

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 12 PART 4

Filed By:

Joshua J. Hicks, Esq.
Nevada Bar No. 6678
BROWNSTEIN HYATT
FARBER SCHRECK, LLP
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*Attorneys for Appellant City of Fernley,
Nevada*

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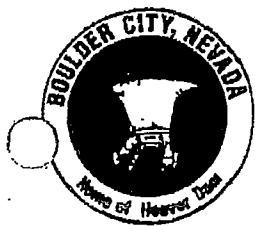
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City of Boulder City

401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005

Mailing Address

P.O. BOX 61350

BOULDER CITY, NEVADA 89006-1350

Daryl Batson, Director
Las Vegas/Clark County Library District
833 Las Vegas Boulevard North
Las Vegas, Nevada 89101

December 31, 1997

Dear Mr. Batson:

The City of Boulder City has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-99.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

The City of Boulder City has made no attempt to prepare and impact statement on the other entities within Clark County. It is our understanding that the Department of Taxation will prepare this statement.

If you have any questions or would like further elucidation regarding our appeal please call me at (702) 293-9246.

Sincerely,

Robert E. Boyer
Finance Director



City of Boulder City

401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005

Mailing Address
P.O. BOX 61350
BOULDER CITY, NEVADA 89006-1350

Zuki Landau, Library Director
Henderson Library District
280 Water Street
Henderson, Nevada 89005

December 31, 1997

Dear Zuki Landau:

The City of Boulder City has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-99.

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If you have any questions or would like further elucidation regarding our appeal please call me at (702) 293-9246.

Sincerely,

Robert E. Boyer
Finance Director

Case No. 66851
JA 2171



City of Boulder City

401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005

Mailing Address
P.O. BOX 61350
BOULDER CITY, NEVADA 89006-1350

Duncan McCoy, Library Director
Boulder City Library District
813 Arizona Street
Boulder City, Nevada 89005

December 31, 1997

Dear Mr. McCoy:

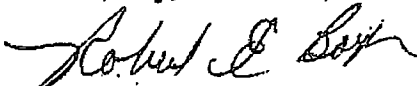
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Sincerely,


Robert E. Boyer
Finance Director

Case No. 66851

JA 2172



City of Boulder City
401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005
Mailing Address
P.O. BOX 61350
BOULDER CITY, NEVADA 89006-1350

December 31, 1997

Linda Hinson, City Manager
City of North Las Vegas
2200 Civic Center Drive
North Las Vegas, Nevada 89030

Dear Ms. Hinson:

The City of Boulder City has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-99.

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Sincerely,

Robert E. Boyer
Finance Director



City of Boulder City
401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005
Mailing Address
P.O. BOX 61350
BOULDER CITY, NEVADA 89006-1350

Mr. Bill DaVee, City Manager
City of Mesquite
P.O. Box 69
Mesquite, Nevada 89024

December 31, 1997

Dear Mr. DaVee:

The City of Boulder City has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-99.

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If you have any questions or would like further elucidation regarding our appeal please call me at (702) 293-9246.

Sincerely,

Robert E. Boyer
Finance Director



City of Boulder City
401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005
Mailing Address
P.O. BOX 61350
BOULDER CITY, NEVADA 89006-1350

Mr. Philip Speight, City Manager
City of Henderson
240 Water Street
Henderson, Nevada 89015

December 31, 1997

Dear Mr. Speight:

The City of Boulder City has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-99.

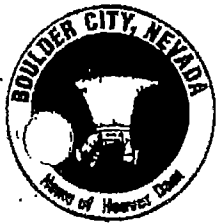
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If you have any questions or would like further elucidation regarding our appeal please call me at (702) 293-9246.

Sincerely,

Robert E. Boyer
Finance Director



City of Boulder City

401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005

Mailing Address
P.O. BOX 61350
BOULDER CITY, NEVADA 89006-1350

Mr. Larry Barton, City Manager
City of Las Vegas
400 East Stewart Avenue
Las Vegas, Nevada 89101

December 31, 1997

Dear Mr. Barton:

The City of Boulder City has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-99.

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If you have any questions or would like further elucidation regarding our appeal please call me at (702) 293-9246.

Sincerely,

Robert E. Boyer
Finance Director

December 9, 1997



Michael A. Pitlock, Executive Director
State of Nevada
Department of Taxation
1550 E. College Parkway
Suite 115
Carson City, Nevada 89706

DEC 11 1997
DEPARTMENT OF TAXATION

Certified Mail - Return Receipt Requested

**RE: CITY OF HENDERSON REQUEST FOR ADJUSTMENT TO BASE CALCULATION -
SENATE BILL # 254**

Dear Mr. Pitlock;

The City of Henderson herewith submits its appeal pursuant to the provisions of Senate Bill 254 regarding its fiscal year 1998-99 base tax distribution. Under its appeal, the City is requesting an upward adjustment to its initial base year of \$5,096,237, for a total of \$45,265,571, the calculation of which is more fully described below.

Beginning with fiscal year 1981/82, the Nevada State legislature rolled back local government property tax rates and replaced the reduction in property tax revenues with a newly imposed sales tax referred to as SCCRT. SCCRT was to be generally allocated to local governments based upon their proportionate share of the assessed valuation essentially equivalent to the reduction in property tax revenues.

As can be seen in Exhibit A1 in FY 81/82, the City of Henderson operating property tax rate was reduced from \$1.2013 to \$.0361 (97% reduction). Las Vegas (Exhibit B1), as comparison, had their operating property tax rate reduced from \$1.3286 to \$.4361 or a 67% reduction in the property tax rate.

At the conclusion of FY 81/82 it was apparent that the SCCRT distribution had fallen short of the property tax reduction. Although the City of Las Vegas was generally unscathed with a \$58,986 shortfall (see far right-hand column on Exhibit B2) Henderson's shortfall was \$625,886; Paradise township and North Las Vegas suffered shortfalls of \$1,891,171 and \$362,674, respectively. As can be seen, this situation continued to persist into the mid-80s. Finally in FY 87/88 in an attempt to halt the erosion of municipal service levels the City of North Las Vegas asked for and received approval from its voters to impose an operating property tax override to make up for the persistent shortfall. The City of Henderson followed suit with an override coming into play during FY 89/90. The additional property tax revenue from overrides imposed by the City of North Las Vegas has been shown to more than offset the lost revenue from the FY 81/82 tax shift. However, in the case of the City of Henderson, an annual shortfall still occurs after taking the voter approved overrides into account. An interesting situation occurs with regard to the City of Las Vegas in that beginning with FY 87/88 the city was the only entity in the attached exhibits to actually receive more SCCRT revenue than was lost as a result of the tax shift. In fact, the excess distribution has grown to \$15,578,841 for FY 96/97. The Paradise Township has suffered from the tax shift formula in that its revenue shortfall hit \$17,335,620 in FY 96/97.

In my opinion, the consolidated tax distribution formula being implemented in FY 98/99 is generally an equitable method of allocating tax revenues to areas of high growth. However, to the extent that all entities will begin the FY 98/99 allocation system by being guaranteed a base year allocation based upon the 'old' (or existing) FY 81/82 tax shift formula any inequities arising over the years from the FY 81/82 tax shift are institutionalized in the consolidated tax distribution formula. Secondly, to the extent that half the distribution formula is based upon the average of the last 5 years of assessed valuation for each entity, revenues allocated under the new formula will be distributed to the most rapidly growing communities on a lagging basis. This is evidenced by the numerous spreadsheet calculations prepared by the SCR40 committee which showed that the two fastest growing cities, Henderson and Mesquite, will actually receive LESS in revenue than the existing distribution formula.

December 9, 1997

Page 2 of 2

The City of Henderson hereby requests an adjustment to the FY 98/99 initial year base in the amount of \$5,096,237. This represents an average of the annual revenue shortfall received by the City of Henderson over the five fiscal years from FY 93/94 through FY 97/98 (which is estimated). Should this adjustment be awarded I will recommend that the Henderson city council reduce the city's General Fund operating property tax override by \$4,010,315. That represents the difference between the five years' average shortfall of revenues including and excluding the impact of the voter-approved property tax rate override.

This adjustment would result in a 1.26% reduction to all other entities assuming no other adjustments were awarded and if any awarded adjustments are redistributed from the existing base (see exhibit E for impact on other local governments).

Notes to Exhibits:

Operating Tax Rate (column 2): Although the combined property tax rate was available from the Department of Taxation back to FY 1975/76, the breakdown between operating and debt was not available in a few of the earliest years. To the extent that the total combined rate had not changed during the earlier years the same breakdown was used as existed in the earliest year for which accurate information was available from the Department of Taxation.

Operating Ad Valorem Revenue is based upon the established property tax rate times the assessed valuation and does not account for delinquent taxes and timing differences resulting from actual collection.

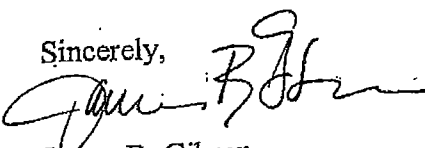
SCCRT Revenue is based upon data available from the Department of Taxation.

Ad Valorem Revenue @ FY 80/81 rate: As a means to compare the impact of the FY 81/82 tax shift on subsequent years, I have calculated how much operating property tax revenue would have been generated each year since FY 81/82 had the FY 80/81 (pre-shift rate) tax rate not been reduced and replaced with SCCRT revenue. This amount is compared to the sum of each fiscal year's SCCRT revenues plus any operating property tax revenue still being received.

Paradise Township: The current operating property tax rate for the Town of Paradise is not at the maximum allowed rate established by the State of Nevada.

If you have any questions or wish to discuss the information contained herein, please contact Steve Hanson, Finance Director at (702) 565-2056 or Phil Speight, City Manager at (702) 565-2080.

Sincerely,


James B. Gibson
Mayor

Attachments (5)

Cc: City of Henderson City Council
Phil Speight, City Manager
Steven M. Hanson, Finance Director

Case No. 66851
JA 2178

CITY OF HERNDON

Fiscal Year	Operating Tax		Debt Rate	Other	Combined Rate	Assessed Valuation	Operating Ad Valorem		Operating Tax Overrides		Total	Actual SCCRT
	Rate	Rate					Revenue	Revenue	Revenue	Revenue	Revenue	
1975/76	1.0870	0.2457			1.3327	44,525,947	483,997				483,997	
1976/77	1.0757	0.2570			1.3327	46,446,227	499,622	0	0		499,622	
1977/78	1.1543	0.1784			1.3327	63,216,518	729,708	0	0		729,708	
1978/79	1.1911	0.1416			1.3327	70,410,485	838,659	0	0		838,659	
1979/80	1.2013	0.1314			1.3327	80,623,643	968,532	0	0		968,532	
1980/81	1.2013	0.1314			1.3327	107,810,476	1,295,127	0	0		1,295,127	
1981/82	0.0361	0.0969			0.1330	172,851,382	62,399	0	0		62,399	1,388,178
1982/83	0.0364	0.1435			0.1799	212,222,898	77,249	0	0		77,249	1,343,502
1983/84	0.0300	0.1869			0.2169	299,251,844	89,776	0	0		89,776	1,923,627
1984/85	0.0305	0.3319			0.3624	339,836,110	103,650	0	0		103,650	-2,054,751
1985/86	0.0320	0.3453			0.3773	383,716,457	122,789	0	0		122,789	2,231,289
1986/87	0.0338	0.3453			0.3791	405,366,281	137,014	0	0		137,014	2,751,366
1987/88	0.0355	0.3453			0.3808	446,988,945	158,681	0	0		158,681	3,170,746
1988/89	0.0686	0.3453			0.4139	563,999,218	386,903	0	0		386,903	4,196,381
1989/90	0.0449	0.3295		0.1504	0.5248	638,947,577	286,887	960,977			1,247,865	4,902,865
1990/91	0.1519	0.3295		0.2310	0.7124	778,618,804	1,182,722	1,798,609			2,981,331	5,559,645
1991/92	0.1519	0.3295		0.2310	0.7124	1,024,014,099	1,555,477	2,365,473			3,920,950	6,613,586
1992/93	0.1519	0.3295		0.2310	0.7124	1,203,690,215	1,828,405	2,780,524			4,608,930	8,098,284
1993/94	0.1519	0.3295		0.2310	0.7124	1,548,698,499	2,352,473	3,577,494			5,929,967	11,186,512
1994/95	0.1831	0.3295		0.2310	0.7436	1,708,662,768	3,128,562	3,947,011			7,075,573	13,707,498
1995/96	0.1519	0.3295		0.2310	0.7124	1,933,152,088	2,936,458	4,465,581			7,402,039	14,739,291
1996/97	0.1519	0.3295		0.2310	0.7124	2,286,132,496	3,472,635	5,280,966			8,753,601	17,345,573

CITY OF HEORSON

FISCAL YEAR	Total Operating Ad Valorem and SCCRT Revenue including Overrides	Total Operating Ad Valorem and SCCRT Revenue excluding Overrides	Operating Ad Valorem revenue @ FY 80/81 Rate	Tax Shortfall Including Tax Overrides	Tax Shortfall Excluding Tax Overrides
1975/76	483,997	483,997			
1976/77	499,622	499,622			
1977/78	729,708	729,708			
1978/79	838,659	838,659			
1979/80	968,532	968,532			
1980/81	1,295,127	1,295,127	1,295,127	0	0
1981/82	1,450,577	1,450,577	2,076,464	625,886	625,886
1982/83	1,420,751	1,420,751	2,549,434	1,128,683	1,128,683
1983/84	2,013,403	2,013,403	3,594,912	1,581,510	1,581,510
1984/85	2,158,401	2,158,401	4,082,451	1,924,050	1,924,050
1985/86	2,354,078	2,354,078	4,609,586	2,255,508	2,255,508
1986/87	2,888,380	2,888,380	4,869,665	1,981,285	1,981,285
1987/88	3,329,427	3,329,427	5,369,678	2,040,251	2,040,251
1988/89	4,583,284	4,583,284	6,775,323	2,192,038	2,192,038
1989/90	6,150,730	5,189,752	7,675,677	1,524,948	2,485,925
1990/91	8,540,976	6,742,367	9,353,548	812,571	2,611,181
1991/92	10,534,536	8,169,063	12,301,481	1,766,945	4,132,418
1992/93	12,707,214	9,926,689	14,459,931	1,752,717	4,533,241
1993/94	17,116,479	13,538,985	18,604,515	1,488,037	5,065,530
1994/95	20,783,071	16,836,060	20,526,166	(256,905)	3,690,106
1995/96	22,141,330	17,675,749	23,222,956	1,081,626	5,547,207
1996/97	26,099,174	20,818,208	27,463,310	1,364,135	6,645,101

CITY OF LAS VEGAS

Fiscal Year	Operating Tax Rate	Debt Rate	Other	Combined Rate	Assessed Valuation	Operating Ad Valorem		Operating Tax Overrides		Total Operating Revenue	Actual SCRT
						Revenue	Revenue	Revenue	Revenue		
1975/76											
1976/77	1.2848	0.1304		1.4122	610,343,267	7,841,690	0	0	7,841,690		
1977/78	1.2848	0.1304		1.4122	636,775,953	8,181,297	0	0	8,181,297		
1978/79	1.2848	0.1304		1.4122	682,122,257	8,763,907	0	0	8,763,907		
1979/80	1.2848	0.1304		1.4152	839,760,798	10,789,247	0	0	10,789,247		
1980/81	1.3286	0.0857		1.4143	1,218,400,377	16,187,667	0	0	16,187,667		
1981/82	0.4361	0.0996		0.5357	1,369,082,063	5,970,567	0	0	5,970,567		12,160,071
1982/83	0.4368	0.1630		0.5998	1,529,893,447	6,682,575	0	0	6,682,575		10,711,681
1983/84	0.4714	0.1056		0.5770	1,555,616,910	7,333,178	0	0	7,333,178		11,059,462
1984/85	0.4519	0.0415		0.4934	1,789,174,275	8,085,279	0	0	8,085,279		11,964,434
1985/86	0.4481	0.0447		0.4928	2,055,408,202	9,210,284	0	0	9,210,284		13,218,683
1986/87	0.4573	0.0145		0.4718	2,189,676,545	10,013,391	0	0	10,013,391		16,437,033
1987/88	0.5220	0.0400		0.5620	2,319,489,160	12,107,733	0	0	12,107,733		18,870,035
1988/89	0.5677	0.0400		0.6077	2,492,585,144	14,150,406	0	0	14,150,406		21,428,906
1989/90	0.6060	0.0875		0.6935	2,718,013,199	16,471,160	0	0	16,471,160		23,937,997
1990/91	0.6088	0.0800		0.6888	3,135,946,601	19,091,643	0	0	19,091,643		25,840,745
1991/92	0.6250	0.0700		0.6950	3,681,337,638	23,008,360	0	0	23,008,360		27,725,334
1992/93	0.6435	0.0496		0.6931	4,033,131,345	25,953,200	0	0	25,953,200		31,596,528
1993/94	0.6751	0.0496		0.7247	4,378,038,847	29,556,140	0	0	29,556,140		36,371,218
1994/95	0.6956	0.0405		0.7361	4,818,993,988	33,520,922	0	0	33,520,922		44,411,045
1995/96	0.7117	0.0395		0.7512	5,302,035,294	37,734,585	0	0	37,734,585		46,281,791
1996/97	0.7117	0.0348		0.7465	6,167,421,776	43,893,541	0	0	43,893,541		53,625,666

Exhibit B1

CITY OF LAS VEGAS

Fiscal Year	Total Operating Ad Valorem and SCCRT Revenue including Overrides	Total Operating Ad Valorem and SCCRT Revenue excluding Overrides	Operating Ad valorem revenue @ FY 80/81 Rate	Tax Shortfall Including Tax Overrides	Tax Shortfall Excluding Tax Overrides
1975/76					
1976/77					
1977/78					
1978/79					
1979/80					
1980/81	16,187,667	16,187,667	16,187,667	0	0
1981/82	18,130,638	18,130,638	18,189,624	58,986	58,986
1982/83	17,394,256	17,394,256	20,326,164	2,931,909	2,931,909
1983/84	18,392,640	18,392,640	20,667,926	2,275,286	2,275,286
1984/85	20,049,713	20,049,713	23,770,969	3,721,257	3,721,257
1985/86	22,428,967	22,428,967	27,308,153	4,879,186	4,879,186
1986/87	26,450,424	26,450,424	29,092,043	2,641,619	2,641,619
1987/88	30,977,768	30,977,768	30,816,733	(161,035)	(161,035)
1988/89	35,579,312	35,579,312	33,116,486	(2,462,826)	(2,462,826)
1989/90	40,409,157	40,409,157	36,111,523	(4,297,634)	(4,297,634)
1990/91	44,932,388	44,932,388	41,664,187	(3,268,201)	(3,268,201)
1991/92	50,733,694	50,733,694	48,910,252	(1,823,442)	(1,823,442)
1992/93	57,549,728	57,549,728	53,584,183	(3,965,545)	(3,965,545)
1993/94	65,927,358	65,927,358	58,166,624	(7,760,734)	(7,760,734)
1994/95	77,931,967	77,931,967	64,025,154	(13,906,813)	(13,906,813)
1995/96	84,016,376	84,016,376	70,442,841	(13,573,535)	(13,573,535)
1996/97	97,519,207	97,519,207	81,940,366	(15,578,841)	(15,578,841)

Exhibit B2

CITY OF NORTH LAS VEGAS

Fiscal Year	Operating Tax Rate	Debt Rate	Other	Combined Rate	Assessed Valuation	Operating Ad Valorem Revenue	Operating Tax Override Revenue	Total		Actual SCCRT
								Operating Ad Valorem Revenue	Operating Tax Override Revenue	
1975/76										
1976/77	0.8915	0.5228		1.4122	100,466,583	895,660	0	895,660		
1977/78	0.8915	0.5228		1.4122	120,627,081	1,075,390	0	1,075,390		
1978/79	0.8915	0.5228		1.4122	138,057,161	1,230,780	0	1,230,780		
1979/80	0.8915	0.5228		1.4122	141,235,575	1,259,115	0	1,259,115		
1980/81	0.8915	0.5228		1.4143	146,698,481	1,307,817	0	1,307,817		1,221,691
1981/82	0.1186	0.3863		0.5049	204,989,625	243,118	0	243,118		1,075,586
1982/83	0.1162	0.4081		0.5243	228,937,431	266,025	0	266,025		1,259,915
1983/84	0.1127	0.3173		0.4300	264,110,198	297,652	0	297,652		1,326,122
1984/85	0.1102	0.2905		0.4007	295,543,824	325,689	0	325,689		1,359,129
1985/86	0.1140	0.3380		0.4520	314,951,708	359,045	0	359,045		1,602,465
1986/87	0.1213	0.3438		0.4651	318,139,840	385,904	0	385,904		1,705,034
1987/88	0.1305	0.3705	0.1800	0.6810	323,890,811	422,678	583,003	1,005,681		1,932,699
1988/89	0.1678	0.3500	0.1800	0.6978	349,537,832	586,524	629,168	1,215,693		2,001,465
1989/90	0.1828	0.1735	0.3565	0.7128	351,511,352	642,563	1,253,138	1,895,701		1,988,310
1990/91	0.1925	0.0250	0.5050	0.7225	375,211,095	722,281	1,894,816	2,617,097		2,288,487
1991/92	0.1925	0.3100	0.5100	1.0125	477,465,178	919,120	2,435,072	3,354,193		2,780,876
1992/93	0.1925	0.2400	0.5553	0.9878	550,100,802	1,058,944	3,054,710	4,113,654		3,598,827
1993/94	0.1925	0.2400	0.5648	0.9973	661,947,329	1,274,249	3,738,679	5,012,927		4,810,454
1994/95	0.1925	0.2400	0.5535	0.9860	795,128,593	1,530,623	4,401,037	5,931,659		5,216,708
1995/96	0.1925	0.2400	0.5300	0.9625	906,043,851	1,744,134	4,802,032	6,546,167		6,374,774
1996/97	0.1925	0.1890	0.5810	0.9625	1,115,787,579	-2,147,891	6,482,726	8,630,617		

Exhibit D1

CITY OF NORTH LAS VEGAS

Fiscal Year	Total Operating Ad Valorem and SCCRT Revenue Including Overrides	Total Operating Ad Valorem and SCCRT Revenue excluding Overrides	Operating Ad Valorem revenue @ FY 80/81 Rate	Tax Shortfall Including Tax Overrides	Tax Shortfall Excluding Tax Overrides
1975/76					0
1976/77	895,660	1,307,817	1,307,817	362,674	362,674
1977/78	1,075,390	1,464,809	1,827,483	699,366	699,366
1978/79	1,230,780	1,341,611	2,040,977	796,975	796,975
1979/80	1,259,115	1,557,567	2,354,542	982,962	982,962
1980/81	1,307,817	1,651,811	2,634,773	1,089,621	1,089,621
1981/82	1,464,809	1,718,174	2,807,794	847,848	847,848
1982/83	1,341,611	1,988,369	2,836,217	759,775	759,775
1983/84	1,557,567	2,127,712	2,887,487	596,906	596,906
1984/85	1,651,811	2,519,223	3,116,130	489,696	489,696
1985/86	1,718,174	2,644,028	3,133,724	634,416	634,416
1986/87	1,988,369	2,710,591	3,345,907	1,048,995	1,048,995
1987/88	2,710,715	3,207,607	4,256,602	1,064,329	1,064,329
1988/89	3,148,392	3,839,820	4,904,149	1,028,185	1,028,185
1989/90	3,897,166	4,873,076	5,901,260	747,495	747,495
1990/91	4,605,407	6,341,077	7,088,571	1,116,539	1,116,539
1991/92	5,642,680	6,960,842	8,077,381	1,424,581	1,424,581
1992/93	6,894,530	8,522,663	9,947,246	(5,058,145)	
1993/94	8,611,754				
1994/95	10,742,113				
1995/96	11,762,875				
1996/97	15,005,391				

PARADISE

Fiscal Year	Operating Tax Rate	Debt Rate	Other	Combined Rate	Assessed Valuation	Fire Dist. Rate	Operating Ad Valorem Revenue	Operating Tax Overrides Revenue	Total Operating Ad Valorem Revenue	Actual SC CRT
1975/76										
1976/77	1.3363			1.3363	449,844,211	0.6000	6,011,268	0	6,011,268	
1977/78	1.3363			1.3363	504,329,687	0.6000	6,739,358	0	6,739,358	
1978/79	1.3363			1.3363	766,077,248	0.6000	10,237,090	0	10,237,090	
1979/80	1.1709			1.1709	864,932,237	0.6000	10,127,492	0	10,127,492	
1980/81	1.1209			1.1209	949,734,729	0.6000	10,645,577	0	10,645,577	
1981/82	0.2226			0.2226	1,269,591,669	0.1670	2,826,111	0	2,826,111	9,513,571
1982/83	0.2252			0.2252	1,471,842,238	0.1680	3,314,589	0	3,314,589	8,694,221
1983/84	0.3335			0.3335	1,593,110,171	0.1377	5,313,022	0	5,313,022	7,563,160
1984/85	0.1947			0.1947	1,995,411,654	0.1065	3,885,066	0	3,885,066	8,910,463
1985/86	0.2264			0.2264	2,086,109,250	0.1093	4,722,951	0	4,722,951	8,958,908
1986/87	0.2415			0.2415	2,130,466,453	0.1057	5,145,076	0	5,145,076	10,679,366
1987/88	0.2047			0.2047	2,282,592,373	0.0998	4,672,467	0	4,672,467	11,958,124
1988/89	0.2047			0.2047	2,403,691,545	0.0998	4,920,357	0	4,920,357	13,228,021
1989/90	0.1814			0.1814	2,647,927,452	0.1082	4,803,340	0	4,803,340	15,005,452
1990/91	0.1864			0.1864	2,964,757,291	0.1504	5,526,308	0	5,526,308	15,634,469
1991/92	0.2064			0.2064	3,340,921,636	0.1504	6,895,662	0	6,895,662	15,935,450
1992/93	0.2064			0.2064	3,566,221,691	0.1504	7,360,682	0	7,360,682	17,669,888
1993/94	0.2064			0.2064	3,710,793,570	0.1504	7,659,078	0	7,659,078	19,795,518
1994/95	0.2064			0.2064	4,237,250,137	0.1504	8,745,684	0	8,745,684	25,104,709
1995/96	0.2064			0.2064	4,593,558,662	0.1504	9,481,105	0	9,481,105	25,863,968
1996/97	0.2064			0.2064	4,888,831,820	0.1504	10,090,549	0	10,090,549	27,372,747

PARADISE

Fiscal Year YEAR	Total Operating Ad Valorem and SCCRT Revenue Including Overrides	Total Operating Ad Valorem and SCCRT Revenue excluding Overrides	Operating Ad valorem revenue @ FY 80/81 Rate	Tax Shortfall Including Tax Overrides	Tax Shortfall Excluding Tax Overrides
1975/76	0				0
1976/77	6,011,268	10,645,577	10,645,577	(0)	1,891,171
1977/78	6,739,358	12,339,682	14,230,853	1,891,171	4,489,070
1978/79	10,237,090	12,008,810	16,497,880	4,489,070	4,980,989
1979/80	10,127,492	12,876,182	17,857,172	4,980,989	9,571,040
1980/81	10,645,577	12,795,529	22,366,569	9,571,040	9,701,339
1981/82	12,339,682	13,681,859	23,383,199	9,701,339	8,055,956
1982/83	12,008,810	15,824,442	23,880,398	8,055,956	8,954,987
1983/84	12,876,182	16,630,591	25,585,578	8,954,987	8,794,601
1984/85	12,795,529	18,148,378	26,942,979	8,794,601	9,871,826
1985/86	13,681,859	19,808,792	29,680,619	9,871,826	12,071,188
1986/87	15,824,442	21,160,777	33,231,964	12,071,188	14,617,278
1987/88	16,630,591	22,831,112	37,448,391	14,617,278	14,943,209
1988/89	18,148,378	25,030,570	39,973,779	14,943,209	14,139,689
1989/90	19,808,792	27,454,596	41,594,285	14,139,689	13,644,944
1990/91	21,160,777	33,850,393	47,495,337	13,644,944	16,142,126
1991/92	22,831,112	35,347,073	51,489,199	16,142,126	17,335,620
1992/93	25,030,570	37,463,296	54,798,916	17,335,620	
1993/94	27,454,596				
1994/95	33,850,393				
1995/96	35,347,073				
1996/97	37,463,296				

**CALCULATION OF INITIAL YEAR BASE FOR
LOCAL GOVERNMENT IN CLARK COUNTY
SENATE BILL 254 - SECTION 35**

	Estimated Initial Year FY 1998/99 Base Distribution	Revised Amount	Net Difference
The County of Clark			
Enterprise District			
Kyle Canyon Water District	10,346	10,215	(131)
Local Governments			
Clark County	156,562,041	154,578,603	(1,983,438)
Boulder City	4,889,876	4,827,928	(61,948)
Henderson	40,169,334	45,265,571	5,096,237
Las Vegas	126,211,025	124,612,095	(1,598,930)
Mesquite	3,723,190	3,676,022	(47,168)
North Las Vegas	21,026,379	20,760,002	(266,377)
Bunkerville	307,977	304,075	(3,902)
Enterprise			
Glendale	1,390	1,372	(18)
Laughlin	3,500,825	3,456,474	(44,351)
Moapa Valley	408,916	403,736	(5,180)
Paradise	33,681,895	33,255,189	(426,706)
Searchlight	223,880	221,044	(2,836)
Spring Valley	4,215,585	4,162,179	(53,406)
Summerlin	10,381	10,249	(132)
Sunrise Manor	4,693,563	4,634,102	(59,461)
Whitney	369,870	365,184	(4,686)
Winchester	7,568,955	7,473,066	(95,889)
Special Districts			
Boulder Library District	296,418	292,663	(3,755)
Clark County Fire Protection	23,458,129	23,160,945	(297,184)
Henderson Library District	1,027,840	1,014,819	(13,021)
Las Vegas / Clark Co. Library District	9,597,735	9,476,144	(121,591)
Moapa Fire Protection	406,682	401,530	(5,152)
Mt. Charleston Fire Protection	76,916	75,942	(974)
Total Clark County Local Government and Special Districts	442,439,148	442,439,148	(0)



December 15, 1997

Mr. Duncan McCoy, Library Director
Boulder City Library District
813 Arizona Street
Boulder City, NV 89005

Dear Mr. McCoy;

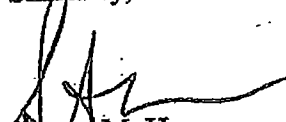
The City of Henderson has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the Henderson appeal were successful, would be \$3,755 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at 565-2056.

Sincerely,


Steven M. Hanson
Finance Director

/cds

cc: Michael Pitlock
Phil Speight



December 15, 1997,

Mr. Dale Askew, County Manager
Clark County
500 South Grand Central Parkway
Las Vegas, NV 89155

Dear Mr. Askew:

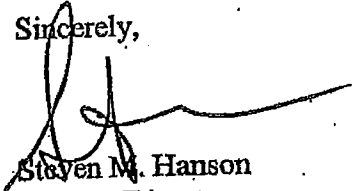
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As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the Henderson appeal were successful, would be \$2,983,447 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at 565-2056.

Sincerely,


Steven M. Hanson
Finance Director

/cds

cc: Michael Pitlock
Phil Speight



December 15, 1997

Mr. John Sullard, City Manager
City of Boulder
401 California Avenue
Boulder City, NV 89005

Dear Mr. Sullard;

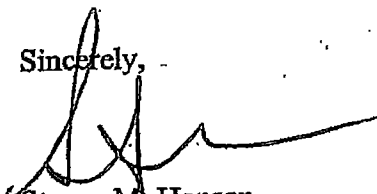
The City of Henderson has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the Henderson appeal were successful, would be \$61,948 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at 565-2056.

Sincerely,



Steven M. Hanson
Finance Director

/cds

cc: Michael Pitlock
Phil Speight



December 15, 1997

Linda Hinson, City Manager
City of North Las Vegas
2200 Civic Center Drive
North Las Vegas, NV 89030-6307

Dear Ms. Hinson:

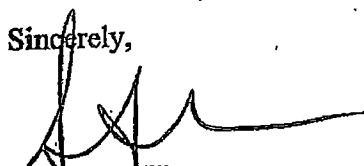
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As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the Henderson appeal were successful, would be \$266,377 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at 565-2056.

Sincerely,



Steven M. Hanson
Finance Director

/cds

cc: Michael Pitlock
Phil Speight



December 15, 1997

Mr. Larry Barton, City Manager
City of Las Vegas
400 East Stewart Avenue
Las Vegas, NV 89101

Dear Mr. Barton:

The City of Henderson has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the Henderson appeal were successful, would be \$1,598,930 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at 565-2056.

Sincerely,

Steven M. Hanson
Finance Director

/cds

cc: Michael Pitlock
Phil Speight



December 15, 1997

Mr. Bill DaVee, City Manager
City of Mesquite
Post Office Box 69
Mesquite, NV 89024

Dear Mr. DaVee;

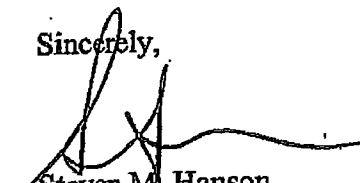
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As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the Henderson appeal were successful, would be \$47,168 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at 565-2056.

Sincerely,



Steven M. Hanson
Finance Director

/cds

cc: Michael Pitlock
Phil Speight



December 15, 1997

Mr. Zuki Landau, City Manager
Henderson Library District
280 Water Street
Henderson, NV 89015

Dear Ms. Landau;

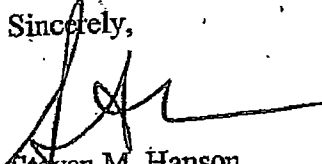
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As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the Henderson appeal were successful, would be \$13,021 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at 565-2056.

Sincerely,


Steven M. Hanson
Finance Director

/cds

cc: Michael Pitlock
Phil Speight



December 15, 1997

Mr. Daryl Batson, Director
Las Vegas/Clark County Library District
833 Las Vegas Boulevard North
Las Vegas, NV 89101

Dear Mr. Batson;

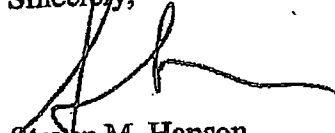
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As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the Henderson appeal were successful, would be \$121,591 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at 565-2056.

Sincerely,



Steven M. Hanson
Finance Director

/cds

cc: Michael Pitlock
Phil Speight

Mayor
Michael L. Montandon

City Manager
Linda Hinson

Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith



Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1007 • Fax: (702) 649-1302

December 9, 1997

Mr. Michael Pitlock
Executive Director
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, Nevada 89706

Dear Mr. Pitlock:

The City of North Las Vegas herewith submits its appeal pursuant to the provisions of Senate Bill 254 regarding its fiscal year 1998-99 base tax distribution.

Our appeal is to correct the disparity which exists among the cities within Clark County concerning the allocation of Supplemental City/County Relief Tax since fiscal year 1981-82. Section 36 of SB254 allows a local government to submit a request to the Executive Director of the Department of Taxation for an adjustment to the amount calculated.

By any objective measure, the City of North Las Vegas receives a disproportionate share of SCCRT when compared to other cities within Clark County. With supporting documentation contained in the attached schedules, let us draw your attention to three comparisons.

On a per capita basis, using the latest population data available from the State Demographer's Office, North Las Vegas receives \$71 for the current fiscal year. This amount is significantly less than the amount received by the other cities: Las Vegas, \$138; Henderson, \$140; Boulder City, \$132; Mesquite, \$467.

As a percentage of general fund available resources, for the current fiscal year, SCCRT for North Las Vegas is 10%. By contrast, for the other cities, the amounts are: Las Vegas, 22%; Henderson, 22%; Boulder City, 14%; Mesquite, 34%.

Mr. Michael Pitlock
December 9, 1997
Page Two

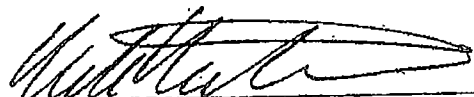
In relation to assessed value, North Las Vegas receives \$5,500 per million dollars assessed value. The other cities, in marked contrast, receive: Las Vegas, \$8,443; Henderson, \$7,329; Boulder City, \$7,605; Mesquite, \$19,681.

Inequities summarized above make apparent the need for an adjustment as allowed in SB254. Rather than perpetuating the unfair distribution, under the new method of allocating taxes which will commence in fiscal year 1998-99, the inequities must not be exasperated. We request an increase of \$5,150,000 in the North Las Vegas base allocation to rectify this situation.

If you require any additional information regarding this matter, please contact either Linda Hinson, our City Manager, at 633-1003, or Vytas Vaitkus, our Finance Director, at 633-1462. Supplemental information required to be submitted is attached.

Thank you for your attention to this matter.

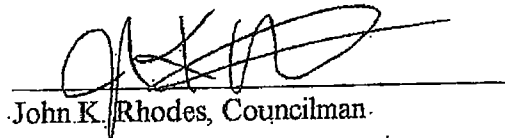
Sincerely,



Michael L. Montandon, Mayor



William E. Robinson, Mayor Pro Tem



John K. Rhodes, Councilman



Paula L. Brown, Councilwoman



Stephanie S. Smith, Councilwoman

VV:MB

Attachments

cc: Dale Askew
John Sullard
Philip Speight
Larry Barton

Bill DaVee
Duncan McCoy
Zuki Landau
Daryl Batson

ATTACHMENT

Schedule

- | | | |
|-----|-------------------------------------------------------------------------------------------------------|------|
| 1. | Discussion of revenues available in fiscal year 1980-81 | I |
| 2. | Rate of property tax levied for fiscal year 1980-81 | II |
| 3. | Change in assessed value over five years preceding fiscal year 1980-81 | II |
| 4. | Any factors not reflected in the SCCRT distribution formula | III |
| 5. | Base amount North Las Vegas feels should be established for use in the 1998-99 distribution | IV |
| 6. | 1980-81 "Redbook" data for Clark County cities | V |
| 7. | Distribution of SCCRT among cities within Clark County | VI |
| 8. | Property tax rates for selected governments within Clark County | VII |
| 9. | Final SCCRT distribution for fiscal year 1997-98 | VIII |
| 10. | Calculation of initial year base for local governments | IX |
| 11. | General fund balance sheet at June 30, 1981 | X |
| 12. | Tax shortfall comparing SCCRT and Ad Valorem revenue to current assessed values with 1980-81 tax rate | XI |

DISCUSSION OF REVENUES AVAILABLE IN FISCAL YEAR 1980-81

1. Revenues available for operating expenses were constrained by the city's payments on defaulted Nellis Industrial Park bonds which amounted to \$670,501.
2. The City of North Las Vegas had annexed the Sunrise Manor area of Clark County. In anticipation of providing services to the (new) area, employees were hired. The annexation had been overturned by the Supreme Court and now the city found itself with lower revenues than had been expected and laying off those additional employees who had been hired.
3. The North Las Vegas allocation of Federal Revenue Sharing was decreased as a consequence of the shift from property tax to sales tax and that revenue not being classified as locally generated tax effort.

SCHEDULE I

CITY OF NORTH LAS VEGAS

FISCAL YEAR	OPERATING TAX RATE	DEBT RATE	OTHER (1)	COMBINED RATE	ASSESSED VALUATION (2)
1975/76	0.8609	0.5513		1.4122	98,845,436
1976/77	1.2297	0.1825		1.4122	100,466,583
1977/78	0.9800	0.4322		1.4122	120,627,081
1978/79	0.9027	0.5095		1.4122	138,057,161
1979/80	0.8950	0.5172		1.4122	141,235,575
1980/81	0.8915	0.5228		1.4143	146,698,481
1981/82	0.1186	0.3863		0.5049	204,989,625
1982/83	0.1162	0.4081		0.5243	228,937,431
1983/84	0.1127	0.3173		0.4300	264,110,198
1984/85	0.1102	0.2905		0.4007	295,543,824
1985/86	0.1140	0.3380		0.4520	314,951,708
1986/87	0.1213	0.3438		0.4651	318,139,840
1987/88	0.1305	0.3705	0.1800	0.6810	323,890,811
1988/89	0.1678	0.3500	0.1800	0.6978	349,537,832
1989/90	0.1828	0.1735	0.3565	0.7128	351,511,352
1990/91	0.1925	0.0250	0.5050	0.7225	375,211,095
1991/92	0.1925	0.3100	0.5100	1.0125	477,465,178
1992/93	0.1925	0.2400	0.5553	0.9878	550,100,802
1993/94	0.1925	0.2400	0.5648	0.9973	661,947,329
1994/95	0.1925	0.2400	0.5535	0.9860	795,128,593
1995/96	0.1925	0.2400	0.5300	0.9625	906,043,851
1996/97	0.1925	0.1890	0.5810	0.9625	1,115,787,579
1997/98	0.1911	0.1700	0.8000	1.1611	1,200,496,796

(1) INCLUDES VOTER APPROVED OVERRIDES, SCCRT "MAKE-UP" RATE
(2) EXCLUDING REDEVELOPMENT

ANY FACTORS NOT REFLECTED IN THE SCCRT DISTRIBUTION FORMULA

North Las Vegas had a high debt rate and a low operating rate, when compared to other Clark County cities, in fiscal year 1980-81 (See Schedule V). Some governments may have been paying for debt out of the operating rate (General Fund) whereas North Las Vegas was paying for debt out of its debt rate (Debt Service Fund).

BASE AMOUNT NORTH LAS VEGAS FEELS
SHOULD BE ESTABLISHED FOR USE IN THE 1998-99 DISTRIBUTION

We feel that the base distribution for fiscal year 1998-99 should be increased by \$5,150,000:
from \$21,026,379 to \$26,176,379.

SCHEDULE IV

Case No. 66851
JA 2202

11 1980-81 Red book

Local Government Taxing Unit

ASSESSED VALUATION	LOCAL GOVERN- MENT RATE	LOCAL GOVERN- MENT DEBT RATE	COMBINED LOCAL GOVERN- MENT RATE	COMBINED OTHER SPECIAL DISTRICT RATE	COMBINED SCHOOL RATE	COMBINED COUNTY RATE	COMBINED TOTAL UNIT RATE
-----------------------	----------------------------------	------------------------------------------	----------------------------------------------	--------------------------------------------------	----------------------------	----------------------------	-----------------------------------

CLARK

Clark County

\$3,481,036,558

.9743

.1562

1.1305

1.1715

2.3020

Boulder City

47,713,609

1.2672

-0-

1.2672

.1491

1.1715

1.1305

3.7183

Henderson

107,810,476

1.2013

.1314

1.3327

.0815

1.1715

1.1305

3.7162

Las Vegas

1,218,400,377

1.3286

.0857

1.4143

.0020

1.1715

1.1305

3.7183

North Las Vegas

5/8 146,731,480

146,698,481

.8915

.5228

1.4143

.0020

1.1715

1.1305

3.7183

Bunkerville Town

1,588,779

1.2413

-0-

1.2413

.0634

1.1715

1.1305

3.6067

East Las Vegas

26,902,178

.8167

.3042

1.1209

.0654

1.1715

1.1305

3.4883

Glendale

149,119

-0-

.9907

.9907

.4140

1.1715

1.1305

3.7067

Indian Springs Town

1,594,143

-0-

-0-

-0-

.0634

1.1715

1.1305

2.3654

Laughlin Town

9,973,048

-0-

.1700

.1700

.0634

1.1715

1.1305

2.5354

Logandale Town

2,890,147

.8907

-0-

.8907

.4140

1.1715

1.1305

3.6067

Mesquite Town

5,392,662

1.0744

.1669

1.2413

.0634

1.1715

1.1305

3.6067

Mt. Charleston Town

2,326,840

-0-

-0-

-0-

1.4047

1.1715

1.1305

3.7067

Overton Town

3,766,658

.8907

-0-

.8907

.4140

1.1715

1.1305

3.6067

Paradise Town

949,734,729

1.1209

-0-

1.1209

.0654

1.1715

1.1305

3.4883

Searchlight Town

6,735,815

.9470

.2943

1.2413

.0634

1.1715

1.1305

3.6067

Sunrise Manor Town

158,060,752

1.1080

.0129

1.1209

.0654

1.1715

1.1305

3.4883

Winchester Town

342,841,503

1.1206

-0-

1.1206

.0654

1.1715

1.1305

3.4880

5 CH 100

R

DISTRIBUTION OF SUPPLEMENTAL CITY AND COUNTY RELIEF TAX AMONG CITIES WITHIN CLARK COUNTY

DATA:

	LAS VEGAS	HENDERSON	BOULDER CITY	MESQUITE	NORTH LAS VEGAS
POPULATION	421,950	146,200	15,130	7,920	93,010
ASSESSED VALUE*	6905	2797	263	188	1200
GENERAL FUND RESOURCES*	264.7	92.1	14.1	10.6	64.1
SCCRT 97/98*	58.3	20.5	2.0	3.7	6.6

CURRENTLY

PER CAPITA	138	140	132	467	71
GENERAL FUND RESOURCES	22%	22%	14%	35%	10%
PER MILLION ASSESSED VALUE	8443	7329	7605	19681	5500

AS PROPOSED REVISION

PER CAPITA	136	138	132	467	127
GENERAL FUND RESOURCES	22%	22%	14%	35%	18%
PER MILLION ASSESSED VALUE	8309	7221	7605	19681	9833

*in millions of dollars

**PROPERTY TAX RATES FOR SELECTED GOVERNMENTS WITHIN CLARK COUNTY
FISCAL YEAR 1997-98**

	County Towns	Las Vegas	Henderson	Boulder City	North Las Vegas
State	.1500	.1500	.1500	.1500	.1500
School District	1.3034	1.3034	1.3034	1.3034	1.3034
Clark County	.6785	.6785	.6785	.6785	.6785
Library District	.0994	.0994	.0500	.0766	.0632
Artesian Basin	.0034	.0034			.0034
911	.0050	.0050			.0050
Fire District	.1899				
Metro Manpower	.1100	.1100			.1911
Town/City	.1100	.6465	.1430	2007	.1700
Debt	.2064	.0306	.3295		.8000
Voter Approved Overrides			.2310		
Total	<u>2.7460</u>	<u>3.0268</u>	<u>2.8854</u>	<u>2.4092</u>	<u>3.3646</u>
Tax on a \$100,000 Home	<u>\$961</u>	<u>\$1059</u>	<u>\$1010</u>	<u>\$843</u>	<u>\$1178</u>

July 29, 1997

SUPPLEMENTAL CITY/COUNTY RELIEF TAX DISTRIBUTION (Final)

Revised 5/01/97

ENTITY	(21) 1997-98 ESTIMATED SCCRT AVAILABLE FOR DISTRIBUTION	(22) ASSESSED VALUATION FOR SCCRT CALCULATION	(23) FISCAL YR 1980-81 TAX RATE	(24) BASIC AD VALOREM REVENUE	(25) PER CENT ENTITY / CNTY TOTAL	(26) 1997-98 ESTIMATED SCCRT REVENUE
CARSON CITY		843,075,009	1.7340	14,618,921	97.7775	11,928,297
CRS-TRK WATER CC		842,924,868	0.0030	25,288	0.1691	20,634
CRS WTR SUBCONV CC		0	0.0100	0	0.0000	0
SIERRA FFIRE CC		61,400,808	0.5000	307,004	2.0534	250,500
TOTAL CARSON CITY	12,199,430	1,747,400,685	2.2470	14,951,212	100.0000	12,199,430
CHURCHILL CO		350,744,384	1.4134	4,957,421	76.6233	2,738,183
FALLON		95,930,854	1.2000	1,151,170	17.7928	635,838
CRS-TRK WATER CH		350,744,384	0.0030	10,522	0.1626	5,812
CHURCHILL MOSQUITO		350,744,384	0.1000	350,744	5.4212	193,730
TOTAL CHURCHILL	3,573,563	1,148,164,006	2.7164	6,469,858	100.0000	3,573,563
CLARK COUNTY		23,973,514,181	0.9743	233,573,949	45.8639	141,958,777
BOULDER CITY		262,928,323	1.2672	3,331,828	0.6542	2,024,978
HENDERSON		2,813,281,579	1.2013	33,795,952	6.6361	20,540,099
LAS VEGAS		7,225,461,251	1.3286	95,997,478	18.8498	58,344,197
MESQUITE		214,591,046	2.8650	6,148,033	1.2072	3,736,578
NORTH LAS VEGAS		1,218,365,843	0.8915	10,861,731	2.1328	6,601,413
BUNKERVILLE		30,434,934	1.2413	377,789	0.0742	229,608
ENTERPRISE		381,460,766	0.7140	645,207	0.1267	392,136
WHITNEY		161,554,347	0.2315	373,998	0.0734	227,304
GLENDALE		1,270,386	0	0	0	0
INDIAN SPRINGS		5,163,419	0	0	0.0000	0
LAUGHLIN		440,894,376	1.0723	4,727,710	0.9283	2,873,351
MOAPA TOWN		78,371,256	0	0	0	0
MOAPA VALLEY		62,306,727	0.8907	554,966	0.1090	337,291
MT CHARLESTON		20,361,412	0	0	0	0
PARADISE		5,424,668,181	0.8872	48,127,656	9.4502	29,250,450
SEARCHLIGHT		27,993,841	0.9470	265,102	0.0521	161,120
SPRING VALLEY		1,787,932,524	0.7837	7,006,014	1.3757	4,258,031
SUMMERLIN		31,054,053	0.7837	121,885	0.0239	73,956
RISE MANOR		1,547,708,731	0.3644	5,639,851	1.1074	3,427,721
CHESTER		1,012,677,048	0.9297	9,414,859	1.8487	5,722,050
BOULDER CITY LIBRARY		275,699,245	0.1491	411,068	0.0807	249,834
CLARK CO FIRE		11,102,538,103	0.2758	30,620,800	6.0126	18,610,343
HENDERSON LIBRARY		2,353,021,103	0.0795	1,870,652	0.3673	1,136,922
LV/CLARK LIBRARY		20,310,539,655	0.0727	14,765,762	2.8994	8,974,158
MOAPA VALLEY FIRE		147,903,515	0.3506	518,550	0.1018	315,158
MT CHAS FIRE		25,075,320	0.5000	125,377	0.0246	76,200
TOTAL CLARK	309,521,677	80,916,771,165	18.8011	509,276,016	100.0000	309,521,677
DOUGLAS CO		1,323,578,935	0.8000	10,588,631	41.0108	3,957,231
GARDNERVILLE		62,097,905	0.7200	447,105	1.7317	167,094
GENOA		7,465,424	0.2180	16,275	0.0630	6,082
MINDEN		86,665,968	0.6522	565,235	2.1892	211,242
CRS-TRK WATER DO		1,291,257,489	0.0030	38,738	0.1500	14,477
CC WTR SUBCONV DO		0	0.0100	0	0.0000	0
CAVE ROCK ESTATES		9,699,210	0.2660	25,800	0.0999	9,642
DO CO MOSQUITO		720,534,984	0.0300	216,160	0.8372	80,784
DO CO PARAMEDIC		759,020,829	0.0000	0	0.0000	0
EAST FORK FIRE		620,490,124	0.3300	2,047,617	7.9306	765,245
EAST FORK SWIM POOL		754,033,612	0.0000	0	0.0000	0
ELK POINT SANITATION		9,221,538	0.2000	18,443	0.0714	6,893
GARDNERVILLE RANCHOS		148,935,905	0.8020	1,194,466	4.6263	446,401
INDIAN HILLS		43,040,636	1.2000	516,488	2.0004	193,024
KINGSBURY		116,500,640	0.7200	838,805	3.2488	313,482
LAKERIDGE		9,004,143	0.3000	27,012	0.1046	10,095
LOGAN CREEK		2,380,764	0.5113	12,173	0.0471	4,549
MARLA BAY		9,620,389	0.8700	83,697	0.3242	31,280
MND/GDNV SANITATION		146,660,958	0.2500	366,652	1.4201	137,027
OLIVER PARK		9,306,120	0.3200	29,780	0.1163	11,429
OUND HILL		39,347,739	1.4690	578,018	2.2387	216,020
SIERRA FFIRE DO						154,846
SKYLAND						44,166
TAHOE DO FIRE						2,345,141
TAHOE DO SEWER						414,786
TDPAZ RANCH ESTATES						15,648
ZEPHYR COVE						51,451
ZEPHYR HEIGHTS						1,888
ZEPHYR KNOLLS						

SCHEDULE

VIII

Case No. 66851
JA 2206

**CALCULATION OF INITIAL YEAR BASE FOR LOCAL GOVERNMENTS
IN CLARK COUNTY SENATE BILL 254-SECTION 35**

	ESTIMATE INITIAL YEAR FY 98-99 BASE DISTRIBUTION	AS PROPOSED REVISION	NET DIFFERENCE
THE COUNTY OF CLARK			
ENTERPRISE DISTRICT			
KYLE CANYON WATER DISTRICT	10,346	10,220	(126)
LOCAL GOVERNMENTS			
CLARK COUNTY	156,562,041	154,648,727	(1,913,314)
BOULDER CITY	4,889,876	4,830,118	(59,758)
HENDERSON	40,169,334	39,678,433	(490,901)
LAS VEGAS	126,211,025	124,668,626	(1,542,399)
MESQUITE	3,723,190	3,677,690	(45,500)
NORTH LAS VEGAS	21,026,379	26,176,379	5,150,000
BUNKERVILLE	307,977	304,213	(3,764)
ENTERPRISE			
GLENDAL	1,390	1,373	(17)
LAUGHLIN	3,500,825	3,458,042	(42,783)
MOAPA VALLEY	408,916	403,919	(4,997)
PARADISE	33,681,895	33,270,275	(411,620)
SEARCHLIGHT	223,880	221,144	(2,736)
SPRING VALLEY	4,215,585	4,164,067	(51,518)
SUMMERLIN	10,381	10,254	(127)
SUNRISE MANOR	4,693,563	4,636,204	(57,359)
WHITNEY	369,870	365,350	(4,520)
WINCHESTER	7,568,955	7,476,456	(92,499)
SPECIAL DISTRICTS			
BOULDER LIBRARY DISTRICT	296,418	292,796	(3,622)
CLARK COUNTY FIRE PROTECTION	23,458,129	23,171,452	(286,677)
HENDERSON LIBRARY DISTRICT	1,027,840	1,015,279	(12,561)
LAS VEGAS/CLARK CO LIBRARY DISTRICT	9,597,735	9,480,443	(117,292)
MOAPA FIRE PROTECTION	406,682	401,712	(4,970)
MT. CHARLESTON FIRE PROTECTION	76,916	75,976	(940)
TOTAL CLARK COUNTY LOCAL GOVERNMENTS AND SPECIAL DISTRICTS	442,439,148	442,439,148	0

SCHEDULE IX

CITY OF NORTH LAS VEGAS

GENERAL FUND

BALANCE SHEET

JUNE 30, 1981

WITH COMPARATIVE TOTALS AT JUNE 30, 1980

ASSETS

1981

1980

Cash and certificates of deposit	\$ 750,678	\$1,105,806
Receivables:		
Property taxes	126,683	31,297
Other	220,568	47,475
Due from other governments	479,426	367,144
Due from other funds	769,127	108,258
TOTAL ASSETS	<u>\$2,346,482</u>	<u>\$1,659,980</u>

LIABILITIES AND FUND BALANCE

LIABILITIES:

Accounts and contracts payable	\$ 122,495	\$ 162,349
Due to other funds	93,466	15,175
Due to other governments	26,225	
Accrued salaries and related expenses	462,707	373,676
Total	<u>704,893</u>	<u>551,200</u>

FUND BALANCE:

Reserve for noncurrent loans
 receivable
Unreserved
Total

TOTAL LIABILITIES AND FUND BALANCE

769,127	98,626
872,462	1,010,154
<u>1,641,589</u>	<u>1,108,780</u>
<u>\$2,346,482</u>	<u>\$1,659,980</u>

increase for Nellis Industrial Park
default: $\$769,127 - \$98,626 = \underline{\underline{\$670,501}}$

CITY OF NORTH LAS VEGAS

Fiscal Year	Operating Tax Rate	Debt Rate	Other	Combined Rate	Assessed Valuation	Operating Ad Valorem Revenue	Operating Tax Override Revenue	Total Ad Valorem Revenue	Actual SCCRT	Special SCCRT
1975/76	0.8915	0.5228		1.4122	100,466,583	895,660	0	895,660		
1976/77	0.8915	0.5228		1.4122	120,627,081	1,075,390	0	1,075,390		
1977/78	0.8915	0.5228		1.4122	138,057,161	1,230,780	0	1,230,780		
1978/79	0.8915	0.5228		1.4122	141,235,575	1,259,115	0	1,259,115		
1979/80	0.8915	0.5228		1.4143	146,698,481	1,307,817	0	1,307,817		
1980/81	0.8915	0.5228		1.4143	204,989,625	243,118	0	243,118	1,221,691	
1981/82	0.1186	0.3863		0.5049	228,937,431	266,025	0	266,025	1,075,586	
1982/83	0.1162	0.4081		0.5243	264,110,198	297,652	0	297,652	1,259,915	
1983/84	0.1127	0.3173		0.4300	295,543,824	325,689	0	325,689	1,326,122	
1984/85	0.1102	0.2905		0.4007	314,951,708	359,045	0	359,045	1,359,129	
1985/86	0.1140	0.3380		0.4520	318,139,840	385,904	0	385,904	1,602,465	
1986/87	0.1213	0.3438		0.4651	323,890,811	422,678	583,003	1,005,681	1,705,034	
1987/88	0.1305	0.3705	0.1800	0.6810	349,537,832	586,524	629,168	1,215,693	1,932,699	
1988/89	0.1678	0.3500	0.1800	0.6978	351,511,352	642,563	1,253,138	1,895,701	2,001,465	
1989/90	0.1828	0.1735	0.3565	0.7128	375,211,095	722,281	1,894,816	2,617,097	1,988,310	
1990/91	0.1925	0.0250	0.5050	0.7225	477,465,178	919,120	2,435,072	3,354,193	2,288,487	
1991/92	0.1925	0.3100	0.5100	1.0125	550,100,802	1,058,944	3,054,710	4,113,654	2,780,876	
1992/93	0.1925	0.2400	0.5553	0.9878	661,947,329	1,274,249	3,738,679	5,012,927	3,598,827	
1993/94	0.1925	0.2400	0.5648	0.9973	795,128,593	1,530,623	4,401,037	5,931,659	4,810,454	
1994/95	0.1925	0.2400	0.5535	0.9860	906,043,851	1,744,134	4,802,032	6,546,167	5,216,708	
1995/96	0.1925	0.2400	0.5300	0.9625	1,115,787,579	2,147,891	6,482,726	8,630,617	6,374,774	
1996/97	0.1925	0.1890	0.5810	0.9625	1,200,496,796	2,294,149	9,603,974	11,898,124		
1997/98	0.1911	0.1700	0.8000	1.1611						

Case No. 51
JA

SCHEDULE IX

CITY OF NORTH LAS VEGAS

Fiscal Year	Total Ad Valorem & SCCRT Revenue including Overrides	Total Ad Valorem & SCCRT Revenue excluding Overrides	Ad valorem revenue @ FY 80/81 Rate	Tax Shortfall Including Tax Overrides	Tax Shortfall Excluding Tax Overrides
1975/76	895,660				
1976/77	1,075,390	1,307,817	1,307,817	0	0
1977/78	1,230,780	1,464,809	1,827,483	362,674	362,674
1978/79	1,259,115	1,341,611	2,040,977	699,366	699,366
1979/80	1,307,817	1,557,567	2,354,542	796,975	796,975
1980/81	1,464,809	1,651,811	2,634,773	982,962	982,962
1981/82	1,341,611	1,718,174	2,807,794	1,089,621	1,089,621
1982/83	1,557,567	1,988,369	2,836,217	847,848	847,848
1983/84	1,651,811	2,127,712	2,887,487	176,772	759,775
1984/85	1,718,174	2,519,223	3,116,130	(32,262)	596,906
1985/86	1,988,369	2,644,028	3,133,724	(763,442)	489,696
1986/87	2,710,715	2,710,591	3,345,007	(1,260,400)	634,416
1987/88	3,148,392	3,207,607	4,256,602	(1,386,078)	1,048,995
1988/89	3,897,166	3,839,820	4,904,149	(1,990,381)	1,064,329
1989/90	4,605,407	4,873,076	5,901,260	(2,710,494)	1,028,185
1990/91	5,642,680	6,341,077	7,088,571	(3,653,542)	747,495
1991/92	6,894,530	8,522,665	8,077,381	(3,685,494)	1,116,539
1992/93	8,611,754		9,947,246	(5,058,145)	1,424,581
1993/94	10,742,113				
1994/95	11,762,875				
1995/96	15,005,391				
1996/97					
1997/98					

Case No. 66851
JA 2210

SCHEDULE XI

(2)

NORTH LAS VEGAS CITY COUNCIL

AGENDA ITEM

Number:

30

SUBJECT:

APPEAL TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TAXATION FOR THE FISCAL YEAR 1998-99 BASE TAX DISTRIBUTION.

REQUESTED BY:

Vytas Vaitkus, Finance Director

RECOMMENDATION OR RECOMMENDED MOTION:

That the City Council authorize sending the attached letter and that each member sign it.

FISCAL IMPACT: None

STAFF COMMENTS AND BACKGROUND INFORMATION:

Senate Bill 254, adopted in the last session of the Legislature, allows local governments to submit requests to the Executive Director of the Department of Taxation for an adjustment to the amount calculated as local government tax distribution for fiscal year 1998-99.

The basis of the distribution as set forth in SB254 includes supplemental city-county relief tax. North Las Vegas has received a disproportionately low share of SCCRT over the past 16 years.

The appeal being filed herewith would rectify that disparity and provide the City an additional \$5,150,000 per year which could be used to decrease the property tax rate from overrides and/or provide additional resources.

PREPARED BY:

Vytas Vaitkus
Vytas Vaitkus
Finance Director

CITY MANAGER APPROVAL:

LD
g. p.

**CITY COUNCIL
MEETING DATE:**

Case 12/08/97 851
JA 2211

Mayor
Michael L. Montandon

Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith



City Manager
Linda Hinson

Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

Finance Department • Vytas Vaitkus, Finance Director
2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1462 • Fax: (702) 399-8099

December 10, 1997

Mr. Dale Askew, County Manager
Clark County
500 South Grand Central Parkway
Las Vegas, Nevada 89155

Dear Mr. Askew:

The City of North Las Vegas has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the combined effect on Clark County, towns, and fire district, if the North Las Vegas appeal were successful, would be \$2,872,000 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at the telephone number shown above.

Sincerely,

Vytas Vaitkus

Vytas Vaitkus
Finance Director

VV:cap

cc: Michael Pitlock
Linda Hinson

Mayor
Michael L. Montandon

City Manager
Linda Hinson

Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith



Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

Finance Department • Vytas Vaitkus, Finance Director
2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1462 • Fax: (702) 399-8099

December 10, 1997

Mr. John Sullard, City Manager
City of Boulder City
401 California Avenue
Boulder City, Nevada 89005

Dear Mr. Sullard:

The City of North Las Vegas has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Boulder City, if the North Las Vegas appeal were successful, would be \$60,000 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at the telephone number shown above.

Sincerely,

Vytas Vaitkus

Vytas Vaitkus
Finance Director

WV:cap

cc: Michael Pitlock
Linda Hinson

Case No. 66851
JA 2213

Mayor
Michael L. Montandon

Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith



City Manager
Linda Hinson

Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

Finance Department • Vytas Vaitkus, Finance Director
2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1462 • Fax: (702) 399-8099

December 10, 1997

Mr. Philip Speight, City Manager
City of Henderson
240 Water Street
Henderson, Nevada 89015

Dear Mr. Speight:

The City of North Las Vegas has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Henderson, if the North Las Vegas appeal were successful, would be \$491,000 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at the telephone number shown above.

Sincerely,

Vytas Vaitkus

Vytas Vaitkus
Finance Director

W:cap

cc: Michael Pitlock
Linda Hinson

Case No. 66851
JA 2214

Mayor
Michael L. Montandon

City Manager
Linda Hinson

Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith



Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

Finance Department • Vytas Vaitkus, Finance Director
2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1462 • Fax: (702) 399-8099

December 10, 1997

Mr. Larry Barton, City Manager
City of Las Vegas
400 East Stewart Avenue
Las Vegas, Nevada 89101

Dear Mr. Barton:

The City of North Las Vegas has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Las Vegas, if the North Las Vegas appeal were successful, would be \$1,542,000 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at the telephone number shown above.

Sincerely,

A handwritten signature in dark ink that reads "Vytas Vaitkus".

Vytas Vaitkus
Finance Director

VV:cap

cc: Michael Pitlock
Linda Hinson

Mayor
Michael L. Montandon

Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith



City Manager
Linda Hinson

Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

Finance Department • Vytas Vaitkus, Finance Director
2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1462 • Fax: (702) 399-8099

December 10, 1997

Mr. Bill DaVee, City Manager
City of Mesquite
Post Office Box 69
Mesquite, Nevada 89024

Dear Mr. DaVee:

The City of North Las Vegas has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on Mesquite, if the North Las Vegas appeal were successful, would be \$46,000 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at the telephone number shown above.

Sincerely,

Vytas Vaitkus

Vytas Vaitkus
Finance Director

VV:cap

cc: Michael Pitlock
Linda Hinson

Case No. 66851
JA 2216

Mayor
Michael L. Montandon

City Manager
Linda Hinson

Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith



Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

Finance Department • Vytas Vaitkus, Finance Director
2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1462 • Fax: (702) 399-8099

December 10, 1997

Mr. Durican McCoy, Library Director
Boulder City Library District
813 Arizona Street
Boulder City, Nevada 89005

Dear Mr. McCoy:

The City of North Las Vegas has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on the Boulder City Library District, if the North Las Vegas appeal were successful, would be \$3,600 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at the telephone number shown above.

Sincerely,

A handwritten signature in cursive script that reads "Vytas Vaitkus".

Vytas Vaitkus
Finance Director

VV:cap

cc: Michael Pitlock
Linda Hinson

Case No. 66851
JA 2217

Mayor
Michael L. Montandon

Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith



City Manager
Linda Hinson

Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

Finance Department • Vytas Vaitkus, Finance Director
2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1462 • Fax: (702) 399-8099

December 10, 1997

Mrs. Zuki Landau, Library Director
Henderson Library District
280 Water Street
Henderson, Nevada 89015

Dear Mrs. Landau:

The City of North Las Vegas has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on the Henderson Library District, if the North Las Vegas appeal were successful, would be \$12,600 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at the telephone number shown above.

Sincerely,

Vytas Vaitkus

Vytas Vaitkus
Finance Director

VV:cap

cc: Michael Pitlock
Linda Hinson

Case No. 66851
JA 2218

Mayor
Michael L. Montandon

City Manager
Linda Hinson



Council Members
William E. Robinson
John K. Rhodes
Paula L. Brown
Stephanie S. Smith

Deputy City Manager
Patrick P. Importuna

CITY OF NORTH LAS VEGAS

Finance Department • Vytas Vaitkus, Finance Director
2200 Civic Center Drive • North Las Vegas, Nevada 89030-6307
Telephone: (702) 633-1462 • Fax: (702) 399-8099

December 10, 1997

Mr. Daryl Batson, Director
Las Vegas/Clark County Library District
833 Las Vegas Boulevard North
Las Vegas, Nevada 89101

Dear Mr. Batson:

The City of North Las Vegas has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-1999.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

We estimate that the effect on the Las Vegas/Clark County Library District, if the North Las Vegas appeal were successful, would be \$117,000 for fiscal year 1998-1999.

If you have any questions or would like further elucidation regarding our appeal, please call me at the telephone number shown above.

Sincerely,

Vytas Vaitkus

Vytas Vaitkus
Finance Director

VV:cap

cc: Michael Pitlock
Linda Hinson

30. Approval of appeal to the Executive Director of the Department of Taxation for the fiscal year 1998-99 base tax distribution.

ACTION: APPROVED

31. Consideration of ZN-35-97 Valley 40 Acres Reclassification; an application submitted by Valley-Ann Real Estate Trust, property owner, for reclassification of property from an R-1 Single Family Residential District to C-1 Neighborhood Commercial District. The property is generally located at the southeast corner of Ann Road and Valley Drive. (Tabled November 19, 1997)

ACTION: TABLED TO MEETING OF JANUARY 7, 1998

32. Consideration of a request by Mr. & Mrs. Henry Ridley for an increase in Walker Park property exchange loan to value ratio and subordination to a new first mortgage on their home at 1541 Golden Sea. Maximum amount, including points and refinancing fees, is \$58,000.

ACTION: DENIED

33. Resolution of Intent No. 1971 (ZN-47-97) Civic Center Properties Reclassification; an application submitted by Civic Center Properties, property owner, for a reclassification of 15 acres of property from an R-3 Multi-Family Residential District to an M-2 General Industrial District. The property is located on the north side of King Charles Street, between Civic Center Drive and Barr Street.

**ACTION: PASSED AND ADOPTED AS AMENDED;
CONDITION NO. 26 MODIFIED TO ALLOW 75'
SETBACK**



Enterprise
Spring Valley
Summerlin

Department of Finance

December 22, 1997

Michael Pitlock, Executive Director
Nevada Department of Taxation
1550 East College Parkway
Carson City, Nevada 89706

DEC 22 1997

DEPARTMENT OF FINANCE

Dear Mr. Pitlock:

We have reviewed the proposed methodology for distributing intergovernmental revenues pursuant to the provisions of Senate Bill 254 of the 1997 Nevada Legislature. While we are generally in agreement with the proposed methodology, we are concerned with the manner in which the base distribution for the unincorporated towns of Spring Valley, Summerlin, and Enterprise will be computed.

Pursuant to Section 35 of S.B. 254, any unincorporated town to which the provisions of Subsection 5 of *Nevada Revised Statutes* 354.5987 apply is entitled to have its base revenue distribution adjusted to equal the amounts that could have been received by the town in the absence of those provisions. The proposed treatment of the three towns in question would not accomplish this objective. For example, in the case of Spring Valley and Summerlin, the base amounts are only about 50 percent of the amount the towns would receive at parity while under the existing formula, in FY 1998, these towns would be receiving 75 percent of their full allocation. In the case of Enterprise, no base has been established while, in FY 1998, it should be receiving 50 percent of its allowed distribution.

The attached schedules have been compiled in an effort to rectify the deficiencies in the base distributions of the three towns. Exhibit I computes distribution amounts for FY 1996 as if the three towns had been included at parity. Exhibit II provides a similar calculation for the Town of Enterprise for FY 1997. (FY 1997 amounts for Spring Valley and Summerlin have already been included in the proposed methodology.) It is our position that, in order to meet the statutory intent, i.e., that the distribution of revenues to these towns not be impacted by the

Michael Pitlock
December 22, 1997
Page 2

manner in which their bases are established, their bases should be established at the higher level and rolled up in the same manner as other local governments. The initial year base distribution of the three towns would then be reduced by the applicable percentage set forth in NRS 354.5987. For FY 1999, this percentage would be 25 percent for Spring Valley and Summerlin, and 50 percent for Enterprise. Exhibit III sets forth this calculation.

In the subsequent fiscal year, the base amount for both Spring Valley and Summerlin would not be reduced in column nine while Enterprise would be adjusted by only 25 percent. For the fiscal year beginning July 1, 2000, no adjustments would be required. It should be noted, however, that pursuant to Section 35 of S.B. 254, beginning July 1, 2000, the three towns also will be entitled to receive basic privilege tax. As such, these distributions will again need adjusting in some manner.

We would appreciate a review of this proposed methodology by appropriate staff of your department and some indication whether this approach can be incorporated into the formula. We will greatly appreciate your favorable consideration of our request. Should you have any questions regarding this matter, please contact me.

Sincerely,

George W. Stevens

George W. Stevens, Director
Department of Finance

GWS/kgpitlock
Enclosure

c: Distribution List Attached

Distribution List:

John Sullard, City Manager
City of Boulder City
401 California Avenue
Boulder City, NV 89005

Philip Speight, City Manager
City of Henderson
240 Water Street
Henderson, NV 89015

Larry Barton, City Manager
City of Las Vegas
400 East Stewart Avenue
Las Vegas, NV 89101

Bill DaVee, City Manager
City of Mesquite
P.O. Box 69
Mesquite, NV 89024

Linda Hinson, City Manager
City of North Las Vegas
2200 Civic Center Drive
North Las Vegas, Nevada 89030

Duncan McCoy, Library Director
Boulder City Library District
813 Arizona Street
Boulder City, NV 89005

Zuki Landau, Library Director
Henderson Library District
280 Water Street
Henderson, NV 89015

Daryl Batson, Director
Las Vegas/Clark County Library District
833 Las Vegas Boulevard North
Las Vegas, NV 89101

Exhibit I
FY 1996 CLARK COUNTY
SCCRT DISTRIBUTION

(Adjusted see notes below)

	FY 1995-96 Assessed Val. for SCCRT Calculation	FY 1981 Tax Rate	Basic Ad Valorem Revenue	Percent Entity/ County Total	FY 1995-96 Proposed SCCRT Revenue	FY 1995-96 STATE SCCRT Revenue	Proposed vs State Variance
Clark County	19,105,430,992	0.9743	186,144,214	45.4037%	114,335,691	118,142,476	(3,806,785)
Boulder City	236,026,822	1.2672	2,990,932	0.7295%	1,837,125	1,898,221	(61,096)
City of Henderson	1,933,152,088	1.2013	23,222,956	5.6645%	14,264,277	14,739,291	(475,013)
City of Las Vegas	5,488,571,126	1.3286	72,921,156	17.7867%	44,790,491	46,281,791	(1,491,300)
Mesquite	89,305,806	2.8650	2,558,611	0.6241%	1,571,580	1,623,989	(52,408)
City of North Las Vegas	921,958,712	0.8915	8,219,262	2.0048%	5,048,532	5,216,708	(168,176)
Bunkerville	27,695,323	1.2413	343,782	0.0839%	211,162	218,076	(6,914)
Enterprise	292,783,220	0.7140	2,090,472	0.5099%	1,284,034	0	1,284,034
Whitney	128,780,747	0.2315	298,127	0.0727%	183,119	189,117	(5,998)
Glendale	1,229,259		0	0.0000%	0	0	0
Indian Springs	6,275,372		0	0.0000%	0	0	0
Laughlin	461,450,356	1.0723	4,948,132	1.2089%	3,039,300	3,140,450	(101,150)
Moapa Town	79,707,609		0	0.0000%	0	0	0
Moapa Valley	55,556,136	0.8907	494,839	0.1207%	303,946	314,020	(10,074)
Mt. Charleston	16,377,218		0	0.0000%	0	0	0
Paradise	4,593,558,862	0.8872	40,754,054	9.9406%	25,032,435	25,865,968	(833,533)
Searchlight	28,836,332	0.9470	273,080	0.0666%	167,734	173,252	(5,518)
Spring Valley	1,415,290,536	0.7837	11,091,632	2.7054%	6,812,833	0	6,812,833
Summitlin	3,543,813	0.7837	27,773	0.0068%	17,059	0	17,059
Sunrise Manor	1,242,259,074	0.3644	4,526,792	1.1042%	2,780,500	2,873,017	(92,518)
Winchester	988,925,747	0.9297	9,193,113	2.2424%	5,646,702	5,834,675	(187,973)
Boulder City Library	244,274,806	0.1491	364,214	0.0888%	223,712	231,171	(7,459)
Clark County Fire Service District	9,311,993,895	0.2758	25,682,479	6.2644%	15,774,995	16,300,325	(525,330)
Henderson Library	1,535,319,068	0.0795	1,220,579	0.2977%	749,718	774,599	(24,881)
LVC Clark County Library District	16,517,934,097	0.0727	12,008,538	2.9291%	7,376,026	7,621,592	(245,566)
Moapa Valley Fire	144,883,181	0.3506	507,960	0.1239%	312,005	322,330	(10,324)
Mt. Charleston Fire Protection District	18,647,743	0.5000	93,239	0.0227%	57,270	59,178	(1,908)
Total Clark County	64,889,667,940	18.8011	409,975,937	100.0000%	251,820,246	251,820,246	0

*1. Adjusted SCCRT assessed valuation:

Enterprise: FY 98 \$361,460,766 * 0.9 * 0.9 = \$292,783,220
Summerlin: FY 97 \$ 3,937,570 * 0.9 = \$ 3,543,813.

*2. Adjusted Tax Rates:

Enterprise: same rate as State FY 98 calculation
Spring Valley and Summerlin: same rates as State FY 98 calculation

*3. Enterprise, Spring Valley and Summerlin: revenues calculated at 100%, no phase-in.

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 12 PART 3

Filed By:

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*Attorneys for Appellant City of Fernley,
Nevada*

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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
1	Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	08/03/12	41-58
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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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
2	Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F)	City of Fernley	08/20/12	331-441
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
13	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	City of Fernley	07/11/14	2354-2445
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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12	Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order and Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Tax/ Treasurer	07/11/14	2049-2052
17	Opposition to Plaintiff's Motion for Summary Judgment	Nevada Legislature	07/11/14	2942-3071
18	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3072-3292
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
7	Order (Converting Motion to Dismiss to Motion for Summary Judgment, Setting Briefing Schedule and Dismissing Treasurer)	First Judicial District Court	06/06/14	1451-1457
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
7	Order Granting A Continuance to Complete Discovery	First Judicial District Court	10/15/12	1341-1343
7	Order Granting in Part and Denying in Part Petition for Writ of Mandamus	Nevada Supreme Court	01/25/13	1373-1377
23	Order Granting Nevada Department of Taxation's Motion for Costs	First Judicial District Court	10/15/14	4190-4194
3	Order Granting Nevada Legislature's Motion to Intervene	First Judicial District Court	08/30/12	648-650
7	Order on Defendant's Motion for Extensions of Time to File Answer	First Judicial District Court	11/13/12	1351-1353
7	Order Pursuant to Writ of Mandamus	First Judicial District Court	02/22/13	1390-1392
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
7	Pretrial Order	First Judicial District Court	10/10/13	1393-1399
7	Reply Concerning Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/27/14	1438-1450
7	Reply in Support of Joinder in Motion to Dismiss	Nevada Legislature	10/08/12	1317-1340
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 Summary Judgment Against Defendants Nevada Department of Taxation and Nevada Treasurer	City of Fernley	07/25/14	3674-3708
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

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Mr. Michael Pitlock
December 31, 1997

We are not the only district losing its tax base in 1980-81. We believe other entities may apply for increases. Should this happen, our share of sales tax revenue could decrease. A loss of revenue to Cave Rock Estates General Improvement District would be detrimental to the district and contrary to good public policy.

The district is responsible for the maintenance of erosion control measures within its boundaries. Erosion directly effects the clarity of Lake Tahoe. While preventing erosion is a major objective of Cave Rock Estates General Improvement District, funding for such measures is simply not available from the district's general revenues. Due to the importance of soil conservation and water clarity the district has provided maintenance from its voter override property tax.

The district requests an increase in its tax base for 1998-99 to \$55,000.00. This amount would allow the district to perform its basic function from general revenues. It would also provide a modest reserve for future road overlays.

We have read this application and agree with the information and representations provided.

CAVE ROCK ESTATES GENERAL IMPROVEMENT DISTRICT

Board of Trustees:

W. N. Lane, CHAIRMAN
Richard, Treasurer
Bob [unclear]
Bob [unclear]

ELK POINT SANITATION DISTRICT

December 31, 1997

Application for Increase to 1980-81 Tax Base

To: Mr. Michael Pitlock, Executive Director
State of Nevada
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, NV 89706

In accordance with Senate Bill 254, Section 36, the Elk Point Sanitation District hereby requests an increase to their tax base for purposes of calculating the sales tax apportionment. Please consider the following in making your determination:

In 1980-81 the district appears to have determined that it had accumulated a reserve sufficient to its operating needs, \$13,428. Therefore it appears to have reduced the property tax rate for both 1979-80 and 1980-81. The average tax rate for the period July 1, 1975 through June 30, 1979 was \$.8175. For the fiscal year ending June 30, 1981 the property tax rate was reduced to \$.2000. Please see the accompanying Schedule of Ad Valorem Tax. While such a drastic tax reduction may have been good money management at the time, it appears to have penalized the district for the ensuing twenty-five year period.

ELK POINT SANITATION DISTRICT

SCHEDULE OF AD VALOREM TAX
1976 THROUGH 1981

<u>Year</u>	<u>Assessed Value</u>	<u>Tax Rate</u>	<u>Property Tax</u>
1975-76	\$ 726,001	\$.9350	\$ 6,788
1976-77	728,183	.9350	6,808
1977-78	1,434,422	.9000	12,909
1978-79	1,525,217	.5000	7,626
1979-80	1,473,803	.1777	2,619
1980-81	1,520,992	.2000	3,042

Elk Point Sanitation District does not have sufficient general revenues to perform its basic governmental function, providing sewer service. The following schedule shows the districts recent revenues including sewer fees assessed with operating costs:

	<u>Fiscal Year Ending</u>		
<u>Revenues</u>	<u>6/30/95</u>	<u>6/30/96</u>	<u>6/30/97</u>
Property tax	\$ 1,021	\$ 645	\$ 805
Motor vehicle tax	933	942	1,047
Sales tax	5,786	5,982	6,575
Sewer user fees	16,744	16,744	16,744
Interest	742	1,390	1,558
Total revenues	25,226	25,703	26,729
<u>Expenditures</u>			
Services and supplies	27,854	22,621	21,517
Excess of revenues over expenditures	\$ 2,628	\$ 3,082	\$ 5,212

The district has maintained a policy of designating any annual operating excess to a reserve for a future project. As of June 30, 1997 the reserve fund balance was \$29,957.00. The reserve provides money for a specific purpose, replacement of the district's pumps. Replacement cost for the three pumps has been estimated to be \$300,000.00. Exactly when the pumps will be replaced cannot be determined. However, if the pumps were to fail during the current fiscal year the district would face an unfunded liability of approximately \$270,000.00. By increasing its tax base the district proposes to add more to its reserve for designated future project.

In 1980-81 Douglas County was given an assumed tax rate even though this amount did not appear in their budget. The reason for this is unclear except that all the other counties had a tax rate, therefore Douglas should have one. This certainly sets an interesting precedent. Equally important, however, is the fact that this phantom tax rate assigned to Douglas County actually reduces the share of sales tax available to other governments.

Page 3
Mr. Michael Pitlock
December 31, 1997

We are not the only district losing its tax base in 1980-81. We believe other entities may apply for increases. Should this happen, our share of sales tax revenue could decrease. A loss of revenue to Elk Point Sanitation District would be detrimental to the district and contrary to good public policy.

Nevada state funding formulas are driven by population and assessed value growth. Federal mandates limit building, land coverage, vehicle miles and various thresholds within the Tahoe basin. Local governments at Lake Tahoe are at a clear disadvantage under the state tax distribution system.

The Elk Point Sanitation District requests an increase to its 1998-99 tax base to \$27,500.00. The increase would allow the district to perform its basic governmental function. The increased revenue will provide for a more realistic contribution to reserves.

We have read this application and agree with the information and representations provided.

ELK POINT SANITATION DISTRICT

Board of Trustees:

John W. Henderson
Kirby Randall
Debra Peterson

LAKERIDGE GENERAL IMPROVEMENT DISTRICT

December 31, 1997

Application for Increase to Tax Base

To: Mr. Michael Pitlock, Executive Director
State of Nevada
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, NV 89706

Pursuant to Senate Bill 254, Section 36, regarding inequities in the tax base among general improvement districts, Lakeridge General Improvement District hereby requests an increase to their tax base for purposes of calculating the sales tax apportionment. Please consider the following in making your determination:

In 1980-81 the Lakeridge General Improvement District had recently completed a major resurfacing of substantially all of its roads at a cost of approximately \$16,000. Funds for this project were accumulated from July 1975 through June 1979 at an average tax rate of \$.5642. Since the project was completed in 1980-81 the district elected to reduce it's ad valorem rate to \$.3000 or approximately one-half of it's former tax rate. Further, the district had accumulated a modest reserve. With prudent financial management they would have been able to fund future road repairs through general revenues under the tax system existing at the time.

LAKERIDGE ESTATES GENERAL IMPROVEMENT DISTRICT
SCHEDULE OF AD VALOREM TAX
1976 THROUGH 1981

<u>Year</u>	<u>Assessed Value</u>	<u>Tax Rate</u>	<u>Property Tax</u>
1975-76	\$ 806,969	\$.5000	\$ 4,035
1976-77	836,629	.6570	5,497
1977-78	1,369,869	.6500	8,904
1978-79	1,472,421	.4500	6,626
1979-80	1,472,440	.3100	4,565
1980-81	1,694,305	.3000	5,083

For purposes of comparison the district completed another major overlay project in the fiscal year 1994-95 at a cost of approximately \$97,000. The district would have been able to fund this project out of general revenues under the old taxing system. Due to the fact that it was operating frugally in 1980-81, the district has had a reduction of available revenues. The current project was funded by financing. The debt now is being repaid by a voter approved property tax override of \$.2500.

The district does not have adequate general revenues to perform its basic governmental function, road maintenance. The following schedule shows the approximate operating deficit for the preceding three year period:

	<u>6/30/95</u>	<u>6/30/96</u>	<u>6/30/97</u>
General revenues without 25¢ voter override	\$ 14,447	\$ 14,014	\$ 17,511 (1)
Operating costs other than debt service	<u>24,828</u>	<u>26,522</u>	<u>21,482</u>
(Deficit)	<u>\$ (10,381)</u>	<u>\$ (12,508)</u>	<u>\$ (3,971)</u>

(1) Does not include FEMA reimbursement of \$4,355, assumed to be a non-recurring revenue.

The district's general revenues compared to certain costs are presented below:

	<u>General Revenues (2)</u>	<u>Road Overlay</u>	<u>Snow Removal</u>
1995	\$ 14,660	\$ 97,000	\$ 16,075
1980	5,083	16,000 (3)	1,362
percentage increase	288%	600%	1180%

(2) Without voter approved overrides.

(3) Capital outlay		
80-81	\$ 1,217	\$ 16,212
79-80	9,000	
78-79	3,500	
77-78	2,495	
76-77	-0-	
75-76	-0-	

Page 3
Mr. Michael Pitlock
December 31, 1997

In 1980-81 Douglas County and Tahoe Douglas Fire Protection District were given an assumed tax rate even though this amount did not appear in their budgets. The reason for this is unclear except that all the other large governmental entities had a tax rate, therefore Douglas County and Tahoe Douglas Fire Protection District should have one. This certainly sets an interesting precedent. Equally important, however, is the fact that this phantom tax rate assigned to these entities actually reduces the share of sales tax available to other governments.

We are not the only district losing its tax base in 1980-81. We believe other entities may apply for increases. Should this happen, our share of sales tax revenue could decrease. A loss of revenue to Lakeridge General Improvement District would be completely at odds with common sense and good financial management.

The district has eliminated various costs not essential to road maintenance. An example is the curtailment of spring and fall clean up dumpsters which were provided by the district to encourage removal of combustible materials from the area. The district no longer provides this service. The obvious benefit of fire suppression is now provided privately by the residents.

The district is responsible for erosion control measures within its boundaries. Erosion directly affects the clarity of Lake Tahoe. While preventing erosion is a major objective of Lakeridge, funding for such measures is simply not available under the current tax structure.

Nevada State funding formulas are driven by population and assessed value growth. Federal mandates limit building, land coverage, vehicle miles and various thresholds within the Tahoe basin. Local governments at Lake Tahoe are at a clear disadvantage under the state tax distribution system.

The Lakeridge General Improvement District requests an increase to their 1998-99 tax base to \$25,000.

Mr. Michael Pitlock.
December 31, 1997

We have read this application and agree with the information and representations provided.

Board of Trustees:

Board of Trustees:
 Shirley Daud
 Sam W. H. Deaf
 Robert H. Hunt

OLIVER PARK GENERAL IMPROVEMENT DISTRICT

December 31, 1997

Application for Increase to Tax Base

To: Mr. Michael Pitlock, Executive Director
State of Nevada
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, NV 89706

In accordance with Senate Bill 254, Section 36, the Oliver Park General Improvement District hereby requests an increase to their tax base for purposes of calculating the sales tax apportionment. Oliver Park's general revenues are inadequate to fund its operations due in part to their financial situation in 1980-81. Please consider the following in making your determination:

In 1980-81 the Oliver Park General Improvement District was accumulating monies for major road repairs. From July 1, 1975 through June 30, 1979 the district had an average property tax rate of \$.42. This rate of tax enabled the district to accumulate \$21,224. through June 30, 1979 in their Capital Projects Fund. In fiscal year ending June 30, 1980 they dropped their ad valorem rate to \$.32. The lower tax rate still allowed the district to set aside \$18,712 for the two years ended June 30, 1981. This however, was due in large part to negligible snow removal and street repair expense totalling \$935.00 for the two year period. The lower than average expenses mentioned were the result of drought conditions at the time which tend to have a favorable effect on the roads. See schedule page 4.

The district also began to spend money for road overlays. \$32,620 was spent for road work accomplished in the two years ended June 30, 1981. The board's philosophy at the time, was to "accomplish the road overlays in small increments through a reduced tax rate and savings in snow removal and maintenance costs." While this thinking was prudent for the conditions of the late 1970's and early 1980's it has placed the district at an unfair disadvantage under the current tax structure.

The district is presently unable to fund its operations from available general revenues. The following schedule shows an average annual operating deficit of \$18,441 for the last four years. The deficits have been funded by depleting the districts capital projects fund. This money would have, otherwise, been available to pay for a much needed road reconstruction and overlay project.

<u>Fiscal Year End</u> <u>June 30</u>	<u>General</u> <u>Revenues</u>	<u>Operating</u> <u>Expenditures</u>	<u>Excess</u> <u>(Deficit)</u>
1997	\$ 25,335 (1)	\$ 29,311	\$ (3,976)
1996	24,338	44,595 (2)	(20,257)
1995	23,567	59,918	(36,351)
1994	<u>23,186</u>	<u>36,365</u>	<u>(13,179)</u>
Total	<u>\$ 96,426</u>	<u>\$170,189</u>	<u>\$ (73,763)</u>

- (1) FEMA reimbursement not included and assumed to be non-recurring.
- (2) Approximately \$21,330 of Capital Project fund money used for operating costs.

Oliver Park General Improvement District consists of approximately 1.1 miles of roadway. The roads provide access to relatively high density residential dwellings, low income apartments and a mobile home community. The nature of Oliver Park and its proximity to the casinos make it attractive for service industry workers and retirees alike. However, with approximately 2500 residents using the roads on a daily basis they tend to deteriorate quickly. This is even more evident during the extremely wet conditions of the more recent years.

It has been projected that Oliver Park will require major road reconstruction, significant drainage system improvements as well as on going repairs and snow removal. The cost of capital improvements will, in all likelihood, exceed \$500,000.00. The district will pursue cooperative agreements with federal, state and county governments to fund the projects. The

Page 3
Mr. Michael Pitlock
December 31, 1997

district believes that public safety, as well as the protection of a great natural resource, Lake Tahoe, are goals worthy of expenditures of this magnitude.

In 1980-81 Douglas County was given an assumed tax rate even though this amount did not appear in their budget. The reason for this is unclear except that all the other counties had a tax rate, therefore Douglas should have one. This certainly sets an interesting precedent. Equally important, however, is the fact that this phantom tax rate assigned to Douglas County actually reduces the share of sales tax available to other governments.

We are not the only district losing its tax base in 1980-81. We believe other entities may apply for increases. Should this happen, our share of sales tax revenue could decrease. A loss of revenue to Oliver Park General Improvement District would be detrimental to the district and contrary to good public policy.

The district is responsible for erosion control measures within its boundaries. Erosion directly effects the clarity of Lake Tahoe. While preventing erosion is a major objective of Oliver Park, funding for such measures is simply not available under the current tax structure.

Nevada state funding formulas are driven by population and assessed value growth. Federal mandates limit building, land coverage, vehicle miles and various thresholds within the Tahoe basin. Local governments at Lake Tahoe are at a clear disadvantage under the state tax distribution system.

Oliver Park requests an increase to its 1998-99 tax base to \$36,000. The adjustment was determined by calculating the minimum amount needed to perform the districts basic governmental function, road maintenance.

Page 4
Mr. Michael Pitlock
December 31, 1997

OLIVER PARK GENERAL IMPROVEMENT DISTRICT

SCHEDULE OF AD VALOREM
1976 THRU 1981

<u>Year</u>		<u>Assessed Value</u>	<u>Tax Rate</u>	<u>Property Tax</u>
1975-76		\$2,311,938	\$.41	\$ 9,479
1976-77		2,483,582	.41	10,183
1977-78		3,225,561	.51	16,450
1978-79		3,243,812	.35	11,353
1979-80	Red Book 3,203,422	3,267,780	.32	10,457
1980-81		3,262,954	.32	10,441 (1)

(1) Spent \$16,200 resurfacing roads

We have read this application and agree with the information and representations provided.

OLIVER PARK GENERAL IMPROVEMENT DISTRICT

Board of Trustees:

[Signature]
[Signature]
[Signature]

ZEPHYR KNOLLS GENERAL IMPROVEMENT DISTRICT

December 31, 1997

Application for Increase to Tax Base

To: Mr. Michael Pitlock, Executive Director
State of Nevada
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, NV 89706

In accordance with Senate Bill 254, Section 36, the Zephyr Knolls General Improvement District hereby requests an increase to their tax base for purposes of calculating the sales tax apportionment. Zephyr Knoll's general revenues are inadequate to fund its operations due in part to their financial situation in 1980-81. Please consider the following in making your determination:

Zephyr Knolls General Improvement District had a reduced tax rate in 1980-81. Therefore, its share of sales tax was lower than other entities using higher property tax rates. From July 1, 1977 through June 30, 1981 the district had a modest reserve. The board, apparently, decided to reduce the ad valorem rate in the years ending June 30, 1980 and June 30, 1981 rather than continue to accumulate funds. This may have been good money management at the time. However, the succeeding twenty-five years have been extremely difficult financially.

The district's average property tax rate for the period 1975 through 1979 was \$.5267 as shown on the following schedule:

ZEPHYR KNOLLS GENERAL IMPROVEMENT DISTRICT
SCHEDULE OF AD VALOREM
1976 Through 1981

<u>Year</u>	<u>Assessed Value</u>	<u>Tax Rate</u>	<u>Property Tax</u>
1975-76	\$ 333,373	\$.6900	\$ 2,300
1976-77	351,932	.6570	2,312
1977-78	704,931	.6500	4,582
1978-79	793,573	.1100	873
1979-80	814,977	-0-	
1980-81	910,899	.1362	1,241

If the district had not been operating frugally with a tax rate of \$.1362 in 1980-81 ~~they would have~~ received a much larger apportionment of sales tax.

Page 2
Mr. Michael Pitlock
December 31, 1997.

The district does not have sufficient general revenues to perform its basic governmental function, road maintenance. The following schedule compares general revenues with operating costs for the most recent three year period.

<u>Revenues</u>	<u>Fiscal Year Ending</u>		
	<u>6/30/95</u>	<u>6/30/96</u>	<u>6/30/97</u>
Property tax	\$ 273	\$ 221	\$ 259
Sales tax	1,627	1,613	1,790
Motor vehicle tax	251	304	305
Federal in lieu of taxes	126	78	-0-
Interest	303	208	164
Total revenues	<u>\$ 2,580</u>	<u>\$ 2,424</u>	<u>\$ 2,518</u>
<u>Expenditures</u>			
Administration	\$ 8,435	5,802	5,220
Services and supplies	<u>14,953</u>	<u>11,216</u>	<u>14,971</u>
Total expenditures	<u>\$ 23,388</u>	<u>\$ 17,018</u>	<u>\$ 20,191</u>
(Deficit)	<u>\$ (20,808)</u>	<u>\$ (14,594)</u>	<u>\$ (17,673)</u>

The district has obtained a \$.48 voter approved tax override in order to fund its operations. The tax override is not included in the "general revenues" shown above.

Zephyr Knolls General Improvement District has compiled the following data to demonstrate the financial inequities among its neighboring districts. This information has been compiled from the budgets for 1997-98:

	<u>Zephyr Cove GID</u>	<u>Zephyr Heights GID</u>	<u>Marla Bay GID</u>	<u>Zephyr Knolls GID</u>
Population	200 (1)	325	300	141
Assessed value	\$5,838,173	\$14,491,753	\$9,620,389	\$3,709,346
Sales Tax revenue	14,837	51,451	29,470	1,779
Property Tax	1,413	40,548	-0-	260
Property tax overrides	-0-	-0-	-0-	17,805
Budget expenditures \$	29,950	\$ 99,000	\$ 53,486	\$ 29,511

(1) Budget contains a figure of 37,480 which appears to be overstated.

The district, through the efforts of its chairman, was able to complete a \$1.1 million erosion control project in 1992. This project was accomplished entirely with grants. The board has accepted responsibility for the annual maintenance of the drainage system. Costs attributable to erosion control approximate \$2,200.00 per year. These expenses are not segregated from street repairs and snow removal. They are considered part of the district's basic governmental function.

The district has tried several measures to relieve its dire financial situation.

- An additional voter approved override of \$.17 was requested in 1994. It was defeated.

- The district requested help from Douglas County in 1995. The county declined.

- The district attempted to consolidate with its neighbor, Zephyr Heights General Improvement District. Zephyr Heights rejected the attempt due to Zephyr Knolls lack of adequate funding.

A partial road overlay project was accomplished at a cost of approximately \$18,000.00 in 1992. Funds for this project became available from savings realized during a succession of drought years. It is unlikely that the district will be able to accumulate money for such projects under today's conditions. A significant change in the tax allocation is needed.

In 1980-81 Douglas County was given an assumed tax rate even though this amount did not appear in their budget. The reason for this is unclear except that all the other counties had a tax rate, therefore Douglas should have one. This certainly sets an interesting precedent. Equally important, however, is the fact that this phantom tax rate assigned to Douglas County actually reduces the share of sales tax available to other governments.

We are not the only district losing its tax base in 1980-81. We believe other entities may apply for increases. Should this happen, our share of sales tax revenue could decrease. A loss of revenue to Zephyr Knolls General Improvement District would be detrimental to the district and contrary to good public policy.

Page 4
Mr. Michael Pitlock
December 31, 1997

The district is responsible for erosion control measures within it's boundaries. Erosion directly effects the clarity of Lake Tahoe. While preventing erosion is a major objective of Zephyr Knolls, funding for such measures is simply not available under the current tax structure.

Nevada state funding formulas are driven by population and assessed value growth. Federal mandates limit building, land coverage, vehicle miles and various thresholds within the Tahoe basin. Local governments at Lake Tahoe are at a clear disadvantage under the state tax distribution system.

Zephyr Knolls requests an increase to its 1998-99 tax base to \$25,000. The adjustment was determined by calculating the minimum amount needed to perform the districts basic governmental function, road maintenance, and provide a reasonable reserve for future road overlays.

We have read this application and agree with the information and representations provided.

ZEPHYR KNOLLS GENERAL IMPROVEMENT DISTRICT

Board of Trustees:

[Handwritten signatures]

WASHOE COUNTY

"To Protect and To Serve"



1001 E. 9th STREET
POST OFFICE BOX 11130
RENO, NEVADA 89520-0027
PHONE (702) 328-2000

OFFICE OF THE COUNTY MANAGER

State of Nevada, Department of Taxation
Michael A. Pitlock, Executive Director
1550 E. College Parkway, Suite 115
Carson City, Nevada 89706-7921

December 31, 1997

Dear Mr. Pitlock:

Pursuant to Section 36 of Senate Bill 254 of the 1997 Nevada State Legislature, Washoe County respectfully requests an adjustment to the Consolidated Tax base distribution. Enclosed please find a summary of our appeal, which includes the following:

I. Review of revenues and property tax rates for the fiscal year ending on June 30, 1981.

II. History of property tax rates for the five years immediately preceding the fiscal year ending on June 30, 1981.

III. The change in assessed valuation of the taxable property within Washoe County over the five years preceding the fiscal year ending on June 30, 1981, excluding net proceeds of minerals.

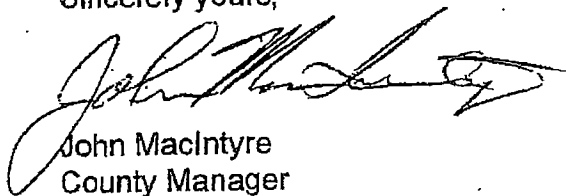
IV. Other factors which caused Washoe County to experience growth or other effects which are not reflected in the current formula for distribution of SCCRT.

V. The base amount Washoe County feels should be established for use in the fiscal year 1998-99 distribution.

We have also included tables showing our calculation of our proposed base and its effect on other local governments.

Thank you for your consideration of our appeal.

Sincerely yours,


John MacIntyre
County Manager

Case No. 66851
JA 2132

REQUEST FOR BASE ADJUSTMENT WASHOE COUNTY

I. Revenues and property tax rates in Washoe County in FY 1980/81

From 1979 to 1982, Washoe County and the City of Reno experienced very high growth in assessed value, which provided sufficient revenues to enable both entities to lower property tax rates. Unincorporated Washoe County grew from an assessed value of \$387,573,447 to \$742,591,254 or an increase of 92%. The City of Reno grew from an assessed value of \$681,038,545 to \$1,519,915,178 or an increase of 123%. By 1981, in response to taxpayer initiatives in Nevada and neighboring states, the Washoe County Commissioners had lowered the County ad valorem rate from a FY78 high of \$1.8112 down to \$1.6408. The \$1.6408 rate included \$1.0594 as operating rate, \$0.0921 to support regional health, \$0.0372 to support the regional general assistance fund, \$0.0687 to support the regional medical assistance indigent fund, \$0.0310 for roads, \$0.01 for regional agricultural extension, \$0.0388 for Regional Administrative Planning Agency, \$0.1458 for debt service and \$0.1578 for public works construction projects.

With limited flexibility due to the designated nature of the available funds and the pending uncertainty of the Legislative action in dealing with Question 6, Washoe County's budgeted fund balance was maintained at the legal limit of 8.33%. By carefully planning expenditures, Washoe County was able to maintain services for its citizens and maintain its infrastructure under the revenue and taxation plan in place in FY1981. However, under the tax structure that began in FY1982 the resources did not keep pace with the prior revenues. The calculated shortfall in 1982 revenues assuming a constant ad valorem rate from 1981 totals some \$9.8 million. Washoe County and the City of Reno have both had to pursue tax overrides in order to maintain and/or improve service levels. Washoe County currently has \$0.07 in voter approved tax overrides to support the following regional services: senior services, libraries and child protective services. The City of Reno currently has \$0.3804 in voter approved overrides to support basic city services in fire, police and streets.

While these high rates of growth allowed reductions in property tax rates from 1979 to 1982, the growth was not sustained, the ability to increase tax rates was restricted, and operating revenues were not adequate to keep pace with the increasing costs of operations. Difficult management decisions were made: hours of operation were reduced, hiring freezes were instituted, projects were deferred and new service opportunities postponed or canceled until alternative funding could be arranged. Some of the alternative resources included the voter

approved overrides, special assessment districts such as the Reno Downtown Police and Maintenance District or the Redevelopment District. While these alternative revenue mechanisms provided relief to certain areas of concern, they compounded other problems. The voter overrides have pushed us closer to the legislative tax cap which limits our ability to generate operating revenues in the future or have debt issues funded. The special districts siphon tax revenues into specific service areas that contribute to the general workload but have not funded the downstream costs. As an example, the Reno Downtown Police and Maintenance District provides revenue to fund the cost of increased police activity downtown but does not fund the increased activity at the regional jail or the courts.

II. Property Tax Rates for the Five Years Preceding Fiscal Year 1980-81

The following table shows the property tax rates for the five years immediately preceding the fiscal year ending on June 30, 1981.

FY1976	FY1977	FY1978	FY1979	FY1980
\$1.733	\$1.723	\$1.8112	\$1.8008	\$1.5908

This contrasts to a rate of \$1.6408 in FY1981, and a rate of \$0.4101 in 1982.

III. Change in Assessed Valuation of the Taxable Property in Washoe County for the Five Years Preceding Fiscal Year 1980-81 (excluding net proceeds of minerals)

The following table outlines the growth in assessed valuation of the taxable property in Washoe County between fiscal year 1976 and fiscal year 1980.

FY1976	FY1977	FY1978	FY1979	FY1980
\$878,768,450	\$925,179,883	\$1,097,388,240	\$1,313,128,715	\$1,592,159,262

This compares to assessed valuation of \$1,994,776,650 in fiscal year ending June 30, 1981, and \$2,670,858,446 in 1982.

IV. Growth or other effects which are not reflected in the current formula for distribution of SCCRT

While assessed valuation grew significantly in the period from 1976 to 1981, growth in assessed valuation in Washoe County slowed considerably in the

years following. From 1976 to 1981, assessed valuation County-wide grew 126%, yet from 1981 to 1985, assessed value grew by only about half as much, or 64.7%. Population, demand for services, and expenditures, however, continued to grow. In the unincorporated area of Washoe County in particular, the residential nature of property development caused higher relative increases in population and demand for infrastructure and services, but lower relative assessed value growth, leading to an actual decrease in assessed value per capita from 1992 to 1996 in the Truckee Meadows, according to the Regional Annual Fiscal Condition Report prepared by the Regional Planning Agency.

V. Proposed Base Amount

Washoe County proposes that its base distribution for 1998-99 be adjusted to \$61,154,923. This base is calculated by taking the difference between the tax rate of 1978 of \$1.8112 and the 1981 rate of \$1.6408. This difference is \$0.1704 which was added back to the FY80-81 tax rate for SCCRT purposes. The SCCRT formula was then run for FY95-96 and FY96-97 to determine a new SCCRT amount as if we had not lowered our rate prior to the FY80-81 tax shift. The new SCCRT figures were then added back to the State Department of Taxation Initial Base Estimate Calculations under SB254.

Please refer to the attached tables for the details of this calculation. Table 1 shows the distributions before an adjustment to Washoe County's base. Table 2 shows the proposed base and total distributions. Table 3 summarizes the impact on other local governments and special districts which are included within the Washoe County consolidated tax distribution.

Washoe County further proposes if base adjustments are made based upon 1981 and earlier tax rates, that the adjustments be applied consistently to all entities affected by tax rate reductions in that time period.

Table 1- Before Appeal

ENTITY	5 YR AVE.		BASE		*BASIC		SUB. PARA (2)	EXCESS	PROPOSED
	% CHANGE	% CHANGE	FY 1997-98	DISTRIBUTIO	FY 1997-98	DISTRIBUTIO			
WASHOE CO	7.01%	1.801%	57,323,106	58,584,215	49.60%	5,374,783.58	63,958,998	63,958,998	
RENO	7.35%	1.787%	32,554,968	33,271,177	29.23%	3,167,704.12	36,438,881	36,438,881	
SPARKS	9.12%	1.572%	13,827,772	14,131,983	14.53%	1,574,043.03	15,706,026	15,706,026	
CARSON TRUCKEE WATER DISTRICT	7.01%		112,497	114,972	0.08%	8,391.33	123,364	123,364	
INCLINE VILLAGE GID	7.25%		775,778	792,846	0.55%	59,905.56	852,751	852,751	
NORTH LAKE TAHOE FIRE DISTRICT	6.84%		2,166,456	2,214,118	1.46%	157,679.28	2,371,797	2,371,797	
PALOMINO VALLEY GID	10.97%		113,197	115,687	0.12%	13,221.10	128,908	128,908	
SIERRA FOREST FIRE DISTRICT	10.78%		870,513	889,664	0.92%	99,937.92	989,602	989,602	
TRUCKEE MEADOWS FIRE DISTRICT	9.34%		3,820,932	3,904,992	3.51%	380,039.38	4,285,032	4,285,032	
SUN VALLEY WATER	14.24%		131,944	131,944	0.00%	0.00	131,944	131,944	
VERDI TV	8.52%		63,893	63,893	0.00%	0.00	63,893	63,893	
LEMMON VALLEY UWB			9,030	9,030	0.00%	0.00	9,030	9,030	
TOTAL WASHOE			111,770,086	114,224,521	100.00%	10,835,705.31	125,060,226	125,060,226	

Assumptions:

1. State Demographer's updated population numbers
2. Dept. of Taxation's excess distribution formula
3. Dept. of Taxation's preliminary revenue estimate

Tax Source	FY 97-98	FY 98-99
SCCRT	78,874,561	81,285,692
BOCRT	22,987,273	23,480,897
Cigarette	2,666,361	2,800,871
Liquor	400,039	392,071
RPPT	1,972,127	2,347,479
MVPT	12,473,989	14,753,216
GUARANTEE	0	114,224,521
EXCESS	0	10,835,705
	119,374,350	125,060,226

Table 2- Appeal

ENTITY	AV		*BASIC		SUB PARA (2)	EXCESS	PROPOSED
	5 YR AVE. % CHANGE	POP. % CHANGE	BASE FY 1997-98	DISTRIBUTION FY 1997-98			DISTRIBUTION
WASHOE CO	7.01%	1.801%	61,154,923	62,500,331	51.22%	3,544,209.22	66,044,540.22
RENO	7.35%	1.787%	32,554,968	33,271,177	28.30%	1,957,948.53	35,229,126.53
SPARKS	9.12%	1.572%	13,827,772	14,131,983	14.06%	972,911.34	15,104,894.34
CARSON TRUCKEE WATER DISTRICT	7.01%		112,497	114,972	0.07%	5,186.66	120,159
INCLINE VILLAGE GID	7.25%		775,778	792,846	-0.54%	37,027.45	829,873
NORTH LAKE TAHOE FIRE DISTRICT	6.84%		2,166,456	2,214,118	1.41%	97,461.10	2,311,579
PALOMINO VALLEY GID	10.97%		113,197	115,687	0.12%	8,171.92	123,859
SIERRA FOREST FIRE DISTRICT	10.78%		870,513	889,664	0.89%	61,771.33	951,436
TRUCKEE MEADOWS FIRE DISTRICT	9.34%		3,820,932	3,904,992	3.39%	234,901.21	4,139,894
SUN VALLEY WATER	14.24%		131,944	131,944	0.00%	0.00	131,944
VERDI TV	8.52%		63,893	63,893	0.00%	0.00	63,893
LEMMON VALLEY UWB			9,030	9,030	0.00%	0.00	9,030
TOTAL WASHOE			115,601,902	118,140,637	100.00%	6,919,588.76	125,060,226

Assumptions:

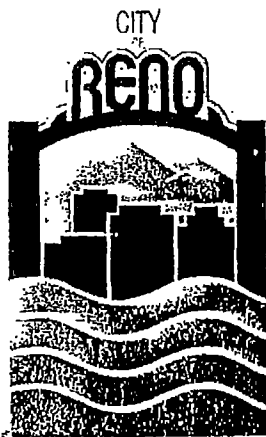
1. State Demographer's updated population numbers
2. Dept. of Taxation's excess distribution formula
3. Dept. of Taxation's preliminary revenue estimate
4. No base recalculations for other entities

Tax Source		FY 97-98	FY 98-99
SCCRT		78,874,561	81,285,692
BCCRT		22,987,273	23,480,897
Cigarette		2,666,361	2,800,871
Liquor		400,039	392,071
RPTT		1,972,127	2,347,479
MVPT		12,473,989	14,753,216
GUARANTEE		0	118,140,637
EXCESS		0	6,919,589
		119,374,350	125,060,226

Table 3 - Impact to Others

ENTITY	NO APPEAL		APPEAL		IMPACT
	PROPOSED	DISTRIBUTION	PROPOSED	DISTRIBUTION	
WASHOE CO.	63,958,998		66,044,540		2,085,542
RENO	36,438,881		35,229,126		-1,209,756
SPARKS	15,706,026		15,104,894		-601,132
CARSON TRUCKEE WATER DISTRICT	123,364		120,159		-3,205
INCLINE VILLAGE GID	852,751		829,873		-22,878
NORTH LAKE TAHOE FIRE DISTRICT	2,371,797		2,311,579		-60,218
PALOMINO VALLEY GID	128,908		123,859		-5,049
SIERRA FOREST FIRE DISTRICT	989,602		951,436		-38,167
TRUCKEE MEADOWS FIRE DISTRICT	4,285,032		4,139,894		-145,138
SUN VALLEY WATER	131,944		131,944		0
VERDI TV	63,893		63,893		0
LEMMON VALLEY UWB	9,030		9,030		0
TOTAL WASHOE	125,060,226		125,060,226		0

Assumptions:
1. No other appeals are successful



JEFF GRIFFIN
Mayor

P.O. Box 1900
Reno, Nevada 89505.

December 19, 1997

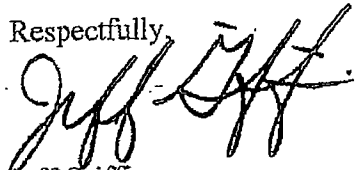
Michael Pitlock
Department of Taxation

Dear Mr. Pitlock:

Attached is our appeal of the initial base allocation of State distributed revenues under SB254. Our appeal is for \$3,007,078.56 to the initial year base as shown on Column 6 of the spreadsheet your department distributed. Our appeal is based on our lowering the property tax rate in FY 1980-81 in order to rebate to our citizens funds that had accumulated in our ending fund balance prior to that year. This was a one-time rebate to our citizens. However, the formula created by the tax shift of FY 1980-81 locked in this rebate based tax rate thereafter.

Whereas the financial condition of FY 1980-81 allowed us to offer this one-time rebate to our residents, the locking it into the distribution of Supplemental City County Relief Tax has caused on-going harm in the provision of services. We are grateful for this chance to correct the problem in future years. We look forward to meeting with Committee on Local Government Finance and the Tax Commission to discuss this issue. If you have any questions concerning our appeal please contact Stuart Schillinger in our Finance Department at 334-2080.

Respectfully,


Jeff Griffin
Mayor

Revenues available to the City in FY 1980/81

Rate of Property Tax levied in FY 1980/81

The City of Reno levied a combined property tax rate of \$0.8562 cents per \$100 of assessed value. Of this amount \$0.1276 was for debt repayment and \$0.7286 was the operating rate. The reason that the operating rate was \$0.7286 was the City was using one time revenues to keep the rate low. At that time the City had one time resources that it knew it could use to pay for operating expenditures without effecting the quality of service provided. Given the atmosphere of Proposition 13 in California and Question 6 in Nevada our City Council members knew that the community wanted its tax rate as low as possible. With the knowledge that there had been one time savings in the past the City Council basically rebated savings to the tax payers. However, as with any one time rebate they knew that at some point in the future they would need to raise the property tax rate again to continue to provide the level of services the residents demanded and deserved.

In Fiscal Year 1980/81 we budgeted a \$3,820,000 use of ending fund balance to pay for on-going services. This was the rebate that the City Council provided to the residents and businesses as was discussed above. In fact, the City used only \$2,057,000 ending fund balance. In order to balance a budget, on-going revenues need to equal on-going expenditures. If revenues equaled expenditures our property tax rate would have been \$0.1821 per \$100 of assessed value higher. The City Council understood that this was a one time use of money and had anticipated raising the property tax rate again in order to continue to pay for on-going services.

In addition to this one time use of resources the City Council broke from tradition and used Federal Revenue Sharing revenue to pay for on-going services. The amount of Federal Revenue Sharing used was \$477,000 or \$0.0422 per \$100 of assessed value. Council made this decision knowing that if Federal Revenue Sharing was not available in the future they would need to raise the property tax rate. Our Finance Director at the time, Frank Kastory, stated for the record that using this much Federal dollars would reduce our property tax by \$0.0422. However, he also stated that if and when Federal dollars were no longer available we would need to raise our property tax rate again to continue to meet our on-going costs.

If the City Council adopted a budget which balanced on-going revenues to on-going expenditures then our operating tax rate would have been \$0.9529 not the \$0.7286 we actually levied. This lower rate was subsequently locked into the SCCRT formula even though the City Council knew that the higher rate would be needed to pay for on-going expenditures.

We know that we can not correct this funding deficiency of the past 16 years. Our request is that we do not continue to under fund the City of Reno into the future. By increasing our tax rate for the SCCRT calculations in FY 1995/96 and FY 1996/97 to \$0.9529 past deficiencies in funding

would be corrected. We believe our initial base should be \$35,562,047 instead of the \$32,554,968 provided through the State's estimate. The method we used to determine what our initial base should be was to determine our SCCRT using the higher tax rate, and then adding the recomputed SCCRT to the five remaining revenues.

Change in the rate of property taxes for the five years preceding 1980/81

The City of Reno had the following property tax rate in FY 1975/76 to FY 1979/80:

1975/76

Debt	0.1455
Operating	0.9325
Combined	1.0780
Overlapping	5.00

1976/77

Debt	0.2061
Operating	0.8499
Combined	1.0560
Overlapping	5.00

1977/78

Debt	0.2441
Operating	0.8119
Combined	1.0560
Overlapping	5.00

1978/79

Debt	0.1855
Operating	0.9455
Combined	1.1310
Overlapping	5.00

1979/80

Debt	0.1900
Operating	0.6662
Combined	0.8562
Overlapping	3.0990

Until FY 1979/80 the City maximized the combination of debt service and operating rate under State law. In Fiscal Year 1979/80 the City Council made a deliberate decision to reduce the City's fund balance from 8.3% of expenditures, the maximum allowed by the State, to 4% of expenditures, the minimum allowed by the State.

The actual fund balance did not decrease at June 30, 1980 because the City had some one-time

savings in expenditures. These savings amounted to over \$2,000,000. If not for this, the ending fund balance would have been reduced in Fiscal Year 1980/81 and the property tax would have needed to be raised to continue to pay for the on-going expenses of the City. Although as explained in the section above the City's ending General Fund balance was reduced in FY 1980/81 and we could no longer pay for on-going expenses with the FY 1980/81 tax rate.

Change in assessed value for the five years preceding 1980/81

FY 1975/76	498,231,627
FY 1976/77	524,454,419
FY 1977/78	593,921,802
FY 1978/79	681,038,545
FY 1979/80	847,884,078
FY 1980/81	1,129,510,434

Effect on change in the City's initial base has on other local government entities

The appeal has minimal effect on other governmental agencies in Washoe County. To determine the effect of the appeal on the ability of other agencies to provide services, Reno has analyzed two areas. First, the appeal does not effect the base distribution of intergovernmental revenues of other governmental entities. Therefore, the government will still receive the base revenue distribution plus inflation. The only portion of the formula which is affected is the distribution of excess revenues, which is about 6% of all distributed intergovernmental revenues.

Second, we analyzed the impact of overall revenues the governmental entity receives by the successful appeal of the City of Reno. The latest available audited figures are for FY 1995/96. By using FY 1995/96 information we over state the effect on each of the other governmental agencies. This is because revenues have increased since FY 1995/96 and if possible the percent of FY 1998/99 revenues should in fact be analyzed. Therefore we know we are overstating the percentage of revenues when we compute the effect on other agencies which ranges from 0.96% for Washoe County to 1.85% for the Palomino Valley GID.

Third, we are also overstating the effect on other governments, specifically Sparks and Washoe County because they will probably be successful with their appeal of population figures. Their population growth should increase based on the appeal. This will provide them a greater portion of the excess distribution than is currently shown in the State or the City's projections.

Other factors which caused the City to have growth not reflected in SCCRT revenues

There are a number of factors which cause the City to have growth not reflected in the SCCRT formula. Two examples follow.

One issue that faces Reno disproportionately is the percentage of older homes and buildings in Reno. The average age of improvements in Reno is greater than in other governmental entities within Washoe County. Therefore, our assessed value as a proportion of replacement or market value is lower than any other governmental agency within Washoe County. We need to provide the same level of service as do the other governmental agencies but we have a lower assessed value versus replacement value than do the other agencies. If the average age of our improvements were the same as other agencies then we would receive a greater portion of SCCRT revenues than we currently do.

Another issue which has increased our expenses but did not affect our revenues was an adverse Fire arbitration ruling under NRS 288. We are required, according to the arbitration, to staff all of our fire emergency response equipment with four employees. Prior to the arbitration we had only used three employee per vehicle. This increased the cost of fire protection by 33% without any similar increase in revenues.

SB 254 Distribution with City only Appeal

	FY 95-96 Revenue	FY 96-97 Revenue	Average Revenue	Section 35 Paragraph A Calculation	Initial Year Base ¹	CPI	Estimate Initial Year FY 98-99 Base Distribution
Enterprise Districts							
Sun Valley Water and Sanitation GID							131,943.92
Verdi Television GID							63,893.35
Lemmon Valley Underground Water Basin							9,029.55
Local Governments							
Washoe County							58,584,214.65
Reno	34,391,657.65	35,281,423.89	34,836,540.77	1.020826	35,562,047	0.0220	36,344,411.59
Sparks							14,131,982.82
Special Districts							
Carson-Truckee Water Conservancy							114,972.28
Incline Village GID							792,845.52
North Lake Tahoe Fire Protection							2,214,117.78
Palomino Valley GID							115,686.89
Sierra Forest Fire Protection							889,664.32
Truckee Meadows Fire Protection							3,904,992.31
Total Washoe County							117,297,754.98
Local Governments and Special Districts							
							Total less Enterprise = 117,092,888.16

1) This figure was determined by the City without confirmation from the State Department of Taxation, of appropriate assumptions or methods to use. We will be happy to use other assumptions or a different method if needed.

2) Used the population growth agreed to by the State Demographer and Sparks, Washoe County and the City of Reno.

SB 254 Distribution with City only Appeal

	Percentage Gov't Entity to Total	Available Excess Distribution	Population Growth Factor ²	AV Growth Factor	Combined Growth Factor	Combined Growth Amount	Percentage of Total
Enterprise Districts							
Sun Valley Water and Sanitation GID							
Verdi Television GID							
Lemmon Valley Underground Water Basin							
Local Governments							
Washoe County	0.5003		0.01801	0.0701	0.088106	5,161,593.88	48.31%
Reno	0.3104		0.01787	0.0735	0.091371	3,320,843.34	31.08%
Sparks	0.1207		0.01572	0.0912	0.106923	1,511,037.82	14.14%
Special Districts							
Carson-Truckee Water Conservancy	0.0010			0.0701	0.0701	8,059.56	0.08%
Incline Village GID	0.0068			0.0725	0.0725	57,481.30	0.54%
North Lake Tahoe Fire Protection	0.0189			0.0683	0.0683	151,224.24	1.42%
Palomino Valley GID	0.0010			0.1097	0.1097	12,690.85	0.12%
Sierra Forest Fire Protection	0.0076			0.1078	0.1078	95,905.81	0.90%
Truckee Meadows Fire Protection	0.0333			0.0934	0.0934	364,726.28	3.41%
Total Washoe County	1.00	7,762,471.02			0.81	10,683,563.09	100.00%
Local Governments and Special Districts							

SB 254 Distribution with City only Appeal

Enterprise Districts				
Sun Valley Water and Sanitation GID			131,943.92	-
Verdi Television GID			63,893.35	-
Lemmon Valley Underground Water Basin			9,029.55	-
Local Governments				
Washoe County	3,750,314.62	62,334,529.27		(1,125,802.80)
Reno	2,412,860.77	38,757,272.36		1,475,085.56
Sparks	1,097,890.96	15,229,873.78		(173,292.51)
Special Districts				
Carson-Truckee Water Conservancy	5,855.92	120,828.20		(2,047.73)
Incline Village GID	41,764.80	834,610.32		(14,665.47)
North Lake Tahoe Fire Protection	109,876.62	2,323,994.40		(38,623.85)
Palomino Valley GID	9,220.93	124,907.82		(3,232.02)
Sierra Forest Fire Protection	69,683.32	959,347.64		(24,445.30)
Truckee Meadows Fire Protection	265,003.09	4,169,995.40		(92,975.89)
Total Washoe County	7,762,471.02	125,060,226.00		(0.02)
Local Governments and Special Districts				



TRUCKEE MEADOWS FIRE PROTECTION DISTRICT

1001 East Ninth Street • Reno, Nevada 89512 • Telephone (702) 328-3650 • Fax (702) 328-3655

December 31, 1997

State of Nevada
Michael A. Pitlock, Director
Department of Taxation
1550 East College Parkway, Suite 115
Carson City, NV 89706-7921

Dear Mr. Pitlock,

In response to your letter of December 5, 1997, please consider this document to be our appeal requesting an adjustment to the base calculations of SB 254.

The Truckee Meadows Fire Protection District's financial condition in the fiscal year ended June 30, 1981, was as follows:

The Fire District's Assessed Valuation was \$310,551,536. We had a General Fund tax rate of \$.4668, a Capital Construction Fund tax of \$.1545 and a Debt Service Fund tax of \$.0067 for a total tax rate of \$.6280.

Total revenues received in Fiscal Year 1980-81 were \$2,266,773 and were comprised of the following:

Ad valorem	\$1,969,528.
MVPT	\$ 125,494.
Interest	\$ 119,910.
Fire Suppression Contract	\$ 32,903.
Unemployment Compensation Receipts	\$ 11,687.
Other revenues	\$ 7,251.

The total expenditures in Fiscal Year 1980-81 were \$1,970,394 and were comprised of the following:

Salaries & benefits	\$1,235,384
Services & supplies	316,767
Capital outlay	395,147
Unemployment claims paid	1,301
Payments of principal	20,600
Payments of interest	1,195

The Fire District had a Beginning Fund Balance at July 1, 1980, of \$653,324 and an Ending Fund Balance of \$949,603 of which \$894,073 was appropriated for use in fiscal year 1981-82 leaving only \$55,530 in funds as unappropriated.

In following your letter, we address the additional appeal requirements in your numbered order.

1. The rate of property taxes levied for the fiscal year ended June 30, 1981 was \$.6280
2. The change in the rate of property taxes for the five years immediately preceding the fiscal year ended on June 30, 1981 was as follows:

	Rate	Change
Fiscal Year Ended June 30, 1975	\$.5000	n/a
Fiscal Year Ended June 30, 1976	.5000	.0000
Fiscal Year Ended June 30, 1977	.5780	.0780
Fiscal Year Ended June 30, 1978	.5780	.0000
Fiscal Year Ended June 30, 1979	.5780	.0000
Fiscal Year Ended June 30, 1980	.5780	.0000

3. The change in the assessed valuation of the taxable property within our Fire District over the five years immediately preceding the fiscal year ending on June 30, 1981, excluding net proceeds of minerals, was as follows:

	Assessed Valuation	Change
Fiscal Year Ended June 30, 1975	\$ 95,759,869	n/a
Fiscal Year Ended June 30, 1976	115,250,498	\$19,490,629
Fiscal Year Ended June 30, 1977	118,453,813	3,203,315
Fiscal Year Ended June 30, 1978	130,580,265	12,126,452
Fiscal Year Ended June 30, 1979	183,815,660	53,235,395

4. Immediately following are the factors we believe to have caused our Fire District to experience growth and other events, which are not reflected in the current formula for distribution of SCCRT:

- A. Truckee Meadows Fire Protection District is a fire district unique in the State of Nevada. With only a population of approximately 70,000 citizens, we must cover 550 square miles to protect and provide all-risk emergency responses which include hazardous materials, medical emergencies, automobile accidents and a rapidly increasing threat to lives, structures and other properties, such as livestock, from wildland/urban interface fires.
- B. Truckee Meadows Fire Protection District was incorporated as a public safety governmental unit in 1972. At its inception, the Fire District provided emergency services to its citizen primarily through the efforts of volunteers complimented by a very small paid staff. Gradually, as the District has grown, additional paid staff has been hired, increasing costs dramatically. Before the tax shift of 1981, the District had 12 paid and volunteer fire stations. Since 1982, the District has added six (6) paid and volunteer fire stations. Our Fire District has been given far more than its share of mobile home villages and trailer parks and our assessed value is artificially low when compared to the population growth. All across the United States it is a known fact that the poorest areas of a jurisdiction require the most public safety services and these citizens pay far less in property taxes than the cost of the actual services they require. We have been providing service to our citizens despite the overwhelming challenges brought by the wide geographic area we have to provide services to. In the fire business, nearly every call requires a response to be as fast as possible given that there are usually lives hanging in the balance. And, certainly, every call has the potential to be necessary to save a life or lives. We have great difficulty believing that the State legislators had any intention of impacting the SCCRT revenues for any fire or police district.
- C. From the enclosed charts, you will see that had there been no tax shift in 1981, the Fire District would have benefited appreciably. The original legislation in 1981 was not intended to effect any governmental entity negatively. Had the Fire District kept its ad valorem rates, adjusted by the actual factor used for property tax increases, this District would be in much better financial shape and would probably have added 2 or 3 needed fire stations.


5. From the additional charts enclosed, be advised that the Fire District is appealing the current assigned base of \$3,820,931 and we believe the fairly adjusted base amount should be \$4,440,846 based upon the following calculations:

- A. We took the short fall amounts (Exhibit B) from fiscal years 1995-96 and 1996-97 and added those to the SCCRT portion of the FY 1996-97 Total Distribution and FY 1995-96 Total Distribution (Exhibit D).
- B. Then using the Department of Taxation calculation methodology for the initial year base, we arrived at our appeal amount. This calculation is also contained within Exhibit D.
- C. Exhibit E shows the impact on other entities within Washoe County, with the following assumption: Truckee Meadows Fire Protection District is the only entity within Washoe County that is successful in its appeal.

The enclosed exhibits A & C are background calculations to support the numbers in exhibits B & D respectfully.

In closing, we respectfully request that you give our appeal due consideration and attention.

Sincerely,


Ray Brunstrom, Fire Chief

REB:AW/sa

HISTORICAL DATA

<u>Year</u>	<u>AV</u>	<u>Rate</u>	<u>Ad Valorem</u>	<u>SCCRT</u>	<u>AB104</u>	<u>Combined Rev.</u>
1975	95,759,869	0.5000	\$491,442	\$0	\$0	\$491,442
1976	115,250,498	0.5000	\$562,227	\$0	\$0	\$562,227
1977	118,453,813	0.5780	\$678,174	\$0	\$0	\$678,174
1978	130,580,265	0.5780	\$768,883	\$0	\$0	\$768,883
1979	183,815,660	0.5780	\$1,089,582	\$0	\$0	\$1,089,582
1980	255,520,004	0.5780	\$1,519,821	\$0	\$0	\$1,519,821
1981	310,551,536	0.6280	\$1,969,528	\$0	\$0	\$1,969,528
1982	380,111,991	0.1871	\$674,703	\$1,362,555	\$0	\$2,037,258
1983	406,150,830	0.1916	\$775,570	\$1,248,755	\$0	\$2,024,325
1984	450,287,120	0.2766	\$1,231,628	\$1,301,407	\$0	\$2,533,035
1985	510,124,034	0.2627	\$1,349,720	\$1,481,938	\$0	\$2,831,658
1986	546,816,586	0.2818	\$1,561,322	\$1,704,652	\$0	\$3,265,974
1987	573,985,484	0.2858	\$1,660,621	\$1,963,606	\$0	\$3,624,227
1988	638,487,233	0.2846	\$1,774,525	\$2,222,043	\$0	\$3,996,568
1989	684,202,151	0.2777	\$1,878,168	\$2,625,655	\$0	\$4,503,823
1990	737,171,152	0.3498	\$2,533,630	\$3,334,252	\$0	\$5,867,882
1991	757,265,342	0.3498	\$2,570,094	\$2,991,806	\$0	\$5,561,900
1992	761,812,909	0.3995	\$3,251,782	\$2,449,919	\$204,320	\$5,906,021
1993	813,719,621	0.4298	\$3,759,355	\$2,377,949	\$521,658	\$6,658,962
1994	863,852,097	0.4681	\$4,270,664	\$2,617,141	\$597,087	\$7,484,892
1995	931,569,020	0.4681	\$4,515,641	\$2,977,745	\$656,696	\$8,150,082
1996	1,008,398,300	0.4681	\$4,827,018	\$3,201,781	\$714,849	\$8,743,648
1997	1,111,764,837	0.4681	\$5,286,001	\$3,288,509	\$752,418	\$9,326,928

SHORTFALL - NO TAX SHIFT IN FY82-83 (AD VALOREM ONLY)

Year	AV	Rate	Ad Valorem	Combined Rev.	Shortfall
1975	95,759,869	0.5000	\$478,799	\$491,442	\$12,643
1976	115,250,498	0.5000	\$576,252	\$562,227	-\$14,025
1977	118,453,813	0.5780	\$684,663	\$678,174	-\$6,489
1978	130,580,265	0.5780	\$754,754	\$768,883	\$14,129
1979	183,815,660	0.5780	\$1,062,455	\$1,089,582	\$27,127
1980	255,520,004	0.5780	\$1,476,906	\$1,519,821	\$42,915
1981	310,551,536	0.6280	\$1,950,264	\$1,969,528	\$19,264
1982	380,111,991	0.6280	\$2,387,103	\$2,037,258	-\$349,845
1983	406,150,830	0.6325	\$2,568,904	\$2,024,325	-\$544,579
1984	450,287,120	0.7175	\$3,230,810	\$2,533,035	-\$697,775
1985	510,124,034	0.7036	\$3,589,233	\$2,831,658	-\$757,575
1986	546,816,586	0.7227	\$3,951,843	\$3,265,974	-\$685,869
1987	573,985,484	0.7267	\$4,171,153	\$3,624,227	-\$546,926
1988	638,487,233	0.7255	\$4,632,225	\$3,996,568	-\$635,657
1989	684,202,151	0.7186	\$4,916,677	\$4,503,823	-\$412,854
1990	737,171,152	0.7907	\$5,828,812	\$5,867,882	\$39,070
1991	757,265,342	0.7907	\$5,987,697	\$5,561,900	-\$425,797
1992	761,812,909	0.8404	\$6,402,276	\$5,906,021	-\$496,255
1993	813,719,621	0.8707	\$7,085,057	\$6,658,962	-\$426,095
1994	863,852,097	0.9090	\$7,852,416	\$7,484,892	-\$367,524
1995	931,569,020	0.9090	\$8,467,962	\$8,150,082	-\$317,880
1996	1,008,398,300	0.9090	\$9,166,341	\$8,743,648	-\$422,693
1997	1,111,764,837	0.9090	\$10,105,942	\$9,326,928	-\$779,014

TX Source	FY 97-98	FY 98-99
SCRT	76,874,561	81,285,692
BCRT	22,987,273	23,480,897
Cigarette	2,666,361	2,890,871
Liquor	400,039	392,971
RPTT	1,972,127	-- 2,347,479
MVPT	12,473,989	14,753,216
GUARANTEE	0	114,224,521
GUARANTEE	0	10,335,705
EXCESS	119,374,350	125,060,226

Exhibit D

SR254 - APPEAL

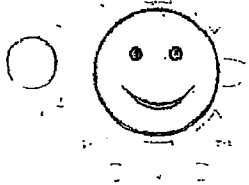
ENTITY	5 YR AVE. % CHANGE	POP. % CHANGE	FY 1996-97		TOTAL DISTRIBUTION	FY 1995-96 TOTAL DISTRIBUTION	AVERAGE REVENUE	BASE		*BASIC FY 1997-98 DISTRIBUTION	SUB PARA (2) PROPORTION	EXCESS		PROPOSED DISTRIBUTION
			TOTAL	DISTRIBUTION				FY 1997-98	DISTRIBUTION			EXCESS	DISTRIBUTION	
WASHOE CO	7.01%	1.801%	57,281,782	55,025,468			56,153,625	57,323,106	58,384,215	49.32%	5,031,892.77		63,616,107	
RENO	7.35%	1.787%	32,393,998	31,387,594			31,890,796	32,554,968	33,271,177	29.07%	2,965,616.60		36,236,794	
SPARKS	9.12%	1.572%	14,034,063	13,057,264			13,545,664	13,827,772	14,131,983	14.44%	1,473,825.06		15,605,808	
CARSON TRUCKEE WATER DISTRI	7.01%		112,359	108,045			110,202	112,497	114,972	0.08%	7,856.00		122,828	
INCLINE VILLAGE GID	7.25%		772,483	747,417			759,951	775,778	792,846	0.55%	56,083.81		848,929	
NORTH LAKE TAHOE FIRE DISTRICT	6.84%		2,160,694	2,083,820			2,122,257	2,166,456	2,214,118	1.45%	147,619.94		2,361,738	
PALOMINO VALLEY GID	10.97%		117,178	104,596			110,887	113,197	115,687	0.12%	12,377.64		128,065	
SIERRA FOREST FIRE DISTRICT	10.78%		879,917	825,389			852,753	870,513	889,664	0.92%	93,562.26		983,227	
TRUCKEE MEADOWS FIRE DISTRICT	9.34%		4,591,756	4,095,907			4,343,852	4,440,846	4,538,545	4.03%	413,518.95		4,952,064	
SUN VALLEY WATER	14.24%		139,259	124,629			131,944	131,944	131,944	0.00%	0.00		131,944	
VERDI TV	8.52%		64,492	63,295			63,893	63,893	63,893	0.00%	0.00		63,893	
LEMMON VALLEY UWB			9,336	8,723			9,030	9,030	9,030	0.00%	0.00		9,030	
TOTAL WASHOE			112,557,319	107,632,347			110,094,839	112,390,000	114,858,073	100.00%	10,202,153.03		125,060,226	

Tax Source	FY 97-98	FY 98-99
SGCRT	78,874,561	81,285,692
BCCRT	22,987,273	23,480,897
Cigarette	2,666,361	2,800,871
Liquor	400,039	392,071
RPTT	1,972,127	2,347,479
MVPT	12,473,989	14,753,216
GUARANTEE	0	114,858,073
EXCESS	0	10,202,153
	119,574,330	125,060,226

IMPACT ON OTHERS

ENTITY	NO APPEAL PROPOSED DISTRIBUTION	APPEAL PROPOSED DISTRIBUTION	IMPACT
WASHOE CO	63,958,998	63,616,107	-342,891
RENO	36,438,881	36,236,794	-202,088
SPARKS	15,706,026	15,605,608	-100,418
CARSON TRUCKEE WATER DISTRICT	123,364	122,828	-535
INCLINE VILLAGE GID	852,751	848,929	-3,822
NORTH LAKE TAHOE FIRE DISTRICT	2,371,797	2,361,738	-10,059
PALOMINO VALLEY GID	128,908	128,065	-843
SIERRA FOREST FIRE DISTRICT	989,602	983,227	-6,376
TRUCKEE MEADOWS FIRE DISTRICT	4,285,032	4,952,064	667,032
SUN VALLEY WATER	131,944	131,944	0
VERDI TV	63,893	63,893	0
LEMMON VALLEY UWB	9,030	9,030	0
TOTAL WASHOE	125,060,226	125,060,226	0

Amargosa Valley Library District



Amargosa Valley Community Library
HCR 69 Box 401-T
Amargosa Valley NV 89020
phone (702) 372-5340
fax (702) 372-1188

BOARD OF TRUSTEES

Ralph McCracken, Chairman
Mike O'Neill, Vice-Chairman
Jim Hooton, Clerk
Maureen Gilgan, Member
Nancy Fisher, Member

Michelle R. DeLee
Library Director

MEMORANDUM

DATE: December 31, 1997
TO: Executive Director
State of Nevada Department of Taxation
Suite 115
1550 E. College Parkway
Carson City NV 89706-7921
fax (702) 687-5981 6 pages total
FROM: Michelle DeLee
SUBJECT: Request for Adjustment to Base Calculation SB 254

The Amargosa Valley Library District received only one type of revenue which is included in the SB 254 formula for distribution of consolidated taxes: the Motor Vehicle Privilege Tax (MVPT).

MVPT is distributed based on the ratios of each local government / special district's property taxes levied in the previous year. Those property taxes levied the previous year are themselves a result of the assessed valuation of the local government / special district, multiplied by the tax rate of that local government / special district. But since the Amargosa Valley Library District did not exist as a separate local government in 1994-95, there is no assessed valuation or tax rate on record for us for 1994-95, so MVPT could not be distributed to us in 1995-96.


The calculation for future distribution of consolidated taxes was made by averaging 1995-96's zero and 1996-97's \$4911, and comes up with a very low number as our base - just \$2455.50. If we had received revenue in prior years, it would likely have been an amount similar to the year we did receive revenue. Since our district includes all of the Amargosa Town district (and a little bit more), it seems fair to use the figures for Amargosa Town as a basis for calculating how much we would have received in 1995-96 if we existed in the prior year. Amargosa Town's MVPT increased from \$13,751 in 1995-96 to \$19,044.78 in 1996-97. That is a 38.49% increase. Applying that percentage in reverse to our 1996-97 figure of \$4911 would give a theoretical 1995-96 figure of \$3545.91.

We feel that our base should be calculated by averaging \$3545.91 and \$4911, instead of averaging one year at \$4911 and one year at zero. Making this adjustment would give us an average revenue of \$4228.46. The Section 35 Paragraph A Calculation (column 4) would then change to 1.040834. Our Initial Year Base (column 5) would be \$4401.12, and our Estimated Initial Year Distribution would be \$4497.94, assuming a Consumer Price Index change of 2.2%. The enclosed pages show the entire county's figures and the effect of our request on the distributions to other local governments. The effects of our request range from a loss of \$1557.57 for Nye County to a loss of \$0.35 for Tonopah Library.

We hope that you will recommend to the Committee on Local Government Finance that this change be made. The effect on other local governments is minimal, but the effect for us is considerable.

Thank you for considering our request. Your staff was very helpful in assisting me with preparing this request. We look forward to hearing from you.

Sincerely,



Michelle DeLee
Library Director

encl.

cc: Nye County Board of Commissioners
Gabbs City Council
Amargosa Town Advisory Board
Beatty Town Advisory Board
Manhattan Town Board
Pahrump Town Board
Round Mountain Town Board
Tonopah Town Board
Amargosa Valley Library District Board of Trustees
Beatty Library District Board of Trustees
Nye Hospital District Board of Directors
Pahrump Hospital District Board of Directors
Pahrump Library District Board of Trustees
Pahrump Swimming Pool General Improvement District (c/o Pahrump Town Board)
Smoky Valley Library District Board of Trustees
Tonopah Library District Board of Trustees

Uncorrected figures

	column 1	column 2	column 3	column 4	column 5	column 6	column 7
Local Gov't	FY 95-96 Revenue	FY 96-97 Revenue	Average Revenue	Total col. 2 / Total. col. 3	Initial Year Base	CPI	Estimate FY 98-99 Distrib
Nye County	\$5,333,090.46	\$5,777,238.88	\$5,555,164.67	1.040818992	\$5,781,920.89	1.0220	\$5,909,123.15
Gabbs	\$47,917.30	\$42,400.19	\$45,158.75	1.040818992	\$47,002.08	1.0220	\$48,036.13
Amargosa Town	\$49,690.52	\$56,255.94	\$52,973.23	1.040818992	\$55,135.54	1.0220	\$56,348.53
Beatty Town	\$171,809.24	\$192,610.07	\$182,209.66	1.040818992	\$189,647.27	1.0220	\$193,819.51
Manhattan	\$3,182.68	\$1,956.06	\$2,569.37	1.040818992	\$2,674.25	1.0220	\$2,733.08
Pahrump	\$332,311.44	\$387,208.98	\$359,760.21	1.040818992	\$374,445.26	1.0220	\$382,683.05
Round Mt.	\$121,748.51	\$124,252.99	\$123,000.75	1.040818992	\$128,021.52	1.0220	\$130,837.99
Tonopah Town	\$156,307.75	\$150,404.09	\$153,355.92	1.040818992	\$159,615.75	1.0220	\$163,127.30
Amargosa Library	\$0.00	\$4,253.35	\$2,126.68	1.040818992	\$2,213.48	1.0220	\$2,262.18
Beatty Library	\$0.00	\$6,320.67	\$3,160.34	1.040818992	\$3,289.34	1.0220	\$3,361.70
Nye Hospital	\$115,181.38	\$120,550.26	\$117,865.82	1.040818992	\$122,676.98	1.0220	\$125,375.88
Pahrump Hospital	\$34,036.99	\$34,671.01	\$34,354.00	1.040818992	\$35,756.30	1.0220	\$36,542.93
Pahrump Library	\$45,631.62	\$53,622.02	\$49,626.82	1.040818992	\$51,652.54	1.0220	\$52,788.89
Pahrump Pool	\$26,819.20	\$31,249.72	\$29,034.46	1.040818992	\$30,219.62	1.0220	\$30,884.45
Smoky Valley Library	\$11,954.34	\$13,118.15	\$12,536.25	1.040818992	\$13,047.96	1.0220	\$13,335.02
Tonopah Library	\$0.00	\$2,515.48	\$1,257.74	1.040818992	\$1,309.08	1.0220	\$1,337.88
TOTAL	\$6,449,681.43	\$6,998,627.86	\$6,724,154.65		\$6,998,627.86		\$7,152,597.67

Corrected figures to reflect the actual amounts received by Tonopah Town and Amargosa Library

	column 1	column 2	column 3	column 4	column 5	column 6	column 7
Local Gov't	FY 95-96 Revenue	FY 96-97 Revenue	Average Revenue	Total col. 2 / Total. col. 3	Initial Year Base	CPI	Estimate FY 98-99 Distrib
Nye County	\$5,333,090.46	\$5,777,238.88	\$5,555,164.67	1.041108	\$5,783,526.25	1.0220	\$5,910,763.83
Gabbs	\$47,917.30	\$42,400.19	\$45,158.75	1.041108	\$47,015.13	1.0220	\$48,049.46
Amargosa Town	\$49,690.52	\$56,255.94	\$52,973.23	1.041108	\$55,150.85	1.0220	\$56,364.17
Beatty Town	\$171,809.24	\$192,610.07	\$182,209.66	1.041108	\$189,699.93	1.0220	\$193,873.32
Manhattan	\$3,182.68	\$1,956.06	\$2,569.37	1.041108	\$2,674.99	1.0220	\$2,733.84
Pahrump	\$332,311.44	\$387,208.98	\$359,760.21	1.041108	\$374,549.22	1.0220	\$382,789.31
Round Mt.	\$121,748.51	\$124,252.99	\$123,000.75	1.041108	\$128,057.06	1.0220	\$130,874.32
Tonopah Town	\$156,484.84	\$153,991.68	\$155,238.26	1.041108	\$161,619.79	1.0220	\$165,175.43
Amargosa Library	\$0.00	\$4,911.00	\$2,455.50	1.041108	\$2,556.44	1.0220	\$2,612.68
Beatty Library	\$0.00	\$6,320.67	\$3,160.34	1.041108	\$3,290.25	1.0220	\$3,362.64
Nye Hospital	\$115,181.38	\$120,550.26	\$117,865.82	1.041108	\$122,711.05	1.0220	\$125,410.69
Pahrump Hospital	\$34,036.99	\$34,671.01	\$34,354.00	1.041108	\$35,766.22	1.0220	\$36,553.08
Pahrump Library	\$45,631.62	\$53,622.02	\$49,626.82	1.041108	\$51,666.88	1.0220	\$52,803.55
Pahrump Pool	\$26,819.20	\$31,249.72	\$29,034.46	1.041108	\$30,228.01	1.0220	\$30,893.02
Smoky Valley Library	\$11,954.34	\$13,118.15	\$12,536.25	1.041108	\$13,051.58	1.0220	\$13,338.72
Tonopah Library	\$0.00	\$2,515.48	\$1,257.74	1.041108	\$1,309.44	1.0220	\$1,338.25
TOTAL	\$6,449,858.52	\$7,002,873.10	\$6,726,365.81		\$7,002,873.10		\$7,156,936.31

Proposed figures to reflect an adjustment for Amargosa Library

	column 1	column 2	column 3	column 4	column 5	column 6	column 7
Local Gov't	FY 95-96 Revenue	FY 96-97 Revenue	Average Revenue	Total col. 2 / Total. col. 3	Initial Year Base	CPI	Estimate FY 98-99 Distrib
Nye County	\$5,333,090.46	\$5,777,238.88	\$5,555,164.67	1.040834	\$5,782,002.21	1.0220	\$5,909,206.26
Gabbs	\$47,917.30	\$42,400.19	\$45,158.75	1.040834	\$47,002.74	1.0220	\$48,036.80
Amargosa Town	\$49,690.52	\$56,255.94	\$52,973.23	1.040834	\$55,136.32	1.0220	\$56,349.32
Beatty Town	\$171,809.24	\$192,610.07	\$182,209.66	1.040834	\$189,649.94	1.0220	\$193,822.24
Manhattan	\$3,182.68	\$1,956.06	\$2,569.37	1.040834	\$2,674.29	1.0220	\$2,733.12
Pahrump	\$332,311.44	\$387,208.98	\$359,760.21	1.040834	\$374,450.53	1.0220	\$382,688.44
Round Mt.	\$121,748.51	\$124,252.99	\$123,000.75	1.040834	\$128,023.32	1.0220	\$130,839.83
Tonopah Town	\$156,484.84	\$153,991.68	\$155,238.26	1.040834	\$161,577.20	1.0220	\$165,131.90
Amargosa Library	\$3,545.91	\$4,911.00	\$4,228.46	1.040834	\$4,401.12	1.0220	\$4,497.94
Beatty Library	\$0.00	\$6,320.67	\$3,160.34	1.040834	\$3,289.38	1.0220	\$3,361.75
Nye Hospital	\$115,181.38	\$120,550.26	\$117,865.82	1.040834	\$122,678.71	1.0220	\$125,377.64
Pahrump Hospital	\$34,036.99	\$34,671.01	\$34,354.00	1.040834	\$35,756.80	1.0220	\$36,543.45
Pahrump Library	\$45,631.62	\$53,622.02	\$49,626.82	1.040834	\$51,653.26	1.0220	\$52,789.64
Pahrump Pool	\$26,819.20	\$31,249.72	\$29,034.46	1.040834	\$30,220.04	1.0220	\$30,884.88
Smoky Valley Library	\$11,954.34	\$13,118.15	\$12,536.25	1.040834	\$13,048.15	1.0220	\$13,335.20
Tonopah Library	\$0.00	\$2,515.48	\$1,257.74	1.040834	\$1,309.10	1.0220	\$1,337.90
TOTAL	\$6,453,404.43	\$7,002,873.10	\$6,728,138.77		\$7,002,873.10		\$7,156,936.31

Adjusting Amargosa Library's base calculation would have the following impact on the estimated FY 98-99 distribution:

	before adjustment	distribution after adjustment	change
Local Gov't	Estimate FY 98-99 Distrib.	Estimate FY 98-99 Distrib.	
Nye County	\$5,910,763.83	\$5,909,206.26	(\$1,557.57)
Gabbs	\$48,049.46	\$48,036.80	(\$12.66)
Amargosa Town	\$56,364.17	\$56,349.32	(\$14.85)
Beatty Town	\$193,873.32	\$193,822.24	(\$51.09)
Manhattan	\$2,733.84	\$2,733.12	(\$0.72)
Pahrump	\$382,789.31	\$382,688.44	(\$100.87)
Round Mt.	\$130,874.32	\$130,839.83	(\$34.49)
Tonopah Town	\$165,175.43	\$165,131.90	(\$43.53)
Amargosa Library	\$2,612.68	\$4,497.94	\$1,885.26
Beatty Library	\$3,362.64	\$3,361.75	(\$0.89)
Nye Hospital	\$125,410.69	\$125,377.64	(\$33.05)
Pahrump Hospital	\$36,553.08	\$36,543.45	(\$9.63)
Pahrump Library	\$52,803.55	\$52,789.64	(\$13.91)
Pahrump Pool	\$30,893.02	\$30,884.88	(\$8.14)
Snooky Valley Library	\$13,338.72	\$13,335.20	(\$3.51)
Tonopah Library	\$1,338.25	\$1,337.90	(\$0.35)
TOTAL	\$7,156,936.31	\$7,156,936.31	\$0.00



City of Boulder City

401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005

Mailing Address
P.O. BOX 61350
BOULDER CITY, NEVADA 89006-1350

Mr. Michael Pitlock
Executive Director
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, Nevada 89706

JAN 1998 December 31, 1997

SUPPLEMENTAL
DEPARTMENT OF TAXATION

Dear Mr. Pitlock:

The City of Boulder City herewith submits its appeal pursuant to the provisions of Senate Bill 254 regarding its fiscal year 1998-99 base tax distribution. Under its appeal, the City is requesting an upward adjustment to its initial base year of \$660,002, for a total of \$5,549,878. Exhibit II shows the methodology used to arrive at this requested increase.

Our appeal is to correct the disparity that exists among the cities within Clark County concerning the allocation of Supplemental City/County Relief Tax since fiscal year 1981-82. Section 36 of SB254 allow a Local government to submit to the Executive Director of the Department of Taxation for an adjustment to the amount calculated.

As shown by Exhibit I during FY 81, the City experienced a revenue shortfall of \$536,335. (\$162,860 + \$373,475). The City was able to make up some of the shortfall by transfers in from the Utility Fund. During FY 81, 28.7% of the General Fund Revenue was attained from Property Tax Revenues. The effect of the tax shift is obvious from looking at the City's financial position at the end of FY 82. The City ended the year with \$76,163 cash and a fund balance of \$172,236 or a decrease of \$124,951. It was obvious that the City needed to cut spending for vital services.

The attached spreadsheet Exhibit II shows the effect the FY 81-82 tax shift had on the City of Boulder City. As the spreadsheet shows the City of Boulder City never attained a revenue level equal to what the property tax alone would have achieved. In fiscal year 81-82 the City's property tax rate was decreased from 1.2672 to .1050 or a 91.7% decrease. At the conclusion of FY 81-82 it became apparent that the SCCRT distribution had fallen short of the property tax reduction. A total shortage of \$246,269 or 9.7% of the City's actual General Fund revenues. The percentage of General Fund revenues increased to a high of 19% in FY 86. These shortfalls caused the City to institute a hiring freeze and management cutback program beginning in FY 82.

As one can see in Exhibit I the "Revenues over (under) Expenditures" line shows that the City of Boulder City first went into a negative position in FY 80. This trend continued and had the City of Boulder City not developed other revenue sources and instituted its cutback program the City's financial position by the end of FY 83 would have been disastrous.

Exhibit III shows the full time general fund authorized positions. Please notice that the full time general fund positions needed to be reduced to 82 employees during FY 84. This reduction of 4.5 positions represented a 5.2% staff decrease.

Case No. 66851

"Clean Green Boulder City"

JA 2164

The City of Boulder City tax rate for the five years preceding the tax shift was 1.1970. During FY 80 the City of Boulder City assumed the Swimming Pool District and debt obligation and tax levy that caused the increase to 1.2672.

Pursuant to the information package dated December 5, 1997 from Theresa Glazner, Management Analyst, we believe that we have addressed the financial position of the City on June 30, 1981. We further believe that we have completely addressed the other five (5) items required.

The City of Boulder City has made no attempt to prepare an impact statement on the other entities within Clark County. It is our understanding that the Department of Taxation will prepare this statement.

Sincerely,



Robert E. Boyer
Finance Director

City of Boulder City
Exhibit II

FY	Operating Tax Rate	Assessed Valuation	Actual Ad Valorem Revenue	Actual SCCRT	Total Ad Valorem & SCCRT	Operating Ad Valorem FY 81 Rate	Tax Shortfall	Total General Fund Revenues	Percent of General Fund Revenue	Shortfall as a
76	1.1970	23,527,026	278,993							
77	1.1970	23,174,089	283,799							
78	1.1970	33,191,481	402,660							
79	1.1970	37,075,496	449,226							
80	1.2672	42,565,632	543,121							
81	1.2672	47,719,298	594,851							
82	0.1050	71,122,336	89,127	565,866	654,993	901,262	-246,269	2,534,511	-9.717%	
83	0.1048	80,995,857	95,134	541,294	636,428	1,026,379	-389,951	2,577,399	-15.130%	
84	0.0946	99,042,487	94,388	671,698	766,086	1,255,066	-488,980	2,911,792	-16.793%	
85	0.0958	108,771,027	104,548	693,747	798,295	1,378,346	-580,051	3,147,064	-18.432%	
86	0.0989	115,512,415	113,460	708,531	821,991	1,463,773	-641,782	3,369,721	-19.046%	
87	0.1027	118,753,530	123,206	853,242	976,448	1,504,845	-528,397	3,830,598	-13.794%	
88	0.1070	124,367,520	132,055	932,142	1,064,197	1,575,985	-511,788	4,311,153	-11.871%	
89	0.1494	140,429,477	210,502	1,103,475	1,313,977	1,779,522	-465,545	4,789,806	-9.720%	
90	0.1590	145,662,612	238,690	1,310,285	1,548,975	1,845,837	-296,862	5,582,060	-5.318%	
91	0.1643	158,501,655	266,140	1,202,676	1,468,816	2,008,533	-539,717	5,554,248	-9.717%	
92	0.1715	176,205,044	291,939	1,205,000	1,496,939	2,232,870	-735,931	5,791,036	-12.708%	
93	0.1861	176,687,426	326,006	1,253,932	1,579,938	2,238,983	-659,045	5,775,474	-11.411%	
94	0.1861	218,979,376	401,411	1,670,497	2,071,908	2,774,907	-702,999	6,785,456	-10.360%	
95	0.2190	229,759,749	433,141	1,809,038	2,242,179	2,911,516	-669,337	7,810,055	-8.570%	
96	0.1861	236,026,822	439,863	1,898,221	2,338,084	2,990,932	-652,848	8,689,413	-7.513%	
97	0.1951	242,165,388	472,178	1,936,540	2,408,718	3,068,720	-660,002	9,194,444	-7.178%	

City of Boulder City
Exhibit I

	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
Cash and Investments	207,548	338,013	451,067	551,411	381,762	229,620	76,163	172,056	345,752
Accounts Receivable	27,602	54,035	81,697	70,914	99,935	0	0	0	0
Taxes Receivable	3,971	2,767	4,649	3,430	7,623	2,112	870	2,052	2,052
Interest Receivable	781	3,684	6,882	15,304	16,068	11,237	3,798	5,524	15,701
Contracts Receivable	0	0	0	18,500	1,060	0	0	0	0
Deposits	0	0	0	0	0	60	60	60	60
Due from Other Governments	0	0	0	0	0	97,590	141,332	159,448	123,080
Due from Other Funds	28,391	21,025	425	10,083	3,916	0	0	0	0
Total Assets:	268,293	419,524	544,720	669,642	510,364	340,619	222,223	339,140	486,645
Accounts Payable	9,055	12,304	17,617	29,386	36,005	8,916	6,463	12,228	12,897
Accrued Expenses	0	0	0	0	0	30,171	38,051	44,350	59,058
Due to Other Funds	18,308	3,555	9,686	6,538	13,252	4,345	5,413	18,010	20,271
Customer Deposits	0	0	0	550	1,060	0	60	60	60
Compensated Absences	0	0	0	0	0	0	0	0	11,150
Deferred Income	0	0	0	0	0	0	0	70,955	51,618
Fund Balance	240,930	403,665	517,417	633,168	460,047	297,187	172,236	193,537	331,591
Total Liabilities & Fund Balance	268,293	419,524	544,720	669,642	510,364	340,619	222,223	339,140	486,645
Revenues:									
Taxes	278,993	283,799	402,660	449,226	547,427	601,477	89,127	84,825	94,388
Licenses & Permits	105,491	138,442	195,984	258,068	154,413	174,490	154,389	137,718	199,738
Fines & Fees	30,331	85,919	60,194	95,526	65,171	59,670	36,863	78,853	77,305
Intergovernmental	734,824	758,765	787,101	861,242	892,115	952,480	1,869,160	1,844,140	2,048,580
Charges for Services	100,775	104,822	117,758	141,841	186,025	221,295	322,794	279,403	292,840
Other Revenue	34,700	52,325	54,364	107,309	80,387	83,375	62,178	152,460	198,941
Transfers In	152,545	233,059	164,853	186,290	170,419	373,475	364,072	509,936	492,941
	1,437,659	1,657,131	1,782,914	2,099,502	2,095,957	2,466,262	2,898,583	3,087,335	3,404,733
Expenditures:									
General Administration	334,075	428,113	297,126	414,343	434,154	478,580	509,928	508,688	533,146
Public Safety	409,378	410,606	523,608	628,597	791,137	938,068	1,127,535	1,187,531	1,344,203
Public Works	433,673	455,601	624,485	667,226	712,959	700,264	762,317	731,177	798,150
Culture & Recreation	202,448	200,076	223,943	273,585	307,548	355,600	442,388	467,916	419,532
Community Development	0	0	0	0	23,280	156,610	181,366	170,722	171,648
	1,379,574	1,494,396	1,669,162	1,983,751	2,269,078	2,629,122	3,023,534	3,066,034	3,266,679
Revenue over (under)									
Expenditures	58,085	162,735	113,752	115,751	-173,121	-162,860	-124,951	21,301	138,054
Beginning Fund Balance	182,845	240,930	403,665	517,417	633,168	460,047	297,187	172,236	193,537
Ending Fund Balance	240,930	403,665	517,417	633,168	460,047	297,187	172,236	193,537	331,591
Property Tax Rate	1.1970	1.1970	1.1970	1.1970	1.2672	1.2672	0.1050	0.1048	0.0946
General Fund FT Employees	76.0	76.0	76.0	78.0	84.5	85.0	86.0	86.5	82.0

EXHIBIT III

CITY OF BOULDER CITY AUTHORIZED PERSONNEL FY 1979-1980

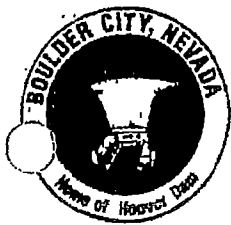
DEPARTMENT	1978-1979	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86	1986-87
City Manager	3	3	3	3	3	2 (1)HF	3	2, (1) HF	2 (1)
City Clerk	3 1/2	3 1/2	3 1/2	3	3	3	3	3	3
Finance	4	4	4	4	4	4	4	4	4
City Attorney	1 1/4	1 1/4	1 1/4	1 1/4	1 1/4	1 1/2	1 1/2	1 1/2	1 1/2
Municipal Court	1 1/4	1 1/4	1 1/4	1 1/4	1 1/4	1 1/2	1 1/2	1 1/2	1 1/2
Police	17	19	20	21	21	21	23	24	24
Fire	8 1/2	12	12	12	12	12	12	12	14
Animal Control	1	1	1	1	1	1	1	1	1
Pub. Works Admin.	3 1/2	2 1/2	2 1/2	2 1/2	2 1/2	2 (1/2)PR	2	2	2
Streets	8	8	8	8	8	8	8	8	8
Landscapeing	5	5	5	5	5	4 (1)HF	5	5	5
Building Maint.	3	3	3	3	3	3	3	4	4
Engineering	4	4	4	4	4	4	4	4	4
Golf Course	3	3	3	3	3	3	3	3	3
Recreation	5	5	5	5	5	5	5	5	5
Senior Citizens	1	1	1	1	1	1	0	0	0
Garage	2	2	2	2	2	2	2	2	2
Comm. Dev. Admin.	-	2	3	3	3	2 (1)HF	2	2	2
Planning & Zoning	-	-	1	1	1	1	1	1	1
Bldg. Insp. & Code	4	4	2	2	2	2	2	2	2
Enforcement	78	84 1/2	86	86 1/2	82	86	87	89	
Sub-Total General Fund	1	1	1	1	1	1	1	1	1
Utility Admin.	11 1/2	11 1/2	12 1/2	12 1/2	12 1/4	10 1/4 (2)PR	10 1/4	10 1/4	10 1/4
Electrical	5	6	7	6 1/2	6 1/4	7 3/4	7 3/4	7 3/4	7 3/4
Water Quality Control	4	4	5	5	5	5	5	5	5
Billing & Collection	99 1/2	107	111	111 1/2	105 (6 1/2)	110	111	113	
TOTAL									

In FY 1978-79 Fire Dept. personnel consisted of eight full and one permanent part time employee

Fractions result in personnel being charged to more than one department.

Positions in brackets indicate (HF) Hiring Freeze in effect or (PR) Permanent Reductions.

Part time seasonal and temporary positions are not included on this schedule. City Attorney and Municipal Judge included as employees.



City of Boulder City
401 CALIFORNIA AVENUE
BOULDER CITY, NEVADA 89005
Mailing Address
P.O. BOX 61350
BOULDER CITY, NEVADA 89006-1350

Mr. Dale Askew, County Manager
Clark County
500 South Grand Central Parkway
Las Vegas, Nevada 89155

December 31, 1997

Dear Mr. Askew:

The City of Boulder City has filed a request, pursuant to Section 36 of Senate Bill 254 adopted in the last session of Legislature, with the Executive Director of the Department of Taxation for an adjustment to the amount calculated as its share of the local government tax distribution fund for fiscal year 1998-99.

As further provided in the subject section, we must send a copy of the request along with any other information submitted in support thereof to each of the local governments and special districts that receive any portion of the local government distribution fund. Enclosed is your copy.

The City of Boulder City has made no attempt to prepare and impact statement on the other entities within Clark County. It is our understanding that the Department of Taxation will prepare this statement.

If you have any questions or would like further elucidation regarding our appeal please call me at (702) 293-9246.

Sincerely,

Robert E. Boyer
Finance Director

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 12 PART 2

Filed By:

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1 concerning any test applicable to the due care exception in NRS 41.032(1). However, it
2 stands to reason that it would also adopt the federal test since this provision is also found in
3 the exception to the waiver of sovereign immunity in the FTCA. 28 U.S.C. § 2680(a).

4 To determine whether the due care exception bars a claim under the FTCA federal
5 courts apply a two-part analysis. *Welch v. U.S.*, 409 F.3d 646, 652 (4th Cir. 2005). First, the
6 Court determines whether the statute in question specifically proscribes a course of action
7 for an officer to follow; second, if a specific action is mandated the Court inquires as to
8 whether the officer exercised due care in following the dictates of the statute. *Id.* If due care
9 was exercised, sovereign immunity has not been waived. *Id.*

10 Here, the statutes proscribe a course of action for the Department to follow. The
11 Department administers the C-Tax in accordance with NRS 360.680 and 360.690. These
12 statutes simply proscribe the manner in which the Department is to distribute revenues
13 collected from six taxes. Fernley admits that the Department "distributes C-Tax revenue
14 pursuant to a mechanically applied formula. . ." Fernley MSJ, p. 19, ll. 25-26.

15 Further, with respect to the second prong of the analysis, there are no allegations that
16 the Department acted improperly. Fernley requests a determination that the C-Tax system is
17 unconstitutional on its face and as applied. But even if the statutes are found
18 unconstitutional, this would show a defect in the statute, not a failure of Defendants to
19 exercise due care in carrying out the requirements of the statute. *Welch*, 409 F.3d at 653.
20 The purpose of the due care immunity exception is to immunize the conduct of State
21 agencies and officials regardless of whether the statutes under which they are proceeding is
22 ultimately upheld. *Id.* at 652-53.

23 Here, there are no facts tending to show that the Department failed to exercise due
24 care in carrying out the requirements of the C-Tax legislation. Whether or not the C-Tax
25 statutes are found to be constitutional is of no consequence. The Department is immune
26 from liability under the due care exception to the State's waiver of sovereign immunity
27 pursuant to NRS 41.032(1).

28 ///

Even assuming for the sake of argument there were some evidence tending to show that the Department failed to exercise due care in carrying out the statutory requirements of the C-Tax legislation, the Department would be entitled to discretionary immunity from liability pursuant to NRS 41.032(2). In *Martinez*, 123 Nev. at 446-47, 168 P.3d at 729, the Nevada Supreme Court adopted the two-part *Berkovitz-Gaubert* test for discretionary immunity. "[T]o fall within the scope of discretionary-act immunity, a decision must (1) involve an element of individual judgment or choice and (2) be based on considerations of social, economic, or political policy." *Id.* 168 P.3d at 728. The purpose of the exception is to prevent judicial second guessing of legislative and administrative decisions grounded in social, economic and political policy through the medium of an action in tort. *Id.* at 446, 168 P.3d at 729. The United States Supreme Court explained,

When established governmental policy, as expressed or implied by statute, regulation, or agency guidelines, allows a Government agent to exercise discretion, it must be presumed that the agent's acts are grounded in policy when exercising that discretion. For a complaint to survive a motion to dismiss, it must allege facts which would support a finding that the challenged actions are not the kind of conduct that can be said to be grounded in the policy of the regulatory regime. The focus of the inquiry is not on the agent's subjective intent in exercising the discretion conferred by statute or regulation, but on the nature of the actions taken and on whether they are susceptible to policy analysis.

United States v. Gaubert, 499 U.S. 315, 324-25 (1991).

The Nevada Supreme Court found the decision to create and operate a public hospital and the college of medicine are the type of decisions entitled to discretionary-function immunity under the *Berkovitz-Gaubert* test. *Martinez*, 123 Nev. at 447, 168 P.3d at 729. A county's actions in abating a nuisance are immune from civil liability under this test. *Ransdell v. Clark County*, 124 Nev. 847, 854-55, 192 P.3d 756, 761-62 (2008). A City's request that a contractor replace a subcontractor on a public works project was also entitled to discretionary-act immunity under this test. *City of Boulder City v. Boulder Excavating, Inc.*, 124 Nev. 749, 758-60, 191 P.3d 1175, 1180-82 (2008). In this case any decisions the Department made concerning the C-Tax would also be entitled to discretionary immunity.

///

1 In its Complaint, Fernley admits that the C-Tax system is not designed to allow the
2 Department to make any meaningful adjustments. *Id.* at p. 4, ll. 16-21. In its Motion for
3 Summary Judgment Fernley claims that pursuant to NRS 360.695, the Department's
4 Executive Director has discretion to decide whether to cut the revenue base of a recipient
5 whose population and assessed valuation have decreased. Fernley's MSJ, p. 10, ll. 19-28.
6 On its face the statute allows the Executive Director to make a finding that an adjustment is
7 necessary, but the Executive Director must submit the finding to the CLGF for review, and if
8 the CLGF finds adjustment necessary, the CLGF sends its recommendation to the Nevada
9 Tax Commission. The ability to make findings does not equate to a discretionary function.
10 Thus the decision on whether to make an adjustment is not within the discretion of the
11 Executive Director of the Department.

12 Never-the-less, if the Department could in fact make decisions concerning the
13 distribution of C-Tax revenue, such determinations would involve individual judgment and
14 choice as to which entity would receive more and which entity would receive less. Further,
15 any action taken by the Department in connection with administering the C-Tax system
16 would necessarily involve consideration of the State's economic policy. Discretionary
17 immunity applies precisely to such administrative functions. Thus there is no genuine issue
18 of material fact as to the Department's liability and Defendants are entitled to judgment as a
19 matter of law.

20 **C. Fernley's Claims Are Barred by the Statute of Limitations**

21 The City of Fernley's claims are barred by the applicable statute of limitations. This is
22 because it is uncontroverted that the statutes at issue were enacted in 1997. Fernley did not
23 incorporate as a city until 2001 and did not bring this lawsuit until 2012. It is clear from the
24 face of the statutes that unless Fernley took over the provision of services from another
25 governmental entity such as Lyon County, Fernley would not receive a significant increase in
26 C-Tax distributions. This fact was apparent when Fernley incorporated in 2001 but Fernley
27 did not initiate this action until 2012.

28 ///

1 In Nevada, the statute of limitations applies to all causes of action, legal and equitable.
2 *State v. Yellow Jacket Mining*, 14 Nev. 220, 230 (1879). The Nevada Supreme Court has
3 not determined which limitations period applies to state constitutional claims. If the Nevada
4 Supreme Court were to follow the lead of the United States Supreme Court, the two-year
5 statute of limitations in NRS 11.190(4)(e) would apply. But if that is not the applicable statute
6 of limitations, then the general four-year statute of limitations in NRS 11.220 would govern.
7 NRS 11.220. Under either limitations period, Fernley's claims are time-barred as a matter of
8 law.

9 In opposition to Defendants' Motion to Dismiss, Fernley argued that this Court should
10 apply the continuing violations doctrine. However, a cause of action accrues when a suit
11 may be maintained thereon. *Clark v. Robinson*, 113 Nev. 949, 951, 944 P.2d 788, 789
12 (1997) (quoting Black's Law Dictionary). Here, the unincorporated town of Fernley could
13 have requested an adjustment to its base distribution when the C-Tax legislation was
14 enacted. It did not. Fernley also could have brought an action seeking a larger distribution
15 of C-Tax revenue when it incorporated in 2001. It did not. Fernley did not bring this action
16 until 2012, well past any applicable statute of limitations. Accordingly, this action is time-
17 barred.

18 **D. Fernley's Claims Are Barred by Laches**

19 Constitutional claims may be time-barred by the equitable doctrine of laches when
20 there has been an unreasonable or inexcusable delay in bringing the claims, and such delay
21 has worked to the disadvantage or prejudice of others or has resulted in a change of
22 circumstances which would make the granting of relief inequitable. *Miller v. Burk*, 124 Nev.
23 579, 598-99, 188 P.3d 1112, 1125 (2008). "To determine whether a challenge is barred by
24 the doctrine of laches, this court considers (1) whether the party inexcusably delayed
25 bringing the challenge, (2) whether the party's inexcusable delay constitutes acquiescence to
26 the condition the party is challenging, and (3) whether the inexcusable delay was prejudicial
27 to others." *Id.* at 598.

28 ///

Here, Fernley inexcusably delayed bringing this action for eleven years. Although Fernley did seek other remedies, nothing prevented Fernley from timely pursuing legal remedies. This delay constitutes Fernley's acquiescence to the C-Tax system. Furthermore, Fernley's delay has prejudiced both the other participants in the C-Tax system and the State. For the past eleven years, the other participants in the C-Tax system have reasonably relied on the validity of the C-Tax system for purposes of budgeting and fiscal planning. In addition, the State has reasonably relied on the validity of the C-Tax system for purposes of providing funding for the operations of local government. If the C-Tax system is declared invalid now after such a long period of operation, such a declaration would bring chaos to Nevada's tax distribution system and would clearly upset the settled expectations of the other participants in the C-Tax system and the State. Therefore, because consideration of Fernley's claims after an unreasonable and inexcusable eleven-year delay would upset settled expectations, would work to the disadvantage and prejudice of others, and would make the granting of relief inequitable, Fernley's claims are also time-barred by laches as a matter of law.

E. Fernley Has No Standing to Bring a Separation of Powers Claim

The City of Fernley is a political subdivision of the State of Nevada. NRS 41.0305. As such the City of Fernley has only those powers delegated to it by the State. *City of Trenton v. State of N.J.*, 262 U.S. 182, 187 (1923). It is well established that political subdivisions lack legal capacity and standing to bring claims against the state alleging violations of state constitutional provisions, unless the provisions exist for the protection of political subdivisions of the state. *City of New York v. State*, 655 N.E.2d 649, 651-52 (N.Y. 1995). For example, Nevada's political subdivisions lack standing to bring claims against the State for violations of the due process clause of Article 1, §8 of the Nevada Constitution because that provision does not exist for the protection of political subdivisions of the State. *Reno v. County of Washoe*, 94 Nev. 327, 330, 580 P.2d 460, 462 (1978). However, Nevada's political subdivisions have standing to bring claims against the State for violations of Article 4, §§20-21 of the Nevada Constitution because those provisions "expressly" protect the

1 protection of political subdivisions of the State. Their effect is to limit the Legislature, in
2 certain instances, to the enactment of general, rather than special or local, laws.” *Id.* at 332,
3 580 P.2d at 463.

4 The Separation of Powers Clause of the Nevada Constitution does not exist for the
5 protection of political subdivisions of the State. It exists for the protection of *state*
6 government by prohibiting one branch of state government from impinging on the functions
7 of another branch of state government. Nev. Const. Art. 3, §1(1); *Comm’n on Ethics v.*
8 *Hardy*, 125 Nev. 285, 291-94, 212 P.3d 1098, 1103-1104 (2009); *Heller v. Legislature*, 120
9 Nev. 456, 466-72, 93 P.3d 746 (2004); *Sawyer v. Dooley*, 21 Nev. 390, 396, 33 P.3d 807
10 (1893) (“As will be noticed, it is the *state* government as created by the constitution which is
11 divided into departments”). In interpreting the Separation of Powers Clause of the California
12 Constitution of 1849, which was the model for Nevada’s Separation of Powers Clause, the
13 California Supreme Court stated that “the Third Article of the Constitution means that the
14 powers of the *State* Government, not the local governments thereafter to be created by the
15 Legislature, shall be divided into three departments.” *People v. Provines*, 34 Cal. 520, 534
16 (1868). Thus, “it is settled that the separation of powers provision of the constitution, art. 3,
17 § 1, does not apply to local governments as distinguished from departments of the state
18 government.” *Mariposa County v. Merced Irrig. Dist.*, 196 P.2d 920, 926 (Cal. 1948).

19 Because the Separation of Powers Clause of the Nevada Constitution does not exist
20 for the protection of political subdivisions of the state, Fernley lacks standing to bring claims
21 against the state alleging violations of that constitutional provision. Therefore, Defendants
22 are entitled to judgment as a matter of law with respect to Fernley’s separation of powers
23 claims.

24 **F. There Are No Facts Supporting a Claim for Violation of the Separation of**
25 **Powers Clause of the Nevada Constitution**

26 Assuming for the sake of argument that Fernley has standing to bring such a claim,
27 there are simply no facts tending to show a violation of the Separation of Powers Clause of

28 ///

1 the Nevada Constitution. The Separation of Powers Clause is found in Art. 3. § 1 of the
2 Nevada Constitution. It prohibits one department from exercising the functions of another.

3 In its Motion for Summary Judgment Fernley alleges that, "[T]he C-Tax system
4 fundamentally violates the separation of powers doctrine because it has resulted in the
5 Legislature abdicating its authority over the collection and appropriation of C-Tax revenues
6 to the Executive Branch." Fernley's MSJ, p. 22 ll. 2-5. Yet Fernley admits that the
7 Department appropriates "C-Tax revenues based solely on the application of its mechanical
8 application of a designated formula. . ." *Id.* at ll. 27-28. "Further the Department has
9 acknowledged that its only concern is to ensure that C-Tax revenue has been collected and
10 appropriated accordingly." *Id.* at p. 23, ll. 2-4. Fernley has presented no facts tending to
11 show that the Legislature has given the Department the power to make appropriations;
12 rather, the Legislature has enacted a mathematical distribution formula which the
13 Department administers.

14 The Nevada Constitution gives the Legislature the power to enact laws concerning
15 appropriations from the treasury. Nev. Const. Art. 4 § 17. However, it is the function of the
16 executive department to execute those laws. Nev. Const. Art. 5 § 7. *See also Galloway v.*
17 *Truesdell*, 83 Nev. 13, 20, 422 P.2d 237, 242 (1967). In fact the executive branch has a
18 constitutional duty to see that the laws enacted by the Legislature are faithfully executed.
19 *State of Nev. Emps. Ass'n. v. Daines*, 108 Nev. 15, 21, 824 P.2d 276, 279 (1992). In
20 executing laws the executive branch has the power to administer appropriated funds such as
21 collected taxes. *North Lake Tahoe Fire Protection Dist. v. Washoe County Board of County*
22 *Commissioners*, 129 Nev. Adv. Op. 72, 310 P.3d 583, 589 (2013). Here, the Legislature
23 enacted a law concerning the administration of appropriated funds and the Department is
24 simply executing it.

25 No separation of powers violation has been found in similar factual situations where
26 the statutes at issue provide specific formula for the calculation of taxes to be distributed to
27 local governments. In *State of Nevada ex rel. Brennan v. Bowman*, 89 Nev. 330, 512 P.2d
28 1321 (1973), the Nevada Supreme Court considered a challenge to a revenue law

1 enacted by Clark County. The Nevada Supreme Court found that the law did not unlawfully
2 delegate legislative authority in contravention of Nev. Const. Art. 3 § 1 because adequate
3 standards were specified in the law, the purpose was stated with particularity, and the
4 legislative guides were clear for the counties to follow. *Id.* at 334, 512 P.2d at 1323.
5 Similarly, in *City of Las Vegas v. Mack*, 87 Nev. 105, 481 P.2d 396 (1971), a shop-owner
6 argued that the County-City Relief Tax law unconstitutionally delegated the legislative power
7 to impose a tax to boards of county commissioners. The Nevada Supreme Court again
8 found no constitutional violation because the statute left nothing to the discretion of the
9 county commissioners. *Id.* at 109, 481 P.2d at 398.

10 In this case the C-Tax allocations, codified at NRS 360.680 and 360.690, provide
11 clear direction to the Department of Taxation in the calculation of taxes to be distributed to
12 local governments. The City of Fernley has not identified any facts tending to show that the
13 Department has done anything other than execute the laws enacted by the Legislature. In
14 its Complaint, Fernley admits that the C-Tax system is not designed to allow the Department
15 to make any meaningful adjustments. Complaint, p. 4, ll. 16-21. Further, in its Motion for
16 Summary Judgment, Fernley alleges that the Department applies a mathematical formula
17 and that its concern is to ensure that the necessary mathematical calculations are performed
18 correctly. Fernley's MSJ, p. 22 l. 26 to p. 23, l. 4. Thus, according to the facts alleged by
19 Plaintiff, the City of Fernley, the statute is clear and leaves nothing to the discretion of the
20 Department.

21 There are simply no facts which, if proved, would state a claim for violation of the
22 Separation of Powers Clause of the Nevada Constitution. Accordingly, judgment in favor of
23 Defendants on Plaintiff's second claim for relief is warranted.

24 **G. There Are No Facts to Support a Claim for Violation of Article 4 Section**
25 **20 of the Nevada Constitution**

26 Art. 4. § 20 of the Nevada Constitution states in relevant part, "[t]he legislature shall
27 not pass local or special laws in any of the following enumerated cases-that is to say . . . For
28 the assessment and collection of taxes for state, county, and township purposes.

1 statutes at issue in this case do not violate Art. 4 § 20 for two reasons. First, the
2 constitutional provision at issue applies to *assessment and collection* of taxes; it does not
3 apply to the *disbursement or appropriation* of taxes. Second, the C-Tax system is not a
4 special law either on its face or as applied to Fernley.

5 Nevada cases discussing the assessment and collection of taxes for purposes of Art.
6 4, § 20 primarily concern legislation directing counties to levy taxes for particular local
7 purposes. *Gibson v. Mason*, 5 Nev. 283 (1869) concerned legislation directing Ormsby
8 County to issue bonds to the Virginia and Truckee Railroad Co., and to levy a tax for the
9 interest on and redemption of those bonds. The Nevada Supreme Court explained,

10 We are clearly of opinion that the constitutional provision simply
11 prohibits special legislation regulating those acts which the
12 assessors and collectors of taxes generally perform, and which
13 are denominated "assessment" and "collection of taxes;" and that
14 it does not inhibit the Legislature from authorizing or directing the
15 County Commissioners from levying a special tax by the passage
16 of a local law.

17 *Id.* at *14.

18 This principle was relied on in *Washoe County Water Conservation Dist. v. Beemer*,
19 56 Nev. 104, 107, 45 P.2d 779, 782 (1935) (finding legislation requiring Washoe County to
20 issue bonds and levy a tax for payment thereof to pay for improvements along the Truckee
21 River, "was not a law for the assessment and collection of taxes, as those words are used in
22 said section 20."); *Cauble v. Beemer*, 64 Nev. 77, 89, 177 P.2d 677, 682 (1947) (finding
23 legislation requiring Washoe County to issue bonds and levy a tax to pay such bonds for
24 improvements to Washoe General Hospital clearly, "is not a law for the assessment and
25 collection of taxes, as those words are used in Sec. 20, Art. IV of the Constitution of the
26 State of Nevada."); and, *City of Reno v. County of Washoe*, 94 Nev. 327, 335, 580 P.2d 460,
27 465 (1978) (upholding Washoe County Airport Authority power to levy and collect taxes, and
28 to fix a rate of levy, subject to the approval of Washoe County).

29 In its Motion for Summary Judgment, Fernley addresses this argument in a footnote
30 claiming that the collection and distribution of C-Tax are inextricably intertwined. Fernley's
31 MSJ, p. 25, nt. 2. But Fernley's Complaint does not concern functions performed by

1 assessors and collectors of tax. Rather, Fernley's Complaint concerns the distribution of tax.
2 Specifically, Fernley seeks a larger distribution of C-Tax revenues. Fernley claims it, "has
3 been rebuffed in its efforts to obtain a larger share of the distribution to Lyon County." *Id.* at
4 p. 4, ll. 22-23; *see also* Fernley's MSJ, p. 25, ll. 8-14. Fernley further alleges its, "inability to
5 obtain any adjustment to its C-Tax distribution severely limits Fernley's ability to operate and
6 plan for its future." *Id.* at p. 5, ll. 1-2. Since Fernley's challenge concerns the *distribution* of
7 taxes rather than the *assessment and collection* of taxes, Nev. Const. Art. IV, § 20 is not
8 implicated.

9 Even if Fernley's claims concerned the assessment and collection of taxes, the
10 legislation at issue is not a special or local law because it is applied to Fernley in the same
11 manner as any other local government in the state of Nevada. The taxes distributed
12 pursuant to NRS 360.680 and 360.690 are distributed to local government throughout the
13 entire state of Nevada. The C-Tax legislation does not single out one entity or local
14 government.

15 The cases cited by Fernley are inapposite. *Clean Water Coalition v. The M Resort,*
16 *LLC*, 127 Nev. Adv. Op 24, 255 P.3d 247 (2011) concerned fees collected by the Clean
17 Water Coalition, which was created pursuant to an interlocal agreement between four
18 political subdivisions in Southern Nevada. It did not concern fees collected statewide. *Town*
19 *of Pahrump v. County of Nye*, 105 Nev. 227 (1989) concerned the transfer of certain powers
20 and functions from Nye County to the unincorporated town of Pahrump. The legislation
21 applied only to those two entities; again it did not apply statewide. Lastly, *Attorney General*
22 *v. Gypsum Resources*, 129 Nev. Adv. Op. 4, 294 P.3d 404 (2013) concerned the zoning of
23 land adjacent to Red Rock Canyon Conservation Area. It was not a law that applied to the
24 entire state of Nevada.

25 Here, the C-Tax system is not a statute that relates only to the City of Fernley. The C-
26 Tax system is applied to counties, local governments, and special districts throughout the
27 state of Nevada. The City of Fernley alleges that it is the only municipality to incorporate in
28 Nevada since the C-Tax system was implemented in 1997. But there is no allegation and no

1 facts tending to show that the law would apply differently to any other municipality that
2 incorporated after 1997.

3 In *Damus v. County of Clark*, 93 Nev. 512, 569 P.2d 933 (1977), the Plaintiff argued
4 that a law allowing any county with a population in excess of 200,000 to issue special
5 obligation bonds violated Nev. Const. Art. IV, § 20 because it only applied to Clark County.
6 The Court first noted that, "every act passed by the legislature is presumed to be
7 constitutional." *Id.* at 516, 569 P.2d at 935. The Court then found, "[T]he fact the law might
8 apply only to Clark County is of no consequence, for if there were others, the statute would
9 then also apply. It therefore conforms to the constitutional mandates that there shall be no
10 local or special laws, and that general laws shall have uniform operation." *Id.* at 518, 569
11 P.2d at 936 (citations omitted). Thus, the fact that Fernley is the only city to incorporate is of
12 no consequence since the law would apply to any other newly incorporated city, if there were
13 any.

14 Fernley argues that it should receive similar distributions to cities of comparable size.
15 The fact that the law is not based on population does not make it unconstitutional. But it is
16 worth noting that Fernley receives less than other cities because it does not provide the
17 same level of services. Fernley's MSJ, Exhibit "30," pp. 27-28; see also Exhibit "1" to
18 Defendants' Motion to Dismiss filed August 3, 2012.

19 The City of Fernley has the burden to demonstrate that the law is unconstitutional.
20 Nev. Const. Art. IV, § 20 is not implicated since the City of Fernley's challenge concerns the
21 *distribution* of taxes and not the *assessment and collection* of taxes. Even if Nev. Const. Art.
22 IV, § 20 is applicable, there are simply no facts that would tend to show that the C-Tax is a
23 special law with respect to the City of Fernley because the legislation applies statewide.
24 Accordingly, judgment in favor of Defendants on Plaintiff's third claim for relief is also
25 warranted.

26 ///

27 ///

28 ///

H. There Are No Facts to Support a Claim for Violation of Article 4 Section 21 of the Nevada Constitution

In its fourth claim for relief, the City of Fernley claims the C-Tax system violates Nev. Const. Art. IV, § 21, which states, "[I]n all cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State." As a general rule, if a statute is either a special or local law, or both, and comes within one or more of the cases enumerated in Nev. Const. Art. IV, § 20, such statute is unconstitutional; if the statute is special or local or both, but does not come within any of the cases enumerated in Nev. Const. Art. IV, § 20, then its constitutionality depends upon whether a general law can be made applicable. *Damus v. Clark County*, 93 Nev. 512, 517, 569 P.2d 933, 936 (1977).

As set forth more fully above, the C-Tax is not a special law with respect to the City of Fernley because the legislation is applied the same way to all local governments. The City of Fernley receives smaller C-Tax distributions than other cities with similar sized populations because the City of Fernley does not provide similar services and functions.

Even if this Court determines that the C-Tax laws at issue are local or special, the laws are still permissible if a general law cannot be made applicable. In making this determination, the Court looks to whether the challenged law best serves the interests of the people of the state, or such class or portion as the legislation is intended to affect, and such legislation will be upheld where general legislation is insufficient to meet the particular needs of a particular situation. *Clean Water Coalition v. The M Resort, LLC*, 127 Nev. Adv. Op 24, 255 P.3d 247, 259 (2011).

Here, the clear purpose of the C-Tax is to distribute State revenue to government entities that provide needed services such as law enforcement and fire protection. Clearly, such legislation serves the best interests of the people of the State of Nevada. Accordingly, even if the C-Tax legislation is found to be special or local legislation, it must be upheld since a general law cannot be made applicable for purposes of Nev. Const. Art. IV, § 21. For

///

1 these reasons, the Department is entitled to judgment as a matter of law with respect to
2 Fernley's fourth claim for relief.

3 **IV. CONCLUSION**

4 In light of the foregoing, Defendant, State of Nevada, ex rel. its Department of
5 Taxation, respectfully requests that this Court enter its order granting summary judgment in
6 the Department's favor and dismissing Plaintiff's claims against it.

7 DATED this 17th day of July, 2014.

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CERTIFICATE OF SERVICE

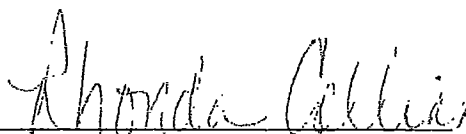
I hereby certify that I am an employee of the Office of the Attorney General of the State of Nevada and that on the 14th day of July, 2014, pursuant to NRCP 5(b) and the parties' stipulation and consent to service by electronic means, I served a true copy of the foregoing **NEVADA DEPARTMENT OF TAXATION'S OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**, by electronic mail directed to the following:

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EXHIBIT INDEX

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EXHIBIT 1

EXHIBIT 1

Case No. 66851
JA 2075

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 subsection 1

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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:

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

(I) 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

(II) 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.

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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

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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 the local government or special district that is a party to the agreement agrees to the termination.

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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

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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.

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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]

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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;

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(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

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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 356,858

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:

377.0801. 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.

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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

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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. 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

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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:

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(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.

6.] 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 354.59811, 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.

[7. 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.] ~ 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 2090

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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 Esmeralda 2.52 percent
 Churchill 5.21 percent Eureka 3.10 percent
 Clark 22.54 percent Humboldt 8.25 percent
 Douglas 2.52 percent Lander 3.88 percent
 Elko 13.31 percent Lincoln 3.12 percent
 Lyon 2.90 percent Storey .19 percent
 Mineral 2.40 percent Washoe 12.24 percent
 Nye 4.09 percent White Pine 5.66 percent
 Pershing 7.00 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, 2002*

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.

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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

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(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.

EXHIBIT 2

EXHIBIT 2

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JA 2096

COMMITTEE ON LOCAL GOVERNMENT FINANCE

FEBRUARY 10, 11, 12, 1998

AGENDA

SB 254, SECTION 35 AND 36

BASE ADJUSTMENT REQUESTS (SAME ORDER AS AGENDA)

RECOMMENDATION OF DEPARTMENT OF TAXATION

SUMMARY IMPACT STATEMENTS

COMMITTEE ON LOCAL GOVERNMENT FINANCE MEETING
NEVADA LEGISLATIVE BUILDING- ROOM 2144
401 SOUTH CARSON STREET
CARSON CITY, NEVADA

FEBRUARY 10, 11, 12, 1998

ACTION MAY BE TAKEN ON THE FOLLOWING:

POSTED 1-30-98

TUESDAY, FEBRUARY 10, 1998

9:30 A.M. OPENING COMMENTS REVIEW OF SECTION 36 OF SB 254
REVIEW OF PROCEDURES
FY 1998-99 CONSOLIDATED TAX REVENUE PROJECTION

10:30 A.M. BASE ADJUSTMENT REQUESTS:

MULTI-COUNTY	CARSON WATER SUBCONSERVANCY DISTRICT
DOUGLAS COUNTY	CAVE ROCK GENERAL IMPROVEMENT DISTRICT ELK POINT SANITATION DISTRICT LAKE RIDGE GENERAL IMPROVEMENT DISTRICT OLIVER PARK GENERAL IMPROVEMENT DISTRICT ZEPHYR KNOLLS GENERAL IMPROVEMENT DISTRICT

WEDNESDAY, FEBRUARY 11, 1998

9:00 A.M. BASE ADJUSTMENT REQUESTS:

WASHOE COUNTY	WASHOE COUNTY CITY OF RENO TRUCKEE MEADOWS FIRE PROTECTION DISTRICT
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NYE COUNTY	AMARGOSA VALLEY LIBRARY DISTRICT
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1:00 P.M.

CLARK COUNTY	BOULDER CITY CITY OF HENDERSON CITY OF NORTH LAS VEGAS
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THURSDAY, FEBRUARY 12, 1998

9:00 A.M. BASE ADJUSTMENT REQUESTS:

CLARK COUNTY (continued)	ENTERPRISE TOWN PARADISE TOWN SPRING VALLEY TOWN SUMMERLIN TOWN SUNRISE MANOR TOWN WINCHESTER TOWN
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PUBLIC COMMENT

ADJOURN

MEMBERS OF THE PUBLIC WITH DISABILITIES WHO REQUIRE ACCOMMODATIONS OF ASSISTANCE AT THE MEETING ARE REQUESTED TO NOTIFY THE DEPARTMENT OF TAXATION IN WRITING OR CALL (702) 687-4840 PRIOR TO THE MEETING.

THE AGENDA HAS BEEN POSTED AT THE FOLLOWING PLACES:

NEVADA DEPARTMENT OF TAXATION
1550 E. COLLEGE PARKWAY, CARSON CITY, NEVADA 89706
4800 KIETZKE LANE, BUILDING O, SUITE 263, RENO, NEVADA 89502
550 E. WASHINGTON AVENUE, LAS VEGAS, NEVADA 89101
850 ELM STREET, ELKO, NEVADA 89801

CLARK COUNTY GOVERNMENT CENTER
500 SOUTH GRAND CENTRAL PARKWAY, LAS VEGAS, NEVADA

WASHOE COUNTY ADMINISTRATIVE COMPLEX
1001 E. 9TH STREET, RENO, NEVADA

LEGISLATIVE COUNSEL BUREAU
SEDWAY BUILDING, 333 E. 5TH STREET, CARSON CITY, NEVADA

NEVADA STATE DEPARTMENT OF EDUCATION
700 EAST FIFTH STREET, CARSON CITY, NEVADA

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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.

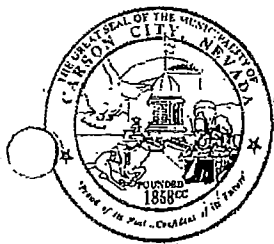
6. If, after the public hearing, the Nevada tax commission determines that the recommended adjustment is appropriate, it shall order the executive director of the department of taxation to adjust the amount calculated pursuant to the provisions of sections 10 and 11 of this act.

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.



CARSON CITY, NEVADA

CONSOLIDATED MUNICIPALITY AND STATE CAPITAL

December 22, 1997

Ms. Theresa Glazner
Management Analyst
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, Nevada 89706

Dear Theresa:

Please find enclosed a Resolution approved by the Carson City Board of Supervisors which establishes the distribution of motor vehicle privilege tax between the Carson Water Subconservancy District and Carson City. This is not so much an adjustment of the base year for purposes of SCR 40 pooled distribution as it is a correction of an error which has occurred for many years. We would be requesting this change whether SCR 40 occurred or not.

The original intent of the Water Subconservancy District was the District was to be funded strictly through a 3 cent levy of ad valorem taxes for Lyon, Carson and Douglas Counties (see attached letter from Senator Adler). In fact, NRS Chapter 541 specifically excludes the Subconservancy District from receiving SCCRT. However, I do not believe the drafters of the legislation revamping the district in 1989 understood that once you implement ad valorem taxes, the MVPT formula would automatically be triggered.

In a recent review of the finances of the Subconservancy District, I discovered this error and brought it to the attention of the District and the Carson City Board of Supervisors and Lyon and Douglas County officials. It is not a great deal of money, but I feel it is an error which should be corrected.

SCR 40 does exacerbate the problem by pooling the revenues together with SCCRT, the MVPT will no longer be separate from the SCCRT, therefore, NRS Chapter 541 will be in conflict with the new distribution mechanism.

Therefore, please find attached the resolution which deletes the distribution of MVPT to the District beginning July 1, 1998. Therefore, the District would not receive any pooled revenue but would be funded by the 3 cent ad valorem taxes levied which was the original intent in the formation of the District.

If you could please process this request, Carson City would appreciate it. The Subconservancy District did approve supporting this resolution at a meeting in December. Lyon and Douglas Counties should be providing you their resolutions separately, if they choose to do so.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Mary C. Walker
Director of Finance
And Redevelopment

ERNEST E. ADLER
SENATOR
Capital Senatorial District

ASSISTANT MINORITY LEADER

COMMITTEES:

Member
Judiciary
Natural Resources
Taxation



State of Nevada
Senate

Sixty-Eighth Session

November 13, 1997

DISTRICT OFFICE:
412 N. Division Street
Carson City, Nevada 89703
Office: (702) 883-5149
Fax No.: (702) 882-6114

LEGISLATIVE BUILDING:
401 S. Carson Street
Carson City, Nevada 89710
Office: (702) 687-3632 or 687-5742
Fax No.: (702) 687-5962

Mary Walker
Finance Director
201 N. Carson
Carson City, NV 89703

Re: Carson Sub-Conservancy District

Dear Mrs. Walker:

You have asked me what the intent of the legislature was when it passed the legislation which formed the Carson Sub-Conservancy District in providing a funding source for the District. As you are aware, we intended that three cents of property tax go directly to the District and that the counties have the option of an additional seven cent property tax for water projects. It was the legislature's intent that this tax be imposed on real property. The reason the legislature believed the tax should be placed upon real property was that real property owners were to be the direct beneficiaries of the activities of the District. (For this same reason the legislature reserved positions for ranchers and farmers on the District Board since the agricultural interests are large real property owners.) It was never our intent to fund the District through taxes on personal property such as a motor vehicle privilege tax because automobile drivers obtain little direct benefit from the District's activities.

I hope this letter clarifies the intent of this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Ernie Adler".

Ernie Adler
State Senator

EEA/lkf

RESOLUTION NO. 1997 - 3

**A RESOLUTION REGARDING DISTRIBUTION OF MOTOR
VEHICLE PRIVILEGE TAX BETWEEN THE CARSON WATER
SUBCONSERVANCY DISTRICT AND THREE ENTITIES:
CARSON CITY, DOUGLAS COUNTY AND LYON COUNTY**

WHEREAS, the Carson Water Subconservancy District was established pursuant to chapter 541 and was restructured in 1989 to include the entire urban portion of Carson City; and

WHEREAS, a district for which a tax is levied pursuant to chapter 541 of the Nevada Revised Statutes is not entitled to receive any distribution of supplemental city-county relief tax (SCCRT); and

WHEREAS, the Carson Water Subconservancy District receives motor vehicle privilege taxes from Carson City, Douglas County and Lyon County; and

WHEREAS, due to SB 254 passed by the 1997 Legislature, local government revenues including the supplemental city-county relief tax and motor vehicle privilege tax will be pooled for distribution from the counties to the cities and districts beginning July 1, 1998 which does not appear to conform to the laws establishing the Subconservancy District which prohibit the Subconservancy District from receiving the supplemental city-county relief tax; and

WHEREAS, the primary funding source envisioned by the Subconservancy District was the ad valorem property tax from Lyon County, Douglas County and Carson City; and

NOW, THEREFORE, be it resolved that the Carson Water Subconservancy District agrees to abide by the decisions of the Carson City Board of Supervisors, the Douglas County Board of County Commissioners or the Lyon County Board of County Commissioners as to the proper distribution under state law and the Department of Taxation policies of the Motor Vehicle Privilege Tax collected on or after July 1, 1998 from the taxpayers of Carson City, Douglas County and Lyon County, respectively.

ADOPTED this 3rd day of November, 1997.

December

Greg Smith
GREG SMITH, Chairman

Post-It® Fax Note	7671	Date	1/8/98	# of pages	1
To	Teresa	From	Pat H		
Co./Dept.	Dept of	Co.			
Phone #	Taxation	Phone #	702-827-7900		
Fax #	687-5981	Fax #			

RESOLUTION NO. 1997-R-45

A RESOLUTION ESTABLISHING DISTRIBUTION OF MOTOR
VEHICLE PRIVILEGE TAX BETWEEN THE CARSON WATER
SUBCONSERVANCY DISTRICT AND CARSON CITY.

WHEREAS, the Carson Water Subconservancy District was established pursuant to chapter 541 and was restructured in 1989 to include the entire urban portion of Carson City; and

WHEREAS, a district for which a tax is levied pursuant to chapter 541 of the Nevada Revised Statutes is not entitled to receive any distribution of supplemental city-county relief tax (SCCRT); and

WHEREAS, the Carson Water Subconservancy District receives Motor Vehicle Privilege Taxes from Carson City; and

WHEREAS, due to SB 254 passed by the 1997 Legislature, local government revenues including the supplemental city-county relief tax and motor vehicle privilege tax will be pooled for distribution from the counties to the cities and districts beginning July 1, 1998 which does not conform to the laws establishing the Subconservancy District which prohibits the Subconservancy District from receiving the supplemental city-county relief tax; and

WHEREAS, the primary funding source envisioned by the Carson Water Subconservancy District was the ad valorem property tax from Lyon County, Douglas County and Carson City; and

WHEREAS, the Water Subconservancy District and Carson City agree the Subconservancy District should not receive pooled revenues from the consolidated tax distribution fund including SCCRT and motor vehicle privilege tax after July 1, 1998.

NOW, THEREFORE, be it resolved, by the Carson City Board of Supervisors as follows:

For Motor Vehicle Privilege Taxes collected on or after July 1, 1998, the proceeds formerly distributed to the Carson Water Subconservancy District from Carson City taxpayers shall be deposited with Carson City.

ADOPTED this 18th day of December, 1997.

AYES: Supervisors

Gregg Smith

John Plank

Tom Tatro

Kay Bennett


Ray Masayko, Mayor

NAYES: Supervisors

None

ABSENT: Supervisors

None


RAY MASAYKO, Mayor

ATTEST:


Alan Glover, Clerk-Recorder

RESOLUTION NO. 97R-082

**A RESOLUTION ESTABLISHING DISTRIBUTION OF MOTOR
VEHICLE PRIVILEGE TAX BETWEEN THE CARSON WATER
SUBCONSERVANCY DISTRICT AND DOUGLAS COUNTY**

WHEREAS, the Carson Water Subconservancy District was established pursuant to chapter 541; and

WHEREAS, a district for which a tax is levied pursuant to chapter 541 of the Nevada Revised Statutes is not entitled to receive any distribution of supplemental city-county relief tax (SCCRT); and

WHEREAS, the Carson Water Subconservancy District receives Motor Vehicle Privilege Taxes from Douglas County; and

WHEREAS, due to SB 254 passed by the 1997 Legislature, local government revenues including the supplemental city-county relief tax and motor vehicle privilege tax will be pooled for distribution from the counties to the cities and districts beginning July 1, 1998 which does not conform to the laws establishing the Subconservancy District which prohibits the Subconservancy District from receiving the supplemental city-county relief tax; and

WHEREAS, the primary funding source envisioned by the Carson Water Subconservancy District was the ad valorem property tax from Lyon County, Douglas County and Carson City; and

WHEREAS, the Water Subconservancy District and Douglas County Subconservancy District should not receive pooled revenues from the consolidated tax distribution fund including SCCRT and motor vehicle privilege tax after July 1, 1998.

NOW THEREFORE BE IT RESOLVED, be it resolved, by the Carson Water Subconservancy District and the Douglas County Board of Commissioners;

For Motor Vehicle Privilege Taxes collected on or after July 1, 1998, the proceeds formerly distributed to the Carson Water Subconservancy District from Douglas County shall be deposited with Douglas County.

ADOPTED this 4th day of December, 1997 by the following vote:

AYES:

Commissioners

DONALD MINER

BERNARD CURTIS
JACQUES ETCHEGOYHEN

KELLY KITE
STEVE WEISSINGER

NAYS:

ABSENT:

Jacques Etchegoyhen
JACQUES ETCHEGOYHEN,
Chairman
Board of Commissioners

ATTN:

Barbara J. Reed
BARBARA J. REED, CLERK

BY: [Signature] DEPUTY

1-12-1998 3:14PM

702 463 6500
FROM LYON COUNTY 702 463 6500

P.1

Post-It™ brand fax transmittal memo 7671

of pages 2

To: Theresa	From: Rita E. Eubank
Dept. of Taxation	Co. Lyon County
Dept.	Phone # 463-6509
Fax # 687-5981	Fax # 463-6500

Rita 97-29

RESOLUTION

A RESOLUTION ESTABLISHING DISTRIBUTION OF MOTOR
VEHICLE PRIVILEGE TAX BETWEEN THE CARSON WATER
SUBCONSERVANCY DISTRICT AND CARSON CITY

WHEREAS, the Carson Water Subconservancy District was established pursuant to Chapter 541; and,

WHEREAS, a district for which a tax is levied pursuant to Chapter 541 of the Nevada Revised Statutes is not entitled to receive any distribution of supplemental city-county relief tax (SCCRT); and,

WHEREAS, due to SB 254 passed by the 1997 Legislature, local government revenues including the supplemental city-county relief tax and motor vehicle privilege tax will be pooled for distribution from the counties to the cities and districts beginning July 1, 1998, which does not conform to the laws establishing the Subconservancy District which prohibits the Subconservancy District from receiving the supplemental city-county relief tax; and,

WHEREAS, the primary funding source envisioned by the Carson Water Subconservancy District was the ad valorem property tax from Lyon County, Douglas County and Carson City; and,

WHEREAS, the Water Subconservancy District and Lyon County agree the Subconservancy District should not receive pooled revenues from the consolidated tax distribution fund including SCCRT and motor vehicle privilege tax after July 1, 1998.

NOW, THEREFORE, be it resolved, by the Carson Water Subconservancy District and the Lyon County Board of Commissioners as follows:

For motor vehicle privilege taxes collected on or after July 1, 1998, the proceeds formerly distributed to the Carson Water Subconservancy District from Lyon County taxpayers shall be deposited with Lyon County.

ADOPTED THIS 4TH DAY OF DECEMBER, 1997.

Case No. 66851

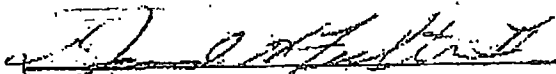
AYES: Kivell, Fulstone, Goodman, Hillyard, Milz

NAYS:

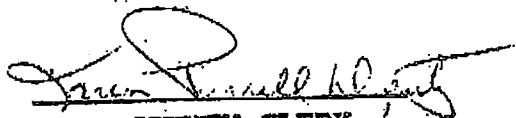
ABSTENTIONS:

ABSENT:

BOARD OF LYON COUNTY COMMISSIONERS


Chairman
Board of Lyon County Commissioners

ATTEST:


LYON COUNTY CLERK

PATTERSON, RUSH AND COMPANY, L.L.C.

CERTIFIED PUBLIC ACCOUNTANTS
DOUGLAS W. PATTERSON, C.P.A., P.C.
LINDA RUSH TURRIA, C.P.A., P.C.

218 ELK POINT ROAD, SUITE 203
POST OFFICE BOX 2009
LAKE TAHOE, NEVADA 89449
TELEPHONE NO. (702) 588-6244
FAX NO. (702) 588-1045

December 31, 1997

Mr. Michael Pitlock, Executive Director
State of Nevada
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, Nevada 89706

Dear Mr. Pitlock:

The following applications for increases to tax base are enclosed:

Cave Rock Estates General Improvement District
Elk Point Sanitation District
Lakeridge General Improvement
Oliver Park General Improvement District
Zephyr Knolls General Improvement District

Please feel free to call me with any questions you may have.

Sincerely,


Douglas W. Patterson, C.P.A.

DWP:mk

Enclosures

*Rec'd 12/31/97
2:30 pm.
J. Bailey*

CAVE ROCK ESTATES GENERAL IMPROVEMENT DISTRICT

December 31, 1997

Application for Increase to 1980-81 Tax Base

To: Mr. Michael Pitlock, Executive Director
State of Nevada
Department of Taxation
1550 E. College Parkway, Suite 115
Carson City, NV 89706

In accordance with Senate Bill 254, Section 36, the Cave Rock Estates General Improvement District hereby requests an increase to their tax base for purposes of calculating the sales tax apportionment. Cave Rock Estate's revenues are inadequate to fund its operations due, in part, to their financial situation in 1980-81. Please consider the following in making your determination:

As of June 30, 1981 the district had recently completed a road project costing \$19,810.00 and had accumulated a reserve of \$28,490.00. Accordingly the Districts board apparently decided to reduce the property tax rate for 1980-81. The tax rate was reduced to about 32% of the average rate for the period July 1, 1976 through June 30, 1980. There appears to have been no property tax for the fiscal year ended June 30, 1976. Had Cave Rock maintained its tax rate at the 1979-80 level its share of the sales tax for 1981-82 would have increased by about \$9000.00 per year. The following schedule presents assessed values, tax rates and property tax for the years 1975-76 through 1980-81:

CAVE ROCK ESTATES GENERAL IMPROVEMENT DISTRICT
SCHEDULE OF AD VALOREM TAX
1976 THROUGH 1981

<u>Year</u>	<u>Assessed Value</u>	<u>Tax Rate</u>	<u>Property Tax</u>
1975-76	\$		
1976-77	527,850	.6570	3,468
1977-78	802,800	.9000	7,225
1978-79	959,630	.8760	8,406
1979-80	1,104,430	.8760	9,675
1980-81	1,475,940	.2660	3,926

Cave Rock Estates General Improvement District does not receive sufficient revenues to perform its basic governmental function, road maintenance. The following schedule compares operating revenues, other than voter approved tax overrides, with operating expenditures for the most current three years:

	Fiscal Year Ended		
	June 30 1995	June 30 1996	June 30 1997
<u>Revenues (1)</u>			
Ad valorem taxes	\$ 1,014	\$ 695	\$ 815
Motor vehicle	3,001	2,545	2,163
Sales tax	7,207	8,207	9,804
Federal in lieu of taxes	190	-0-	-0-
Interest	306	302	410
Total revenues	<u>\$ 11,718</u>	<u>\$ 11,749</u>	<u>\$ 13,192</u>
<u>Expenditures</u>			
Administration	\$ 5,003	\$ 9,110	\$ 10,750
Services and supplies	18,498	48,923	51,930
Total expenditures	<u>\$ 23,501</u>	<u>\$ 58,033</u>	<u>\$ 62,680</u>
Operating deficit	<u>\$ (11,783)</u>	<u>\$ (46,284)</u>	<u>\$ (49,488)</u>

(1) Emergency reimbursements have not been included and are assumed to be non-recurring.

The district has been able to survive only by imposing a voter approved property tax override of \$.9000, one of the highest in the State of Nevada. Approximately \$.3300 of this rate is used to service debts incurred for a major road overlay in 1990. The remaining \$.5700 rate has been used to fund operating deficits.

In 1980-81 Douglas County was given an assumed tax rate even though this amount did not appear in their budget. The reason for this is unclear except that all the other counties had a tax rate, therefore Douglas should have one. This certainly sets an interesting precedent. Equally important, however, is the fact that this phantom tax rate assigned to Douglas County actually reduces the share of sales tax available to other governments.

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 10:28 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX

VOLUME 12 PART 1

Filed By:

Joshua J. Hicks, Esq.
Nevada Bar No. 6678
BROWNSTEIN HYATT
FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
Reno, Nevada 89501
Telephone: (775) 622-9450
Email: jhicks@bhfs.com

*Attorneys for Appellant City of Fernley,
Nevada*

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Volume Number	Document	Filed By	Date	Bates Stamp Number
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
1	Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	08/03/12	41-58
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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Volume Number	Document	Filed By	Date	Bates Stamp Number
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
2	Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F)	City of Fernley	08/20/12	331-441
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
13	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	City of Fernley	07/11/14	2354-2445
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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Volume Number	Document	Filed By	Date	Bates Stamp Number
12	Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order and Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Tax/ Treasurer	07/11/14	2049-2052
17	Opposition to Plaintiff's Motion for Summary Judgment	Nevada Legislature	07/11/14	2942-3071
18	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3072-3292
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
7	Order (Converting Motion to Dismiss to Motion for Summary Judgment, Setting Briefing Schedule and Dismissing Treasurer)	First Judicial District Court	06/06/14	1451-1457
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
7	Order Granting A Continuance to Complete Discovery	First Judicial District Court	10/15/12	1341-1343
7	Order Granting in Part and Denying in Part Petition for Writ of Mandamus	Nevada Supreme Court	01/25/13	1373-1377
23	Order Granting Nevada Department of Taxation's Motion for Costs	First Judicial District Court	10/15/14	4190-4194
3	Order Granting Nevada Legislature's Motion to Intervene	First Judicial District Court	08/30/12	648-650
7	Order on Defendant's Motion for Extensions of Time to File Answer	First Judicial District Court	11/13/12	1351-1353
7	Order Pursuant to Writ of Mandamus	First Judicial District Court	02/22/13	1390-1392
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
7	Pretrial Order	First Judicial District Court	10/10/13	1393-1399
7	Reply Concerning Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/27/14	1438-1450
7	Reply in Support of Joinder in Motion to Dismiss	Nevada Legislature	10/08/12	1317-1340
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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Volume Number	Document	Filed By	Date	Bates Stamp Number
20	Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendants Nevada Department of Taxation and Nevada Treasurer	City of Fernley	07/25/14	3674-3708
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

Joshua J. Hicks, Nevada Bar No. 6679
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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,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

**PLAINTIFF'S MOTION FOR PARTIAL RECONSIDERATION AND REHEARING
OF THE COURT'S JUNE 6, 2014 ORDER**

REC'D & FILED

2014 JUN 18 PM 1:29

ALAN GLOVER
E. Cooper CLERK
DEPUTY

COMES NOW Plaintiff CITY OF FERNLEY, NEVADA (hereinafter "Fernley"), by and through its attorneys of record, Brownstein Hyatt Farber Schreck, LLP, and hereby moves this Honorable Court for the partial reconsideration of its Order entered on June 6, 2014 (the "June 6th Order"), and the rehearing of Defendants Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss, which Defendant Nevada Legislature joined, with respect to the dismissal of Fernley's claims against the Honorable Kate Marshall, in her official capacity as Treasurer of the State of Nevada (the "State Treasurer").¹ This motion is made pursuant to Rule 15(10) of the First Judicial District Court Rules and is based on the following memorandum of points and authorities, all other pleadings, papers, and documents on file with the Court in this action, such further documentary evidence as the Court deems appropriate, and the arguments of counsel at the hearing on this motion.

I. INTRODUCTION.

In its June 6th Order, the Court granted Fernley the opportunity to file written oppositions to Defendants' renewed motions to dismiss, which the Court converted to motions for summary judgment, but dismissed Fernley's claims against the State Treasurer on the basis that she should be granted immunity under NRS 41.032(1). *See Exhibit 1, at 3:8-5:10.* Fernley respectfully submits that good causes exists for the Court to reconsider its dismissal of the State Treasurer and rehear Defendants' renewed motions to dismiss on this issue because:

- (1) Fernley should have the opportunity to submit arguments in opposition to the State Treasurer's dismissal before the Court rules on the matter;
- (2) Fernley has stated claims for declaratory and injunctive relief against the State Treasurer that remain viable because Defendants only argued that immunity barred Fernley's claims against the State Treasurer for money damages, but not injunctive or declaratory relief; and
- (3) The State Treasurer is a necessary party to this action because she controls the public's money, and Fernley has stated claims against the Department

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¹ The Court served the June 6th Order on the parties by mail on June 9, 2014. *See Exhibit 1, at 7.*

of Taxation for money damages as well as declaratory and injunctive relief.

For each of these separate and independent reasons, Fernley respectfully requests that the Court grant this motion in its entirety.

II. ARGUMENT.

A. Good Cause Exists For The Court To Reconsider The June 6th Order And Rehear Defendants' Renewed Motions To Dismiss Regarding Fernley's Claims Against The State Treasurer.

A court has inherent authority to reconsider its prior orders. *See Trail v. Faretto*, 91 Nev. 401, 403, 536 P.2d 1026, 1027 (1975). Consistent with this fundamental principle, Rule 15(10) of the First Judicial District Court rules provides that "[n]o motion once heard and disposed of shall be renewed in the same cause nor shall the same matters therein embraced be reheard unless by leave of Court granted upon motion therefor, after notice of such motion to the adverse parties." *See* FJDCR 15(10). The reconsideration of a previously decided motion is appropriate only where a party subsequently introduces substantially different evidence, there has been new clarifying case law, or the initial ruling was clearly erroneous. *See Masonry & Tile Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). A court may also "amend, correct, resettle, modify, or vacate" a prior order at any time, however, "for sufficient cause shown." *See Trail*, 91 Nev. at 403, 536 P.2d at 1027; *see also Barry v. Lindner*, 119 Nev. 661, 670, 81 P.3d 537, 543 (2003) (NRC 54(b) authorizes the district court to reconsider orders at any time before the entry of final judgment). Fernley respectfully submits that this standard is satisfied here for at least *three* separate and independent reasons.

-- *First*, as the Court observed in the June 6th Order, the parties displayed confusion regarding whether Defendants' renewal of their original motions to dismiss would be decided under a motion to dismiss standard or a motion for summary judgment standard. *See* Exhibit 1, at 4:3:5-2. The Court resolved this issue by converting Defendants' original motions to dismiss into motions for summary judgment and giving Fernley twenty (20) days to file written oppositions. *See id.* at 5:3-10. At the same time, however, the Court dismissed Fernley's claims against the State Treasurer on the basis that the State Treasurer should be granted immunity under NRS

41.032(1), before Fernley had the opportunity to brief the issue in its opposition. It is well-settled that "[i]ssues of sovereign immunity under NRS Chapter 41 present mixed questions of law and fact." *See Ransdell v. Clark County*, 124 Nev. 847, 854, 192 P.3d 756, 761 (2008). Fernley respectfully requests reconsideration of the June 6th Order and the rehearing of Defendants' renewed motions to dismiss to allow it to submit arguments in opposition to the dismissal of its claims against the State Treasurer.

-- *Second*, Defendants have taken the position that their motions only argue immunity with respect to Fernley's claims against the State Treasurer that seek an award of money damages. *See Exhibit 2*, at 24-25, 27-30; *Exhibit 3*, at 14-17; *Exhibit 4*, at 10:18-13:6. The June 6th Order dismisses all of Fernley's claims against the State Treasurer, however, including its claims that do not seek an award of money damages — *i.e.*, Fernley's claims for declaratory relief (sixth claim for relief) and injunctive relief (seventh claim for relief). *See Exhibit 5*, at 8:25-10:23, 11:2-21. Fernley respectfully requests reconsideration of the June 6th Order and the rehearing of Defendants' renewed motions to dismiss for the purpose of reinstating its claims against the State Treasurer for declaratory and injunctive relief.

-- *Third*, even if the Court holds that the State Treasurer is not liable for money damages in this action after considering Fernley's arguments in opposition, the State Treasurer remains a necessary party in the event that Fernley prevails on its claims for money damages against the Department of Taxation because the State Treasurer has the legal duty to hold, administer, and disburse the public's money. *See NRS 226.110*. As a result, regardless of whether Fernley can recover money damages against the State Treasurer, she is still a necessary party for at least this limited purpose. Fernley respectfully requests reconsideration of the June 6th Order and the rehearing of Defendants' renewed motions to dismiss for the purpose of reinstating its claims against the State Treasurer on this basis.

On each of these three separate and independent grounds, Fernley respectfully submits that it is necessary and appropriate for the Court to reconsider the June 6th Order and rehear Defendants' renewed motions to dismiss regarding its claims against the State Treasurer at this time.

1 ///

2 **III. CONCLUSION.**

3 For the foregoing reasons, Fernley respectfully requests that the Court reconsider the June
4 6th Order and rehear Defendants' renewed motions to dismiss regarding its claims against the
5 State Treasurer.

6 DATED this 18th day of June, 2014.

7 BROWNSTEIN HYATT FARBER SCHRECK, LLP

8
9 By: 

10 Joshua J. Hicks, Nevada Bar No. 6679
11 50 West Liberty Street, Suite 1030
12 Reno, Nevada 89501
13 Telephone: 775-622-9450

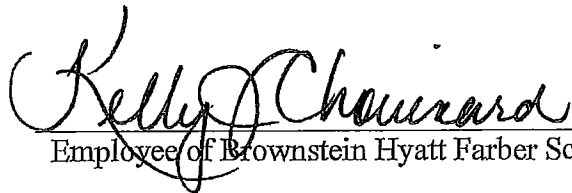
14 *Attorneys for the City of Fernley, Nevada*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 18th day of June, 2014, I caused to be served via electronic mail, a true and correct copy of the above foregoing **PLAINTIFF'S MOTION FOR PARTIAL RECONSIDERATION AND REHEARING OF THE COURT'S JUNE 6, 2014 ORDER** properly addressed to the following:

Andrea Nichols, Esq.
anichols@ag.nv.gov
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401 South Carson Street
Carson City, Nevada 89701


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,

NEVADA LEGISLATURE,
Intervenor

Case No.: 12 OC 00168 1B

Dept. No.: I

INDEX OF EXHIBITS

Exhibit No.	Description	Pages
1	Order Dated June 6, 2014	7
2	State of Nevada and Legislature's Petition for Writ of Mandamus filed November 5, 2012 in Nevada Supreme Court Case 62050	7
3	State of Nevada and Legislature's Petitioner's Reply Brief filed December 18, 2012 in Nevada Supreme Court Case 62050	5
4	Nevada Legislature's Joinder in the Motion to Dismiss filed August 16, 2012	5
5	Complaint filed June 6, 2012	5

EXHIBIT 1

EXHIBIT 1

1 Case No.: 12 OC 00168 1B

2 Dept. No.: 1

REC'D & FILED

2013 JUN -6 PM 3:38

ALAN GLOVER

BY *[Signature]* CLERK

DEPUTY

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5
6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY

8
9 CITY OF FERNLEY, NEVADA, a Nevada
municipal corporation,

10 Plaintiff,

11 vs.

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

15 Defendants,
16

ORDER

17
18 This matter comes before the Court on Nevada Department of Taxation and Nevada
19 Treasurer's Renewal of Motion to Dismiss filed on May 5, 2014. Defendant Nevada
20 Legislature's Joinder in Nevada Department of Taxation and Nevada Treasure's Renewal of
21 Motion to Dismiss was filed on May 6, 2014. City of Fernley's Response to the Nevada
22 Department of Taxation and Nevada Treasure's Renewal of Motion to Dismiss and to the
23 Nevada Legislature's Joinder Thereto and Request for Status Conference was filed on May 16,
24 2014. Nevada Department of Taxation and Nevada Treasure's Reply to City of Fernley's
25 Response to Renewal of Motion to Dismiss was filed on May 23, 2014. A Request for
26 Submission of Renewal of Motion to Dismiss was filed on May 23, 2014. Defendant Nevada
27
28

1 Legislature's Reply Concerning Joinder in Nevada Department of Taxation and Nevada
2 Treasurer's Renewal of Motion to Dismiss was filed on May 27, 2014.

3 The Court notes that the original Motion to Dismiss was filed by Nevada Department of
4 Taxation and Nevada Treasurer on August 3, 2012. Nevada Legislature's Joinder in Motion to
5 Dismiss and Exhibits to Joinder in Motion to Dismiss were filed on August 16, 2012. City of
6 Fernley's Opposition to Motion to Dismiss was filed on August 20, 2012. Defendants' Reply to
7 Opposition to Motion to Dismiss was filed on August 27, 2012. A Request for Submission of
8 Motion to Dismiss was filed on August 28, 2012. City of Fernley's Opposition to Nevada
9 Legislature's Joinder in Motion to Dismiss was filed on September 28, 2012. Nevada
10 Legislature's Reply in Support of Joinder of Motion to Dismiss was filed on October 8, 2012. An
11 Order was issued by this Court on October 15, 2012. In that Order Granting a Continuance to
12 Complete Discovery, this Court ordered that the Motions to Dismiss were denied at this time in
13 order to allow the Plaintiff a period of time to complete discovery. Additionally, that Order also
14 ordered that the Defendants, upon completion of a reasonable discovery period, be allowed to
15 renew their Motions to Dismiss, which will then be duly considered by the Court.

16 A Petition for Writ of Mandamus was filed with the Nevada Supreme Court. An Order
17 Granting in Part and Denying in Part Petition for Writ of Mandamus was issued by the Nevada
18 Supreme Court on January 30, 2013. Thereafter, this Court issued an Order Pursuant to Writ of
19 Mandamus on February 22, 2013.

20 Firstly, the Court would like to note that the Order from the Nevada Supreme Court in
21 this case Granting in Part and Denying in Part Petition for Writ of Mandamus stated that "the
22 district court was obligated under clear authority to dismiss the federal constitutional claims"
23 because "the City was required to bring its federal constitutional claims within two years of its
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1 incorporation, and its failure to do so renders those claims barred by the statute of limitations.”

2 Following the Order from the Nevada Supreme Court, this Court issued an Order Pursuant to
3 Writ of Mandamus on February 22, 2013. Said Order granted Defendants’ Motions to Dismiss
4 “in respect to the federal constitutional claims being asserted by Plaintiff.” Therefore, this Court
5 would like to make clear the fact that Plaintiff’s first claim for relief and fifth claim for relief
6 have already been dismissed.
7

8 Secondly, the Court would like to address the issue of immunity. In its Joinder in Motion
9 to Dismiss, the Legislature presented the defense of immunity. The Legislature argued that the
10 Honorable Kate Marshall, in her official capacity as Treasurer of the State of Nevada, enjoys
11 absolute immunity for liability for money damages. According to NRS 41.032(1),
12

13 no action may be brought ... against ... an officer or employee of the State or any
14 of its agencies or political subdivisions which is based upon an act or omission of
15 an officer, employee or immune contractor, exercising due care, in the execution
16 of a statute or regulation, whether or not such statute or regulation is valid, if the
statute or regulation has not been declared invalid by a court of competent
jurisdiction.

17 Additionally, according to NRS 41.032(2),

18 no action may be brought ... against ... an officer or employee of the State or any
19 of its agencies or political subdivisions which is based upon the exercise or
20 performance or the failure to exercise or perform a discretionary function or duty
21 on the part of the State or any of its agencies or political subdivisions or of any
officer, employee or immune contractor of any of these, whether or not the
discretion involved is abused.

22 The Legislature asserted that Treasurer Kate Marshall exercised due care in the execution
23 of the C-Tax statute. The Legislature also asserts that the C-Tax system involves an element of
24 official discretion. Therefore, under either NRS 41.032(1) or NRS 41.032(2), Treasurer Kate
25 Marshall should be granted immunity. The Court is in agreement with the Legislature that
26 Treasurer Kate Marshall should be granted immunity under NRS 41.032(1). Therefore, the Court
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28

1 has determined that all claims against the Honorable Kate Marshall, in her official capacity as
2 Treasurer of the State of Nevada, shall be dismissed.

3 Thirdly, the Court would like to address the apparent confusion between the parties
4 regarding whether this Court should be deciding this case under a motion to dismiss standard or a
5 motion for summary judgment standard. After the parties filed their pleadings for the motion to
6 dismiss, this Court issued an order on October 15, 2012. That order stated the following:
7

8 The Plaintiff submits that the Court's consideration of the Motions to Dismiss
9 filed in this matter should be considered as Motion for Summary Judgment; and,
10 as such, that it should be given a reasonable opportunity to complete discovery,
11 and therefore have a chance to demonstrate a genuine issue of material fact.
12 [citation omitted]. Therefore, good cause appearing, it is hereby ordered that the
13 Motions to Dismiss are denied at this time in order to allow the Plaintiff a period
14 of time to complete discovery; and it is hereby further ordered that the
15 Defendants, upon completion of a reasonable discovery period, may renew their
16 Motions to Dismiss which will then be duly considered by the Court.

17 The parties were evidentially confused by this ruling. Defendants renewed their Motion
18 to Dismiss a year and a half after the Court entered the foregoing order, so it appears to be
19 Defendants' understanding that the Court would be deciding this case under a motion to dismiss
20 standard. However, Plaintiff argued in its Response to the Renewal of Motion to Dismiss that
21 "[t]he Court's ruling was ... that the Motion to Dismiss should be treated as a Motion for
22 Summary Judgment and that the City of Fernley should have an opportunity to demonstrate a
23 genuine issue of material fact." Therefore, it is apparent that Plaintiff's understanding is that the
24 Court would be deciding this case under a summary judgment standard and that it would be
25 given the opportunity to file a motion for summary judgment outlining the facts that have been
26 discovered during the past year and a half. In its Order Granting in Part and Denying in Part
27 Petition for Writ of Mandamus, the Nevada Supreme Court interpreted this Court's ruling as
28

1 follows: "The district court converted petitioners' motions to dismiss to summary judgment
2 motions, denied those motions without prejudice, and granted the City a continuance."

3 In order to ensure that the parties are on the same page going forward, the Court has
4 determined that it is necessary to outline the following. Pursuant to the Nevada Supreme Court's
5 ruling in its Order Granting in Part and Denying in Part Petition for Writ of Mandamus and
6 pursuant to NRCp 12(b), Defendants' original Motions to Dismiss shall be treated as and
7 converted into Motions for Summary Judgment. Plaintiff shall have twenty (20) days from the
8 date of this Order in which to file an Opposition to the Motions for Summary Judgment.
9 Defendants shall then have until July 14, 2014 in which to file their Replies.
10

11 Finally, the Court would like to notify the parties that it would like Plaintiff's Opposition
12 to the Motions for Summary Judgment and Defendants' Replies to discuss the actual application
13 of the C-Tax system, specifically how the formula is applied to the various municipalities and
14 whether any discretion is permitted in the application of the C-Tax system.
15

16 Therefore, based on the foregoing, and good cause appearing, it is hereby ordered that

- 17 1. The parties are to take notice of the fact that Plaintiff's first claim for relief and fifth
18 claim for relief have already been dismissed.
- 19 2. All claims against the Honorable Kate Marshall, in her official capacity as Treasurer
20 of the State of Nevada, shall be dismissed.
- 21 3. Defendants' original Motions to Dismiss shall be converted into Motions for
22 Summary Judgment. Plaintiff shall have twenty (20) days from the date of this Order
23 in which to file an Opposition to the Motions for Summary Judgment. Defendants
24 shall then have until July 14, 2014 in which to file their Replies to Plaintiff's
25 Opposition.
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1 4. Plaintiff's Opposition to the Motions for Summary Judgment and Defendants'

2 Replies shall discuss the actual application of the C-Tax system, specifically how the
3 formula is applied to the various municipalities and whether any discretion is
4 permitted in the application of the C-Tax system.

5 **IT IS SO ORDERED.**

6 Dated this 6 day of June, 2014.

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9 JAMES T. RUSSELL
10 DISTRICT JUDGE
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CERTIFICATE OF MAILING

I hereby certify that on the 9th day of June, 2014, I served a copy of the foregoing
by placing the foregoing in the United States Mail, postage prepaid, addressed as follows:

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Samantha Valerius
Law Clerk, Dept. 1

EXHIBIT 2

EXHIBIT 2

IN THE SUPREME COURT OF THE STATE OF NEVADA

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 THE
LEGISLATURE OF THE STATE OF
NEVADA,

Petitioners,

vs.

THE FIRST JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, in and for CARSON CITY;
and THE HONORABLE JAMES
TODD RUSSELL, District Judge,

Respondents, and

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Real Party in Interest.

Electronically Filed
Nov 05 2012 03:34 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

Supreme Court Case No.

Original Action for Writ to
First Judicial District Court,
Carson City, Nevada,
Case No. 12 OC 00168 1B

PETITION FOR WRIT OF MANDAMUS

plaintiff does not have the legal right to set judicial machinery in motion, and the plaintiff is barred as a matter of law from prosecuting its constitutional claims. Heller v. Legislature, 120 Nev. 456, 460-62 (2004).

Finally, a defendant is also entitled to a dismissal when the allegations in the complaint, even if true, are insufficient to establish the elements of a claim for relief as a matter of law. Stockmeier v. State Dep't of Corr., 124 Nev. 313, 316 (2008). A defendant is also entitled to a summary judgment "when there is no genuine issue of material fact and the [defendant] is entitled to judgment as a matter of law." Ozawa, 125 Nev. at 560.

Under these standards, the district court was obligated to dismiss or grant summary judgment to the State on all of Fernley's claims.

III. Fernley's claims for money damages are barred as a matter of law by the State's sovereign immunity.

The Court has granted writ petitions when the district court was obligated to dismiss an action because the plaintiff's claims were barred by sovereign immunity as a matter of law. County of Washoe, 98 Nev. at 457. The Court grants writ petitions in such circumstances because "[a]bsolute immunity is a broad grant of immunity not just from the imposition of civil damages, but also from the burdens of litigation, generally." State v. Dist. Ct., 118 Nev. 609, 615 (2002). Even in the context of qualified immunity, it is not merely a defense to liability, it is "an entitlement not to stand trial or face the other burdens of litigation. Accordingly, a

defense of qualified immunity should be resolved at the earliest possible stage in litigation.” Butler v. Bayer, 123 Nev. 450, 458 (2007) (quoting Saucier v. Katz, 533 U.S. 194, 200 (2001)) (internal quotations and footnotes omitted).

In this case, Fernley asked for money damages on its federal and state constitutional claims. (*PAI:10-11.*) However, when the Legislature raised the defense of absolute immunity from money damages under 42 U.S.C. §1983 and NRS 41.032(1), Fernley did not offer any opposition to the Legislature’s argument and authority. (*PA4:625-27.*) This is not surprising because the State is absolutely immune from money damages on Fernley’s constitutional claims under federal and state law. Therefore, because the State is entitled to the defense of absolute sovereign immunity as a matter of federal and state law, the remedy of mandamus is appropriate to compel the district court to rule properly and dismiss Fernley’s constitutional claims for money damages based on sovereign immunity.

A. Federal law.

To bring a cause of action for a federal constitutional violation, a plaintiff must plead a civil rights claim under 42 U.S.C. §1983 (section 1983). Arpin v. Santa Clara Valley Transp. Agency, 261 F.3d 912, 925 (9th Cir. 2001) (“a litigant complaining of a violation of a constitutional right does not have a direct cause of action under the United States Constitution but must utilize 42 U.S.C. §1983.”); Martinez v. Los Angeles, 141 F.3d 1373, 1382 (9th Cir. 1998); Azul-Pacifico, Inc.

officials acting in their official capacities, “the complaint fails to state an actionable claim.” N. Nev. Ass’n Injured Workers, 107 Nev. at 114.⁶

In this case, Fernley’s complaint alleged federal constitutional violations and asked for money damages from the State of Nevada, the Department of Taxation, and the State Treasurer acting in her official capacity. Because the State and its agencies and officials acting in their official capacities are absolutely immune from money damages under section 1983, the district court was obligated to dismiss or grant summary judgment to the State on Fernley’s federal constitutional claims for money damages as a matter of law.

B. State law.

A plaintiff may bring a state-law claim for money damages against the State and its agencies and officials acting in their official capacities only to the extent authorized by Nevada’s conditional waiver of its sovereign immunity. NRS 41.031 et seq.; Hagblom v. State Dir. Mtr. Vehs., 93 Nev. 599, 601-04 (1977). Nevada’s conditional waiver of its sovereign immunity is expressly limited by NRS 41.032, which provides in relevant part:

⁶ Although section 1983 bars claims for money damages against the State and its agencies and officials acting in their official capacities, it does not bar claims for prospective declaratory or injunctive relief against state officials acting in their official capacities. N. Nev. Ass’n Injured Workers, 107 Nev. at 115-16 (citing Will, 491 U.S. at 71 n.10).

[N]o action may be brought under NRS 41.031 or against an immune contractor or an officer or employee of the State or any of its agencies or political subdivisions which is:

1. Based upon an act or omission of an officer, employee or immune contractor, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, if the statute or regulation has not been declared invalid by a court of competent jurisdiction; or

2. Based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the State or any of its agencies or political subdivisions or of any officer, employee or immune contractor of any of these, whether or not the discretion involved is abused.

Each subsection of NRS 41.032 provides a separate basis for claiming sovereign immunity. Hagblom, 93 Nev. at 603-05. Under NRS 41.032(1), the State and its agencies and officials acting in their official capacities are absolutely immune from money damages based on any acts or omissions in their execution and administration of statutory provisions which have not been declared invalid by a court of competent jurisdiction. Hagblom, 93 Nev. at 603-04.

In its state constitutional claims, Fernley alleged that the State of Nevada, the Department of Taxation, and the State Treasurer acting in her official capacity violated the Nevada Constitution in their execution and administration of the C-Tax system under NRS 360.600-360.740. Because those statutory provisions have not been declared invalid by a court of competent jurisdiction, the State and its agencies and officials acting in their official capacities enjoy absolute immunity from money damages under NRS 41.032(1) based on any acts or omissions in their

execution and administration of the C-Tax system. Furthermore, Fernley did not offer any opposition in the district court to this argument and authority. (PA4:625-27.) Therefore, based on NRS 41.032(1), the district court was obligated to dismiss or grant summary judgment to the State on Fernley's state constitutional claims for money damages as a matter of law.

Even though sovereign immunity under NRS 41.032(1) is sufficient by itself to require dismissal of Fernley's state constitutional claims for money damages, those claims are also barred as a matter of law by sovereign immunity under NRS 41.032(2). Under that provision, the State and its agencies and officials acting in their official capacities are absolutely immune from money damages when their actions are based on the performance of official duties which involve an element of official discretion or judgment and are grounded in the creation or *execution* of social, economic or political policy. Martinez v. Maruszezak, 123 Nev. 433, 445-47 (2007); Scott v. Dep't of Commerce, 104 Nev. 580, 583-86 (1988). As a general rule, this test is met when state agencies and officials are performing official duties to execute or carry out the policy of a statutory scheme. See Boulder Excavating, 124 Nev. at 757-60. Thus, state agencies and officials are entitled to sovereign immunity under NRS 41.032(2) whenever "the injury-producing conduct is an integral part of governmental policy-making or planning." Martinez, 123 Nev. at 446.

In this case, the alleged injury-producing conduct arises from the performance of official duties by the named state agencies and officials to execute and carry out the social, economic and political policy of the C-Tax statutes which are an integral part of governmental policy-making or planning. Even though the state agencies and officials must perform their official duties within clearly defined statutory parameters, they still must exercise official discretion and judgment within those statutory parameters to execute and carry out the policy of the C-Tax's statutory scheme. Under such circumstances, the state agencies and officials are entitled to sovereign immunity from money damages under NRS 41.032(2). Therefore, based on NRS 41.032(2), the district court was obligated to dismiss or grant summary judgment to the State on Fernley's state constitutional claims for money damages as a matter of law.

IV. Fernley's Fourteenth Amendment claims are barred as a matter of law by Fernley's lack of standing to bring the claims.

The Court has considered writ petitions when the issue was whether the plaintiff lacked standing to bring its claims. D.R. Horton, 125 Nev. at 453-54. The Court considers writ petitions in such circumstances because when the plaintiff lacks standing to bring its claims, the plaintiff does not have the legal right to set judicial machinery in motion, and the plaintiff is barred as a matter of law from prosecuting its claims. Heller, 120 Nev. at 460-62.

EXHIBIT 3

EXHIBIT 3

IN THE SUPREME COURT OF THE STATE OF NEVADA

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 THE
LEGISLATURE OF THE STATE OF
NEVADA,

Petitioners,

vs.

THE FIRST JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, in and for CARSON CITY;
and THE HONORABLE JAMES
TODD RUSSELL, District Judge,

Respondents, and

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Real Party in Interest.

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Dec 18 2012 08:51 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

Supreme Court Case No. 62050

Original Action for Writ to
First Judicial District Court,
Carson City, Nevada,
Case No. 12 OC 00168 1B

PETITIONERS' REPLY BRIEF

consideration of such legislation would be impacted by the Court's resolution of the legal issues in the mandamus petition. And as explained in the Petitioners' supplement to their mandamus petition, under the proposed deadline calendar for the 2013 legislative session, the sooner the Court is able to conclusively resolve the issues in the mandamus petition, the more time there will be available during the 2013 legislative session for committees in both Houses and the Houses themselves to consider legislation pertaining to the C-Tax system in light of the Court's determination of whether Fernley's constitutional challenges are barred as a matter of law and the C-Tax system is a valid exercise of the State's fiscal powers.

Therefore, Fernley's constitutional challenges to the C-Tax system raise important and urgent issues of law that need clarification, and it would be in the best interests of the State and its local governments for the Court to conclusively resolve the issues in the mandamus petition as soon as is reasonably possible before the important deadlines in the 2013 legislative session.

F. Fernley's claims for money damages are barred as a matter of law by the State's sovereign immunity.

In their mandamus petition, the Petitioners argue that Fernley's claims for money damages on its federal constitutional claims are barred as a matter of law by the State's sovereign immunity. In its answering brief, Fernley fails to make any argument or cite any authority to refute the Petitioners' argument and authority.

(Ans. Br. 16-18.) Therefore, given that Fernley has failed to oppose the

Petitioners' argument and authority, Fernley's claims for money damages on its federal constitutional claims are barred as a matter of law. See Polk v. State, 126 Nev. Adv. Op. 19, 233 P.3d 357, 360 (2010) ("a party confessed error when that party's answering brief effectively failed to address a significant issue raised in the appeal").

In their mandamus petition, the Petitioners argue that Fernley's claims for money damages on its state constitutional claims are barred as a matter of law by the State's sovereign immunity under subsection 1 *and* subsection 2 of NRS 41.032. Each subsection of NRS 41.032 provides a separate basis for claiming sovereign immunity. Hagblom v. State Dir. Mtr. Vehs., 93 Nev. 599, 603-05 (1977).

In its answering brief, although Fernley makes an argument and cites authority regarding sovereign immunity under subsection 2 of NRS 41.032, Fernley does not make any argument or cite any authority regarding sovereign immunity under subsection 1 of NRS 41.032. (Ans. Br. 16-18.) Therefore, given that Fernley has failed to oppose the Petitioners' argument and authority regarding sovereign immunity under subsection 1 of NRS 41.032, Fernley's claims for money damages on its state constitutional claims are barred as a matter of law.

In addition, Fernley's state constitutional claims for money damages are also barred as a matter of law by sovereign immunity under subsection 2 of

NRS 41.032. Fernley contends that such sovereign immunity is not available because the act of administering the C-Tax system does not require the performance of official duties which involve an element of official discretion or judgment or which are grounded in the creation or execution of social, economic or political policy. (Ans. Br. 16-18.) Fernley's contention is wrong as a matter of law.

Under subsection 2 of NRS 41.032, state agencies and officials are entitled to sovereign immunity whenever "the injury-producing conduct is an integral part of governmental policy-making or planning." Martinez v. Maruszczak, 123 Nev. 433, 446 (2007). In this case, the alleged injury-producing conduct arises from the performance of official duties by state agencies and officials to execute and carry out the social, economic and political policy of the C-Tax statutes which are an integral part of governmental policy-making or planning. Even though the state agencies and officials must perform their official duties within clearly defined statutory parameters, they still must exercise official discretion and judgment within those statutory parameters to execute and carry out the policy of the C-Tax's statutory scheme. Under such circumstances, the state agencies and officials are entitled to sovereign immunity under subsection 2 of NRS 41.032.

Finally, Fernley contends that issues of sovereign immunity under NRS 41.032 are mixed questions of law and fact which should not be summarily

adjudicated at the motion-to-dismiss stage. (Ans. Br. 17-18.) However, when it is apparent from the face of the complaint that the defendants are entitled to sovereign immunity under NRS 41.032 as a matter of law, dismissal is required.³

G. Fernley's Fourteenth Amendment claims are barred as a matter of law by Fernley's lack of standing to bring the claims.

In its answering brief, Fernley acknowledges the existence of the doctrine precluding political subdivisions from bringing Fourteenth Amendment claims against the State. Fernley contends, however, that courts in other jurisdictions have found limited exceptions which allow political subdivisions to bring Fourteenth Amendment claims against the State. In particular, Fernley contends that courts have recognized limited exceptions when the legislation being challenged: (1) adversely affects a municipality's proprietary interest in a specific fund of moneys; or (2) involves issues concerning taxation that are of great public interest. (Ans. Br. 21-24.) The Court should reject Fernley's contentions because the limited exceptions advocated by Fernley should not be applied to this case.

Fernley cites City of New York v. State, 655 N.E.2d 649, 652 (N.Y. 1995), for the proposition that a political subdivision may bring Fourteenth Amendment

³ See, e.g., Foster v. Washoe County, 114 Nev. 936, 941-43 (1998); Nev. Power v. Clark County, 107 Nev. 428, 428-30 (1991); Ramirez v. Harris, 105 Nev. 219, 220 (1989); Scott v. Dep't of Commerce, 104 Nev. 580, 583-85 (1988); Hagblom, 93 Nev. at 599-605.

EXHIBIT 4

EXHIBIT 4

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8
9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

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

12 Plaintiff,

13 vs.

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

18 Defendants.

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19
20 **NEVADA LEGISLATURE'S**
21 **JOINDER IN MOTION TO DISMISS**
22
23
24

1 absolute, and the Court has the authority to consider materials outside the pleadings that are properly
2 subject to judicial notice, such as matters of public record. Id.; Martinez v. Johnson, 61 Nev. 125, 129
3 (1941) (noting that courts are bound to take judicial notice of a statute, even if the statute is not pleaded
4 by the parties); Fierle v. Perez, 125 Nev. 728, 737-38 n.6 (2009) (noting that courts generally “take
5 judicial notice of legislative histories, which are public records.”). Therefore, in deciding a motion to
6 dismiss, the Court may take judicial notice of public records without converting the motion to dismiss
7 into a motion for summary judgment. Nevada v. Burford, 708 F. Supp. 289, 292 (D. Nev. 1989).

8 **Part 2—Fernley’s claims for money damages are barred by sovereign immunity.**

9 Fernley prays for money damages on its federal and state constitutional claims. (Compl. at 10-
10 11.) Fernley’s prayer for money damages must be dismissed as a matter of law because the State
11 Defendants are absolutely immune from liability for money damages under federal and state law.

12 **A. Federal law.**

13 To bring a cause of action for a federal constitutional violation, a plaintiff must plead a civil rights
14 claim under 42 U.S.C. §1983 (section 1983). Arpin v. Santa Clara Valley Transp. Agency, 261 F.3d
15 912, 925 (9th Cir. 2001) (“a litigant complaining of a violation of a constitutional right does not have a
16 direct cause of action under the United States Constitution but must utilize 42 U.S.C. §1983.”); Martinez
17 v. Los Angeles, 141 F.3d 1373, 1382 (9th Cir. 1998); Azul-Pacifico, Inc. v. Los Angeles, 973 F.2d 704,
18 705 (9th Cir. 1992). In this case, although Fernley alleges federal constitutional violations, Fernley does
19 not plead any civil rights claims under section 1983. As a general rule, when a plaintiff alleges federal
20 constitutional violations but fails to plead civil rights claims under section 1983, the court will
21 nevertheless “construe [the plaintiff]’s allegations under the umbrella of §1983.” Bank of Lake Tahoe v.
22 Bank of Am., 318 F.3d 914, 917 (9th Cir. 2003). Consequently, regardless of Fernley’s inadequate
23 pleading, its alleged federal constitutional violations must be construed as civil rights claims under
24 section 1983.

Civil rights claims under section 1983 “must meet federal standards even if brought in state court.” Madera v. SIIS, 114 Nev. 253, 259 (1998); Will v. Mich. Dep’t State Police, 491 U.S. 58, 66 (1989). Under section 1983, the state, its agencies, and its officials acting in their official capacities are absolutely immune from liability for money damages because “neither states nor their officials acting in their official capacities are ‘persons’ under 42 U.S.C. §1983 and therefore neither may be sued in state courts [for money damages] under the federal civil rights statutes.” N. Nev. Ass’n Injured Workers v. SIIS, 107 Nev. 108, 114 (1991) (citing Will, 491 U.S. at 71); State v. Dist. Ct., 118 Nev. 140, 153 (2002); Cuzze v. Univ. Sys., 123 Nev. 598, 605 (2007). Therefore, when a plaintiff’s complaint alleges federal constitutional violations and asks for money damages from the state, its agencies, and its officials acting in their official capacities, “the complaint fails to state an actionable claim.” N. Nev. Ass’n Injured Workers, 107 Nev. at 114.⁷

In this case, Fernley’s Complaint alleges federal constitutional violations and asks for money damages from the State of Nevada, the Department of Taxation, and the State Treasurer acting in her official capacity. Because the State Defendants are absolutely immune from liability for money damages under section 1983, Fernley’s prayer for money damages on its federal constitutional claims must be dismissed as a matter of law.

B. State law.

A plaintiff may bring a state-law claim for money damages against the state, its agencies, and its officials acting in their official capacities only to the extent authorized by Nevada’s conditional waiver of its sovereign immunity. NRS 41.031 et seq.; Hagblom v. State Dir. Mtr. Vehs., 93 Nev. 599, 601-04 (1977). Nevada’s conditional waiver of its sovereign immunity is expressly limited by NRS 41.032, which provides in relevant part:

⁷ Although section 1983 bars claims for money damages against the state, its agencies, and its officials acting in their official capacities, it does not bar claims for declaratory or injunctive relief against state officials acting in their official capacities. N. Nev. Ass’n Injured Workers, 107 Nev. at 115-16 (citing Will, 491 U.S. at 71 n.10).

1 [N]o action may be brought under NRS 41.031 or against an immune contractor or an
2 officer or employee of the State or any of its agencies or political subdivisions which is:

3 1. Based upon an act or omission of an officer, employee or immune contractor,
4 exercising due care, in the execution of a statute or regulation, whether or not such statute or
5 regulation is valid, if the statute or regulation has not been declared invalid by a court of
6 competent jurisdiction; or

7 2. Based upon the exercise or performance or the failure to exercise or perform a
8 discretionary function or duty on the part of the State or any of its agencies or political
9 subdivisions or of any officer, employee or immune contractor of any of these, whether or
10 not the discretion involved is abused.

11 Under NRS 41.032(1), the state, its agencies, and its officials acting in their official capacities are
12 absolutely immune from liability for money damages based on any acts or omissions in their execution
13 and administration of statutory provisions which have not been declared invalid by a court of competent
14 jurisdiction. Hagblom, 93 Nev. at 603-04. Additionally, under NRS 41.032(2), the state, its agencies,
15 and its officials acting in their official capacities are absolutely immune from liability for money
16 damages based on the performance of official duties which involve an element of official discretion or
17 judgment and are grounded in the creation or execution of social, economic or political policy. Martinez
18 v. Maruszczak, 123 Nev. 433, 445-47 (2007); Scott v. Dep't Commerce, 104 Nev. 580, 583-86 (1988).
19 The reason for providing absolute immunity under such circumstances is to protect the policy-making
20 functions of the political branches from "judicial 'second guessing' of legislative and administrative
21 decisions grounded in social, economic, and political policy through the medium of an action in tort."
22 Martinez, 123 Nev. at 446 (quoting United States v. Varig Airlines, 467 U.S. 797, 814 (1984)).

23 In this case, Fernley alleges in its state constitutional claims that the State of Nevada, the
24 Department of Taxation, and the State Treasurer acting in her official capacity violated the Nevada
Constitution in their execution and administration of the C-Tax system under NRS 360.600-360.740.
Because those statutory provisions have not been declared invalid by a court of competent jurisdiction,
the State Defendants enjoy absolute immunity from liability for money damages under NRS 41.032(1)
based on any acts or omissions in their execution and administration of the C-Tax system. Furthermore,

1 because their execution and administration of the C-Tax system also involves an element of official
2 discretion or judgment and is grounded in the creation or execution of social, economic or political
3 policy, the State Defendants also enjoy absolute immunity from liability for money damages under
4 NRS 41.032(2). Therefore, because the State Defendants are absolutely immune from liability for
5 money damages under NRS 41.032, Fernley's prayer for money damages on its state constitutional
6 claims must be dismissed as a matter of law.

7 **Part 3—Fernley's claims are time-barred by the statute of limitations.**

8 It is well established that the statute of limitations applies to constitutional claims and that "[a]
9 constitutional claim can become time-barred just as any other claim can." Block v. North Dakota ex rel.
10 Bd. of Univ. & School Lands, 461 U.S. 273, 292 (1983); United States v. Clintwood Elkhorn Mining,
11 553 U.S. 1, 9 (2008). Because Fernley failed to bring its federal and state constitutional claims within
12 the applicable statute of limitations, its claims are time-barred as a matter of law.

13 **A. Federal law.**

14 The statute of limitations for federal constitutional claims under section 1983 is calculated by
15 using the statute of limitations for personal injury actions in the state where the claims arose. Wilson v.
16 Garcia, 471 U.S. 261, 279-80 (1985); Owens v. Okure, 488 U.S. 235, 236 (1989). In Nevada, based on
17 the statute of limitations for personal injury actions in NRS 11.190(4)(e), the statute of limitations for
18 federal constitutional claims under section 1983 is two years. Day v. Zubel, 112 Nev. 972, 977 (1996);
19 Perez v. Seevers, 869 F.2d 425, 426 (9th Cir. 1989).

20 The statute of limitations for federal constitutional claims under section 1983 applies to both legal
21 claims for monetary damages and equitable claims for declaratory and injunctive relief because "where
22 legal and equitable claims coexist, equitable remedies will be withheld if an applicable statute of
23 limitations bars the concurrent legal remedy." Levald, Inc. v. City of Palm Desert, 998 F.2d 680, 688
24 (9th Cir. 1993) (quoting Gilbert v. City of Cambridge, 932 F.2d 51, 57 (1st Cir. 1991)); see also Cope v.

EXHIBIT 5

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18 **IN THE FIRST JUDICIAL DISTRICT COURT**

19 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

20 CITY OF FERNLEY, NEVADA, a
21 Nevada municipal corporation,

22 Plaintiff,

23 v.

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

Defendants.

Case No.: 120C 00168 1B
Dept. No.: I

COMPLAINT

For its Complaint against Defendants the State of Nevada ex rel. the Nevada Department of Taxation (the "Department") and the Honorable Kate Marshall, in her official capacity as Treasurer of the State of Nevada ("Treasurer") (collectively "Defendants"), Plaintiff the City of Fernley, Nevada ("Fernley") alleges as follows:

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JA 2041

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1 49. Fernley has been required to retain the services of Brownstein Hyatt Farber
2 Schreck, LLP to prosecute its Constitutional claims and is therefore entitled to recover an award of
3 reasonable attorneys' fees and costs of suit.

4 **FIFTH CLAIM FOR RELIEF**

5 **(Denial of Due Process in Violation of Section 1 of**
6 **the 14th Amendment to the United States Constitution)**

7 50. Fernley repeats and realleges the allegations set forth in Paragraphs 1 through 49 as
8 though fully set forth herein.

9 51. The Fourteenth Amendment to the United States Constitution prohibits a State from
10 denying due process of law to any person within its jurisdiction.

11 52. As administered by the Defendants, Nevada's C-Tax system results in Fernley
12 receiving tax revenue distributions that are substantially less than what is received by other local
13 governments and provides no process by which Fernley can obtain a meaningful and effective
14 adjustment of such tax distributions.

15 53. As administered by the Defendants, Nevada's C-Tax system prevents Fernley and
16 its citizens from any meaningful adjustment to C-Tax distributions.

17 54. As administered by the Defendants, Nevada's C-Tax system denies Fernley and its
18 residents of due process of law.

19 55. The denial of due process by the Defendants has proximately caused damages to
20 Fernley, in an amount to be determined at trial.

21 56. The C-Tax system is unconstitutional, both on its face and as applied to Fernley.

22 57. Fernley has been required to retain the services of Brownstein Hyatt Farber
23 Schreck, LLP to prosecute its Constitutional claims and is therefore entitled to recover an award of
24 reasonable attorneys' fees and costs of suit.

25 **SIXTH CLAIM FOR RELIEF**

26 **(Declaratory Relief)**

27 58. Fernley repeats and realleges the allegations set forth in Paragraphs 1 through 57 as
28 though fully set forth herein.

1 59. As set forth above, through the operation of Nevada's C-Tax system, as
2 administered by the Defendants, Fernley has been deprived of its rights under the United States
3 and Nevada Constitutions.

4 60. Fernley has inquired of Defendants in writing regarding what remedies Defendants
5 would be able to afford Fernley.

6 61. Defendants have indicated that they will not and cannot provide adequate remedies
7 to Fernley.

8 62. As such, an actual justiciable controversy has arisen with respect to the following
9 issues:

10 a) Whether Nevada's C-Tax system, as administered by the Defendants, gives
11 Fernley the equal protection of Nevada's laws;

12 b) Whether Nevada's C-Tax system, as administered by the Defendants,
13 violates the Separation of Powers Clause of the Nevada Constitution;

14 c) Whether Nevada's C-Tax system, as administered by the Defendants,
15 operates as a local or special law for the assessment and collection of taxes for state, county and
16 township purposes;

17 d) Whether Nevada's C-Tax system, as administered by the Defendants,
18 violates the mandate of the Nevada Constitution that all laws be of general and uniform operation
19 throughout the State; and

20 g) Whether Nevada's C-Tax system, as administered by the Defendants, gives
21 Fernley due process.

22 63. Fernley contends that the answer to all of the above questions results in a
23 determination that the C-Tax system is unlawful on its face and on an as-applied basis to Fernley.
24 Thus, there presently exists a ripe case and controversy for which the parties are in need of
25 declarations from the Court to resolve their respective rights under the United States and Nevada
26 Constitutions.

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1 64. Fernley has been required to retain the services of Brownstein Hyatt Farber
2 Schreck, LLP to prosecute its Constitutional claims and is therefore entitled to recover an award of
3 reasonable attorneys' fees and costs of suit.

4 **SEVENTH CLAIM FOR RELIEF**

5 **(Injunctive Relief)**

6 65. Fernley repeats and realleges the allegations set forth in Paragraphs 1 through 64 as
7 though fully set forth herein.

8 66. Fernley has suffered and will continue to suffer immediate, great and irreparable
9 injury, loss or damage if the Defendants are allowed to continue to administer Nevada's C-Tax as
10 they have been, with the resultant deprivation of Fernley's rights under the United States and
11 Nevada Constitutions.

12 67. Fernley is entitled to restrain the Defendants from administering Nevada's C-Tax
13 system in a way which infringes upon Fernley's Constitutional rights and works to Fernley's
14 prejudice.

15 68. Defendants' administration of Nevada's unconstitutional C-Tax system to Fernley's
16 prejudice is both ongoing and imminent.

17 69. Fernley seeks an order from this Court enjoining the Defendants, as well as those
18 persons acting on their behalf or in concert with them, from making or causing to be made any
19 distributions under Nevada's C-Tax system, until such time as this Court rules upon the
20 declaratory relief requested herein and thereafter to the extent the Court deems appropriate.

21 70. Fernley has been required to retain the services of Brownstein Hyatt Farber
22 Schreck, LLP to prosecute its Constitutional claims and is therefore entitled to recover an award of
23 reasonable attorneys' fees and costs of suit.

24 WHEREFORE, Fernley prays for judgment as follows:

- 25 1. On its First Claim for Relief, for damages in an amount to be proven at trial;
26 2. On its Second Claim for Relief, for damages in an amount to be proven at trial;
27 3. On its Third Claim for Relief, for damages in an amount to be proven at trial;
28 4. On its Fourth Claim for Relief, for damages in an amount to be proven at trial;

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1 5. On its Fifth Claim for Relief, for damages in an amount to be proven at trial;

2 6. On its Sixth Claim for Relief, for declarations as follows:

3 a) That Nevada's C-Tax system, as administered by the Defendants, denies
4 Fernley and its residents the equal protection of Nevada's laws, in violation of Section 1 of the
5 Fourteenth Amendment to the United States Constitution;

6 b) That Nevada's C-Tax system, as administered by the Defendants, violates
7 the Separation of Powers Clause of the Nevada Constitution;

8 c) That Nevada's C-Tax system, as administered by the Defendants, operates as
9 a local or special law for the assessment and collection of taxes for state, county and township
10 purposes and therefore violates Article 4, Section 20 of the Nevada Constitution;

11 d) That Nevada's C-Tax system, as administered by the Defendants, violates
12 the mandate of Article 4, Section 21 of the Nevada Constitution that all laws be of general and
13 uniform operation throughout the State; and

14 e) That Nevada's C-Tax system, as administered by the Defendants, denies
15 Fernley and its residents guarantees of due process, in violation of Section 1 of the Fourteenth
16 Amendment to the United States Constitution.

17 7. On its Seventh Claim for Relief, for the issuance of an injunction enjoining the
18 Defendants, as well as those persons acting on their behalf or in concert with them, from making
19 or causing to be made any distributions under Nevada's C-Tax system, until such time as this
20 Court rules upon the declaratory relief requested herein and thereafter to the extent the Court
21 deems appropriate;

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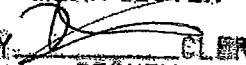
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JUN 25 AM 9:30

ALAN GLOVER

BY  CLERK
DEPUTY

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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
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vs.

STATE OF NEVADA ex rel. THE NEVADA
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HONORABLE KATE MARSHALL, in her
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STATE OF NEVADA; THE LEGISLATURE OF
THE STATE OF NEVADA; and DOES 1-20,
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**Case No. 12 OC 00168 1B
Dept. No. 1**

**STIPULATION AND ORDER
REGARDING CHANGE OF BRIEFING
SCHEDULE AND SETTING HEARING
FOR ORAL ARGUMENT**

ORIGINAL

On June 20, 2014, at the request of the parties, the Court conducted a telephone conference in which counsel for all parties participated regarding a change of the briefing schedule and the setting of a hearing for oral argument concerning the Plaintiff's pending Motion for Summary Judgment, the Plaintiff's pending Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order, and the Defendants' pending Motions for Summary Judgment. In accordance with the agreement of counsel at the telephone conference, the Plaintiff and the Defendants agree and stipulate as follows:

1. All oppositions to the foregoing motions shall be filed not later than July 11, 2014, and shall have a page limit of not more than 30 pages.

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2. All replies in support of the foregoing motions shall be filed not later than July 25, 2014, and shall have a page limit of not more than 20 pages.

3. A hearing before the Court for oral argument on the foregoing motions is set for September 2, 2014, at 2:30 p.m.

4. This stipulation and order supersedes all previous stipulations and orders in this matter regarding the briefing schedule for the foregoing motions.

DATED this 23RD day of JUNE, 2014.

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Taxation and Kate Marshall, State Treasurer*

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*Attorneys for Defendant Legislature of the
State of Nevada*

IT IS SO ORDERED.

DATE: June 25, 2014


DISTRICT COURT JUDGE

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JA 2047

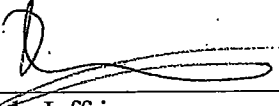
CERTIFICATE OF MAILING

I hereby certify that on the 25th day of June, 2014, I served a copy of the foregoing by placing the foregoing in the United States Mail, postage prepaid, addressed as follows:

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10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

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14 v.

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

Defendants.

Case No.: 12 OC 00168 1B

Dept. No.: I

21 **DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR**
22 **PARTIAL RECONSIDERATION AND REHEARING OF THE COURT'S**
23 **JUNE 6, 2014 ORDER AND COUNTERMOTION FOR ORDER**
DISMISSING NEVADA DEPARTMENT OF TAXATION

24 Defendants, State of Nevada, ex rel. its Department of Taxation ("Department") and
25 the Honorable Kate Marshall in her official capacity as Treasurer of the State of Nevada
26 ("Treasurer"), by and through counsel, Catherine Cortez Masto, Attorney General of the
27 State of Nevada, Gina Session, Chief Deputy Attorney General, and Andrea Nichols, Senior

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Case No. 66851
JA 2049

1 *Contractors Assoc. of Southern Nevada v. Jolley, Urga & Wirth*, 113 Nev. 737, 741, 941 P.2d
2 486, 489 (1997). Motions for rehearing are granted only in very rare instances. *Thomas v*
3 *Hardwick*, 126 Nev. Adv. Op. 16, 231 P.3d 1111 (2010). Here, Fernley has not produced
4 any new evidence and as discussed below, the Court's Order finding the Treasurer has
5 immunity is not clearly erroneous. Accordingly, denial of Plaintiff's Motion for Partial
6 Reconsideration is warranted.

7 Both the Department and Treasurer are immune pursuant to NRS 41.032(1) which
8 provides immunity to state employees exercising due care in the execution of a statute that
9 has not been declared invalid by a court of competent jurisdiction. *Hagblom v. State Director*
10 *of Motor Vehicles*, 93 Nev. 599, 603, 571 P.2d 1172, 1175 (1977); *see also Welch v. United*
11 *States*, 409 F.3d 646, 652-53 (4th Cir. 2005).

12 In Fernley's Complaint the only allegations against the Department and Treasurer are
13 that they are part of the executive branch of the State of Nevada and they administer the C-
14 Tax system. Fernley has not alleged that either the Treasurer or the Department failed to
15 exercise due care in carrying out the requirements of the C-Tax legislation and the C-Tax
16 system has not been declared invalid or unconstitutional. Thus both the Treasurer and the
17 Department are immune from liability under the due care exception to the State's waiver of
18 sovereign immunity pursuant to NRS 41.032(1). Accordingly, both the Treasurer and the
19 Department should be dismissed from this lawsuit.

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1 **III. CONCLUSION**

2 In light of the foregoing, Defendants, State of Nevada, ex rel. its Department of
3 Taxation, and Kate Marshall in her official capacity as Treasurer of the State of Nevada
4 respectfully request that this Court enter its order denying Plaintiff's Motion for Partial
5 Reconsideration and Rehearing of the Court's June 6, 2014 Order or alternatively dismissing
6 the Department of Taxation from this lawsuit, as it is also entitled to immunity under 41.032.

7 DATED this 11th day of July, 2014.

8 CATHERINE CORTEZ MASTO
9 Attorney General

10 By:



11 ANDREA NICHOLS
12 Senior Deputy Attorney General
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14 5420 Kietzke Lane, Suite 202
15 Reno, NV 89511
16 (775) 688-1818

17 *Attorneys for Defendants Nevada*
18 *Department of Taxation and*
19 *Nevada Treasurer*

CERTIFICATE OF SERVICE


I hereby certify that I am an employee of the Office of the Attorney General of the State of Nevada and that on this 11th day of July, 2014, pursuant to NRCP 5(b) and the parties' stipulation and consent to service by electronic means, I served a copy of the foregoing **DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL RECONSIDERATION AND REHEARING OF THE COURT'S JUNE 6, 2014 ORDER AND COUNTERMOTION FOR ORDER DISMISSING NEVADA DEPARTMENT OF TAXATION**, by electronic mail directed to the following:

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and Kate Marshall, State Treasurer*

**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; THE LEGISLATURE
OF THE STATE OF NEVADA; and DOES 1-
20, Inclusive,

Defendants.

Case No.: 12 OC 00168 1B

Dept. No.: I

**NEVADA DEPARTMENT OF TAXATION'S OPPOSITION TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Defendant, State of Nevada, ex rel. its Department of Taxation ("Department"), by and through counsel, Catherine Cortez Masto, Attorney General of the State of Nevada, Gina Session, Chief Deputy Attorney General, and Andrea Nichols, Senior Deputy Attorney General, submits its Opposition to Plaintiff's Motion for Summary Judgment.¹

¹ Defendant the Honorable Kate Marshall, in her official capacity as Treasurer of the State of Nevada, was dismissed pursuant to this Court's order of June 6, 2014. Should the Court reconsider this Order of the arguments made by the Department herein apply to the Treasurer as well.

1 This Opposition is made and based upon the following Memorandum of Points and
2 Authorities, the exhibits attached hereto, together with all other papers, pleadings and
3 documents on file herein.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I. INTRODUCTION**

6 The City of Fernley ("Fernley") is challenging the constitutionality of a C-Tax system
7 that multiple local governments, enterprise districts, and special districts statewide have
8 relied upon for nearly twenty years for budgeting and planning purposes. The system is
9 administered by the Department of Taxation pursuant to formulas lawfully enacted by the
10 Nevada Legislature. Fernley is asking this Court to legislate from the bench and restructure
11 this long-established statutory system.

12 The Court should decline Fernley's invitation to step into the shoes of the Legislature
13 and redraw the statewide C-Tax system for the following reasons:

- 14 1. There is no separation of powers violation because the Legislature has
15 enacted a law providing the formulas for administering the C-Tax and the
16 Department is simply executing the system created by the Legislature;
- 17 2. The C-Tax is not a local or special law because it applies to all of the local
18 governments, enterprise districts, and special districts statewide;
- 19 3. Though Fernley asserts the Legislature failed to enact a general law governing
20 the distribution of C-Tax, Fernley is wrong. The laws enacted by the
21 Legislature for the distribution of C-Tax are general laws that apply to all of the
22 local governments, enterprise districts, and special districts statewide.

23 The Department agrees with Fernley that the issues to be decided are, "issues of
24 constitutional and statutory interpretation, which are entirely questions of law, no factual
25 dispute of any kind exists that could preclude the entry of summary judgment. . ." Plaintiff's
26 Motion for Summary Judgment, filed June 12, 2014, ("Fernley's MSJ") p. 20, ll. 18-20.
27 Despite declaring that the issues to be decided are questions of law, Fernley presents nearly
28 twenty (20) pages of factual assertions. While the Department may quarrel with the

1 accuracy of some of Fernley's alleged facts, it is our position that there are no factual
2 disputes that create a genuine issue for trial. We agree that this matter can be decided
3 based on a motion for summary judgment; though, of course, the Department believes that
4 summary judgment should be awarded by this Court in favor of the State.

5 **II. STATEMENT OF FACTS NOT GENUINELY IN ISSUE**

6 The 1997 Session of the Nevada Legislature passed SB 254; the resulting legislation
7 is referred to as the Consolidated Tax or C-Tax system. Plaintiff's Complaint, filed June 6,
8 2012, ("Complaint") p. 2, ll. 10-13. See also SB 254, attached hereto as Exhibit "1." Under
9 the C-Tax system revenues from six taxes are consolidated and distributed to Nevada's
10 seventeen counties, and also to local governments and special districts within those
11 counties, based on a complex statutory formula. Complaint, p. 2, l. 17 to p. 3, l. 13.

12 The C-Tax distribution formula is codified in NRS 360.680 and 360.690. Pursuant to
13 NRS 360.680, each local government or special district that is eligible for a distribution
14 receives a base amount, based on the base amount it received the previous year with an
15 adjustment based on the Consumer Price Index. Pursuant to NRS 360.690, if there are
16 funds available after the base amount is distributed, the excess funds are distributed to local
17 governments using a formula based on the percentage change in population and the
18 percentage change in assessed value of taxable property in the local government.

19 Pursuant to NRS 360.695, if the population and the assessed value of taxable
20 property within a local government decrease for three years, the Executive Director of the
21 Nevada Department of Taxation may submit findings to the Committee on Local Government
22 Finance ("CLGF"). The CLGF reviews the findings and if it determines that an adjustment in
23 C-Tax is appropriate, the CLGF submits its recommendation to the Nevada Tax
24 Commission.²

25 Before the statutes went into effect, local governments had the opportunity to request
26 an adjustment of the base amount of C-Tax it would receive. Exhibit "1," SB 254, Sec. 36.1;

27 ² The calculations pursuant to NRS 360.680, 360.690 and 360.695 will change beginning in 2014
28 based on AB 68 which was enacted in the 2013 legislative session.

1 see *also* Fernley's MSJ, Exhibit "6," p. 892, Bates CoF 1077. Such a request would be
2 reviewed by the Department, the CLGF, and the Nevada Tax Commission. *Id.*; see *also*
3 Fernley's MSJ, Exhibit "4," p. 83, ll. 9-20. The Department received nineteen (19) requests
4 for adjustment to the C-Tax distribution initial year base. Exhibit "2." The CLGF considered
5 these requests at a meeting held on February 10, 11 and 12, 1998. *Id.* The, then
6 unincorporated, town of Fernley did not seek an adjustment to its base at that time.

7 One of the Objectives of the C-Tax legislation was to reduce competition among local
8 governments and to encourage cooperation. Deposition of Guy Hobbs, Exhibit "3," p. 42, ll.
9 12-19; see *also* Fernley's MSJ, Exhibit "7," p. 31, ll. 1-7. The legislation sought to get rid of
10 incentives to create new entities simply for the sake of securing revenue. Exhibit "3," p. 45,
11 ll. 3-6. To meet these objectives the C-Tax statutes contain provisions wherein a local
12 government may seek additional C-Tax revenue if it provides additional services. Pursuant
13 to NRS 360.740, a newly created government or special district may request additional C-
14 Tax revenue if it provides certain services. See *also* Exhibit "3," p. 73, l. 4 to p.74, l. 9.
15 Pursuant to NRS 354.598747, a local government may also seek additional C-Tax revenue if
16 it assumes functions of another local government, special district or enterprise district. See
17 *also* Deposition of Marian Henderson, Exhibit "4," p. 102, l. 6 to p. 104, l. 15 and Fernley's
18 MSJ, Exhibit "30," pp. 27-28.

19 The town of Fernley incorporated into the City of Fernley in 2001. Complaint, p. 3, l.
20 14. The City of Fernley is located in Lyon County. Complaint, p. 2, ll. 2-3. Both Lyon
21 County and the City of Fernley receive revenue distributions under Nevada's C-Tax system.

22 Before the town of Fernley incorporated into the City of Fernley, the Nevada
23 Department of Taxation advised the Fernley Incorporation Committee that the newly
24 incorporated city would not realize an increase in revenue from C-Tax. Affidavit of Warner
25 Ambrose, attached hereto as Exhibit "5." Thus the City of Fernley Incorporation Committee
26 did not base its revenue and expenditure projections on any anticipated increase in C-Tax
27 revenues. Affidavit of Terry Rubald, attached hereto as Exhibit "6." In the incorporation
28 documents submitted to the CLGF, the City of Fernley represented that it would need an

1 equitable means of sharing revenue and develop interlocal agreements with Lyon County to
2 provide services. *Id.*³ Fernley has not taken advantage of NRS 354.598747 by assuming
3 functions performed by Lyon County or by another local government, special district or
4 enterprise district. As a result, the City of Fernley's C-Tax distributions are not significantly
5 different from what it received as an unincorporated town. Complaint, p. 3, ll. 26-28.

6 Fernley claims that it is difficult to enter into a cooperative local agreement. Fernley's
7 MSJ, p. 13, l. 23 to p. 15, l. 16. Thus it is significant that in 2011, Clark County, the City of
8 Las Vegas, the City of North Las Vegas, the City of Henderson, the City of Boulder City, the
9 City of Mesquite, the unincorporated towns, and special districts in Clark County entered into
10 a cooperative agreement regarding 2012 C-Tax distributions. Affidavit of Warner Ambrose,
11 Exhibit "7"; *see also* Fernley's MSJ, Exhibit "7," p. 30.

12 The Nevada Department of Taxation administers the distributions in accordance with
13 the statutes. Exhibit "4," p. 71, l. 17 to p. 72, l. 21; p. 78, ll. 11-23; and p. 79, ll. 11-19. *See*
14 *also* Fernley's MSJ, p. 19, ll. 25-26, and Fernley's MSJ, Exhibit "6," pp. 891-892, Bates CoF
15 1076-1077. The counties, local governments, and special districts must plan their budgets
16 based on expected revenues from C-Tax and from other sources of revenue such as
17 property and fuel taxes. Certain tax revenues have been distributed to Nevada's Counties,
18 local governments, and special districts through Nevada's C-Tax since its enactment in
19 1997. Although the City of Fernley incorporated in 2001, it did not file this lawsuit until 2012.
20 Plaintiff's Response No. 14 to Defendants' Requests for Admissions, attached hereto as
21 Exhibit "8"; *see also* Complaint and Fernley's MSJ, Exhibit "3," p. 76, ll. 11-13.

22 In its first and fifth claims for relief, the City of Fernley alleges violations of the
23 Fourteenth Amendment to the United States Constitution. These claims were dismissed by
24 the Nevada Supreme Court. *See* Order Pursuant to Writ of Mandamus filed herein on
25 February 22, 2013.

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28 ³ See Petition for Incorporation page 6.

1 In its remaining claims for relief, the City of Fernley ("Fernley") alleges violations of the
2 Nevada Constitution and seeks declaratory and injunctive relief.

3 **III. ARGUMENT**

4 **A. The Standard of Review**

5 Fernley moved for summary judgment pursuant to NRCP 56. To interpret this rule the
6 Nevada Supreme Court adopted the standard employed by the United States Supreme
7 Court noting, "Rule 56 should not be regarded as a 'disfavored procedural shortcut' but
8 instead 'as an integral part of the Federal Rules as a whole, which are designed to secure
9 the just, speedy and inexpensive determination of every action.'" *Wood v. Safeway, Inc.*,
10 121 Nev. 724, 730, 121 P.3d 1026, 1030 (2005) (citing to *Celotex v. Catrett*, 477 U.S. 317
11 (1986)). The Nevada Supreme Court rejected the "slightest doubt" standard, finding
12 summary judgment is appropriate when the evidence, "before the court demonstrate[s] that
13 no genuine issue of material fact exists, and the moving party is entitled to judgment as a
14 matter of law." *Wood*, 121 at 731 and 121 P.3d at 1030.

15 The Court is cognizant, however, that conclusory statements along with general
16 allegations do not create an issue of fact. *Yeager v. Harrah's Club, Inc.* 111 Nev. 830, 833,
17 897 P.2d 1093, 1095 (1995). "When opposing parties tell two different stories, one of which
18 is blatantly contradicted by the record, so that no reasonable jury could believe it, a court
19 should not adopt that version of the facts for purposes of ruling on a motion for summary
20 judgment." *Scott v. Harris*, 550 U.S. 372, 380 (2007). Here, the Court should not be swayed
21 by Fernley's unsupported allegations of unconstitutionality when the statutes are clear.

22 Additionally, tax statutes such as those at issue in this case enjoy a presumption of
23 constitutionality. The analysis of a tax statute,

24 begins with the presumption of validity which clothes statutes
25 enacted by the legislature. All acts passed by the legislature are
26 presumed valid until the contrary is clearly established. In case
27 of doubt, every possible presumption will be made in favor of the
28 constitutionality of a statute, and courts will interfere only when
the constitution is clearly violated. Further, the presumption of
constitutional validity places upon those attacking a statute the
burden of making a clear showing that the statute is
unconstitutional.

1 *List v. Whisler*, 99 Nev. 133, 137-38, 660 P.2d 104, 106 (1983) (citations omitted). *See also*
2 *Nevada v. Irwin*, 5 Nev. 111, 120 (1869).

3 Fernley asserts that its Motion for Summary Judgment, “presents only issues of
4 statutory interpretation, which are entirely questions of law.” Fernley’s MSJ, p. 20, ll. 18-19.
5 The Department agrees that whether or not the C-Tax statutes are constitutional is a matter
6 of law. However, the Department respectfully asserts that the statutes at issue pass
7 constitutional muster. Accordingly, Defendants are entitled to judgment as a matter of law.

8 **B. The Department Has Immunity From Liability**

9 The Department has immunity under both the due care and discretionary immunity
10 exceptions to the State’s waiver of sovereign immunity. In NRS 41.031, the State waives its
11 sovereign immunity from liability and consents to have its liability determined in accordance
12 with the same rules of law as are applied in civil actions against natural persons and
13 corporations, with certain exceptions, including NRS 41.032, and any statute which expressly
14 provides for governmental immunity. NRS 41.032 provides both a due care exception and a
15 discretionary immunity exception. It states,

16 Except as provided in NRS 278.0233 no action may be brought
17 under NRS 41.031 or against an immune contractor or an officer
18 or employee of the State or any of its agencies or political
19 subdivisions which is:

20 1. Based upon an act or omission of an officer, employee or
21 immune contractor, exercising due care, in the execution of a
22 statute or regulation, whether or not such statute or regulation is
23 valid, if the statute or regulation has not been declared invalid by
24 a court of competent jurisdiction; or

25 2. Based upon the exercise or performance or the failure to
26 exercise or perform a discretionary function or duty on the part of
27 the State or any of its agencies or political subdivisions or of any
28 officer, employee or immune contractor of any of these, whether
or not the discretion involved is abused.

29 In *Martinez v. Maruszak*, 123 Nev. 433, 168 P.3d 720 (2007), the Nevada Supreme
30 Court recognized that NRS 41.032(2) (the discretionary immunity exception) mirrors the
31 Federal Tort Claims Act (“FTCA”) and determined that the same two-part test for determining
32 discretionary immunity in federal cases should be applied in determining discretionary
33 immunity under 41.032(2). The Nevada Supreme Court has not issued a published opinion
34