

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 13 PART 4

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FY 2013-2014 Budget Totals for Select Cities and Lyon County as Reported to the Nevada Department of Taxation

	2001 Population ¹	2013 Population ²	Percent Change	2001 Assessed Valuation ³	2013 Assessed Valuation ⁴	Percent Change	2001 CTX ⁵	2013 CTX ⁶	Percent Change	2001 Property Tax Rate ⁷	2013 Property Tax Rate ⁸	2013-2014 Municipal/ County Budget ⁹
Fernley	9,529	18,987	99.25%	\$ 233,552,164	\$ 444,251,962	90.22%	\$ 100,032.03	\$ 133,050.30	33.01%	2.7403%	3.5497%	\$ 8,836,493
Mesquite	11,940	17,477	46.37%	255,555,696	538,961,318	110.90%	5,216,434.45	7,336,084.71	40.83%	2.4877%	2.7737%	42,066,527
Boulder City	14,760	15,635	5.93%	370,567,281	528,726,970	42.68%	6,257,917.59	8,855,664.66	41.51%	2.4744%	2.7264%	28,834,365
Elko	17,093	20,958	22.61%	295,123,546	427,764,045	44.94%	6,457,850.83	13,521,334.12	109.38%	3.0726%	3.4823%	23,941,346
Lyon County	37,329	52,960	41.87%	\$ 722,002,643	\$ 1,192,776,765	65.20%	\$ 10,712,760.86	\$ 14,368,990.95	34.13%	2.6675%	2.9869%	\$37,337,010
¹ "2001 Population" figures derived from the following pursuant to NRS 360.285: Nevada Dept. of Taxation's "Population of Nevada's Counties and Incorp Cities 2013 Governor's Certified Series." Figures as of July 1, 2001.												
² "2013 Population" figures derived from the following pursuant to NRS 360.285: Nevada Dept. of Taxation's "Population of Nevada's Counties and Incorp Cities 2013 Governor's Certified Series." Figures as of July 1, 2013.												
³ "2001 Assessed Valuation" figures derived from the following: Nevada Dept. of Taxation's "Property Tax Rates for Nevada Local Governments." Figures as of July 16, 2001 (FY 2001-2002).												
⁴ "2013 Assessed Valuation" figures derived from the following: Nevada Dept. of Taxation's "Property Tax Rates for Nevada Local Governments." Figures as of July 15, 2013 (FY 2013-2014).												
⁵ "2001 CTX" figures derived from the following: Nevada Dept. of Taxation's "Consolidated Tax Distribution" report. (FY 2000-2001).												
⁶ "2013 CTX" figures derived from the following: Nevada Dept. of Taxation's "Consolidated Tax Distribution" report. (FY 2012-2013).												
⁷ "2001 Property Tax Rate" figures derived from the following: Nevada Dept. of Taxation's "Property Tax Rates for Nevada Local Governments." Figures as of July 16, 2001 (FY 2001-2002).												
⁸ "2013 Property Tax Rate" figures derived from the following: Nevada Dept. of Taxation's "Property Tax Rates for Nevada Local Governments." Figures as of July 15, 2013 (FY 2013-2014).												
⁹ "2013-2014 Municipal/County Budget" figures are the "Total Revenues" from "Budget Summary, Schedule S-1 - Form 2" and are derived from the following: Municipality/County's "Final Budget for FY End June 30, 2014," submitted to Nevada Dept. of Taxation (FY 2013-2014).												

EXHIBIT 2

EXHIBIT 2

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18
19 **IN THE FIRST JUDICIAL DISTRICT COURT**
20 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

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

23 Plaintiff,

24 v.

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

Defendants.

Case No.: 12 OC 00168 IB
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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ALAN GLOVER
BY C. Cooper CLERK

PARTIES

1. Fernley is a Nevada municipal corporation, located in Lyon County, Nevada. Fernley is not a debtor in bankruptcy.

2. The Department is an executive branch agency of the State of Nevada. The Department's responsibilities include general supervision and control over the entire revenue system of the State of Nevada.

3. The Treasurer is a constitutional officer in the executive branch of the State of Nevada. The Treasurer's responsibilities include, *inter alia*, the disbursement of public monies.

BACKGROUND

4. In 1997, the State of Nevada, through its Legislature, established a system, unique to Nevada, known as the Consolidated Tax (the "C-Tax") system. At the time the C-Tax system was established fifteen years ago, Fernley was an unincorporated town, with a population of approximately 8,000 people.

5. The C-Tax system was intended to provide revenue stability and an equitable distribution of certain tax revenues among Nevada's counties and local governments, and the Defendants are responsible for administering the C-Tax system to achieve those ends.

6. C-Tax revenues are comprised of the following six (6) taxes collected in Nevada: (i) the Cigarette Tax; (ii) the Liquor Tax; (iii) the Government Services Tax (the "GST"); (iv) the Real Property Transfer Tax (the "RPTT"); (v) the Basic City County Relief Tax (the "BCCRT"); and (vi) the Supplemental City County Relief Tax (the "SCCRT"). The BCCRT and SCCRT are percentages of the overall Sales and Use Tax rate, 0.50% and 1.75%, respectively, of the 6.85% statewide Sales and Use Tax.

7. The revenues collected from the six (6) taxes described in Paragraph 7 above are consolidated by the Department and then distributed by the Treasurer, at the direction of the Department, on a monthly basis as follows: (i) the Cigarette Tax is distributed to Nevada's counties based on population; (ii) the Liquor Tax is distributed to Nevada's counties based on population; (iii) the GST is distributed to the county in which it was collected; (iv) the RPTT is distributed to the county in which it was collected; (v) the BCCRT is distributed, when collected

1 from in-state companies, to the county in which the in-state company is located and, when
2 collected from out-of-state companies, to Nevada's counties based on population; and (vi) the
3 SCCRT is distributed to Nevada's counties based on a statutory formula found at Nevada Revised
4 Statutes ("NRS") 377.057. Pursuant to NRS 377.057, nine (9) of Nevada's seventeen (17)
5 counties, including Lyon County, receive a guaranteed monthly allocation of SCCRT revenues,
6 regardless of their SCCRT receipts.

7 8. C-Tax revenues are distributed monthly in tiers. Tier 1 Distributions go to
8 Nevada's seventeen (17) counties, in varying amounts based on the factors described in Paragraph
9 8 above. Tier 2 Distributions are distributions of the Tier 1 amounts and are made to the various
10 local governments and special districts within that county. Tier 2 Distributions are made according
11 to statutory "Base" and "Excess" allocation formulas, found at NRS 360.680 and 360.690,
12 respectively. There are no restrictions on what C-Tax revenues can be used for by a county or
13 local government, and in fact C-Taxes are commonly used for general operating expenses.

14 9. Fernley incorporated in 2001. Fernley is the only municipality to incorporate in
15 Nevada since the C-Tax system was implemented in 1997. No meaningful adjustments were made
16 to Fernley's C-Tax distribution after its incorporation in 2001 and, even today, despite significant
17 growth in population and assessed property valuation, Fernley receives a C-Tax distribution
18 similar to its distributions as an unincorporated town in 1997. For example, in 1997, Fernley, then
19 an unincorporated town, received approximately \$86,000 in C-Tax distributions. In 2001, the year
20 Fernley incorporated, it received \$110,685 in C-Tax distributions. In 2011, Fernley received
21 \$143,143 in C-Tax distributions.

22 10. Today, Fernley, home to a major Amazon.com distribution center since 1999, is the
23 seventh most populous city in Nevada, with a population of approximately 19,000 people. Lyon
24 County, within which Fernley is located, is Nevada's fourth most populous county, with a
25 population of approximately 52,000 people, some 36% of whom live in Fernley.

26 11. Despite experiencing population growth of approximately 250% since the C-Tax
27 system was established, Fernley's current C-Tax distributions are not significantly different from
28 what it received as an unincorporated town in the late 1990s.

12. Comparisons of C-Tax distributions to comparably sized jurisdictions in Nevada are striking. C-Tax distributions for 2010-2011 to comparably sized Nevada towns or cities include: Fallon (\$1,409,664); Boulder City (\$7,935,323); Elko (\$11,015,989); West Wendover (\$2,275,011); Winnemucca (\$3,552,393); Mesquite (\$7,046,690); and Ely (\$1,142,528). The average C-Tax distribution to these jurisdictions in 2010-2011 was \$4,910,571. Again, Fernley's C-Tax distribution for the same year was just \$143,143.

13. Of the \$14.836 million Lyon County received in Tier 1 C-Tax Distributions in 2011, Fernley received a total of only \$143,000 in Tier 2 Distributions, which is less than 1% of Lyon County's 2011 Tier 1 C-Tax Distributions. Put another way, in 2011, Fernley received approximately \$7 in C-Tax revenue per resident. By comparison, in Clark County, Boulder City and Mesquite, both of which are less populous than Fernley, received 2011 Tier 2 C-Tax Distributions totaling \$7.935 million and \$7.047 million, respectively (between \$450 and \$550 per resident). In Elko County, the City of Elko, the population of which is comparable to Fernley's, received \$11.016 million in 2011 Tier 2 C-Tax Distributions, roughly one hundred times more than Fernley.

14. The C-Tax system is not designed to allow for any meaningful adjustment to distributions. The Department has no ability to adjust Tier 1 Distributions, and can only make minor adjustments to Tier 2 Distributions if local governments agree to a transfer of services. Other adjustments are permanently barred to a municipality if they are not requested within 12 months of incorporation. What this means is that a jurisdiction like Fernley, that begins with a low base allocation, has no hope of ever obtaining a meaningful adjustment.

15. Fernley has been rebuffed in its efforts to obtain a larger share of the distribution to Lyon County.

16. Fernley has been rebuffed in its efforts to obtain relief from the Nevada Legislature. In 2011, Fernley promoted a bill to increase its base C-Tax allocation. That bill received one committee hearing and died, never receiving even so much as a committee vote.

17. Fernley has exhausted all of its options to obtain an adjustment to its C-Tax distribution, leaving Fernley in the position of having no choice but to seek relief from this Court.

1 18. Fernley's inability to obtain any adjustment to its C-Tax distribution severely limits
2 Fernley's ability to operate and plan for its future.

3 19. As administered by the Defendants, Nevada's C-Tax system denies Fernley equal
4 protection, in violation of Section 1 of Amendment XIV of the United States Constitution.
5 Nevada's C-Tax system further violates the separation of powers, creates a special law, operates in
6 a non-uniform and non-general fashion, and imposes non-uniform and unequal taxation within the
7 State of Nevada, all in violation of the Nevada Constitution and to Fernley's harm.

8 **FIRST CLAIM FOR RELIEF**

9 **(Denial of Equal Protection in Violation of Section 1 of the**
10 **Fourteenth Amendment to the United States Constitution)**

11 20. Fernley repeats and realleges the allegations set forth in Paragraphs 1 through 19 as
12 though fully set forth herein.

13 21. The Fourteenth Amendment to the United States Constitution prohibits a State from
14 denying equal protection of its laws to any person within its jurisdiction.

15 22. As administered by the Defendants, Nevada's C-Tax system results in Fernley
16 receiving distributions that are substantially less than what is received by other, comparably
17 populated and similarly situated Nevada towns and cities.

18 23. As administered by the Defendants, Nevada's C-Tax system is non-uniform and
19 unequal in its effect upon Fernley as compared to other similarly situated Nevada towns and cities.

20 24. As administered by the Defendants, Nevada's C-Tax system denies Fernley and its
21 citizens the equal protection of Nevada's laws.

22 25. The denial of Fernley's equal protection of the law by the Defendants has
23 proximately caused damages to Fernley, in an amount to be determined at trial.

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

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

28 ///

SECOND CLAIM FOR RELIEF

(Violation of the Separation of Powers Clause of the Nevada Constitution)

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

29. Article 3, Section 1 of the Nevada Constitution provides that the powers of the State government are divided into three branches and that no person charged with the exercise of powers properly belonging to one of those branches may be exercised by either of the other branches.

30. Legislative authority in Nevada is vested in the Nevada Legislature, including the power to control the raising and distribution of revenues.

31. The Nevada Legislature is empowered to direct the distribution of C-Tax revenues to counties and local governments.

32. The C-Tax system, which is administered by the executive branch of the state government, is set up so that the legislative authority over the C-Tax system is abdicated to and exercised by the executive branch of state government.

33. As administered by Defendants, the C-Tax system violates the Separation of Powers Clause of the Nevada Constitution.

34. The violation of the separation of powers clause has proximately caused damages to Fernley, in an amount to be determined at trial.

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

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

THIRD CLAIM FOR RELIEF

(Creation of a Special Law in Violation of Article 4, Section 20 of the Nevada Constitution)

37. Fernley repeats and realleges the allegations set forth in Paragraphs 1 through 36 as though fully set forth herein.

1 38. Article 4, Section 20 of the Nevada Constitution provides that the Nevada
2 Legislature shall not pass local or special laws pertaining to the assessment and collection of taxes
3 for state, county and township purposes.

4 39. Fernley and its residents are net exporters of tax revenues into the C-Tax system
5 and receive substantially less in C-Tax distributions than are submitted in C-Tax collections.

6 40. As administered by Defendants, the C-Tax system operates as a local or special law
7 with respect to Fernley, by treating Fernley significantly differently for tax collection and
8 distribution purposes than other local governments.

9 41. The violation of Article 4, Section 20 of the Nevada Constitution has proximately
10 caused damages to Fernley, in an amount to be determined at trial.

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

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

15 **FOURTH CLAIM FOR RELIEF**

16 **(Violation of Article 4, Section 21 of the Nevada Constitution)**

17 44. Fernley repeats and realleges the allegations set forth in Paragraphs 1 through 43 as
18 though fully set forth herein.

19 45. Article 4, Section 21 of the Nevada Constitution provides that in all cases where a
20 general law can be made applicable, that all laws shall be general and of uniform operation
21 throughout the State.

22 46. As administered by Defendants, the C-Tax system operates in a non-general and
23 non-uniform fashion by treating Fernley significantly differently from other local governments.

24 47. The violation of Article 4, Section 21 of the Nevada Constitution has proximately
25 caused damages to Fernley, in an amount to be proven at trial.

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

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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.

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;

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;

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

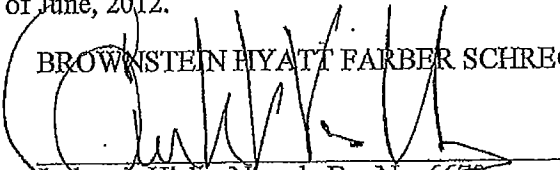
28 ///

BROWNSTEIN HYATT FARBER SCHRECK
9210 Prototype Drive, Suite 250
Reno, Nevada 89521
Telephone: 775-622-9450

- 1 8. Attorneys' fees and costs of suit; and
2 9. Any further relief this Court deems proper.

3 DATED this 6th day of June, 2012.

4 BROWNSTEIN HYATT FARBER SCHRECK, LLP

5 
6 Joshua J. Hicks, Nevada Bar No. 6679

7 Clark V. Vellis, Nevada Bar No. 5533

8 Sean D. Lyttle, Nevada Bar No. 11640

9 9210 Prototype Drive, Suite 250

10 Reno, Nevada 89521

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

EXHIBIT 3

EXHIBIT 3



ORIGINAL

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

-o0o-

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Case No. 12 OC 00168 1B

Department No. I

Plaintiff,

vs.

STATE OF NEVADA, ex rel. THE
NEVADA DEPARTMENT OF TAXATION;
et al.,

Defendants,

NEVADA LEGISLATURE,

Intervener.

_____ /

DEPOSITION OF

LEROY GOODMAN

January 10, 2014

Reno, Nevada

REPORTED BY: CONSTANCE S. EISENBERG, CCR #142, PMR, CRR

Job No. 197783

Case No. 66851
JA 2407

1 Q And then at some point, you were a manager?

2 A Sales manager, right, just more of a title than
3 anything, because we had a small sales force. That's all.

4 When you get someplace for so long, it kind of evolves.
5 That's all.

6 Q I know you are the current mayor of Fernley --

7 A Uh-huh.

8 Q -- and a former Lyon County commissioner. Have you held
9 any other political offices?

10 A I was an elected member of the Fernley town board.

11 Q When was that?

12 A That would have been 1984 through 1988.

13 Q And then when were you a Lyon County commissioner?

14 A 1997 through 2008.

15 Q And then when were you elected mayor of Fernley?

16 A I was first appointed mayor of Fernley because the
17 incumbent moved out of town. That was in August of 2009. And I
18 was elected to the position in, actually, June of 2010.

19 Q So were you a Lyon County commissioner when the town of
20 Fernley was considering incorporation?

21 A Yes, I was.

22 Q And actually, were you on -- in -- was the City of
23 Fernley considering incorporation at all when you were on the
24 Fernley town board?

25 A Back in '88?

1 right there. Uh-huh.

2 Q Okay. So the City of Fernley Incorporation Committee
3 had proposals for how they would pay for services provided by the
4 City of Fernley; is that correct?

5 A Right, uh-huh. That would be correct.

6 Q And they estimated that they would be receiving C tax
7 revenues of \$87,979; is that correct?

8 A That's what it says, yeah. I'm sure that's what they
9 were receiving at the time.

10 Q Okay. At the time, did they anticipate that those C tax
11 revenues would increase?

12 MR. VELLIS: Objection, lacks foundation, calls for
13 speculation, vague and ambiguous.

14 THE WITNESS: Right, I have no idea what the
15 incorporation committee would have been thinking on that.

16 BY MS. NICHOLS:

17 Q Okay. In the petition -- I'm just looking at page 3 --

18 A Okay.

19 Q -- they talk about police protection.

20 A Uh-huh.

21 Q And it says the Lyon County Sheriff's Department is in
22 place and provided by the County. And a little later on, it's
23 proposed -- there are some proposals.

24 A Uh-huh.

25 Q So would the Lyon County commission have been concerned

1 with whether or not the City of Fernley would have adequate police
2 protection?

3 A I don't believe so, because the sheriff is required to
4 have a presence in the city. And the sheriff at that time was
5 Sheriff Sid Smith -- had already guaranteed people, and this was
6 public statement, that Lyon County Sheriff's Office would continue
7 to provide those services for the residents of Fernley.

8 Q As a Lyon County commissioner, were you concerned about
9 the City of Fernley paying for those services?

10 A I'm not sure what you mean, paying for them. They paid
11 for them anyway. They paid for them through the general
12 ad valorem tax. It goes through the general fund.

13 Q Was it anticipated that there would be any change in the
14 police services between the time that the town -- when the town of
15 Fernley became the City of Fernley?

16 A Would be any change in the police services?

17 Q Yes.

18 A You are a little ambiguous. What do you mean, "change"?
19 What are you talking about?

20 Q Did the City of Fernley Incorporation Committee
21 anticipate that the police services would stay the same after the
22 city incorporated?

23 MR. VELLIS: Objection, lacks foundation, calls for
24 speculation, vague and ambiguous.

25 THE WITNESS: I have no idea. That's the incorporation

1 committee. I have no idea what they were thinking.

2 BY MS. NICHOLS:

3 Q Okay. When you reviewed the incorporation committee's
4 petition --

5 A Uh-huh.

6 Q -- did you have concerns about how the City of Fernley
7 would pay for services?

8 A I probably did. I think most of us did. We were
9 concerned that there may not be enough money. But then, I believe
10 the incorporation committee, when they presented this to the
11 county commissioners, assured the county commissioners that the
12 City would only be providing services that they could adequately
13 fund through this proposed budget that was coming in.

14 They were not going to get overboard in their services
15 and things they were doing. But, there again, that's the
16 incorporation committee.

17 Q And now, we are in 2014.

18 A Yeah.

19 Q I'll represent I believe your complaint was filed in
20 2012.

21 A Uh-huh.

22 Q So in 2012, were there services -- and I'll ask you, in
23 2012, you were the mayor of Fernley, correct?

24 A Yes, that's correct.

25 Q Okay. In 2012, were there services that the City of

1 Fernley was unable to provide or was unable to fund?

2 A Recreation; street, road repair. I mean, adequate
3 street, road repair, which is probably a common thing with any
4 city.

5 Whatever else. I mean, in 2012 --

6 MR. VELLIS: You are asking him, does he recall, sitting
7 here right now --

8 THE WITNESS: I don't know. Things that we were trying
9 to do, there are a lot of things. You know, people always have a
10 wish list. But the City of Fernley, basically, was, you know,
11 zero dollars, zero dollars. Your budget was zero.

12 We didn't -- it wasn't like we had a million dollars
13 sitting here or anything there. In fact, in 2012, I'm not sure we
14 even had a contingency because money was so tight. That would be
15 the '11-'12 budget.

16 I remember the assessed valuation of Fernley had
17 plummeted from 762 million to 440 million. That's a big drop, big
18 drop.

19 BY MS. NICHOLS:

20 Q So in 2000, when the City was considering incorporating,
21 could they have anticipated the drop in revenue in 2012?

22 A I don't think anybody could anticipate what happened in
23 2008, 2009, 2010, and was -- housing market and what -- you know,
24 the great recession, as they call it. I don't know anybody that
25 anticipated that.

1 Q Oh, I'm sorry.

2 A -- "of the Department of Taxation worked very hard." I
3 didn't say that.

4 Q As a Lyon County commissioner, did you work with the
5 State of Nevada's Department of Taxation?

6 A No. No.

7 Q So did you receive figures or correspondence from the
8 Nevada Department of Taxation?

9 A No, I did not.

10 Q So that was just the incorporation committee?

11 A Uh-huh, uh-huh. I guess.

12 MR. VELLIS: Don't guess. If you don't know --

13 THE WITNESS: I mean, she's asked that. I guess they
14 received correspondence. I would have no idea.

15 BY MS. NICHOLS:

16 Q Okay. So, now when -- I just want to -- when the City
17 of Fernley Incorporation Committee came to the Lyon County
18 commission with their petition, did they anticipate that the City
19 of Fernley would have adequate funds for police protection?

20 MR. VELLIS: Objection, vague and ambiguous.

21 THE WITNESS: I would have no idea if they did or not.

22 BY MS. NICHOLS:

23 Q Wouldn't that -- would you have been concerned with
24 whether the City of Fernley, if it incorporated, if it would have
25 had adequate funds to provide the services that it wanted to

1 provide?

2 MR. VELLIS: Objection, asked and answered.

3 THE WITNESS: By "services," you are talking of all
4 services?

5 BY MS. NICHOLS:

6 Q Yes.

7 A Whole thing?

8 Probably had some concern. But I think one of the
9 things that puts these concerns to rest was that the sheriff at
10 the time had publicly stated that the Lyon County sheriff's
11 service would stay the same as it was right then. That was very
12 reassuring to the people of Fernley.

13 Q Sure.

14 A And, you know, it's his office, it's his budget. So
15 there would be no drop in police protection or anything that comes
16 under the purview of the sheriff's department.

17 Q Was it also anticipated -- we already talked about that,
18 the fire protection had stayed the same?

19 A Right.

20 Q And was it anticipated at the time of incorporation that
21 the fire protection would stay the same?

22 MR. VELLIS: Objection, lacks foundation, calls for
23 speculation, vague and ambiguous.

24 Go ahead.

25 THE WITNESS: Yes, I believe it was, that they felt it

1 meeting.

2 We also asked for years for reinstatement of the
3 7.77 cent ad valorem road tax that they took in 2003 and folded
4 into the general fund so they wouldn't have to share any with
5 Fernley or with the City of Yerington too.

6 They just reinstated that July 1st of this past year,
7 finally, which brings that amount of ad valorem 7.77 cents to the
8 City of Fernley based on our assessed valuation.

9 You are talking here about, oh, 350-, \$360,000, but
10 that's just happened, again. So for years, it was kind of an
11 adversarial thing. It was like we're not going to help Fernley do
12 anything. And I'm not sure where that adversarial relationship
13 developed, but it, for some reason, did.

14 Q Okay. Other than asking for PILT money and ad valorem
15 taxes, has the City of Fernley approached the Lyon County asking
16 for other revenues?

17 A Consolidated tax, yes, we have, yeah. We've asked for a
18 portion of consolidated tax to come -- that Lyon County receives
19 to come to the City of Fernley. We've asked two times on this,
20 once for 10 percent of the consolidated -- or, of the consolidated
21 tax that Lyon County receives.

22 And another time, we've asked for \$200,000 outright,
23 which is the same as the other incorporated city in Lyon County
24 receives from Lyon County, from the consolidated tax. We have
25 asked for those. We've been turned down every time.

1 Q Okay. So PILT, ad valorem, consolidated tax. Did City
2 of Fernley ask Lyon County for any other revenues?

3 A I don't know of any other revenues they could ask for.

4 Q And what service does the City of Fernley want to
5 provide, or what does the City of Fernley want that money for?

6 A Well, primarily, to improve our infrastructure in roads,
7 for one. And we have a desperate need for main arterial roads
8 connecting to the state and federal highways to be upgraded.

9 Main road into the industrial park, Newlands,
10 East Newlands Drive is desperately in need of repair, considering
11 the amount of traffic that goes in there.

12 We would like to upgrade our downtown enhancement area
13 and stuff to promote economic development, more economic
14 development through, you know, business and stuff. We've been
15 very successful in our economic development efforts in bringing
16 industry to Fernley, but, you know, it takes money to do that.

17 We would also like to do some upgrades to our parks.
18 The major one is the In-Town Park and the Out-of-Town Park that
19 are the highly, highly used parks.

20 We would like to provide more things, like a ski board
21 park, motocross, things like this, that kids can use them. We're
22 also in the drawing board of looking at a community center,
23 convention center, civic center, whatever you would like to call
24 it, where the community can have events and stuff.

25 And we can promote small conferences, conventions to

1 come to Fernley and have their conference there, you know, like
2 League of Cities, Nevada Association of Counties, some of these
3 regional service groups, like Rotary and Lions, that have their
4 little district meetings and stuff. Right now, we can't do that.

5 Right now, if you want to have a function of more
6 than -- more than 40 people in Fernley, you don't, unless you use
7 City Hall. And that's -- there again, in City Hall, we can put
8 about 80 -- 80 in City Hall, but it's very limited as to
9 usability.

10 To have a nice function where you could have a dinner
11 auction, dinner dance, presentation or something, award
12 ceremonies, whatever, there is no place in Fernley to be able to
13 do that.

14 Q Has the City of Fernley approached Lyon County to get
15 more revenue to provide police services?

16 A That's part of what we -- one of the things we would do
17 with this extra money that you just asked me about, is provide
18 more police services, right?

19 We would -- one of the thoughts that has been bantered
20 around is if City of Fernley received a fair share of the
21 consolidated tax, we could then contract with Lyon County for more
22 deputies that the City would actually pay for, but to -- they
23 would be assigned to the substation in Fernley, because we're
24 probably better than -- we have less than half of what should be
25 in a city our size.

1 Q Has the City of Fernley approached Lyon County asking
2 for funds for fire, additional fire protection?

3 A No, because that's a separate entity.

4 Q Okay. That's North Lyon County?

5 A That's North Lyon County Fire District, yes.

6 Q Has the City of Fernley also approached the legislature
7 seeking additional funding?

8 A Yes, we did. In 2011 legislature, we had a bill that we
9 wrote up and had introduced in the assembly, went to -- assembly
10 taxation and Chairman Kirkpatrick. The bill had a hearing, no
11 action was taken on it and never saw the light of day again.

12 We had proposed that the City of Fernley receive a
13 one-time adjustment to the base of the consolidated tax of
14 \$5 million, keeping in mind our base at the time was \$120,000.
15 So -- and we had quite a bit of data and information there as to
16 why this should be.

17 The chairman said -- and a couple members of the
18 committee said why don't you reduce it. There was one paragraph
19 in there -- LCB wrote this up. So we took that paragraph out and
20 reduced the request to \$2.5 million. It never even got to a
21 workshop or a hearing, just got swallowed up. That was in 2011.

22 Q Did the City of Fernley approach the legislature seeking
23 additional funding again in 2013?

24 A No, we did not.

25 Excuse me. Yes, we did. Yes, we did. We tried to get

1 some people to introduce legislation or put it as an amendment and
2 rider and stuff, but we were not successful on that. But we had
3 no formal bill like we had in 2011.

4 The bill, I believe, was AB 40. It was heard early on.
5 It was heard within the first 10 days of the session in 2011. And
6 despite all of our efforts to get the things back on to the --
7 into the working group and bring it back to the committee, it
8 never did.

9 Q Were you involved in the decision to bring a lawsuit
10 against the Department of Taxation and the Treasurer?

11 A For this matter?

12 Q Yes.

13 A Yes, as mayor, I would be, yes.

14 Q What did you think the end result would be of filing a
15 lawsuit?

16 MR. VELLIS: Objection, calls for a legal conclusion.

17 Go ahead, you can try to answer.

18 THE WITNESS: That was our final alternative to seeking
19 relief on this consolidated tax, which we feel is -- you know, the
20 things there.

21 We have been to the legislature. We talked to the
22 Governor's Office. We had several meetings with Taxation. They
23 just said no, we can't help you, we can't do this. Our only
24 remedy left was legal proceedings. That's where we are.

25 BY MS. NICHOLS:

1 that. And it's a fun thing because it's pretty scary, you know.
2 We get things really decorated up and stuff, and the kids love it,
3 and the parents.

4 It's just safe trick-or-treating, so to speak, because
5 they do that. And then there's always candy and stuff that's
6 donated by Wal-Mart and Scolari's and various entities. So that's
7 where that would come from.

8 Q And where -- well, we know what it goes towards. Where
9 does the money come from?

10 A Most of that money would probably come out of the
11 general fund. Some would be donated. A little bit of that would
12 actually come in donations for a particular event, whether it's
13 the Pro Rodeo, whether it's 4th of July or the Spooktacular,
14 whatever it may be.

15 There will be some people that actually will put in \$50
16 toward it or something, not a large amount of money, but some of
17 it is.

18 The 4th of July, yeah, there's probably close to \$10,000
19 in donations might come toward that. 4th of July is a big deal in
20 Fernley, a real big deal.

21 Q Has the City of Fernley had to cut services due to lack
22 of revenue?

23 A Yes, we have. We've dropped our workforce by
24 30 percent, which is pretty significant. Our employees up until
25 this year had not had a raise in three and a half years of any

1 sort, nothing, zero, nada.

2 And this year, they received a two and a half percent
3 across the board for everybody, because we finally got enough
4 money put together that we could do that. And we felt that it was
5 important.

6 And, of course, City of Fernley employees are unionized,
7 the hourly ones. They are represented by the IBEW, so -- but that
8 was the first time.

9 So things have been tight. We have every department
10 watch their overtime. And of course, you know, we have to have a
11 little money aside for something.

12 This year, on 4th of July, for example, that afternoon,
13 we had a major rain event in Fernley. We had over two inches of
14 rainfall in two separate entities -- or, events within three hours
15 of each other, causing over \$160,000 damage to roads and storm
16 drain.

17 That's four days into the fiscal year, we're hit with
18 160,000-plus dollar damages, which you have to repair those
19 things. So already, it's like, whoa, the road fund just took a
20 major hit, which causes projects to be put off and stuff.

21 These are things you can't prepare for, or, you can
22 prepare somewhat, but you can't anticipate. But we can't prepare
23 because we just really don't have the dollars to set aside and
24 say, hey, let's put a million dollars or \$500,000 in a, quote,
25 "rainy day fund" that most entities have. We don't have that

1 Winnemucca or Mesquite or Boulder City, or anybody.

2 I mean, we don't get as much money as the television
3 district in Elko County. A television district. City of Fernley
4 gets less.

5 So we started asking questions. We had meetings with
6 the Department of Taxation. And after two or three meetings, we
7 were told, "Well, the formula works." That's a quote. That's
8 what we were told, "The formula works."

9 So we said, well, we're going into this a little
10 further. So we kept looking at it and trying to devise how this
11 formula works and how a city of 19,000 people would only generate
12 \$140,000 in consolidated tax.

13 When you consider the hotels or the motels, the
14 restaurants, the truck stops, the Lowe's, the Scolari's, the
15 Wal-Mart that's in the City of Fernley, none of this made sense at
16 all, that we wanted to receive a little more proportionate, fair
17 share of the consolidated tax.

18 So we went to Taxation. They said they couldn't help
19 us. We went to the legislature in 2011, got nowhere. And we then
20 contacted -- contracted with this firm here, Mr. Hicks and
21 Mr. Vellis, and proceeded with the lawsuit, because it was our
22 final alternative. That's the only place we could go to try and
23 get relief.

24 Q Okay. Did the formula for the distribution of
25 consolidated tax change from the time the City of Fernley

1 incorporated to 2012?

2 MR. VELLIS: Objection, lacks foundation.

3 THE WITNESS: I have no idea if it did or not. I don't
4 know. I don't know.

5 BY MS. NICHOLS:

6 Q Okay. When did the City of Fernley incorporate?

7 A July 1st, 2001, was the official date of incorporation.

8 Q And this lawsuit was filed in June of 2012; is that
9 correct?

10 A Uh-huh, I guess, around there somewhere, yeah.

11 Q So the lawsuit was filed 11 years after the City of
12 Fernley incorporated; is that correct?

13 A Basically, uh-huh.

14 Q Okay. Are consolidated taxes distributed to counties?

15 MR. VELLIS: Objection, lacks foundation, calls for
16 speculation.

17 THE WITNESS: Among other agencies, yes. That's one of
18 them.

19 BY MS. NICHOLS:

20 Q So when you were a Lyon County commissioner, were you
21 aware that Lyon County received a distribution of consolidated
22 tax?

23 A I was aware they received consolidated tax, yes, uh-huh.

24 Q Do you know whether Lyon County still receives
25 consolidated tax?

EXHIBIT 4

EXHIBIT 4

1 IN THE FIRST JUDICIAL DISTRICT COURT
 2 OF THE STATE OF NEVADA IN AND FOR CARSON CITY
 3 CITY OF FERNLEY, NEVADA, a)
 4 Nevada municipal)
 corporation,)
 5 Plaintiff,)
 6 vs.) Case No.
 7 STATE OF NEVADA ex rel. THE) 12 OC 00168 1B
 NEVADA DEPARTMENT OF)
 8 TAXATION; THE HONORABLE)
 KATE MARSHALL, in her)
 9 official capacity as)
 TREASURER OF THE STATE OF)
 10 NEVADA; and DOES 1-20,)
 inclusive,)
 11 Defendants,)
 12 NEVADA LEGISLATURE,)
 13 Intervenor.)

Certified Copy

16 DEPOSITION OF MARVIN ALTON LEAVITT

17 Taken on Friday, November 22, 2013

18 At 9:10 a.m.,

19 At 520 Moapa Valley Boulevard

20 Overton, Nevada

24 Reported by: Marilyn Speciale, CRR, RPR, CCR #749

25 Job No. 8083

1 strike that.

2 Did you discuss the C-Tax, this lawsuit, or
3 any other issues related to it with anybody else?

4 A. I don't believe so.

5 Q. Okay. Could you briefly tell me about your
6 educational background, college?

7 A. I graduated with a bachelor of science from
8 Brigham Young University in 1966 with a major in
9 accounting.

10 Q. Any follow-up?

11 A. No, other than professional education as it
12 relates to --

13 Q. What kind of professional education?

14 A. I'm a certified public accountant. So as a
15 result thereof, there's continuing education that's
16 required on an annual basis.

17 Q. When did you become a CPA?

18 A. 1968.

19 Q. And did you pass the test the first time?

20 A. Yes.

21 Q. Are you currently employed?

22 A. No.

23 Q. You're retired?

24 A. Yes.

25 Q. And where are you retired from?

1 A. The City of Las Vegas.

2 Q. Okay. And what did you do at the City of
3 Las Vegas?

4 A. Over the years I held two positions. I
5 started there in 1972. I was director of finance and
6 then director of intergovernmental services.

7 Q. Okay. And which job did you hold first?

8 A. Director of finance.

9 Q. And how long did you have that job for?

10 A. Approximately 20 years.

11 Q. From 1972 to 1992?

12 A. Uh-huh.

13 Q. Yes?

14 A. Yes.

15 Q. Okay. And what were the duties of the
16 director of finance over that period of time?

17 A. I had responsibility for essentially the
18 entire financial system of the City, the treasury
19 function, the budgeting, all of accounting, financial
20 reporting. I represented the City at the Nevada
21 legislature for a number of years.

22 Q. Okay. And when you say you represented the
23 City at the legislature, what was that function? What
24 did you do? Did you lobby basically?

25 A. I essentially lobbied. That's right.

1 issues other than finance.

2 Q. Okay. And just for the record, Mr. Leavitt,
3 this is Josh Hicks. He's my partner.

4 MR. HICKS: Nice to see you. Sorry to be a
5 little late.

6 BY MR. VELLIS:

7 Q. And so those were the two jobs you had from
8 1972 until you retired when?

9 A. 2001.

10 Q. Okay. Any other employment other than that
11 during -- let's say from 1972 forward?

12 A. Okay. In 2001, after I had retired from
13 full-time employment with the City, I then entered into
14 a contract with the City of Las Vegas and the City of
15 Henderson to represent them again at the legislature.

16 Q. Okay.

17 A. And eventually added other cities. They
18 formed a consortium which involved those two cities plus
19 the city of Reno, the city of North Las Vegas and the
20 city of Sparks, essentially the five largest in the
21 state, and I represented them up through the 2009
22 legislative session.

23 Q. And on what kind of issues did you represent
24 them --

25 A. Finance and taxation.

1 A. That's correct.

2 Q. So the information you get is apples to apples
3 when you look at it, what categories they're using?

4 A. That's right, and as the law changes and such,
5 those are revised.

6 Q. Okay. And I think you said briefly that the
7 Committee on Local Government Finance is kind of the
8 liaison between the state and the local governments. Is
9 that a legislative body? Is it an independent body?
10 What is the Committee on Local Government Finance?

11 A. Well, the Committee on Local Government
12 Finance is established by state statute. It is composed
13 of 11 members, three of which are appointed by the
14 Nevada League of Cities, three by the Association of
15 Counties, three by the Nevada Society -- two by the
16 Nevada Society of CPAs, three by the schools.

17 Q. Okay. And you've been on that committee for
18 35 years you said?

19 A. Yes.

20 Q. Okay. And how were you appointed to it, which
21 one of the group --

22 A. Cities.

23 Q. Cities?

24 A. Nevada League of Cities.

25 Q. Okay. And what kind of -- this is probably

1 the beginning of the discussions of the C-Tax and
2 provided technical information to the legislature so
3 that they could do what they need to do in writing a
4 bill and getting a bill passed?

5 A. That's right. And that committee, I believe
6 it was started probably by the '95 legislative session,
7 and it was existent from there through the 2001
8 legislative session. I think it was discontinued after
9 that.

10 So there was additional work besides C-Tax
11 that took place during that time, but C-Tax was one of
12 the main items of work between '95 and '97.

13 Q. Okay. So you said the committee. You're
14 talking about the technical committee?

15 A. I'm talking about the legislative committee.

16 Q. When did you first get on the technical
17 committee?

18 A. When it was originally established in '95 if
19 my memory serves me correctly.

20 Q. And how long did you stay on that technical
21 committee?

22 A. Until it was -- till the work of the committee
23 was over in 2001.

24 Q. Okay. Now, you said to me that this recent
25 2011 interim committee asked you to provide information

1 on the background of the C-Tax, and one of the things
2 that you talked about was a discussion about why the
3 C-Tax was established.

4 Tell me what you told them about why the C-Tax
5 had been established to begin with.

6 A. The -- as I recall -- you know, recognize that
7 I have given testimony on these things hundreds of
8 times.

9 Q. Okay.

10 A. And trying to isolate from one meeting, but in
11 general what had happened was there was a -- there were
12 a number of taxes that were distributed to local
13 governments by the state, and they were each distributed
14 by different formulas. And they were distributed even
15 to different local governments so that some were
16 distributed to cities, counties, special districts.
17 Some were distributed to cities and counties but not to
18 special districts, and all over the place by different
19 formulas.

20 And there had been -- in the 1981 legislative
21 session, there was a switch between sales tax and
22 property tax, and there was essentially 1-3/4 percent of
23 the sales tax was established at that time called the
24 Supplemental City/County Relief Tax, and it was
25 distributed by a formula to various local governments

1 with the intent that that would offset directly property
2 taxes that had been levied for operating purposes by
3 those local governments prior to that time.

4 And so that was a formula that was developed.
5 I happened to be on the committee that developed it by
6 the way but...

7 Q. I could guess that, I think.

8 A. But, anyway, it had been in existence with
9 some changes over the years, and there was questions as
10 to whether, you know, some local governments that had
11 come into existence subsequent to that time and some
12 local governments were dissatisfied -- you know, they
13 always are -- about how much money they're getting out
14 of that, and so it was -- and then there was a tax which
15 was equal to one-half of 1 percent of the sales tax
16 called the Basic City/County Relief Tax, and it was
17 distributed to cities and counties by a formula that
18 said if there were no cities in the county, the county
19 got all of it.

20 If there was one city in a county, it was
21 divided between the city and the county based on
22 relative populations. If there were two or more cities
23 in the county, it went only to the cities by their
24 relative population.

25 And so some of the counties, particularly

1 A. Yes, I'm certain.

2 Q. And my understanding is that they were talking
3 about in this document, if you look at the first page,
4 it was Senate Bill 254, which was the bill that
5 eventually became the C-Tax, correct?

6 A. Yes.

7 Q. So what you're referring to -- tell me if I'm
8 wrong -- is that you're telling us what the goal of the
9 C-Tax was in that statement?

10 A. That's correct, and that specifically relates
11 to what I had talked about earlier as being the excess.

12 Q. Okay.

13 A. And not -- of course, the base comes in as to
14 whatever it was prior to the implementation of this new
15 law.

16 Q. Right.

17 A. So when we talk about this, we're talking
18 about the distribution of taxes that are in the excess
19 portion.

20 Q. Okay. What would happen to a city, for
21 example, and I can tell you this is -- and we can go
22 through it in a few minutes -- the Fernley situation,
23 where you have a city which is not an incorporated city
24 when the law first came in, has a low base amount,
25 becomes an incorporated city, does not have a police

1 people in ten years, that has a lesser population now
2 than Fernley, and their C-Tax is \$7,630,000. Their
3 increase over ten years is ten times the total that
4 Fernley now receives, and what I want to know is, is
5 that the way the formula is supposed to operate? Is it
6 operating the way it was intended?

7 A. I think it is because we are dealing -- and
8 the testimony that I'm talking about here, I'm dealing
9 with one bill that relates to the distribution within a
10 county.

11 What you're talking about there when you
12 compare with Boulder City, you're talking about the
13 distribution within -- between counties on a statewide
14 basis which relates not to this bill but to bills passed
15 earlier which relates to the first tier and not the
16 second tier of the distribution.

17 Q. Right, but then how does somebody -- I assume
18 that the testimony we talked about in Exhibit Number 1,
19 where we read -- which I read about you want to get the
20 revenues where the need is greatest, that applies over
21 the board through the state. That's what you were
22 trying to do with C-Tax is make sure the revenues get
23 where needs are or not?

24 A. On C-Tax, we are talking about there was a
25 decision made before we ever got into the C-Tax that we

1 were going to do nothing with the first tier.

2 Q. Okay.

3 A. And that we were only going to -- this would
4 only affect the second tier. So we're talking about the
5 way taxes are distributed within a county, not among
6 counties.

7 Q. Okay.

8 A. And so this really has nothing to do with
9 anything with -- between Clark and Lyon or between
10 Washoe and Lyon or between Clark and Washoe or between
11 any counties. We're talking about only within the
12 county.

13 Q. But in that instance, if you were a taxpayer
14 in the city of Fernley, would you feel like you're --
15 because you're a small county -- getting treated
16 disproportionate to perhaps somebody in Clark County
17 because they seem to be getting a significantly larger
18 portion of C-Tax than the taxpayers receive for their
19 city in Fernley?

20 A. The argument would be -- I suppose it's an
21 internal argument. We would say, the people in Clark
22 County would say, "We're the ones having to provide the
23 infrastructure. We're the ones providing the taxes.
24 We're the ones having to do all of this, and the sales
25 tax is collected in Clark County. We think it should

1 and that's why I asked you the question previously, does
2 the police department make up a seven and a half million
3 dollar difference between Fernley and Boulder City when
4 Boulder City has got a population of 15,000 and Fernley
5 has got a population of 19,000? Fernley clearly is
6 growing much faster, and Boulder City has had a
7 population increase of 57 people in ten years. Is seven
8 and a half million dollars related solely to the police
9 department?

10 A. And I'm saying that it's not a fair comparison
11 between Fernley and Boulder City because we're dealing
12 with something in different counties.

13 Q. That's because of the different counties.

14 A. It's unrelated to this bill.

15 Q. Okay. Then other than going to the ballot box
16 or going to the state legislature, is there any
17 mechanism within the system, within the C-Tax system for
18 Fernley to go and get a change in their base allocation
19 based on the growth that they've experienced over this
20 period of time?

21 A. I'm not aware of one. I suppose if they took
22 on additional services, so if they decided they would
23 have police tomorrow, it would be possible to do
24 something, but that's not practical. I mean, the
25 practicality of it is if they took on police, they would

1 have to have money to fund the police.

2 Q. Exactly.

3 A. And you don't have money to fund anything
4 else.

5 Q. So it's a Catch 22.

6 A. Now, however, you get back to the question
7 that I brought up earlier. You know, even though they
8 didn't have as much going in, they -- all of this growth
9 they have been experiencing does provide them other
10 taxes, you know, growth in other taxes that are
11 unrelated to the C-Tax in which to operate, but, anyway,
12 it's --

13 Q. Right, and I agree with you. The Catch 22 to
14 this is even when you have the newly incorporated city
15 that is required to have a police department, how many
16 newly incorporated cities have the funds to staff and
17 have their own separate police department. Was that
18 investigated at all by the committee when they came up
19 with that provision?

20 A. The police is one of the big problems around
21 the state, and, of course, within this -- in this
22 particular case, we had a bunch of -- we had a
23 discussion, as I remember, at the very -- at the meeting
24 when the Committee on Local Government Finance was
25 discussing this incorporation, as to whether they would

1 Q. Mr. Leavitt, we're back on the record. You're
2 still under oath.

3 We were talking about a particular entity that
4 perhaps had a C-Tax distribution, had a police
5 department and then decided to disband its police
6 department, and my question was whether or not they
7 would then suffer under the formula a loss in their
8 C-Tax revenue.

9 Would they or would they not, or would it stay
10 the same?

11 A. I cannot think of a provision in there that --
12 in the statute the way it exists right now that if they
13 decide not to provide a particular service, whether it
14 be police or some other service they have, that they
15 would automatically get a decrease in the --

16 Q. Let me ask you, when it first started and they
17 established the base amounts for the participants that
18 were in the system at the time, how did they determine
19 the base? How did that work out? How did each one of
20 these entities get their base amount that they operate
21 under?

22 A. The base at the time that this -- the 1997
23 legislation was enacted, the base was determined by the
24 amount of money they received in the prior year from
25 each one of the six taxes.

1 Q. Okay.

2 A. And so that, as I indicated earlier, some
3 governments received all of those six. Some received as
4 few as only one of those six.

5 Q. Okay.

6 A. And some in between, all the way in between.
7 So we have a huge disparity in the amount that any one
8 particular government got.

9 Now, the legislation provided when they went
10 into this that a government that felt that for some
11 reason that they were -- that their base was too small
12 in comparison to other similarly situated governments,
13 they had a sort of one-time appeal, and they came to the
14 Committee on Local Government Finance, and they made
15 their case as to whether they should get an increase in
16 their base at that time. And as I recall, we had a
17 couple of them, or something like that, that actually
18 came --

19 Q. Okay.

20 A. -- to the committee.

21 Q. And then after that, that base stays with that
22 entity for eternity as long as the C-Tax system is in
23 effect?

24 A. Well, as I indicated, the base moves up every
25 year now.

EXHIBIT 5

EXHIBIT 5

1 IN THE FIRST JUDICIAL DISTRICT COURT
2 OF THE STATE OF NEVADA
3 IN AND FOR THE COUNTY OF CARSON CITY

4 -o0o-

5
6 CITY OF FERNLEY, NEVADA,
7 a Nevada municipal corporation,

CERTIFIED COPY

8 vs. Plaintiff,

Case No. 12 OC 00168 1B
Dept. No. I

9 STATE OF NEVADA ex rel. THE
10 NEVADA DEPARTMENT OF TAXATION;
11 THE HONORABLE KATE MARSHALL,
12 in her official capacity as
13 TREASURER of the STATE OF
14 NEVADA; and DOES 1-20,
15 inclusive,

16 Defendants.

17
18 _____/
19 Pages 1 to 135, inclusive.

20 **DEPOSITION OF MARY C. WALKER**

21 _____
22 Tuesday, December 3, 2013
23 Carson City, Nevada

24 REPORTED BY: CHRISTINA AMUNDSON
25 CCR #641 (Nevada)
CSR #11883 (California)

1 Q Was that over 10 years ago?

2 A Oh, yeah.

3 Q Because of that, then, I'll go over a little bit
4 of the rules that we're operating under today so you know
5 what's going on.

6 A Thank you. Appreciate that. What's your name?

7 Q I'm Clark Vellis. I'm sorry I didn't introduce
8 myself. I represent the City of Fernley.

9 A Okay.

10 Q We're here today regarding a lawsuit that was
11 brought by City of Fernley regarding the consolidated tax.
12 You seem to be someone, in looking at all the old records
13 back in 1997 forward that was involved with the technical
14 committee that helped draft the consolidated tax.

15 Is that correct?

16 A That's correct.

17 Q All right. As a result, we wanted to ask you
18 some questions regarding that.

19 A Sure.

20 Q The deposition process is our chance to ask you
21 questions under oath. The oath that you took just a few
22 seconds ago is the same oath that you would take in a
23 court of law. You understand that?

24 A Sure.

25 Q You understand that the penalty of perjury

1 private business.

2 Q Right.

3 A And I believe it's back in 1981 when we had the
4 tax shift and the state required the local governments to
5 reduce their property taxes by a very significant amount
6 because Proposition 13 was being threatened to be put into
7 Nevada in 1980-1981.

8 The legislature enacted the tax shift which

9 required local governments -- primarily their target was
10 cities and counties, general purpose -- to decrease their
11 property taxes significantly. Now, I know as the former
12 Carson City finance director our property tax revenues
13 decreased by 75 percent.

14 The state enacted the SCCRT, the Supplemental
15 City/County Relief Tax, which is 1.75 percent of what you
16 pay at a store, so it's the big enchilada. They enacted
17 that to generate sales tax revenues to make up for the
18 loss local governments were going to have in property
19 taxes.

20 So at that time the discussion was -- and I
21 started with Carson City in 1986 and Carson City was
22 bankrupt at that point. And so I went back to research
23 why Carson City was bankrupt and what we had to do to get
24 it up and going again. And, basically, what I found at
25 that point was that the special districts weren't supposed

1 to be part of that SCCRT distribution. That was the
2 original discussion. But then when the special districts
3 came to the legislature later on in the session and said,
4 Wait a minute, our property taxes are going down, too, so,
5 therefore, we need to have part of that SCCRT sales tax,
6 then they received a distribution of the SCCRT tax.

7 That is where, I believe, most of the money for
8 these enterprise districts would have come from, because
9 the enterprise districts never received cigarette tax and
10 motor vehicle tax --

11 Q Right.

12 A -- and any of those others. It was the sales
13 tax. So this is what happened: Let's say you had an
14 enterprise district that was generating \$1 million in
15 property taxes and one that was generating \$500,000 in
16 property taxes, okay?

17 The SCCRT is going to go more to this guy
18 because he's going from \$1 million to \$250,000. This
19 guy's going from \$500,000 to 100,000. Well, he only lost
20 \$400,000 and this other guy lost \$750,000. So because he
21 has a higher reliance on property taxes, he's gonna have
22 more of a loss. He will get more of the SCCRT tax.

23 So when you look at all of these different
24 entities, why their bases are different and all this other
25 stuff, it goes back to 1981. And if they had a high

1 property tax reliance at that time, then they're going to
2 get a higher SCCRT than --

3 Q They get a good base.

4 A -- somebody who had low taxes.

5 Q Right.

6 A So that's when you look at this, you'd have to
7 look at Jackpot and all these entities statewide. On the
8 enterprise funds what we did there in the mid-'90s is we

9 said enterprise funds are not general purpose governments
10 and they should be relying upon their fees.

11 There's, you know, many, many enterprise funds.
12 Sewer and water entities, those types of things, don't get
13 C-Tax but yet the state taxpayers and other local
14 governments are subsidizing the sewer and water rates for
15 these people. So what we'll do is we're going to freeze
16 you, so in 1990 what we put into this C-Tax law was that
17 the enterprise districts -- and we defined who they were
18 -- that because they're the normal reliance on fee kind of
19 entities, you're gonna continue to have that forever.
20 Because you got X amount of dollars to compensate for your
21 loss in property taxes, so you get that amount but you're
22 not going to get any of the growth. That growth is gonna
23 go to general purpose governments. And that's why you see
24 the dollar amount in there for any of those enterprises,
25 it's the same dollar amount every year since the mid-'90s.

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 13 PART 3

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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

Index to Joint Appendix
City of Fernley v. State of Nevada et al., Case No. 66851

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

CITY OF MESQUITE

By: Susan Holecheck
Susan Holecheck, Mayor

ATTEST:

By: Cherry L. Lawson
Cherry L. Lawson, City Clerk

Approved as to form:

By: Cheryl Truman Hunt
Cheryl Truman Hunt,
City Attorney

LAS VEGAS CLARK COUNTY LIBRARY
DISTRICT

By: _____
Kelly Benavidez, Vice-Chair

By: _____
Jeanne Goodrich, Executive Director

Approved as to form:

By: _____
Gerry Welt
Attorney at Law

ATTEST:

By: _____
Ron Kirsh, Secretary

HENDERSON DISTRICT PUBLIC LIBRARIES

By: _____
Thomas F. Fay
Executive Director

By: _____
Colleen Bell
Board Chair

ATTEST:

By: _____
Diana Alba, Clark County Clerk

BOULDER CITY LIBRARY DISTRICT

By: _____
Amy Carvalho, Chair

ATTEST:

By: _____
S. Lynn Schofield-Dahl,
Director

CITY OF MESQUITE

By: _____
Susan Holecheck, Mayor

Approved as to form:

By: _____
Cheryl Truman Hunt,
City Attorney

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Gerry Welt
Attorney at Law

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Thomas F. Fay
Executive Director

By: Colleen Bell
Colleen Bell
Board Chair

BOULDER CITY LIBRARY DISTRICT

By: _____
Amy Carvalho, Chair

ATTEST:

By: _____
Cherry L. Lawson, City Clerk

ATTEST:

By: _____
Ron Kirsh, Secretary

ATTEST:

By: N/A
~~Diana Alba, Clark County Clerk~~

ATTEST:

By: _____
S. Lynn Schofield-Dahl,
Director

CITY OF MESQUITE

By: _____
Susan Holecheck, Mayor

Approved as to form:

By: _____
Cheryl Truman Hunt,
City Attorney

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By: _____
Jeanne Goodrich, Executive Director

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By: _____
Gerry Welt
Attorney at Law

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Executive Director

By: _____
Colleen Bell
Board Chair

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By: _____
Amy Carvalho, Chair

ATTEST:

By: _____
Cherry L. Lawson, City Clerk

ATTEST:

By: _____
Ron Kirsh, Secretary

ATTEST:

By: _____
Diana Alba, Clark County Clerk

ATTEST:

By: _____
S. Lynn Schofield Dahl,
Director

Exhibit 1

NRS 360.690, Section 4, with "one plus" language highlighted for calculation Step 2:

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

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

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

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

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

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

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

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

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

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

Exhibit 2

SAMPLE CALCULATION ONLY

Expected FY 2012 Revenues (Note 1) 770,109,304									
Growth Factors				Base Allocation			Excess Distribution		
Pop	AV	Sum	1+ Sum	Dollars	%	Combined Growth Amt	%	Adj.	One Plus
				10,346					
0.0180	-0.0597	-0.0416	0.9584	259,887,648	0.3463	249,070,742	0.3485		6,654,775
CLARK COUNTY									
CITIES									
0.0041	-0.0402	-0.0361	0.9639	7,953,963	0.0106	7,866,964	0.0107		204,849
0.0216	-0.0644	-0.0428	0.9572	73,064,255	0.0973	69,898,362	0.0979		1,868,642
0.0065	-0.0803	-0.0737	0.9263	210,064,047	0.2799	194,573,364	0.2723		5,198,591
0.0443	0.0453	0.0896	1.0896	6,595,003	0.0088	7,185,943	0.0101	435,000	191,997
0.0382	-0.0591	-0.0209	0.9791	35,546,303	0.0474	34,803,200	0.0487		929,886
UNINCORPORATED TOWNS									
0.0102	-0.0624	-0.0522	0.9478	505,980	0.0007	479,549	0.0007		12,813
0.1080	-0.0467	0.0613	1.0613	2,905,145	0.0039	3,083,312	0.0043		82,381
-0.0071	-0.0107	-0.0178	0.9822	5,686,656	0.0076	5,585,495	0.0078		149,236
0.0247	-0.0115	0.0132	1.0132	680,631	0.0009	689,646	0.0010		18,426
-0.0077	-0.0210	-0.0287	0.9713	54,943,282	0.0732	53,367,355	0.0747		1,425,891
-0.0730	0.0123	-0.0607	0.9393	356,184	0.0005	334,567	0.0005		8,939
0.0130	-0.0821	-0.0691	0.9309	15,415,522	0.0205	14,350,978	0.0201		383,435
0.0793	-0.0848	-0.0054	0.9946	124,540	0.0002	123,862	0.0002		3,309
-0.0094	-0.0826	-0.0920	0.9080	7,594,835	0.0101	6,896,318	0.0097		184,259
0.0710	-0.0637	0.0073	1.0073	594,252	0.0008	598,588	0.0008		15,993
-0.0003	0.0145	0.0141	1.0141	12,129,717	0.0162	12,301,013	0.0172		328,664
SPECIAL DISTRICTS									
BOULDER LIBRARY DISTRICT									
CLARK COUNTY FIRE PROTECTION									
HENDERSON LIBRARY DISTRICT									
LAS VEGAS/CLARK CO LIBRARY DIST.									
MOAPA FIRE PROTECTION									
MT CHARLESTON FIRE PROTECTION									
-0.0215	-0.0215	-0.0215	0.9785	477,760	0.0006	467,504	0.0007		12,491
-0.0495	-0.0495	-0.0495	0.9505	37,894,616	0.0505	36,019,988	0.0504		962,397
-0.0644	-0.0644	-0.0644	0.9356	1,711,968	0.0023	1,601,553	0.0022		42,794
-0.0590	-0.0590	-0.0590	0.9410	15,654,481	0.0209	14,731,388	0.0206		393,599
-0.0237	-0.0237	-0.0237	0.9763	658,084	0.0009	642,503	0.0009		17,167
-0.0914	-0.0914	-0.0914	0.9086	125,409	0.0002	113,940	0.0002		3,044
				750,580,626	1.0000	714,626,235	1.0000	435,000	19,093,678
									770,109,304
TOTAL CLARK COUNTY									

Note 1 - State Dept. of Taxation assumed a 1.0% growth rate in FY 2011 and a 1.5% growth rate in FY 2012. For purposes of this SAMPLE calculation, it is assumed that the Account distribution grows by 3.8% in FY11 (currently 3.9% through February) and 3.0% in FY 2012.

EXHIBIT 8

EXHIBIT 8

Case No. 66851
JA 2341

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Brandi L. Jensen, Nevada Bar No. 8509
Fernley City Attorney
OFFICE OF THE CITY ATTORNEY
595 Silver Lace Blvd.
Fernley, Nevada 89408

Attorneys for the City of Fernley, Nevada

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

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Plaintiff,

v.

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

Defendants,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' REQUESTS FOR
ADMISSIONS TO PLAINTIFF**

Plaintiff, City of Fernley through its attorneys of record, pursuant to NRCP 36 submits the following Response to Defendants' Requests for Admissions to Plaintiff. These responses are based on information Plaintiff has in its possession at the present time. Plaintiff reserves the right to supplement these responses as new information becomes available during the course of discovery.

Case No. 66851
JA 2342

DEFINITIONS

The following definitions apply to Plaintiff's objections:

A. "Non-discoverable/Irrelevant" – The request in question concerns a matter that is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence.

B. "Unduly burdensome" – The request in question seeks discovery which is unduly burdensome or expensive, taking into account the needs of the case, limitations on the parties' resources, and the importance of the issues at stake in the litigation.

C. "Vague" – The request in question contains a word or phrase which is not adequately defined, or the overall request is confusing or ambiguous, and Plaintiff is unable to reasonably ascertain what information or documents Defendants seeks in the request.

D. "Overly broad" – The request seeks information or documents beyond the scope of, or beyond the time period relevant to, the subject matter of this litigation and, accordingly, seeks information or documents which are non-discoverable/irrelevant and is unduly burdensome.

GENERAL OBJECTIONS

Plaintiff objects to Defendants' requests to the extent that the requests seek any information that is protected by any absolute or qualified privilege or exemption, including, but not limited to, the attorney-client privilege, the attorney work-product exemption, and the consulting-expert exemption. Specifically, Plaintiff objects to Defendants' requests on the following grounds:

A. Plaintiff objects to Defendants' requests to the extent they seek documents or disclosure of information that is protected from disclosure by the attorney-client privilege in accordance with Rule 26 of the Nevada Rules of Civil Procedure and sections 49.035-49.115 of the Nevada Revised Statutes.

B. Plaintiff objects to Defendants' requests to the extent they seek documents or disclosure of information that is protected from disclosure by the ~~work-product exemption~~ in accordance with Rule 26 of the Nevada Rules of Civil Procedure and applicable case law.

///

Case No. 66851
JA 2343

1 C. Plaintiff objects to Defendants' requests to the extent they seek documents or
2 information protected from disclosure pursuant to the consultant-expert exemption in accordance
3 with the Nevada Rules of Civil Procedure and applicable case law.

4 D. Plaintiff objects to Defendants' requests to the extent they seek trade secrets,
5 commercially sensitive information, or confidential proprietary data entitled to protection under
6 Rule 26 of the Nevada Rules of Civil Procedure and section 49.325 of the Nevada Revised
7 Statutes.

8 E. Plaintiff objects to Defendants' request to the extent they are excessively
9 burdensome and that much of the information requested may be obtained by Defendants from
10 other sources more conveniently, less expensively, and with less burden.

11 F. This response will be made on the basis of information and writings available to
12 and located by Plaintiff upon reasonable investigation of their records, and inquiry of its present
13 officers and/or employees. There may be other and further information respecting the requests
14 propounded by Defendants of which Plaintiff, despite its reasonable investigation and inquiry, is
15 currently unaware. Plaintiff reserves the right to modify or enlarge any response with such
16 pertinent additional information as it may subsequently discover.

17 G. No incidental or implied admissions will be made by the responses to requests.
18 The fact that Plaintiff may respond or object to any request or part thereof shall not be deemed an
19 admission that it accepts or admits the existence of any facts set forth or assumed by such request,
20 or that such response constitutes admissible evidence. That fact that Plaintiff responds to part of
21 any request is not to be deemed a waiver by Plaintiff of its objections, including privilege, to
22 other parts of such requests.

23 H. Plaintiff objects to any instruction or request to the extent that it would impose
24 upon it greater duties than are set forth under the Nevada Rules of Civil Procedure. Plaintiff will
25 supplement its responses to certain requests as required by Rule 26 of the Nevada Rules of Civil
26 Procedure.

27 I. Each response will be subject to all objections as to competence, relevance,
28 materiality, propriety, and admissibility, and to any and all other objections on any ground which

1 would require the exclusion from evidence of any statement herein if any such statements were
2 made by a witness present and testifying at trial, all of which objections and grounds are
3 expressly reserved and may be interposed at such hearings.

4 J. Plaintiff adopts by reference the above objections and incorporates each objection
5 as if it was fully set forth below in each of its responses.

6 **RESPONSES**

7 **REQUEST FOR ADMISSION NO.1:** Admit that any increase in the distribution of C-
8 Tax revenue to the City of Fernley would come out of Lyon County's share of C-Tax revenue.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:** Objection. Calls for
10 speculation. Plaintiff would have to speculate or guess as to the source of any increase in
11 distribution.

12 Objection. Irrelevant. Where such an increase in distribution would come from is not
13 relevant to the issues in this case and/or reasonably calculated to lead to the discovery of
14 admissible evidence. Without waiving said objections, Plaintiff responds to Request for
15 Admission No. 1 as follows: Deny.

16 **REQUEST FOR ADMISSION NO. 2:** Admit that the City of Fernley does not provide
17 law enforcement to its residents.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:** Deny.

19 **REQUEST FOR ADMISSION NO. 3:** Admit that the City of Fernley does not provide
20 police protection to its residents.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:** Deny.

22 **REQUEST FOR ADMISSION NO. 4:** Admit that the City of Fernley does not provide
23 fire protection to its residents.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:** Deny.

25 **REQUEST FOR ADMISSION NO. 5:** Admit that the City of Fernley does not provide
26 construction, maintenance and repair of roads.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:** Deny.

28 ///

1 **REQUEST FOR ADMISSION NO. 6:** Admit that the City of Fernley does not provide
2 parks and recreation.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:** Deny.

4 **REQUEST FOR ADMISSION NO. 7:** Admit that all distributions under the C-Tax
5 system are subject to the same statutory formulas.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:** Plaintiff objects to
7 Defendants' Request for Admission No. 7 on the grounds that it is vague, ambiguous and
8 unintelligible so as to make response impossible without speculation as to the meaning of the
9 question of what distributions under the C-Tax the question is referring to. Defendants' Request
10 for Admission No. 7 is further unintelligible in that it is impossible to understand from the
11 question, as phrased, which statutory formula the request is referring to. Plaintiff further objects
12 to Defendants' Request for Admission No. 7 on the grounds that it is vague in general and in
13 particular vague as to the terms "distributions" and "statutory formulas". There are no definitions
14 from which to determine how these terms are defined. As such, to provide a response would
15 require Plaintiff to guess or speculate as to what is being requested. Plaintiff further objects to
16 Defendants' Request for Admission No. 7 on the grounds that it is indefinite as to time and
17 unreasonable in scope in that no time frame is defined in the request leading Plaintiff to guess as
18 to what time period is covered. Without waiving said objections, Plaintiff's responds to Request
19 for Admission No. 7 as follows: Deny.

20 **REQUEST FOR ADMISSION NO. 8:** Admit that the C-Tax statutes contain no
21 provision dealing with the assessment or collection of the six statewide taxes that are deposited
22 into the account.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:** Plaintiff objects to
24 Defendants' Request for Admission No. 8 on the grounds that it is vague in general and in
25 particular vague with regarding the terms "C-Tax Statutes", "six statewide taxes", "account", and
26 "provision". There is/are no definitions of these terms from which Plaintiff can determine what is
27 being asked. Plaintiff further objects to Defendants' Request for Admission No. 8 on the grounds
28 that it seeks to invade the attorney work product privilege in that it is requiring the attorney's

1 impressions, conclusions, opinion or legal research or theories regarding the statute or statutes
2 contained in the Request for Admission and a legal analysis of the same. The request as stated
3 requests an admission of the statute by Plaintiff.

4 Notwithstanding and without waving said objections, Plaintiff responds to Request for
5 Admission No. 8 as follows: Deny.

6 **REQUEST FOR ADMISSION NO. 9:** Admit that the C-Tax distribution statutes only
7 deal with distribution of the proceeds of the taxes after they are assessed and collected.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:** Plaintiff objects to
9 Defendants' Request for Admission No. 9 on the grounds that it is vague in general and in
10 particular vague with respect to the terms "C-Tax distribution statutes", "deal with", and "the
11 proceeds of the taxes". There is/are no definitions of these terms from which Plaintiff can
12 determine what is being asked. As such, to provide a response would require Plaintiff to guess or
13 speculate as to what is being requested. Plaintiff further objects to Defendants' Request for
14 Admission No. 9 on the grounds that it seeks to invade the attorney work product privilege in that
15 it is requiring the attorney's impressions, conclusions, opinion or legal research or theories
16 regarding the statute or statutes referenced in the Request for Admission and a legal analysis of
17 the same. Without waving said objections, Plaintiff responds to Request for Admission No. 9 as
18 follows: Deny.

19 **REQUEST FOR ADMISSION NO. 10:** Admit the City of Fernley incorporation
20 committee was advised that an increase in the population Fernley would not cause the C-Tax
21 distribution to increase significantly.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:** Plaintiff objects to
23 Defendants' Request for Admission No. 10 on the grounds that it is vague in general and in
24 particular with regard to the terms "advised", "increase", "C-Tax distribution", and
25 "significantly". There is/are no definitions of these terms from which Plaintiff can determine
26 what is being asked. As such, to provide a response would require Plaintiff to guess or speculate
27 as to what is being requested.

28 ///

1 Without waiving said objections, Plaintiff responds to Request for Admission No. 10 as
2 follows: Deny.

3 **REQUEST FOR ADMISSION NO. 11:** Admit that the Lyon County Sherriff's
4 Department provides law enforcement for the residents of the City of Fernley.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:** Plaintiff objects to
6 Defendants' Request for Admission No. 11 on the grounds that it is vague in general and in
7 particular vague as to the term "law enforcement". There is/are no definitions of these terms from
8 which Plaintiff can determine what is being asked. As such, to provide a response would require
9 Plaintiff to guess or speculate as to what is being requested.

10 Without waiving said objections, Plaintiff admits that Lyon County Sheriff's Department
11 provides "law enforcement" for the residents of the City of Fernley among other agencies and the
12 City itself.

13 **REQUEST FOR ADMISSION NO. 12:** Admit that the City of Fernley Incorporation
14 Committee was aware of the C-Tax laws prior to the City of Fernley's Incorporation.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:** Plaintiff objects to
16 Defendants' Request for Admission No. 12 on the basis that it is vague in general and in
17 particular vague as to the terms "C-Tax laws" and "aware". There is/are no definitions of these
18 terms from which Plaintiff can determine what is being asked. As such, to provide a response
19 would require Plaintiff to guess or speculate as to what is being requested. Plaintiff further objects
20 to Defendants' Request for Admission No. 12 on the basis that it seeks information that is
21 irrelevant and not reasonably calculated to lead to discoverable information. Whether or not the
22 City of Fernley was aware of a statutory scheme is irrelevant as to whether or not that scheme is
23 constitutional.

24 Without waiving said objections, Plaintiff responses to Defendants' Request for
25 Admission No. 12 as follows: Deny.

26 **REQUEST FOR ADMISSION NO. 13:** Admit that the City of Fernley has no
27 expenditures for public safety.

28 ///

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:** Plaintiff objects to
2 Defendants' Request for Admission No. 13 on the basis that it is vague in general and in
3 particular vague as to the term "public safety". There is/are no definitions of these terms from
4 which Plaintiff can determine what is being asked. As such, to provide a response would require
5 Plaintiff to guess or speculate as to what is being requested. Without waiving said objections,
6 Plaintiff responds to Defendants' Request for Admission No. 13 as follows: Deny.

7 **REQUEST FOR ADMISSION NO. 14:** Admit that the City of Fernley incorporated in
8 2001 but did not file in the above-captioned lawsuit until 2012.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:** Admit.

10 **REQUEST FOR ADMISSION NO. 15:** Admit that Lyon county would give City of
11 Fernley a larger percentage of C-Tax revenue if City of Fernley would provide additional services
12 to its residents.

13 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:** Plaintiff objects to
14 Defendants' Request for Admission No. 15 on the basis that it is vague, ambiguous and
15 unintelligible so as to make response impossible without speculation as to the meaning of the
16 question in that Plaintiff has no idea as to what Lyon County would or would not do under the
17 circumstances outlined in the Request for Admission. Plaintiff further objects to Defendants'
18 Request for Admission No. 15 on the basis that it seeks irrelevant information not reasonably
19 calculated to lead to discoverable information. Whether or not the Lyon County exercises its
20 discretion to distribute additional revenue to the City of Fernley is irrelevant as to whether or not
21 that scheme is constitutional. Without waiving said objection, Plaintiff responds to Request for
22 Admission No. 15 as follows: Deny.

23 **REQUEST FOR ADMISSION NO. 16:** Admit that the City of Fernley's C-Tax
24 distribution has grown by approximately 6% per year.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:** Plaintiff objects to
26 Defendants' Request for Admission No. 16 on the basis that it is vague in general and in
27 particular vague as to the terms "C-Tax distribution" and "approximately 6%". There is/are no
28 definitions of these terms from which Plaintiff can determine what is being asked. As such, to

1 provide a response would require Plaintiff to guess or speculate as to what is being requested.
2 Without waiving said objection, Plaintiff responds to Request for Admission No. 16 as follows:
3 Deny.

4 **REQUEST FOR ADMISSION NO. 17:** Admit that other Nevada cities with
5 populations comparable in size to the City of Fernley have significantly higher expenditures for
6 public safety.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:** Plaintiff objects to
8 Defendants' Request for Admission No. 17 on the grounds that it is oppressive and burdensome
9 because it is vague, ambiguous and unintelligible so as to make response impossible without
10 speculation as to the meaning of the question in that Fernley has no idea which cities the question
11 is referring to and it does not know what numerical value "significantly" has in relation to
12 expenditures in the question. Plaintiff further objects as the request is overbroad and unlimited as
13 to time and unreasonable in scope so as to be oppressive, burdensome and harassing. There is no
14 time limitation to the request and it is impossible to tell what time period is being requested.
15 Plaintiff further objects to Defendants Request for Admission No. 17 on the grounds that it is
16 vague in general and vague in particular with regards to the terms "other Nevada cities",
17 "comparable in size", "significantly higher expenditures", and "public safety. There is/are no
18 definitions of these terms from which Plaintiff can determine what is being asked. As such, to
19 provide a response would require Plaintiff to guess or speculate as to what is being requested.
20 Plaintiffs further object to Defendants' Request for Admission No. 17 on the grounds that it seeks
21 irrelevant information not reasonably calculated to lead to discoverable information. The
22 comparable level of expenditures in various cities in Nevada is not a dispositive measure of the
23 constitutionality of the C-Tax scheme. Notwithstanding and without waiving said objections,
24 Plaintiff responds to Request for Admission No. 17 as follows: Deny.

25 **REQUEST FOR ADMISSION NO. 18:** Admit that the North Lyon County Fire
26 Protection District provides fire protection for the residents of the City of Fernley.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:** Admit.
28

1 **REQUEST FOR ADMISSION NO. 19:** Admit that the City of Fernley is requesting a
2 larger distribution of C-Tax revenue but is not willing to provide additional services.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:** Plaintiff objects to
4 Defendants' Request for Admission No. 19 on the grounds that it is vague in general and vague in
5 particular with regard to the terms "larger distribution" and "additional services". As such, to
6 provide a response would require Plaintiff to guess or speculate as to what is being requested.
7 Plaintiff further objects to Defendants' Request for Admission No. 19 on the grounds that it is
8 oppressive and burdensome because it is vague, ambiguous and unintelligible so as to make
9 response impossible without speculation as to the meaning of the question. Plaintiff further
10 objects to Defendants' Request for Admission No. 19 on the grounds that it seeks irrelevant
11 information not reasonably calculated to lead to discoverable information. Whether or not the
12 City of Fernley is requesting an increased distribution in C-Tax revenue is not a dispositive
13 measure of the constitutionality of the C-Tax statutory scheme.

14 **REQUEST FOR ADMISSION NO. 20:** Admit that the City of Fernley was invited to,
15 and did participate in, the Legislative Commission's Subcommittee to Study the Allocation of
16 Money distributed from the Local Government Tax Distribution Account (AB 71, 2011
17 Legislature).

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:** Plaintiff objects to
19 Defendants' Request for Admission No. 20 on the grounds that seeks irrelevant information not
20 reasonably calculated to lead to discoverable information. The City of Fernley's participation in

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the aforementioned subcommittee is not a dispositive measure of the constitutionality of the C-Tax statutory scheme. Notwithstanding and without waiving said objections, Plaintiff responds to Defendants' Request for Admission No. 20 as follows: Admit.

DATED this 9th day of September, 2013.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By:

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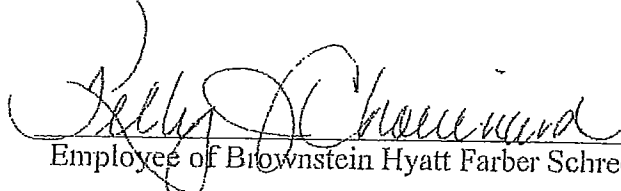
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 9th of September, 2013, I caused to be served via electronic mail and hand delivery, a true and correct copy of the above foregoing **PLAINTIFFS' RESPONSE TO DEFENDANTS' REQUEST FOR ADMISSIONS TO PLAINTIFF** properly addressed to the following:

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19 Fernley, Nevada 89408

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21 **IN THE FIRST JUDICIAL DISTRICT COURT**

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

23 CITY OF FERNLEY, NEVADA, a
24 Nevada municipal corporation,

25 Plaintiff,

26 v.

27 STATE OF NEVADA ex rel. THE NEVADA
28 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 OPPOSITION TO NEVADA DEPARTMENT OF TAXATION AND
NEVADA TREASURER'S RENEWAL OF MOTION TO DISMISS**

COMES NOW Plaintiff CITY OF FERNLEY, NEVADA (hereinafter "Fernley"), by and

1 through its attorneys of record, Brownstein Hyatt Farber Schreck, LLP, and hereby submits this
2 opposition to the Renewal of Motion to Dismiss filed by Defendants Nevada Department of
3 Taxation and Nevada Treasurer (collectively the "State" or "Defendants"), which the Court
4 converted to a motion for summary judgment by its Order entered June 6, 2014.

5 This opposition is based on the following memorandum of points and authorities and the
6 exhibits attached hereto, Fernley's opposition to Defendant Nevada Legislature's Joinder in the
7 State's Renewal of Motion to Dismiss and the exhibits attached thereto, all other pleadings,
8 papers, and documents on file with the Court in this action, such further documentary evidence as
9 the Court deems appropriate, and the arguments of counsel at the hearing on this motion. For the
10 Court's convenience, all of Fernley's exhibits are numbered consecutively, with Exhibits 1
11 through 33 attached to this opposition and Exhibits 34 through 37 attached to Fernley's opposition
12 to Defendant Nevada Legislature's Joinder in the State's Renewal of Motion to Dismiss.

13 **I. INTRODUCTION.**

14 This case centers around a challenge brought under the Nevada Constitution with respect
15 to a statutory scheme to collect and distribute certain taxes to local governments, and to the City
16 of Fernley in particular. In 1997, the Nevada Legislature passed Senate Bill 254, enacting the
17 Consolidated Tax ("C-Tax") system whereby six different state taxes would be collected, placed
18 in a segregated State account, and appropriated by the Department of Taxation and Nevada
19 Treasurer to local governments via a statutory formula. Since 1997, the C-Tax system and the
20 distributions therefrom have been largely unchanged, although the circumstances of the City of
21 Fernley, one of the recipients of C-Tax funds, have changed dramatically.

22 Fernley incorporated as a municipality in 2001, and is the only local government to
23 incorporate as a municipality in Nevada since the passage of Senate Bill 254 in 1997. Fernley's
24 population has more than doubled since 1997 and the assessed valuation of its property has nearly
25 doubled since 1997, and consequently the service needs for its residents have increased
26 exponentially. *See* Exhibit 1. In 2001, Fernley received \$100,032.03 in C-Tax. *See id.* In 2013,
27 Fernley received \$133,050.30 in C-Tax. *See id.* By comparison, comparably sized cities received
28 millions of dollars more in that same time frame, despite growth rates significantly lower than

1 Fernley. *See id.* The distribution to Mesquite from 2001 to 2013 increased by \$2,119,650.26.
2 *Id.* The distribution to Boulder City from 2001 to 2013 increased by \$2,597,747.07. *See id.* The
3 distribution to Elko from 2001 to 2013 increased by \$7,063,483.29. *See id.*

4 These gross inequities have left Fernley unable to provide comparable levels of services to
5 its residents, and therefore Fernley has high property taxes in an effort to make up some of the
6 difference, while comparably sized neighbors realize high levels of service and lower property
7 taxes.

8 Even more egregious, the State of Nevada has made it impossible for a city like Fernley to
9 obtain an adjustment to its C-Tax distributions, has demonstrated a shocking level of indifference
10 to the inequitable situation, and has chosen instead to ignore the plight of politically isolated
11 communities like Fernley. As a result, Fernley had no choice but to seek relief from this Court.

12 As will be demonstrated below, the C-Tax system violates Article 3, Section 1 of the
13 Nevada Constitution (separation of powers), Article 4, Section 20 of the Nevada Constitution
14 (prohibition on special or local laws) and Article 4, Section 21 of the Nevada Constitution
15 (guarantee of general and uniform laws). Because Fernley should be granted both injunctive and
16 monetary relief to redress prior distributions and to ensure that distributions in the future meet
17 constitutional standards, Defendants' motion should be denied in its entirety.

18 **II. PROCEDURAL BACKGROUND.**

19 Fernley commenced this action with the filing of its complaint on June 6, 2012, seeking
20 relief under both the United States and Nevada Constitutions. *See* Exhibit 2. Following this
21 Court's denial of their respective motions to dismiss (the State's motion and the Legislature's
22 joinder), the Department and the Legislature jointly petitioned the Nevada Supreme Court for a
23 writ of mandamus compelling the dismissal of Fernley's claims or the entry of summary judgment
24 in their favor. On February 22, 2013, pursuant to the Nevada Supreme Court's subsequent order,
25 the Court dismissed Fernley's federal constitutional claims, but allowed its state constitutional
26 claims to stand. On June 6, 2014, following the State's renewal of its motion to dismiss Fernley's
27 state constitutional claims, which the Legislature again joined, ~~the Court ordered:~~ (1) the
28 conversion of the motion and joinder into motions for summary judgment; and (2) the dismissal

1 of the Nevada Treasurer pursuant to NRS 41.032(1). Fernley's motion for reconsideration of the
2 order dismissing the Nevada Treasurer and the parties' cross-motions for summary judgment are
3 now pending before the Court.

4 **III. STATEMENT OF RELEVANT UNDISPUTED FACTS.**

5 **A. The City Of Fernley.**

6 Fernley is located in Lyon County, approximately 28 miles east of Reno, Nevada. Over
7 the past two decades, Fernley's population has more than doubled from approximately 8,000
8 people in 1997 to about 19,000 people today, and now accounts for approximately 36 percent of
9 Lyon County's population. See Exhibit 1. During this time, Fernley has surpassed the
10 populations of Mesquite and Boulder City and is approaching the population of Elko. *Id.*
11 Fernley incorporated as a city on July 1, 2001, when its population stood at approximately 9,500
12 people, and currently is Nevada's seventh most populous city. See *id.*; Exhibit 3, at 76:6-7.¹

13 **B. The C-Tax System.**

14 The C-Tax system is a complex mathematical formula to collect and distribute taxes to
15 local governments and special entities in Nevada. At the broadest level, revenues from six
16 different taxes are collected statewide by the Nevada Department of Taxation ("Department") and
17 deposited into a segregated State account called the Local Government Distribution Account (the
18 "C-Tax Account").² See NRS 360.660 et. seq.; see also Exhibit 6, at 1077.³

19 The funds in the C-Tax Account are distributed on a monthly basis by the Department and
20 the Nevada Treasurer to local governments, enterprise districts and special districts. See NRS
21 360.690. Local governments, enterprise districts and special districts have no restrictions on how
22 funds from the C-Tax can be used and accordingly, funds are available for general operating

23 ¹ Leroy Goodman is Fernley's current mayor. See Exhibit 3, at 8:6-7.

24 ² The six taxes include the cigarette tax, the liquor tax, the government services tax, the real property transfer tax, the
25 basic city county relief tax ("BCCRT") and the supplemental city county relief tax ("SCCRT") (collectively the "Six
26 Taxes"). See NRS 369.173 (liquor tax); NRS 370.260 (cigarette tax); 375.070 (transfer tax); NRS 377.055 (basic
city-county relief tax); NRS 377.057 (supplemental city-county relief tax); NRS 482.180 and 482.181 (government
services tax); see also Exhibit 4, at 49:2-6; Exhibit 5, at 110:14-16. The BCCRT and SCCRT are percentages of the
overall rate for the sales and use tax. See NRS Ch. 377.

27 ³ Marvin A. Leavitt is the former director of finance and director of intergovernmental services for the City of Las
28 Vegas. See Exhibit 4, at 12:21-13:12. Mr. Leavitt also served as a lobbyist for various cities, including the cities of
Henderson, Las Vegas, and Reno, in the Nevada Legislature and has been a member of the Committee on Local
Government Finance for 35 years. See *id.* at 15:10-22, 19:6-19.

1 purposes. *See* Exhibit 7, at 57:2-13, 58:8-16; Exhibit 5, at 90:7-11.⁴ Moreover, C-Tax
2 distributions are relied upon by local governments as a primary source of operating revenues. *See*
3 Exhibit 11, at 48:24-49:9; Exhibit 7, at 63:20-64:6.⁵ The C-Tax, along with the property tax, are
4 the two primary revenue sources for local governments. *See* Exhibit 7, at 63:20-64:6.

5 Distributions from the C-Tax Account are first made at the county level, commonly called
6 a Tier 1 distribution. *See* Exhibit 12, pages 9-12. Tier 1 distributions are thereafter further
7 segregated into Tier 2 distributions, which are the actual dollar amounts provided to counties,
8 cities, towns, and other C-Tax recipients within a county. *See id.*; Exhibit 4, at 70:17-71:12.

9 Tier 2 distributions are made at two levels – a base distribution and an excess distribution.
10 *See* NRS 360.680. A base distribution has paramount importance because it was set in 1997, and
11 has been carried forward each year with adjustments for increases in the Consumer Protection
12 Index (“CPI”). *See* NRS 360.680. Thus, if a city had a base distribution of \$100 in 1998, it could
13 expect a base distribution of \$100 (plus adjustments based on the CPI) in 1999, 2000, and so on.⁶

14 The excess distribution is largely a function of increases to assessed valuation and
15 population within a local government, and is an addition to the base distribution. *See* NRS
16 360.690. The percentage increase for the excess distribution is determined by the Department
17 and applied as a multiplier to the base distribution. *See id.* For example, if a city had a base
18 distribution of \$100 and experienced significant growth in population and assessed valuation
19 resulting in an excess distribution multiplier of 100%, the excess distribution would be \$100 and
20

21 ⁴ Terry Rubald is the deputy executive director of the Department of Taxation's division of local government
22 services. *See* Exhibit 7, at 22:5-22. Ms. Rubald was designated as one of the Department's persons most
23 knowledgeable regarding topics listed in Fernley's notice of deposition of the Department's person most
24 knowledgeable. *See id.* at 10:5-8; Exhibit 8; Exhibit 9; Exhibit 10. Mary C. Walker served as a member of the
technical committee that assisted in the drafting of the C-Tax, is a member of the Committee on Local Government
Finance, and is a lobbyist that opposed Fernley's legislative efforts for C-Tax relief on behalf of Lyon County. *See*
Exhibit 5, at 5:10-16, 99:21-24, 103:7-17.

25 ⁵ Warner Ambrose is a budget analyst in the Department of Taxation's local government finance section. *See* Exhibit
11, at 22:22-23:3. Mr. Ambrose was designated as one of the Department's persons most knowledgeable regarding
26 topics listed in Fernley's notice of deposition of the Department's person most knowledgeable. *See id.* at 25:14-26:4;
Exhibit 8; Exhibit 9; Exhibit 10.

27 ⁶ For example, in fiscal year 2001 Fernley's base distribution was \$93,923.45. In fiscal year 2002 Fernley's base
28 distribution was \$97,116.85, and by fiscal year 2011, Fernley's base was \$120,691.97. *See* Exhibit 13. By
comparison, Boulder City had a base of \$6,113,660.93 in fiscal year 2001, and a base of \$7,836,416.68 in fiscal year
2011. *Id.*

1 the overall C-Tax distribution would be \$200.⁷ For purposes of comparison, if a city with a base
2 distribution of \$10 had the same level of growth in population and assessed valuation, its excess
3 distribution would be \$10 and the overall C-Tax distribution would be \$20.⁸ As is evident, the
4 base distribution, which was established in 1997, is of *critical importance* because the entire
5 future of C-Tax distributions is based on that number – whether it be adjustments based on CPI or
6 adjustments based on increased population and assessed valuation.⁹ Moreover, as demonstrated
7 below, the C-Tax system is set up in a way that precludes adjustments to a base distribution,
8 which endlessly perpetuates the status quo first established in 1997.

9 **C. The Purpose of the C-Tax System.**

10 Four years before Fernley incorporated, the 1997 session of the Nevada Legislature passed
11 Senate Bill 254, which established a system to collect and distribute the Six Taxes included in the
12 C-Tax system. *See* Exhibit 4, at 49:2-6; Exhibit 5, at 110:13-16. Fernley is the only Nevada city
13 to incorporate since the 1997 enactment of the C-Tax. *See* Exhibit 14, at 9:23-10:2.

14 The Legislature's primary objectives behind the C-Tax system included: (1) initially
15 preserving the "status quo" in the distribution of C-Tax revenue; and (2) distributing future tax
16 revenue to areas of growth. *See* Exhibit 16, at 39:13-40:14, 56:9-58:22; Exhibit 7, at 30:24-
17 33:12; Exhibit 6, at 1077.¹⁰

18 As time has told, however, the C-Tax has become an inflexible system which protects the
19 interests of entities with larger C-Tax base distributions in 1997 to the exclusion of entities like
20 Fernley with smaller C-Tax base distributions in 1997, even when those smaller entities
21 experienced large increases in population and assessed valuation since that time. Simply put, the
22 C-Tax system has frozen the status quo in place since 1997 and instead of following growth,

23
24 ⁷ If revenues are insufficient, then the C-Tax distribution would be pro-rated. *See* NRS 360.690.

25 ⁸ For example, in fiscal year 2001 Fernley had an excess distribution of \$6,108.59 and an excess distribution in fiscal
26 year 2011 of \$22,511.38 despite more than doubling in population and nearly doubling in assessed valuation. *See*
27 Exhibit 13. In other words, Fernley's excess distribution increased by \$16,402.79 despite a population increase of
28 9,368 people, equating to \$1.75 for each new resident.

⁹ Excess revenues will be added to a recipient's base beginning in fiscal year 2015, further demonstrating the
significance of a C-Tax recipient's base. *See* Exhibit 15, at 62:19-63:22.

¹⁰ Guy Hobbs was the chairperson of the technical committee that assisted the Legislature in drafting the C-Tax, was
Clark County's chief financial officer, and now specializes in public finance issues at Hobbs, Ong & Associates. *See*
Exhibit 16, at 13:18-14:3, 15:4-10, 27:8-29:4.

1 revenue has followed the "haves" from 1997 to the exclusions of the "have-nots" like Fernley.

2 1. The Preservation Of The Status Quo In The Initial
3 Distribution Of C-Tax Revenue.

4 The Legislature sought to maintain the status quo in the distribution of C-Tax revenue to
5 ensure that no entity which had been receiving revenue generated by the Six Taxes would suffer
6 financial harm because of the implementation of the new system. *See* Exhibit 7, at 30:24-33:24;
7 *see also* Exhibit 6, at 1077 ("[t]he revenue distribution would not be such a change that it would
8 create a shock for any of the local governments"); Exhibit 17, at LCB03701 (stating that one of
9 the objectives of the system is "that a new distribution system be revenue neutral, at least at the
10 beginning . . . cities that have come to rely on a certain amount of revenue . . . as a consequence
11 of the new formula should not be financially devastated because of a shift of revenue that they
12 have become accustomed to . . ."). To accomplish this goal, the Legislature determined that
13 distributions during the first fiscal year of the new system would be "revenue neutral" — *i.e.*,
14 entities that had been receiving revenue produced by the Six Taxes would receive essentially the
15 same distributions in the first fiscal year of the C-Tax as they did in the immediately preceding
16 two fiscal years. *See* Exhibit 15, at 54:12-18; Exhibit 16, at 35:3-11; Exhibit 4, at 82:16-83:8;
17 Exhibit 7, at 33:10-12; *see also* Exhibit 6, at 1077; Exhibit 18 (Legislative Counsel Bureau
18 summary stating that the C-Tax "does not decrease the amount of revenue currently being
19 received by any local government")(capitalization deleted).¹¹

20 An original C-Tax recipient's population and assessed value of taxable property therefore
21 were not relevant to the determination of its initial revenue base. *See* Exhibit 15, at 143:13-
22 144:13. The Legislature likewise did not require an original C-Tax recipient to provide services
23 of any kind as a prerequisite to receiving a distribution, and its existing service obligations were
24 immaterial to the amount of its initial revenue base. *See id.* at 68:15-24. The State has
25 acknowledged this fact as well. *See* Exhibit 19, at 2:14-21; Exhibit 20, at 54:18-21, 56:22-23

26
27 ¹¹ Marian Henderson is a Management Analyst II at the Department of Taxation. *See* Exhibit 15, at 36:3-42:21. Ms.
28 Henderson was designated as one of the Department's persons most knowledgeable regarding topics listed in
Fernley's notice of deposition of the Department's person most knowledgeable. *See id.* at 9:7-12, 23:19-24:2; Exhibit
8; Exhibit 9; Exhibit 10.

1 (stating that "C-Tax revenue now is not tied to [Fernley] providing public safety" and observing
2 that the difference in services Fernley provides compared to other cities is "not the reason for the
3 difference in the C-Tax distributions.")¹² The Committee on Local Government Finance
4 ("CLGF") was responsible for setting the initial revenue base for each C-Tax recipient. See
5 Exhibit 15, at 145:4-17, 147:22-148:3.

6 No excess revenues were available for distribution during the first fiscal year under the C-
7 Tax because 100 percent of all revenue from the Six Taxes was distributed in this manner. See
8 Exhibit 16, at 44:3-8 While this approach may have advanced the Legislature's short-term
9 interest in enabling local government entities to avoid shortfalls that could have impaired their
10 ability to deliver services if a new distribution formula had been adopted and resulted in a
11 significant decline in their receipt of tax dollars, it also had long-term implications because it
12 established each recipient's initial distribution as its base for the allocation of C-Tax revenues in
13 subsequent years. *See id.* at 35:3-36:8, 44:3-15; Exhibit 15, at 57:16-58:22. This new approach
14 to revenue distribution therefore did not merely serve to maintain the status quo for the first fiscal
15 year of the C-Tax, but rather also had the all-important effect of maintaining the status quo of
16 1997 indefinitely.¹³ *See* Exhibit 20, at 60:1-61:20 ("Those initial base amounts were determined
17 on what each entity was getting, and I think, as we've discussed, the cities that we're referencing
18 in relation to Fernley, they got more money in FY '96 and '97. Thus, they started with a higher
19 base amount . . . that difference in the base would be maintained in the distribution."). As the
20 chairperson of the technical committee that assisted the Legislature in creating the C-Tax has
21 testified, the setting of an original C-Tax recipient's initial revenue base was "huge." *See* Exhibit
22 16, at 100:11-1.

23 ¹² Russell Guindon is the principal deputy fiscal analyst in the Fiscal Analysis Division of the Legislative Counsel
24 Bureau. *See* Exhibit 20, at 8:24-9:6. Mr. Guindon was designated as the person most knowledgeable at the
25 Legislature regarding the topics listed in Fernley's notice of deposition of the Legislature's person most
26 knowledgeable. *See id.* at 18:22-19:17; *see also* Exhibit 21; Exhibit 22.

27 ¹³ In maintaining the status quo of 1997, the Legislature actually perpetuated revenue bases that had existed since
28 about 1981. *See* Exhibit 16, at 40:15-41:23; Exhibit 4, at 32:24-34:6. At that time, the Legislature adopted the
SCCRT, which was essentially a 1.75 percent sales tax. *See id.* The emphasis on property tax revenue had been
reduced and, to offset that reduction, SCCRT revenue was distributed to local governments for general operating
purposes. *See id.* The revenue bases established during the Legislature's pursuit of revenue neutrality in 1997 were a
function of the revenue bases that had been established for local governments nearly 20 years earlier. *See id.*; Exhibit
5, at 71:2-73:4.

2. The Distribution Of Tax Revenues To Higher Growth Areas.

The Legislature purportedly sought to direct tax dollars to higher growth areas, which it defined as areas experiencing an increase in population and the assessed value of taxable property. *See* Exhibit 16, at 56:18-57:13; Exhibit 7 ("Over time however, and this is really the second objective, the distribution of those revenues should be allowed to go to areas that are experiencing the growth and/or needs.").

The distribution of C-Tax revenue according to established bases, however, did not advance this goal. *See* Exhibit 5, at 122:21-123:5. Since the inception of the C-Tax, the distribution of base revenue has been unrelated to the nature and cost of services rendered by recipients even though the demand for services generally increases or decreases as their populations grow or decline. *See* Exhibit 20, at 132:13-17; Exhibit 15, at 68:15-24, 138:6-21; Exhibit 7, at 31:18-21.

Not only was it unnecessary for an original C-Tax recipient to show that it required a certain amount of revenue to meet its service obligations before its initial base was set, its initial revenue base has carried forward each year after 1997 adjusted by the CPI over the five calendar years immediately preceding the year in which the allocation was made. *See* NRS 360.670(1); 360.680(2); *see also* Exhibit 15, at 58:16-59:2; Exhibit 16, at 76:23-78:7; Exhibit 4, at 82:16-25, 83:21-25.

Only excess distributions were to follow growth under the C-Tax. *See* Exhibit 5, at 74:15-24. After the first fiscal year of the C-Tax, it was possible for the total revenue generated by the Six Taxes to exceed the total combined bases of all C-Tax recipients. *See* Exhibit 16, at 44:9-15. This excess revenue is allocated to higher growth areas as determined by increases in population and assessed value of real property. *See id.* at 56:9-58:12. Excess revenue may not exist, however, in every fiscal year. *See id.* at 57:14-58:1; Exhibit 15, at 127:13-14. Also, even when a recipient has obtained a distribution of excess revenue in a particular year, the amount of the distribution has not been added to the recipient's base for the following year, except during the period from approximately 1999 to 2002. *See* Exhibit 15, at 62:19-63:14; *supra* note 9. After a statutory amendment in 2002, the recipient's base has remained unchanged except as adjusted by

1 CPI. *See id.*

2 The revenue distribution formula adopted by the Legislature consequently has ensured
3 that each recipient would generally maintain the same position relative to other recipients under
4 the C-Tax system regardless of how their individual circumstances may change over time. *See*
5 Exhibit 16, at 63:21-67:19. In other words, an entity with a low base distribution in 1997 as
6 compared to other C-Tax recipients would see that low base carried forward into the future, even
7 as members with high base distributions would see that high base carried forward. Of course, any
8 adjustments by percentage to the base would be significantly higher in terms of actual dollars for
9 entities with a high base distribution, and nominal in terms of actual dollars for entities with a low
10 base distribution. *See Exhibit 1.*

11 The Legislature has further ensured this result in at least *two* additional ways. *First*, the
12 Legislature has not mandated a reduction in the revenue base of a recipient that no longer
13 provides one or more services, such as law enforcement, regardless of the cost savings. *See, e.g.,*
14 NRS Ch. 360; *see also* Exhibit 15, at 138:6-139:11; Exhibit 4, at 82:3-15. For example, a C-Tax
15 recipient could eliminate or gut the services provided to its residents and there would be no
16 reduction in C-Tax distributions. *See id.*

17 *Second*, the Legislature has not mandated a reduction in the revenue base of a recipient
18 that has experienced both a drop in population and a decline in the assessed value of taxable
19 property. *See* NRS 360.695. Although the C-Tax does not confer discretion on the Department's
20 Executive Director, the CLGF, or the Commission to raise the revenue base of a recipient whose
21 population and assessed value of taxable property have increased, it does grant them discretion to
22 decide whether to cut the revenue base of a recipient whose population and assessed value of
23 taxable property have decreased in the immediately preceding three fiscal years. *See id.*; Exhibit
24 15, at 109:3-10, 122:22-123:2; Exhibit 16, at 91:23-94:20; Exhibit 7, at 59:24-63:15. Exercising
25 this discretion, the Department's Executive Director has decided *not* to change the C-Tax bases of
26 several local governments that have met the criteria for a reduction. *See* Exhibit 7, at 59:24-
27 60:18. Nevada cities that have qualified for a reduction in their C-Tax bases in recent years, but
28 did not receive one, have included Mesquite and Boulder City. *See* Exhibit 7, at 59:24-63:15 ;

1 *see also* Exhibit 15, at 139:12-140:20. Thus, by its terms and as applied, the C-Tax virtually
2 guarantees that the revenue distributed to each recipient would increase in perpetuity from its
3 initial revenue base established in 1997, but would not be decreased under any circumstances.
4 *See* Exhibit 15, at 58:16-59:2; Exhibit 16, at 76:23-78:7; Exhibit 4, at 83:21-25.

5 D. Newly Created Local Government Entities, Such As Fernley, Receive
6 Different Treatment Under The C-Tax Than Local Government
7 Entities That Existed At The Time The System Was Enacted, and Do
8 Not Have an Opportunity for a Greater Distribution.

9 Nevada law provides two ways in which a Local Government can obtain an adjustment to
10 its C-Tax distributions outside the mathematical distribution formula. First, a governmental
11 entity formed after 1998 has a one-year window to request an adjustment. NRS 360.740.
12 Second, two or more governmental entities can enter into an interlocal agreement to redistribute
13 revenues. NRS 354.598747. Neither option exists for Fernley and in fact, are nothing more than
14 illusory remedies.

15 1. **Adjustments Pursuant to NRS 360.740 are Not Available to**
16 **Fernley.**

17 A city that incorporates in Nevada after July 1 1998, as Fernley is the only municipality to
18 do so, is subjected to a significantly different standard to obtain C-Tax than municipalities that
19 were incorporated before that date. NRS 360.740 provides that a local government created after
20 July 1, 1998 could apply for a C-Tax adjustment if it provided police protection *and* at least one
21 other specified service, including fire protection, construction, maintenance, and repair of roads,
22 or parks and recreation, before it became eligible to receive C-Tax revenue.¹⁴ *See* NRS
23 360.740(1); *see also* Exhibit 16, at 73:17-74:15; *see also* Exhibit 23, at 13 (March 25, 2002
24 meeting minutes of the Legislative Commission's Study To Develop Enabling Legislation For
25 The Creation Of Incorporated Towns; suggesting that new government entities should have
26 access to consolidated taxes "only if they provide all four basic public services"). Local

27 ¹⁴ It is noteworthy that the chairperson of the technical committee which worked on drafting these criteria for the
28 Legislature was unaware that a new local government entity was statutorily required to provide law enforcement
before it could receive C-Tax revenue. *See* Exhibit 16, at 19:18-20:8, 27:8-35:2, 75:5-76:22, 86:8-90:9. In fact, the
technical committee recommended to the Legislature that no particular service category, including police, should be
considered mandatory. *Id.*, at 76:10-15.

1 government entities that preexisted the C-Tax, by contrast, had no obligation to provide police
2 protection or any other service as a prerequisite to their receipt of revenue under the C-Tax. *See*
3 Exhibit 15, at 104:16-105:7 ; Exhibit 16, at 75:1-4. In fact, those entities could actually decrease
4 or even eliminate pre-existing service levels after July 1, 1998 and suffer no decrease in their C-
5 Tax revenues. *See* Exhibit 15, at 138:6-139:11; Exhibit 4, at 82:3-15.

6 Regardless, the purported option for a new entity is only available to a local government
7 that makes the request by December 31 of the year before the first year it receives C-Tax. NRS
8 360.740(2); Exhibit 24 (“[a]t the time of its creation, Fernley had the option of taking on these
9 services and receiving an additional allocation”). Because Fernley incorporated in 2001, this
10 option is no longer available. *See id.*; Exhibit 15, at 106:3-13.

11 Despite its unavailability, the scheme set forth in NRS 360.740 bears some comment as an
12 example of an additional barricade to a C-Tax adjustment. First, the establishment of a municipal
13 police department is an expensive proposition. *See* Exhibit 25, at 32:23-34:22.¹⁵ Given the
14 Legislature’s express goal to preserve the status quo of the C-Tax system, it is no surprise that the
15 one and only mandatory service to be provided by a new local government is a police department.
16 Moreover, the statute provides that the local government must already provide a police
17 department before it can even ask for C-Tax to fund a police department. *See* NRS 360.740(1)
18 (stating that a local government “which provides police protection” is eligible for an adjustment).
19 This creates a classic catch-22 where a local government has to have a police department to ask
20 for the funds to stand up a police department, but can’t stand up a police department without the
21 funds to do so. *See* Exhibit 4, at 74:21-75:12. Further, the Nevada Attorney General has opined
22 that a County Sheriff has an obligation to provide law enforcement throughout his or her county,
23 regardless of whether other law enforcement agencies exist for municipalities inside that county.
24 *See* Exhibit 26, Attorney General Opinion No. 96-12 (May 6, 1996). Finally, if the Department
25 agrees to recommend an adjustment, the final decision is made by the CLGF and if they decide
26 against an adjustment, *no appeal is allowed*. *See* NRS 360.740(4); Exhibit 7, at 50:23-51:7 .
27 With membership of the CLGF made up of representatives of other local governments, who

28 ¹⁵ Allen Veil is the current sheriff of Lyon County. *See* Exhibit 25, at 18:15-18.

1 would stand to lose revenues with a redistribution, there is no likelihood of success for a new
2 entity in such a process. *See* Exhibit 4, at 74:15-75:4 (acknowledging that obstacles exist to
3 obtaining adjustment in base allocation); *see also* Exhibit 20, at 116:6-24 (acknowledging that the
4 \$4 million eventually obtained by the City of Henderson was rejected by the CLGF). In Fernley's
5 case, for example, one CLGF member is a lobbyist paid by Lyon County to oppose its efforts to
6 obtain a greater share of C-Tax revenues. *See* Exhibit 5, at 99:21-100:19, 103:7-17. Because the
7 State has a finite amount of C-Tax revenue to distribute, and each local government's base is a
8 portion of the overall C-Tax revenue allocated to the county in which it is situated, the
9 Commission's approval of a request for C-Tax revenue necessarily makes less money available
10 for distribution to other recipients – *i.e.*, if one entity receives more C-Tax revenue within a
11 county, other entities within the county must receive less. *See* Exhibit 15, at 125:24-126:8;
12 Exhibit 16, at 66:22-67:19.

13 With all of these insurmountable obstacles, it is no surprise that Fernley, as the only entity
14 to incorporate since the creation of the C-Tax, did not pursue the creation of a police department
15 in 2001. Regardless, NRS 360.740 is only available for a limited window of time which has long
16 expired for Fernley.

17 Under these circumstances, a local government entity in Fernley's current position may
18 only obtain an increase in its C-Tax revenue base by entering into a cooperative or interlocal
19 agreement for that purpose or by lobbying the Legislature for a more favorable allocation of C-
20 Tax revenue. *See* NRS 360.740(7); Exhibit 16, at 49:24-50:21, 66:5-67:19. Fernley has
21 unsuccessfully tried both approaches. *See* Exhibit 3, at 59:14-25, 62:6-63:8.

22 As discussed below, however, this second remedy is illusory as the first.

23 E. Few C-Tax Recipients Enter Into Cooperative Or Interlocal
24 Agreements For The Reallocation Of C-Tax Revenue, And Fernley Is
25 Unable To Persuade Lyon County To Do So.

26 The Legislature has authorized at least *two* types of agreements between local
27 governments that provide for the reallocation of C-Tax revenues. *See, e.g.*, NRS 360.730; NRS
28 360.740(7). *First*, local governments may enter into a cooperative agreement that establishes an
alternative formula for distributing C-Tax revenue. *See* NRS 360.730. *Second*, local

1 governments may enter into an interlocal agreement that reallocates C-Tax revenue to
2 compensate one government entity for providing specified services to another government entity.
3 *See* NRS 360.740(7); NRS 354.598747(1)(b). Notably, while the Legislature has authorized such
4 agreements, there have been no meaningful cooperative or interlocal agreements for the
5 redistribution of C-Tax revenue since the system was enacted 17 years ago. *See* NRS 360.740(7);
6 Exhibit 11, at 37:21-38:11.

7 An assumption underlying the Legislature's adoption of the C-Tax was that one
8 government entity would willingly relinquish revenue to a second government entity, particularly
9 when the second entity has decided to take over services which had been provided on its behalf
10 by the first entity. *See* Exhibit 16, at 46:24-47:11. This assumption, however, has proven false.
11 There have only been *two* cooperative or interlocal agreements between C-Tax recipients for the
12 purpose of reallocating revenues during the lengthy history of the C-Tax. *See* Exhibit 11, at
13 37:21-38:11, 42:13-17; Exhibit 7, at 29:13-30:16; Exhibit 27. These agreements have included:

- 14 (1) An agreement between White Pine County and the City of Ely, which led
15 to the City of Ely receiving a greater revenue distribution than the C-Tax
16 formula otherwise provided. *See* Exhibit 11, at 38:12-40:15; Exhibit 7, at
17 29:24-30:5. The Department has acknowledged that this agreement was
18 beneficial to both White Pine County and the City of Ely. *See* Exhibit 11,
19 at 40:5-15.
- 20 (2) An agreement between Clark County and its five incorporated cities that
21 provided a temporary solution to an allocation error, which had resulted in
22 Mesquite receiving a greater revenue distribution than it was entitled to
23 under a proper application of the C-Tax formula, until the Legislature
24 could address the issue. *See* Exhibit 11, at 40:16-42:12; Exhibit 7, at 30:6-
25 16.

26 The absence of any other cooperative or interlocal agreements, and particularly ones of any
27 significance, reveals that C-Tax recipients are generally unwilling to ~~part with revenues that have~~
28 been allocated to them.

1 Fernley's inability to effectuate a cooperative or interlocal agreement with Lyon County
2 for the redistribution of C-Tax revenue confirms this conclusion. *See* Exhibit 3, at 59:14-25.
3 Even though it comprises approximately one-third of Lyon County's population, only a fraction of
4 the Tier 1 C-Tax money returns to Fernley.¹⁶ *See* Exhibit 28. When a growing city like Fernley
5 finds that its tax revenues are inadequate to fund its services to the public, it may seek a
6 cooperative or interlocal agreement with the county in which it is situated for the purpose of
7 obtaining a redistribution of some of the county's C-Tax revenue. *See* Exhibit 16, at 66:22-67:19.

8 Several times Fernley asked Lyon County to share a portion of its C-Tax revenues, and
9 every time it was rebuffed. *See* Exhibit 3, at 59:14-25. One request had been for a 10 percent
10 redistribution of Lyon County's C-Tax revenue and the other had been for \$200,000. *See id.*; *see*
11 *also* Exhibit 29. Consistent with the cooperative or interlocal agreements authorized by the C-
12 Tax, Fernley intended to use these additional funds to, among other things, undertake essential
13 road repairs, upgrade its parks, and provide more police services. *See* Exhibit 3, at 60:4-61:25;
14 *see also* NRS 360.740(7). Not only does Fernley's past inability to persuade Lyon County to
15 enter into a cooperative or interlocal agreement regarding the redistribution of C-Tax revenue
16 suggest that future attempts to do so would likely meet a similar fate, the possibility of such an
17 agreement is now even more remote because Lyon County has retained a lobbyist to oppose
18 Fernley's legislative efforts to expand its C-Tax revenue base. *See* Exhibit 5, at 103:7-17.

19 **F. The Legislature Rarely Increases C-Tax Revenue Bases, And Rejects**
20 **Fernley's Requests For Relief.**

21 Like the lack of meaningful cooperative or interlocal agreements for the redistribution of
22 C-Tax revenues, legislative solutions to a local government entity's inadequate C-Tax revenue
23 base have been virtually nonexistent.

24 Only the City of Henderson has been able to obtain from the Legislature a substantial
25 upward adjustment in its C-Tax base, receiving an increase of \$4 million in or about 2000 when
26 the Speaker of the State Assembly was one of its elected representatives. *See* Exhibit 15, at

27 ¹⁶ For example, in fiscal year 2011-2012 (the most recent year information was provided for revenue collections),
28 \$4,165,732.39 was collected in Lyon County in C-Tax, yet only \$143,143.35 came back to Fernley via C-Tax
distributions. (Exhibit 28) (Exhibit 13).

1 90:19-91:2; Exhibit 16, at 67:13-68:13, 92:20-93:16 (Hobbs. . . noting that Henderson's "chances
2 were remarkably improved" by being represented by the Speaker and that nonetheless the action
3 caused "great controversy."); Exhibit 7, 40:23-41:4.

4 Other requests, such as those made by the cities of North Las Vegas and Fernley, have
5 failed. *See* Exhibit 3, at 62:6-63:8, 75:18-23; Exhibit 15, at 91:3-20; Exhibit 16, at 68:9-69:6,
6 69:14-70:6. As recently as the 2011 legislative session, for instance, an Assembly Bill was
7 introduced on Fernley's behalf that would have adjusted its C-Tax base from \$120,000 to \$5
8 million, but the bill never received a vote in the first committee and in fact, Fernley's legislative
9 representative didn't even appear at the one hearing to testify in support of the bill. *See* Exhibit 3,
10 at 62:6-21; Exhibit 30, at 1-2, 13-34. Other efforts were equally unsuccessful two years later.
11 *See* Exhibit 3, at 62:22-63:8. Because of these failures, Fernley's current C-Tax base, which is
12 largely the product of its initial C-Tax allocation as an unincorporated town with less than half its
13 present population, provides grossly insufficient revenue to fund important services. *See* Exhibit
14 16, at 99:16-100:10.

15 **G. Fernley's C-Tax Distributions Are Only A Fraction Of The C-Tax**
16 **Revenues Received By Comparably Sized Nevada Cities.**

17 As detailed in Exhibit 1, the C-Tax revenue currently distributed to Fernley is far below
18 the C-Tax revenue received by the comparably sized Nevada cities of Mesquite, Boulder City,
19 and Elko. *See* Exhibit 1. Fernley's initial revenue base upon the enactment of the C-Tax in 1997,
20 when it was still an unincorporated town, was only approximately \$86,000. When Fernley
21 incorporated in 2001, its population was 9,529, the total assessed value of taxable property within
22 the city was \$233,552,164, and its C-Tax distributions totaled \$100,032.03. *See* Exhibit 1;
23 Exhibit 3, at 76:6-7. By 2013, Fernley's population had nearly doubled to 18,897 and the total
24 assessed value of taxable property within the city had nearly doubled to \$444,251,962, but its C-
25 Tax distributions had only increased to \$133,050.30. *See* Exhibit 1. Stated otherwise, Fernley
26 now receives only about \$7 in C-Tax revenue per resident despite its nearly 100 percent growth
27 during the past 13 years. *See id.*

28 The nominal amount of C-Tax revenue presently distributed to Fernley stands in stark

1 contrast to the C-Tax revenue received by Mesquite, Boulder City, and Elko, which were in
2 existence and incorporated when the Legislature enacted the C-Tax. *See id.* All three of these
3 cities have populations and total assessed values similar to Fernley's, but received C-Tax
4 distributions in 2012 totaling \$7,336,084.71, \$8,855,664.66, and \$13,521,334.12 respectively.
5 *See id.*¹⁷ Fernley's C-Tax distributions even lag well behind the Elko Television District, which
6 has annually received C-Tax revenue of more than \$163,000 since 1997 despite having no
7 obligation to provide police or fire protection, to construct, maintain, or repair roads, or to offer
8 the public parks and recreation facilities. *See* Exhibit 13, Exhibit 16, at 99:3-100:10. Under
9 these circumstances, it is not surprising that cities like Mesquite, Boulder City, and Elko have the
10 financial wherewithal to establish sizable annual budgets for public safety, public works, culture,
11 and recreation while Fernley plainly does not.¹⁸ *See* Exhibit 1.

12 **H. Fernley Has Insufficient Funds To Provide Essential Services Because**
13 **Of Its Low C-Tax Base.**

14 A local government has responsibility to provide dozens of services to the public. *See*
15 Exhibit 5, at 90:3-6. The minimal amount of C-Tax revenue distributed to Fernley, however, has
16 significantly impaired its ability to fulfill this obligation. Fernley has a greater property tax rate
17 and imposes higher license and permit fees than those levied by Mesquite, Boulder City, and
18 Elko, but it cannot meaningfully close the gap in the revenue shortfall caused by its low C-Tax
19 base. *See* Exhibit 1. This lack of adequate revenue, for example, has caused Fernley to cut its
20 workforce by 30 percent and has left its roads and parks in a general state of disrepair. *See*
21 Exhibit 3, at 71:21-72:1; Exhibit 31.

22 Perhaps the most serious effect of Fernley's low C-Tax revenue is that the city now lacks
23 funding to provide adequate police services. *See* Exhibit 3, at 42:22-43:18, 61:14-25. When
24 Fernley incorporated in 2001, the Lyon County sheriff at the time, Sid Smith, guaranteed Fernley

25 ¹⁷ On a per capita basis for fiscal year 2013, Mesquite receives \$419.76, Boulder City receives \$400.25, and Elko
26 receives \$645.16. Again, Fernley receives \$7 on a per capita basis. Exhibit 1.

27 ¹⁸ The Department has declined to offer any opinions regarding Fernley's receipt of C-Tax distributions that are
28 substantially less than cities of similar size, asserting that governing statutes have dictated this result. *See* Exhibit 15,
at 111:20-112:4. The Department makes no comparisons between recipients, but merely verifies that C-Tax
distributions are "mathematically and statutorily correct." *See id.* at 145:18-146:14. This approach is contrary to the
Department's rule that all taxpayers must be treated fairly. *See id.* at 115:2-116:5.

1 residents that his office would continue to provide them with police services and that they would
2 experience no decline in necessary law enforcement. *See id.* at 40:21-41:7, 45:16-46:16. These
3 circumstances had dramatically changed by the March 2014 deposition of current sheriff, Allen
4 Veil, who testified that only three or four of his deputies patrol Fernley at any given time, but that
5 the national ratio is two officers per thousand population. *See Exhibit 25*, at 30:1-32:22. As a
6 result, with its current total population of approximately 19,000 people, Fernley should have a
7 minimum of 38 deputies patrolling its streets at all times. *See id.*; *see also Exhibit 32*. (stating
8 that the average United States jurisdiction with 10,000 to 24,999 residents has 1.85 law
9 enforcement officers for every 1,000 residents).

10 By contrast, and as of 2012, Boulder City had 2.02 law enforcement officers for every
11 1,000 residents, Elko had 2.60 and Mesquite had 1.79. *See Exhibit 32*, at 2. Fernley, with its
12 total of 14 law enforcement officers for a 2013 population of 18,987, has a ratio of 0.74. *See*
13 *Exhibit 1*; *Exhibit 25*, at 26:11-16.

14 With respect to public works, Fernley has been unable to maintain open space, parks and
15 playgrounds have fallen into disrepair and cemeteries are covered with blowing sand. *Exhibit 31*.
16 Moreover, the street system in Fernley is rapidly deteriorating. Of the 19 road projects in the
17 reconstruction project from 2007-2013, only three have been completed. *See id.* Between 2009
18 and 2013, only 900 feet (less than a quarter mile) of road has been repaired. *See id.* As a result, it
19 is common to see massive cracks in major Fernley thoroughfares as the roadways disintegrate.
20 *See id.*

21 Finally, although comparable cities like Elko, Mesquite and Boulder City receive enough
22 C-Tax to help fund police and fire protection, Fernley residents shoulder a unique burden in
23 Nevada by directly funding fire services of the North Lyon Fire Protection District through a
24 property tax charge. *See Exhibit 33*; NRS 266.043 (providing that fire protection districts are
25 prohibited in incorporated cities except for Fernley). The total amount of this unique property tax
26 burden has exceeded \$1 million in the 2012-13 and 2013-14 budget years. *See Exhibit 33*.

27 Fernley is simply unable to satisfy the demands for services that have been created by its
28 rapid growth over the past two decades, and the C-Tax system perpetuates low distributions to

Fernley and compounds the inability to address fundamental service needs. *See* Exhibit 1.

I. The Legislature Establishes No Government Oversight Of The Revenue Distributions Made Under The C-Tax System.

Because the State does not allocate C-Tax revenue for specific purposes, recipients may commingle it with revenue from other sources and use it for any purpose, including their general operations. *See* Exhibit 7, at 57:2-13, 58:8-16 ; Exhibit 5, at 90:7-11. The Legislature does not review, either on its own or through the Department, how recipients spend their C-Tax distributions. *See* Exhibit 5, at 90:7-18. While the Department reviews the budgets of local governments, it only does so to verify that they are functioning within their overall budgetary constraints. *See* Exhibit 7, at 59:8-12. The Department has acknowledged that it does not examine or assess how recipients use funds distributed to them through the C-Tax system:

- (1) It does not review the recipient's budget or otherwise examine the services provided to learn how it is spending C-Tax revenues;
- (2) It does not conduct studies to correlate the services provided with the C-Tax revenues distributed to each recipient;
- (3) It does not determine whether the C-Tax revenues allocated to each recipient are sufficient for the services which that entity must provide;
- (4) It does not consider whether the recipient has enough money to meet its service obligations; and
- (5) It does not assess whether similarly situated recipients obtain equal or close to equal allocations of C-Tax revenues.

See Exhibit 7, at 37:11-38:8, 42:7-22, 56:23-57:1, 58:8-16, 59:4-19. The Legislature has given the Department no responsibility to verify that the C-Tax system is working correctly or that it is fulfilling legislative objectives. *See id.* at 59:4-7; Exhibit 15, at 72:16-20. The Department accordingly takes no action if a recipient of C-Tax revenue provides services that are either insufficient or deficient. *See id.* at 59:20-23. In sum, the State collects and distributes C-Tax revenues pursuant to a mechanically applied formula, and without regard to how local governments use these monies, whether local governments receive an equitable share of C-Tax

dollars, or whether they even have adequate funds to meet their service obligations. *See* Exhibit 20, at 138:14-23, 144:22-145:18 (noting that local government budgets get put in a "file drawer" and are only referred to "periodically"; stating that budgets are not "submitted to, like, the Legislature or compiled in a document").

IV. ARGUMENT.

A. Defendants Are Not Entitled To Summary Judgment As A Matter Of Law.

NRCP 56 authorizes the entry of summary judgment only when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *See* NRCP 56(c); *Shapiro v. Forsythe*, 103 Nev. 666, 668, 747 P.2d 241, 243 (1987). The moving party has the "burden of proving the nonexistence of a genuine issue of material fact." *See Maine v. Stewart*, 109 Nev. 721, 726-727, 857 P.2d 755, 758 (1993). Under Nevada law, "[a] genuine issue of material fact is one where the evidence is such that a reasonable jury could return a verdict for the non-moving party." *See Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438, 441-42 (1993). For this reason, "[i]n the trial court's review of the record for issues of material fact, pleadings and documentary evidence should be construed in a posture which is most favorable to the party against whom the motion for summary judgment is directed." *See Butler v. Bogdanovich*, 101 Nev. 449, 451, 705 P.2d 662, 663 (1985).

No legal basis exists on which the entry of summary judgment in Defendants' favor is appropriate. Not only does applicable law compel the entry of summary judgment in *Fernley's* favor, Defendants made no effort to supplement their motions to dismiss with any evidence after the Court converted them to motions for summary judgment. In other words, Defendants have submitted no affidavit or document which establishes that they are entitled to summary judgment as a matter of law. That omission is not surprising, however, because Fernley is the only party entitled to summary judgment. Under these circumstances, Defendants' motion should be denied, and Fernley's motion for summary judgment should be granted, in their entirety.

1 B. Defendants Erroneously Ask The Court To Enter Summary
2 Judgment In Their Favor Without Regard To The Merits Of
3 Fernley's Claims.

4 None of Defendants' asserted defenses to liability – sovereign immunity, statute of
5 limitations, and laches – applies in this case. The Court therefore should deny Defendants motion
6 on each of these grounds.

7 1. Fernley's Claims Are Not Barred By Sovereign Immunity.

8 a. Defendants Have Not Moved To Dismiss Fernley's
9 Claims For Declaratory And Injunctive Relief Based
10 On Sovereign Immunity.

11 The State has adopted the arguments set forth in the Legislature's joinder in the State's
12 original motion to dismiss (filed August 16, 2012) and the Legislature's reply in support of its
13 joinder in the State's original motion to dismiss (filed October 8, 2012). *See* State's Renewed
14 Motion to Dismiss, at 4:15-20 (dated May 5, 2014). Fernley incorporates by reference its
15 arguments set forth in Section IV(B)(1)(a) of its opposition to the Legislature's joinder in the
16 State's renewed motion to dismiss filed concurrently herewith, which establish that Defendants
17 have not moved to dismiss Fernley's claims for declaratory and injunctive relief based on
18 sovereign immunity.

19 b. Defendants Have Not Proven That Sovereign Immunity
20 Applies As A Matter Of Law.

21 The State has adopted the arguments set forth in the Legislature's joinder in the State's
22 original motion to dismiss (filed August 16, 2012) and the Legislature's reply in support of its
23 joinder in the State's original motion to dismiss (filed October 8, 2012). *See* State's Renewed
24 Motion to Dismiss, at 4:15-20 (dated May 5, 2014). Fernley incorporates by reference its
25 arguments set forth in Section IV(B)(1)(b) of its opposition to the Legislature's joinder in the
26 State's renewed motion to dismiss filed concurrently herewith, which establish that Defendants
27 have not proven that sovereign immunity, including NRS 41.032(1) and (2), applies as a matter of
28 law.

29 2. Fernley's Claims Are Not Barred By A Statute of Limitations.

30 The State has adopted the arguments set forth in the Legislature's joinder in the State's

1 original motion to dismiss (filed August 16, 2012) and the Legislature's reply in support of its
2 joinder in the State's original motion to dismiss (filed October 8, 2012). *See* State's Renewed
3 Motion to Dismiss, at 4:15-20 (dated May 5, 2014). Fernley incorporates by reference its
4 arguments set forth in Section IV(B)(2) of its opposition to the Legislature's joinder in the State's
5 renewed motion to dismiss filed concurrently herewith, which establish that Fernley's claims are
6 not barred by a statute of limitations.

7 **3. Fernley's Claims Are Not Barred By Laches.**

8 The State has adopted the arguments set forth in the Legislature's joinder in the State's
9 original motion to dismiss (filed August 16, 2012) and the Legislature's reply in support of its
10 joinder in the State's original motion to dismiss (filed October 8, 2012). *See* State's Renewed
11 Motion to Dismiss, at 4:15-20 (dated May 5, 2014). Fernley incorporates by reference its
12 arguments set forth in Section IV(B)(3) of its opposition to the Legislature's joinder in the State's
13 renewed motion to dismiss filed concurrently herewith, which establish that Fernley's claims are
14 not barred by laches.

15 **C. The C-Tax Violates The Separation Of Powers Clause Of The Nevada**
16 **Constitution As A Matter Of Law.**

17 **1. Fernley Has Standing To Bring A Separation Of Powers Claim**
18 **Against the State.**

19 The State has adopted the arguments set forth in the Legislature's joinder in the State's
20 original motion to dismiss (filed August 16, 2012) and the Legislature's reply in support of its
21 joinder in the State's original motion to dismiss (filed October 8, 2012). *See* State's Renewed
22 Motion to Dismiss, at 4:15-20 (dated May 5, 2014). Fernley incorporates by reference its
23 arguments set forth in Section IV(C)(1) of its opposition to the Legislature's joinder in the State's
24 renewed motion to dismiss filed concurrently herewith, which establish that Fernley has standing
25 to bring a separation of powers claim against the State.

26 **2. The Legislature Has Violated The Separation Of Powers**
27 **Clause By Relinquishing Its Authority To Collect And**
28 **Appropriate C-Tax Revenues To The Executive Branch.**

The separation of powers ensures that each branch of government — the Legislative, the
Executive, and the Judicial — remains independent from the others. *See Galloway v. Truesdell*, 83

1 Nev. 13, 19, 422 P.2d 237, 241-42 (1967). The principles underlying this doctrine are set forth in
2 Article 3, Section 1, of the Nevada Constitution, which "contains an express provision prohibiting
3 any one branch of government from impinging on the functions of another." *See Comm'n on*
4 *Ethics v. Hardy*, 125 Nev. 285, 292, 212 P.3d 1098, 1103-04 (2009); *see also Blackjack Bonding*
5 *v. City of Las Vegas Mun. Court*, 116 Nev. 1213, 1218, 14 P.3d 1275, 1279 (2000) ("[u]nder the
6 separation of powers doctrine, each branch of government is considered to be co-equal, with
7 inherent powers to administer its own affairs"). Article, 3, Section 1, provides:

8 The powers of the Government of the State of Nevada shall be divided into three
9 separate departments, -- the Legislative, -- the Executive and the Judicial; *and no*
10 *persons charged with the exercise of powers properly belonging to one of these*
11 *departments shall exercise any functions, appertaining to either of the others,*
12 *except in the cases expressly directed or permitted in this constitution.*

11 *See Nev. Const., art. 3, § 1* (emphasis added). This "division of powers" between the three
12 branches "is probably the most important single principle of government declaring and
13 guaranteeing the liberties of the people." *See Galloway*, 83 Nev. at 18, 422 P.2d at 241.

14 Not only does the Nevada Constitution divide our state government into three distinct
15 branches, it delineates the powers conferred on each branch. *See N. Lake Tahoe Fire Prot. Dist.*
16 *v. Washoe Cnty. Bd. of Cnty. Comm'rs*, 129 Nev. Adv. Op. 72, slip op. at 5, 310 P.3d 583, 587
17 (2013). The Constitution defines legislative power, for example, as "the power of law-making
18 representative bodies to frame and enact laws, and to amend or repeal them." *See Galloway*, 83
19 Nev. at 20, 422 P.2d at 242; *see also Nev. Const., art. 4* (setting forth the powers of the
20 Legislative Department). Executive power, by contrast, includes "carrying out and enforcing the
21 laws enacted by the Legislature." *See Galloway*, 83 Nev. at 20, 422 P.2d at 242; *see also Nev.*
22 *Const., art. 5* (setting forth the powers of the Executive Department). The C-Tax fundamentally
23 violates the separation of powers doctrine because it has resulted in the Legislature abdicating its
24 authority over the collection and appropriation of C-Tax revenues to the Executive Branch.

25 One of the Legislature's primary functions is to appropriate funds to local governments,
26 commonly referred to as the "power of the purse." *See State of Nev. Emps. Ass'n, Inc. v. Daines*,
27 108 Nev. 15, 21, 824 P.2d 276, 279 (1992); *see also Nev. Const., art. 4, § 19* ("No money shall
28 be drawn from the treasury but in consequence of appropriations made by law"); NRS 353.230 *et*

1 *seq.* (appropriations are made through bills enacted by the Legislature). It is "well established,"
2 as the Nevada Supreme Court has pointed out, that "the power of controlling the public purse lies
3 within legislative, not executive authority." *See Daines*, 108 Nev. at 21, 824 P.2d at 279.
4 Although the Legislature may authorize other branches of government or administrative agencies
5 to adopt rules and regulations that supplement legislation "if the power given is prescribed in
6 terms sufficiently definite to serve as a guide in exercising that power," it is constitutionally
7 barred from delegating its legislative functions "to any other body or authority." *See Banegas v.*
8 *State Indus. Ins. Sys.*, 117 Nev. 222, 227, 19 P.3d 245, 248 (2001). The power to make
9 appropriations is one such non-delegable legislative function. *See Folsom v. Wynn*, 631 So.2d
10 890, 894 (Ala. 1993). The C-Tax enacted by the Legislature runs afoul of this constitutional
11 limitation because it authorizes the Executive Branch, acting through the Department, to collect
12 and appropriate C-Tax revenues without any legislative participation or oversight. The
13 Legislature has acknowledged that, in the absence of a special request, it does not refer to local
14 government budgets for C-Tax purposes. *See Exhibit 20*, at 144:22-145:18 (stating that the
15 Legislature puts the budgets in "a file drawer" for future reference as needed).

16 Based on the Legislature's adoption of this "hands off" approach, the C-Tax system is
17 essentially "appropriation by auto-pilot." Not only does the Department collect and appropriate
18 C-Tax revenues based solely on the outcome of its mechanical application of a designated
19 mathematical formula without regard to whether legislative objectives are being met, it has
20 conceded that legislative considerations are irrelevant to this procedure. *See Exhibit 15*, at 72:16-
21 20; *Exhibit 7*, at 37:11-38:8, 42:7-22, 56:23-57:1, 58:8-16, 59:4-19. The Department has
22 acknowledged that its only concern is to ensure that the necessary mathematical calculations are
23 performed correctly, and that C-Tax revenue has been collected and appropriated accordingly.
24 *See id.*; *Exhibit 15*, at 71:17-22, 78:4-23, 79:14-19; *Exhibit 7*, at 64:22-67:2. The Legislature has
25 made a few minor adjustments to the applicable mathematical formula during the 14 years since it
26 enacted the C-tax, but has offered the Department no guidance in the collection and
27 appropriations process. Because this relinquishment of the Legislature's appropriations power to
28 the Executive Branch has resulted in a patent violation of the separation of powers clause of the

1 Nevada Constitution, the entry of summary judgment in Fernley's favor on its second claim for
2 relief is warranted as a matter of law. *See* Nev. Const., art. 3, § 1; *see also Opinion of the Justices*
3 *to the Senate*, 717 N.E.2d 655, 656 (Mass. 1999) (delegation of the power of appropriation from
4 the legislative branch to the executive branch violates separation of powers); *State ex rel.*
5 *Schwartz v. Johnson*, 907 P.2d 1001, 1002 (N.M. 1995) (legislature cannot delegate its
6 appropriations power without specific authorization by the state constitution). The Court
7 therefore should deny Defendants' motion in its entirety.

8 **D. The C-Tax Is A Local Or Special Law In Violation Of The Nevada**
9 **Constitution As A Matter Of Law.**

10 Article 4, Section 20, of the Nevada Constitution expressly prohibits the Legislature from
11 passing any local or special laws for "the assessment and collection of taxes for state, county, and
12 township purposes." *See* Nev. Const., art. 4, § 20. The framers of the Nevada Constitution
13 proscribed such laws for these and other purposes to "remedy an evil into which it was supposed
14 the territorial legislature had fallen in the practice of passing local and special laws for the benefit
15 of individuals instead of enacting laws of a general nature for the benefit of the public welfare."¹⁹
16 *See Clean Water Coal. v. The M Resort, LLC*, 127 Nev.Adv.Op. 24, slip op. at 13, 255 P.3d 247,
17 254 (2011). The Nevada Supreme Court explained the rationale underlying this prohibition:

18 As previously announced by this court, the reasoning behind requiring that a
19 statute be general in nature is that when a statute affects the entire state, then it is
20 more likely to receive adequate and thorough consideration from all members of
the legislature; whereas, if the bill is localized, it is apt not to be considered
seriously by those who are not affected by it.

21 *See Town of Pahrump*, 105 Nev. at 229, 773 P.2d at 1225. Simply stated, a law is
22 unconstitutional where, as here, it is a local or special law and comes within any of the cases
23 enumerated in Article 4, Section 20. *See Attorney General v. Gypsum Res., LLC*, 129
24 Nev.Adv.Op. 4, slip op. at 9-10, 294 P.3d 404, 409 (2013) (holding a Senate bill unconstitutional

25
26 ¹⁹ *See also Evans v. Job*, 8 Nev. 322, 333 (1873) (explaining that "[t]hese actions were
27 intended to prohibit the legislature from passing any local or special law in any one of the cases
28 enumerated in section 20, and to limit the passing of other local or special laws in all other cases
where a general law would be applicable, that is to say, where a general law would be adapted to
the wants of the people, suitable to the just purposes of legislation, or effect the object sought to
be accomplished").

1 because it was a local law and fell within one of the cases enumerated in Article 4, Section 20).

2 The quandary that Fernley now finds itself in is a classic example of a city burdened by a
3 local or special tax law which the framers of the Nevada Constitution sought to remedy through
4 the adoption of Article 4, Section 20. Fernley is located in a small rural county, and is the only
5 city to have incorporated since the enactment of the C-Tax in 1997. The consequence is that
6 Fernley receives substantially less C-Tax revenue than comparably sized Nevada cities, including
7 Boulder City, Elko, and Mesquite. *See* Exhibit 1. Not only is the Legislature's design of the C-
8 Tax system responsible for this discrepancy, it offers Fernley no meaningful statutory solution.
9 *See supra* Sections II(D) and (E). The low C-Tax revenue base originally allocated to Fernley
10 nearly twenty years ago, when it was a small unincorporated town, dictates the amount of C-Tax
11 revenue Fernley receives today even though it has rapidly grown into Nevada's seventh largest
12 city. Comparably sized cities like Boulder City, Elko, and Mesquite do not suffer from this same
13 handicap because, having existed at the time the Legislature enacted the C-Tax, they started with
14 significantly higher C-Tax bases. A law may have statewide effect, as the C-Tax does in this
15 case, but it still lacks constitutionality under Article 4, Section 20, when it has the effect of
16 burdening a particular locality, such as Fernley. *See Gypsum Res.*, 129 Nev.Adv.Op. 4, at 6-7,
17 294 P.3d at 407-08.

18 The hallmark of an unconstitutional local or special law, like the C-Tax, is that it raises
19 little or no concern beyond the borders of the affected locality. *See Clean Water Coal.*, 127
20 Nev.Adv.Op. 24, at 13, 255 P.3d at 254 (when "a law affects only one small area of the state,
21 voters in most areas will be ignorant of and indifferent to it"). Fernley's circumstances exemplify
22 this problem in that its predicament has failed to garner any sympathy statewide. Because no
23 provision of the C-Tax offers it relief, Fernley has been compelled to seek assistance from the
24 Legislature and Lyon County. Not only have both the Legislature and Lyon County shown that
25 they are not receptive to Fernley's needs, they have vigorously opposed Fernley's efforts to obtain
26 an upward adjustment of its C-Tax base:

27 -- Fernley has been unable to convince the Legislature to ~~consider its pleas~~
28 for an adjustment of its C-Tax base. The closest that Fernley came to a favorable

1 legislative outcome was a bill submitted on its behalf during the Legislature's
2 2011 session (Assembly Bill 47), which had only one hearing and never received
3 a committee vote.²⁰ The Legislature has since intervened in this action to oppose
4 directly Fernley's efforts to obtain a judicial resolution of its C-Tax dilemma.²¹

5 -- Lyon County has repeatedly rejected Fernley's requests to share a
6 relatively small portion of its allocation of C-Tax revenue, has opposed Assembly
7 Bill 47, and has even retained a lobbyist to oppose Fernley's efforts to obtain C-
8 Tax relief in the Legislature. See Exhibit 3, at 62:6-63:8; Exhibit 5, at 103:7-17;
9 Exhibit 30, at 26.

10 Fernley therefore is essentially at the mercy of others, and it is indisputable that no support has
11 been forthcoming or is likely to come. Because the C-Tax as applied does not place Fernley on
12 an equal basis with other participants in the system, but rather imposes on Fernley a far lesser
13 status, the C-Tax plainly constitutes a local or special law in contravention of Article 4, Section
14 20. See *Clean Water Coal.*, 127 Nev.Adv.Op. 24, at 16, 255 P.3d at 255 ("the determination on
15 whether a law is local or special is based on how it is applied, not on how it actually operates").
16 As a result, Defendants' motion has no legal basis.

17 E. The C-Tax Violates The General And Uniform Clause Of The Nevada
18 Constitution As A Matter Of Law.

19 Not only is the C-Tax an unconstitutional local or special law, it also cannot pass muster
20 under Article 4, Section 21, of the Nevada Constitution, which mandates that in "all" cases

21 ²⁰ Fernley's own assemblyman during the 2011 legislative session, Tom Grady, did not
22 even attend the sole meeting of the Assembly Committee on Taxation at which Fernley made its
23 presentation in support of Assembly Bill 47. See Exhibit 30. The lack of an appearance by
24 Fernley's own legislator undoubtedly contributed to its inability to obtain legislative relief.

25 ²¹ The Legislature has mistakenly maintained that Article 4, Section, 20, applies to tax
26 collection, but not to the distribution of tax revenues. The collection and distribution of C-Tax
27 revenue are inextricably intertwined. By statutory mandate, C-Tax revenue is collected and then
28 deposited into the Local Government Tax Distribution Account ("Account"), rather than into the
state general fund appropriated by the Legislature every biennium. See NRS 360.605 and
360.660; see also NRS 369.173 (deposit of liquor tax); NRS 370.260 (deposit of cigarette tax);
NRS 375.070 (deposit of real property transfer tax); NRS 377.055 (deposit of basic city-county
relief tax); NRS 377.057 (deposit of supplemental city-county relief tax); NRS. 482.180 and
482.181 (deposit of government services taxes). The Department's Executive Director
administers the Account, and annually allocates a portion of its funds to each eligible C-Tax
recipient. See NRS. 360.680 *et seq.*

1 "where a general law can be made applicable, all laws *shall* be general and of uniform operation
2 throughout the State." See Nev. Const., art 4, § 21 (emphasis added); see also *Clean Water Coal.*,
3 127 Nev.Adv.Op. 24, at 25, 255 P.3d at 259 ("[e]ven if this court were to credit the State's
4 argument that A.B. 6, section 18 involves only fees, not a tax, taking it outside Article 4, Section
5 20, the measure still fails because it violates Article 4, Section 21"). The Court should begin and
6 then immediately end its inquiry under Article 4, Section 21, because the C-Tax is a local or
7 special law *and* falls within one of the cases enumerated in Article 4, Section 20, in that it
8 involves the assessment and collection of taxes for state, county, and township purposes. See
9 *supra* Section II. On this basis alone, the C-Tax cannot survive scrutiny under Article 4, Section
10 21, regardless of whether a general law could have been made applicable. See *Gypsum Res.*, 129
11 Nev.Adv.Op. 4, at 9-10, 294 P.3d at 409 (concluding that a violation of Article 4, Section 21, had
12 occurred, irrespective of whether a general law could have been made applicable, because the
13 subject bill was a local law and fell within one of the cases enumerated in Article 4, Section 20);
14 see also *Goodwin v. City of Sparks*, 93 Nev. 400, 402, 566 P.2d 415, 416 (1977) (the
15 constitutionality of a local or special law depends on whether a general law can be made
16 applicable only when the law does not come within one of the cases enumerated in Article 4,
17 Section 20).

18 Even if the Court nevertheless were to consider whether a general law could have been
19 made applicable here, which it should not according to the teachings of *Gypsum Resources*
20 because the C-Tax is one of the cases enumerated in Article 4, Section 20, it should still find that
21 the C-Tax is unconstitutional under Article 4, Section 21. See *Cable v. Beemer*, 64 Nev. 77, 87,
22 177 P.2d 677, 682 (1947) ("[i]t is a general rule, under such provisions as those of sections 20
23 and 21 of article 4 of the State constitution, that if a statute be either a special or local law, or
24 both, and comes within any one or more of the cases enumerated in section 20, such statute is
25 unconstitutional; if the statute be special or local, or both, but does not come within any of the
26 cases enumerated in section 20, then its constitutionality depends upon whether a general law can
27 be made applicable"). When it has upheld local or special legislation, the Nevada Supreme Court
28 has focused on whether "the general legislation existing was insufficient to meet the peculiar

1 needs of a particular situation,'" and "a general law could not be made applicable," or whether "a
2 particular emergency situation existed, requiring more speedy action and relief than could be had
3 by proceeding under the existing general law." *See Clean Water Coal.*, 127 Nev.Adv.Op. 24, at
4 26, 255 P.3d at 259. In this case, however, no emergency situation prompted the Legislature's
5 enactment of the C-Tax, and any notion that the C-Tax could not have been made generally
6 applicable is untenable.

7 The Legislature readily could have enacted a general law relating to the collection and
8 appropriation of the Six Taxes that comprise the C-Tax. Rather than the C-Tax's automatic
9 appropriation based on a mathematical formula that maintains the status quo that existed in 1997,
10 the taxes could have been collected, deposited into a fund segregated for local governments, and
11 appropriated biennially by the Legislature after a careful review of local government budgets.
12 Although this process may have prompted challenges based on "political differences," such
13 considerations do not establish the "special circumstances" necessary for dispensing with
14 constitutional requirements. *See Clean Water Coal.*, 127 Nev.Adv.Op. 24, at 28, 255 P.3d at 260;
15 *see also Town of Pahrump*, 105 Nev. at 229-30, 773 P.2d at 1225 (statute originally presented as
16 a general law, but then limited to a single town and county based on oppositions lodged by
17 various counties, was an unconstitutional local or special law). Because the C-Tax is a local or
18 special law that could have been made generally applicable, it is "not permissible under Article 4,
19 Section 21" and should be declared unconstitutional as a matter of law. *See Clean Water Coal.*,
20 127 Nev.Adv.Op. 24, at 31, 255 P.3d at 261-62; *see also Anthony v. State*, 94 Nev. 338, 342, 580
21 P.2d 939, 942 (1978) (holding that statutory amendments "directed at solving a problem special to
22 Las Vegas which could as easily be[en] resolved by a general law" violated Article 4, Section 21).

23 Finally, the C-Tax is unsustainable under the Nevada Supreme Court's analysis in
24 *Anthony*, 94 Nev. at 338, 580 P.2d at 939. In that case, the Court considered the constitutionality
25 of statutory amendments, which provided for the distribution of certain tax revenues, under
26 Article 4, Section 21. *See id.* at 339, 580 P.2d at 940. The challenged law provided that, in a
27 county with a population greater than 200,000, 68.5% of certain ~~tax revenues~~ ~~"shall be~~
28 apportioned to the largest city and the remainder among the other cities in proportion to their

1 respective populations." *See id.* at 340, 580 P.2d at 940-41. In holding that the law violated
2 Article 4, Section 21, the Court found that the "Legislature's intent, though commendable, was to
3 protect the fiscal policy of Clark County and not the financial ability of smaller cities to provide
4 needed services." *See id.* at 341, 580 P.2d at 941. The Court determined that the "only purpose"
5 of the statutory amendments at issue was "to perpetuate the existing state of affairs in Clark
6 County," and observed that "[i]f the revenue allocation amendments had a reasonable relation to
7 the needs of the other counties, rather than imposing Clark County's fiscal policies on them, the
8 amendments would have had general application." *See id.* at 342, 580 P.2d at 941-42. The
9 situation here is identical – the C-Tax has perpetuated the status quo of 1997 to protect the fiscal
10 policy of participants in the system at that time, all to the detriment and exclusion of local
11 governments, like Fernley, that were subsequently established. The C-Tax therefore should be
12 declared unconstitutional under Article 4, Section 21, and Defendants' motion should be denied,
13 as a matter of law.

14 **V. CONCLUSION.**

15 For the foregoing reasons, Fernley respectfully requests that the Court deny Defendants'
16 motion in its entirety.

17 DATED this 11th day of July, 2014.

18 BROWNSTEIN HYATT FARBER SCHRECK, LLP

19
20 By: 

21 Joshua J. Hicks, Nevada Bar No. 6679
22 50 West Liberty Street, Suite 1030
23 Reno, Nevada 89501
24 Telephone: 775-622-9450

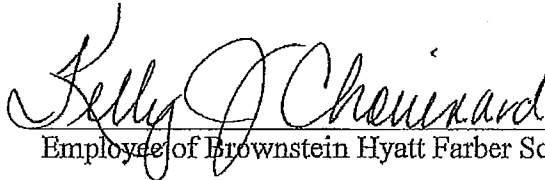
25 *Attorneys for the City of Fernley, Nevada*
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 11th day of July, 2014, I caused to be served via hand delivery, a true and correct copy of the above foregoing **PLAINTIFF'S OPPOSITION TO NEVADA DEPARTMENT OF TAXATION AND NEVADA TREASURER'S RENEWAL OF MOTION TO DISMISS** properly addressed to the following:

Andrea Nichols, Esq.
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5420 Kietzke Lane, Suite 202
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Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP

DECLARATION OF JOSHUA J. HICKS, ESQ.

I, Joshua J. Hicks, Esq., hereby declare as follows:

1. I am an attorney at the law firm of Brownstein Hyatt Farber Schreck, LLP, counsel for Plaintiff City of Fernley, Nevada in Case No. 12 OC 00168 1B, currently pending before the First Judicial District Court, Carson City, Nevada. I submit this declaration in support of the Plaintiff's Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss. I have personal knowledge of the facts set forth herein, and if called upon to do so, am competent to testify thereto.

2. A true and correct copy of the compilation "FY 2013-2014 Budget Totals for Select Cities and Lyon County as Reported to the Nevada Department of Taxation," is attached hereto as Exhibit "1."

3. A true and correct copy of the Complaint dated June 6, 2012, is attached hereto as Exhibit "2."

4. A true and correct copy of excerpts of the deposition transcript of Leroy Goodman taken February 3, 2014, is attached hereto as Exhibit "3."

5. A true and correct copy of excerpts of the deposition transcript of Marvin Leavitt taken November 22, 2013, is attached hereto as Exhibit "4."

6. A true and correct copy of excerpts of the deposition transcript of Mary Walker taken December 3, 2013, is attached hereto as Exhibit "5."

7. A true and correct copy of the excerpts of Journal of the Nevada Senate dated May 22, 1997, is attached hereto as Exhibit "6."

8. A true and correct copy of excerpts of the deposition transcript of Terry Rubald taken December 12, 2013, is attached hereto as Exhibit "7."

9. A true and correct copy of the Notice of Deposition for the Person Most Knowledgeable, Nevada Department of Taxation, is attached hereto as Exhibit "8."

10. A true and correct copy of the Amended Notice of Deposition for the Person Most Knowledgeable, Nevada Department of Taxation, is attached hereto as Exhibit "9."

1 11. A true and correct copy of the correspondence from Andrea Nichols dated
2 November 14, 2013, is attached hereto as Exhibit "10."

3 12. A true and correct copy of excerpts of the deposition transcript of Warner
4 Ambrose taken December 12, 2013, is attached hereto as Exhibit "11."

5 13. A true and correct copy of the Nevada Department of Taxation's PowerPoint
6 Presentation "Can Anyone Explain the CTX," is attached hereto as Exhibit "12."

7 14. A true and correct copy of the Nevada Department of Taxation, Base vs. Excess
8 Charts, FY 1999-2011, is attached hereto as Exhibit "13."

9 15. A true and correct copy of excerpts of the Nevada Legislature's Response to
10 Fernley's First Request for Admissions, is attached hereto as Exhibit "14."

11 16. A true and correct copy of excerpts of the deposition transcript of Marian
12 Henderson taken November 13, 2013, is attached hereto as Exhibit "15."

13 17. A true and correct copy of excerpts of the deposition transcript of Guy Hobbs
14 taken January 13, 2014, is attached hereto as Exhibit "16."

15 18. A true and correct copy of excerpts of the Minutes of the SCR 40 Legislative
16 Commission's Subcommittee dated October 5, 1995, is attached hereto as Exhibit "17."

17 19. A true and correct copy of excerpts of The 1997 Nevada Legislature: A Review of
18 Legislative Actions on State Issues, is attached hereto as Exhibit "18."

19 20. A true and correct copy of Nevada Department of Taxation's Supplemental
20 Response to Fernley's Interrogatory No. 19, is attached hereto as Exhibit "19."

21 21. A true and correct copy of excerpts of the deposition transcript of Russell Guindon
22 taken November 20, 2013, is attached hereto as Exhibit "20."

23 22. A true and correct copy of the Notice of Deposition for the Person Most
24 Knowledgeable, Nevada Legislature, is attached hereto as Exhibit "21."

25 23. A true and correct copy of the Amended Notice of Deposition for the Person Most
26 Knowledgeable, Nevada Legislature, is attached hereto as Exhibit "22."

1 24. A true and correct copy of excerpts of Minutes of the Meeting of the Legislative
2 Commission's Study to Develop Enabling Legislation for the Creation of Incorporated Towns
3 dated March 25, 2002, is attached hereto as Exhibit "23."

4 25. A true and correct copy of the Letter from Director Chisel, Nevada Department of
5 Taxation, dated December 20, 2011, is attached hereto as Exhibit "24."

6 26. A true and correct copy of excerpts of the deposition Transcript of Allen Veil
7 taken March 13, 2014, is attached hereto as Exhibit "25."

8 27. A true and correct copy of Attorney General Opinion 96-12, is attached hereto as
9 Exhibit "26."

10 28. A true and correct copy of Table 1-Second Tier Distribution of Revenue from the
11 Local Government Tax Distribution Account, is attached hereto as Exhibit "27."

12 29. A true and correct copy of the Nevada Department of Taxation, Consolidated Tax
13 Collections, FY 1999-2012, is attached hereto as Exhibit "28."

14 30. A true and correct copy of correspondence from Leroy Goodman to Jeff Page, is
15 attached hereto as Exhibit "29."

16 31. A true and correct copy of the Minutes of the Nevada Assembly Committee on
17 Taxation, dated February 22, 2011, is attached hereto as Exhibit "30."

18 32. A true and correct copy of the Report of Sheri Whalen dated February 1, 2014, is
19 attached hereto as Exhibit "31."

20 33. A true and correct copy of the Report of William Sousa dated February 8, 2014, is
21 attached hereto as Exhibit "32."

22 34. A true and correct copy of the North Lyon Fire Protection District, FY ending June
23 30, 2013, is attached hereto as Exhibit "33."

24 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
25 is true and correct.

26 Executed this 11 day of July, 2014, in Reno, Nevada.

JOSHUA J. HICKS, ESQ.

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

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DEPARTMENT OF TAXATION AND NEVADA TREASURER'S RENEWAL OF
MOTION TO DISMISS**

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EXHIBIT 1

EXHIBIT 1

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 13 PART 2

Filed By:

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*Attorneys for Appellant City of Fernley,
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EXHIBIT 5

EXHIBIT 5

Case No. 66851
JA 2281

AFFIDAVIT OF WARNER AMBROSE

STATE OF NEVADA)
) ss.
COUNTY OF CARSON CITY)

Warner R. Ambrose, being duly sworn, deposes and says:

1. The statements contained herein, except where otherwise indicated to be upon information and belief, are based on my personal knowledge, are true, accurate and correct, are made under penalty of perjury, and if I am called to testify regarding the matters herein, I would testify consistently therewith;

2. I am employed by the State of Nevada, Department of Taxation as a Budget Analyst, II;

3. I have been employed by the Nevada Department of Taxation since 1991; and,

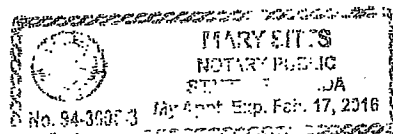
4. The documents attached hereto are true and correct copies of letters I wrote to the Chairman of the Fernley Incorporation Committee on June 25, 1998, and July 17, 1998, advising that if the Town of Fernley incorporated the new city would not realize an increase in revenue from consolidated tax.

FURTHER AFFIANT SAYETH NAUGHT.

WARNER R. AMBROSE

SIGNED AND SWORN to before me
by Warner R. Ambrose on this ____ day
of June, 2014.

NOTARY PUBLIC





BOB MILLER
Governor

MICHAEL A. PITLOCK
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION

1550 E. College Parkway
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June 25, 1998

Ms. Debra K. Brazell, Chairman
Fernley Incorporation Committee
P. O. Box 1553
Fernley, NV 89408

Re: Budgetary Update

Dear Ms. Brazell:

Pursuant to your recent request for updated information regarding the impact the proposed incorporation of the Town of Fernley would have on the Consolidated Tax Distribution to the local governments in Lyon County.

The request indicated proposed scenarios with populations quite a bit larger than the current certified population of 6,510. If Fernley were to incorporate, with the boundaries unchanged, **the new city would not realize an increase in revenue from consolidated tax.** If the new city were to annex property extending the boundaries (and therefore population), then a larger share of the available revenue in the county's consolidated tax account would be realized by the city.

You requested information utilizing a number of different populations for the incorporated area. Listed below are the impacts to the Consolidated Tax Distribution:

- 1) Population growth of 6.63% (FY99 @ 6,510 over FY98 @ 6,105).

Current projected revenue for Fernley Town (population of 6,510) is \$ 83,824.89. The projected revenue for the City of Fernley (with same population) would be the same.

- 2) Population growth of 11.11% (10,000 over 9,000).

Projected revenue for the City of Fernley based on a population of 10,000 is \$ 84,282.22.

- 3) Population growth of 10.00% (11,000 over 10,000).

Projected revenue for the City of Fernley based on a population of 11,000 is \$ 84,168.76.

- 4) Population growth of 9.09% (12,000 over 11,000).

Projected revenue for the City of Fernley based on a population of 12,000 is \$ 84,075.91.

Case No. 66851
JA 2283

Ms. Debra Brazell
June 25, 1998
Page 2

The various population percentages noted above have been applied to projected Consolidated Tax revenue to Lyon County in the amount of \$ 9,094,264.01. You did indicate in your request or our conversations if the proposed city is going to assume any of the services presently provided by the county. If this is being considered, please refer to NRS 354.598747 (attached).

I hope this information is helpful to the committee as you begin the incorporation process. If you should have any questions, please contact me at 687-8358.

Sincerely,



Warner R. Ambrose, Budget Analyst
Local Government Finance

Enclosures



BOB MILLER
Governor

MICHAEL A. PITLOCK
Executive Director

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DEPARTMENT OF TAXATION

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Fax: (702) 888-1303

July 17, 1998

Ms. Debra K. Brazell, Chairman
Fernley Incorporation Committee
P. O. Box 1553
Fernley, NV 89408

Re: Budgetary Update

Dear Ms. Brazell:

Pursuant to your second request, I have updated the information regarding the impact the proposed incorporation of the Town of Fernley would have on the Consolidated Tax Distribution and two of the Motor Fuel Taxes to which the proposed city would be entitled to.

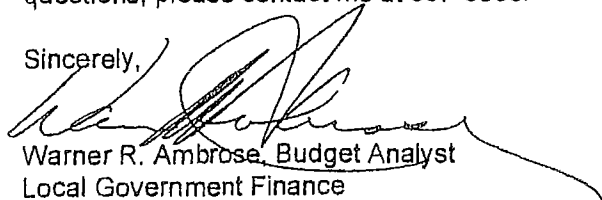
The request indicated proposed scenarios with populations quite a bit larger than the current certified population of 6,510. If Fernley were to incorporate, with the boundaries unchanged, **the new city would not realize a significant increase in revenue from the consolidated tax.** If the new city were to annex property extending the boundaries (and therefore population), then a larger share of the available revenue in the county's consolidated tax account would be realized by the city.

I also calculated the impact of incorporation relative to distribution of the 1-cent county option motor fuel tax and the 2.35-cent motor fuel tax. The impact of the different population scenarios you requested was calculated. The total tax impact of incorporation is indicated on the enclosed pages.

The projected total revenues for the incorporated City of Fernley are substantially below those calculated in 1996. This is primarily due to the implementation of the Consolidated Tax Distribution program. The proposed city's revenues are directly affected by the changes relative to Basic City-County Relief and Cigarette taxes.

I hope this information is helpful to the committee as you begin the incorporation process. If you should have any questions, please contact me at 687-8358.

Sincerely,


Warner R. Ambrose, Budget Analyst
Local Government Finance

Enclosures

Case No. 66851
JA 2285

FISCAL IMPACT OF FERNLEY INCORPORATION

7/17/98

Effect on Revenue Distribution of Shared Revenue as a result of
Fernley Incorporation

Revenue Source	Lyon County			City of Yerington		City of Fernley	
	Prior to Incorporation	After Incorporation	Projected Impact	Prior to Incorporation	After Incorporation	Projected Impact	Projected Revenue
Ad Valorem (property) Tax-Allowed	4,878,030	4,878,030	-	108,899	108,899	-	343,835.1
Consolidated Tax	8,026,682	8,026,682	-	231,916	231,916	-	83,822
County Option 1Cent Motor Vehicle Fuel Tax	146,297	111,657	(34,640)	15,268	15,268	-	34,640
1.75 Cents Motor Vehicle Fuel Tax	263,829	186,467	(77,362)	18,915	18,915	5	77,357
2.35 Cents Motor Vehicle Fuel Tax	400,639	346,322	(54,317)	20,228	20,228	-	54,317
	Projected Total Impact		(166,319)	Projected Total Impact		5	593,974

Notes: NRS 364.59872 provides that any local government that loses revenue from population based taxes due to an additional city becoming incorporated may make up revenue lost through the reallocation to the newly incorporated city by increasing the ad valorem (property) tax rate.

These revenue estimates are based upon certain assumptions which provided the basis for the Revenue Projections for all Nevada local governments published by the Department of Taxation on March 15, 1998.

Assessed values: Lyon County - \$553,501,955

Yerington - \$36,990,742

Fernley - \$151,402,451

Revenues from various sources such as ad valorem (property) and Consolidated Tax are unaffected by the incorporation decision.

COUNTY OPTION 1 CENT MOTOR VEHICLE FUEL TAX

MARCH 15, 1998

ENTITY	PROJECTED GALLONS FOR FISCAL YEAR 1999 (1)	PROJECTED COUNTY REV. FOR FISCAL YEAR 1999 (2)	% ENTITY POPULATION (3)	PROJECTED REVENUE FOR FISCAL YEAR 1999 (4)	ENTITY	PROJECTED GALLONS FOR FISCAL YEAR 1999 (1)	PROJECTED COUNTY REV. FOR FISCAL YEAR 1999 (2)	% ENTITY POPULATION (3)	PROJECTED REVENUE FOR FISCAL YEAR 1999 (4)
CARSON CITY	32,417,357	\$324,174	100.00	\$324,174	LANDER	5,722,057	57,221	100.00	57,221
CHURCHILL FALLON	13,739,703	137,397	65.63	90,174	LINCOLN	3,034,963	30,350	73.97	22,450
CLARK	579,123,822	5,791,238	34.37	47,223	CALIENTE			26.03	7,900
BOULDER CITY			42.13	2,439,849	LYON	16,156,508	161,565	69.11	111,658
HENDERSON			1.22	70,653	FERNLEY			21.44	34,640
LAS VEGAS			12.40	718,114	YERINGTON			9.45	15,268
MESQUITE			35.67	2,065,735	MINERAL	3,413,064	34,131	100.00	34,131
N LAS VEGAS			0.78	45,172	NYE	18,285,904	182,859	98.55	180,208
DOUGLAS	21,843,307	218,433	7.80	451,717	GABBS			1.45	2,651
ELKO	32,793,515	327,935	42.73	140,127	PERSHING	4,918,394	49,184	56.36	27,720
CARLIN			5.62	18,430	LOVELOCK			43.64	21,464
ELKO			41.23	135,208	STOREY	459,899	4,599	100.00	4,599
WELLS			3.23	10,592	WASHOE	153,302,417	1,533,024	26.80	410,850
WEST WENDOVER			7.19	23,579	RENO			53.32	817,408
ESMERALDA	528,435	5,284	100.00	5,284	SPARKS			19.88	304,765
EUREKA	2,491,079	24,911	100.00	24,911	WHITE PINE	7,917,828	79,178	51.22	40,555
HUMBOLDT			53.54	94,171	ELY			48.78	38,623
WINNEMUCCA	17,588,933	175,889	46.46	81,718					
						913,737,185	\$9,137,372		\$9,137,372

NRS 365.192 levy and NRS 365.196 distribution.
 Column 1 = Estimated county gallons taken from the County Option
 Motor Vehicle Fuel Tax page, column 4.
 Column 2 = Estimated county gallons x .01 (one cent per gallon).
 Column 3 = Percentage of entities population to the total population of the county.
 Column 4 = Column 2 x Column 3
 NOTE: The above computed revenues are based on historical trends only. Local
 economic conditions may require entities to BUDGET HIGHER OR LOWER
 amounts as they believe appropriate.

2.35 CENTS MOTOR VEHICLE FUEL TAX

ENTITY	AREA SQUARE MILE	PERCENT OF TOTAL	FINAL POPULATION	ROAD AND STREET		PERCENT OF TOTAL	ANNUAL VEHICLE MILES	PERCENT OF TOTAL	AVERAGE PERCENT	AVAILABLE COUNTY SHARE	JULY 16, 1998		PROJECTED REVENUE FOR FISCAL YEAR 1999
				PERCENT OF TOTAL	MILEAGE						REVENUE FOR FISCAL YEAR 1999	REVENUE FOR FISCAL YEAR 1999	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
LYON	1,831.20	91.84	20,990	69.11	585.79	91.67	46,439,736	76.53	82.29				
FERNLEY	161.00	8.07	6,510	21.44	29.30	4.59	10,636,603	17.53	12.91				\$346,323
YERINGTON	1.80	0.09	2,870	9.45	23.91	3.74	3,606,112	5.94	4.81				\$5,777
TOTAL LYON	1,994.00	100.00	30,370	100.00	639.00	100.00	60,682,451	100.00	100.00	1.96%	\$420,867		\$20,228
													420,868

Notes: The numbers for Fernley appearing in columns 1, 5 & 7 were taken from the original incorporation projections (2/96). Figures for the county were reduced accordingly in order that countywide totals would remain the same.

FISCAL IMPACT OF FERNLEY INCORPORATION

7/17/98

Effect on Revenue Distribution of Shared Revenue as a result of
Femley Incorporation

Revenue Source	Lyon County		City of Yerington		City of Fernley	
	Prior to Incorporation	After Incorporation	Projected Impact	Prior to Incorporation	After Incorporation	Projected Impact
(population estimate 9,000)						
Ad Valorem (property) Tax-Allowed	4,878,030	4,878,030	-	108,899	108,899	-
Consolidated Tax	8,026,682	8,022,951	(3,731)	231,916	231,812	(104)
County Option 1Cent Motor Vehicle Fuel Tax	146,297	98,425	(47,872)	15,268	15,268	-
1.75 Cents Motor Vehicle Fuel Tax	263,829	186,467	(77,362)	18,910	18,915	5
2.35 Cents Motor Vehicle Fuel Tax	400,639	337,696	(62,943)	20,228	20,228	-
	Projected Total Impact		(191,908)	Projected Total Impact		(99)
						Projected Total
						343,835
						87,979
						47,872
						77,357
						62,943
						619,986

Notes: NRS 354.59872 provides that any local government that loses revenue from population based taxes due to an additional city becoming incorporated may make up revenue lost through the reallocation to the newly incorporated city by increasing the ad valorem (property) tax rate.

These revenue estimates are based upon certain assumptions which provided the basis for the Revenue Projections for all Nevada local governments published by the Department of Taxation on March 15, 1998.

Assessed values: Lyon County - \$553,501,955
Yerington - \$36,990,742
Fernley - \$151,402,451

Revenues from various sources such as ad valorem (property) and Consolidated Tax are unaffected by the incorporation decision. For the purposes of this projection, population has been increased (as requested) to 9,000 for Fernley. The percentage change applied is an 47.42% increase (6,105 to 9,000). PLEASE NOTE THIS TYPE OF GROWTH IN ONE YEAR IS VERY UNLIKELY TO OCCUR.

MARCH 15, 1998

\$9,137,372

Column 1 = Estimated county gallons taken from the County Option Motor Vehicle Fuel Tax page, column 4.

Column 2 = Estimated county gallons x .01 (one cent per gallon).

Column 3 - Percentage of entities population to the total population of the county.

NOTE: The above computed revenues are based on historical trends only. Local economic conditions may require entities to BUDGET HIGHER OR LOWER amounts as they believe appropriate.

2.35 CENTS MOTOR VEHICLE FUEL TAX

ENTITY	AREA SQUARE MILE	PERCENT OF TOTAL	FINAL POPULATION	PERCENT OF TOTAL	ROAD AND STREET MILEAGE	PERCENT OF TOTAL	ANNUAL VEHICLE MILES	PERCENT OF TOTAL	AVERAGE PERCENT	AVAILABLE COUNTY SHARE	JULY 16, 1998	
											REVENUE FOR FISCAL YEAR 1999	PROJECTED REVENUE FOR FISCAL YEAR 1999
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
LYON	1,831.20	91.84	18,500	60.92	585.79	91.67	46,439,736	76.53	80.24			
FERNLEY	161.00	8.07	9,000	29.63	29.30	4.59	10,636,603	17.53	14.96			\$337,696
YERINGTON	1.80	0.09	2,870	9.45	23.91	3.74	3,606,112	5.94	4.81			\$62,943
TOTAL LYON	1,994.00	100.00	30,370	100.00	639.00	100.00	60,682,451	100.00	100.00	1.96%	\$420,867	\$20,228
												420,867

Notes: The numbers for Fernley appearing in columns 1, 5 & 7 were taken from the original incorporation projections (2/96). Figures for the county were reduced accordingly in order that countywide totals would remain the same.

FISCAL IMPACT OF FERNLEY INCORPORATION

7/17/98

Effect on Revenue Distribution of Shared Revenue as a result of
Fernley Incorporation

Revenue Source	Lyon County		City of Yerington		City of Fernley	
	Prior to Incorporation	After Incorporation	Projected Impact	Prior to Incorporation	After Incorporation	Projected Impact
Ad Valorem (property) Tax-Allowed	4,878,030	4,878,030	-	108,899	108,899	-
Consolidated Tax	8,026,682	8,026,271	(411)	231,916	231,905	(11)
County Option 1Cent Motor Vehicle Fuel Tax	146,297	93,094	(53,203)	15,268	15,268	-
1.75 Cents Motor Vehicle Fuel Tax	263,829	186,467	(77,362)	18,910	18,915	5
2.35 Cents Motor Vehicle Fuel Tax	400,639	334,232	(66,407)	20,228	20,228	-
	Projected Total Impact		(197,383)	Projected Total Impact		(6)
						Projected Total
						343,835
						84,282
						53,203
						77,357
						66,408
						625,085

Notes: NRS 354.59872 provides that any local government that loses revenue from population based taxes due to an additional city becoming incorporated may make up revenue lost through the reallocation to the newly incorporated city by increasing the ad valorem (property) tax rate.

These revenue estimates are based upon certain assumptions which provided the basis for the Revenue Projections for all Nevada local governments published by the Department of Taxation on March 15, 1998.

Assessed values: Lyon County - \$553,501,955
Yerington - \$36,990,742
Fernley - \$151,402,451

Revenues from various sources such as ad valorem (property) and Consolidated Tax are unaffected by the incorporation decision. For the purpose of this projection, the population has been increased to 10,000 for Fernley. The percentage change applied is an 11.11% increase (9,000 to 10,000).

MARCH 15, 1998

2293
FOOTNOTE: The above computed revenues are based on historical trends only. Local economic conditions may require entities to BUDGET HIGHER OR LOWER amounts as they believe appropriate.

2.35 CENTS MOTOR VEHICLE FUEL TAX

ENTITY	AREA SQUARE MILE						JULY 16, 1998					PROJECTED REVENUE FOR FISCAL YEAR 1999
		PERCENT OF TOTAL	FINAL POPULATION	PERCENT OF TOTAL	ROAD AND STREET MILEAGE	PERCENT OF TOTAL	ANNUAL VEHICLE MILES	PERCENT OF TOTAL	AVERAGE PERCENT	AVAILABLE COUNTY SHARE	REVENUE FOR FISCAL YEAR 1998	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
LYON	1,831.20	91.84	17,500	57.62	585.79	91.67	46,439,736	76.53	79.42			
FERNLEY	161.00	8.07	10,000	32.93	29.30	4.59	10,636,603	17.53	15.78			\$334,232
YERINGTON	1.80	0.09	2,870	9.45	23.91	3.74	3,606,112	5.94	4.81			\$66,408
TOTAL LYON	1,994.00	100.00	30,370	100.00	639.00	100.00	60,682,451	100.00	100.00	1.96%	\$420,867	\$20,228
Notes: The numbers for Eastern...												

Notes: The numbers for Fernley appearing in columns 1, 5 & 7 were taken from the original incorporation projections (2/96). Figures for the county were reduced accordingly in order that countywide totals would remain the same.

FISCAL IMPACT OF FERNLEY INCORPORATION

7/17/98

Effect on Revenue Distribution of Shared Revenue as a result of
Femley Incorporation

Revenue Source	Lyon County			City of Yerington			City of Fernley	
	Prior to Incorporation	After Incorporation	Projected Impact	Prior to Incorporation	After Incorporation	Projected Impact	Projected Revenue	
Ad Valorem (property) Tax-Allowed	4,878,030	4,878,030	-	108,899	108,899	-	343,835	
Consolidated Tax	8,026,682	8,026,373	(309)	231,916	231,908	-	84,169	
County Option 1 Cent Motor Vehicle Fuel Tax	146,297	87,778	(58,519)	15,268	15,268	(8)	58,519	
1.75 Cents Motor Vehicle Fuel Tax	263,829	186,467	(77,362)	18,910	18,915	5	77,357	
2.35 Cents Motor Vehicle Fuel Tax	400,639	330,767	(69,872)	20,228	20,228	-	69,872	
	Projected Total Impact		(206,062)	Projected Total Impact		(3)	633,752	

Notes: NRS 354.59872 provides that any local government that loses revenue from population based taxes due to an additional city becoming incorporated may make up revenue lost through the reallocation to the newly incorporated city by increasing the ad valorem (property) tax rate.

These revenue estimates are based upon certain assumptions which provided the basis for the Revenue Projections for all Nevada local governments published by the Department of Taxation on March 15, 1998.

Assessed values: Lyon County - \$553,501,955
Yerington - \$36,990,742
Fernley - \$151,402,451

Revenues from various sources such as ad valorem (property) and Consolidated Tax are unaffected by the incorporation decision. For the purpose of this projection, the population has been increased to 11,000 for Fernley. The percentage change applied is a 10.00% increase (10,000 to 11,000).

MARCH 15, 1998

Column 2 = Estimated county gallons x .01 (one cent per gallon).
 Column 3 = Percentage of entities population to the total population of the county.
 Column 4 = Column 2 x Column 3

NOTE: The above computed revenues are based on historical trends only. Local economic conditions may require entities to BUDGET HIGHER OR LOWER amounts as they believe appropriate.

(NOTE: The above computed revenues are based on historical trends only. Local economic conditions may require entities to BUDGET HIGHER OR LOWER amounts as they believe appropriate.

2.35 CENTS MOTOR VEHICLE FUEL TAX

ENTITY	AREA SQUARE MILE	PERCENT OF TOTAL			ROAD AND STREET MILEAGE		PERCENT OF TOTAL		ANNUAL VEHICLE MILES	PERCENT OF TOTAL	AVERAGE PERCENT	AVAILABLE COUNTY SHARE	JULY 16, 1998		PROJECTED REVENUE FOR FISCAL YEAR 1999
		(1)	(2)	(3)	(4)	(5)	(6)	(7)					(8)	(9)	
LYON	1,831.20		91.84	16,500	54.33	585.79	91.67	46,439,736	76.53	78.59					
FERNLEY	161.00		8.07	11,000	36.22	29.30	4.59	10,636,603	17.53	16.60					\$330,767
YERINGTON	1.80		0.09	2,870	9.45	23.91	3.74	3,606,112	5.94	4.81					\$69,872
TOTAL LYON	1,994.00		100.00	30,370	100.00	639.00	100.00	60,682,451	100.00	100.00		1.96%	\$420,867		\$20,228
															420,867

Notes: The numbers for Fernley appearing in columns 1, 5 & 7 were taken from the original incorporation projections (2/96). Figures for the county were reduced accordingly in order that countywide totals would remain the same.

FISCAL IMPACT OF FERNLEY INCORPORATION

7/17/98

Effect on Revenue Distribution of Shared Revenue as a result of
Fernley Incorporation

Revenue Source	Lyon County		City of Yerington		City of Fernley	
	Prior to Incorporation	After Incorporation	Projected Impact	Prior to Incorporation	After Incorporation	Projected Impact
Ad Valorem (property) Tax-Allowed	4,878,030	4,878,030	-	108,899	108,899	-
Consolidated Tax	8,026,682	8,026,457	(225)	231,916	231,910	(6)
County Option 1 Cent Motor Vehicle Fuel Tax	146,297	82,463	(63,834)	15,268	15,268	-
1.75 Cents Motor Vehicle Fuel Tax	263,829	186,467	(77,362)	18,910	18,915	5
2.35 Cents Motor Vehicle Fuel Tax	400,639	327,303	(73,336)	20,228	20,228	-
	Projected Total Impact		(214,757)	Projected Total Impact		(1)
					Projected Total	642,439

Notes: NRS 354.59872 provides that any local government that loses revenue from population based taxes due to an additional city becoming incorporated may make up revenue lost through the reallocation to the newly incorporated city by increasing the ad valorem (property) tax rate.

These revenue estimates are based upon certain assumptions which provided the basis for the Revenue Projections for all Nevada local governments published by the Department of Taxation on March 15, 1998.

Assessed values: Lyon County - \$553,501,955
Yerington - \$36,990,742
Fernley - \$151,402,451

Revenues from various sources such as ad valorem (property) and Consolidated Tax are unaffected by the incorporation decision. For the purpose of this projection, the population has been increased to 12,000. The percentage change applied is a 9.09% increase (11,000 to 12,000).

COUNTY OPTION 1 CENT MOTOR VEHICLE FUEL TAX

ENTITY	PROJECTED GALLONS FOR FISCAL YEAR 1999		PROJECTED COUNTY REV. FOR FISCAL YEAR 1999		% ENTITY POPULATION	PROJECTED REVENUE FOR FISCAL YEAR 1999		ENTITY	PROJECTED GALLONS FOR FISCAL YEAR 1999		PROJECTED COUNTY REV. FOR FISCAL YEAR 1999		% ENTITY POPULATION	PROJECTED REVENUE FOR FISCAL YEAR 1999		MARCH 15, 1998
	(1)	(2)	(3)	(4)		(5)	(6)		(7)	(8)	(9)	(10)		(11)	(12)	
CARSON CITY	32,417,357	\$324,174	100.00	\$324,174	100.00	LANDER	5,722,057	57,221	100.00	57,221	100.00	57,221	100.00	57,221	57,221	
CHURCHILL FALLON	13,739,703	137,397	65.63	90,174	34.37	LINCOLN	3,034,963	30,350	73.97	30,350	26.03	22,450	73.97	22,450	7,900	
CLARK	579,123,822	5,791,238	42.13	2,439,849	42.13	LYON	16,156,508	161,565	51.04	161,565	51.04	82,463	39.51	63,834	15,268	
BOULDER CITY			1.22	70,653	1.22	FERNLEY										
HENDERSON			12.40	718,114	35.67	YERINGTON										
LAS VEGAS			0.78	2,065,735	0.78	MINERAL	3,413,064	34,131	100.00	34,131	98.55	180,208	1.45	2,651		
MESQUITE			7.80	451,717	7.80	NYE	18,285,904	182,859		182,859						
N LAS VEGAS						GABBS										
DOUGLAS	21,843,307	218,433	100.00	218,433	100.00	PERSHING	4,918,394	49,184	56.36	49,184	43.64	27,720	56.36	21,464		
ELKO	32,793,515	327,935	42.73	140,127	5.62	LOVELOCK										
CARLIN			41.23	135,208	3.23	STOREY	459,899	4,599	100.00	4,599	100.00	4,599	100.00	4,599		
ELKO			7.19	23,579	7.19	WASHOE	153,302,417	1,533,024	26.80	1,533,024	53.32	817,408	19.88	304,765		
WELLS						RENO										
WEST WENDOVER						SPARKS										
ESMERALDA	528,435	5,284	100.00	5,284	100.00	WHITE PINE	7,917,828	79,178	51.22	79,178	48.78	40,555	51.22	38,623		
EUREKA	2,491,079	24,911	100.00	24,911	100.00	ELY										
HUMBOLDT	17,588,933	175,889	53.54	94,171	46.46											
WINNEMUCCA				81,718												
										913,737,185	\$9,137,372	\$9,137,372				

NRS 365.192 levy and NRS 365.196 distribution.
 Column 1 = Estimated county gallons taken from the County Option
 Motor Vehicle Fuel Tax page, column 4.
 Column 2 = Estimated county gallons x .01 (one cent per gallon).
 Column 3 = Percentage of entities population to the total population of the county.
 Column 4 = Column 2 x Column 3
 NOTE: The above computed revenues are based on historical trends only. Local economic conditions may require entities to BUDGET HIGHER OR LOWER amounts as they believe appropriate.

2.35 CENTS MOTOR VEHICLE FUEL TAX

ENTITY	AREA SQUARE MILE	PERCENT OF TOTAL	FINAL POPULATION	ROAD AND STREET		PERCENT OF TOTAL	ANNUAL VEHICLE MILES	PERCENT OF TOTAL	AVERAGE PERCENT	AVAILABLE COUNTY SHARE	JULY 16, 1998	
				PERCENT OF TOTAL	MILEAGE						REVENUE FOR FISCAL YEAR 1999	PROJECTED REVENUE FOR FISCAL YEAR 1999
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
LYON	1,831.20	91.84	15,500	51.04	585.79	91.67	46,439,736	76.53	77.77			
FERNLEY	161.00	8.07	12,000	39.51	29.30	4.59	10,636,603	17.53	17.43			\$327,303
YERINGTON	1.80	0.09	2,870	9.45	23.91	3.74	3,606,112	5.94	4.81			\$73,337
TOTAL LYON	1,994.00	100.00	30,370	100.00	639.00	100.00	60,682,451	100.00	100.00	1.96%	\$420,867	420,868

Notes: The numbers for Fernley appearing in columns 1, 5 & 7 were taken from the original incorporation projections (2/96). Figures for the county were reduced accordingly in order that countywide totals would remain the same.

EXHIBIT 6

EXHIBIT 6

Case No. 66851
JA 2301

AFFIDAVIT OF TERRY RUBALD

STATE OF NEVADA)
) ss.
COUNTY OF CARSON CITY)

TERRY E. RUBALD, being duly sworn, deposes and says:

1. The statements contained herein, except where otherwise indicated to be upon information and belief, are based on my personal knowledge, are true, accurate and correct, are made under penalty of perjury, and if I am called to testify regarding the matters herein, I would testify consistently therewith;

2. I am employed by the State of Nevada, Department of Taxation as Deputy Executive Director;

3. I have been employed by the Nevada Department of Taxation since 1997; and,

4. The documents attached hereto are true and correct copies of the notice of the decision, meeting agenda, meeting minutes and supporting documentation of the Committee on Local Government Finance with respect to its consideration of the incorporation of the town of Fernley at the Committee's meeting held on March 27, 2000.

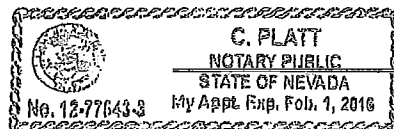
FURTHER AFFIANT SAYETH NAUGHT.

State of Nevada
County of Carson

Terry E. Rubald
TERRY E. RUBALD

SIGNED AND SWORN to before me
by Terry E. Rubald on this 10 day
of June, 2014.

C. Platt
NOTARY PUBLIC



Case No. 66851
JA 2302



KENNY C. GUINN
Governor

DAVID P. PURSELL
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION

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Reno, Nevada 89502
Phone: (775) 688-1295
Fax: (775) 688-1303

April 24, 2000

The Lyon County Commissioners
P. O. Box 537
Yerington NV 89447

IN THE MATTER OF: Incorporation of the Town of Fernley

The Fernley Incorporation Committee came before the Committee on Local Government Finance on March 27, 2000 to be heard regarding the feasibility of incorporation of the Town of Fernley. Appearing on behalf of the incorporation committee was Debra Brazell, Chairman of the Incorporation Committee and Lyon County Commissioner Leroy Goodman. Appearing on behalf of the Department of Taxation was Jaynese Knight, Budget Analyst for Lyon County.

After hearing oral presentation by the Department and the Fernley Incorporation Committee the Committee on Local Government Finance voted unanimously to approve the statement of fiscal effect presented by the Department of Taxation. The Committee also unanimously approved a motion to advise the Lyon County Commissioners of the advisability of incorporation and the feasibility of the proposed city of Fernley and that the requirements set forth in NRS 266.017 and 266.0285 have been met. The action taken was based on the testimony that Lyon County and the new City will be able to negotiate an equitable means of sharing revenue and develop interlocal agreements to provide services.

For the Committee on Local Government Finance


David P. Pursell
Executive Director

cc: Committee on Local Government Finance
Debra Brazell

Enclosure

Case No. 66851
JA 2303



KENNY C. GUINN
Governor

DAVID P. PURSELL
Executive Director

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March 2, 2000

Mr. Marvin Leavitt, Chairman
Committee on Local Government Finance
400 East Stewart Street
Las Vegas, NV 89101

Dear Mr. Leavitt:

Thank you for attending the meeting with the staff members of the Department of Taxation and the Fernley Incorporation Committee yesterday, March 1, 2000.

At this meeting we were presented with a proposed financial plan for the newly incorporated city of Fernley.

I am enclosing an analysis of general fund budgets for similar sized cities within Nevada as well as an analysis of the tax rate impact to the residents of the proposed city based on the information provided in the financial plan. The committee for incorporation has advised us that it is their intention to maintain the existing property tax rate as is currently allowed for the Town of Fernley. The plan includes revenue from City Gaming Licenses, Business Licenses and Liquor Licenses, City Gaming Tax, Franchise Fees as well as Fines and Forfeits.

Ms. Brazell, chairwoman for the incorporation committee, agreed to provide us with information regarding the factors for consideration noted in NRS 266.0285.

I will prepare an analysis of the line item financial information and present it to the CLGF at the next meeting. I will also have additional information from the Lyon County Comptroller regarding values of services and the potential requirement for negotiated interlocal agreements.

Sincerely,

Jaynese Knight, Budget Analyst
Local Government Finance

cc: Gary Cordes, Therral Jackson, Bjorn Selinder, John Sherman, Terri Thomas, Douglas Thunder,
Michael Alastuey, Richard Kester, Mary Walker, Walt Rulffes

Debra Brazell, Chairman
Randy Ashley
Linda Gregory
Karen Streckfus
Dave Zimmerman
Michelle Mackler, Secretary

P.O. Box 1553
Fernley, NV 89408

Looking To The Future

March 27, 2000

Committee on Local Government Finance
Marvin Levitt, Committee Chairman
Nevada Legislative Building - Room 2135
401 South Carson Street
Carson City, Nevada 89701

Subject: Fernley Town Incorporation

Members of the Committee:

In response to your inquiry, and request, the Fernley Incorporation Committee respectfully responds and submits the following regarding NRS 266.0285, items A - J and M - O.

A. Fernley's population, and density of population:

1. Fernley has grown from a small farm community to a town with over 8030 people. Lyon County is Northern Nevada's growth leader, with a population increase of almost 60 percent during the past decade. U.S. Census 2000 estimates that for 1999 Lyon County is the 30th fastest growing county in the nation. The population increased in Lyon County from 20,001 in 1990 to 34,150 in 1999, an increase of 14,149, or 70.9%. Most of this growth is in Fernley.
2. The population and density is equal to or greater than other incorporated cities in Nevada.

B. The land area, land uses, topography, natural boundaries and drainage basin:

1. Fernley's growth is fueled by its 5,000-acre Nevada Pacific Industrial Park, home of Amazon.Com distribution center and other large (*Fortune 100*) companies.
2. Please see **Exhibit A**, which identifies existing land uses by acres.
3. Please see the *Existing Land Use Map*.
4. Please see the *Schematic Physical Constraints Map*.

C. The extent to which the area is devoted to agriculture, mineral production or other uses that may not require significant improvements to the property:

1. Agriculture plots of 100 acres plus has been given the opportunity to opt out of incorporation. Landowners that decided to opt out are listed in the petition on pages 1 and 2. A binder with the certified letters to the 100 acres + property owners, and their responses are available for inspection.
2. Nevada Cement along with their large limestone mine was excluded in the incorporation, as they used their option to opt out of the incorporation.
3. Most of the farm ground is changing to smaller developed parcels.

D. The extent of commercial and industrial development:

1. UPS, which is ranked 52nd in the *Fortune 500*, who plans to cover its purchase of 230 acres with some 3.5 million square feet of warehouse and logistic support facilities. The first building, at 256,000 square feet, is leased and managed by UPS solely for logistics service to its client Allied Signal, a Fortune 500 aerospace and automotive parts manufacturer. The site is UPS's western distribution campus providing third party logistics in 11 states. Quebecor Printing the second largest commercial printer in the United States, completed a 410,000 square foot building in 1999. MSC Industrial Supply, a direct mail supplier, occupies a 350,000 square foot facility, and is situated on 50 acres of Fernley land. MSC generates over \$500 million in annual sales from its 4,000-page catalogue. Ultimately, MSC will cover an area of 1,440,000 square feet, (that's the equivalent of 25 football fields). Amazon.Com, the worldwide bookseller is at the heart of the industrial development and operates a magnificent 600,000 + square foot facility. Without question, the greatest eruption in Lyon County's industry boom is now occurring in the town of Fernley.

E. The extent and age of residential development:

1. The majority of growth in Fernley has developed in the last 8 to 10 years. Fernley emerged in 1905 when the Newlands Project first supplied Truckee River water to the Fernley-Fallon corridor. The town had 466 people in 1941 and 1,470 residents in 1970. By 1982, the population had swelled to 4,200. The current grocery store was built in 1981. Over 500 new homes have been built during the past 15 months.

F. The comparative size and assessed value of subdivided land and non-subdivided land:

1. 1999-2001 assessed valuation is \$212,518,036; this is approximately 32% of Lyon County. Please see the Assessed Valuation report, Exhibit B.
2. Fernley's assessed valuation is greater than 7 of the counties in the state of Nevada. 1528
3. The present tax rate is 1428 of .2271 allowed.

G. The current and potential issues concerning transportation:

1. Nevada Department of Transportation District Traffic Office reports the following as of March 23, 2000:
 - a. Plans to widen 95A from Freemont to Interstate 80 to a five-lane road. This will include sidewalk, curb and gutter.
 - b. Installation of a traffic signal at the intersection of 95A and Newlands Dr.
 - c. Replacement of the Railroad Separation Bridge between Freemont and 50 Alt A in the next 2 years.
 - d. Plans to widen 50 Alt A between Fernley and Fallon are included in the 10-year plan.
 - e. Replacement and improvement of the 95A Truckee Canal Bridge are also included in the 10-year plan.
 - f. State Route 427 Railroad Underpass Bridge is under assessment.
2. All highways are sufficient to service growth.
 - a. I-80 on the North side
 - b. Highway 95 runs through town to South Lyon County connecting to Highway 50
 - c. Highway 447 runs North to North-East California
 - d. Highway 50 Alt, East to Fallon
3. Please see the 1999 Nevada Department of Transportation (NDOT) report, Exhibit C.
4. Please see the *Existing Transportation Network Map*.

H. Past expansion of population and construction:

1. The population in 1996 was 6,010. The State Demographer reports population to be 8,030; this is 33% growth in 3 years.
2. In the past, Fernley's population in large, commuted to the Reno/Sparks area for work. With the recent industrial expansion, this is changing due to the availability of local jobs. In fact, many Reno/Sparks residents are commuting to Fernley for work.

I. The likelihood of significant growth in the area and in adjacent incorporated and un-incorporated areas during the next 10 years.

1. Fernley is ideally located at the gateway to the Pacific Coast market. The Industrial Parks offer significant tax, political, environmental and shipping advantages which are virtually unparalleled by any other industrial parks throughout the western states. The industrial park have attracted topflight companies such as UPS, Quebecor Printing, Allied Signal, Amazon.Com, MSC Industrial Supply, Polyglass, and Fortifiber, adding substantial job opportunities to Fernley and to the surrounding area. Another important element to the Fernley area is I-80 at the confluence of the highways 95 and 50 and the Union Pacific Railroad mainline. As the industrial parks grow, so grows Fernley, with many new housing developments sprouting

throughout the community. This growth has propelled Lyon County into a top spot as one of the fastest growing counties in the nation.

2. With Fernley's wide-open spaces, industrial parks, affordable housing, quality of life, and new commercial businesses, the likelihood of significant growth is certain. Future growth is definite and unavoidable.

J. The present cost, method and adequacy of regulatory controls and governmental service, including, but not limited to, water and sewer service, fire rating and protection, police protection, improvement and maintenance of streets, administrative services and recreational facilities in the area and the future need for such services and controls:

1. Fernley currently has the entire essential regulatory controls and government services listed above. Please see the *Public Facilities Map*.
2. Water and Sewer Service: Fernley Town Utilities operates the present water and sewer systems. Fernley Utilities has provided some general statements regarding the water and wastewater system, please see the attached letter, Exhibit D. Please also see the *Schematic Sewer and Water Distribution Maps*, (these 2 maps are unfinished but are somewhat helpful). Please see the Petition, page 4.
3. Fire Rating and Protection: Fire service is provided through the North Lyon County Fire District, proposals are included in the Petition, page 3. Please also see Assessed Valuation Report, Exhibit 3.
4. Police Protection: The Lyon County Sheriff's Department is in place and provided by the County. Proposals are included in the Petition, page 3. Please see the attached letter from Sheriff Smith, Exhibit E.
5. Improvement and Maintenance of Streets: Lyon County is providing improvement and maintenance of streets. Proposals are included in the Petition, page 3 and 4.
6. Administrative Services: Administrative services are in place. Proposals are included in the Petition, pages 3 and 4. Please also see the attached letter from Judge Lehman, Exhibit F.
7. Recreational Facilities: There are three public parks in the Town of Fernley. Lyon County provides funds to the Town of Fernley through the Lyon County General Fund. There is also a public swimming pool. Proposals are included in the Petition, page 3.

M. The probable effect of the proposed incorporation and of any alternatives to incorporation on the availability and requirement of water and other natural resources:

1. The Incorporation Committee is not aware of any effect on the availability and requirement of water and other natural resources due to incorporation. Any probable effect on water and other natural resources will be due to ongoing growth with the impact being mitigated by incorporation and planning.

N. Any determination by a governmental agency that the area is suitable for residential, commercial or industrial development, or that the area will be opened to private acquisition:

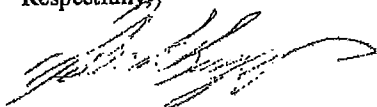
1. The Fernley area is in use for residential, commercial and industrial development, and most of the area is open for private acquisition. Development is underway. Please see the *Existing Zoning Map*.
2. If approved for incorporation, Fernley will become the 9th largest city in Nevada with 10 cities being smaller in population.

O. The recommendation of any commission, agency, district or member of the public who submits a written report:

1. The committee regards the verified petition to be a written public opinion, requesting that the incorporation issue be placed on the ballot, please see page 1 of the Petition.
2. All County Commissioners have expressed support for incorporation.

If the Fernley Incorporation Committee can be of any further assistance, please contact me at (775) 575-4100.

Respectfully,



Debra K. Brazell
Fernley Incorporation Committee, Chairman

DKB:dm
File: local gov.

COMMITTEE ON LOCAL GOVERNMENT FINANCE MEETING
NEVADA LEGISLATIVE BUILDING - ROOM 2135
401 SOUTH CARSON STREET
CARSON CITY, NEVADA

MONDAY, MARCH 27, 2000

ACTION MAY BE TAKEN ON THE FOLLOWING:
10:30 A.M.

- ADMINISTRATIVE DUTIES
 - APPROVAL OF MINUTES -- 1/11/2000 & 2/23/2000
- CONSIDERATION OF FERNLEY TOWN INCORPORATION
- SUB-COMMITTEE REPORTS
 - DEBT ISSUES -- JOHN SHERMAN
 - GASB 34's IMPACT ON NRS 354 -- TERRI THOMAS
 - REVIEW OF USES OF SPECIAL REVENUE & STABILIZATION FUNDS; INTERFUND LOANS -- WALT RULFFES
- * PUBLIC COMMENT

ADJOURN

TIMES ARE TENTATIVE, THE COMMITTEE MAY WISH TO TAKE THE AGENDA ITEMS IN A DIFFERENT SEQUENCE FOR EFFICIENCY.

* THIS ITEM IS TO RECEIVE PUBLIC COMMENT ON ANY ISSUE AND ANY DISCUSSION OF THOSE ITEMS. HOWEVER, NO ACTION WILL BE TAKEN ON ANY ITEM RAISED IN THE PUBLIC COMMENT PERIOD.

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 (775) 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, NV 89706
4600 KIETZKE LANE, BUILDING O, SUITE 263, RENO, NV 89502
550 E. WASHINGTON AVENUE, LAS VEGAS, NV 89101
850 ELM STREET, ELKO, NV 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

Committee on Local Government Finance
March 27, 2000

Topic: Impact of the incorporation of the Town of Fernley

Explanation: The Lyon County Clerk has notified The Department of Taxation that the petition to incorporate the Town of Fernley has been determined sufficient. NRS 266.0263 requires the Department of Taxation to prepare a statement concerning the estimated fiscal effect of the incorporation on the residents of the proposed city. The statement shall include a comparison of the estimated tax rate applied for 1 year to a median-priced home in the proposed new city and the tax rate of the same home without the incorporation.

The Committee on Local Government Finance is required to notify the county commissioners of the feasibility of the proposed city within 90 days from the date this report is requested. The Department of Taxation on February 2, 2000 received the letter requesting this report. NRS 266.0285 delineates fifteen factors to be considered in determining advisability of incorporation and feasibility of the proposed city. These factors are as follows:

1. To determine the advisability of incorporation and the feasibility of the proposed city, the board of county commissioners shall consider the following factors with regard to the area proposed to be incorporated:
 - (a) Its population and, if the area is located in a county whose population is 100,000 or more, the density of population; *(NOT APPLICABLE)*
 - (b) The land area, land uses, topography, natural boundaries and drainage basin;
 - (c) The extent to which the area is devoted to agriculture, mineral production or other uses that may not require significant improvements to the property;
 - (d) The extent of commercial and industrial development;
 - (e) The extent and age of residential development;
 - (f) The comparative size and assessed value of subdivided land and unsubdivided land;
 - (g) Current and potential issues concerning transportation;
 - (h) Past expansion of population and construction;
 - (i) The likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next 10 years;
 - (j) The present cost, method and adequacy of regulatory controls and governmental service, including, but not limited to, water and sewer service, fire rating and protection, police protection, improvement and maintenance of streets, administrative services and recreational facilities in the area and the future need for such services and controls;
 - (k) The present and projected revenues for the county and the proposed city;
 - (l) The probable effect of incorporation on revenues and services in the county and local governments in adjacent areas;
 - (m) The probable effect of the proposed incorporation and of any alternatives to incorporation on the social, economic and governmental structure of the affected county and adjacent areas;
 - (n) The probable effect of the proposed incorporation and of any alternatives to incorporation on the availability and requirement of water and other natural resources; and
 - (o) Any determination by a governmental agency that the area is suitable for residential, commercial or industrial development, or that the area will be opened to private acquisition.

The Department of Taxation has addressed item k. A comparison of revenues and expenditures of selected cities in Nevada is attached. Our analysis indicates the proposed city will be able to generate revenue sufficient to provide the level of service that is being proposed. It should be recognized that many of the revenue sources will be new and the elected board will be responsible for a more in-depth analysis in the rate setting process. The financial plan does not include information regarding operating expenditures. The Town of Fernley currently has budgeted approximately \$ 228,000 in services and supplies. The anticipated revenue stream will be sufficient to provide the same level of operating expenditures and have a reserve equal to 9.6 percent.

Discussions with the Committee for the Incorporation of Fernley have revealed that the intention of the committee is to levy the same property tax rate as is now being levied in the Town of Fernley. They will negotiate with Lyon County for additional Consolidated Tax Revenue when the time comes to make a final determination regarding the cost of the services to be provided. We have been assured the County is in favor of the incorporation of Fernley and will work with the City to develop an equitable financial agreement.

An analysis of the motor fuel tax revenues shows a loss to Lyon County of \$ 177,962. (Projections are attached.) It is the intention of the committee to contract with Lyon County to continue to provide the Road Maintenance Function for the new city. These revenues will then be returned to the County as part of their interlocal agreement. It is also the intention of the committee to contract with Lyon County Sheriff's Department to continue to provide police protection at the same level as is now being provided. The future elected officials will be responsible for determining if changes would be desirable at some future date.

Our analysis indicates there will be no financial impact to the City of Yerington as a result of the incorporation. NRS 360.740 dealing with the distribution of the Consolidated Tax Revenue indicates that revenue expended by a predecessor local government will be allowed to the succeeding local government. It is our conclusion that Lyon County will not sustain any significant financial impact as a result of the incorporation, as they will be relieved of the responsibility of providing services equal to the cost related to those services.

An analysis of the potential tax rate for the new city is attached. It should be noted that the Town of Fernley has not levied the maximum tax rate allowed pursuant to NRS 354.59811, nor does Lyon County. The analysis shows the tax impact if both the new city and the county were to levy the maximum allowed tax rate.

The Fernley Incorporation Committee will present information regarding the items A - J and M - O.

**Property Tax Rate Comparison
Lyon County and Proposed City of Fernley**

	Lyon County		City of Fernley	
Assessed Value		672,014,241		212,507,285
Value of Service	\$	1,000,000	\$	1,000,000
Tax Rate Required to Fund Service		0.1488		0.4706
Value of Service	\$	1,500,000	\$	1,500,000
Tax Rate Required to Fund Service		0.2232		0.7059
Value of Service	\$	2,000,000	\$	2,000,000
Tax Rate Required to Fund Service		0.2976		0.9411

The Incorporation Committee has informed the Department of it's intention to maintain the same Property Tax Rate that is in place for the Town of Fernley. The following is the property tax impact on \$ 100,000 home using tax rate information provided on Preliminary Revenue for FY 2000/2001 .

	Town of Fernley		Proposed City of Fernley	
Overlapping				
Tax Rate Levied 1999/2000		2.858		2.858
Impact on \$100,000 Home				
Assessed Value of \$35,000	\$	1,000.30	\$	1,000.30
Both the Town of Fernley and Lyon County do not levy the Maximum Rate Allowed.				
The following is an estimate of the tax impact if both the proposed City and County were to levy the maximum allowed tax rate.				
Maximum Allowed Tax Rate		3.4104		3.4104
Impact on \$100,000 Home				
Assessed Value of \$35,000	\$	1,193.64	\$	1,193.64

EXPENDITURE COMPARISON OF SELECTED CITIES
EXPENDITURES BY FUNCTION

	ELY	FALLON	Proposed City Fernley **	Town of FERNLEY*	WEST WENDOVER	WINNEMUCCA	YERINGTON
Population	5400	8280		8030	3540	8860	3070
General Government	\$ 249,682	\$ 774,193	\$ 323,315	\$ 279,987	\$ 855,961	\$ 642,713	\$ 247,847
No. Employees	6	9		3	6	6	3
Judicial	\$ 151,752	\$ 251,365	\$ 75,000		\$ 140,433	\$ 42,410	\$ 42,490
No. Employees	6	5			3	6	2
Police	\$ -	\$ 2,388,524	Contract with		\$ 1,045,421	\$ 1,506,980	\$ 530,580
No. Employees		33	Lyon County		14	19	8
Other Public Safety	\$ 548,313	\$ 482,678	Fire District	\$ 38,563	\$ 224,851	\$ 272,455	\$ 66,516
No. Employees	7	5			5		
Public Works	\$ 113,845	\$ 726,405	\$ 167,826	\$ 70,493	\$ 397,988	\$ 987,620	\$ 312,440
No. Employees	9	-			7	13	1
Culture & Rec.	\$ 131,273	\$ 341,701	\$ 154,424	\$ 154,424	\$ 7,871	\$ 502,687	\$ 43,073
No. Employees	2.0	1.0				8.0	
Community Support	\$ 52,928		\$ -		\$ 116,088		
No. Employees							
Health & Sanitation	\$ 188,941		\$ -		\$ 85,063		
No. Employees					1		
Intergovernmental *			\$ 177,952				
Total Expenditures	\$ 1,436,714	\$ 4,964,066	\$ 896,528	\$ 544,467	\$ 2,873,678	\$ 4,034,865	\$ 1,243,054
Total Employees	29	53		3	37	52	13

* Information on Fernley Town's 1999 Audit Report

** Information from Incorporation Petition modified to reflect final revenue projections.

General Fund Debt was combined with General Government

Revenue Comparison of Selected Nevada Cities

	Ely	Fallon	Proposed Fernley	Town of Fernley	West Wendover	Winnemucca	Yerington
Population	5400	8280	8030	8030	3540	8860	3070
Assessed Value	1,384,664	111,063,734	212,507,285	212,507,285	83,086,204	115,670,117	38,116,242
TAXES							
Ad Valorem	115,508	789,827	324,711	251,363	479,997	1,058,886	105,578
Sub Total	115,508	789,827	324,711	251,363	479,997	1,058,886	105,578
Licenses & Permits							
City Gaming License		44,926	65,000		214,884	187,844	
Business Licenses	128,290	171,052	75,000	59,231	19,189	219,333	66,097
Liquor Licenses	12,057	25,175	10,500		770	30,763	
City Gaming Tax			25,000				
Franchise Fees							
Sanitation			15,000		193,609	164,593	
Telephone			18,500				11,232
Gas		49,543	20,000				24,895
Cable TV		18,952	10,000				18,751
Electric			14,788				33,562
Non-Business Licenses							
Building Permits		87,391	200,000		146,572	81,770	12,180
Dog Licenses	3,259		600		613	11,446	234
Work Permits	5,624		6,000				
Sub Total	149,230	397,039	460,388	59,231	575,637	675,749	166,951
Intergovmtal. Revenue							
Consolidated Tax	800,217	1,220,548	98,586	86,310	1,260,176	2,058,709	238,336
Co. Option Gas Tax		44,310	41,090	70,536	24,985	71,284	55,001
1.75 Cent Gas Tax		55,475	98,727		24,502	46,929	
2.35 Gas Tax		65,238	40,145		41,874	151,107	
RTC		331,304					135,358
State Gaming Fees		131,235	53,000			100,000	63,023
County Gaming	48,737	100,022			424,279		24,255
Other	238,021	413,401	86,000	76,180	91,953	56,145	306,011
Sub Total	1,006,975	2,361,533	329,548	233,026	1,867,789	2,484,174	821,984
Fines & Forfeits							
Fines	51,886	239,890	26,000	34,669	131,302	634	47,953
Sub Total	51,886	239,890	26,000	34,669	131,302	634	47,953
Charges for Service	32,649	1,152,247	102,000		43,685	303,687	10,793
Miscellaneous	64,356	87,238	13,000	26,368	119,459	323,726	5,036
Total Revenue	1,500,604	5,027,774	1,295,647	604,657	3,217,849	4,846,868	1,158,295

PETITION FOR INCORPORATION

To the Board of County Commissioners of Lyon County, Nevada:

We, the undersigned qualified electors of the State of Nevada respectfully petition the Board of County Commissioners to submit a proposal to incorporate as a city certain unincorporated contiguous area located within Lyon County, namely that area constituting the Town of Fernley, to the qualified electors who reside within the area to be incorporated, for their approval or disapproval at the September 5, 2000 Primary Election, the November 7, 2000 General Election, or at a special election to be held for that purpose.

The following is the description of the area proposed to be incorporated:

1. THE AREA PROPOSED TO BE INCORPORATED LIES WITHIN A PORTION OF LYON COUNTY, STATE OF NEVADA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

SAID AREA IS BOUNDED ON THE SOUTH BY THE PORTION OF THE COMMON TOWNSHIP LINE OF TOWNSHIP EIGHTEEN NORTH (T18N) AND TOWNSHIP NINETEEN NORTH (T19N) M.D.B. & M. WHICH LIES BETWEEN THE WEST BOUNDARY OF CHURCHILL COUNTY, AND THE EAST BOUNDARY OF STOREY COUNTY.

AND THEN; BOUNDED ON THE EAST AND NORTH BY THAT PORTION OF THE COMMON BOUNDARY OF LYON COUNTY AND CHURCHILL COUNTY TO ITS INTERSECTION WITH WASHOE COUNTY ON THE WEST LINE OF SECTION 4, TOWNSHIP TWENTY NORTH (T20N), RANGE TWENTY FIVE EAST (T25E) AND LYING NORTH OF THE COMMON TOWNSHIP LINE OF TOWNSHIP EIGHTEEN NORTH (T18N) AND TOWNSHIP NINETEEN NORTH (T20N) M.D.B. & M.,

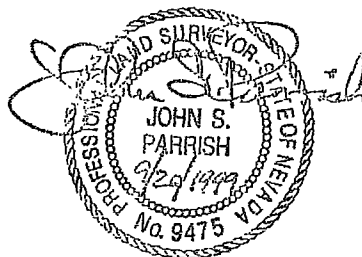
AND THEN; BOUNDED ON THE NORTH BY THE COMMON BOUNDARY OF LYON COUNTY AND WASHOE COUNTY TO ITS INTERSECTION WITH THE EAST BOUNDARY OF STOREY COUNTY ON THE NORTH LINE OF SECTION 10, TOWNSHIP TWENTY NORTH (T20N), RANGE TWENTY FOUR EAST (R24E),

AND THEN; BOUNDED ON THE WEST BY A PORTION OF THE COMMON BOUNDARY OF LYON COUNTY AND STOREY COUNTY WHICH LIES BETWEEN THE NORTH BOUNDARY OF LYON COUNTY AND THE COMMON TOWNSHIP LINE OF TOWNSHIP EIGHTEEN NORTH (T18N) AND TOWNSHIP NINETEEN NORTH (T19N) M.D.B. & M., EXCLUDING CERTAIN PARCELS UNDER 100 ACRES.

EXCEPTING THEREFROM THE FOLLOWING PARCELS DESCRIBED AS PER THE LYON COUNTY ASSESSOR'S MAPS AND RECORDS:

LYON COUNTY ASSESSOR'S PARCEL NO.	ACRES	PARCEL MAP PAGE NO.	LOCATED WITHIN A PORTION OF THE UNINCORPORATED TOWN OF FERNLEY
20-581-01	183.17	20-58	POR. E2E2 SEC. 22 OIR SEC. 23, T20N, R25E, M.D.B. & M.
21-031-05	333.60	21-03	POR SEC. 33, T21N, R25E, M.D.B. & M.
21-031-06	333.60	21-03	S2-T21N, R25E, M.D.B. & M.
21-042-01	267.40	21-04	N2 SEC. 11, T20N, R24E, M.D.B. & M.
21-161-03	160.00	21-16	N2-T20N, R24E, M.D.B. & M.
21-161-06	110.00	21-16	N2-T20N, R24E, M.D.B. & M.
21-164-04	4520.87	21-16	POR. T19-20N, R24E. M.D.B. & M.
21-164-05	1184.00	21-16	POR. T19-20N, R24E. M.D.B. & M.
21-164-15	640.00	21-16	POR. T19-20N, R24E. M.D.B. & M.
21-164-18	630.00	21-16	POR. T19-20N, R24E. M.D.B. & M.

21-164-19	1969.40	21-16	POR. T19 20N-R24E, M.D.B. & M.
21-164-25	537.90	21-16	POR. SEC. 27, T20N, R24E, M.D.B. & M.
21-164-28	423.72	21-16	POR. SEC. 28, T20N, R24E, M.D.B. & M.
21-164-29	102.22	21-16	POR. SEC. 28, T20N, R24E, M.D.B. & M.
21-165-17		21-16	Old Parcel No - See 21-165-22
21-165-22	385.63	21-16	POR. SEC. 15, T20N, R24E, M.D.B. & M.
21-201-01	668.12	21-20	SEC. 3, T20N, R25E, M.D.B. & M.
21-201-07	131.52	21-20	POR. SEC. 15, T20N, R25E, M.D.B. & M.
21-201-23	476.18	21-20	POR. SEC. 9, T20N, R25E, M.D.B. & M.
21-201-25	70.18	21-20	N2-T20N, R25E, M.D.B. & M.
21-201-26	186.62	21-20	N2-T20N, R25E, M.D.B. & M.
21-221-10	131.61	21-22	POR. N2 & POR. N2S2, SEC. 8 & POR. NW4NW4 SEC. 8
21-241-07	305.34	21-24	N2 & POR. 2 SEC. 8, T20N, R25E, M.D.B. & M.
21-261-04	170.13	21-26	POR. SEC. 17, T20N, R25E, M.D.B. & M.
21-301-12	127.39	21-30	S2-T20N, R25E, M.D.B. & M.
21-301-14	112.39	21-30	S2-T20N, R25E, M.D.B. & M.
21-301-32	80.00	21-30	S2-T20N, R25E, M.D.B. & M.
21-301-33	144.00	21-30	S2-T20N, R25E, M.D.B. & M.
21-302-59	160.00	21-30	S2-T20N, R25E, M.D.B. & M.
21-302-92	166.64	21-30	S2-T20N, R25E, M.D.B. & M.
21-302-93	254.88	21-30	S2-T20N, R25E, M.D.B. & M.
21-321-06	131.17	21-32	SE4 SEC. 19, T20N, R25E, M.D.B. & M.
21-392-01	1851.22	21-39	N2-T20N, R26E, M.D.B. & M.
21-412-01	8113.00	21-41	S2-T19N, R23E, M.D.B. & M.
21-412-02	160.00	21-41	S2-T19N, R23E, M.D.B. & M.
21-441-01	164.02	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-02	381.00	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-05	684.80	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-22	160.00	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-23	160.00	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-25	160.00	21-44	POR. SEC. 11, T19N, R25E, M.D.B. & M.
21-441-26	320.00	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-35	160.00	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-44	160.02	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-69	160.50	21-44	N2-T19N, R25E, M.D.B. & M.
21-441-90	142.61	21-44	N2-T19N, R25E, M.D.B. & M.
21-451-14	160.00	21-45	S2-T19N, R25E, M.D.B. & M.
21-451-18	160.00	21-45	S2-T19N, R25E, M.D.B. & M.
21-451-37	320.00	21-45	S2-T19N, R25E, M.D.B. & M.
21-451-39	160.00	21-45	S2-T19N, R25E, M.D.B. & M.
21-451-40	160.00	21-45	S2-T19N, R25E, M.D.B. & M.
21-451-81	161.07	21-45	S2-T19N, R25E, M.D.B. & M.
21-451-84	152.70	21-46	N2-T19N, R26E, M.D.B. & M.
21-461-01	163.18	21-46	POR. SEC. 5, T19N, R26E, M.D.B. & M.
21-461-06	631.83	21-46	N2-T19N, R26E, M.D.B. & M.



2. The proposed name is the City of Femley.
3. The total acreage of the area is approximately 76,551 of which 44,447 acres is State/Federal Government property.
4. The number of persons who reside in the area is recorded by the demographer as 7,020 approximate and estimated by the committee to be 9,000 plus.
5. The number of owners of record of real property within the area is approximately 5,890 of which 2,964, includes non-taxable, (school & BLM lands) and 2,926 of which is taxable property owners.
6. The area to be included in the proposed City meets the suitability requirements of NRS 266.017-
 - It is currently used, or suitable for, residential, commercial, industrial or government purposes;
 - It is contiguous and urban in character, and includes all contiguous area used for residential purposes;
 - It includes the entire area of the unincorporated town now existing within the area proposed for incorporation.
7. The Femley Incorporation Committee's statement and plan for providing police and fire protection, maintaining the streets, providing water and sewer services, collecting the garbage and providing administrative services in the proposed new City of Femley is as follows:

Police Protection:

Lyon County Sheriff's Department is in place and provided by the County. These services include the employment by Lyon County Sheriff on a permanent and full-time basis, of at least three persons who primary functions specifically include:

- (a) Routine patrol;
- (b) Criminal investigations;
- (c) Enforcement of traffic laws; and
- (d) Investigation of motor vehicle accidents.

The Sheriff's Department is funded with General Fund Revenue from Lyon County. The amount allocated to Lyon County to provide Police Protection may be decreased by the amount allocated to the new City of Femley. It is proposed that this allocation be used to negotiate and enter into a inter-local agreement or contract with Lyon County Sheriff's Department to continue police protection. It is also proposed to appoint the Lyon County Sheriff as the Chief of Police for the new City of Femley and share the proportioned financial responsibility of his employment. It is proposed that through negotiations, the new City of Femley will utilize the existing facilities, supplies, equipment, and capital assets.

Fire Protection:

Provisions for prevention and suppression of fire and rescue, and the acquisition and maintenance of the equipment necessary to provide these services are provided by the North Lyon County Fire Protection District. No changes are anticipated at this time.

Parks & Recreation:

Lyon County provides funds to the Town of Femley through the Lyon County General Fund. The Town of Femley employs on a permanent and full-time basis, persons who administer and maintain recreational facilities and parks. It is proposed that the existing agreement and allocation continue. The new City of Femley will negotiate and enter into an inter-local agreement with Lyon County to continue these services.

Construction, Maintenance & Repair of Roads:

Lyon County has provided construction, maintenance, and repair of roads for the Town of Femley, including acquisition, operation, and use of material, equipment and facilities that are used exclusively for the construction, maintenance or repair of roads that is necessary for the safe and efficient use of the roads, including:

- | | |
|-------------------------|-----------------|
| a. Grades or re-grades; | s. Bridges; |
| b. Gravel; | t. Overpasses; |
| c. Oiling; | u. Tunnels; |
| d. Surfacing; | v. Underpasses; |
| e. Macadamizing; | w. Approaches; |

f.	Paving;	x.	Sprinkling facilities;
g.	Cleaning;	y.	Artificial lights and lighting equipment
h.	Sanding or snow removal;	z.	Parkways;
i.	Crosswalks;	aa.	Fences or barriers that control access;
j.	Sidewalks;	ab.	Control of vegetation;
k.	Culverts;	ac.	Rights of way;
l.	Catch basins;	ad.	Grade separations;
m.	Drains;	ae.	Traffic separators;
n.	Sewers;	af.	Devices and signs for control of traffic;
o.	Manholes;	ag.	Facilities for personnel who construct, maintain or repair roads; and
p.	Inlets;	ah.	Facilities for the storage of equipment or repair roads.
q.	Outlets;		
r.	Retaining walls;		

The amount allocated to Lyon County to provide construction, maintenance and repair of roads may be decreased by the amount allocated to the new City of Fernley. It is proposed that this allocation be used to negotiate and enter into an inter-local agreement with Lyon County for the services listed above. In addition, it is proposed that the new City form the Fernley Public Works Department. The new department will work with Lyon County and will be responsible for building permits and engineering. The new department will employ a public works director/engineer, and two building inspectors.

Water and Sewer Service:

The Town of Fernley currently owns and operates Fernley Utilities as an enterprise fund. It is proposed that the water and sewer services will operate under the new City of Fernley.

Collection of Garbage:

Garbage collection is currently franchised to a disposal service. The Committee proposes no change at this time.

City Officers:

It is proposed that the new City of Fernley officers consist of an elected mayor and Five elected city councilmen. It is also proposed to employ a city manager.

City Attorney:

The amount allocated to the Town of Fernley to provide an attorney to the Town of Fernley, may be decreased by the amount allocated to the new City of Fernley. It is proposed that this allocation be used to negotiate and enter into a contract for legal services from an attorney in good standing admitted to practice law in the courts of Nevada.

City Clerk/Treasurer:

The amount allocated to the Town of Fernley to provide clerk services to the Town of Fernley may be decreased by the amount allocated to the new City of Fernley. It is proposed that this allocation be used to hire a City Clerk/Treasurer. It is proposed that the City Clerk and the City Treasurer position be combined into the office of the City Clerk and Treasurer.

Municipal Court:

It is proposed that the new City of Fernley appoint the existing Justice of the Peace as the Municipal Court Judge and contract directly with that Justice of the Peace for these services. In addition, the City would direct the Justice of the Peace to hire a part time municipal clerk or contract with his existing staff.

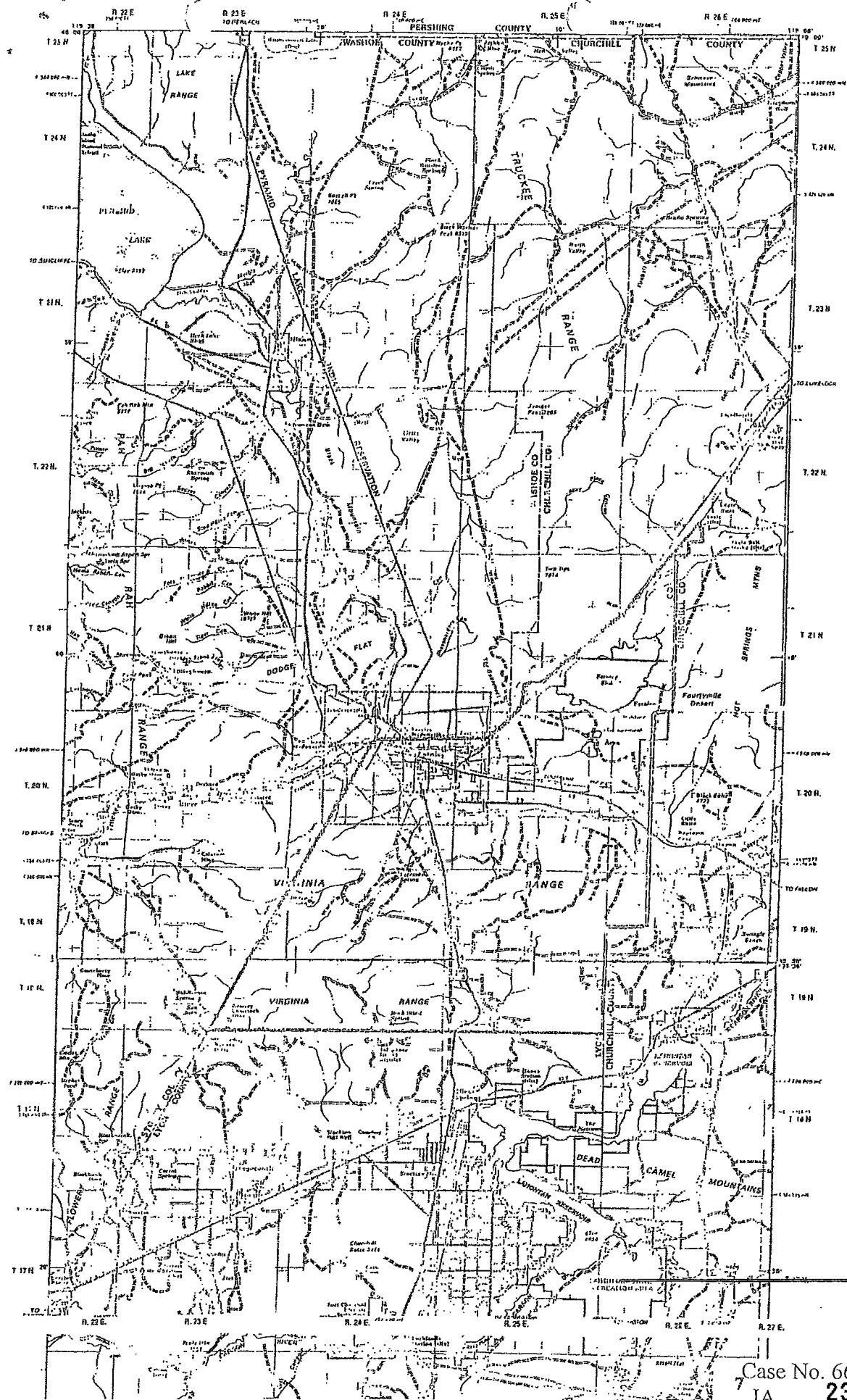
3. The attached map indicates the existing dedicated streets, sewer interceptors and out-falls, and their proposed extension.

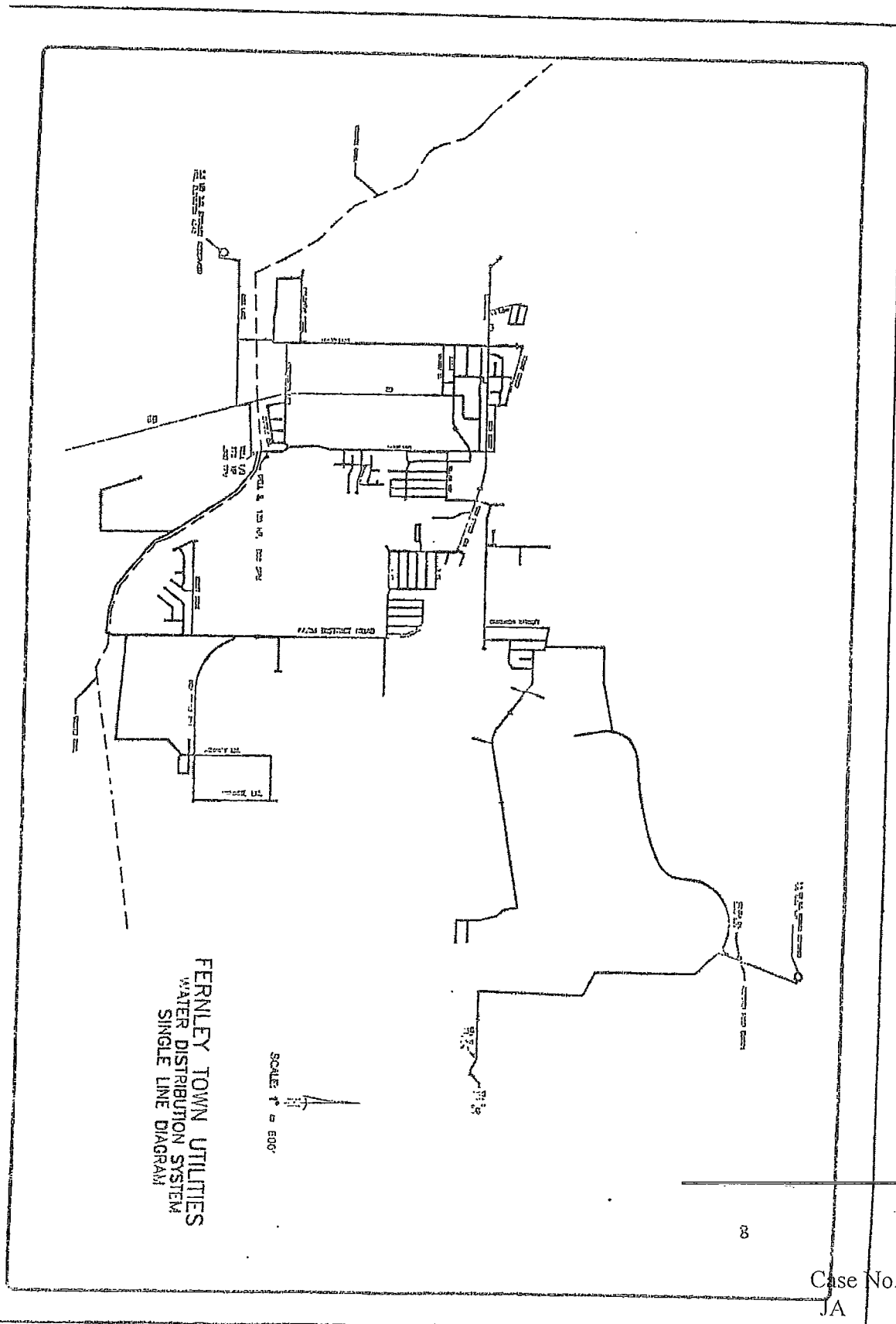
ESTIMATE OF SOURCES AND REVENUE		
ESTIMATED SOURCES AND REVENUE		
FUND BALANCE JULY 1, 1998	\$ 65,000.00	\$ 65,000.00 ✓
TAXES		
Ad Valorem	343,835.00	\$ 343,835.00
BUSINESS LICENSES AND PERMITS		
State Annual Fees of Gaming	53,000.00	
City Gaming Licenses	65,000.00	
Business Licenses	75,000.00	
Liquor Licenses	10,500.00	
City Gaming Tax (1/2% of Gross Gaming revenue)	25,000.00	
Sub Total		\$ 228,500.00
INTERGOVERNMENTAL REVENUES		
Consolidated Tax	87,979.00	
County Option 1 Cent Motor Vehicle Fuel Tax	47,872.00	
1.75 Cents Motor Vehicle Fuel Tax	77,357.00	
2.35 Cents Motor Vehicle Fuel Tax	62,943.00	
Ad Valorem Road Funds	115,000.00	
County General Ad Valorem	86,000.00	
RTC Shared Revenue	69,000.00	
Sub Total Taxes, Licenses & Revenues		\$ 546,151.00
FRANCHISE FEES		
Sanitation	15,000.00	
Telephone	18,550.00	
Gas	20,000.00	
Cable TV	10,000.00	
Electric	14,788.00	
Sub Total Franchise Fees		\$ 78,338.00
FINES & FORFEITS		
Fines	26,000.00	
OTHER		
Interest	12,500.00	
Engineering Services	45,000.00	
Building Rental	12,000.00	
Parks	45,000.00	
Miscellaneous	500.00	
Sub Total Fines, Forfeits & Other		\$141,000.00
NON-BUSINESS LICENSES & PERMITS		
Building Permits	200,000.00	
Real Estate Transfer Tax	10,000.00	
Dog Licenses	600.00	
Work Permits	6,000.00	
Subtotal Non-Business Licenses & Permits		\$ 216,600.00
TOTAL ESTIMATED SOURCES & REVENUE		\$ 1,619,424.00

ESTIMATE OF COSTS		
ADMINISTRATION		
Mayor and Five City Counsel	\$ 23,700.00	
Benefits	5,000.00	
City Manager	61,500.00	
Benefits	24,087.00	
Municipal Court/City Judge and City Clerk	75,000.00	
City Attorney	65,000.00	
City Clerk/Treasurer	35,875.00	
Benefits	13,275.00	
Sub Total		\$ 303,437.00
CONSTRUCTION, MAINTENANCE AND REPAIR OF ROADS		
Inter-Local Agreement with Lyon County Public Works Dept. for Construction, Maintenance, & Road Maint.	\$ 160,000.00 Negotiated Services	
Public Works Director / Engineer	52,500.00	
Benefits	19,425.00	
Building Inspectors (2)	70,000.00	
Benefits	25,900.00	
Water & Sewer Service	Enterprise Fund	Enterprise Fund
Collection of Garbage	Franchised	Franchised
Sub Total		\$ 327,825.00
PARKS AND RECREATION		
Inter-Local Agreement with Lyon County	\$ 90,000.00 Negotiated Services	\$ 90,000.00
POLICE PROTECTION		
Contract with Lyon County/Chief of Police	\$ 859,000.00 Negotiated Services	\$ 859,000.00
FIRE PROTECTION		
Provided by North Lyon County Fire Protection District	Existing	Existing
Reserves	\$ 39,162.00	\$ 39,162.00
TOTAL ESTIMATED COSTS		\$1,619,424.00

The full cost of services being provided to Fernley, by Lyon County, have not been delineated. The Committee on Local Government Finance and the Department of Taxation will define these costs in the forthcoming studies and reports. It is proposed that some services currently being provided by Lyon County will continue to be provided to Fernley through inter-local agreements and/or contracts.

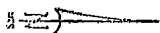
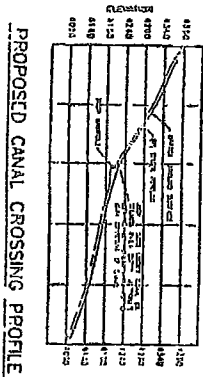
Incorporation will give the new City of Fernley the ability to work directly with entities such as the Bureau of Reclamation, Bureau of Land Management, Nevada Department of Transportation, etc., increasing Fernley's ability to efficiently negotiate for and provide additional needs and services. Bonds and grants for important services will also be available to the new city.



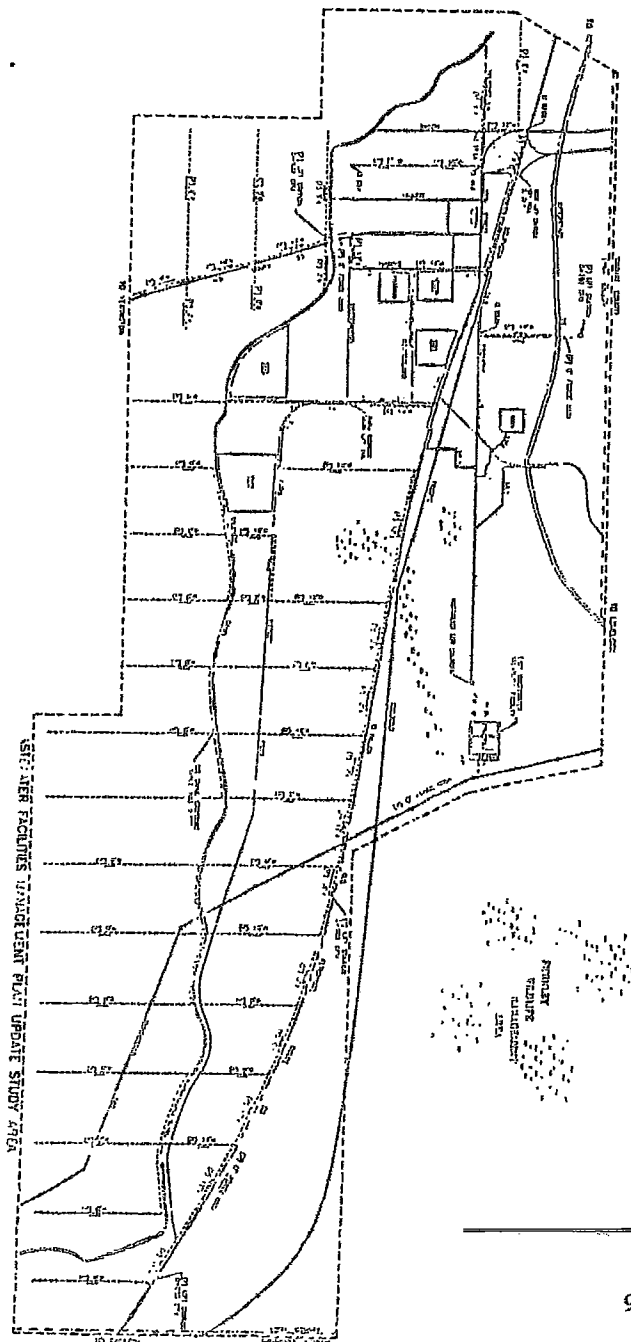


FERNEY TOWN UTILITIES
 WATER DISTRIBUTION SYSTEM
 SINGLE LINE DIAGRAM

SCALE 1" = 500'



- EXISTING STRUCTURE LIMIT
- EXISTING FENCE LINE
- EXISTING GROUND LEVEL
- PROPOSED GROUND LEVEL
- PROPOSED STRUCTURE LIMIT
- PROPOSED FENCE LINE
- PROPOSED GROUND LEVEL
- PROPOSED STRUCTURE LIMIT



WATER RESOURCES
FUTURE CONVEYANCE
SYSTEM

EXHIBIT 7

EXHIBIT 7

Case No. 66851
JA 2325

AFFIDAVIT OF WARNER R. AMBROSE

STATE OF NEVADA)
) ss.
COUNTY OF CARSON CITY)

Warner R. Ambrose, being duly sworn, deposes and says:

1. The statements contained herein, except where otherwise indicated to be upon information and belief, are based on my personal knowledge, are true, accurate and correct, are made under penalty of perjury, and if I am called to testify regarding the matters herein, I would testify consistently therewith;

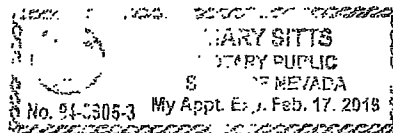
2. I am employed by the State of Nevada, Department of Taxation as a Budget Analyst II;

3. The document attached hereto is a true and correct copy of a Cooperative Agreement, dated May 18, 2011, between Clark County and its local government entities establishing an alternative formula for the distribution of the local government distribution account (commonly referred to as C-Tax), as contained in the files of the Nevada Department of Taxation.

FURTHER AFFIANT SAYETH NAUGHT.

WARNER R. AMBROSE

SIGNED AND SWORN to before me
by Warner R. Ambrose on this 1st day
of July, 2014.



Mary Sitts
NOTARY PUBLIC

COOPERATIVE AGREEMENT BETWEEN CLARK COUNTY, THE CITY OF LAS VEGAS, THE CITY OF NORTH LAS VEGAS, THE CITY OF HENDERSON, THE CITY OF BOULDER CITY, THE CITY OF MESQUITE, THE UNINCORPORATED TOWNS OF BUNKERVILLE, ENTERPRISE, LAUGHLIN, MOAPA VALLEY, PARADISE, SEARCHLIGHT, SPRING VALLEY, SUMMERLIN, SUNRISE MANOR, WHITNEY, AND WINCHESTER, THE MT. CHARLESTON FIRE PROTECTION DISTRICT, THE MOAPA VALLEY FIRE DISTRICT, THE CLARK COUNTY FIRE SERVICE DISTRICT, THE LAS VEGAS CLARK COUNTY LIBRARY DISTRICT, THE HENDERSON DISTRICT PUBLIC LIBRARIES, AND THE BOULDER CITY LIBRARY DISTRICT PURSUANT TO NEVADA REVISED STATUTE §360.730 ESTABLISHING AN ALTERNATIVE FORMULA FOR THE DISTRIBUTION OF THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT

This Cooperative Agreement (hereinafter referred to as the "Agreement") is made and entered into on this 16TH day of MAY, 2011, by and among Clark County, the City of Las Vegas, the City of North Las Vegas, the City of Henderson, the City of Boulder City, the City of Mesquite, the Unincorporated Towns of Bunkerville, Enterprise, Laughlin, Moapa Valley, Paradise, Searchlight, Spring Valley, Summerlin, Sunrise Manor, Whitney, and Winchester, the Mt. Charleston Fire Protection District, the Moapa Valley Fire District, the Clark County Fire Service District, the Las Vegas/Clark County Library District, the Henderson District Public Libraries, and the Boulder City Library District, all of which are political subdivisions of the State of Nevada. Each of the above-listed entities may hereinafter be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

1. In 1997, Senate Bill 254 was enacted, creating the Local Government Tax Distribution Account (the "Account"), codified at NRS §360.660, and its related distribution formula (the "Formula"), codified at NRS 360.690;
2. In 2001, Assembly Bill 653 was enacted, which removed language commonly referred to as the "one plus" factor from the Formula at NRS §360.690(4)(a)(1) and (4)(b)(1) for local governments and special districts. The removal of this language was due to the fact that, at that point in time, the faster growing communities were not, and would not, capture a share of Account "excess" proceeds proportionate with the rate at which those communities were growing, and the removal of that language permitted the faster growing cities to appropriately capture a proportionate share of the Account "excess" proceeds;
3. The economy has slowed dramatically between 2001 and 2011, and now the 2001 "fix" to the Formula permitting faster-growing communities to capture an appropriate proportionate share of their growth is affecting all communities in a disproportionate manner, and in conjunction with substantial reductions in state and county-wide assessed property valuation during the last three years, the result will be an unequal distribution of the "excess" proceeds of the Account of for all but a few recipients of the Account. This inequity will result in an allocation of 2012 Account "excess" proceeds to several local entities in Clark County that will be significantly higher than their actual rate of growth;

4. Because of this disparity and other significant issues concerning the Account and the Formula, the Nevada Legislature is currently considering Assembly Bill 71 requiring an interim study evaluating the appropriate allocation of money from the Account to Account recipients;

5. Based upon the filing of Assembly Bill 71, and the Nevada Legislature's concern regarding the appropriate proportionate allocation of Account proceeds, it is the Parties' understanding that certain members of the Nevada Legislature are supportive of a change to NRS §360.730(2), to permit local governments and special districts to enter into cooperative agreements establishing an alternate formula until May 31 of a current fiscal year, as long as the Parties to this Agreement approve a cooperative agreement establishing an appropriate alternative formula for distribution of Account proceeds for this fiscal year in a manner to which the Parties agree prior to May 31, 2011;

6. NRS §360.730(1) permits as follows:

The governing bodies of two or more local governments or special districts, or any combination thereof, may, pursuant to the provisions of NRS §277.045, enter into a cooperative agreement that sets forth an alternative formula for the distribution of the taxes included in the Account to the local governments or special districts which are parties to the agreement;

7. NRS 277.045 provides, in pertinent part, as follows:

[A]ny two or more political subdivisions of this State, including, without limitation, counties, incorporated cities and towns, unincorporated towns . . . and special districts, may enter into a cooperative agreement for the performance of any governmental function. Such an agreement may include . . . the payment of money;

8. Based upon the above, the Parties desire to enter into an agreement to establish an appropriate alternative formula to recreate the effect of adding back the "one plus" factor to the Formula to equalize the distribution of Account proceeds among the Parties.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

AGREEMENT

A. Establishment of Alternative Formula.

1. Intent of Alternative Formula. The Parties to this Agreement agree that the alternative formula as provided herein shall be utilized by the Executive Director of the Nevada Tax Commission to determine a Party's share of the Clark County Account proceeds. Specifically, the Parties agree that the effect of the "one plus" factor on the Parties removed from the Formula by Assembly Bill 653 from NRS §390.690(4) is intended to be recreated by this Agreement for purposes of Account allocation to the Parties, after giving the city of Mesquite the first \$435,000 of Account distribution in excess of the base distribution, to the extent there is any.

An extract of NRS §390.690(4) with the "one plus" language inserted is attached hereto at Exhibit "1."

2. Alternative Formula Allocation Method. The mathematical method by which the Executive Director of the Nevada Tax Commission shall process the Alternative Formula and allocate Account proceeds to the Parties is described as follows:

- a. Step 1 - To the extent there is any Account distribution in excess of the base distribution, the first \$435,000 of such excess shall be distributed to the city of Mesquite.
- b. Step 2 - Any Account distribution in excess of the base distribution plus the \$435,000 identified in Step 1 shall be distributed to all the recipients as if the "one plus" language was included in:
 - i. NRS §360.690(4)(a)(1) by multiplying one-twelfth of the amount allocated to local governments pursuant to NRS 360.680 by one plus the sum of the population and assessed value growth factors; and
 - ii. NRS §360.690(4)(b)(1) by multiplying one-twelfth of the amount allocated to special districts pursuant to NRS 360.680 by one plus the assessed valuation growth factors.

A numerical depiction of the Alternative Formula is attached hereto at Exhibit "2."

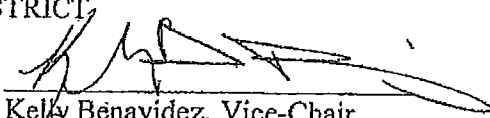
B. Miscellaneous Provisions.

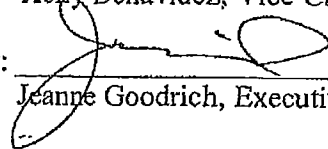
1. Term of Agreement. This Agreement shall terminate at 11:59 p.m. on June 30, 2013 (i.e., the Alternative Formula will only apply to fiscal years 2012 and 2013).
2. Extension of Agreement. If the 2013 Legislature does not make any amendments to the Account distribution formula, the Agreement shall extend one additional year to June 30, 2014 (i.e., fiscal year 2014).
3. Amendment of this Agreement. This Agreement may only be amended pursuant to the provisions of NRS 360.690(6).
4. Termination of this Agreement. This Agreement may only be terminated pursuant to the provisions of NRS 360.690(7).
5. Special Districts not a Party to this Agreement. The Parties acknowledge that NRS 360.690(5) mandates that any "special district" as defined by NRS 360.650 not a party to this Agreement "must continue to receive money from the Account pursuant to the provisions of NRS 360.680 and 360.390."
6. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all of any part of the subject matter hereof.
7. Headings; Exhibits. The recitals, headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement are incorporated herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits to this Agreement, unless otherwise specified.

8. Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and upon delivery to the City of Las Vegas shall constitute an original of this Agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each Party has executed at least one counterpart.

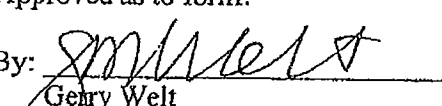
IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the day and year first above written (the "Effective Date").

LAS VEGAS CLARK COUNTY LIBRARY
DISTRICT

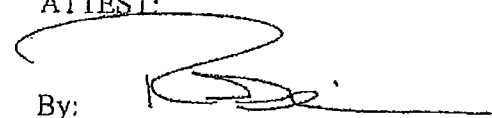
By: 
Kelly Benavidez, Vice-Chair

By: 
Jeanne Goodrich, Executive Director

Approved as to form:

By: 
Gerry Welt
Attorney at Law

ATTEST:

By: 
Ron Kirsh, Secretary

8. Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and upon delivery to the City of Las Vegas shall constitute an original of this Agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each Party has executed at least one counterpart.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the day and year first above written (the "Effective Date").

BOARD OF CLARK COUNTY
COMMISSIONERS

By: Susan Brager

Susan Brager, Chair

ATTEST:

By: Diana Alba

Diana Alba, Clark County Clerk

UNINCORPORATED TOWNS OF
BUNKERVILLE, ENTERPRISE, LAUGHLIN,
MOAPA VALLEY, PARADISE, SEARCHLIGHT,
SPRING VALLEY, SUMMERLIN, SUNRISE MANOR,
WHITNEY, AND WINCHESTER

By: Susan Brager

Susan Brager, Chair

ATTEST:

By: Diana Alba

Diana Alba, Clark County Clerk

CLARK COUNTY FIRE SERVICE DISTRICT

By: Susan Brager

Susan Brager, Chair

ATTEST:

By: Diana Alba

Diana Alba, Clark County Clerk

MOAPA VALLEY FIRE DISTRICT

By: Susan Brager

Susan Brager, Chair

ATTEST:

By: Diana Alba

Diana Alba, Clark County Clerk

MT CHARLESTON FIRE PROTECTION DISTRICT

By: Larry Brown

Larry Brown, Chair

ATTEST:

By: Diana Alba

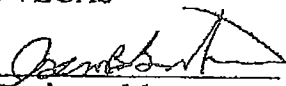
Diana Alba, Clark County Clerk

Approved as to form:

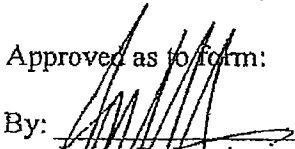
By: Mary-Anne Miller

Mary-Anne Miller
County Counsel

CITY OF LAS VEGAS

By: 
Oscar B. Goodman, Mayor

Approved as to form:

By: 
James B. Lewis
Deputy City Attorney

CITY OF NORTH LAS VEGAS

By: _____
Shari L. Buck, Mayor

Approved as to form:

By: _____
Nicholas G. Vaskov,
Acting City Attorney

CITY OF HENDERSON

By: _____
Andy Hafen, Mayor

Approved as to form:

By: _____
Elizabeth Macias Quillin
City Attorney

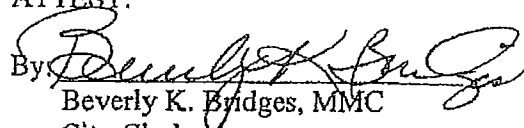
CITY OF BOULDER CITY

By: _____
Roger Tobler, Mayor

Approved as to form:

By: _____
Dave Olsen
City Attorney

ATTEST:

By: 
Beverly K. Bridges, MMC
City Clerk

ATTEST:

By: _____
Karen Storms, CMC
City Clerk

ATTEST:

By: _____
Sabrina Mercadante, CMC
City Clerk

Approved as to amount:

By: _____
Richard A. Derrick
Finance Director

ATTEST:

By: _____
Lorene Krumm, City Clerk

CITY OF LAS VEGAS

By: _____
Oscar B. Goodman, Mayor

Approved as to form:

By: _____
James B. Lewis
Deputy City Attorney

CITY OF NORTH LAS VEGAS

By: Shari L. Buck
Shari L. Buck, Mayor

Approved as to form:

By: Nicholas G. Vaskov
Nicholas G. Vaskov,
Acting City Attorney

CITY OF HENDERSON

By: _____
Andy Hafen, Mayor

Approved as to form:

By: _____
Elizabeth Macias Quillin
City Attorney

CITY OF BOULDER CITY

By: _____
Roger Tobler, Mayor

Approved as to form:

By: _____
Dave Olsen
City Attorney

ATTEST:

By: _____
Beverly K. Bridges, MMC
City Clerk

ATTEST:

By: Karen Storms
Karen Storms, CMC
City Clerk

ATTEST:

By: _____
Sabrina Mercadante, CMC
City Clerk

Approved as to amount:

By: _____
Richard A. Derrick
Finance Director

ATTEST:

By: _____
Lorene Krumm, City Clerk

CITY OF LAS VEGAS

By: _____
Oscar B. Goodman, Mayor

Approved as to form:

By: _____
James B. Lewis
Deputy City Attorney

CITY OF NORTH LAS VEGAS

By: _____
Shari L. Buck, Mayor

Approved as to form:

By: _____
Nicholas G. Vaskov,
Acting City Attorney

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Andy Hafen, Mayor

Approved as to form:

By: _____
Elizabeth Macias Quillin
City Attorney

CITY OF BOULDER CITY

By: _____
Roger Tobler, Mayor

Approved as to form:

By: _____
Dave Olsen
City Attorney

ATTEST:

By: _____
Beverly K. Bridges, MMC
City Clerk

ATTEST:

By: _____
Karen Storms, CMC
City Clerk

ATTEST:

By: _____
Sabrina Mercadante, CMC
City Clerk

Approved as to amount:

By: _____
Richard A. Derrick
Finance Director

ATTEST:

By: _____
Lorene Krumm, City Clerk

CITY OF LAS VEGAS

By: _____
Oscar B. Goodman, Mayor

Approved as to form:

By: _____
James B. Lewis
Deputy City Attorney

CITY OF NORTH LAS VEGAS

By: _____
Shari L. Buck, Mayor

Approved as to form:

By: _____
Nicholas G. Vaskov,
Acting City Attorney

CITY OF HENDERSON

By: _____
Andy Hafen, Mayor

Approved as to form:

By: _____
Elizabeth Macias Quillin
City Attorney

CITY OF BOULDER CITY

By: Roger Tobler
Roger Tobler, Mayor

Approved as to form:

By: Dave Olsen
Dave Olsen
City Attorney

ATTEST:

By: _____
Beverly K. Bridges, MMC
City Clerk

ATTEST:

By: _____
Karen Storms, CMC
City Clerk

ATTEST:

By: _____
Sabrina Mercadante, CMC
City Clerk

Approved as to amount:

By: _____
Richard A. Derrick
Finance Director

ATTEST:

By: Lorene Krumm
Lorene Krumm, City Clerk

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 13 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*

Index to Joint Appendix
City of Fernley v. State of Nevada et al., Case No. 66851

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

Index to Joint Appendix
City of Fernley v. State of Nevada et al., Case No. 66851

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

Index to Joint Appendix
City of Fernley v. State of Nevada et al., Case No. 66851

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

Exhibit II
FY 1997 CLARK COUNTY
SCCRT DISTRIBUTION

(Adjusted see notes below)

	FY 1996-97 Assessed Val. for SCCRT Calculation (*)	FY 1991 Tax Rate (%)	Basic Ad Valorem Revenue (**)	Percent County Total Revenue (**)	FY 1996-97 Proposed SCCRT Revenue (*)	FY 1996-97 Adj. STATE SCCRT Revenue (*)	Proposed vs State Variance
Clark County	21,279,088,779	0.9743	207,322,162	45.0089%	127,485,372	130,840,800	(3,355,428)
Boulder City	242,165,388	1.2672	3,088,720	0.6662%	1,887,000	1,936,540	(49,540)
City of Henderson	2,287,923,422	1.2013	27,484,824	5.9669%	16,900,813	17,345,573	(444,760)
City of Las Vegas	6,395,656,595	1.3286	84,972,720	18.4473%	52,250,945	53,625,665	(1,374,721)
Mesquite	191,166,668	2.8550	5,476,925	1.1890%	3,367,840	3,456,367	(88,527)
City of North Las Vegas	1,133,084,911	0.8915	10,101,274	2.1929%	6,211,418	6,374,774	(163,356)
Bunkerville	35,120,808	1.2413	435,955	0.0946%	268,075	275,070	(6,995)
Enterprise	325,314,689	0.7140	2,322,747	0.5043%	1,428,290	0	1,428,290
Whitney	133,983,917	0.2315	310,173	0.0673%	190,730	195,750	(5,021)
Glenade	1,384,788		0	0.0000%	0	0	0
Indian Springs	6,260,317		0	0.0000%	0	0	0
Laughlin	464,582,382	1.0723	4,981,717	1.0815%	3,069,329	3,143,903	(80,574)
Moapa Town	79,735,926		0	0.0000%	0	0	0
Moapa Valley	60,378,637	0.8907	537,793	0.1168%	330,686	339,376	(8,690)
Mt. Charleston	16,685,291		0	0.0000%	0	0	0
Paradise	4,888,831,820	0.8872	43,373,716	9.4163%	26,671,120	27,372,747	(701,627)
Searchlight	28,854,246	0.9470	273,260	0.0593%	169,025	172,521	(4,496)
Spring Valley	1,589,007,217	0.7837	12,531,420	2.7205%	7,705,750	1,936,479	5,769,271
Summerlin	3,937,570	0.7837	30,859	0.0067%	18,975	4,769	14,207
Sunrise Manor	1,378,846,217	0.9644	5,024,516	1.0908%	3,089,647	3,170,815	(81,168)
Winchester	1,003,231,572	0.9297	9,327,044	2.0249%	5,735,333	5,886,107	(150,773)
Boulder City Library	257,073,923	0.1491	383,297	0.0832%	235,685	241,926	(6,231)
Clark County Fire Service District	9,922,809,791	0.2758	27,367,109	5.9413%	16,828,428	17,271,068	(442,640)
Henderson Library	1,850,502,920	0.0795	1,471,150	0.3194%	904,631	928,327	(23,696)
LVC/Clark County Library District	18,169,764,760	0.0727	13,209,419	2.8677%	8,122,661	8,336,243	(213,582)
Moapa Valley Fire	146,737,664	0.3506	514,462	0.1117%	316,350	324,645	(8,295)
Mt. Charleston Fire Protection District	20,743,930	0.5008	103,720	0.0225%	63,779	65,439	(1,660)
Total Clark County	71,922,856,146	18.8011	460,624,969	100.0000%	283,244,903	283,244,903	(0)

*1. Adjusted SCCRT assessed valuation:

Enterprise: FY 98 \$361,460,766 * 0.9 = \$325,314,689

Summerlin: FY 97 \$ 3,937,570 restated.

*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.

*4. Actual revenue to be distributed:

State SB 254 SCCRT Base (FY 97)

Adjusted 75% of Spring Valley

Adjusted 75% of Summerlin

Adjusted revenue to be distributed

289,068,644

(5,809,436)

(14,306)

283,244,903

Exhibit III

CLARK
Calculation of Initial Year Base for Local Government in Clark County

SENATE BILL 254 SECTION 35

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Fy 95-96 Revenue	Fy 96-97 Revenue	Average Revenue	Section 35 Parag. A Calculation (2)/(3)		Initial Year Base (3)*(4)	CPI	Estimate Initial Year FY 98-99 Base Distribution (6)*(7)	Adjusted (**) Initial Year FY 98-99 Base Distribution
THE COUNTY OF CLARK									
Enterprise District									
Kyle Canyon Water District	9,618.00	11,074.00	10,346.00					10,346.00	10,346.00
Local Governments									
Clark County	136,147,772.78	151,526,656.43	143,837,214.61	1.056153		151,914,093.82	0.0220	155,256,203.88	155,256,203.88
Boulder City	4,367,001.65	4,617,885.47	4,492,443.56	1.056153		4,744,707.37	0.0220	4,849,090.93	4,849,090.93
City of Henderson	34,287,012.89	39,522,003.55	36,904,508.22	1.056153		38,976,804.02	0.0220	39,834,293.71	39,834,293.71
City of Las Vegas	108,318,349.91	123,587,700.46	115,953,025.19	1.056153		122,464,125.31	0.0220	125,158,336.58	125,158,336.58
Mesquite	2,375,064.53	4,466,099.10	3,420,581.82	1.056153		3,612,657.46	0.0220	3,692,135.93	3,692,135.93
City of North Las Vegas	17,844,502.85	20,790,350.87	19,317,426.86	1.056153		20,402,156.73	0.0220	20,951,004.18	20,951,004.18
Special Districts									
Bunkerville	254,448.32	311,442.23	282,945.28	1.056153		298,893.48	0.0220	305,407.81	305,407.81
Enterprise	1,284,034.00	1,428,290.00	1,356,162.00	1.056153		1,432,314.45	0.0220	1,463,825.37	1,463,825.37
Glendale	1,277.00	1,277.00	1,277.00	1.056153		1,348.71	0.0220	1,378.98	1,378.98
Laughlin	3,214,563.28	3,218,015.72	3,216,289.50	1.056153		3,396,893.54	0.0220	3,471,625.20	3,471,625.20
Moapa Valley	363,002.83	388,359.06	375,680.95	1.056153		396,776.53	0.0220	405,505.61	405,505.61
Paradise	30,190,956.40	31,697,734.84	30,944,345.62	1.056153		32,681,960.90	0.0220	33,400,964.04	33,400,964.04
Searchlight	206,049.33	205,317.87	205,683.60	1.056153		217,233.33	0.0220	222,012.47	222,012.47
Spring Valley	6,812,833.00	7,745,914.00	7,279,373.50	1.056153		7,688,131.56	0.0220	7,857,270.45	7,857,270.45
Summerlin	17,059.00	19,074.00	18,066.50	1.056153		19,080.99	0.0220	19,500.77	19,500.77
Summit Manor	4,163,187.19	4,460,984.84	4,312,086.02	1.056153		4,554,222.22	0.0220	4,654,415.11	4,654,415.11
Whitney	336,492.01	343,125.28	339,808.65	1.056153		358,889.89	0.0220	366,785.47	366,785.47
Winchester	6,928,061.10	6,979,491.59	6,953,776.35	1.056153		7,344,251.17	0.0220	7,505,824.70	7,505,824.70
(see attached for alternate town average)									
Special Districts									
Boulder Library District	266,948.89	277,703.83	272,326.41	1.056153		287,618.33	0.0220	293,945.94	293,945.94
Clark County Fire Protection	21,066,160.53	22,096,904.42	21,551,532.48	1.056153		22,761,713.89	0.0220	23,262,471.60	23,262,471.60
Henderson Library District	861,457.09	1,027,143.64	944,300.37	1.056153		997,325.59	0.0220	1,019,266.75	1,019,266.75
LV/Clark County Library District	8,406,316.57	9,229,012.05	8,817,664.31	1.056153		9,312,801.88	0.0220	9,517,683.53	9,517,683.53
Moapa Fire Protection	368,942.93	378,313.23	373,628.08	1.056153		394,608.39	0.0220	403,289.77	403,289.77
Mt. Charleston Fire Protection	66,945.76	74,982.95	70,664.36	1.056153		74,632.36	0.0220	76,274.28	76,274.28
Total Clark County									
Local Gov't & Sp Districts	388,149,439.94	434,333,182.43	411,240,811.19	1.056153		434,333,182.43		443,898,858.44	441,197,752.95

*1. Adjusted base distribution: Enterprise 50%, Spring Valley and Summerlin 75%.



Department of Finance

December 29, 1997

Michael Pitlock, Executive Director
Nevada Department of Taxation
1550 East College Parkway
Suite 115
Carson City NV 89706

Dear Mr. Pitlock:

Clark County is hereby requesting a review, pursuant to the provisions of Senate Bill 254, of the amount of intergovernmental revenue distributed to the unincorporated towns of Paradise, Sunrise Manor and Winchester. We are requesting that the Fiscal Year 1998-99 base distributions of the three towns be adjusted as follows:

	<u>Amount</u>
Paradise	\$11,605,909
Sunrise Manor	7,644,854
Winchester	<u>2,109,649</u>
Total	<u>\$21,360,412</u>

As you know, the 1981 Nevada Legislature rolled back property tax rates and replaced the associated revenue with an incremental sales tax (SCCRT). In hindsight, this legislation was profoundly successful in accomplishing its objective of substantial property tax relief. Virtually every local government experience at least a 65% reduction in its property tax rate, and for some, such as the City of Henderson, property taxes were essentially eliminated as a material source of funding services.

Unfortunately, for certain entities, SCCRT has not proven to be an adequate replacement for ad valorem taxes. As evidenced by the attached schedules, the combined revenue from ad valorem taxes and SCCRT for the three principal urban towns of Paradise, Sunrise Manor and Winchester is far less than the amount of ad valorem taxes that would be received if the FY 1980-81 tax rate were still in effect. And, unlike incorporated cities, these towns have not benefited from allocations of basic sales tax or cigarette and liquor taxes to off-set these shortfalls.

Michael Pitlock, Executive Director

December 29, 1997

Page 2

As a result, Clark County is requesting consideration of an adjustment to the base distributions of the three unincorporated towns as set forth above. In all three cases, the amount of our request has been adjusted to reflect the fact that the tax rate levied in these towns is less than the statutorily allowed rate.

Should you have any questions regarding this request, please feel free to contact me.

Sincerely,

George W. Stevens

George W. Stevens
Director of Finance

GWS:db

Attachments

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



BOB MILLER
Governor

MICHAEL A. PITLOCK
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION

1550 E. College Parkway
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MEMORANDUM

Date: February 5, 1998.

To: Committee on Local Government Finance

From: Theresa Glazner

Subject: Package for meeting on February 10th, 11th and 12th

The packages for the meeting to hear the base adjustment requests have been mailed. You should have received it by now. The following two pages need to be included in the material. They are the attachments to the request from the Clark County Department of Finance, near the end of the Clark County local government's section. These spreadsheets should follow the spreadsheet titled "Paradise Tax Shortfall."

I apologize for the inconvenience. See you next week.

PARADISE TAX SHORTFALL

Fiscal Year	Operating Tax Rate	Assessed valuation	Operating Ad Valorem Revenue	Actual SCCRT	Total Operating Ad Valorem and SCCRT Revenue	Operating Ad Valorem Revenue @ FY 80/81 Rate	Tax Shortfall
1975/76							
1976/77	1.3363	449,844,211	6,011,268		10,645,571	10,645,571	0
1977/78	1.3363	504,329,687	6,739,358	9,513,571	12,339,682	14,230,853	1,891,171
1978/79	1.3363	766,077,248	10,237,090	8,694,221	12,008,810	16,497,880	4,489,070
1979/80	1.1709	864,932,237	10,127,492	7,563,160	12,876,182	17,857,172	4,980,989
1980/81	1.1209	949,734,237	10,645,571	8,910,463	12,795,529	22,366,569	9,571,040
1981/82	0.2226	1,269,591,669	2,826,111	8,958,908	13,681,859	23,383,199	9,701,339
1982/83	0.2252	1,471,842,238	3,314,589	10,679,366	15,824,442	23,880,398	8,055,956
1983/84	0.3335	1,593,110,171	5,313,022	11,958,124	16,630,591	25,585,578	8,954,987
1984/85	0.1947	1,995,411,654	3,885,066	13,228,021	18,148,378	26,942,979	8,794,601
1985/86	0.2264	2,086,109,250	4,722,951	15,005,452	19,808,792	29,680,619	9,871,826
1986/87	0.2415	2,130,466,453	5,145,076	15,634,469	21,160,777	33,231,964	12,071,188
1987/88	0.2047	2,282,592,373	4,672,467	15,935,450	22,831,112	37,448,391	14,617,278
1988/89	0.2047	2,403,691,545	4,920,357	17,669,888	25,030,570	39,973,779	14,943,209
1989/90	0.1814	2,647,927,452	4,803,340	19,795,518	27,454,596	41,594,285	14,139,689
1990/91	0.1864	2,964,757,291	5,526,308	25,104,709	33,850,393	47,495,337	13,644,944
1991/92	0.2064	3,340,921,636	6,895,662	25,865,968	35,347,073	51,489,199	16,142,126
1992/93	0.2064	3,566,221,691	7,360,682	27,372,747	37,463,296	54,798,916	17,335,620
1993/94	0.2064	3,710,793,570	7,659,078				
1994/95	0.2064	4,237,250,137	8,745,684				
1995/96	0.2064	4,593,558,662	9,481,105				
1996/97	0.2064	4,888,831,820	10,090,549				

1996/97 Tax Shortfall 17,335,620
Less: Unlevied Ad Valorem (5,729,711)

Requested Adjustment 11,605,909
=====

SUNRISE MANOR TAX SHORTFALL

Fiscal Year	Operating Tax Rate	Assessed valuation	Operating Ad Valorem Revenue	Actual SCCRT Revenue	Total Operating Ad Valorem and SCCRT Revenue	Operating Ad Valorem Revenue @ FY 80/81 Rate	Tax Shortfall
1975/76							
1976/77							
1977/78							
1978/79	1.3363	120,818,898	1,614,503	1,961,471	1,751,313	1,751,313	0
1979/80	1.2383	131,472,417	1,628,023	1,947,813	2,053,948	3,123,922	1,069,974
1980/81	1.1080	158,060,752	1,751,313	753,946	2,065,685	3,699,793	1,634,108
1981/82	0.0328	281,942,455	92,477	844,716	911,616	4,271,349	3,359,733
1982/83	0.0353	333,916,360	117,872	942,154	945,120	5,103,078	4,157,958
1983/84	0.0409	385,500,769	157,670	1,140,444	1,048,362	5,854,665	4,806,303
1984/85	0.0218	460,566,600	100,404	1,411,473	1,248,669	6,118,002	4,869,334
1985/86	0.0201	528,399,381	106,208	1,618,478	2,754,235	7,268,101	4,513,866
1986/87	0.0196	552,166,263	108,225	1,977,697	3,085,406	7,940,185	4,854,780
1987/88	0.2047	655,965,802	1,342,762	1,799,287	3,368,405	8,494,509	5,126,105
1988/89	0.2047	716,623,235	1,466,928	4,697,637	3,336,349	9,136,616	5,800,267
1989/90	0.1814	766,652,469	1,390,708	5,018,933	6,547,091	9,928,269	3,381,179
1990/91	0.1864	824,604,336	1,537,062	2,436,900	7,144,898	11,412,643	4,267,745
1991/92	0.2064	896,053,194	1,849,454	2,430,748	4,721,665	12,265,115	7,543,450
1992/93	0.2064	1,030,021,972	2,125,965	2,873,017	4,661,693	11,976,195	7,314,502
1993/94	0.2064	1,106,959,879	2,284,765	3,170,815	5,437,040	13,764,231	8,327,191
1994/95	0.2064	1,080,883,984	2,230,945		6,016,754	15,277,616	9,260,862
1995/96	0.2064	1,242,259,074	2,564,023				
1996/97	0.2064	1,378,846,217	2,845,939				

1996/97 Tax Shortfall
Less: Unlevied Ad Valorem
Requested Adjustment

Case No. 66851
JA 2232

12/29/1997 15:11

FINANCE BUDGET

7024550200

7024550200

WINCHESTER TAX SHORTFALL

Fiscal Year	Operating Tax Rate	Assessed valuation	Operating Ad Valorem Revenue	Actual SCCRT	Total Operating Ad Valorem and SCCRT Revenue	Operating Ad Valorem Revenue @ FY 80/81 Rate	Tax Shortfall
1975/76							
1976/77							
1977/78	1.3363	214,471,781	2,865,986	3,192,859	3,841,882	3,841,882	0
1978/79	1.3363	301,472,257	4,028,574	2,944,196	4,247,606	5,081,468	833,862
1979/80	1.1709	322,176,655	3,772,366	2,439,733	4,123,960	5,592,401	1,468,441
1980/81	1.1206	342,841,503	3,841,882	3,014,166	4,545,071	5,487,884	942,813
1981/82	0.2326	453,459,535	1,054,747	3,070,673	4,345,603	7,218,229	2,872,626
1982/83	0.2364	499,054,183	1,179,764	3,693,853	4,670,690	7,552,564	2,881,875
1983/84	0.4299	489,727,263	2,105,338	4,054,059	5,497,435	7,845,860	2,348,425
1984/85	0.2067	644,139,676	1,331,437	4,302,002	5,828,965	8,256,723	2,694,408
1985/86	0.2374	673,975,038	1,600,017	5,731,242	7,323,523	9,836,326	2,530,170
1986/87	0.2576	700,148,130	1,803,582	5,032,775	6,717,936	10,130,853	2,512,804
1987/88	0.2047	736,812,679	1,508,256	4,697,637	6,630,090	10,491,799	3,412,917
1988/89	0.2047	745,951,699	1,526,963	5,018,933	7,008,443	10,801,574	3,861,709
1989/90	0.1814	877,773,192	1,592,281	5,297,461	7,233,826	10,513,036	3,279,210
1990/91	0.1864	904,056,113	1,585,161	5,599,403	7,613,744	10,936,388	3,322,644
1991/92	0.2064	936,266,222	1,932,453	5,834,675	7,875,611	11,080,781	3,205,170
1992/93	0.2064	963,909,833	1,989,510	5,886,107	7,956,777	11,242,213	3,285,436
1993/94	0.2064	938,161,314	1,936,365				
1994/95	0.2064	975,940,375	2,014,341				
1995/96	0.2064	988,825,747	2,040,936				
1996/97	0.2064	1,003,231,572	2,070,670				

1996/97 Tax Shortfall 3,285,436
Less: Unlevied Ad Valorem (1,175,787)

Requested Adjustment 2,109,649



OFFICE OF THE MESQUITE CITY HALL
INCORPORATED 1984

10 E. Mesquite Blvd. and Yucca
P.O. Box 69
Mesquite, NV 89024
(702)346-5295
Fax(702)346-2908

December 17, 1997

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

Dear Mr. Pitlock:

The City of Mesquite has received copies of requests from Henderson and North Las Vegas for adjustments to SB254 FY99 base tax distributions. Such requests, according to estimates made by the two cities, would reduce Mesquite's base tax distribution by about \$93,000, if granted.

Both requests seem to be based upon their perceptions that they received SCCRT since the early 1980's in amounts less than they should have received. This, in turn, has apparently led to reduced SCCRT revenues for FY96 and FY97, which will result in lower base tax distributions for FY99.

The fact is, SB254 says that the FY99 base distribution is based upon the average of the amount of each tax included in the fund (SCCRT being one such tax) that was distributed to the local government for FY96 and FY97.

The amount that a City might have liked to have received, or expected to receive, is not relevant and cannot be a basis for an adjustment. Henderson and North Las Vegas would have to prove that the SCCRT that they received in FY96 and FY97 was wrong, not in accordance with the law. They have not proven that.

I think it's important to demonstrate that Mesquite will be economically damaged by the distribution formula as it exists, and that any further reductions will be extremely detrimental to our financial condition.

Based upon Department of Taxation figures for FY97 revenues (the sum of the six taxes) and its estimate for the FY99 base distribution, we can show the following for the five incorporated cities in Clark County:

	FY97 Revenue	Estim. FY99 Base	\$ Incr. (Decr.)	% Incr. (Decr.)
Boulder City	4,617,885	4,889,876	271,991	6 %
Henderson	39,522,004	40,169,334	647,330	2 %
Las Vegas	123,587,700	126,211,025	2,623,325	2 %
Mesquite	4,466,099	3,723,190	(742,909)	(17)%
North Las Vegas	20,790,351	21,026,379	236,028	1 %

The distribution formula under SB254 clearly works to the disadvantage of the City of Mesquite. We are the only incorporated city in Clark County to receive less in FY99 base distribution than we received two years earlier under the old formula.

To now be faced with appeals by our larger neighbors, appeals which if granted will harm us further, is very much like rubbing salt in the wound.

Mr. Pitlock, I urge you to do whatever is necessary to see that these appeals and any similar appeals are denied. Thank you for your consideration:

Sincerely,

Charles A. Brown, CPA
Finance Director

cc: Mesquite City Council
Bill Da Vee, City Manager



RECEIVED
STATE OF NEVADA
DEPT. OF TAXATION

1998 JAN -9 AM 10:17

LAS VEGAS - CLARK COUNTY LIBRARY DISTRICT

833 Las Vegas Boulevard North
Las Vegas, Nevada 89101

702 382-5193

January 5, 1998

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

Dear Mr. Pitlock:

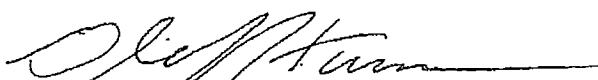
The Las Vegas-Clark County Library District is in receipt of proposals from Clark County, Henderson and the City of North Las Vegas to adjust the distribution of intergovernmental revenues pursuant to the provisions of Senate Bill 254 of the 1997 State Legislature. While we are not in a position to comment on the merits of their proposals we would like to make a statement about the effect such changes would have on the District.

In 1989-90 the District proposed an \$80,000,000 general obligation bond issuance to build eight new libraries and remodel the existing Clark County Library. This proposal was subsequently approved and all libraries were built, the last one completed half-way through the 1996-97 fiscal year. At the time we proposed the projects it was necessary to develop a plan to provide funding for the additional staff, utilities, supplies and books to operate these new facilities. We used historic averages to project between 5 and 8% increases in total revenues over the period 1992-2000. During the discussions concerning Senate Bill 254 of the 1997 Nevada Legislature the terms "revenue neutral" were continually used and for that reason and believing in the underlying tenants of the methodology we supported the legislation. If the proposed changes are allowed the District will lose approximately 3.2% of its expected revenues from intergovernmental revenues. Since we already would have received less (without the changes), than under the current method, this will result in approximately an overall loss of 4.5% of the revenues projected in 1989-90. Certainly this will have some deleterious affect on the operations of the District.

○ If these changes are in fact allowed to stand and there being nothing further that we can do at this time, we would ask you to address this issue in your meeting with the ad-valorem committee to see if it would be possible to allow us to "make up" this shortfall with additional ad-valorem revenue.

I would like to thank you in advance for your consideration in this matter.

Sincerely,



Gloria Sturman

Chairman

LAS VEGAS-CLARK COUNTY LIBRARY DISTRICT
BOARD OF TRUSTEES



BOB MILLER,
Governor

MICHAEL A. PITLOCK
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION

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Building O, Suite 263
Reno, Nevada 89502
Phone: (702) 688-1295
Fax: (702) 688-1303

January 30, 1998

Committee on Local Government Finance
Mr. Marvin Leavitt, Chairman
Members of the Committee

Dear Mr. Leavitt and Members of the Committee:

The Department of Taxation has received and reviewed 19 requests for adjustment to the consolidated tax distribution initial year base. These requests are made pursuant to Senate Bill 254, Section 36. The local governments listed below have made the specific requests.

<u>Entity</u>	<u>County Located</u>	<u>Amount of Requested Adjustment</u>
Carson Water Subconservancy District	Multi-County	\$ (14,387.55)
Boulder City	Clark	660,002.00
City of Henderson	Clark	5,096,237.00
City of North Las Vegas	Clark	5,150,000.00
Enterprise	Clark	1,432,314.45
Paradise	Clark	1,605,909.00
Spring Valley	Clark	3,563,292.68
Summerlin	Clark	8,923.74
Sunrise Manor	Clark	7,644,854.00
Winchester	Clark	2,109,649.00
Cave Rock GID	Douglas	43,466.20
Elk Point Sanitation District	Douglas	20,189.02
Lakeridge GID	Douglas	14,109.26
Oliver Park GID	Douglas	23,466.64
Zephyr Knolls GID	Douglas	22,968.96
Amargosa Valley Library District	Nye	2,187.64
Washoe County	Washoe	3,831,816.69
Reno	Washoe	3,007,079.00
Truckee Meadows Fire	Washoe	619,915.00

Case No. 66851
JA 2239

The department identified two main types of request and separated the packages into two groups.

GROUP A

Local governments existing on June 30, 1981 subject to the application of the "tax shift" legislation. Legislation packed with changes in local government revenue sources ranging from property tax and sales tax to fee structure limitations. This group includes:

Boulder City	Cave Rock GID	Washoe County
Henderson	Elk Point Sanitation District	Reno
North Las Vegas	Lakeridge GID	Truckee Meadows Fire Protection
Paradise	Oliver Park GID	
Sunrise Manor	Zephyr Knolls GID	
Winchester		

GROUP B

Local governments requesting technical adjustments or were newly created under Nevada Revised Statute within the last three years and consequently do not fully participate in the funding basis used to develop the initial year base distribution. This group includes:

Enterprise	Amargosa Valley Library District
Spring Valley	Carson Water Subconservancy
Summerlin	

GROUP A REVIEW

There were various individual reasons explained by the local governments filing requests as to the impact of the tax shift and their resulting financial position, all of which should be considered by the committee, as they were considered by the department.

However, the department in reviewing circumstances surrounding the tax shift legislation took a more global approach. It is apparent that the major intended effect was to replace previously enacted limitations on budgeted expenditures with limitations on the revenue available for local spending.

Local governments were hit with not only the reduction in property tax rates for which Supplemental City County Relief Tax (SCCRT) was enacted for replacement of lost revenue, but the basis for property tax assessment was dramatically changed. During our review of the assessed valuation for the years preceding fiscal year 1981-82 it was apparent the initial year (81-82) under the new appraisal basis resulted in tremendous increases in valuation for some local governments. For the fiscal year 1981-82, an "adjusted" cash value was used as factors were being developed for converting from the full cash value to the new taxable value (replacement cost, less depreciation and obsolescence). We believe this transitional process had a negative impact on the newly established property tax rates. To further explain, the formula used to allocate intra-county distribution of SCCRT was called basic revenue calculation. Basic revenue calculation was fiscal year 1981-82 assessed valuation multiplied by fiscal year 1990-81 tax rate. Once SCCRT for each entity was determined it was subtracted from a "capped revenue" figure. The remainder was allowed ad valorem for which the tax rate was based. A sharp increase in assessed valuation, greater than the county as a whole, would result in overstated basic revenue, thus driving down the allowed ad valorem and resulting tax rate. As stated in several of the packages submitted, the rates were so low that recovery was very difficult and resulted in deep cuts in services and/or additional property taxation.

We believe this is an example of a circumstance beyond the control of the local government, therefore it is the basis for which the department makes its recommendation.

Reduction of property tax rates by a governing board in the few years prior to the tax shift legislation was a responsive act to public input at that time. Governing boards should be making decisions relative to the needs and requests of the taxpayers based on current budgetary situations. The fact that local governments in Washoe and Douglas County lowered tax rates in response to budgetary position or public pressure at that time was in tune with how government should work. The action by a board to reduce tax burden on the taxpayer because a larger than needed ending fund balance exists or funding for major projects is completed, is a decision process the department hopes exists today. The tax shift legislation included language to allow the local governments to ask for voter approval of tax overrides beyond capped revenue. This would be in keeping with the intent to slow down the spiraling property tax rates that existed in the 1970s and to give taxpayers a hand in governmental rate decisions. The department does not find that the reduction of rates by a governing board just prior to 1981 is basis for an adjustment in the Consolidated Tax distribution initial year base.

Additionally, community demographics did not enter into the FY 1981-82 calculation of SCCRT or ad valorem. Therefore, the department does not consider population in 1981 to be a factor in its consideration of base adjustment.

In analyzing the specific dollar amount of each request for adjustment to initial year base there are three basic approaches identified in the requests.

1. Revenue needed to provide basic services. The entity provided information indicating that due to board reduced rates coupled with the reduction of rates in fiscal year 1981-82 their basic services are suffering. The adjustment would allow the local government to perform its basic function and would provide a modest reserve. The requested amount was determined by analyzing current financial position.
2. Add back the board reduced tax rate to current SCCRT formula; reallocate basic ad valorem to determine what the SCCRT distribution could be today. The requested amount was based on the difference between this result and the current distribution.
3. Assume the tax shift did not occur and fiscal year 1980-81 tax rates were still in place today. The entity provided a spreadsheet comparing current combined revenue received from ad valorem and SCCRT to revenue that could have been received from valorem alone, assuming the fiscal year 1980-81 tax rate was still in existence today. The requested amount was either based on this difference or an average of the difference over a period of time.

The department makes its recommendation based on what it believes was a combination of events beyond the local government's control, specifically the assessed valuation figure used to determine basic revenue, explained previously. The department recalculated the basic revenue formula using an assessed valuation figure that was capped at county wide growth multiplied by the fiscal year 1980-81 tax rate. By equalizing the assessed valuation the intra-county allocation of SCCRT is reduced, this results in a greater allowed ad valorem tax rate in fiscal year 1981-82. We believe this is the only approach that can be specifically tied to the tax shift formula that may have caused local governments to experience undo fiscal impact in the fiscal years following the tax shift.

GROUP B REVIEW

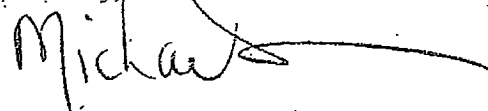
Four local governments submitted requests based on their inclusion in the initial year base calculations. These local governments were in existence prior to the adoption of Senate Bill 254 and received SCCRT or Motor Vehicle Privilege Tax (MVPT) for at least one year prior to July 1, 1998 (effective date of new formula). The foundation for the initial year base calculation is the average of two years of revenue. The department agrees with these local government's calculations which formulate an artificial revenue figure equaling what they would have received for fiscal year 1995-96 and/or 1996-97. These calculations do not assume any reductions of revenue allocation used in database calculations for any other local government in the county.

Additionally, one local government is requesting to be removed from the Consolidated Tax distribution. Based on the material presented the department concurs with this request.

The department of Taxation recommends the following initial year base adjustments pursuant to Senate Bill 254, section 36:

<u>Entity</u>	<u>County Located</u>	<u>Amount of Recommended Adjustment</u>
Carson Water Subconservancy District	Multi-County	\$ (14,387.55)
Boulder City	Clark	258,149.00
City of Henderson	Clark	3,999,808.00
City of North Las Vegas	Clark	406,963.00
Enterprise	Clark	1,432,314.00
Paradise	Clark	575,571.00
Spring Valley	Clark	3,563,293.00
Summerlin	Clark	8,924.00
Sunrise Manor	Clark	2,297,586.00
Winchester	Clark	27,448.00
Cave Rock GID	Douglas	1,879.00
Elk Point Sanitation District	Douglas	0.00
Lakeridge GID	Douglas	0.00
Oliver Park GID	Douglas	0.00
Zephyr Knolls GID	Douglas	0.00
Amargosa Valley Library District	Nye	2,188.00
Washoe County	Washoe	0.00
Reno	Washoe	1,951,566.00
Truckee Meadows Fire	Washoe	0.00

Sincerely,



Michael Pitlock, Executive Director
Nevada Department of Taxation

PERCENTAGE INCREASE IN ASSESSED VALUATION (GROUP A)

ENTITY	FY 79-80 ASSESSED VALUE	FY 80-81 ASSESSED VALUE	PERCENTAGE CHANGE	FY 81-82 ASSESSED VALUE	PERCENTAGE CHANGE
Boulder City	42,565,632	47,713,609	12.09%	71,122,336	49.06%
HENDERSON	80,623,643	107,810,476	33.72%	172,851,382	60.33%
NORTH LAS VEGAS	141,235,575	146,698,481	3.87%	204,989,625	39.74%
PARADISE	964,892,237	949,734,729	-1.56%	1,269,591,669	33.68%
SUNRISE MANOR	131,472,417	158,060,752	20.22%	281,942,455	78.38%
WINCHESTER	322,176,655	342,841,503	6.41%	453,459,535	32.27%
Cave Rock GID	1,104,430	1,475,940	33.64%	4,520,666	206.23%
ELK POINT	1,473,803	1,520,992	3.20%	4,870,279	220.20%
LAKERIDGE GID	1,472,440	1,694,305	15.07%	4,972,201	193.47%
OLIVER PARK GID	3,203,422	3,282,954	1.86%	7,628,853	133.80%
ZEPHYR KNOLLS	814,977	910,899	11.77%	2,441,676	168.05%
Washoe County	1,592,159,262	1,994,776,650	25.29%	2,670,858,446	33.89%
CITY OF RENO	847,884,078	1,129,510,434	33.22%	1,519,915,178	34.56%
TRK MDWS FIRE	255,520,004	310,551,536	21.54%	380,111,991	22.40%

ADDITIONAL TAX RATE BASED ON ADJUSTED BASIC REVENUE (GROUP A)

ENTITY	ESTIMATE FY82 SCRT	ADJUSTED FY82 SCRT	DIFFERENCE	AD VALOREM USED IN 82	ADJUSTED RATE FOR 82	FY 81-82 TAX RATE (1)	POSSIBLE DIFFERENCE IN TAX RATE	ADDITIONAL AD VALOREM IF HIGHER RATE X CURRENT AV
BOULDER CITY	602,512	532,683	69,829	74,670	0.2032	0.1050	0.0982	258,149
HENDERSON	1,388,178	1,141,021	247,157	62,364	0.1791	0.0361	0.1430	3,999,808
NORTH LAS VEGAS	1,221,691	1,152,200	69,491	243,064	0.1525	0.1186	0.0339	406,963
PARADISE	9,513,571	9,378,864	134,707	2,409,475	0.2004	0.1898	0.0106	575,571
SUNRISE MANOR	1,951,471	1,542,925	418,546	-	0.1485	0.0000	0.1485	2,297,586
WINCHESTER	3,397,029	3,384,738	12,291	905,879	0.2025	0.1998	0.0027	27,448
CAVE ROCK GID	4,397	3,518	879	-	0.0194	0.0000	0.0194	1,879
ELK POINT	3,407	4,368	(961)	-	-0.0197	0.0000	-0.0197	-
LAKERIDGE GID	5,693	7,299	(1,606)	-	-0.0323	0.0000	-0.0323	-
OLIVER PARK GID	10,064	14,994	(4,930)	1,630	-0.0433	0.0214	-0.0646	-
ZEPHYR KNOLLS	1,370	1,782	(412)	20	-0.0160	0.0008	-0.0169	-
WASHOE COUNTY	24,510,599	25,044,807	(1,534,208)	8,889,941	0.2754	0.3328	-0.0574	-
CITY OF RENO	8,053,303	7,187,289	866,014	1,357,096	0.1463	0.0857	0.0606	1,951,566
TRK MDWS FIRE	1,449,703	1,540,460	(90,757)	711,289	0.1632	0.1871	-0.0239	-

(1) FY 81-82 tax rates are based on data used by the department at the time basic revenue calculations were made.

BASE ADJUSTMENT COMPARISON

Entity	County Located	Amount of Requested Adjustment	Amount of Recommended Adjustment
Carson Water Subconservancy District	Multi-County	(14,387.55)	(14,387.55)
Boulder City	Clark	660,002.00	258,149.00
City of Henderson	Clark	5,096,237.00	3,999,808.00
City of North Las Vegas	Clark	5,150,000.00	406,963.00
Enterprise	Clark	1,432,314.45	1,432,314.00
Paradise	Clark	11,605,909.00	575,571.00
Spring Valley	Clark	3,563,292.68	3,563,293.00
Summerlin	Clark	8,923.74	8,924.00
Sunrise Manor	Clark	7,644,854.00	2,297,586.00
Winchester	Clark	2,109,649.00	27,448.00
Cave Rock GID	Douglas	43,466.20	1,879.00
Elk Point Sanitation District	Douglas	20,189.02	0.00
Lakeridge GID	Douglas	14,109.26	0.00
Oliver Park GID	Douglas	23,466.64	0.00
Zephyr Knolls GID	Douglas	22,968.96	0.00
Amargosa Valley Library District	Nye	2,187.64	2,188.00
Washoe County	Washoe	3,831,816.69	0.00
Reno	Washoe	3,007,079.00	1,951,566.00
Truckee Meadows Fire	Washoe	619,915.00	0.00

Base Adjustment Impact Statements

Presented are summary sheets showing the impact the base adjustment requests will have on all local governments in the county.

These numbers are estimates only and are based on preliminary revenue projections.
Statutory revenue projections for fiscal year 1998-99 are due to be issued on February 17, 1998.

The first set of spreadsheets are based on local government requests.

The second set of spreadsheets are based on the Department of Taxation recommendation - if different from the request. Detailed information is available upon request from the Administrative Services Division, Distribution and Statistics, 687-1824.

IMPACT STATEMENT
CARSON WATER SUBCONSERVANCY
BASE ADJUSTMENT REQUEST

THE COUNTY OF CARSON CITY

ADJUSTMENT (13)	ORIGINAL (13)	IMPACT OF BASE ADJUSTMENT
(4) + (12) ESTIMATE FY 98-99	(4) + (12) ESTIMATE FY 98-99	
DISTRIBUTION	DISTRIBUTION	

TOTAL REVENUE AVAILABLE TO DISTRIBUTE

ENTERPRISE DISTRICT

CARSON WATER SUBCONSERVANCY

8,631.00 (8,631.00)

LOCAL GOVERNMENTS

ADJUSTED CARSON CITY

ADJUSTMENT

CARSON CITY

18,372,733.93 18,364,224.62 8,509.31

SPECIAL DISTRICTS

CARSON-TRUCKEE WATER CONSERVANCY

SIERRA FOREST FIRE PROTECTION

23,976.85 23,965.63 11.22
 240,754.22 240,643.74 110.48

TOTAL CARSON CITY

18,637,465.00 18,637,464.99 0.01

Please refer to 'NOTES' page for information and assumptions.

BASE ADJUSTMENT REQUESTS

	THE COUNTY OF CLARK										IMPACT OF COMBINED BASE
	BOULDER CITY	HENDERSON	NORTH LV	ENTERPRISE	PARADISE	SPRING VALLEY	SUMMERLIN	SUNRISE MANOR	WINCHESTER		
	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT		
ENTERPRISE DISTRICT											
KYLE CANYON WATER DISTRICT	0	0	0	0	0	0	0	0	0	0	0
LOCAL GOVERNMENTS											
CLARK COUNTY	(266,360)	(2,138,143)	(2,163,998)	(579,639)	(4,737,222)	(1,469,036)	(3,211)	(3,134,551)	(953,086)	(14,381,006)	0
BOULDER CITY	768,587	(67,170)	(67,725)	(22,214)	(140,460)	(44,428)	(94)	(93,477)	(29,274)	299,551	
HENDERSON	(81,276)	5,463,053	(602,669)	(166,474)	(1,333,958)	(416,239)	(904)	(884,795)	(249,001)	1,568,989	
LAS VEGAS	(220,425)	(1,722,598)	(1,731,248)	(479,953)	(3,813,638)	(1,200,282)	(2,590)	(2,537,469)	(704,193)	(11,602,904)	
MESQUITE	(6,678)	(58,325)	(58,863)	(14,492)	(133,716)	(42,971)	(90)	(90,352)	(28,412)	(404,891)	
NORTH LAS VEGAS	(41,144)	(309,313)	5,795,801	(87,903)	(675,875)	(210,851)	(459)	(451,508)	(129,651)	3,611,304	
BUNKERVILLE	(405)	(3,125)	(3,158)	(876)	(7,117)	(2,185)	(5)	(4,688)	(1,294)	(22,855)	
ENTERPRISE	0	0	0	1,677,913	0	0	0	0	0	1,557,611	
GLENDALE	0	0	0	0	0	0	0	0	0	0	
LAUGHLIN	(4,857)	(44,262)	(44,652)	(10,540)	(97,594)	(33,139)	(66)	(62,755)	(15,524)	(295,097)	
MOAPA VALLEY	(607)	(4,686)	(4,737)	(1,317)	(10,675)	(3,278)	(9)	(7,032)	(1,940)	(37,756)	
PARADISE	(57,872)	(452,004)	(456,081)	(124,206)	12,427,528	(315,001)	(685)	(671,277)	(183,121)	9,639,723	
SEARCHLIGHT	(337)	(2,604)	(2,632)	(732)	(5,931)	(1,821)	(5)	(3,907)	(1,078)	(22,579)	
SPRING VALLEY	(6,475)	(56,762)	(57,284)	(14,053)	(126,061)	4,167,121	(88)	(88,008)	(20,698)	3,515,684	
SUMMERLIN	(67)	(521)	(526)	(146)	(1,186)	(364)	9,119	(781)	(216)	5,311	
SUNRISE MANOR	(7,015)	(60,929)	(61,495)	(15,224)	(141,846)	(44,792)	(95)	8,830,512	(22,423)	7,941,366	
WHITNEY	(540)	(4,167)	(4,211)	(1,171)	(9,489)	(2,913)	(7)	(6,250)	(1,725)	(30,473)	
WINCHESTER	(17,805)	(95,295)	(96,146)	(30,118)	(210,606)	(71,011)	(143)	(142,169)	2,426,084	1,655,289	
SPECIAL DISTRICTS											
BOULDER LIBRARY DISTRICT	(405)	(3,125)	(3,158)	(876)	(7,117)	(2,185)	(5)	(4,688)	(1,294)	(26,328)	
CLARK COUNTY FIRE PROTECTION	(40,469)	(297,343)	(300,019)	(86,439)	(664,014)	(207,209)	(460)	(443,695)	(120,426)	(2,013,361)	
HENDERSON LIBRARY DISTRICT	(1,551)	(11,979)	(12,106)	(3,367)	(27,281)	(8,376)	(21)	(17,970)	(4,959)	(91,083)	
AS VEGAS/CLARK CO LIBRARY DISTRICT	(13,625)	(125,494)	(119,831)	(36,706)	(270,080)	(87,389)	(184)	(177,327)	(50,619)	(825,018)	
MOAPA FIRE PROTECTION	(540)	(4,167)	(4,211)	(1,171)	(9,489)	(2,913)	(7)	(6,250)	(1,725)	(33,946)	
MT CHARLESTON FIRE PROTECTION	(135)	(1,042)	(1,059)	(293)	(2,372)	(728)	(2)	(1,569)	(431)	(7,618)	
TOTAL CHANGE CLARK COUNTY	0	0	0	0	0	0	0	0	0	0	0

THE COUNTY OF DOUGLAS

CAKSON WATER SUBCONSERVANCY DISTRICT
DOUGLAS COUNTY SEWER IMPROVEMENT GID
ELK POINT SANITATION GID
MINDEN/GARDINERVILLE SANITATION GID
TAHOE DOUGLAS SEWER IMPROVEMENT GID

DOUGLAS COUNTY
GARDNERVILLE
GENOA
MILNDEN

SPECIAL DISTRICTS

CARSON-TRUCKEE WATER CONSERVANCY

CAVE ROCK GID

DOUGLAS MOSQUITO PROTECTION GID

EAST FORK FIRE PROTECTION

INDIAN HILLS

KINGSBURY GID

LAKERIDGE GID

LOGAN CREEK, GID

MARLA BAY GID

OLIVER PARK GLE

WOODING HILL GID

SKYLAND GIN

TAHOE DOUGLAS FIRE PROTECTION

TOPAZ RANCH GID

ZEPHYR COVE GID

ZEPHYR HEIGHTS GID

ZEPHYR KNOLLS GID

TOTAL CHANGE DOUGLAS COUNTY

Case No. 66851
JA **2250**

TAXATION/ADMINISTRATIVE SERVICES/1/30/98

PAGE ADJUSTMENT REQUESTS

IMPACT STATEMENT
CARSON WATER SUBCONSERVANCY DISTRICT
BASE ADJUSTMENT REQUEST

	ADJUSTMENT (13)	ORIGINAL (13)	IMPACT OF BASE ADJUSTMENT
THE COUNTY OF LYON	(4) + (12) ESTIMATE FY 98-99	(4) + (12) ESTIMATE FY 98-99	
TOTAL REVENUE AVAILABLE TO DISTRIBUTE	DISTRIBUTION	DISTRIBUTION	ADJUSTMENT
ENTERPRISE DISTRICTS			
CARSON WATER SUBCONSERVANCY DISTRICT	0.00	1,607.11	(1,607.11)
STAGECOACH GID	19,415.59	19,415.59	0.00
WILLOWCREEK GID	2,303.60	2,303.60	0.00
LOCAL GOVERNMENTS			
ADJUSTED LYON COUNTY	8,051,144.24	8,049,722.59	1,421.65
ADJUSTMENT			0.00
LYON COUNTY	234,652.94	234,611.64	41.30
YERINGTON	83,990.85	83,975.59	15.26
FERNLEY			
SPECIAL DISTRICTS			
CARSON-TRUCKEE WATER CONSERVANCY	5,817.02	5,816.06	0.96
CENTRAL LYON FIRE PROTECTION	309,842.60	309,788.44	54.16
MASON VALLEY FIRE PROTECTION	45,623.16	45,615.29	7.87
MASON VALLEY MOSQUITO ABATEMENT	39,964.38	39,957.47	6.91
NORTH LYON FIRE PROTECTION	87,422.65	87,407.22	15.43
SILVER SPRINGS STAGECOACH HOSPITAL	52,199.32	52,190.48	8.84
SMITH VALLEY FIRE PROTECTION	32,491.36	32,485.57	5.79
SOUTH LYON HOSPITAL DISTRICT	165,431.28	165,402.36	28.92
TOTAL LYON COUNTY	9,130,298.99	9,130,299.01	(0.02)

Please refer to 'NOTES' page for information and assumptions.

BASE ADJUSTMENT REQUESTS

IMPACT STATEMENT
AMARGOSA VALLEY LIBRARY DISTRICT
BASE ADJUSTMENT REQUEST

THE COUNTY OF NYE

ADJUSTMENT	ORIGINAL	IMPACT OF BASE ADJUSTMENT
(13)	(13)	
(4) + (12)	(4) + (12)	
ESTIMATE	ESTIMATE	
FY 98-99	FY 98-99	
DISTRIBUTION	DISTRIBUTION	

TOTAL REVENUE AVAILABLE TO DISTRIBUTE

LOCAL GOVERNMENTS
ADJUSTED NYE COUNTY
ADJUSTMENT
NYE COUNTY

GABBS

6,730,504.92	6,732,554.79	(2,049.87)
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54,681.83	54,686.81	(14.98)
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AMERGOSA

BEATTY

MANHATTAN

PAHRUMP

ROUND MOUNTAIN

TONOPAH

64,976.35	64,985.80	(19.45)
219,511.89	219,569.80	(57.91)
3,030.81	3,031.48	(0.67)
437,927.06	438,061.59	(124.53)
149,583.54	149,725.01	(141.47)
186,161.44	186,208.83	(47.39)

SPECIAL DISTRICTS

AMARGOSA LIBRARY DISTRICT

BEATTY LIBRARY DISTRICT

NYE HOSPITAL

PAHRUMP COMMUNITY HOSPITAL

PAHRUMP LIBRARY DISTRICT

PAHRUMP SWIM POOL GID

SMOKY VALLEY LIBRARY DISTRICT

TONOPAH LIBRARY DISTRICT

5,442.39	2,910.32	2,532.07
3,758.60	3,759.50	(0.90)
140,655.24	140,689.67	(34.43)
41,403.62	41,414.57	(10.95)
59,831.88	59,847.76	(15.88)
35,050.63	35,060.03	(9.40)
15,021.55	15,025.35	(3.80)
1,536.23	1,536.68	(0.45)

TOTAL NYE COUNTY

8,149,077.98	8,149,077.99	(0.01)
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Please refer to 'NOTES' page for information and assumptions.

TAXATION/ADMINISTRATIVE SERVICES/1/30/98

BASE ADJUSTMENT REQUESTS

	WASHOE COUNTY IMPACT OF BASE ADJUSTMENT	CITY OF RENO IMPACT OF BASE ADJUSTMENT	TRUCKEE MEADOWS FIRE IMPACT OF BASE ADJUSTMENT	IMPACT OF COMBINED BASE ADJUSTMENTS
ENTERPRISE DISTRICTS				
SUN VALLEY WATER AND SANITATION GID	0	0	0	0
VERDI TELEVISION GID	0	0	0	0
LEMMON VALLEY UNDERGROUND WATER BASIN	0	0	0	0
LOCAL GOVERNMENTS				
ADJUSTED WASHOE COUNTY	0	0	0	0
ADJUSTMENT	0	0	0	0
WASHOE COUNTY	2,038,618	(1,665,861)	(351,241)	45,325
RENO	(1,236,773)	2,301,809	(206,469)	820,609
SPARKS	(513,969)	(407,474)	(85,702)	(970,300)
SPECIAL DISTRICTS				
CARSON-TRUCKEE WATER CONSERVANCY	(3,916)	(3,073)	(634)	(7,944)
INCLINE VILLAGE GID	(28,014)	(22,450)	(4,308)	(53,121)
NORTH LAKE TAHOE FIRE PROTECTION	(78,166)	(61,966)	(12,994)	(147,928)
PALOMINO VALLEY GID	(3,916)	(3,073)	(634)	(7,623)
SIERRA FOREST FIRE PROTECTION	(32,321)	(25,831)	(5,006)	(61,827)
TRUCKEE MEADOWS FIRE PROTECTION	(141,543)	(112,091)	666,977	382,809
TOTAL WASHOE COUNTY	0	0	0	0

BASE ADJUSTMENT RECOMMENDATIONS

	WASHOE COUNTY IMPACT OF BASE ADJUSTMENT	CITY OF RENO IMPACT OF BASE ADJUSTMENT	TRUCKEE MEADOWS FIRE IMPACT OF BASE ADJUSTMENT	IMPACT OF COMBINED BASE ADJUSTMENTS
ENTERPRISE DISTRICTS				
SUN VALLEY WATER AND SANITATION GID	0	0	0	0
VERDI TELEVISION GID	0	0	0	0
LEMMING VALLEY UNDERGROUND WATER BASIN	0	0	0	0
LOCAL GOVERNMENTS				
ADJUSTED WASHOE COUNTY	0	0	0	0
ADJUSTMENT	0	0	0	0
WASHOE COUNTY	0	(1,092,179)	0	(1,092,179)
RENO	0	1,507,889	0	1,507,889
SPARKS	0	(266,769)	0	(266,769)
SPECIAL DISTRICTS				
CARSON-TRUCKEE WATER CONSERVANCY	0	(1,995)	0	(1,995)
INCLINE VILLAGE GID	0	(14,447)	0	(14,447)
NORTH LAKE TAHOE FIRE PROTECTION	0	(40,348)	0	(40,348)
PALOMINO VALLEY GID	0	(1,995)	0	(1,995)
SIERRA FOREST FIRE PROTECTION	0	(16,641)	0	(16,641)
TRUCKEE MEADOWS FIRE PROTECTION	0	(73,517)	0	(73,517)
TOTAL WASHOE COUNTY	0	0	0	0

THE COUNTY OF CLARK	Boulder City	HENDERSON	NORTH LV	ENTERPRISE	PARADISE	SPRING VALLEY	SUMMERLIN	SUNRISE MANOR	WINCHESTER	IMPACT OF COMBINED BASE
	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	IMPACT OF BASE ADJUSTMENT	
ENTERPRISE DISTRICT										
KYLE CANYON WATER DISTRICT	0	0	0	0	0	0	0	0	0	0
LOCAL GOVERNMENTS										
CLARK COUNTY	(100,150)	(1,679,901)	(168,167)	(579,639)	(238,012)	(1,469,036)	(3,211)	(946,591)	0	(5,129,083)
BOULDER CITY	297,392	(48,978)	(4,284)	(22,214)	(6,059)	(44,428)	(94)	(31,234)	(8,877)	143,504
HENDERSON	(33,402)	4,301,350	(48,456)	(166,474)	(65,518)	(416,239)	(904)	(267,939)	(2,780)	3,228,567
LAS VEGAS	(89,440)	(1,380,278)	(139,843)	(479,953)	(195,954)	(1,200,282)	(2,590)	(772,587)	(7,967)	(4,140,268)
MESQUITE	(2,612)	(47,343)	(4,118)	(14,492)	(5,824)	(42,971)	(90)	(30,294)	(276)	(145,175)
NORTH LAS VEGAS	(20,527)	(239,986)	460,165	(87,903)	(36,812)	(210,851)	(459)	(139,255)	(1,411)	(250,259)
BUNKERVILLE	(156)	(2,453)	(250)	(879)	(353)	(2,185)	(5)	(1,409)	(17)	(7,706)
ENTERPRISE	0	0	0	1,877,913	0	0	0	0	0	1,697,767
GLENDAL	0	0	0	0	0	0	0	0	0	0
LAUGHLIN	(1,900)	(36,306)	(2,995)	(10,540)	(4,235)	(33,139)	(69)	(16,907)	(202)	(104,491)
MOAPA VALLEY	(237)	(3,679)	(374)	(1,317)	(529)	(3,278)	(8)	(2,113)	(25)	(11,562)
PARADISE	(19,814)	(355,111)	(31,235)	(124,206)	630,743	(315,001)	(685)	(204,536)	(2,107)	(430,526)
SEARCHLIGHT	(132)	(2,044)	(208)	(732)	(294)	(1,821)	(5)	(1,174)	(14)	(6,423)
SPRING VALLEY	(2,533)	(46,117)	(3,993)	(14,053)	(5,647)	4,167,121	(86)	(22,542)	(269)	3,986,201
SUMMERLIN	(26)	(409)	(42)	(146)	(59)	(384)	9,118	(235)	(3)	7,835
SUNRISE MANOR	(2,744)	(49,387)	(4,326)	(15,224)	(6,118)	(44,792)	(95)	2,683,152	(292)	2,502,432
WHITNEY	(211)	(3,270)	(333)	(1,171)	(471)	(2,919)	(7)	(1,879)	(22)	(10,277)
WINCHESTER	(4,142)	(77,926)	(13,771)	(30,118)	(16,459)	(71,011)	(143)	(43,914)	27,611	(197,532)
SPECIAL DISTRICTS										
BOULDER LIBRARY DISTRICT	(158)	(2,453)	(250)	(878)	(353)	(2,185)	(5)	(1,409)	(17)	(7,708)
CLARK COUNTY FIRE PROTECTION	(13,007)	(235,899)	(27,746)	(86,439)	(36,224)	(207,209)	(450)	(136,906)	(1,383)	(717,309)
HENDERSON LIBRARY DISTRICT	(607)	(9,402)	(957)	(3,367)	(1,353)	(8,376)	(21)	(5,401)	(65)	(29,547)
LAS VEGAS/CLARK CO LIBRARY DISTRICT	(5,329)	(96,321)	(8,402)	(36,706)	(11,882)	(87,399)	(184)	(54,480)	(567)	(295,489)
MOAPA FIRE PROTECTION	(211)	(3,270)	(333)	(1,171)	(471)	(2,913)	(7)	(1,879)	(22)	(10,277)
MT CHARLESTON FIRE PROTECTION	(63)	(818)	(83)	(293)	(118)	(728)	(2)	(470)	(6)	(2,569)
TOTAL CHANGE CLARK COUNTY	0	0	0	0	0	0	0	0	0	0

THE COUNTY OF DOUGLAS

ENTERPRISE DISTRICTS

CARSON WATER SUBCONSERVANCY DISTRICT
DOUGLAS COUNTY SEWER IMPROVEMENT GID
ELK POINT SANITATION GID
MINDEN/GARDNERVILLE SANITATION GID
TAHOE DOUGLAS SEWER IMPROVEMENT GID

LOCAL GOVERNMENTS

DOUGLAS COUNTY
GARDNERVILLE
GENOA
MINDEN

SPECIAL DISTRICTS

CARSON-TRUCKEE WATER CONSERVANCY
CAVE ROCK GID
DOUGLAS MOSQUITO PROTECTION GID
EAST FORK FIRE PROTECTION
GARDNERVILLE RANCHOS GID
INDIAN HILLS GID
KINGSBURY GID
LAKE RIDGE GID
LOGAN CREEK GID
MARLA BAY GID
OLIVER PARK GID
ROUND HILL GID
SIERRA FOREST FIRE PROTECTION
SKYLAND GID
TAHOE DOUGLAS FIRE PROTECTION
TOPAZ RANCH GID
ZEPHYR COVE GID
ZEPHYR HEIGHTS GID
ZEPHYR KNOLLS GID

TOTAL CHANGE DOUGLAS COUNTY

	CARSON WATER IMPACT OF BASE ADJUSTMENT	CAVE ROCK IMPACT OF BASE ADJUSTMENT	ELK POINT IMPACT OF BASE ADJUSTMENT	LAKE RIDGE IMPACT OF BASE ADJUSTMENT	OLIVER PARK IMPACT OF BASE ADJUSTMENT	ZEPHYR KNOLLS IMPACT OF BASE ADJUSTMENT	IMPACT OF COMBINED BASE ADJUSTMENTS
	(4,149)	0	0	0	0	0	(4,149)
	0	0	0	0	0	0	0
	0	0	0	0	0	0	0
	0	0	0	0	0	0	0
	0	0	0	0	0	0	0
	0	0	0	0	0	0	0
	2,358	(1,242)	0	0	0	0	1,116
	58	(27)	0	0	0	0	31
	3	(1)	0	0	0	0	1
	76	(35)	0	0	0	0	41
	5	(2)	0	0	0	0	3
	4	2,069	0	0	0	0	2,073
	28	(13)	0	0	0	0	15
	292	(135)	0	0	0	0	157
	160	(74)	0	0	0	0	86
	62	(29)	0	0	0	0	33
	109	(51)	0	0	0	0	58
	3	(2)	0	0	0	0	2
	2	(1)	0	0	0	0	1
	11	(5)	0	0	0	0	6
	4	(2)	0	0	0	0	2
	77	(36)	0	0	0	0	41
	57	(26)	0	0	0	0	31
	15	(7)	0	0	0	0	8
	789	(365)	0	0	0	0	424
	14	(6)	0	0	0	0	7
	5	(3)	0	0	0	0	3
	18	(8)	0	0	0	0	10
	1	0	0	0	0	0	0
	0	0	0	0	0	0	0

TAXATION/ADMINISTRATIVE SERVICES/1/30/98

EXHIBIT 3

EXHIBIT 3

Case No. 66851
JA 2258

1 IN THE FIRST JUDICIAL DISTRICT COURT
2 OF THE STATE OF NEVADA IN AND FOR CARSON CITY

3 CITY OF FERNLEY, NEVADA, a)
4 Nevada municipal)
corporation,)

Certified Copy

5 Plaintiff,)

6 vs.)

Case No.
12 OC 00168 1B

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

11 Defendants,)

12 NEVADA LEGISLATURE,)

13 Intervenor.)

14

15

16 DEPOSITION OF GUY HOBBS

17 Taken on Tuesday, December 17, 2013

18 At 9:35 a.m.

19 At 100 North City Parkway

20 Suite 1600

21 Las Vegas, Nevada

22

23

24 Reported by: Marilyn Speciale, CRR, RPR, CCR #749

25 Job No. 8315

1 just said there has been significant changes in the
2 state all over the place, correct?

3 A. Correct.

4 Q. How does the formula, how does the C-Tax
5 correlate for significant changes in areas in relation
6 to the money they get from the C-Tax, their base, all
7 these kind of issues?

8 A. And I would take you back for a moment, if I
9 could, to a couple of the other objectives that were set
10 forth in '97, if you don't mind.

11 Q. No, that would be fine.

12 A. One of them that I remember having a
13 significant amount of discussion, and this was more the
14 legislature side of things than it was the technical
15 folks, but one of those initial objectives was to -- I'm
16 trying to remember the exact wording of it -- but to
17 reduce competition among local governments and to
18 encourage cooperation. I may have some of the words
19 wrong, but I think the intent is fair.

20 Q. Right.

21 A. Now, what I take that to mean is you had a lot
22 of gamesmanship over the years between local
23 governments. If revenues that were distributed on the
24 basis of population were, for example, on your mind and
25 you wanted more of those revenues, probably the best way

1 to do it is go out and get some more population. How
2 can you go get some more population? Well, there's
3 natural growth, but there is also annexations and
4 takings, right?

5 Q. Right.

6 A. That creates a lot of local upheaval when
7 those kinds of things happen.

8 Down here, the city of Las Vegas for many,
9 many years certainly would have, I think, enjoyed the
10 opportunity to annex Las Vegas Boulevard. There is good
11 assessed valuation there. Since assessed valuation
12 drove some of the formulas, that would have been a
13 brilliant windfall.

14 Entities, when they looked at this kind of
15 thing, they preferred to pick up areas with high
16 concentrations of commercial assessed valuation and low
17 concentrations of residential assessed value because
18 commercial requires less service, produces more revenue.

19 So you had a lot of gamesmanship going on that
20 was counterproductive in a lot of folks' minds to the
21 delivery of overall services. So that objective was
22 meant to address that particular shortcoming in a lot of
23 people's minds in the way the system was working.

24 So while there may have been also an objective
25 to move more revenue over time to areas with growth,

1 there was a competing objective to reduce competition
2 among local governments.

3 Q. Okay. And how did they go about doing that
4 with the C-Tax formula?

5 A. Well, once the bases were all set -- in the
6 base year, a hundred percent of the revenue was a part
7 of the base. So there wasn't any excess revenue, and
8 I'm sure you've heard those terms by now, right?

9 Q. Right, absolutely.

10 A. As the years went on, you know, and you rolled
11 your base up from year to year, the actual revenue
12 production from those six revenues would exceed the
13 combination of all of the bases. So there would be a
14 certain amount of excess then to distribute according to
15 what you can see are somewhat complicated formulas.

16 Q. Okay.

17 A. The channeling of that excess, because it was
18 largely based on growth and population and assessed
19 value once again, you could argue that at least the
20 excess was being moved more to those areas that were
21 experiencing more rapid growth. So have you satisfied
22 that objective? In a way.

23 Q. Okay.

24 A. At the same time, by not allowing -- by not
25 necessarily allowing for a new local government, if you

1 will, to come in and grab local government revenue --
2 I'm trying to think how to word this. All this is
3 difficult to word. By getting rid of that incentive to
4 do the annexations and things like that and create new
5 entities for the sake of just securing revenue, you've
6 probably achieved the other goal as well.

7 Q. Okay.

8 A. Now, were those two goals maybe contrary to
9 one another? Probably so, probably so, but I believe
10 that was the intent.

11 Q. So in relation to the development of new
12 entities, for example, a newly incorporated city, was
13 the purpose of the C-Tax to discourage or try to prevent
14 new incorporated cities from entering into the system?

15 A. I wouldn't go so far as to say discourage.
16 There was certainly an awareness that some may have been
17 out there to do that just to get the revenue grabs.

18 Q. Okay.

19 A. However, if there was something legitimate --
20 because I do recall the initial incarnation of all of
21 this, including a couple of different things; one, your
22 ability to appeal your base to the Department of
23 Taxation through the Committee on Local Government
24 Finance and some other group. So you could go in and
25 make an appeal and, depending upon ~~the merit of the~~

1 appeal, change your base. So that was available for a
2 new entity to do.

3 The other thing is that -- and this was one I
4 thought was particularly important -- that on the second
5 tier of the revenue distribution, that to the extent
6 that two or more of the local governments felt that they
7 should share revenue in a manner different than what the
8 formula prescribed, they could do that. They simply
9 needed to file something with the Department of
10 Taxation, and they could deviate from it.

11 So in -- and I believe that's actually been
12 done. I know that was done in Clark County between
13 Mesquite and the cities and the county. I know that's
14 been used --

15 Q. Okay.

16 A. -- and it was something that potentially could
17 have been, if not for other political features,
18 something that possibly could have been used in --
19 that's Lyon County, right?

20 Q. Yes.

21 A. That possibly could have been used there. I
22 understand why it may not have been, but it was an
23 available tool.

24 Q. Explain that to me. How could it have been
25 used, and what is your understanding of why it wasn't

1 outcome of that would be.

2 Q. What do you mean by that?

3 A. If I choose at that point -- again, whether
4 this is Fernley or any other entity in the state, I know
5 I have to -- to get an increased base, I have to go to
6 the Department of Taxation through the Committee on
7 Local Government Finance and do all of my presentations
8 about why I warrant that. The outcome of that is
9 uncertain.

10 Q. Okay.

11 A. Or that, you know, failing that, I need to go
12 to the legislature and get some other adjustment to my
13 base, the outcome of which is uncertain.

14 So in making the decision to form a new
15 entity, there probably was recognition, I would think,
16 on their part that the outcome would be uncertain.

17 Q. Right, but weren't there requirements on newly
18 incorporated entities in order to participate in the
19 system?

20 A. There were. In fact, that was one of the
21 other things that either was an objective or a guiding
22 principle is that for a new entity to be considered for
23 distribution, it had to perform -- I believe it listed
24 police, fire, roads and maybe parks and recreation. It
25 had to perform two or more of those, as I recall,

1 services, which certainly Fernley would have been
2 eligible under as far as I understand.

3 Q. Well, and why -- why were those requirements
4 put on the newly incorporated new entities as opposed to
5 any of the existing entities when this formula was put
6 together?

7 A. Because there was -- and I do recall some of
8 this discussion. There was fear that an entity would
9 form that did no service, simply to grab revenue.

10 Q. So if you were an existing entity at the time
11 that the formula was instituted, those requirements
12 weren't put on you, but if you were a newly incorporated
13 entity that wanted to join the system, you had some
14 requirements that were put on you.

15 A. True.

16 Q. So you were treated differently.

17 A. To an extent, you were treated differently,
18 and to say how differently, you would have to go back
19 and look at all of the list of recipient entities and
20 what services they actually provided.

21 Q. Did you guys do that at the time when you were
22 instituting the formula?

23 A. We did, and that -- I believe that had
24 something to do with it being one or more versus two or
25 more versus three or more of those services.

CERTIFICATE OF REPORTER

1
2 STATE OF NEVADA)
3) ss.
4 COUNTY OF CLARK)

5 I, Marilyn Speciale, a duly certified court
6 reporter licensed in and for the State of Nevada, do
7 hereby certify:

8 That I reported the taking of the deposition
9 of the witness, GUY HOBBS, at the time and place
10 aforesaid;

11 That prior to being examined, the witness was
12 by me duly sworn to testify to the truth, the whole
13 truth, and nothing but the truth;

14 That I thereafter transcribed my shorthand
15 notes into typewriting and that the typewritten
16 transcript of said deposition is a complete, true and
17 accurate record of testimony provided by the witness at
18 said time to the best of my ability.

19 I further certify (1) that I am not a
20 relative, employee or independent contractor of counsel
21 of any of the parties; nor a relative, employee or
22 independent contractor of the parties involved in said
23 action; nor a person financially interested in the
24 action; nor do I have any other relationship with any of
25 the parties or with counsel of any of the parties
involved in the action that may reasonably cause my
impartiality to be questioned; and (2) that transcript
review pursuant to NRCP 30(e) was requested.

IN WITNESS WHEREOF, I have hereunto set my
hand in County of Clark, State of Nevada, this 31st
day of December, 2013.



MARILYN L. SPECIALE, CRR, RPR, CCR#749

EXHIBIT 4

EXHIBIT 4

Case No. 66851
JA 2269

1 IN THE FIRST JUDICIAL DISTRICT COURT
2 OF THE STATE OF NEVADA
3 IN AND FOR THE COUNTY OF CARSON CITY
4 -o0o-
5

6 CITY OF FERNLEY, NEVADA,
7 a Nevada municipal corporation, **CERTIFIED COPY**
8 Plaintiff, Case No. 12 OC 00168 1B
9 vs. Dept. No. I

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

17 Defendants.
18
19 _____/

20 Pages 1 to 153, inclusive.
21
22

23 **DEPOSITION OF MARIAN HENDERSON**
24
25 _____

26 Wednesday, November 13, 2013
27 Carson City, Nevada

28 REPORTED BY: CHRISTINA AMUNDSON
29 CCR #641 (Nevada)
30 CSR #11883 (California)

1 A I'm not aware.

2 Q Okay. Who would be aware?

3 MS. NICHOLS: I'll object that calls for
4 speculation.

5 THE WITNESS: I don't know.

6 BY MR. VELLIS:

7 Q Okay. So as you sit here today speaking on
8 behalf of the Department of Taxation, do you have any
9 understanding about any testimony that was given as to why
10 they were implementing this system as opposed to using the
11 old system of distribution?

12 MS. NICHOLS: Objection. Calls for speculation.
13 That's also a matter of public record.

14 BY MR. VELLIS:

15 Q You can answer the question.

16 A I have no knowledge.

17 Q So when you do your allocations on a yearly
18 basis to the counties and to the local governments, cities
19 and towns, you simply administer the law the way it's
20 written by the formulas that you're given?

21 A I'm not sure what you mean by the formulas that
22 I'm given, but I administer it according to statute.

23 Q Okay. And as to what the intent and purpose of
24 the law is, that's something you don't have any knowledge
25 of as to what it is it's trying to accomplish with the way

1 it's distributed?

2 MS. NICHOLS: Objection. Assumes facts, calls
3 for speculation and argumentative. You can answer, if you
4 know, or you can even ask her to repeat the question.

5 THE WITNESS: I don't know.

6 BY MR. VELLIS:

7 Q Okay. Well, you don't know whether or not there
8 was some reason about why those state legislators decided
9 to consolidate these six taxes and administer them the way
10 they do under the C-Tax, do you?

11 MS. NICHOLS: Objection. Asked and answered.

12 THE WITNESS: I don't know.

13 BY MR. VELLIS:

14 Q You don't know why that's done?

15 A No.

16 Q And so when you were administering this C-Tax,
17 if there was a specific reason about what they were trying
18 to accomplish with the C-Tax, that's of no import to you
19 whatsoever?

20 A It's irrelevant.

21 Q Okay. You just do what the statute says?

22 A Yes.

23 MR. VELLIS: Okay. We'll take a break.

24 (Recess taken.)

25 BY MR. VELLIS:

1 state legislature?

2 A Certainly the executive director, Christopher
3 Neilsen.

4 Q Okay. So Topic No. 1, if we were talking
5 about -- and if you have that in front of you, you can
6 look at it. It's the local government tax distribution
7 account, or C-Tax system, and the collection and
8 distribution of taxes created pursuant to and defined by
9 NRS 360.660. And I know you have a qualm with that
10 number, but let's accept that it's the C-Tax.

11 When you're administering that, you do it based
12 on what the statute tells you to do.

13 A Yes.

14 Q You're not making any kind of value judgments
15 about whether what's going on is correct in your mind or
16 wrong or somebody's getting too much money or somebody's
17 not getting enough money or anything of that nature?

18 A No.

19 Q That's for somebody else to do?

20 A Yes.

21 Q Okay. So the Department of Taxation just simply
22 is administering this and that's it?

23 A Yes.

24 Q Okay. Does the Department of Taxation provide
25 any type of advice of any sort to the recipients regarding

1 the numbers they're getting or how they're getting the
2 numbers or the changes in the numbers that they're getting
3 on a yearly basis?

4 A Any of that sort of communication is handled
5 through Terry Rubald's group.

6 Q Okay. So if I want to talk to somebody about
7 interaction with the local counties or the counties or
8 something like that about the C-Tax, Terry is the person
9 to talk to?

10 A Yes.

11 Q Okay. And I'm going to get an objection, but
12 I'll ask you a really broad question because I'm hoping we
13 can short-circuit some of this.

14 Is it fair to say that the job that you do is
15 simply the technical aspects of taking what the statute
16 tells you to do, compiling the numbers and making sure the
17 numbers are disbursed per whatever formulas are out there
18 for the C-Tax?

19 A Yes.

20 Q Okay. And absent that, any kind of interaction
21 with the state legislature or looking at the purposes
22 behind what the C-Tax is supposed to do or anything that,
23 questions like that, I would have to ask somebody else at
24 the Department of Taxation?

25 A I provide information, statistical information

1 Q Right. And when you say they didn't take
2 advantage, what do you mean?

3 A They did not ask for an adjustment in their
4 C-Tax revenues, their base, or any aspects of their C-Tax
5 when they were incorporated.

6 Q And in administering this -- and I'm not asking
7 you legally but factually -- do you understand what the
8 requirements are under NRS 360.740 in order for a newly
9 incorporated city to obtain a change in their C-Tax base?

10 MS. NICHOLS: Objection. Calls for a legal
11 conclusion.

12 BY MR. VELLIS:

13 Q You're administering this thing so I want to
14 know if you have an understanding of what goes on if they
15 ask for it.

16 A I have an understanding.

17 Q Okay. Tell me what your understanding is.

18 A For a newly formed government?

19 Q Yes. In this case Fernley. Let's take Fernley.
20 It was a government that existed but became incorporated.
21 And you said, I believe, one of the reasons they weren't
22 getting a change in their base is because they didn't take
23 advantage of the provisions of NRS 360, which provided to
24 a newly incorporated town.

25 I'm asking you, What is your understanding of

1 what it was they needed to do in order to take advantage
2 of that to get a change in their base?

3 MS. NICHOLS: Do you mean newly incorporated
4 city?

5 MR. VELLIS: Yes.

6 THE WITNESS: That they had to go through the
7 process that we discussed. They needed to apply to the
8 Department of Taxation. They needed to ask.

9 BY MR. VELLIS:

10 Q Okay. And they never asked under that
11 provision?

12 A No, they did not.

13 Q And do you have an understanding of what is
14 required in that provision for them in order to get a
15 change or to ask for a change?

16 A I'm familiar with it.

17 MS. NICHOLS: Objection. Calls for a legal
18 conclusion.

19 BY MR. VELLIS:

20 Q Trust me, I don't want to know anything legally
21 that you think about this, okay? I just want to know
22 factually what you think.

23 So I'm just asking you factually your
24 understanding of what it is they would have to have in
25 order to meet the requirements of NRS 367.40 in order to

1 get a change in their base.

2 A Yes, I have an understanding of that.

3 Q Okay. And what is your understanding?

4 A As a newly formed local government, they need to
5 apply, they need to ask.

6 Q Okay. That's it?

7 A There are other provisions in that statute.
8 Taking on services is one of them. They have to take on
9 Police or Fire and at least two other services, Animal
10 Control, Parks and Recreation.

11 Q Okay. And that's your understanding?

12 A Yes.

13 Q Okay. When I say "you," that's the Department
14 of Taxation. That's your understanding?

15 A Yes.

16 Q Okay. When the original bases were set for
17 local towns, cities, local governments, was there any
18 requirement that any of them have these specific services
19 that are now listed for newly formed governmental
20 entities?

21 A I'm not aware that there were any.

22 Q Okay. So if I was a city that was participating
23 in the program and received money prior to the C-Tax and
24 then got a base through the C-Tax, there was no
25 requirement that I have a police department or a fire

CERTIFICATE OF WITNESS

I hereby certify under penalty of perjury that
have read the foregoing deposition, made the changes and
corrections that I deem necessary, and approve the same a
now true and correct.

Dated this 9th day of December, 2013.

Marian Henderson

MARIAN HENDERSON

-o0o-

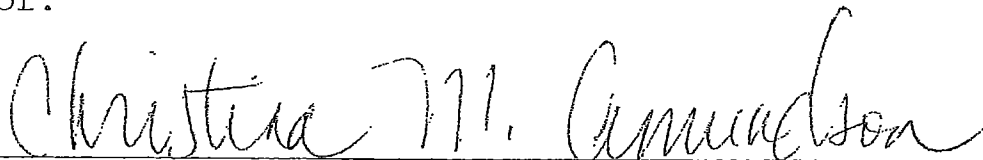
1	CHANGES/CORRECTIONS/NOTES		
2	PAGE	LINE	
3	<u>41</u>	<u>8</u>	"RBIT" should be "RPTT"
4	<u>54</u>	<u>1</u>	"SB-254 Committee" should be "Subcommittee
5	<u> </u>	<u> </u>	from the Senate Concurrent Resolution (S.C.R.) 40
6	<u> </u>	<u> </u>	of the Sixty-eighth Session" here and in all other
7	<u> </u>	<u> </u>	references to the "SB-254 Committee" in my
8	<u> </u>	<u> </u>	testimony.
9	<u>59</u>	<u>16</u>	"basis" should be "base"
10	<u>87</u>	<u>6</u>	"Allastoy" should be "Alastuey"
11	<u>101</u>	<u>25</u>	"367.40" should be "360.740"
12	<u>103</u>	<u>25</u>	"367.40" should be "360.740"
13	<u>104</u>	<u>9 8-10</u> <u>and</u>	should be "Police and at least two other services,
14	<u> </u>	<u> </u>	Fire, Road Maintenance or Parks and Recreation.
15	<u>108</u>	<u>12</u>	"Gransberry" should be "Gransbery"
16	<u>121</u>	<u>5</u>	"has to has" should be "has to have"
17	<u> </u>	<u> </u>	
18	<u> </u>	<u> </u>	
19	<u> </u>	<u> </u>	
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25	<u> </u>	<u> </u>	

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)
4

5 I, CHRISTINA MARIE AMUNDSON, a Certified Court
6 Reporter in and for the States of Nevada and California do
7 hereby certify:

8 That I was personally present for the purpose of
9 acting as Certified Court Reporter in the matter entitled
10 herein; that the witness was by me duly sworn;

11 That said transcript which appears hereinbefore was
12 taken in verbatim stenotype notes by me and thereafter
13 transcribed into typewriting as herein appears to the best
14 of my knowledge, skill, and ability and is a true record
15 thereof.

16 
17

18 Christina Marie Amundson, CCR #641 (NV), CSR #11883, (CA)

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