very valuable service to that community in terms of water and sanitation. They will lose some money from SCCRT because they are an enterprise district, but the county itself does not want to take over that function. So, it allows us to enter into an agreement with Sun Valley GID to perhaps subsidize them because we feel that that is a very critical service to a low income area of the county and one that needs to continue. We don't really want to put a burden on the backs of the citizens of Sun Valley. I think that is a critical piece of this.

One thing I would like to talk about, just for a moment. And I would like to particularly thank the chair and Senators Rhoads, Porter and Shaffer and your colleagues in the Assembly for the process we went through as we put this together. In my brief experience as a lobbyist, having been through four sessions, I have sat on a couple of interim committees. I have never before seen the inclusionary direction from the committee, not only from our technical group which represents a very good cross section of local governments in the state, but also to bring in those from special districts and other cities to open up this process so that everyone had an opportunity at the table while we were still in workshops; were still talking about how we would develop the policy and make this recommendation to have input. That is going to continue. I believe Mary shared with you that we are going to continue to look at special districts; we are going to continue fuel tax. These have tremendous impacts on local governments. Fuel tax, for example, on the rural counties. We have always worked very hard to keep this process extremely open to get everyone's input and really try to understand the differences within the state and try to craft this change so that it would reflect that. Although we are not going to get 100 percent, I do not think anyone can complain about the process. It has just been a tremendous experience for all of us to go through and we are all really pleased that you have given us the opportunity as a technical advisory committee to participate in it. I think our cities, counties and special districts throughout the state should feel the same way.

MICHAEL PITLOCK (Executive Director of the Department of Taxation):

Madam Chair, members of the committee, for the record I am Michael Pitlock, Executive Director for the Department of Taxation. I want to talk briefly about the role for the Department of Taxation as it is envisioned in this piece of legislation. You have heard reference, on numerous occasions as Greg and Marvin went through the section by section analysis to a role to be played by either the Executive Director, the Department of Taxation or the Nevada Tax Commission.

There are two major roles the Department of Taxation will be playing in this process. One is as the administrator of the pool of revenue. We are the agency that will be collecting the

individual taxes, accounting for those collections, determining the amounts available and actually going through the mechanics of implementing the formula. We are the agency that makes the distributions to all the local governments that receive money out of this fund.

In addition to that ministerial function of making sure that the fund is operating appropriately, we also have a role to play in terms of providing a due process for counties or other local governments to request either alternative distribution formulas, request adjustments to their base on a one-time basis, and also to look at who should be designated as enterprise districts. That is one of the very first functions that we will have to take on because the enterprise districts, once they are so designated by the department, are treated differently in this piece of legislation.

We will also be called upon to analyze and make recommendations when a new governmental entity comes into existence and requests to be funded out of this pool. The reasons that the department was selected as the entity to take on these tasks are the due process procedures that are already in place within the Department of Taxation. Initial determinations and analysis will be done by myself and the department staff along with the assistance from the committee on local government finance. The findings and conclusions from the analyses will be shared by all the local governmental entities and they will have input into that process.

In addition to that process, there is an appellate procedure in place where the decisions would be reviewed by the Nevada Tax Commission. It is at that point then that the decisions would be final. We wanted to make sure that we had a process that all stakeholders could play a role in, that there would be an equal opportunity to participate, provide evidence and participate in the decision rendering process.

There was reference made to the fiscal note that is associated with this bill. In order for the department to carry out those two functions of administering this pool of revenue, performing the analysis and making recommendations with respect to the other alternatives in the legislation, the department will require additional staff and there are costs associated with that. We have provided a detailed fiscal note to this bill. It would require a little over \$137 thousand in the first year of the biennium to fund two new positions, equipment and space at the Department of Taxation, and then, in the second year of the biennium, approximately \$127 thousand for the ongoing costs of this program.

I entered this process as a member of the advisory committee representing state government. My role I envisioned from the beginning was somewhat as a neutral observer to the process because state government had no financial stake in the outcome of this process. From my vantage point as that independent observer, I was amazed at the efficiency with which all of the competing parties came together in this process. In the beginning, a lot of us were very skeptical that this would turn into a major fight between cities, counties, special districts and what will soon be designated as enterprise districts. The fight never happened. Instead, at every meeting there was a sense of compromise, a sense of purpose where we were all striving for one common goal. I think this body and the Assembly can take some comfort in that process that all voices were heard, all points of view were considered and the end result I believe is truly a bill that is fair to all the local governments in the State of Nevada.

Thank you, very much. That concludes our remarks and I believe that we will be available for any questions that any of the Senators may have.

Senator O'Connell called on Senator Adler:

SENATOR ADLER:

Thank you. I have a question of Mr. Pitlock. How will you deal with a whole harmless county which is shifting from that to regular status such as Storey County? How would that be handled?

MR. PITLOCK:

Senator Adler, this piece of legislation would not alter the mechanism currently in place to deal with situations where a county is potentially moving from guaranteed status to a standing on their own status. Those procedures will remain intact because this bill deals only with what is referred to as the second tier of distribution and does not alter in any way the first tier distributions which are between the counties.

SENATOR ADLER:

Another question. On page 24, we are putting into law the Motor Vehicle Privilege Tax Division. These do not seem to follow any rhyme or reason. Aren't we getting into the same situation that we did on fair share where we are establishing a kind of artificial base that will come back to haunt us later on down the road. I know Carson City gets one percent under this distribution formula, but Eureka gets 3.1 percent. Shouldn't that formula be looked at and adjusted?

MR. LEAVITT:

The numbers are from the existing laws and relates to the division among the counties. This bill does not address that at all.

SENATOR ADLER:

Why are we doing that? It seems like a very inequitable distribution, on page 24.

MR. LEAVITT:

You probably remember, a couple of weeks ago, there was a resolution passed out of this body that relates to the continuation of this work we have been doing. It is this type of thing mentioned. The fuel tax was mentioned. We found that the way in which the fuel tax is allocated is probably very unfair, particularly to the counties that have experienced growth in recent years.

SENATOR ADLER:

Yes, but do you think these percentages are fair? This seems very inequitable. You have counties with very large populations that are getting practically nothing where very small counties are receiving huge percentages.

MR. LEAVITT:

This does not relate to the total of the Vehicle Privilege Tax, but is simply the tax on vehicles engaged in interstate and intercounty operations. So, this is an area that has to be considered. In interstate operations, for example, if they go down Interstate 80 or Interstate 15 in Southern Nevada, we have not done any work on this. Whether it is fair or not I do not know. It is something that needs to be looked at, I'll agree with that.

SENATOR ADLER:

Could we look at this before we pass the bill out and come up with a more fair distribution?

MR. LEAVITT:

On the fuel tax which deals with a similar type area, we have discovered that it is an absolutely major project. Even given the length of time we have had with this bill, we can not really accomplish in the way we think would really be fair. I, myself, would feel really uncomfortable trying to determine anything this complex.

SENATOR ADLER:

How are these numbers now determined? I don't understand how we are arriving at the current percentages. What is the reasoning behind those percentages?

MR. HOBBS:

Those percentages were actually put into place back in 1981 or 1983.

SENATOR ADLER:

We have had all these problems with the tax of 1981, so why don't we fix this?

MR. HOBBS:

One of the points, if I might add, one of the objectives set forth by the legislative subcommittee was that the system be revenue neutral for all the local governments in the base year. To achieve that objective, we needed to leave pieces of the former system in place to allow them to be revenue neutral in the base year. That was one of the considerations. The second one, mentioned by Marvin, there were several other points like fuel tax which is very complex on its own merits. And, probably parts of the motor vehicle privilege tax which we do need to spend some additional time looking at. That is one of the reasons I was given to understand that the continuation of the technical committee was under consideration.

SENATOR ADLER:

Could you look at this section in conjunction with the motor vehicle privilege tax and put that in the same bill. This does concern me. I can't make any sense as to how you arrived at these numbers. Since this bill puts them into statute, it kind of carves them into stone. This concerns me.

MR. HOBBS:

Again, those particular percentages have been in the statute for some period of time, but it does not mean that they are correct. We agreed that elements of the fuel tax distribution and elements of the privilege tax need to be reviewed.

SENATOR ADLER:

Can we review them this session? Or are you saying that we are not going to?

SENATOR O'CONNELL:

I must tell you that there have been screaming matches over this formula and that is the reason they were not touched in this bill. There was so much disagreement and there has been ongoing meetings on this very issue. Until we can come to some kind of compromise or resolution, we did not want to say this cannot be done. We felt the best thing was to continue looking at that and then coming to some kind of resolution. It is not that this was overlooked or that it was not identified as a problem. The technical committee is still looking at that, but the inequities between the larger and smaller counties have been tremendous. We know it is a problem. We want to do something about it and that is why we asked to continue on with the committee.

SENATOR ADLER:

Can you at least look at some kind of future adjustment formula?

SENATOR O'CONNELL:

That is why we are asking for a continuation of the committee.

SENATOR ADLER:

This looks to me like it starts throwing a huge inequity if we don't address it.

MR. PITLOCK:

Madam Chairman, if I could make an additional comment on this issue. One of the provisions, in this bill, allows for a local government on a one time basis to come in and challenge the base that they are starting from. These percentages feed into what that base

number would be. So, a local government who felt that there was a significant enough issue associated with this distribution, does have a mechanism provided for it in this legislation. They could come forward and make their case on changing that. It might not resolve the entire issue, but for that one local government they may be able to justify some relief if there is a significant problem in that area.

SENATOR COFFIN:

The charge of the committee, in S.C.R. No. 40 (of the 68<sup>th</sup> Session), was well handled. I could see where one of the comments made by Senator Adler raises an issue which is still in the back of my mind and wasn't addressed. How do you reverse the fair share arguments that were essentially created by the tax shift of eighteen years ago? That can't be done since S.C.R. No. 40 (of the 68<sup>th</sup> Session) did not call for that charge. That did a pretty good job within the limitations they were told to do. I think we are going to have to caucus on a county or regional basis to double check with our people to make sure before we go to vote or amend. I hope we have that opportunity. I don't think that the chair, at this present time, could give an answer to Senator Adler's one comment which is a very important comment. If we don't address home rule or the nearest equivalent to home rule as you can get.

MR. LEAVITT:

Madam Chairman, if I might make a comment. One of the things which tie into this subject, as well as the fuel tax, is that we found, when we started to do an examination of the data available, we did not and still do not know the miles of highway that are the responsibility of the individual counties and cities. We found that they have been reporting this for many years, but the methods which they have used to report these things have been very, very inconsistent. We found some that report every highway which is anything from a jeep trail up to a freeway. We found some who do not report unpaved roads. The inconsistencies are so great that we are currently involved in the accumulation of data to try to do this. Since this involves interstate vehicle privilege tax, it kind of ties into this subject that we currently do not have data on. One of the reasons we have put off this part of the project until this next interim, is to try to obtain data that is reliable before we recommend a change in the formulas. Looking at this off the top of your head, it doesn't seem to be inconsistent and unfair to a number of entities. Hopefully, when we are ready to come forth with recommendations, we will have something we feel is adequate and can be defended.

SENATOR NEAL:

I would just like to follow up on the comment made by Senator Adler, but from a different point of view. As I understand, this operation of this new system, you will have a fund in which these six taxes go into including the motor vehicle tax. In order to extract money from that fund, there would be a formula, a formula for the enterprise fund and the formula in which local government would be used. If you proceed from the basis that there are other formulas within the tax structure that impacts the fund and you now set out another formula without examining the effect of that formula upon the new formula, then I am somewhat lost. I do not know what the effect would be. When a local government or a free enterprise district wanted to get money out of this fund and you then multiply the monthly application plus one percent of the average percentage change in the assessed valuation of taxable property over the five immediately preceding years, I don't know what the effect would be upon the formula that still exists. By the same token, if the local government wanted to multiply its monthly base application by one percent plus the sum percentage of the change in the population for the immediately preceding fiscal year and the average percentage change in the assessed valuation of the taxable property for the five immediate preceding years, I don't know what that effect means. Does one city or district get more money because we have not examined that formula in relationship to the new formula we have put into law in order to extract these monies for use in local government and enterprise districts? Maybe someone could explain that to me.

MR. LEAVITT:

Madam Chairman, these formulas as they exist for the distribution of these taxes do not have any effect on any of the other formulas for the distribution of any other taxes. I will give you an example because it can be confusing. For instance, in the distribution of money from this fund, we have used as one of the computations the average percentage change in the assessed valuation of an individual entity over a number of years.

SENATOR NEAL:

How do you calculate that? You are talking about putting the motor vehicle service tax into this fund. Is that correct? In which certain counties receive a portion of that particular money. Are you then saying that before the money goes in, a certain percentage would be extracted out and we only would get what is left to go into this fund?

MR. LEAVITT:

No, the amount of the vehicle privilege tax that is going to any of the individual counties in total is not changing as a result of this act. For instance, the money coming to Clark County as a total county, that money is not changing at all as a result of this act. The only distribution change that can have any effect in the future is the distribution below the county level to the various counties or the various cities and special districts within the county has no change whatsoever on the amount coming to the county as a total.

SENATOR NEAL:

So as I understand from what you are saying, the formula that is set out in Section 24 of the bill, that amount of money would not be touched. What we would do in the future when a city or a district wants to get money from this fund, that other portion of that money would be set aside and would not be touched.

MR. LEAVITT:

In the future, if for instance, we have a creation of a new entity and have a creation of a new city in southern Nevada. I don't know if that will ever happen, but say we do or that we have a combination of entities. If we have a new city created, they go through a process by which they will petition the department of taxation to provide numbers and will go through a process by which we determine and the Nevada Tax Commission eventually has responsibility to do this by which we determine a base for that particular local government, all the other local governments in the county have a chance to respond to that. Because when there is anyone new, then technically everyone else will lose money but they have a chance to respond to that. You then establish a new base for that new local government. When you establish that new base, then it goes into the formula like all the rest of them. In the future you move forward when they get the CPI and their assessed valuation, population growth entered in the formula. Once you establish that it will work for an indefinite period.

SENATOR NEAL:

What you say is correct, and I have to accept that because you are the authority here, but if you happen to be wrong, then we have to bring the chairman to you.

MR. LEAVITT:

Let me just give you some assurance. We have gone back in time and said what if this formula had been enacted five years ago, what would happen to the system? In other words, if it had been enacted five years ago and had applied it over these last years, what would this do to us? We have checked it out in that regard as well as trying to predict some future years and we find the formula seems to work and has not resulted in huge revenue shifts. So we have indeed tried that as one of our mechanisms to try to be as certain as we could because obviously we are concerned to as individual representatives of government because this is the

money we live on. We have every assurance we can give ourselves that this formula does indeed work.

SENATOR NEAL:

Now, as I understand under this proposal the tax department, Mr. Pitlock, you have become the new boss in this arrangement; do you not in terms of how these funds would be dispensed and your judgment along with that of the tax commission and that local government would not have any say so in that?

MR. PITLOCK:

The department of taxation currently distributes many of the taxes that are being put into this pool. So, from that perspective, we are already involved in it. As far as any decisions that need to be made to alter the formula or to adjust the base of a particular governmental entity or if a new governmental entity came into existence, the department and its internal procedures was used because it is a mechanism that allows for and requires the voice of all affected parties to be heard in the process. In other words, say for instance, a particular governmental entity within a county came to us on a one-time basis and said we want an adjustment to our base. We will be required to notice every other governmental entity that is potentially affected by that decision so that they could participate in the process. That same holds true for all the other decisions that are initially made by either the executive director or the department and then ultimately reviewed by the tax commission. It is a very open process and that is why it was selected.

SENATOR NEAL:

Just one more question, for those enterprise districts that are in existence at the present time, as I understand the bill, that money now would be pooled up and redistributed back to them on a formula basis?

MR. PITLOCK:

The money that is currently distributed to them through the existing formula will continue to be distributed to them under the new formula but it will be frozen in amount. They will receive the exact same distribution in the future that they have received in the past from the old formula. They are being held harmless. The issue of enterprise funds, I have to say further is one that the work on that issue is not done. The freezing then at the current level was an interim step until we could fully explore exactly the role that they should play and how they should be treated in this system.

SENATOR JAMES:

I do not think I have the expertise in this that some of you do. I do have a question that I will put in lay terms. First of all, I commend the work of the committee. I think it is tremendous and should be ongoing. The comment was made that it is revenue neutral which I understand means that there is no tax increase on anybody. What we are trying to do is to allocate more equitably these six taxes among these local governments within a county. What I understand is that if you are doing something more equitably that some may get more than they got before and some may get less. So, you are trying to use population and assessed valuation and balance those two within the formula. I read Section 11 and am totally confused. I do not understand that because I cannot figure that out. I will just have to rely on you that it is fair.

My question is, what assurance is there to the taxpayer that if now my government is going to get more money and yet now I have been more efficient as a government or whatever, and that money should inure to the benefit of the taxpayer in terms of, for instance, lower property taxes because I am getting these other taxes now that are covering the budget and the property taxes which have been higher before now can be lowered. Is there any assurance that if we pass this and we have this new equitable formula, that it is not just equitable among the

governments that there is some trickle down effect of this benefit to the taxpayer themselves that they might get lower taxes.

The second question is, you did not specifically deal with gaming taxes and we did pass the bill, Senator O'Connell's bill, that is going to require the study to go and gaming taxes will be part of that study. Could you just answer me as to why gaming taxes are being treated differently and is there the potentiality of putting gaming taxes into this kind of an equitable distribution formula. In the same question with that, is there a way in place that we can if we get more money to a local government, then require some assurance that the taxpayers might get lower property taxes because the government is getting more of its budget paid for with the gaming taxes or the newly allocated taxes.

The final question, for someone to answer, is the comment that was made that there is a disincentive to being removed for consolidation. I would like to know an example of how that is done and how is the disincentive to consolidation of services done with this. How is requiring a new entity which is formed within that time frame to provide services or it can't be formed. Doesn't that run counter to that requirement or to the policy that we are trying to encourage consolidation of services?

Those are the three questions, I hope I did not confuse you too much.

MR. LEAVITT:

The first question relating to reduction in taxes. There is nothing in this bill, first of all, that does that. This bill only relates to the distribution of revenues and how you accomplish it. The goal of the bill is to distribute tax revenues to where the need is the greatest. In other words, you distribute taxes to those that are experiencing population growth. You distribute taxes to those who are experiencing growth in assessed valuation which indicates that you have new areas in a community where you have to provide service. So there is a question as to whether the fact that you are doing this differently, does that provide any room for reduction of other taxes such as property taxes. We have discussed that in the next phase of the project that we are going to look at property taxes in the whole area as to where we determine levels of property taxes and how we determine rates and assessed valuations and all of those things. So, that is still to come. As you know, there has been an amendment to the one bill that requires us to take a look at the reduction of taxes in this next phase. There is nothing in this bill that does that.

MR. HOBBS:

Senator James, before Mr. Leavitt goes on to answer your second and third questions, I have a slightly different perspective on the answer to your first question about the potential or what impact this piece of legislation would have on the possibility of lowering some tax rates in the future. The goal of changing the formula was to direct these revenues to the local governments that needed them the most, that were experiencing the increases and demands for service. These particular taxes are not something that are directly controlled by the local government. They can't decide to just raise these taxes when they need more revenue. If they are not getting sufficient revenue from these sources to fund the demands for increased service they were left with limited alternatives. One of the alternatives that they always had available was to raise property taxes. If we are successful in diverting more of these taxes to the local governments who are experiencing the increase and demand for services it should take some pressure off them to raise the taxes that they have local control of. I believe that while it is not mandated in any way in this legislation, I think it creates an opportunity, particularly for those local governments who are already bumping up against the property tax cap.

MR. LEAVITT:

On the second question relating to gaming taxes, as to why we don't have gaming taxes included in this bill, we could have included gaming taxes in this bill but the gaming taxes that come to local government is a result of enactment of what is levied by state statute. One is called the county gaming tax although it is actually levied as a result of the statute, that could be included and was just an arbitrary decision not to. There is also what they call a table tax



distributed equally among all counties which could also have been included which was again an arbitrary decision not to. The third area is the tax that individual licenses of local governments and they are levied as a result of county or city ordinances. That was not included either. Those three areas could have been included. We did not include the gaming tax. That is still something that we have to look at as a result of the consolidation now of governments. We have language in the bill that provides for the consolidation of entities. The process, essentially, is that it provides that you can combine entities and still retain the tax revenue going to two. We can have one entity assume functions of another entity and still preserve the tax revenue that was received and we did not have of doing that under the existing law. Under the existing law when you lose tax revenue combined, there is not too much reason to combine. This opens up a way where we can get a combination even from cities and counties, special districts and a number of them combining, this provides a mechanism from the tax side that we really have not had in the law before.

SENATOR REGAN:

I would like to remind Mr. Leavitt that some licensees such as myself pay both city and county gaming taxes directly to the city and county involved. They are not shared by the state and they are paid directly to the city and the county. I have a question for Mr. Pitlock. In reviewing the bill, I notice a number of collection fees will now be eliminated to local churches and so forth. I notice your fiscal note. What will be your collection fee for this pool? I think there might be a possibility of making money off the residual that is nondistributed.

MR. PITLOCK:

The individual administrative fees that are associated with the individual taxes which go into this pool are not being changed; however, the most significant of those administrative fees is the one on the sales tax components collected by the Department of Taxation and redistributed back to local government. There was a bill introduced, earlier in the session, that would require the reduction of that fee from one percent down to one-half of one percent. There was an amendment proposed that changed the effective date of that legislation to July 1, 1999. As far as I know, that bill is proceeding through the process. In addition to that, there was another bill introduced, Assembly Bill No. 204, which requires a study to be done as to which taxes and fees should be collected by the Department of Taxation. One of the requirements of that study, should that bill pass, is that we take a look at all of the fees which are charged by the department and determine whether or not they are cost based and make recommendations so that they can get on a cost based situation. The issue of fees collected by the state to administer these taxes is being addressed in several other pieces of legislation, but not in this one.

The chairman recognized Senator Titus.

SENATOR TITUS:

Thank you, Madam Chairman. I have a simple question to ask. My district is in an older part of Clark County which includes a lot of the unincorporated townships such as Paradise and Winchester. What I want to know is if this bill takes funds away from those areas and redirect them to the new area thereby reducing services to my district and providing more services to Summerland, Green Valley and the newer parts of town?

MR. LEAVITT:

I don't believe so and I have reason behind that. First of all, under the existing system for the distribution of revenues, almost all of the revenues in this pot are distributed either by population or by assessed value. We are now combining the two. This bill provides that each local government, whether they grow or not, is allowed increased revenue as a result of changes in the consumer price index. That is not in any existing law, so if you have entity

which is not growing or growing very little, under existing law they could actually show decreases in revenue on an annual basis. Under this new law, they would at least have the protection that they know that they have CPI protection so they would not receive lower revenue. It is conceivable that if you have a really rapidly growing area, that they can outdistance areas that are not growing, but still you have the guarantee of the CPI which was never guaranteed under the existing law.

MR. HOBBS:

I was going to make the same point that Marvin did about the reason for including the consumer price index factor in there was to provide some measure of protection for older neighborhoods which were perhaps built up in competition which included areas that were very rapidly growing in percentage terms from year to year. An area that might exemplify that is Clark County would be an area like Mesquite which population wise has not grown dramatically, but in terms of overall assessed valuation, Mesquite has seen tremendous growth in recent years. Those are the kinds of anomalies that the past formula would have rewarded. The proposed formula would perhaps create a little bit more of a level playing field. We did run some simulations, as Marvin mentioned, and have probably run several hundreds of these under different scenarios. Taking the elements of the formula, as it is in the bill draft before you, and applying it to data for fiscal 97-98, what would be differences between the two formulas for areas like Paradise and Winchester, if the formula had been put in place a year ago we would have seen somewhat of a gain in both of those areas for fiscal 97-98. Areas like Mesquite, because of the past reward mechanism for assessed evaluation based distribution without as much consideration given to population, would probably, under the simulation we did, expect to get less under the new formula than under the current system.

SENATOR RAWSON:

I have a couple of questions. I was not going to ask about Summerland until it was brought up. It sounds like, because it is a rapidly growing area, that they might tend to lose some service. Yet, this is an area which has had a re-evaluation and a very high new burden in taxes. The people are upset already. I want to make sure that they are not going to lose as a result of this formula. The second question I have has to do with all the school issues we are dealing with. We have people from the Lake area that want to establish a new county. Without expressing any opinions as to whether we should allow that or not, do you feel that this accommodates this all right. Would it hurt Washoe County, in particular, or any of the surrounding counties if they were to form a new county?

MR. HOBBS:

In regards to Summerland, it is fortunate that, in the last session, Summerland was created as an unincorporated town and given the ability to share in the distribution formulas. If that had not occurred, Summerland would not have the base at this point to roll up. Summerland's future growth, as compared to some of the other areas, is expected to be pound for pound greater than many of the other unincorporated towns. Looking at the county as a whole and understanding the manner in which the its financial structure works, the revenue that comes into the unincorporated towns goes into the county's general fund which in turn provides service back to each of the unincorporated towns. Under the simulation we mentioned for fiscal years 97-98, Clark County as a whole would have also showed a gain for fiscal 97-98 as compared to the old formula. So, in fact, its ability to provide service to Summerland would have been enhanced under the new formula had it been in place.

MR. LEAVITT:

First of all, this bill does nothing to change the money going to any individual county. It does not have an effect on Washoe County, Douglas County or Carson City if Tahoe County comes to pass. Currently as the governmental structure is, in looking at the Lake area, services are provided by the three counties plus special districts at the lake. This measure would make

easier the combination of those special districts into some other form of an entity that could provide services. We would still have, even after that, three counties which make up this area of the lake. That is not changed or accommodated by way of this act.

MARY HENDERSON:

Thank you, Madam Chair. To Senator Rawson, I think your questions specifically address what would happen if a new county was formed at the Lake and what impact this would have. I am only going to speak for Washoe County. I have not seen the numbers, but with the discussions we have had with Douglas County it would have tremendous impact on Douglas County. For Washoe County, Incline represents approximately 10 to 12 percent of our assessed valuation. Calculations we have run over three sessions, that deal with this issue, basically we are at a wash in the sense of the services we provide at Incline Village and the revenues we generate from that area. As to the school impact, I think you need to look more at the distributive school fund and the impacts it would have on that to the Washoe School District and the viability of creating a separate school district at the Lake. I think that is where the impact is going to occur if the new county is formed.

SENATOR JAMES:

This is a very quick question for Guy Hobbs and Marvin Leavitt. Would it be possible to place in this formula a requirement that, if a city or a municipality was going to receive windfall by virtue of application of the formula in Section 11 over and above by allocation the amount that they would be required to pay for the services etc. they project for the next fiscal year, that money would have to be refunded to the taxpayers in the form of a property tax reduction? Could that be placed in the formula?

MR. HOBBS:

I suppose there are ways to craft such a thing. I'll give you an idea of some of the issues we would have to deal with and define to be able to do something like that. First of all, in Clark County for example, some of the cities within Clark County are at their maximum allowed ad valorem level. I believe the City of Las Vegas in fiscal year 97-98 will be beneath what its authorized level to tax is. Clark County's unincorporated towns are beneath what they are authorized to tax at. So, what you have is a situation within Clark County where some of the entities are at their maximum allowed rates to begin with. Other entities are below their maximum allowed rates, so you would have to somehow equalize where they are within that particular structure. In other words, you would not want to impose reductions on an entity which has already their taxes lower than their authorized level. One of the other things we would have to consider is to define what windfall means in percentage terms relative to what type of entity and then create some structure and procedure. I think the first issue which we will be studying over the next biennium is probably one of the more complex taxation related issues which has led to a lot of the discussion on tax equity and various other issues.

MR. LEAVITT:

You must remember that the major implementation of SAG does not take place for another year. Currently, we do not know exactly what the initial effect is going to be on the various entities. We have a year's time to prepare for the implementation.

SENATOR O'DONNELL:

Thank you, Madam Chairman. There is the question then, if you have gone back five years, and have done a historical calculation as to what would happen to the revenues, did you find anywhere in those five years a surplus or windfall in any one of those areas?

MR. LEAVITT:

Again, it is difficult to define what a surplus or windfall is. In the application of the formula, we have not seen wide disparities where someone gets a 30 percent windfall and gets a 20 percent reduction. We have not seen those large disparities. One of the concerns, obviously was, if you had a government that had a 20 percent reduction in one year what would they do. We have not seen those big disparities from the existing system. I would be very surprised if we saw anyone gain huge windfalls as a result of this act. I think we are going to see a more gradual change over a period of time.

MR. HOBBS:

Senator, in looking at the simulations we have done and looking at the columns that compare the current system to what the proposed system would have done if it were in place, the areas where we saw the biggest gains on a percentage basis were correlated to the faster growing areas. For example, we saw more of a gain in Laughlin which is what we would expect to see as a consequence of the formula. Areas that are growing faster would receive a little more revenue than on the average of the other entities from year to year.

SENATOR O'CONNELL:

I would like you to help me to show the appreciation we have for the work of the committee. (APPLAUSE) Thank you, all very much.

PRESIDENT PRO TEMPORE JACOBSEN:

Thank you, Senator O'Connell and all those participants who helped with the Committee of the Whole.

SENATOR RAGGIO:

Mr. President pro Tempore, also on behalf of the Senate I would like to thank the technical committee who worked on this and members of the committee with Senator O'Connell as Chairman and the time they took in preparation for the presentation this morning.

(This concluded the question and answer portion of the Committee of the Whole).

On the motion of Senator Raggio, the committee did rise, and report back to the Senate.

### SENATE IN SESSION

At 12:20 p.m.

President pro Tempore Jacobsen presiding.

Quorum present.

### REPORTS OF COMMITTEES

*Mr. President pro Tempore:*

Your Committee of the Whole, to which was referred Senate Bill No. 254, has had the same under consideration, and begs leave to report the same back with the recommendation: that the Senate give it further consideration under Order of Business No. 12, Second Reading and Amendment.

ANN O'CONNELL, *Chairman*

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Amend sec. 2, page 3, line 20, by deleting the italicized period and inserting: "*, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.*".

Amend sec. 2, page 4, by deleting lines 15 through 20 and inserting:

"2. The commission may prepare and adopt, as part of the master plan, other and additional".

Amend sec. 3, page 4, line 28, by deleting "\$70,000" and inserting "\$68,497".

Amend sec. 3, page 4, line 29, by deleting "\$63,000" and inserting "\$62,118".

Amend the title of the bill by deleting the eighth through tenth lines and inserting: "federal management; making an appropriation; and providing other matters".

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Senator Rhoads moved that Senate Bill No. 25 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 58.

Bill read second time and ordered to third reading.

Senate Bill No. 254.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 289.

Amend sec. 4, pages 1 and 2, by deleting lines 17 through 20 on page 1 and lines 1 through 12 on page 2 and inserting:

"Sec. 4. *"Enterprise district" means a governmental entity which:*

1. *Is not a county, city or town;*
2. *Receives any portion of the proceeds of a tax which is included in the fund; and*
3. *The executive director determines is an enterprise district pursuant to the provisions of section 12.5 of this act."*

Amend sec. 11, page 5, line 8, by deleting "3" and inserting "4".

Amend the bill as a whole by adding a new section designated sec. 12.5, following sec. 12, to read as follows:

"Sec. 12.5. 1. *The executive director shall determine whether a governmental entity is an enterprise district.*

2. *In determining whether a governmental entity is an enterprise district, the executive director shall consider:*

(a) *Whether the governmental entity should account for substantially all of its operations in an enterprise fund as defined in NRS 354.517;*

(b) *The number and type of governmental services that the governmental entity provides;*

(c) *Whether the governmental entity provides a product or a service directly to a user of that product or service, including, without limitation, water, sewerage, television and sanitation; and*

(d) *Any other factors the executive director deems relevant."*

Amend sec. 14, page 6, by deleting lines 30 and 31 and inserting:

"3. *The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts."*

Amend sec. 14, page 7, line 10, by deleting "by unanimous consent".

Amend the bill as a whole by adding a new section designated sec. 18.5, following sec. 18, to read as follows:

"Sec. 18.5. NRS 371.230 is hereby amended to read as follows:

371.230 Except as otherwise provided in NRS 371.1035 [,] or 482.180, money collected by the department for privilege taxes and penalties pursuant to the provisions of this chapter must be deposited with the state treasurer to the credit of the motor vehicle fund."

Amend sec. 21, page 13, line 38, by inserting, after "shall" by inserting "distribute".

Amend sec. 21, page 13, line 41, by deleting ":" and inserting "; to:".

Amend sec. 21, page 13, line 42, by deleting "For".

Amend sec. 21, page 13, line 43, by deleting: "distribute to each county".

Amend sec. 21, page 14, line 13, by deleting "6." and inserting "5."

Amend sec. 21, page 14, by deleting line 20 and inserting:

"(b) All other counties, the amount remaining after making".

Amend sec. 21, page 14, line 21, by deleting "county" and inserting: "of these counties".

Amend sec. 21, page 14, line 32, after "(b)" by inserting: "of subsection 1".

Amend sec. 21, page 14, line 36, by deleting the comma.

Amend sec. 21, page 14, line 41, by deleting the comma.

Amend sec. 21, page 15, by deleting lines 36 through 41 and inserting: "assessed valuation of a:

(a) Fire protection district includes property which was transferred from private ownership to public ownership after July 1, 1986, pursuant to:

(1) The Santini-Burton Act, Public Law 96-586; or

(2) Chapter 585, Statutes of Nevada 1985, at page 1866, approved by the voters on November 4, 1986.

(b) Local government includes property which was transferred from private ownership, after July 1, 1997, to property held in trust for an Indian tribe pursuant to the provisions of the Indian Reorganization Act, 25 U.S.C. §§ 461 et seq.”

Amend the bill as a whole by adding a new section designated sec. 21.5, following sec. 21, to read as follows:

“Sec. 21.5. NRS 377.080 is hereby amended to read as follows:

377.080 1. A local government or special district which receives revenue [from the supplemental city-county relief tax pursuant to NRS 377.057] pursuant to sections 10, 11 and 12 of this act may pledge not more than 15 percent of that revenue to the payment of any general obligation bond or revenue bond issued by the local government pursuant to chapter 350 of NRS.

2. Any revenue pledged pursuant to subsection 1 for the payment of a general obligation bond issued by a local government pursuant to chapter 350 of NRS shall be deemed to be pledged revenue of the project for the purposes of NRS 350.020.

3. For bonds issued pursuant to this section before July 1, 1998, by a local government, special district or enterprise district:

(a) A pledge of 15 percent of the revenue distributed pursuant to sections 10, 11 and 12 of this act is substituted for the pledge of 15 percent of the revenue distributed pursuant to NRS 377.057, as that section existed on January 1, 1997; and

(b) A local government, special district or enterprise district shall increase the percentage specified in paragraph (a) to the extent necessary to provide a pledge to those bonds that is equivalent to the pledge of 15 percent of the amount that would have been received by that local government, special district or enterprise district pursuant to NRS 377.057, as that section existed on January 1, 1997.

4. As used in this section, unless the context otherwise requires:

(a) “Enterprise district” has the meaning ascribed to it in section 4 of this act.

(b) “Local government” has the meaning ascribed to it in section 6 of this act.

(c) “Special district” has the meaning ascribed to it in section 7 of this act.”

Amend sec. 35, page 26, line 13, by deleting “average”.

Amend sec. 35, page 26, line 22, by deleting “average”.

Amend sec. 35, page 26, by deleting lines 24 and 25 and inserting:

“3. For the purposes of this section:

(a) For any unincorporated town to which the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996, applied, the amounts described in subparagraphs (1) and (2) of paragraph (a) of subsection 2 must be adjusted to equal the amounts that could have been received by that unincorporated town but for the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996.

(b) The fiscal year ending on June 30, 1999, is the initial year of distribution.”

Amend sec. 35, page 26, line 26, by deleting “4.” and inserting:

“4. For the fiscal year beginning on July 1, 2000, the executive director of the department of taxation shall increase the amount which would otherwise be allocated pursuant to subsection 2 of section 10 of this act to each unincorporated town that was created after July 1, 1980, and before July 1, 1997, for which the Nevada tax commission established the allowed revenue from taxes ad valorem or basic ad valorem revenue pursuant to subsection 4 of NRS 354.5987, as that section existed on July 1, 1996, by an amount equal to the amount of basic privilege tax that would have been distributed to the unincorporated town:

(a) Pursuant to NRS 482.181, as if the provisions of NRS 482.181 which existed on July 1, 1996, were still in effect; and

(b) As if the tax rate for the unincorporated town for the fiscal year beginning on July 1, 1980, were a rate equal to the average tax rate levied for the fiscal year beginning on July 1, 1980, by other unincorporated towns included in the same common levy authorized by NRS 269.5755 which were in existence on July 1, 1980.

5. The additional amount of money allocated to an unincorporated town pursuant to subsection 4 must continue to be treated as a regular part of the amount allocated to the unincorporated town for the purposes of determining the allocation for the town pursuant to subsection 2 of section 10 of this act for all future years.

6.”

Amend sec. 37, page 28, line 26, by deleting: “September 15, 1997,” and inserting: “January 1, 1998.”

Amend sec. 37, page 28, by deleting lines 27 through 30 and inserting: “of the department of taxation shall:

(a) Notify each governmental entity he determines is an enterprise district pursuant to section 12.5 of this act of that determination; and

(b) Calculate the amount each enterprise district will receive pursuant to subsection 1 of section 10 of this act.

2. Any governmental entity that the executive director determines is an enterprise district pursuant to section 12.5 of this act may appeal that determination to the Nevada tax commission on or before April 1, 1998. The governing body of the governmental entity must notify each of the other



local governments and special districts that is located in the same county of the appeal.

3. The Nevada tax commission shall convene a hearing on the appeal and issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

4. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act."

Amend the bill as a whole by adding a new section designated sec. 37.5, following sec. 37, to read as follows:

"Sec. 37.5. 1. There is hereby appropriated from the state general fund to the department of taxation for the personnel, equipment and costs of operation necessary to administer the provisions of this act:

For the fiscal year 1997-98 ..... \$137,814

For the fiscal year 1998-99 ..... \$127,200

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years and reverts to the state general fund as soon as all payments of money committed have been made."

Amend sec. 38, page 28, line 31, by deleting: "13 and 37" and inserting: "12.5, 13, 37 and 37.5".

Amend the preamble of the bill, page 1, by deleting lines 1 through 6.

Amend the title of the bill, eighth line, after "circumstances;" by inserting: "making an appropriation;"

Senator O'Connell moved the adoption of the amendment.

Remarks by Senators O'Connell and Coffin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bills Nos. 275, 296, 297, 325, 331, 377; Assembly Bills Nos. 131, 292, 304, be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Raggio moved that Senate Bills Nos. 156, 351, 353, 364, 369, 370; Assembly Bills Nos. 110, 113, 249, 284, 297, 324, 408, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

(REPRINTED WITH ADOPTED AMENDMENTS)  
FIRST REPRINT

S.B. 254

SENATE BILL NO. 254—COMMITTEE ON GOVERNMENT AFFAIRS

APRIL 2, 1997

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to formulas for distribution of certain taxes.  
(BDR 32-314)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: Yes.

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to taxation; revising the formulas for the distribution of the proceeds of certain taxes; prohibiting certain governmental entities from pledging certain revenues to secure the payment of bonds or other obligations; revising the rate certain governmental entities must not exceed if levying an additional tax ad valorem under certain circumstances; requiring the executive director to allocate to certain governmental entities an amount equal to an amount calculated by using the average amount received from certain taxes for 2 fiscal years under certain circumstances; making an appropriation; and providing other matters properly relating thereto.

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

- 1 Section 1. Chapter 360 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 15, inclusive, of this act.
- 3 Sec. 2. *As used in sections 2 to 15, inclusive, of this act, unless the*
- 4 *context otherwise requires, the words and terms defined in sections 3 to 7,*
- 5 *inclusive, of this act have the meanings ascribed to them in those sections.*
- 6 Sec. 3. "County" includes Carson City.
- 7 Sec. 4. "Enterprise district" means a governmental entity which:
- 8 1. *Is not a county, city or town;*
- 9 2. *Receives any portion of the proceeds of a tax which is included in the*
- 10 *fund; and*
- 11 3. *The executive director determines is an enterprise district pursuant to*
- 12 *the provisions of section 12.5 of this act.*
- 13 Sec. 5. "Fund" means the local government tax distribution fund
- 14 created pursuant to section 8 of this act.

THIS BILL IS 32 PAGES LONG.  
CONTACT THE RESEARCH LIBRARY  
FOR A COPY OF THE COMPLETE BILL.



145  
Case No. 66851  
JA 265

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GENERAL FILE AND THIRD READING

Senate Bill No. 254.

Bill read third time.

Roll call on Senate Bill No. 254:

YEAS—21.

NAYS—None.

Senate Bill No. 254 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 113.

Bill read third time.

Roll call on Assembly Bill No. 113:

YEAS—21.

NAYS—None.

Assembly Bill No. 113 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 131.

Bill read third time.

Roll call on Assembly Bill No. 131:

YEAS—19.

NAYS—James.

NOT VOTING—Townsend.

Assembly Bill No. 131 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 180.

Bill read third time.

Remarks by Senators Neal and Rhoads.

Roll call on Assembly Bill No. 180:

YEAS—21.

NAYS—None.

Assembly Bill No. 180 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 271.

Bill read third time.

5-26-97

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Roll call on Assembly Bill No. 271:

YEAS—21.

NAYS—None.

Assembly Bill No. 271 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 304.

Bill read third time.

Remarks by Senators Neal, James, Coffin and Regan.

Roll call on Assembly Bill No. 304:

YEAS—20.

NAYS—None.

NOT VOTING—Coffin.

Assembly Bill No. 304 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the vote whereby Senate Bill No. 254 was passed be rescinded.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 254 be re-referred to the Committee on Finance.

Remarks by Senator Raggio.

Motion carried.

Senator Neal gave notice that on the next legislative day he would move to reconsider the vote whereby Assembly Bill No. 180 was this day passed.

Remarks by Senator Neal.

Senator Adler gave notice that on the next legislative day he would move to reconsider the vote whereby Assembly Bill No. 271 was this day passed.

Remarks by Senator Adler.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolutions Nos. 40, 41, 42.

**Sixty-ninth Session**  
**May 29, 1997**

**SENATE COMMITTEE MEMBERS PRESENT:**

**GUEST LEGISLATORS PRESENT:**

**STAFF MEMBERS PRESENT:**

OTHERS PRESENT:

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Senate Committee on Finance  
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no objection, the senator indicated Amendment No. 453 would be sent to the Senate floor.

Senator Raggio closed the hearing on S.B. 72 and the hearing on S.B. 113 was reopened.

**SENATE BILL 113:** Revises provisions relating to offenders in custody or confinement and makes appropriations to carry out provisions of this act.

Senator Raggio indicated that on May 15, 1997, the committee voted to amend and do pass the first reprint of S.B. 113. Mr. Miles explained section 5 of S.B. 113 was amended to change the definition of "item of correspondence" to "publication" which corresponds more closely to the current activity of the department and removes approximately \$400,000 from the fiscal impact each year. He said the remainder of the amendment deletes the words "either item or correspondence" from section 5 and replaces it with the term "publication."

SENATOR RAWSON MOVED TO AMEND AND DO PASS S.B. 113 WITH AMENDMENT NO. 386.

SENATOR O'DONNELL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senator Raggio opened the hearing on S.B. 254.

**SENATE BILL 254:** Makes various changes to formulas for distribution of certain taxes.

Senator Raggio indicated S.B. 254 came out of the interim study dealing with the distribution of proceeds of taxes. He pointed out there had been comments on the Senate floor and in the committee on the whole regarding the bill; therefore, it was not necessary to reiterate its substance. The senator said S.B. 254 was rereferred to the Senate Committee on Finance for the purpose of discussing the appropriation.

Michael Pitlock, Executive Director, Department of Taxation, addressed the appropriation for the Department of Taxation to implement the new distribution formula set forth in S.B. 254. He explained there are two major components to the appropriation being sought. The first component is \$51,473 in the first fiscal year and \$41,473 in the second fiscal year, which represent additional costs for the state demographer. Mr. Pitlock said as a result of the formula contained in S.B. 254 the state demographer will be required to develop population estimates for the towns contained in the distribution. There are 47 towns in Nevada that receive a distribution from this pool and in accordance with the bill; therefore, in order to develop the population estimates that are part of the formula, the state demographer has indicated a need for this amount of money in the 2 fiscal years. Mr. Pitlock pointed out the reason the first fiscal year is \$10,000 more than the second is that it contains \$10,000 for the purchase of new computer equipment to assist in population estimates.

Continuing, Mr. Pitlock said the second portion of the appropriation being requested is for personnel and operating costs within the Department of Taxation. He

indicated there is a small revision to the amount being requested. When reviewing the appropriation in preparation for the hearing, a transposition error was noticed in one of the numbers in the area of the computer equipment request. The error was corrected, resulting in a reduction of \$630 in the request for the first fiscal year.

In calculating operating cost for the two new positions, Mr. Pitlock said agency-wide averages were used for some of the categories. This action caused an overestimation of postage required for two additional employees because the overall average is high due to the mailing of tax returns. Therefore, \$2,500 is removed from the postage category for both fiscal years.

Mr. Pitlock indicated S.B. 254 establishes the Department of Taxation as administrators for the new pool and assigns it additional responsibilities over and above those currently performed for the distribution of sales tax to local governments. The duties include operation of the consolidated-distribution system and developing statistics that will be relied upon by local governments in making decisions on how they interact with the pool. Mr. Pitlock explained the department will also be required to reconcile the funds at the end of the month and the end of the fiscal year. He said one of the most significant new elements will be analysis work required by the department to provide information to local governments to help them make decisions required of them based upon S.B. 254. For instance, if a new governmental entity comes into play and takes over the services of some other local governments, the department will be required to analyze the historical distributions from the pool in order to establish a base for the new government. The information will be vital not only to the new governmental entity but to the other governments affected by redistribution of the pool.

In addition, Mr. Pitlock pointed out there is a onetime allowance for local governments to come before the Nevada Tax Commission through the Department of Taxation to adjust their bases, which are the starting point for the distributions. In order to provide information to the tax commission and the local governments affected by the onetime events, additional analysis of the distributions must be performed as well. Mr. Pitlock indicated S.B. 254 allows for alternative-distribution formulas to be established within counties where more than one local government entity agrees to it. The decisions will require analysis of the historical distribution as well as maintenance of two sets of statistics based on the original distribution formula and the alternative-distribution formula. Therefore, when the alternative-distribution formula is abandoned the system can return to the original formula. Mr. Pitlock said there is also a requirement the department maintain information and make a determination with respect to enterprise districts, which are defined in S.B. 254 and treated somewhat differently.

Mr. Pitlock indicated the services outlined will be provided to local governments by three individuals within the Department of Taxation. One is in an existing position and the others will fill two new requested positions. The two requested positions are a Management Analyst II, which is a grade 35, and an Accountant Technician I, which is a grade 30. The three individuals will be responsible for managing the distribution pool, which will have approximately \$700 million per year flowing through it. Mr. Pitlock said under the current system the department also relies on a portion of the time of one of the budget analysts from the local government finance section. Due to the pressure of work on that section at the present time, an individual can no longer be spared to spend part of his/her time on distributions because of the great need of local government for assistance. By adding two new positions to the section, the budget analyst will be free to spend 100 percent of her efforts dealing with local governments. The total of the two components after the

revisions will be \$134,684 in the first fiscal year and \$124,700 in the second fiscal year, Mr. Pitlock remarked.

Senator Raggio pointed out the proposed budget contains 28 additional positions and asked whether the staffing will be adequate without the other two positions addressed in S.B. 254. Mr. Pitlock indicated the other positions requested in the department's budget are mainly concentrated in the area of taxpayer service. The positions are Account Clerks for processing tax returns, Tax Examiners and Tax Administrators to deal with taxpayers, and Revenue Officers. There are no new positions in this particular section. Mr. Pitlock said there is an additional position in the local government finance section to deal with governmental entities currently in severe financial emergency. He recalled that during the 68<sup>th</sup> Legislative Session one local government was in severe financial emergency. Since that time the tax commission has made a finding of severe financial emergency for a second local government; therefore, the Department of Taxation is now involved in the management of two local governments. Mr. Pitlock declared "a couple of" other local governments are close to having the same finding made for them. He noted in the last 2 years the need for services by local governments assisted through the Local Government Budget Act has increased dramatically. As financial strains placed upon local governments become more severe, these entities are getting into more difficulty and the department is called upon to assist them on a regular basis.

In regard to counties with financial troubles, Senator O'Donnell inquired whether the counties have exercised the maximum tax rate or are already at the maximum tax rate. Mr. Pitlock said in some cases the counties within which the local governments are located are at the maximum tax rate. The two governmental entities the department is involved with currently are the White Pine County School District, which was the first local government designated as being in severe financial emergency, and the Nye County Hospital District, which is in severe financial emergency. The department is involved in the operation of the Nye County Regional Medical Center in Tonopah. Both counties have tax-rate problems, Mr. Pitlock remarked.

Referring to section 37.5 of S.B. 254, which is the appropriation, Senator Raggio asked whether an amendment is required to correct the amount. He suggested deleting section 37.5 of S.B. 254 and dealing with the issue in the budget, which has not been closed. He postulated if the bill is processed in that manner it would make it easier for the Assembly. Mr. Miles said Senator Raggio's suggestion is a valid option since the budget has not been closed by the joint subcommittee. He indicated if the information is submitted to the joint subcommittee and section 37.5 of S.B. 254 is deleted, the bill could be sent to the Assembly quicker. Mr. Miles remarked the appropriation could be incorporated into the budget of the Department of Taxation.

Senator Raggio requested a motion to amend and do pass S.B. 254 with the deletion of section 37.5.

SENATOR RAWSON MOVED TO AMEND AND DO PASS S.B. 254.

SENATOR REGAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Roll call on Senate Bill No. 168:

YEAS—21.

NAYS—None.

Senate Bill No. 168 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 254.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 493.

Amend the bill as a whole by deleting sec. 37.5.

Amend sec. 38, page 30, lines 34 and 35, by deleting: "13, 37 and 37.5" and inserting: "13 and 37".

Amend the title of the bill, eighth line, by deleting: "making an appropriation;"

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 353.

Bill read third time.

The following amendment was proposed by Senator McGinness:

Amendment No. 475.

Amend section 1, page 1, by deleting lines 6 and 7 and inserting:

"(a) Purchase residential real property which [abuts] *shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access*, and which is adversely affected by the highway."

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 100.

Bill read third time.

Roll call on Assembly Bill No. 100:

YEAS—21.

NAYS—None.

(REPRINTED WITH ADOPTED AMENDMENTS)  
SECOND REPRINT

S.B. 254

SENATE BILL NO. 254—COMMITTEE ON GOVERNMENT AFFAIRS

APRIL 2, 1997

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to formulas for distribution of certain taxes.  
(BDR 32-314)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: Yes.

EXPLANATION - Matter in italics is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to taxation; revising the formulas for the distribution of the proceeds of certain taxes; prohibiting certain governmental entities from pledging certain revenues to secure the payment of bonds or other obligations; revising the rate certain governmental entities must not exceed if levying an additional tax ad valorem under certain circumstances; requiring the executive director to allocate to certain governmental entities an amount equal to an amount calculated by using the average amount received from certain taxes for 2 fiscal years under certain circumstances; and providing other matters properly relating thereto.

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

- 1 Section 1. Chapter 360 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 15, inclusive, of this act.
- 3 Sec. 2. *As used in sections 2 to 15, inclusive, of this act, unless the*
- 4 *context otherwise requires, the words and terms defined in sections 3 to 7,*
- 5 *inclusive, of this act have the meanings ascribed to them in those sections.*
- 6 Sec. 3. "County" includes Carson City.
- 7 Sec. 4. "Enterprise district" means a governmental entity which:
- 8 1. *Is not a county, city or town;*
- 9 2. *Receives any portion of the proceeds of a tax which is included in the*
- 10 *fund; and*
- 11 3. *The executive director determines is an enterprise district pursuant to*
- 12 *the provisions of section 12.5 of this act.*
- 13 Sec. 5. "Fund" means the local government tax distribution fund
- 14 created pursuant to section 8 of this act.
- 15 Sec. 6. "Local government" means any county, city or town that
- 16 receives any portion of the proceeds of a tax which is included in the fund.

THIS BILL IS 31 PAGES LONG.  
CONTACT THE RESEARCH LIBRARY  
FOR A COPY OF THE COMPLETE BILL.



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Senate Bill No. 254.

Bill read third time.

Roll call on Senate Bill No. 254:

YEAS—20.

NAYS—None.

EXCUSED—Regan.

Senate Bill No. 254 having received a constitutional majority, Mr. President declared it passed, as amended.  
Bill ordered transmitted to the Assembly.

Senate Bill No. 353.

Bill read third time.

Roll call on Senate Bill No. 353:

YEAS—20.

NAYS—None.

EXCUSED—Regan.

Senate Bill No. 353 having received a constitutional majority, Mr. President declared it passed, as amended.  
Bill ordered transmitted to the Assembly.

Assembly Bill No. 463.

Bill read third time.

Remarks by Senators Raggio, O'Connell and Neal.

Roll call on Assembly Bill No. 463:

YEAS—20.

NAYS—None.

EXCUSED—Regan.

Assembly Bill No. 463 having received a constitutional majority, Mr. President declared it passed.  
Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 91; Assembly Bill No. 156; Assembly Concurrent Resolutions Nos. 34, 35.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Adler, the privilege of the floor of the Senate Chamber for this day was extended to Mary Adler and Pauline Beville.

**MINUTES OF THE  
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Sixty-ninth Session  
June 18, 1997**

The Committee on Government Affairs was called to order at 8:10 a.m., on Wednesday, June 18, 1997. Chairman Douglas Bache presided in Room 3143 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List.

**COMMITTEE MEMBERS PRESENT:**

Mr. Douglas Bache, Chairman  
Mr. Roy Neighbors, Vice Chairman  
Mr. Mark Amodei  
Ms. Deanna Braunlin  
Mrs. Marcia de Braga  
Mrs. Vivian Freeman  
Mr. Pat Hickey  
Mrs. Joan Lambert  
Mr. John Jay Lee  
Mr. Harry Mortenson  
Mr. David Parks  
Ms. Sandra Tiffany  
Mr. Wendell Williams

**COMMITTEE MEMBERS EXCUSED:**

Mr. Peter (Pete) Ernaut

**GUEST LEGISLATORS PRESENT:**

Senator Ann O'Connell, Senate District 5

**STAFF MEMBERS PRESENT:**

Denice Miller, Committee Policy Analyst, Research Division,  
Legislative Counsel Bureau (LCB)  
Kim Guinasso, Principal Deputy Legislative Counsel, LCB  
Sara Kaufman, Committee Secretary

**OTHERS PRESENT:**

Guy Hobb of Hobbs, Ong and Associates, Inc.  
Mary Walker, Director of Finance and Redevelopment, Carson City,  
Nevada  
Mary Henderson, Washoe County, Nevada  
Marvin Leavitt, City of Las Vegas, Nevada  
Michael Pitlock, Executive Director, Department of Taxation  
Carole Vilardo, Nevada Taxpayers Association  
Robert Hadfield, Nevada Association of Counties  
Thomas Grady, Nevada League of Cities

**SENATE BILL 254 -      Makes various changes to formulas for distribution of  
certain taxes.**

Guy Hobb of Hobbs, Ong and Associates, Inc., testified. He submitted a four-page document (Exhibit C) and a chart depicting revenue distribution (Exhibit D). He informed the committee he was a member of the technical advisory committee to the committee created by Senate Concurrent Resolution 40 of the Sixty-Eighth Session (hereafter referred to as the SCR 40 committee) and that he represented counties.

Mr. Hobbs said the efforts of the SCR 40 committee began 2 years ago when the legislature approved formation of a committee to study the distribution of taxes between and among local governments in Nevada. The primary reason for initiating the study was that the systems currently used to distribute revenues had been in use for 16 years, were cumbersome and no longer served their purpose as effectively as they once had.

The Chair interrupted Mr. Hobb's testimony to allow Senator O'Connell to testify.

Senator Ann O'Connell, Senate District 5, testified. She praised the work of the technical advisory committee and said the product of that work, S.B. 254, had been agreed upon by all parties involved and would revolutionize Nevada's revenue distribution system. She stated the revenue distribution chart submitted by Mr. Hobbs (Exhibit D) provided a picturesque description of how revenues were currently distributed and how they would be distributed in the future under S.B. 254.

Senator O'Connell again praised the work of the technical advisory committee and expressed her appreciation to its members.