

**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.

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Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

**JOINT APPENDIX**

**VOLUME 18 PART 1**

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Nevada tax commission to issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

Sec. 37.5. Adds an appropriation of \$137,814 for fiscal year 1997-1998 and an appropriation of \$127,200 for fiscal year 1998-1999 for the costs associated with the implementation of the bill. Provides that any balance of the sums appropriated reverts to the state general fund.

Sec. 38. Effective dates. Sections 1 to 7, inclusive, 12, 25, 13, 37 and 37.5 become effective upon passage and approval. All others become effective on July 1, 1998.

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

**Sixty-ninth Session  
May 5, 1997**

The Senate Committee on Government Affairs was called to order by Chairman Ann O'Connell, at 2:12 p.m., on Monday, May 5, 1997, in Room 2149 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

**COMMITTEE MEMBERS PRESENT:**

Senator Ann O'Connell, Chairman  
Senator William J. Raggio, Vice Chairman  
Senator William R. O'Donnell  
Senator Raymond C. Shaffer  
Senator Dina Titus  
Senator Michael A. (Mike) Schneider

**COMMITTEE MEMBERS ABSENT:**

Senator Jon C. Porter (Excused)

**STAFF MEMBERS PRESENT:**

Dana R. Bennett, Committee Policy Analyst  
Kim Marsh Guinasso, Committee Counsel  
Deborah A. Riggs, Committee Secretary

**OTHERS PRESENT:**

Randal R. Munn, Deputy Attorney General, Civil Division, Office of the Attorney General  
Mary E. Henderson, Lobbyist, Washoe County  
Mike Harper, Washoe County  
Irene E. Porter, Lobbyist, Builders Association of Western Nevada  
Noel E. Manuokian, Lobbyist, General Counsel, Incline Village General Improvement District  
Patrick Finnigan, General Manager, Incline Village General Improvement District  
Marvin Leavitt, Lobbyist, Director, Intergovernment/Community Relations and Policy Research, City of Las Vegas  
Mary C. Walker, Lobbyist, Director, Finance/Redevelopment, Carson City

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Senator O'Donnell voiced it was important to obtain information on the length of time each agency took for turnaround. He also indicated the amount of money expended for expedited turnaround would be an important measurement of the situation.

The chairman closed the hearing on S.B. 321 and S.B. 322. She indicated Noel E. Manoukian, Lobbyist, General Counsel, Incline Village General Improvement District (IVGID), requested the ability to address the committee regarding concerns expressed in correspondence to Senator O'Connell. The chairman requested Mr. Manoukian explain why the Incline Village General Improvement District should be treated like a city or a county government and the reason taxpayers should continue to pay for special-purpose districts in the manner which occurred in error over the last 18 years. \*

Mr. Manoukian introduced Patrick Finnigan, General Manager, Incline Village General Improvement District (IVGID). Mr. Manoukian asserted without attempting to discriminate against governmental entities, there was a real basis for distinction between the governments situated within the Lake Tahoe Basin with the Tahoe Regional Planning Agency's (TRPA) presence there. He maintained there was a natural stunting of growth by virtue of the use of the TRPA's regulatory powers. Also, since the early 1970s when Governor O'Callaghan, by executive order, implemented an Environmental Protection Agency federal order and mandate, all sewage must be exported out of the basin at tremendous expense to those little governments within the basin that have the responsibility of exporting sewage out of the basin, Mr. Manoukian expounded.

Mr. Manoukian contended laws must be uniform under the United States Constitution. Chairman O'Connell inquired the exact problem the IVGID had with the legislation, as the district was held harmless and would be receiving the same revenue base. Mr. Manoukian emphasized he was not only representing IVGID, but other governments who might be inflicted and impaired by the proposed formula change in Senate Bill (S.B.) 254.

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

Chairman O'Connell insisted the IVGID was the only government which had expressed dissatisfaction and pointed out for 18 months, the subcommittee

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from the Senate Concurrent Resolution (S.C.R.) 40 of the Sixty-eighth Session study worked with all 17 counties and there were no complaints from the other parties. The chairman inquired whether there was someone [with a legitimate issue] of which the subcommittee was unaware.

SENATE CONCURRENT RESOLUTION 40

OF THE SIXTY-EIGHTH SESSION:

Directs Legislative Commission to conduct interim study of laws relating to distribution among local governments of revenue from state and local taxes.

Mr. Manoukian acknowledged early on and during the interim between the 1995 and 1997 legislative sessions, there were a number of other entities under representation. He asserted IVGID was one of the "ballcarriers" at this point and acknowledged IVGID was not adversely affected. Mr. Manoukian expressed concern regarding future amendments, questioning whether it was the interest of the legislative body to distinguish related general improvement districts in an adverse way in comparison to cities and counties.

Chairman O'Connell maintained the whole formula was related to services and money, something the Supplemental City County Relief Tax (SCCRT) financed. She drew attention to one of the points in correspondence from Mr. Manoukian which addressed a new taxing unit connected to the water district. Chairman O'Connell stated the new taxing unit was a separate issue, having little or nothing to do with the SCCRT. The chairman stressed the determination of the study was county and city governments had to provide a level of service for the population groups they support. An enterprise district did not have the same responsibility, she remarked. Senator O'Connell pointed out only 40 percent of enterprise districts received any SCCRT, the other 60 percent did not receive any of the distribution. However, the chairman emphasized, 100 percent of the population were paying for enterprise districts and were not receiving the benefit of services. Chairman O'Connell explained that to be one of the critical issues of concern to the cities and counties. The chairman declared a person on one side of the street was paying 100 percent of their cost and was also paying for the person across the street in an enterprise district, who was having his/her services subsidized.

Mr. Finnigan indicated IVGID opposed the bill because it was discriminatory toward smaller governments which were more limited in function than counties and cities, which were more general in function. He expressed support for the underlying premise of the bill, which directed governmental revenues from SCCRT taxation to the governmental functions which all governments perform, whether the governments were small, general improvement districts, counties, or cities. Mr. Finnigan explained the only general improvement district with problems with the bill was the Sun Valley General Improvement District (Sun Valley GID). Chairman O'Connell pointed out the Sun Valley GID did not have problems with the bill as amended. The amendment provided the Department of Taxation the ability to differentiate between who should be sharing in the SCCRT and what was truly an enterprise district.

Mr. Finnigan expounded enterprise functions of government should be self-supporting, intimating all enterprise functions should be required to be self-sufficient in governments across the board. He declared governments such as Washoe and Clark counties supported enterprise-type functions with SCCRT revenues. Depending upon the manner in which responsibilities were accounted, specific enterprise-type functions could be disguised as governmental functions, Mr. Finnigan alleged. Those governments capable of disguising functions could receive more revenues from the bill than those governments incapable of the same disguise. Mr. Finnigan advocated the adoption of a uniform method of accounting for governmental functions in order to ascertain which functions of government were worthy of governmental revenue. Once the uniform accounting method was devised, a mechanism should be developed to allocate to all governments on the basis of their governmental functions, rather than enterprise versus non-enterprise, he testified.

Chairman O'Connell expounded Mr. Finnigan had the opportunity to speak with Guy S. Hobbs (Lobbyist, Nevada Association of Counties), who informed Mr. Finnigan hundreds of formulas were run by the S.C.R. 40 of the Sixty-eighth Session technical committee, and the formula suggested by Mr. Finnigan was one which was run. Mr. Finnigan agreed Mr. Hobbs did notify him his suggestion had been considered by the technical committee. Again, Mr. Finnigan summarized many of the northern Nevada and Lake Tahoe Basin general improvement districts supported the underlying philosophy of the legislation. They opposed the legislation due to the discriminatory treatment of small general-purpose governments.

Chairman O'Connell pointed out the premise if the small government had the responsibility of the larger governments who were constantly running short of money, it was simply not a thing which could be afforded. The chairman emphasized the premise of having one taxpayer subsidize another taxpayer for a benefit they did not receive was unfair. She expounded if a specific standard and quality of life was chosen by a taxpayer, the taxpayer ought to be responsible for paying for the specified standard. Chairman O'Connell drew attention to the person down the street who did not feel compelled to compromise his/her standard of living to pay for another person's standard of living. The chairman stated that was the bottom line to this issue.

Marvin Leavitt, Lobbyist, Director, Intergovernment/Community Relations and Policy Research, City of Las Vegas, explained the bill and amendments contained several factors which would assess local governments, depending upon the situation of the local government (Exhibit C and Exhibit D). Mr. Leavitt expressed the SCCRT changes from year to year were based on the alteration in assessed valuation. Under the new formula, all governments were guaranteed additional money, which was not the guarantee previously, he stressed. Mr. Leavitt addressed the type of governments in the state were divided in the bill, not by size, but by the type of function performed. He outlined the bill divided entities into general-purpose governments: counties, cities and towns, and special-purpose governments: enterprise funds, and general improvement districts, which provided a more specialized function than the cities, counties and towns.

Mr. Leavitt clarified the bill stated general-purpose governments who could make a determination between the type of expenditures from year to year had advantages over other districts which were special purpose. He exemplified \$10,000 devoted to a certain area would be devoted to that specific area forever, essentially, without consideration to what might be more deserving in the current year. Conversely, the witness expressed, general-purpose governments determined whether police, fire, planning, building, street lights or parks would receive funding on an annual basis, in conjunction with the needs of the community. In a special-purpose government, limited functions were provided, and there was no doubt where the money would be allocated. In other words, there was no way elected governing boards could switch and allocate funding between different functions in a year, Mr. Leavitt noted. He explained Carole A. Vilardo, Lobbyist, Nevada Taxpayers Association, contended there ought to be a periodic review to ensure the special-purpose government was still necessary. Mr. Leavitt commented the enterprise districts were

governments who performed no functions other than the enterprise function. Most of them performed a single enterprise function, he added. Mr. Leavitt remarked there was an amended ability in the bill for the executive director of the Department of Taxation to review enterprise districts to ascertain whether governments were true enterprise functions. This would ensure those who perform general-governmental functions were not classified incorrectly, he opined. Mr. Leavitt recognized the general thought was one should not be completing an enterprise function with SCCRT revenue.

Ms. Henderson indicated she was the cochairman of the ongoing committee defining special districts and enterprise districts. As was stated in previous committee meetings, Ms. Henderson admonished the work still was not done. There were many special district areas in need of examination, in terms of special districts, their function and how they were funded, she explained. Ms. Henderson expressed there was a survey without results as yet, and there were several areas where the committee defining special and enterprise districts felt so strongly, there was a companion bill, Senate Bill (S.B.) 253 which also included a special districts representative be added to the technical advisory committee. Ms. Henderson pointed out the importance of the opinions and concerns of special and enterprise districts and advocated the passage of S.B. 253.

SENATE BILL 253: Creates legislative committee to study distribution among local governments of revenue from state and local taxes. (BDR 17-193)

On the issue of enterprise districts, Ms. Henderson conveyed the nature of the issue was very troublesome to the technical advisory committee. She requested the record reflect Washoe County was the only county with an enterprise fund which was funded by General Fund tax dollars. Ms. Henderson emphasized Washoe County contained an enterprise district which was in the same situation as the other districts and expounded the technical advisory committee made every concerted attempt to treat all enterprise and special districts in an equitable manner, despite protestations to the contrary. The intent of the technical advisory committee was always to deal with the funding issues openly and as an issue of public policy in the procedure for continued funding, she maintained. Ms. Henderson again reiterated the technical advisory committee strongly supported the amendment provision in the bill which allowed for an alternative distribution formula in recognition of unique situations. Ms.



Henderson pointed out the unique services provided by Sun Valley GID, which would allow the county to negotiate with the GID to uphold the service level.

Mary C. Walker, Lobbyist, Director, Finance/Redevelopment, Carson City, drew attention to the crux of the testimony provided in opposition to the distribution formula in S.B. 254. Ms. Walker maintained several parties have insinuated there would be a loss in revenue, which was not the case. No entity loses dollars, she asserted.

Ms. Walker pointed out the SCCRT distribution provided to enterprise districts established prior to 1981 when the tax shift occurred. She questioned the fairness of providing 40 percent of the enterprise districts with a portion of the SCCRT, while 60 percent were not allowed the same benefit. Additionally, Ms. Walker explained, one of the goals of the technical advisory committee was to ensure there was sense and equity in the tax formula and not just a sealing of where a district stood at a certain point in time. She expressed the desire to rid the system of the ramifications of the 1981 tax shift that did not relate to servicing the public.

In a few instances in the state, the enterprise district actually subsidized the General Fund, Ms. Walker insisted. She stated as far as equal treatment, the enterprises were treated equally with the other enterprises established. Additionally, Sierra Pacific Power Company handled most of the water-user services provided in Washoe County and did not receive a taxpayers subsidy, which was an equity, Ms. Walker opined. Equity on the taxpayer-to-taxpayer aspect was the goal of the technical advisory committee, she concluded.

Senator O'Donnell stated IVGID was a part of Washoe County and noted it seemed IVGID was left "out of the loop" in this process. The senator expressed Incline Village was a nice place to live, but stressed it seemed Incline Village did not get the same consideration Washoe County received over and over again.

Ms. Henderson contended generally, the county did a fairly good job of handling and working with Incline Village issues and being sensitive to their needs and participating with that community. She maintained Incline Village was a very vital piece of Washoe County and a piece that none of Washoe County, from the heart, wanted to lose. Ms. Henderson pointed out ~~the group was not isolated from Washoe County government~~. Specifically, Ms. Henderson testified Washoe County was aware of the service IVGID provided at Lake Tahoe and remarked she had been supportive throughout the entire process, had tried to

include IVGID by traveling to Lake Tahoe at the request of the chairman to meet with the group from the special districts, tried to explain and help them to understand. There were several advisory committee meetings in northern Nevada, the special districts were invited to all of those meetings, and there were representatives in Carson City when the meetings were held at the Legislative Building, Ms. Henderson declared. She expounded there was never an interim committee which tried, as hard as the S.C.R. 40 of the Sixty-eighth Session committee tried, to include every interested party. Ms. Henderson insisted the special districts were given ample opportunity to have their concerns addressed and heard.

Senator O'Donnell elucidated therein lied the problem. The senator explained it was as though there had been this adversarial or duality of governmental entities, when, in reality, Washoe County was Incline Village. Ms. Henderson maintained if Senator O'Donnell had viewed the testimony throughout the S.C.R. 40 of the Sixty-eighth Session technical committee hearings, he would have seen she had been a consistent advocate, bringing the issue of the special districts to the table time and time again, not just IVGID, but all the special districts.

Chairman O'Connell stressed it would be helpful for Senator O'Donnell to understand there were 17 counties. During one meeting, 3 hours were dedicated to nothing but trying to address the concerns of Douglas County and Incline Village. Besides the other meetings Lake Tahoe governments participated in, Senator O'Connell pointed out a full 3 hours was set aside for these entities.

Mr. Leavitt testified during these interim sessions, a fair process was established long before the results were viewed, in order to attempt to assess a formula which was fair for everyone concerned. He had never seen that done before.

The chairman inquired whether Mr. Finnigan had any comments regarding the amendment before the committee (Exhibit C). Mr. Finnigan expressed the amendments he had reviewed seemed to reflect the proposal set forth by the Sun Valley GID with regard to the definition and appeal avenues for an enterprise district. Mr. Finnigan requested a few more minutes to speak with regard to S.B. 254 in general.

Mr. Finnigan asserted it seemed to be the opinion of the Senate Committee on Government Affairs, and perhaps the entire Legislature, that general or special

improvement districts were lesser forms of government than other larger, more general governments. He opined most general improvement districts were formed due to the need in the rural areas of the state which required quasi-governmental services. Mr. Finnigan insisted GIDs were not formed to waste tax dollars, but to provide services to taxpayers. When IVGID was formed in the 1960s, it was formed to provide a number of services which otherwise could not have been provided by Washoe County at the time. He stressed his biggest gripe was the focus on GIDs with the assumption they were all formed to take tax dollars from other deserving entities. That was just not true, Mr. Finnigan maintained.

Senator O'Connell suggested there was the provision which allowed for an interlocal agreement. If the services were critical to the county, there was a provision for IVGID to negotiate with the county, she recited. The chairman reiterated it was felt the TV (television) district, convention authority, and swimming pool were critical as far as providing services, unless residents wanted to pay for them. Mr. Finnigan asserted GIDs were on the same level statutorily as any other government. He pointed out GIDs were political subdivisions of the state and stressed IVGID was not accountable to Washoe County and was not subordinate to Washoe County. Mr. Finnigan maintained the citizens of IVGID had needs and the GID was formed to serve those needs. In some cases, there were needs otherwise performed by the county that IVGID performed on the county's behalf through intergovernmental agreements, which was not what he was referencing. Mr. Finnigan defined the things he was discussing as sewer, trash, road maintenance, public recreation and water, services which were never provided by Washoe County.

Chairman O'Connell declared the bill did not change the money IVGID would receive or the service level IVGID could continue to provide. Mr. Finnigan responded he understood, and was not arguing with the end result, but with the underlying assumption GIDs or special districts were lower forms of government than counties and cities. He repeated these districts happened to exist in rural areas in need of services where other governments did not perform. Mr. Finnigan pointed out GIDs should not be targeted for this type of legislation and questioned why his tax dollars, as a taxpayer in Incline Village, should be utilized in southern Nevada to support the creation of infrastructure in Clark County. Chairman O'Connell responded tax dollars from Clark County have been supporting the GIDs through SCCRT for the last 16 years. Mr. Finnigan argued the residents of Incline Village live, work and shop in this state and were entitled to their share also.

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May 5, 1997  
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Chairman O'Connell inquired whether the concerns of the committee were addressed significantly through the amendment. Upon receiving affirmation, the chairman requested action on the amended bill.

SENATOR RAGGIO MOVED TO AMEND SENATE BILL 254 WITH AMENDMENT NO. 289 AND DO PASS.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR PORTER WAS ABSENT FOR THE VOTE.)

\*\*\*\*\*

The chairman indicated other business before the committee concerned a recede or do not recede on Assembly Bill (A.B.) 66.

ASSEMBLY BILL 66: Makes various changes regarding committee to approve schedules for retention and disposition of official state records. (BDR 19-454)

Chairman O'Connell explained when the bill was referred back to the Assembly for the Senate amendment to be reviewed, the local governments were allowed an advisory position regarding the records for the museum. The Assembly Committee on Government Affairs determined the committee designated by A.B. 66 was the final authority and disallowed the advisory language.

The chairman expressed the committee determined the local government position would remain in an advisory capacity and the Assembly Committee on Government Affairs contended the authority should be not advisory, but final approval.

SENATOR RAGGIO MOVED THE SENATE COMMITTEE ON GOVERNMENT AFFAIRS RECOMMEND THE SENATE NOT RECEDE ACTION ON ASSEMBLY BILL 66.

SENATOR O'DONNELL SECONDED THE MOTION.

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**1997 REGULAR SESSION (69th)**

ASSEMBLY ACTION		SENATE ACTION		
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Senate Amendment to Senate Bill No. 254 BDR 32-314 Proposed by Committee on Government Affairs
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>	
Date:		Date:		
Initial:		Initial:		
Concurred In	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	
Not Concurred In	<input type="checkbox"/>	Not Concurred In	<input type="checkbox"/>	
Date:		Date:		
Initial:		Initial:		
<b>Amendment No. 289</b>		<b>Resolves conflict in section 21 with S.B. No. 146. Makes substantive changes.</b>		

Amend sec. 4, pages 1 and 2, by deleting lines 17 through 20 on page 1 and lines 1 through 12 on page 2 and inserting:

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

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

Amend sec. 11, page 5, line 8, by deleting "3" and inserting "4".

Amend the bill as a whole by adding a new section designated sec. 12.5, following sec. 12, to read as follows:

Drafted by: KMG:nmm

Date: 5/2/97

S.B. No. 254—Makes various changes to formulas for distribution of certain taxes.

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JA

3083

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\* A S B 2 5 4 2 8 9 \*

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

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

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

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

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

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

Amend sec. 14, page 6, by deleting lines 30 and 31 and inserting:

*"3. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts."*

Amend sec. 14, page 7, line 10, by deleting "by unanimous consent":

Amend the bill as a whole by adding a new section designated sec. 18.5, following sec. 18, to read as follows:

*"Sec. 18.5. NRS 371.230 is hereby amended to read as follows:*

*371.230 Except as otherwise provided in NRS 371.1035 [,] or 482.180, money collected by the department for privilege taxes and penalties pursuant to the provisions of this chapter must be deposited with the state treasurer to the credit of the motor vehicle fund."*

Amend sec. 21, page 13, line 38, by inserting, after "shall" by inserting "distribute".

Amend sec. 21, page 13, line 41, by deleting "." and inserting ", to:".

Amend sec. 21, page 13, line 42, by deleting "For".

Amend sec. 21, page 13, line 43, by deleting:

"distribute to each county".

Amend sec. 21, page 14, line 13, by deleting "6." and inserting "5.".

Amend sec. 21, page 14, by deleting line 20 and inserting:

"(b) All other counties, the amount remaining after making".

Amend sec. 21, page 14, line 21, by deleting "county" and inserting:

"of these counties".

Amend sec. 21, page 14, line 32, after "(b)" by inserting:

"of subsection 1".

Amend sec. 21, page 14, line 36, by deleting the comma.

Amend sec. 21, page 14, line 41, by deleting the comma.

Amend sec. 21, page 15, by deleting lines 36 through 41 and inserting:

"assessed valuation of a:

(a) Fire protection district includes property which was transferred from private ownership to public ownership after July 1, 1986, pursuant to:

(1) The Santini-Burton Act, Public Law 96-586; or

(2) Chapter 585, Statutes of Nevada 1985, at page 1866, approved by the voters on

November 4, 1986.

(b) Local government includes property which was transferred from private ownership, after July 1, 1997, to property held in trust for an Indian tribe pursuant to the provisions of the Indian Reorganization Act, 25 U.S.C. §§ 461 et seq.”.

Amend the bill as a whole by adding a new section designated sec. 21.5, following sec. 21, to read as follows:

“Sec. 21.5. NRS 377.080 is hereby amended to read as follows:

377.080 1. A local government or *special district* which receives revenue [from the supplemental city-county relief tax pursuant to NRS 377.057] *pursuant to sections 10, 11 and 12 of this act* may pledge not more than 15 percent of that revenue to the payment of any general obligation bond or revenue bond issued by the local government pursuant to chapter 350 of NRS.

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

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

(a) *A pledge of 15 percent of the revenue distributed pursuant to sections 10, 11 and 12 of this act is substituted for the pledge of 15 percent of the revenue distributed pursuant to NRS 377.057, as that section existed on January 1, 1997; and*

(b) *A local government, special district or enterprise district shall increase the percentage specified in paragraph (a) to the extent necessary to provide a pledge to those bonds that is equivalent to the pledge of 15 percent of the amount that would have been received by that local*



*government, special district or enterprise district pursuant to NRS 377.057, as that section existed on January 1, 1997.*

4. *As used in this section, unless the context otherwise requires:*

(a) *"Enterprise district" has the meaning ascribed to it in section 4 of this act.*

(b) *"Local government" has the meaning ascribed to it in section 6 of this act.*

(c) *"Special district" has the meaning ascribed to it in section 7 of this act."*

Amend sec. 35, page 26, line 13, by deleting "average".

Amend sec. 35, page 26, line 22, by deleting "average".

Amend sec. 35, page 26, by deleting lines 24 and 25 and inserting:

"3. For the purposes of this section:

(a) For any unincorporated town to which the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996, applied, the amounts described in subparagraphs (1) and (2) of paragraph (a) of subsection 2 must be adjusted to equal the amounts that could have been received by that unincorporated town but for the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996.

(b) The fiscal year ending on June 30, 1999, is the initial year of distribution."

Amend sec. 35, page 26, line 26, by deleting "4." and inserting:

"4. For the fiscal year beginning on July 1, 2000, the executive director of the department of taxation shall increase the amount which would otherwise be allocated pursuant to subsection 2 of section 10 of this act to each unincorporated town that was created after July 1, 1980, and before July 1, 1997, for which the Nevada tax commission established the allowed revenue from

taxes ad valorem or basic ad valorem revenue pursuant to subsection 4 of NRS 354.5987, as that section existed on July 1, 1996, by an amount equal to the amount of basic privilege tax that would have been distributed to the unincorporated town:

(a) Pursuant to NRS 482.181, as if the provisions of NRS 482.181 which existed on July 1, 1996, were still in effect; and

(b) As if the tax rate for the unincorporated town for the fiscal year beginning on July 1, 1980, were a rate equal to the average tax rate levied for the fiscal year beginning on July 1, 1980, by other unincorporated towns included in the same common levy authorized by NRS 269.5755 which were in existence on July 1, 1980.

5. The additional amount of money allocated to an unincorporated town pursuant to subsection 4 must continue to be treated as a regular part of the amount allocated to the unincorporated town for the purposes of determining the allocation for the town pursuant to subsection 2 of section 10 of this act for all future years.

6.”.

Amend sec. 37, page 28, line 26, by deleting:

“September 15, 1997,” and inserting:

“January 1, 1998,”.

Amend sec. 37, page 28, by deleting lines 27 through 30 and inserting:

“of the department of taxation shall:

(a) Notify each governmental entity he determines is an enterprise district pursuant to section 12.5 of this act of that determination; and

(b) Calculate the amount each enterprise district will receive pursuant to subsection 1 of section 10 of this act.

2. Any governmental entity that the executive director determines is an enterprise district pursuant to section 12.5 of this act may appeal that determination to the Nevada tax commission on or before April 1, 1998. The governing body of the governmental entity must notify each of the other local governments and special districts that is located in the same county of the appeal.

3. The Nevada tax commission shall convene a hearing on the appeal and issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

4. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act."

Amend the bill as a whole by adding a new section designated sec. 37.5, following sec. 37, to read as follows:

"Sec. 37.5. 1. There is hereby appropriated from the state general fund to the department of taxation for the personnel, equipment and costs of operation necessary to administer the provisions of this act:

For the fiscal year 1997-98..... \$137,814

For the fiscal year 1998-99..... \$127,200

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective

fiscal years and reverts to the state general fund as soon as all payments of money committed have been made.”.

Amend sec. 38, page 28, line 31, by deleting:

“13 and 37” and inserting:

“12.5, 13, 37 and 37.5”.

Amend the preamble of the bill, page 1, by deleting lines 1 through 6.

Amend the title of the bill, eighth line, after “circumstances,” by inserting:

“making an appropriation;”.

Section-by-Section Analysis of S.B. 254

(as amended by Amendment No. 289)

(The changes made to S.B. 254 by the amendment are highlighted.)

Sections 1-3. Directory language and definition sections.

Sec. 4. Defines, for the purposes of the bill, an enterprise district to be a governmental entity which receives any portion of the proceeds of a tax which is included in the fund, which is not a city, county or a town and which the executive director of the department of taxation determines is an enterprise district pursuant to section 12.5 of the act.

Sec. 5. Definition of the "fund" (the Local Government Tax Distribution Fund).

Sec. 6. Defines, for the purposes of the bill, a "local government" to be a city, county or town only.

Sec. 7. Defines, for the purposes of the bill, a "special district." A special district is any governmental entity which receives money from one of the taxes included in the fund and which is not a local government or an enterprise district. An example of a special district is a general improvement district.

Sec. 8. Creates the fund as a special revenue fund in the state treasury. Makes the executive director of the department of taxation the administrator of the fund. {The fund contains the following taxes: liquor tax, cigarette tax, real property transfer tax, basic city-county relief tax, supplemental city-county relief tax and the basic motor vehicle privilege tax, except a for a portion allocated to the school districts.}

**Sec. 9.** Qualifies the governmental entities that will receive money from the fund.

Unless a governmental entity received, before July 1, 1998, money from one of the taxes included in the fund or unless the governmental entity complies with the provisions of section 15, it will not receive money from the fund.

**Sec. 10.** Sets forth the basic formula for distributing the money in the fund. After the establishment of the initial amount to be allocated to each enterprise district, special district and local government pursuant to section 35, the enterprise districts receive the same amounts that they received in the immediately preceding fiscal year and the local governments and special districts receive amounts equal to the amounts they received in the immediately preceding year adjusted for growth pursuant to the Consumer Price Index.

**Sec. 11.** Sets forth the calculations the executive director must perform each month for the allocation of the money in the fund. Also directs the state treasurer to distribute the money in the fund on a monthly basis.

**Subsection 2.** Establishes the base monthly allocation which is one-twelfth of the amount calculated in section 10.

**Subsection 3.** If the executive director determines there is not enough money in the account to allocate to each enterprise district, local government and special district the amounts they should receive pursuant to subsection 2, he must prorate and allocate to each governmental entity an amount equal to the percentage the governmental entity would have received pursuant to subsection 2.

**Subsection 4.** Unless a governmental entity received less than the amount it should have received pursuant to subsection 2 for a preceding month of the fiscal year (see

subsection 5), the executive director shall, after the base monthly allocation, allocate any money remaining in the account to the local governments in the county based on the change in population and the change in assessed valuation of property in the local government and to the special districts in the county based on the change in assessed valuation of property in the special district only.

**Subsection 5.** Requires the executive director to ensure that each enterprise district, special district and local government receives at least the base monthly allocation for each preceding month of the fiscal year before he allocates any extra money remaining in the account pursuant to subsection 4.

**Subsection 6.** Provides for the determination of the change in population of local governments for the purposes of subsection 4.

**Subsections 7, 8 and 9.** Requires the executive director to provide estimates to the governmental entities of the amounts they will receive from the fund for that fiscal year and allows the governmental entities to use those estimates for preparing their budgets.

**Sec. 12.** Requires the executive director to ensure that each governmental entity will receive at least the amount of money that was pledged to secure the payment of any bonds or other obligations from any tax which is included in the fund.

~~Sec. 12.5. Sets forth the criteria the executive director must use to determine whether a governmental entity is an enterprise district. The criteria include whether the governmental entity should account for substantially all of its operations in an enterprise fund, the number and type of governmental services that the governmental entity provides, whether the governmental entity provides services such as water, sewerage,~~

television or sanitation directly to a user of those services and any other factors the executive director deems to be relevant.

**Sec. 13. Subsection 1.** Prohibits an enterprise district from pledging any portion of the revenues from any of the taxes included in the fund before the effective date of the act (July 1, 1998) to secure the payment of bonds or obligations.

**Subsection 2.** Requires the executive director to ensure that a governmental entity that is created between July 1, 1996, and July 1, 1998, does not, before the effective date of the act, receive money from the taxes which will be included in the fund and thereby be able to participate in the distribution of the money in the fund unless they provide the same governmental services that governmental entities are required to provide pursuant to section 15 to be included in the distribution of the money in the fund.

**Sec. 14.** Sets forth the procedure by which a local government or special district within the same county may agree to distribute the money in the county's account in the fund pursuant to an alternative formula.

**Subsection 1.** The governing body of each party to a cooperative agreement must agree to the terms of the agreement by majority vote.

**Subsection 2.** Requires the executive director to be notified of any agreements for alternative formulas.

**Subsection 3.** Prohibits local governments or special districts from entering into more than one cooperative agreement that involves the same local governments or special districts.

**Subsection 4.** The terms of two or more cooperative agreements in a county must not conflict.



**Subsection 5.** A local government or special district that does not wish to participate in a cooperative agreement will continue to receive its share from the fund pursuant to the provisions of sections 10 and 11.

**Subsection 6.** The governing body of each party to a cooperative agreement must agree to the terms of the agreement by majority vote and may amend the terms of the agreement by majority vote. The terms may only be amended once during the first two years the agreement is in effect and once every year thereafter.

**Subsection 7.** The governing body of each party to a cooperative agreement must agree to terminate the agreement.

**Subsections 8 and 9.** The executive director must continue to calculate the amount that each party to a cooperative agreement would receive under the terms of the regular formula. If an agreement is terminated, the parties would receive the amounts to which they would be entitled under the terms of the regular formula.

**Sec. 15.** Provides the procedure by which a local government or special district that is created after July 1, 1998, may be included in the distribution of the money in the fund. Such a local government or special district must provide police protections and at least two of the following services: fire protection; construction, maintenance and repair of roads; or parks and recreation. The governing body must submit a request to the executive director on or before December 31 of the year immediately preceding the first fiscal year that the local government or special district would receive money from the fund. The executive director then analyzes the request and makes a recommendation to the committee on local government finance. The committee on local government finance reviews the findings of the executive director and if it determines that an adjustment is

appropriate, it submits a recommendation to the Nevada tax commission. If the Nevada tax commission determines that the adjustment is appropriate, it orders the executive director to make the adjustment.

Sec. 16. Makes changes necessary for consistency with new provisions.

Sec. 17. Includes the tax on liquor in the fund.

Sec. 18. Includes the tax on cigarettes in the fund.

~~Sec. 18.5. Resolves inconsistency between NRS 482.180 and NRS 371.230 which requires that all money collected by the department of motor vehicles and public safety for privilege taxes and penalties be deposited to the credit of the motor vehicle fund.~~

Sec. 19. Includes the tax on the transfer of real property in the fund.

Sec. 20. Includes the basic city-county relief tax in the fund.

Sec. 21. Includes the supplemental city-county relief tax in the fund.

~~Sec. 21.5. Amends NRS 377.080 to ensure that the effect of the changes made by the bill do not impair the bondholder contracts for any bonds issued before the effective date of the bill.~~

Sec. 22. Includes the supplemental city-county relief tax in the fund.

Secs. 23 and 24. Provides for adjustments in the allowed taxes ad valorem, population and assessed valuation of governmental entities when the functions of one governmental entity are assumed by another.

Sec. 25. Locates sections 23 and 24 within the Local Government Budget Act in Chapter 354 of NRS.

Secs. 26 to 30. Make changes necessary for consistency with new provisions.

Secs. 31 and 32. Includes the basic motor vehicle privilege tax in the fund. The portion of the tax which is allotted to the school district of the county must receive its share of the money in the county's account in the fund that is derived from this tax before any remaining money may be distributed to the other governmental entities.

Secs. 33 and 34. Make changes necessary for consistency with new provisions.

Sec. 35. Sets the amounts the executive director shall allocate to the enterprise districts, local governments and special districts for the initial year of distribution pursuant to the new formula. The initial year of distribution is the fiscal year ending on June 30, 1999.

Subsection 1. Sets the amount that each enterprise district will receive at the average amount that the enterprise district received from the proceeds from each tax included in the fund for the fiscal years ending on June 30, 1996, and June 30, 1997. Each enterprise district will receive this same amount each year pursuant to the new formula.

Subsection 2. Sets the amount that each local government and special district will receive in the initial year of distribution by taking the average amount that the local government or special district received for the fiscal years ending on June 30, 1996, and June 30, 1997, and adjusting that amount by the total of the amounts received by the local governments and special districts located in the same county and the percentage change in the Consumer Price Index for the period from July 1, 1997, to December 31, 1997.

~~Subsection 3. Requires the amount that an unincorporated town, to which the provisions of subsection 5 of NRS 354.5987 applied on July 1, 1996, will receive pursuant to subsection 2 be adjusted so the amount that the unincorporated town actually~~

receives is not lessened by the effect of subsection 5 of NRS 354.5987 (as applied on July 1, 1996) (Ensures that the provisions of subsection 5 of NRS 354.5987 (added in S.B. 556 of the 68th session) do not apply to the calculations made pursuant to section 35 of the bill for an unincorporated town.

Subsection 4. Increases the allocation made pursuant to subsection 2 of section 10 of the bill for the fiscal year 2000-2001 for unincorporated towns that would have received a distribution of the proceeds of the basic privilege for beginning in fiscal year 2000-2001 by the amount the unincorporated town would have received but for the provisions of this bill and includes the amount in the base of the unincorporated town for future years.

Sec. 36. Provides the procedure by which the governing body of a local government or special district that receives, before July 1, 1998, any portion of the proceeds from a tax which is included in the fund may petition for an adjustment to the amounts it will receive from the fund for the initial year of distribution. The governing body must request the adjustment on or before December 31, 1997. The governing body submits the request to the executive director who then analyzes the request and makes a recommendation to the committee on local government finance. The committee on local government finance reviews the findings of the executive director and if it determines that an adjustment is appropriate, it submits a recommendation to the Nevada tax commission. If the Nevada tax commission determines that the adjustment is appropriate, it orders the executive director to make the adjustment.

Sec. 37. Requires the executive director, on or before January 1, 1998, to notify each governmental entity he determines is an enterprise district of that designation and to

calculate the amount each enterprise district will receive. Also, allows an enterprise district to appeal the executive director's determination to the Nevada Tax Commission on or before April 1, 1998. Requires the appealing enterprise district to notify the other local governments and special districts that are located in the same county. Requires the Nevada Tax Commission to issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

Sec. 37.5. Adds an appropriation of \$137,814 for fiscal year 1997-1998 and an appropriation of \$127,200 for fiscal year 1998-1999 for the costs associated with the implementation of the bill. Provides that any balance of the sums appropriated reverts to the state general fund.

Sec. 38. Effective dates. Sections 1 to 7, inclusive, 12, 12.5, 13, 37 and 37.5 become effective upon passage and approval. All others become effective on July 1, 1998.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of this legislative body express their sincere condolences to the family and friends of the late Dr. Joseph D. Wilkin; and be it further

RESOLVED, That the death of such a highly respected doctor is a tremendous loss for Lincoln County and the State of Nevada; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the family members of Dr. Joseph D. Wilkin.

Senator McGinness moved the adoption of the resolution.

Remarks by Senator McGinness.

Senator McGinness requested that his remarks be entered in the Journal.

Thank you, Mr. President pro Tempore. Senate Concurrent Resolution No. 42 speaks for itself. We must recognize that Dr. Wilkin was a local boy. He grew up in Lincoln County. We must recognize the responsibility he felt to his hometown by returning there to practice medicine. At the age of 35, he went to medical school. If all of us think back to where we were at age 35, the thought of going to medical school would put a chill in most of our hearts. Dr. Wilkin did go to medical school, came back and became a "country" doctor. For those of you who know Lincoln County as rather remote, it is really more frontier medicine. For those people who know how much faith is put into a family doctor, you understand how much faith everyone had in Dr. Wilkin. There was a 15-month and another 9-month period where he was the only doctor in the county, not just in the community but in the county. Everyone came to his door, day and night. He delivered 155 babies. There are 155 alumni of Dr. Wilkin out there who are very happy. He showed great dedication to Lincoln County by recognizing that he was the only physician in the community and chose not to take a vacation or go away for weekends. His wife and daughters know exactly what that dedication meant to them as they were growing up. It gives me great pleasure to support Senate Concurrent Resolution No. 42.

Resolution adopted.

Senator McGinness moved that all rules be suspended and that Senate Concurrent Resolution No. 42 be immediately transmitted to the Assembly.

Motion carried.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 254, with Senator O'Connell as Chairman of the Committee of the Whole.

Remarks by Senator Raggio.

Motion carried.

#### IN COMMITTEE OF THE WHOLE

At 10:42 a.m.

Senator O'Connell presiding.

Senate Bill No. 254 considered.

The Committee of the Whole was addressed by Senator O'Connell, Mary Henderson, Washoe County; Guy Hobbs, Fiscal Consultant, Clark County; Marvin Leavitt, City of Las Vegas; Michael Pitlock, Executive Director, Department of Taxation and Mary Walker, City of Carson City.

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Senator O'Connell requested that all remarks on Senate Bill No. 254 be entered in the Journal.

SENATOR O'CONNELL:

I hope the beginning of this morning isn't an indication as to how this hearing is going to go. When one of the members of our presentation group parked in the garage this morning he was surrounded by military people who would not let him out of the parking garage for the longest time because of the helicopters landing on the legislative grounds. The next thing: when we were going over the presentation, one of our members got an emergency call regarding a bomb threat in one of the court houses. I hope that is not an indication as to how the hearing will continue.

The interim committee on S.C.R. No. 40 (of the 68<sup>th</sup> Session) was established to study the laws relating to the laws relating to the distribution among local governments of revenue from state and local taxes. The objectives set forth for the committee were as follows:

1. The new tax distribution system be revenue neutral for the affected governments in the first year. The objective further assumed constant or current service levels for each entity.
2. The revenue growth in future years be directed to follow the population growth.
3. The new tax distribution should reduce competition and encourage cooperation between the local governments.
4. Both the criteria and the parameters be established for the creation of new units of local government and for the treatment of any new local government/special district in the distribution formulas.

In order to attain these lofty goals, the people to be chosen for the technical committee had to be Nevada's brightest financial minds. The people chosen certainly lived up to our expectations. They are fiscal analysts Mike Alstoy, Clark County School District; Gary Cords, City of Fallon; Marvin Leavitt, City of Las Vegas; Steve Hanson, City of Henderson; Mary Henderson, Washoe County; Terry Thomas, City of Sparks; Mary Walker, City of Carson City as well as Guy Hobbs, fiscal consultant, Clark County and Michael Pitlock, Executive Director, Department of Taxation, State of Nevada. These outstanding people accomplished the task that we set before them in S.C.R. No. 40 (of the 68<sup>th</sup> Session). Five of those analysts are here this morning to explain Senate Bill No. 254. On your desks should be a packet of additional information on the makeup of the committee as well as the information we will cover this morning. If you really need a lift, I recommend reading Bulletin No. 97-5, the Legislative Counsel Bureau's Law Relating to the Distribution Among Local Governments of Revenue from State and Local Taxes.

Let me draw your attention to the fourth page of the handout, the graphs showing the distribution before and after the passage of Senate Bill No. 254. The people making the presentation today are Guy Hobbs, Marvin Leavitt, Mary Walker, Mary Henderson and Michael Pitlock. On the seventh page of the handout, you will find the amendment which will be voted on today. The amendment will be explained along with a section by section discussion of the bill. After our five speakers finish their presentations, we will be happy to address any questions.

MR. GUY HOBBS (Fiscal Consultant, Clark County):

Thank you, Madam Chair and members of the committee. Chairman O'Connell covered many of the reasons why S.C.R. No. 40 (of the 68<sup>th</sup> Session) was initiated. The old system of distribution that we had been using since 1981, since the tax shift, was thought to be no longer effectively serving its purpose. The old system was cumbersome. For example, the six revenues on the chart on page 5 of the packet are distributed according to four different formulas some of which use assessed valuation, some of which use population. In some cases, some cities only receive those revenues. In some cases, counties only receive those revenues. In other cases where there are two or more cities in a county, counties do not share in those revenues. The old system has been thought to have little flexibility. The creation of a new city, town, or other

form of entity is something that can create significant conflict. Also, in one of the fastest growing states, this system should be more responsive than it has been in the past. This was generally pointed out during the last legislative session with S.B. No. 556 (of the 68<sup>th</sup> Session), the creation of a new unincorporated town in Clark County, Summerland, and a previously unincorporated town of Spring Valley. There were no mechanisms in the law that would allow for either of those towns to participate in the distribution of the revenues under discussion today. I would draw your attention to page 2 of your packet which outlines the current system as compared to Senate Bill No. 254. In summary, Senate Bill No. 254 is recommending that six local intergovernmental revenues, specifically, the supplemental city-county relief tax, the basic city-county relief tax, the motor vehicle privilege tax, the cigarette tax, the liquor tax and the real property transfer tax, which had previously been apportioned according to several different formulas, be pooled into a common revenue distribution fund at the county level and be distributed among the local governments within a county according to a single formula. The flowchart on page 4 graphically shows the flow of funds for those six revenue sources prior to Senate Bill No. 254 and what they would be if Senate Bill No. 254 is adopted.

The revenues from the previously mentioned tax sources will be pooled at the county level for distribution to local governments under a single formula. The base amount of revenue that each local government will receive will be set at a level that recognizes what it received from any or all of those revenues during the prior two fiscal years, fiscal 1995-96 and fiscal 1996-97 will be used to establish the base distribution amounts for each local government. As Chairman O'Connell indicated, this was done to ensure some stability for the local governments transitioning from the old system to the new system. The revenue distribution would not be such a change that it would create a shock for any of the local governments. For counties, cities, towns and special districts, the amount of money that they will receive beyond the base amount will be increased by the Consumer Price Index (CPI) in all subsequent years. This was included to ensure that those local governments that are not growing as rapidly as others at least receive from year to year a constant dollar amount in terms of purchase power to take care of their basic needs.

To the extent that there is revenue in the common distribution fund at the county level from these six sources, above and beyond that amount which is needed to fund the base plus the CPI from year to year, the excess amount of revenue will be distributed among and between the local governments within a county according to a formula which recognizes percentage change in population from year to year and the percentage change in assessed value from year to year calculated on a five-year moving average. The five-year moving average was recommended by the technical committee to smooth out any effects from reappraisal cycles that occur within a county during the course of a year.

There are several other provisions of the bill that would allow for an alternative sharing of revenue within a county if two or more local governments determine that they wish to share the revenue differently between them than the formula otherwise prescribed. There are methods prescribed that would allow for the creation of a new local government, and the new local government would receive a distribution from the common distribution fund if it meets certain criteria. Some of the disincentives in the past for the merger or consolidation of certain units of local governments have been removed. In a sense, we have created incentives for pursuing rational mergers and consolidations of certain local governmental units. There is also an appeal process whereby if any local government feels the base amount set in the formula does not reflect its needs at the base year. There is a one time opportunity to appeal through the Nevada Tax Commission with the Department of Taxation and the Committee on Local Government Finance also reviewing the request ensuring that the base years are set at a level that would reflect a need.

Section 1 through section 3 of Senate Bill No. 254 contain the definitions and directories.

Section 4 defines enterprise districts as a governmental entity which is not a county, city or town but also receives funding from one of the six revenue sources that would be combined into the common distribution fund. It also indicates that the executive director shall determine which entities are enterprise districts pursuant to Section 12.5 of Senate Bill No. 254. 3102



Section 5 establishes the local government tax distribution fund which is the fund receiving and distributing the proceeds of the six tax sources mentioned on page 5 of the packet.

Section 6 defines as a local government for purposes of this act any county, city or town that receives any funding from any of the taxes included in the fund.

Section 7 defines as a special district for purposes of this act any other entity that receives any revenues from any of the taxes included in the fund other than counties, cities, towns or enterprise districts.

Section 8 repeats the creation of the local government tax distribution fund in the state treasury under the administration of the executive director of the Department of Taxation.

Section 9 establishes any local government, special district or enterprise district that previously received any of the revenues included in the fund will be eligible for a distribution from the fund in the manner prescribed in Senate Bill No. 254.

Section 10 establishes that enterprise districts shall receive from the fund an amount equal to what they received in the base year for each succeeding year after the base year. Special districts and local governments shall receive the amount they received in the base year indexed forward by the CPI.

Section 11 contains the essential elements of the formula, the nuts and bolts. It establishes the procedure for allocating revenues on a monthly basis to each of the local governments eligible for a distribution from the fund. The procedure requires the executive director to first allocate money distributable to the enterprise districts and then proceed with the allocation to the local governments and special districts. The formula requires each local government and special district to receive their base year amounts adjusted by the CPI to the extent there are revenues in the fund in excess of the amount necessary to fund the base amounts plus the CPI increase. The excess revenues are to be distributed to the local governments and special districts using statistics relating to annual population growth and growth in assessed value. Local governments, cities, towns and will have the change in population and the assessed value multiplied by their respective base plus the CPI. A five-year moving average for change in assessed value will be used to smooth the effect of the every fifth year reappraisal cycles. Special districts will have the growth in assessed valuation also using the five-year moving average multiplied by their base plus the CPI. Population would not be used as a statistic for special districts. As previously noted, enterprise districts will receive their base-year amount only in each succeeding year with no CPI, population or assessed value adjustment. If there are not sufficient moneys in the fund to allocate the base plus the CPI to each of the local governments and special districts, the executive director shall use the proportionate distribution used in the prior fiscal year to make the allocation. This section also prescribes procedures for the adjustments to the monthly allocations to ensure each local government and special district receives its full entitlement each year. As before, the executive director will provide estimates of revenue to each local government during the budget preparation process.

Section No. 12 provides a safeguard relating to debt service. If any local government, special district or enterprise district has previously pledged all or part of the revenue affected by Senate Bill No. 254 as security for bonded indebtedness, the executive director shall ensure that the affected entity continues to receive an amount at least equal to the amount pledged.

Section No. 13 prohibits enterprise districts from pledging revenue received from the fund for bonded indebtedness. It also prohibits any new governmental entity created between July 1, 1996, and July 1, 1998, from participating in the distribution of revenues from the fund unless the new entity provides police protection and at least two of the three following services: fire protection; construction, repair and maintenance of roads; and parks and recreation.

Section No. 14 establishes two or more local governments within a county may enter into an alternative sharing of revenue that prescribed by the formula, thereby, giving the governments within the county more flexibility.

Section No. 15 provides a mechanism for establishing allocations to the new local governments or special districts created after July 1, 1998. To be eligible to receive a distribution, a new entity would be required to provide police protection and at least two of the three following services: fire protection; construction, repair and maintenance of roads; and

parks and recreation. A newly created entity must request the Nevada Tax Commission to establish the initial allocation with the Department of Taxation and the Committee on Local Government Finance also reviewing the request. The notice and hearing procedures for establishing initial allocations are outlined in this section as are the definitions of police protection; fire protection; construction, repair and maintenance of roads; and parks and recreation.

Section No. 16 causes regulations for the determination of population estimates for towns to be added to the current statutes. There was an amendment deleting population estimates for special districts as those are not used in the formula.

MR. MARVIN LEAVITT (City of Las Vegas):

Madam Chairman, members of the committee, one of the difficulties of tax bills is they make a subject that is already complex even more complex and difficult to understand and read. The language we sometimes have to use to explain a fairly simple concept becomes very difficult to read once it is put on paper. As an example, Section No. 11 states, "Using the figure calculated pursuant subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the account." Basically, the concept is to take taxes and distribute them in a manner that is fair to all entities. There are really three areas involved in the new formula. First, each government is allowed to have sufficient money to account for the changes in the value of the dollar in order to allow them to continue their current operation into the next year. This has not existed in current laws. Second, we have some measure to try to determine changes in the size of the government over time. There are probably two measures readily available. One is assessed valuation and the other is population. In the past, we have used these for different formulas, but they have varied from tax to tax. We have some communities with a high residential base, high population, but may also have a small business base and consequently a small assessed valuation. If we use strictly population in this instance, they look very good, but if we use assessed valuation, they come out very poorly, i.e., North Las Vegas. We have other communities with a high assessed valuation base and a low population base. The opposite is true for these communities. Taxes that are distributed based on assessed valuation will benefit these communities, but if population is used as the determining factor, they can be hurt. The plan is to combine population and assessed valuation in such a way to benefit governments whatever their base of growth may be, whether in population or assessed valuation. If we overlay those factors on the technical language then the formula makes sense. You may have to trust that the language in Senate Bill No. 254 indeed accomplishes what we say it accomplishes. We have run the formulas based on the language in Senate Bill No. 254 hundreds of times. We have tried every scenario we could possibly think of in order to make certain we have not interjected some unfairness to some type of government in this formula.

In Section No. 17 and the next several sections, we include the taxes involved in the fund, i.e., liquor tax, cigarette tax, real property transfer tax, basic city-county relief tax, supplemental city-county relief tax—the tax involved in the tax shift in 1981.

Section No. 21.5 protects the rights of bond holder in order to ensure their contract with a government is not impaired as a result of enacting Senate Bill No. 254. In the past, the city-county relief tax has been available to use for the repayment of debt. Each local government in the past received city-county relief tax identified as such. Under Senate Bill No. 254, the city-county relief tax will lose its identity when received by the local governments. When it is received at the county level, it has still retained its identity. We want to preserve the rights of bond holders as they exist under present statutes.

Senate Bill No. 254 does nothing to change the distribution of taxes between and among counties. In other words, we are not doing anything that changes how much money is available

to any one county in the state, Senate Bill No. 254 simply relates to what the distribution will be below the county level.

Section No. 22 is executive director language.

Section No. 23 discusses the functions of one government being assumed by another government. This has been a problem throughout Nevada. We have had a number of instances within the state where special districts overlap. In some cases, there can be five overlapping special districts and each one of them provides one service. If there was an overlapping board, the money would not be used the way it is now. One board would determine priorities. Senate Bill No. 254 is an attempt to make this change easier to accomplish, combine or even eliminate special districts.

Section No. 26 relates what happens when the sales tax does not equal the projection. In 1981, a supplemental city-county relief tax was used to offset property tax. There was a provision that if the sales tax fell below a certain level then an additional property tax could be levied to offset the loss. This was done with the city-county relief tax. This section is a means by which the same safeguard can be built into the system. Before we would multiply \$1.15 by the assessed valuation of the state then compare that figure with the available sales tax. The same formulas will be used except it will now be done at the county level instead of at the state level.

Sections Nos. 31 and 32 include the vehicle privilege tax. The school districts are not included in this formula and will preserve their funding allocation of the vehicle privilege tax under current statute.

Section No. 35 outlines the base-year calculations done on an average of two fiscal years then a multiplication factor applied to bring the total back up to the latest year. Some governments will benefit in the first year; other governments will benefit using the second year. This now becomes a combination of the two. Enterprise districts still use two years as the base. The amendment preserves the right of the incorporated towns to receive the same amount of money they would have received under the provisions of S.B.1 No. 556 of the 68<sup>th</sup> Session. It also preserves the right to receive the vehicle privilege tax. Some local governments have felt that by using 1981 as the base year, it had put them in a situation whereby they eternally had less money available to them than other local governments because 1981 was not a good year for them to use. For instance, North Las Vegas had a high debt rate and a low operating rate. Since the operation rate was used, they felt this was unfair to them. Senate Bill No. 254 provides a one-time appeal opportunity for local governments to have their base increased. It is a "due process" process whereby the other local governments are notified and have the opportunity to respond. The executive director of the Department of Taxation and the Committee on Local Government Finance and finally the Nevada Tax Commission will review the appeals and make a final ruling.

Section No. 36 states once the executive director of the Department of Taxation has determined what districts will be enterprise districts, the executive director will provide notification and due process for them also.

Section No. 37.5 contains an appropriation for implementation of Senate Bill No. 254.

Section No. 38 establishes effective dates.

On behalf of the technical committee, I would like to express our appreciation for the work of the legislators involved in this long process. One of the interesting aspects in determining this formula was that we worked out the specifics of the formula before running the numbers in the formula. We tried to determine what would be fair before any numbers were used in the formula. We feel Senate Bill No. 254 is a good, fair bill.

MARY WALKER (City of Carson City):

Thank you, Marvin, Madam Chair and members of the committee. Briefly, I would like to compare the old formula to the new formula. First, the old formula does not follow growth. In order for a local government to provide adequate service levels to its citizens, the funding levels must keep commensurate with the costs. Under the old formula, both the SCCRT and motor vehicle privilege tax was based upon a distribution system which included the 1980-81

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tax rate and the recent assessed valuation. By having a distribution system based on an 1980-81 tax rate it kept the distribution fairly stagnant. As certain areas within counties grew, the money was not going to those areas of growth. Therefore, with moneys not going to the growth areas, it was very difficult for local governments to be able to provide the increased demands of service. Under the new formula for revenues above and beyond the base year, the revenues will be distributed based upon each entity proportionate share of growth using a growth factor of assessed valuation and population. Within an entity, the highest proportionate share of the growth will equal the highest proportionate share of new moneys.

We looked at a previous three-year period and compared the old formula and the new formula. Under the old formula, Lander County in 1992-93 had four governments receiving funding. The county itself had the highest increase in assessed valuation and population. Kingston had a decrease in assessed valuation in the amount of 24 percent that year. Yet, Kingston received the highest amount of additional revenues in the amount of a 30 percent increase in revenues while their population and assessed valuation declined. The county had the highest assessed valuation and population received the lowest increase in tax revenues. The old formula does not follow growth within the county.

Douglas County has four governmental entities receiving funding. In 1994-95, Minden had the highest proportionate share of increase of assessed valuation and population of 29 percent. They received the third highest level of increase in revenues. Gardnerville which had the lowest growth had the second highest increase in revenue of almost 15 percent. The new formula will follow growth so that service levels can match the demands of Nevada's citizens.

Senate Bill No. 254 should decrease the competition among local governments for new tax dollars. The BCCRT, cigarette and liquor tax are based upon a system within a county. If a county has no incorporated cities within the county, the basic city-county relief tax will go entirely to the city. If a county has one city, the money is divided between the city and the county. If a county has two cities, all the basic sales tax goes to the cities and none to the county. This has increased the competition among local entities to be formed in order to receive the tax moneys. When a new entity is formed, it should not be based upon how much money the new entity will be receiving but upon the service level needs of its citizens. This will take that competition away.

The last issue is the taxpayer equity issue regarding enterprise districts. Some enterprise districts may be receiving free services, i.e. television, sewer, water, etc., through state subsidies at the expense of other taxpayers not in those enterprise districts but located within the same county. Senate Bill No. 254 will freeze the amount of moneys enterprise districts may receive.

Other areas to be addressed later in this session are clarifications to the fuel tax. The formula is over 50 years old and the NRS provisions regarding the fuel tax are over 120 years old.

MARY HENDERSON (Representing Washoe County):

Thank you, Madame Chair and members of the committee. I think we would all like to thank you all for being so indulgent of your time today since this is a very complex issue for us to go through. Mary Walker and Marvin Leavitt have pretty much hit on the issue of competition for revenues in terms of what that does in creating a new jurisdiction. I think another aspect that this bill really brings forward to us is the elimination of planning and land use and growth decisions by our policymakers, the councils and commissioners within all the counties throughout the state, in terms of a formula. We are making policy decisions under this current formula about those very critical issues based upon distribution of revenues. We should be having the policy drive the formula, not vice versa. I think, when Marv made the statement that we actually created the formula before we ran the numbers, that is very significant because what it creates, many times, for local governments is a situation where we are making decisions based on how we can get revenue versus what is really best for the taxpayers where our master planning is taking us. I can give you a for instance on that: The Lincoln Land Institute, which really studies planning extensively throughout the country, a few years ago I remember a piece they had written talking about what's happened in California since passage of Proposition 13.

13 and how local governments are currently making land use decisions based on their ability to bring in revenues. What that has created is shopping centers on almost every other block in California. When you look at the quality of life of a community, the type of community you want to have, policymakers have always been put in a situation where they have had to make those decisions based on revenues. I think, with this change, we can now make those decisions based on what is good for the community. We can have cores of urban development; we can have suburban development and eliminate some of that competition and need to drive the assessed valuation.

Another issue which was extremely important to Washoe County was an alternative method of distributing some of these revenues. For us, it is about \$54 million per year among Washoe County and the two cities of Reno and Sparks and some special districts. We know that any formula that you do statewide cannot reflect absolutely what goes on in each individual county. We are all unique and all different. By putting an alternative distribution method in place, what we are giving our local governments is some flexibility to be able to sit down at the table among themselves and decide if there are some critical issues or needs within the community that might need some funding that under the current formula they could not share those revenues. Now, they are going to have the ability to do that and effect their own distribution method within the county. This is very critical. I always use the example of Washoe County and a special district we have, Sun Valley. They have a General Improvement District in Sun Valley which provides a very valuable service to that community in terms of water and sanitation. They will lose some money from SCCRT because they are an enterprise district, but the county itself does not want to take over that function. So, it allows us to enter into an agreement with Sun Valley GID to perhaps subsidize them because we feel that that is a very critical service to a low income area of the county and one that needs to continue. We don't really want to put a burden on the backs of the citizens of Sun Valley. I think that is a critical piece of this.

One thing I would like to talk about, just for a moment. And I would like to particularly thank the chair and Senators Rhoads, Porter and Shaffer and your colleagues in the Assembly for the process we went through as we put this together. In my brief experience as a lobbyist, having been through four sessions, I have sat on a couple of interim committees. I have never before seen the inclusionary direction from the committee, not only from our technical group which represents a very good cross section of local governments in the state, but also to bring in those from special districts and other cities to open up this process so that everyone had an opportunity at the table while we were still in workshops; were still talking about how we would develop the policy and make this recommendation to have input. That is going to continue. I believe Mary shared with you that we are going to continue to look at special districts; we are going to continue fuel tax. These have tremendous impacts on local governments. Fuel tax, for example, on the rural counties. We have always worked very hard to keep this process extremely open to get everyone's input and really try to understand the differences within the state and try to craft this change so that it would reflect that. Although we are not going to get 100 percent, I do not think anyone can complain about the process. It has just been a tremendous experience for all of us to go through and we are all really pleased that you have given us the opportunity as a technical advisory committee to participate in it. I think our cities, counties and special districts throughout the state should feel the same way.

MICHAEL PITLOCK (Executive Director of the Department of Taxation):

Madam Chair, members of the committee, for the record I am Michael Pitlock, Executive Director for the Department of Taxation. I want to talk briefly about the role for the Department of Taxation as it is envisioned in this piece of legislation. You have heard reference on numerous occasions as Greg and Marvin went through the section by section analysis to a role to be played by either the Executive Director, the Department of Taxation or the Nevada Tax Commission.

There are two major roles the Department of Taxation will be playing in this process. One is as the administrator of the pool of revenue. We are the agency that will be collecting the

individual taxes, accounting for those collections, determining the amounts available and actually going through the mechanics of implementing the formula. We are the agency that makes the distributions to all the local governments that receive money out of this fund.

In addition to that ministerial function of making sure that the fund is operating appropriately, we also have a role to play in terms of providing a due process for counties or other local governments to request either alternative distribution formulas, request adjustments to their base on a one-time basis, and also to look at who should be designated as enterprise districts. That is one of the very first functions that we will have to take on because the enterprise districts, once they are so designated by the department, are treated differently in this piece of legislation.

We will also be called upon to analyze and make recommendations when a new governmental entity comes into existence and requests to be funded out of this pool. The reasons that the department was selected as the entity to take on these tasks are the due process procedures that are already in place within the Department of Taxation. Initial determinations and analysis will be done by myself and the department staff along with the assistance from the committee on local government finance. The findings and conclusions from the analyses will be shared by all the local governmental entities and they will have input into that process.

In addition to that process, there is an appellate procedure in place where the decisions would be reviewed by the Nevada Tax Commission. It is at that point then that the decisions would be final. We wanted to make sure that we had a process that all stakeholders could play a role in, that there would be an equal opportunity to participate, provide evidence and participate in the decision rendering process.

There was reference made to the fiscal note that is associated with this bill. In order for the department to carry out those two functions of administering this pool of revenue, performing the analysis and making recommendations with respect to the other alternatives in the legislation, the department will require additional staff and there are costs associated with that. We have provided a detailed fiscal note to this bill. It would require a little over \$137 thousand in the first year of the biennium to fund two new positions, equipment and space at the Department of Taxation, and then, in the second year of the biennium, approximately \$127 thousand for the ongoing costs of this program.

I entered this process as a member of the advisory committee representing state government. My role I envisioned from the beginning was somewhat as a neutral observer to the process because state government had no financial stake in the outcome of this process. From my vantage point as that independent observer, I was amazed at the efficiency with which all of the competing parties came together in this process. In the beginning, a lot of us were very skeptical that this would turn into a major fight between cities, counties, special districts and what will soon be designated as enterprise districts. The fight never happened. Instead, at every meeting there was a sense of compromise, a sense of purpose where we were all striving for one common goal. I think this body and the Assembly can take some comfort in that process that all voices were heard, all points of view were considered and the end result I believe is truly a bill that is fair to all the local governments in the State of Nevada.

Thank you, very much. That concludes our remarks and I believe that we will be available for any questions that any of the Senators may have.

Senator O'Connell called on Senator Adler:

SENATOR ADLER:

Thank you. I have a question of Mr. Pitlock. How will you deal with a whole harmless county which is shifting from that to regular status such as Storey County? How would that be handled?

MR. PITLOCK:

Senator Adler, this piece of legislation would not alter the mechanism currently in place to deal with situations where a county is potentially moving from guaranteed status to a standing on their own status. Those procedures will remain intact because this bill deals only with what is referred to as the second tier of distribution and does not alter in any way the first tier distributions which are between the counties.

SENATOR ADLER:

Another question. On page 24, we are putting into law the Motor Vehicle Privilege Tax Division. These do not seem to follow any rhyme or reason. Aren't we getting into the same situation that we did on fair share where we are establishing a kind of artificial base that will come back to haunt us later on down the road. I know Carson City gets one percent under this distribution formula, but Eureka gets 3.1 percent. Shouldn't that formula be looked at and adjusted?

MR. LEAVITT:

The numbers are from the existing laws and relates to the division among the counties. This bill does not address that at all.

SENATOR ADLER:

Why are we doing that? It seems like a very inequitable distribution, on page 24.

MR. LEAVITT:

You probably remember, a couple of weeks ago, there was a resolution passed out of this body that relates to the continuation of this work we have been doing. It is this type of thing mentioned. The fuel tax was mentioned. We found that the way in which the fuel tax is allocated is probably very unfair, particularly to the counties that have experienced growth in recent years.

SENATOR ADLER:

Yes, but do you think these percentages are fair? This seems very inequitable. You have counties with very large populations that are getting practically nothing where very small counties are receiving huge percentages.

MR. LEAVITT:

This does not relate to the total of the Vehicle Privilege Tax, but is simply the tax on vehicles engaged in interstate and intercounty operations. So, this is an area that has to be considered. In interstate operations, for example, if they go down Interstate 80 or Interstate 15 in Southern Nevada, we have not done any work on this. Whether it is fair or not I do not know. It is something that needs to be looked at, I'll agree with that.

SENATOR ADLER:

Could we look at this before we pass the bill out and come up with a more fair distribution?

MR. LEAVITT:

On the fuel tax which deals with a similar type area, we have discovered that it is an absolutely major project. Even given the length of time we have had with this bill, we can not really accomplish in the way we think would really be fair. I, myself, would feel really uncomfortable trying to determine anything this complex.

SENATOR ADLER:

How are these numbers now determined? I don't understand how we are arriving at the current percentages. What is the reasoning behind those percentages?

MR. HOBBS:

Those percentages were actually put into place back in 1981 or 1983.

SENATOR ADLER:

We have had all these problems with the tax of 1981, so why don't we fix this?

MR. HOBBS:

One of the points, if I might add, one of the objectives set forth by the legislative subcommittee was that the system be revenue neutral for all the local governments in the base year. To achieve that objective, we needed to leave pieces of the former system in place to allow them to be revenue neutral in the base year. That was one of the considerations. The second one, mentioned by Marvin, there were several other points like fuel tax which is very complex on its own merits. And, probably parts of the motor vehicle privilege tax which we do need to spend some additional time looking at. That is one of the reasons I was given to understand that the continuation of the technical committee was under consideration.

SENATOR ADLER:

Could you look at this section in conjunction with the motor vehicle privilege tax and put that in the same bill. This does concern me. I can't make any sense as to how you arrived at these numbers. Since this bill puts them into statute, it kind of carves them into stone. This concerns me.

MR. HOBBS:

Again, those particular percentages have been in the statute for some period of time, but it does not mean that they are correct. We agreed that elements of the fuel tax distribution and elements of the privilege tax need to be reviewed.

SENATOR ADLER:

Can we review them this session? Or are you saying that we are not going to?

SENATOR O'CONNELL:

I must tell you that there have been screaming matches over this formula and that is the reason they were not touched in this bill. There was so much disagreement and there has been ongoing meetings on this very issue. Until we can come to some kind of compromise or resolution, we did not want to say this cannot be done. We felt the best thing was to continue looking at that and then coming to some kind of resolution. It is not that this was overlooked or that it was not identified as a problem. The technical committee is still looking at that, but the inequities between the larger and smaller counties have been tremendous. We know it is a problem. We want to do something about it and that is why we asked to continue on with the committee.

SENATOR ADLER:

Can you at least look at some kind of future adjustment formula?

SENATOR O'CONNELL:

That is why we are asking for a continuation of the committee.

SENATOR ADLER:

This looks to me like it starts throwing a huge inequity if we don't address it.

MR. PITLOCK:

Madam Chairman, if I could make an additional comment on this issue. One of the provisions, in this bill, allows for a local government on a one time basis to come in and challenge the base that they are starting from. These percentages feed into what that base is.



number would be. So, a local government who felt that there was a significant enough issue associated with this distribution, does have a mechanism provided for it in this legislation. They could come forward and make their case on changing that. It might not resolve the entire issue, but for that one local government they may be able to justify some relief if there is a significant problem in that area.

SENATOR COFFIN:

The charge of the committee, in S.C.R. No. 40 (of the 68<sup>th</sup> Session), was well handled. I could see where one of the comments made by Senator Adler raises an issue which is still in the back of my mind and wasn't addressed. How do you reverse the fair share arguments that were essentially created by the tax shift of eighteen years ago? That can't be done since S.C.R. No. 40 (of the 68<sup>th</sup> Session) did not call for that charge. That did a pretty good job within the limitations they were told to do. I think we are going to have to caucus on a county or regional basis to double check with our people to make sure before we go to vote or amend. I hope we have that opportunity. I don't think that the chair, at this present time, could give an answer to Senator Adler's one comment which is a very important comment. If we don't address home rule or the nearest equivalent to home rule as you can get.

MR. LEAVITT:

Madam Chairman, if I might make a comment. One of the things which tie into this subject, as well as the fuel tax, is that we found, when we started to do an examination of the data available, we did not and still do not know the miles of highway that are the responsibility of the individual counties and cities. We found that they have been reporting this for many years, but the methods which they have used to report these things have been very, very inconsistent. We found some that report every highway which is anything from a jeep trail up to a freeway. We found some who do not report unpaved roads. The inconsistencies are so great that we are currently involved in the accumulation of data to try to do this. Since this involves interstate vehicle privilege tax, it kind of ties into this subject that we currently do not have data on. One of the reasons we have put off this part of the project until this next interim, is to try to obtain data that is reliable before we recommend a change in the formulas. Looking at this off the top of your head, it doesn't seem to be inconsistent and unfair to a number of entities. Hopefully, when we are ready to come forth with recommendations, we will have something we feel is adequate and can be defended.

SENATOR NEAL:

I would just like to follow up on the comment made by Senator Adler, but from a different point of view. As I understand, this operation of this new system, you will have a fund in which these six taxes go into including the motor vehicle tax. In order to extract money from that fund, there would be a formula, a formula for the enterprise fund and the formula in which local government would be used. If you proceed from the basis that there are other formulas within the tax structure that impacts the fund and you now set out another formula without examining the effect of that formula upon the new formula, then I am somewhat lost. I do not know what the effect would be. When a local government or a free enterprise district wanted to get money out of this fund and you then multiply the monthly application plus one percent of the average percentage change in the assessed valuation of taxable property over the five immediately preceding years, I don't know what the effect would be upon the formula that still exists. By the same token, if the local government wanted to multiply its monthly base application by one percent plus the sum percentage of the change in the population for the immediately preceding fiscal year and the average percentage change in the assessed valuation of the taxable property for the five immediate preceding years, I don't know what that effect means. Does one city or district get more money because we have not examined that formula in relationship to the new formula we have put into law in order to extract these monies for use in local government and enterprise districts? Maybe someone could explain that to me.

MR. LEAVITT:

Madam Chairman, these formulas as they exist for the distribution of these taxes do not have any effect on any of the other formulas for the distribution of any other taxes. I will give you an example because it can be confusing. For instance, in the distribution of money from this fund, we have used as one of the computations the average percentage change in the assessed valuation of an individual entity over a number of years.

SENATOR NEAL:

How do you calculate that? You are talking about putting the motor vehicle service tax into this fund. Is that correct? In which certain counties receive a portion of that particular money. Are you then saying that before the money goes in, a certain percentage would be extracted out and we only would get what is left to go into this fund?

MR. LEAVITT:

No, the amount of the vehicle privilege tax that is going to any of the individual counties in total is not changing as a result of this act. For instance, the money coming to Clark County as a total county, that money is not changing at all as a result of this act. The only distribution change that can have any effect in the future is the distribution below the county level to the various counties or the various cities and special districts within the county has no change whatsoever on the amount coming to the county as a total.

SENATOR NEAL:

So as I understand from what you are saying, the formula that is set out in Section 24 of the bill, that amount of money would not be touched. What we would do in the future when a city or a district wants to get money from this fund, that other portion of that money would be set aside and would not be touched.

MR. LEAVITT:

In the future, if for instance, we have a creation of a new entity and have a creation of a new city in southern Nevada. I don't know if that will ever happen, but say we do or that we have a combination of entities. If we have a new city created, they go through a process by which they will petition the department of taxation to provide numbers and will go through a process by which we determine and the Nevada Tax Commission eventually has responsibility to do this by which we determine a base for that particular local government, all the other local governments in the county have a chance to respond to that. Because when there is anyone new, then technically everyone else will lose money but they have a chance to respond to that. You then establish a new base for that new local government. When you establish that new base, then it goes into the formula like all the rest of them. In the future you move forward when they get the CPI and their assessed valuation, population growth entered in the formula. Once you establish that it will work for an indefinite period.

SENATOR NEAL:

What you say is correct, and I have to accept that because you are the authority here, but if you happen to be wrong, then we have to bring the chairman to you.

MR. LEAVITT:

Let me just give you some assurance. We have gone back in time and said what if this formula had been enacted five years ago, what would happen to the system? In other words, if it had been enacted five years ago and had applied it over these last years, what would this do to us? We have checked it out in that regard as well as trying to predict some future years and we find the formula seems to work and has not resulted in huge revenue shifts. So we have indeed tried that as one of our mechanisms to try to be as certain as we could because obviously we are concerned to as individual representatives of government because this is the

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money we live on. We have every assurance we can give ourselves that this formula does indeed work.

SENATOR NEAL:

Now, as I understand under this proposal the tax department, Mr. Pitlock, you have become the new boss in this arrangement, do you not in terms of how these funds would be dispensed and your judgment along with that of the tax commission and that local government would not have any say so in that?

MR. PITLOCK:

The department of taxation currently distributes many of the taxes that are being put into this pool. So, from that perspective, we are already involved in it. As far as any decisions that need to be made to alter the formula or to adjust the base of a particular governmental entity or if a new governmental entity came into existence, the department and its internal procedures was used because it is a mechanism that allows for and requires the voice of all affected parties to be heard in the process. In other words, say for instance, a particular governmental entity within a county came to us on a one-time basis and said we want an adjustment to our base. We will be required to notice every other governmental entity that is potentially affected by that decision so that they could participate in the process. That same holds true for all the other decisions that are initially made by either the executive director or the department and then ultimately reviewed by the tax commission. It is a very open process and that is why it was selected.

SENATOR NEAL:

Just one more question, for those enterprise districts that are in existence at the present time, as I understand the bill, that money now would be pooled up and redistributed back to them on a formula basis?

MR. PITLOCK:

The money that is currently distributed to them through the existing formula will continue to be distributed to them under the new formula but it will be frozen in amount. They will receive the exact same distribution in the future that they have received in the past from the old formula. They are being held harmless. The issue of enterprise funds, I have to say further is one that the work on that issue is not done. The freezing then at the current level was an interim step until we could fully explore exactly the role that they should play and how they should be treated in this system.

SENATOR JAMES:

I do not think I have the expertise in this that some of you do. I do have a question that I will put in lay terms. First of all, I commend the work of the committee. I think it is tremendous and should be ongoing. The comment was made that it is revenue neutral which I understand means that there is no tax increase on anybody. What we are trying to do is to allocate more equitably these six taxes among these local governments within a county. What I understand is that if you are doing something more equitably that some may get more than they got before and some may get less. So, you are trying to use population and assessed valuation and balance those two within the formula. I read Section 11 and am totally confused. I do not understand that because I cannot figure that out. I will just have to rely on you that it is fair.

My question is, what assurance is there to the taxpayer that if now my government is going to get more money and yet now I have been more efficient as a government or whatever, and that money should inure to the benefit of the taxpayer in terms of, for instance, lower property taxes because I am getting these other taxes now that are covering the budget and the property taxes which have been higher before now can be lowered. Is there any assurance that if we pass this and we have this new equitable formula, that it is not just equitable among the

governments that there is some trickle down effect of this benefit to the taxpayer themselves that they might get lower taxes.

The second question is, you did not specifically deal with gaming taxes and we did pass the bill, Senator O'Connell's bill, that is going to require the study to go and gaming taxes will be part of that study. Could you just answer me as to why gaming taxes are being treated differently and is there the potentiality of putting gaming taxes into this kind of an equitable distribution formula. In the same question with that, is there a way in place that we can if we get more money to a local government, then require some assurance that the taxpayers might get lower property taxes because the government is getting more of its budget paid for with the gaming taxes or the newly allocated taxes.

The final question, for someone to answer, is the comment that was made that there is a disincentive to being removed for consolidation. I would like to know an example of how that is done and how is the disincentive to consolidation of services done with this. How is requiring a new entity which is formed within that time frame to provide services or it can't be formed. Doesn't that run counter to that requirement or to the policy that we are trying to encourage consolidation of services?

Those are the three questions. I hope I did not confuse you too much.

MR. LEAVITT:

The first question relating to reduction in taxes. There is nothing in this bill, first of all, that does that. This bill only relates to the distribution of revenues and how you accomplish it. The goal of the bill is to distribute tax revenues to where the need is the greatest. In other words, you distribute taxes to those that are experiencing population growth. You distribute taxes to those who are experiencing growth in assessed valuation which indicates that you have new areas in a community where you have to provide service. So there is a question as to whether the fact that you are doing this differently, does that provide any room for reduction of other taxes such as property taxes. We have discussed that in the next phase of the project that we are going to look at property taxes in the whole area as to where we determine levels of property taxes and how we determine rates and assessed valuations and all of those things. So, that is still to come. As you know, there has been an amendment to the one bill that requires us to take a look at the reduction of taxes in this next phase. There is nothing in this bill that does that.

MR. HOBBS:

Senator James, before Mr. Leavitt goes on to answer your second and third questions, I have a slightly different perspective on the answer to your first question about the potential or what impact this piece of legislation would have on the possibility of lowering some tax rates in the future. The goal of changing the formula was to direct these revenues to the local governments that needed them the most, that were experiencing the increases and demands for service. These particular taxes are not something that are directly controlled by the local government. They can't decide to just raise these taxes when they need more revenue. If they are not getting sufficient revenue from these sources to fund the demands for increased service they were left with limited alternatives. One of the alternatives that they always had available was to raise property taxes. If we are successful in diverting more of these taxes to the local governments who are experiencing the increase and demand for services it should take some pressure off them to raise the taxes that they have local control of. I believe that while it is not mandated in any way in this legislation, I think it creates an opportunity, particularly for those local governments who are already bumping up against the property tax cap.

MR. LEAVITT:

On the second question relating to gaming taxes, as to why we don't have gaming taxes included in this bill, we could have included gaming taxes in this bill but the gaming taxes that come to local government is a result of enactment of what is levied by state statute. One is called the county gaming tax although it is actually levied as a result of the statute that could be included and was just an arbitrary decision not to. There is also what they call a table tax

distributed equally among all counties which could also have been included which was again an arbitrary decision not to. The third area is the tax that individual licenses of local governments and they are levied as a result of county or city ordinances. That was not included either. Those three areas could have been included. We did not include the gaming tax. That is still something that we have to look at as a result of the consolidation now of governments. We have language in the bill that provides for the consolidation of entities. The process, essentially, is that it provides that you can combine entities and still retain the tax revenue going to two. We can have one entity assume functions of another entity and still preserve the tax revenue that was received and we did not have of doing that under the existing law. Under the existing law when you lose tax revenue combined, there is not too much reason to combine. This opens up a way where we can get a combination even from cities and counties, special districts and a number of them combining, this provides a mechanism from the tax side that we really have not had in the law before.

SENATOR REGAN:

I would like to remind Mr. Leavitt that some licensees such as myself pay both city and county gaming taxes directly to the city and county involved. They are not shared by the state and they are paid directly to the city and the county. I have a question for Mr. Pitlock. In reviewing the bill, I notice a number of collection fees will now be eliminated to local churches and so forth. I notice your fiscal note. What will be your collection fee for this pool? I think there might be a possibility of making money off the residual that is nondistributed.

MR. PITLOCK:

The individual administrative fees that are associated with the individual taxes which go into this pool are not being changed; however, the most significant of those administrative fees is the one on the sales tax components collected by the Department of Taxation and redistributed back to local government. There was a bill introduced, earlier in the session, that would require the reduction of that fee from one percent down to one-half of one percent. There was an amendment proposed that changed the effective date of that legislation to July 1, 1999. As far as I know, that bill is proceeding through the process. In addition to that, there was another bill introduced, Assembly Bill No. 204, which requires a study to be done as to which taxes and fees should be collected by the Department of Taxation. One of the requirements of that study, should that bill pass, is that we take a look at all of the fees which are charged by the department and determine whether or not they are cost based and make recommendations so that they can get on a cost based situation. The issue of fees collected by the state to administer these taxes is being addressed in several other pieces of legislation, but not in this one.

The chairman recognized Senator Titus.

SENATOR TITUS:

Thank you, Madam Chairman. I have a simple question to ask. My district is in an older part of Clark County which includes a lot of the unincorporated townships such as Paradise and Winchester. What I want to know is if this bill takes funds away from those areas and redirect them to the new area thereby reducing services to my district and providing more services to Summerland, Green Valley and the newer parts of town?

MR. LEAVITT:

I don't believe so and I have reason behind that. First of all, under the existing system for the distribution of revenues, almost all of the revenues in this pot are distributed either by population or by assessed value. We are now combining the two. This bill provides that each local government, whether they grow or not, is allowed increased revenue as a result of changes in the consumer price index. That is not in any existing law, so if you have entity

which is not growing or growing very little, under existing law they could actually show decreases in revenue on an annual basis. Under this new law, they would at least have the protection that they know that they have CPI protection so they would not receive lower revenue. It is conceivable that if you have a really rapidly growing area, that they can outdistance areas that are not growing, but still you have the guarantee of the CPI which was never guaranteed under the existing law.

MR. HOBBS:

I was going to make the same point that Marvin did about the reason for including the consumer price index factor in there was to provide some measure of protection for older neighborhoods which were perhaps built up in competition which included areas that were very rapidly growing in percentage terms from year to year. An area that might exemplify that is Clark County would be an area like Mesquite which population wise has not grown dramatically, but in terms of overall assessed valuation, Mesquite has seen tremendous growth in recent years. Those are the kinds of anomalies that the past formula would have rewarded. The proposed formula would perhaps create a little bit more of a level playing field. We did run some simulations, as Marvin mentioned, and have probably run several hundreds of these under different scenarios. Taking the elements of the formula, as it is in the bill draft before you, and applying it to data for fiscal 97-98, what would be differences between the two formulas for areas like Paradise and Winchester, if the formula had been put in place a year ago we would have seen somewhat of a gain in both of those areas for fiscal 97-98. Areas like Mesquite, because of the past reward mechanism for assessed evaluation based distribution without as much consideration given to population, would probably, under the simulation we did, expect to get less under the new formula than under the current system.

SENATOR RAWSON:

I have a couple of questions. I was not going to ask about Summerland until it was brought up. It sounds like, because it is a rapidly growing area, that they might tend to lose some service. Yet, this is an area which has had a re-evaluation and a very high new burden in taxes. The people are upset already. I want to make sure that they are not going to lose as a result of this formula. The second question I have has to do with all the school issues we are dealing with. We have people from the Lake area that want to establish a new county. Without expressing any opinions as to whether we should allow that or not, do you feel that this accommodates this all right. Would it hurt Washoe County, in particular, or any of the surrounding counties if they were to form a new county?

MR. HOBBS:

In regards to Summerland, it is fortunate that, in the last session, Summerland was created as an unincorporated town and given the ability to share in the distribution formulas. If that had not occurred, Summerland would not have the base at this point to roll up. Summerland's future growth, as compared to some of the other areas, is expected to be pound for pound greater than many of the other unincorporated towns. Looking at the county as a whole and understanding the manner in which the its financial structure works, the revenue that comes into the unincorporated towns goes into the county's general fund which in turn provides service back to each of the unincorporated towns. Under the simulation we mentioned for fiscal years 97-98, Clark County as a whole would have also showed a gain for fiscal 97-98 as compared to the old formula. So, in fact, its ability to provide service to Summerland would have been enhanced under the new formula had it been in place.

MR. LEAVITT:

First of all, this bill does nothing to change the money going to any individual county. It does not have an effect on Washoe County, Douglas County or Carson City if Tahoe County comes to pass. Currently as the governmental structure is, in looking at the Lake area, services are provided by the three counties plus special districts at the lake. This measure would make

easier the combination of those special districts into some other form of an entity that could provide services. We would still have, even after that, three counties which make up this area of the lake. That is not changed or accommodated by way of this act.

MARY HENDERSON:

Thank you, Madam Chair. To Senator Rawson, I think your questions specifically address what would happen if a new county was formed at the Lake and what impact this would have. I am only going to speak for Washoe County. I have not seen the numbers, but with the discussions we have had with Douglas County it would have tremendous impact on Douglas County. For Washoe County, Incline represents approximately 10 to 12 percent of our assessed valuation. Calculations we have run over three sessions, that deal with this issue, basically we are at a wash in the sense of the services we provide at Incline Village and the revenues we generate from that area. As to the school impact, I think you need to look more at the distributive school fund and the impacts it would have on that to the Washoe School District and the viability of creating a separate school district at the Lake. I think that is where the impact is going to occur if the new county is formed.

SENATOR JAMES:

This is a very quick question for Guy Hobbs and Marvin Leavitt. Would it be possible to place in this formula a requirement that, if a city or a municipality was going to receive windfall by virtue of application of the formula in Section 11 over and above by allocation the amount that they would be required to pay for the services etc. they project for the next fiscal year, that money would have to be refunded to the taxpayers in the form of a property tax reduction? Could that be placed in the formula?

MR. HOBBS:

I suppose there are ways to craft such a thing. I'll give you an idea of some of the issues we would have to deal with and define to be able to do something like that. First of all, in Clark County for example, some of the cities within Clark County are at their maximum allowed ad valorem level. I believe the City of Las Vegas in fiscal year 97-98 will be beneath what its authorized level to tax is. Clark County's unincorporated towns are beneath what they are authorized to tax at. So, what you have is a situation within Clark County where some of the entities are at their maximum allowed rates to begin with. Other entities are below their maximum allowed rates, so you would have to somehow equalize where they are within that particular structure. In other words, you would not want to impose reductions on an entity which has already their taxes lower than their authorized level. One of the other things we would have to consider is to define what windfall means in percentage terms relative to what type of entity and then create some structure and procedure. I think the first issue which we will be studying over the next biennium is probably one of the more complex taxation related issues which has led to a lot of the discussion on tax equity and various other issues.

MR. LEAVITT:

You must remember that the major implementation of SAG does not take place for another year. Currently, we do not know exactly what the initial effect is going to be on the various entities. We have a year's time to prepare for the implementation.

SENATOR O'DONNELL:

Thank you, Madam Chairman. There is the question then, if you have gone back five years, and have done a historical calculation as to what would happen to the revenues, did you find anywhere in those five years a surplus or windfall in any one of those areas?

MR. LEAVITT:

Again, it is difficult to define what a surplus or windfall is. In the application of the formula, we have not seen wide disparities where someone gets a 30 percent windfall and gets a 20 percent reduction. We have not seen those large disparities. One of the concerns, obviously was, if you had a government that had a 20 percent reduction in one year what would they do. We have not seen those big disparities from the existing system. I would be very surprised if we saw anyone gain huge windfalls as a result of this act. I think we are going to see a more gradual change over a period of time.

MR. HOBBS:

Senator, in looking at the simulations we have done and looking at the columns that compare the current system to what the proposed system would have done if it were in place, the areas where we saw the biggest gains on a percentage basis were correlated to the faster growing areas. For example, we saw more of a gain in Laughlin which is what we would expect to see as a consequence of the formula. Areas that are growing faster would receive a little more revenue than on the average of the other entities from year to year.

SENATOR O'CONNELL:

I would like you to help me to show the appreciation we have for the work of the committee. (APPLAUSE) Thank you, all very much.

PRESIDENT PRO TEMPORE JACOBSEN:

Thank you, Senator O'Connell and all those participants who helped with the Committee of the Whole.

SENATOR RAGGIO:

Mr. President pro Tempore, also on behalf of the Senate I would like to thank the technical committee who worked on this and members of the committee with Senator O'Connell as Chairman and the time they took in preparation for the presentation this morning.

(This concluded the question and answer portion of the Committee of the Whole).

On the motion of Senator Raggio, the committee did rise, and report back to the Senate.

## SENATE IN SESSION

At 12:20 p.m.

President pro Tempore Jacobsen presiding.

Quorum present.

## REPORTS OF COMMITTEES

*Mr. President pro Tempore:*

Your Committee of the Whole, to which was referred Senate Bill No. 254, has had the same under consideration, and begs leave to report the same back with the recommendation: that the Senate give it further consideration under Order of Business No. 12, Second Reading and Amendment.

ANN O'CONNELL, *Chairman*

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Amend sec. 2, page 3, line 20, by deleting the italicized period and inserting: “, *including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.*”.

Amend sec. 2, page 4, by deleting lines 15 through 20 and inserting:

“2. The commission may prepare and adopt, as part of the master plan, other and additional”.

Amend sec. 3, page 4, line 28, by deleting “\$70,000” and inserting “\$68,497”.

Amend sec. 3, page 4, line 29, by deleting “\$63,000” and inserting “\$62,118”.

Amend the title of the bill by deleting the eighth through tenth lines and inserting: “federal management; making an appropriation; and providing other matters”.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Senator Rhoads moved that Senate Bill No. 25 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 58.

Bill read second time and ordered to third reading.

#### Senate Bill No. 254.

Bill read second time.

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

Amendment No. 289.

Amend sec. 4, pages 1 and 2, by deleting lines 17 through 20 on page 1 and lines 1 through 12 on page 2 and inserting:

“Sec. 4. “Enterprise district” means a governmental entity which:

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

Amend sec. 11, page 5, line 8, by deleting “3” and inserting “4”.

Amend the bill as a whole by adding a new section designated sec. 12.5. following sec. 12, to read as follows:

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

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

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

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

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

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

Amend sec. 14, page 6, by deleting lines 30 and 31 and inserting:

"3. *The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts."*

Amend sec. 14, page 7, line 10, by deleting "*by unanimous consent*".

Amend the bill as a whole by adding a new section designated sec. 18.5, following sec. 18, to read as follows:

"Sec. 18.5. NRS 371.230 is hereby amended to read as follows:

371.230 Except as otherwise provided in NRS 371.1035 [,] or 482.180, money collected by the department for privilege taxes and penalties pursuant to the provisions of this chapter must be deposited with the state treasurer to the credit of the motor vehicle fund."

Amend sec. 21, page 13, line 38, by inserting, after "shall" by inserting "distribute".

Amend sec. 21, page 13, line 41, by deleting ":" and inserting ", to:".

Amend sec. 21, page 13, line 42, by deleting "For".

Amend sec. 21, page 13, line 43, by deleting: "distribute to each county".

Amend sec. 21, page 14, line 13, by deleting "6." and inserting "5."

Amend sec. 21, page 14, by deleting line 20 and inserting:

"(b) All other counties, the amount remaining after making".

Amend sec. 21, page 14, line 21, by deleting "county" and inserting: "of these counties".

Amend sec. 21, page 14, line 32, after "(b)" by inserting: "of subsection 1".

Amend sec. 21, page 14, line 36, by deleting the comma.

Amend sec. 21, page 14, line 41, by deleting the comma.

Amend sec. 21, page 15, by deleting lines 36 through 41 and inserting: "assessed valuation of a:

(a) Fire protection district includes property which was transferred from private ownership to public ownership after July 1, 1986, pursuant to:

(1) The Santini-Burton Act, Public Law 96-586; or

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(2) Chapter 585, Statutes of Nevada 1985, at page 1866, approved by the voters on November 4, 1986.

(b) Local government includes property which was transferred from private ownership, after July 1, 1997, to property held in trust for an Indian tribe pursuant to the provisions of the Indian Reorganization Act, 25 U.S.C. §§ 461 et seq.”

Amend the bill as a whole by adding a new section designated sec. 21.5, following sec. 21, to read as follows:

“Sec. 21.5. NRS 377.080 is hereby amended to read as follows:

377.080 1. A local government or *special district* which receives revenue [from the supplemental city-county relief tax pursuant to NRS 377.057] *pursuant to sections 10, 11 and 12 of this act* may pledge not more than 15 percent of that revenue to the payment of any general obligation bond or revenue bond issued by the local government pursuant to chapter 350 of NRS.

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

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

*(a) A pledge of 15 percent of the revenue distributed pursuant to sections 10, 11 and 12 of this act is substituted for the pledge of 15 percent of the revenue distributed pursuant to NRS 377.057, as that section existed on January 1, 1997; and*

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

4. *As used in this section, unless the context otherwise requires:*

*(a) “Enterprise district” has the meaning ascribed to it in section 4 of this act.*

*(b) “Local government” has the meaning ascribed to it in section 6 of this act.*

*(c) “Special district” has the meaning ascribed to it in section 7 of this act.”.*

Amend sec. 35, page 26, line 13, by deleting “average”.

Amend sec. 35, page 26, line 22, by deleting “average”.

Amend sec. 35, page 26, by deleting lines 24 and 25 and inserting:

“3. For the purposes of this section:

(a) For any unincorporated town to which the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996, applied, the amounts described in subparagraphs (1) and (2) of paragraph (a) of subsection 2 must be adjusted to equal the amounts that could have been received by that unincorporated town but for the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996.

(b) The fiscal year ending on June 30, 1999, is the initial year of distribution.”.

Amend sec. 35, page 26, line 26, by deleting “4.” and inserting:

“4. For the fiscal year beginning on July 1, 2000, the executive director of the department of taxation shall increase the amount which would otherwise be allocated pursuant to subsection 2 of section 10 of this act to each unincorporated town that was created after July 1, 1980, and before July 1, 1997, for which the Nevada tax commission established the allowed revenue from taxes ad valorem or basic ad valorem revenue pursuant to subsection 4 of NRS 354.5987, as that section existed on July 1, 1996, by an amount equal to the amount of basic privilege tax that would have been distributed to the unincorporated town:

(a) Pursuant to NRS 482.181, as if the provisions of NRS 482.181 which existed on July 1, 1996, were still in effect; and

(b) As if the tax rate for the unincorporated town for the fiscal year beginning on July 1, 1980, were a rate equal to the average tax rate levied for the fiscal year beginning on July 1, 1980, by other unincorporated towns included in the same common levy authorized by NRS 269.5755 which were in existence on July 1, 1980.

5. The additional amount of money allocated to an unincorporated town pursuant to subsection 4 must continue to be treated as a regular part of the amount allocated to the unincorporated town for the purposes of determining the allocation for the town pursuant to subsection 2 of section 10 of this act for all future years.

6.”.

Amend sec. 37, page 28, line 26, by deleting: “September 15, 1997,” and inserting: “January 1, 1998,”.

Amend sec. 37, page 28, by deleting lines 27 through 30 and inserting: “of the department of taxation shall:

(a) Notify each governmental entity he determines is an enterprise district pursuant to section 12.5 of this act of that determination; and

(b) Calculate the amount each enterprise district will receive pursuant to subsection 1 of section 10 of this act.

2. Any governmental entity that the executive director determines is an enterprise district pursuant to section 12.5 of this act may appeal that determination to the Nevada tax commission on or before April 1, 1998. The governing body of the governmental entity must notify each of the other

local governments and special districts that is located in the same county of the appeal.

3. The Nevada tax commission shall convene a hearing on the appeal and issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

4. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act."

Amend the bill as a whole by adding a new section designated sec. 37.5, following sec. 37, to read as follows:

"Sec. 37.5. 1. There is hereby appropriated from the state general fund to the department of taxation for the personnel, equipment and costs of operation necessary to administer the provisions of this act:

For the fiscal year 1997-98 ..... \$137,814

For the fiscal year 1998-99 ..... \$127,200

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years and reverts to the state general fund as soon as all payments of money committed have been made."

Amend sec. 38, page 28, line 31, by deleting: "13 and 37" and inserting: "12.5, 13, 37 and 37.5".

Amend the preamble of the bill, page 1, by deleting lines 1 through 6.

Amend the title of the bill, eighth line, after "circumstances;" by inserting: "making an appropriation;"

Senator O'Connell moved the adoption of the amendment.

Remarks by Senators O'Connell and Coffin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bills Nos. 275, 296, 297, 325, 331, 377; Assembly Bills Nos. 131, 292, 304, be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Raggio moved that Senate Bills Nos. 156, 351, 353, 364, 369, 370; Assembly Bills Nos. 110, 113, 249, 284, 297, 324, 408, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SENATE BILL NO. 254—COMMITTEE ON GOVERNMENT AFFAIRS

APRIL 2, 1997

Referred to Committee on Government Affairs

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

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

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

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

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

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

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

6 Sec. 3. "County" includes Carson City.

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

8 1. *Is not a county, city or town;*

9 2. *Receives any portion of the proceeds of a tax which is included in the*  
10 *fund; and*

11 3. *The executive director determines is an enterprise district pursuant to*  
12 *the provisions of section 12.5 of this act.*

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

JOURNAL OF THE SENATE

MAY 26, 1997 — DAY 127

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GENERAL FILE AND THIRD READING

Senate Bill No. 254.

Bill read third time.

Roll call on Senate Bill No. 254:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 113.

Bill read third time.

Roll call on Assembly Bill No. 113:

YEAS—21.

NAYS—None.

Assembly Bill No. 113 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 131.

Bill read third time.

Roll call on Assembly Bill No. 131:

YEAS—19.

NAYS—James.

NOT VOTING—Townsend.

Assembly Bill No. 131 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 180.

Bill read third time.

Remarks by Senators Neal and Rhoads.

Roll call on Assembly Bill No. 180:

YEAS—21.

NAYS—None.

Assembly Bill No. 180 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 271.

Bill read third time.

Case No. 66851  
JA 3125

5-26-97

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JOURNAL OF THE SENATE

Roll call on Assembly Bill No. 271:

YEAS—21.

NAYS—None.

Assembly Bill No. 271 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 304.

Bill read third time.

Remarks by Senators Neal, James, Coffin and Regan.

Roll call on Assembly Bill No. 304:

YEAS—20.

NAYS—None.

NOT VOTING—Coffin.

Assembly Bill No. 304 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the vote whereby Senate Bill No. 254 was passed be rescinded.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 254 be re-referred to the Committee on Finance.

Remarks by Senator Raggio.

Motion carried.

Senator Neal gave notice that on the next legislative day he would move to reconsider the vote whereby Assembly Bill No. 180 was this day passed.

Remarks by Senator Neal.

Senator Adler gave notice that on the next legislative day he would move to reconsider the vote whereby Assembly Bill No. 271 was this day passed.

Remarks by Senator Adler.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolutions Nos. 40, 41, 42.

Case No. 66851  
JA 3126



**Sixty-ninth Session**  
**May 29, 1997**

The Senate Committee on Finance was called to order by Chairman William J. Raggio, at 8:00 a.m., on Thursday, May 29, 1997, in Room 2134 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

**SENATE COMMITTEE MEMBERS PRESENT:**

**Senator William J. Raggio, Chairman**  
**Senator Raymond D. Rawson, Vice Chairman**  
**Senator Lawrence E. Jacobsen**  
**Senator William R. O'Donnell**  
**Senator Bob Coffin**  
**Senator Bernice Mathews**  
**Senator John B. (Jack) Regan**

**GUEST LEGISLATORS PRESENT:**

**Senator Randolph J. Townsend, Washoe County Senatorial District No. 4**  
**Senator Mike McGinness, Central Nevada Senatorial District**  
**Senator Ernest E. Adler, Capital Senatorial District**

**STAFF MEMBERS PRESENT:**

**Dan Miles, Fiscal Analyst**  
**Bob Guernsey, Principal Deputy Fiscal Analyst**  
**Deborah Simmons, Program Analyst**  
**Diane Dixon, Committee Secretary**

**OTHERS PRESENT:**

Elizabeth M. Breshears, Administrator, Rehabilitation Division, Department of  
Employment, Training and Rehabilitation  
Carol A. Jackson, Director, Department of Employment, Training and Rehabilitation  
Luther Mack, Concerned Citizen and Local Businessman, McDonald's Restaurants,  
Washoe County  
General Frank Partlow, Concerned Citizen, Northern Nevada Network, Washoe  
County  
Richard Kirkland, Sheriff, Washoe County  
Nancy Paolini, Executive Director, Project Restart  
Ernest Nielsen, Washoe County Senior Law Project  
Carlos E. Brandenburg, Ph.D., Administrator, Mental Hygiene and Mental  
Retardation Division, Department of Human Resources  
Claudia Harris, Concerned Citizen  
Rosetta Johnson, President, Alliance for the Mentally Ill of Nevada (AMI)  
Dr. Brian Lahren, Washoe Association of Retarded Citizens, Mental Health Coalition,  
Northern Nevada  
Billie Batek, Concerned Citizen  
Barbara Drake, Vice President, United Way, Planning and Fund Distribution of  
Northern Nevada and the Sierra  
Jim Galloway, Board of Commissioners, Washoe County

Case No. 66851  
JA 3127

**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 18 PART 2**

Filed By:

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Nevada*

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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

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23	Notice of Appeal	City of Fernley	11/07/14	4205-4207
22	Notice of Entry of Order	Nevada Legislature	10/08/14	4001-4057
23	Notice of Entry of Order	State of Nevada/Dept	10/17/14	4195-4204
7	Notice of Entry of Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	State of Nevada/Dept Tax/ Treasurer	12/19/12	1364-1370
7	Notice of Entry of Order Granting A Continuance to Complete Discovery	City of Fernley	10/19/12	1344-1350
3	Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene	Nevada Legislature	09/04/12	651-657
7	Notice of Entry of Order on Defendant's Motion for Extensions of Time to File Answer	State of Nevada/Dept Tax/ Treasurer	11/15/12	1354-1360
1	Notice of Non-Opposition to Legislature's Motion to Intervene	State of Nevada/Dept Tax/ Treasurer	08/06/12	59-61
2	Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F)	City of Fernley	08/20/12	331-441
3	Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F) (Cont.)	City of Fernley	08/20/12	442-625
2	Opposition to Motion to Nevada Legislature's Motion to Intervene	City of Fernley	08/20/12	324-330
13	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	City of Fernley	07/11/14	2354-2445
14	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2446-2665
15	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2666-2819
16	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2820-2851
17	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2852-2899
4	Opposition to Nevada Legislature's Joinder in Motion to Dismiss	City of Fernley	09/28/12	662-881
5	Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.)	City of Fernley	09/28/12	882-1101
6	Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.)	City of Fernley	09/28/12	1102-1316
17	Opposition to Nevada Legislature's Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	City of Fernley	07/11/14	2900-2941
20	Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order	Nevada Legislature	07/11/14	3586-3582

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Volume Number	Document	Filed By	Date	Bates Stamp Number
12	Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order and Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Tax/ Treasurer	07/11/14	2049-2052
17	Opposition to Plaintiff's Motion for Summary Judgment	Nevada Legislature	07/11/14	2942-3071
18	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3072-3292
19	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3292-3512
20	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3515-3567
7	Order (Converting Motion to Dismiss to Motion for Summary Judgment, Setting Briefing Schedule and Dismissing Treasurer)	First Judicial District Court	06/06/14	1451-1457
22	Order and Judgment	First Judicial District Court	10/06/14	3948-4000
7	Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	First Judicial District Court	12/17/12	1361-1363
7	Order Granting A Continuance to Complete Discovery	First Judicial District Court	10/15/12	1341-1343
7	Order Granting in Part and Denying in Part Petition for Writ of Mandamus	Nevada Supreme Court	01/25/13	1373-1377
23	Order Granting Nevada Department of Taxation's Motion for Costs	First Judicial District Court	10/15/14	4190-4194
3	Order Granting Nevada Legislature's Motion to Intervene	First Judicial District Court	08/30/12	648-650
7	Order on Defendant's Motion for Extensions of Time to File Answer	First Judicial District Court	11/13/12	1351-1353
7	Order Pursuant to Writ of Mandamus	First Judicial District Court	02/22/13	1390-1392
21	Order Vacating Trial	First Judicial District Court	09/03/14	3773-3775
23	Plaintiff's Motion to Strike, or Alternatively, Motion to Retax Costs	City of Fernley	10/14/14	4178-4189
21	Plaintiff's Objections to Nevada Legislature's Proposed Order and Request to Submit Proposed Order and Judgment	City of Fernley	10/02/14	3846-3862
7	Pretrial Order	First Judicial District Court	10/10/13	1393-1399
7	Reply Concerning Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/27/14	1438-1450
7	Reply in Support of Joinder in Motion to Dismiss	Nevada Legislature	10/08/12	1317-1340
3	Reply in Support of Motion to Intervene	Nevada Legislature	08/24/12	626-635
21	Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant Nevada Legislature	City of Fernley	07/25/14	3709-3746

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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

Senate Committee on Finance  
May 29, 1997  
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no objection, the senator indicated Amendment No. 453 would be sent to the Senate floor.

Senator Raggio closed the hearing on S.B. 72 and the hearing on S.B. 113 was reopened.

SENATE BILL 113: Revises provisions relating to offenders in custody or confinement and makes appropriations to carry out provisions of this act.

Senator Raggio indicated that on May 15, 1997, the committee voted to amend and do pass the first reprint of S.B. 113. Mr. Miles explained section 5 of S.B. 113 was amended to change the definition of "item of correspondence" to "publication" which corresponds more closely to the current activity of the department and removes approximately \$400,000 from the fiscal impact each year. He said the remainder of the amendment deletes the words "either item or correspondence" from section 5 and replaces it with the term "publication."

SENATOR RAWSON MOVED TO AMEND AND DO PASS S.B. 113 WITH AMENDMENT NO. 386.

SENATOR O'DONNELL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

Senator Raggio opened the hearing on S.B. 254.

SENATE BILL 254: Makes various changes to formulas for distribution of certain taxes.

Senator Raggio indicated S.B. 254 came out of the interim study dealing with the distribution of proceeds of taxes. He pointed out there had been comments on the Senate floor and in the committee on the whole regarding the bill; therefore, it was not necessary to reiterate its substance. The senator said S.B. 254 was rereferred to the Senate Committee on Finance for the purpose of discussing the appropriation.

Michael Pitlock, Executive Director, Department of Taxation, addressed the appropriation for the Department of Taxation to implement the new distribution formula set forth in S.B. 254. He explained there are two major components to the appropriation being sought. The first component is \$51,473 in the first fiscal year and \$41,473 in the second fiscal year, which represent additional costs for the state demographer. Mr. Pitlock said as a result of the formula contained in S.B. 254 the state demographer will be required to develop population estimates for the towns contained in the distribution. There are 47 towns in Nevada that receive a distribution from this pool and in accordance with the bill; therefore, in order to develop the population estimates that are part of the formula, the state demographer has indicated a need for this amount of money in the 2 fiscal years. Mr. Pitlock pointed out the reason the first fiscal year is \$10,000 more than the second is that it contains \$10,000 for the purchase of new computer equipment to assist in population estimates.

Continuing, Mr. Pitlock said the second portion of the appropriation being requested is for personnel and operating costs within the Department of Taxation. He

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3428

indicated there is a small revision to the amount being requested. When reviewing the appropriation in preparation for the hearing, a transposition error was noticed in one of the numbers in the area of the computer equipment request. The error was corrected, resulting in a reduction of \$630 in the request for the first fiscal year.

In calculating operating cost for the two new positions, Mr. Pitlock said agency-wide averages were used for some of the categories. This action caused an overestimation of postage required for two additional employees because the overall average is high due to the mailing of tax returns. Therefore, \$2,500 is removed from the postage category for both fiscal years.

Mr. Pitlock indicated S.B. 254 establishes the Department of Taxation as administrators for the new pool and assigns it additional responsibilities over and above those currently performed for the distribution of sales tax to local governments. The duties include operation of the consolidated-distribution system and developing statistics that will be relied upon by local governments in making decisions on how they interact with the pool. Mr. Pitlock explained the department will also be required to reconcile the funds at the end of the month and the end of the fiscal year. He said one of the most significant new elements will be analysis work required by the department to provide information to local governments to help them make decisions required of them based upon S.B. 254. For instance, if a new governmental entity comes into play and takes over the services of some other local governments, the department will be required to analyze the historical distributions from the pool in order to establish a base for the new government. The information will be vital not only to the new governmental entity but to the other governments affected by redistribution of the pool.

In addition, Mr. Pitlock pointed out there is a onetime allowance for local governments to come before the Nevada Tax Commission through the Department of Taxation to adjust their bases, which are the starting point for the distributions. In order to provide information to the tax commission and the local governments affected by the onetime events, additional analysis of the distributions must be performed as well. Mr. Pitlock indicated S.B. 254 allows for alternative-distribution formulas to be established within counties where more than one local government entity agrees to it. The decisions will require analysis of the historical distribution as well as maintenance of two sets of statistics based on the original distribution formula and the alternative-distribution formula. Therefore, when the alternative-distribution formula is abandoned the system can return to the original formula. Mr. Pitlock said there is also a requirement the department maintain information and make a determination with respect to enterprise districts, which are defined in S.B. 254 and treated somewhat differently.

Mr. Pitlock indicated the services outlined will be provided to local governments by three individuals within the Department of Taxation. One is in an existing position and the others will fill two new requested positions. The two requested positions are a Management Analyst II, which is a grade 35, and an Accountant Technician I, which is a grade 30. The three individuals will be responsible for managing the distribution pool, which will have approximately \$700 million per year flowing through it. Mr. Pitlock said under the current system the department also relies on a portion of the time of one of the budget analysts from the local government finance section. Due to the pressure of work on that section at the present time, an individual can no longer be spared to spend part of his/her time on distributions because of the great need of local government for assistance. By adding two new positions to the section, the budget analyst will be free to spend 100 percent of her efforts dealing with local governments. The total of the two components after the

Case No. 66851  
JA 3129



revisions will be \$134,684 in the first fiscal year and \$124,700 in the second fiscal year, Mr. Pitlock remarked.

Senator Raggio pointed out the proposed budget contains 28 additional positions and asked whether the staffing will be adequate without the other two positions addressed in S.B. 254. Mr. Pitlock indicated the other positions requested in the department's budget are mainly concentrated in the area of taxpayer service. The positions are Account Clerks for processing tax returns, Tax Examiners and Tax Administrators to deal with taxpayers, and Revenue Officers. There are no new positions in this particular section. Mr. Pitlock said there is an additional position in the local government finance section to deal with governmental entities currently in severe financial emergency. He recalled that during the 68<sup>th</sup> Legislative Session one local government was in severe financial emergency. Since that time the tax commission has made a finding of severe financial emergency for a second local government; therefore, the Department of Taxation is now involved in the management of two local governments. Mr. Pitlock declared "a couple of" other local governments are close to having the same finding made for them. He noted in the last 2 years the need for services by local governments assisted through the Local Government Budget Act has increased dramatically. As financial strains placed upon local governments become more severe, these entities are getting into more difficulty and the department is called upon to assist them on a regular basis.

In regard to counties with financial troubles, Senator O'Donnell inquired whether the counties have exercised the maximum tax rate or are already at the maximum tax rate. Mr. Pitlock said in some cases the counties within which the local governments are located are at the maximum tax rate. The two governmental entities the department is involved with currently are the White Pine County School District, which was the first local government designated as being in severe financial emergency, and the Nye County Hospital District, which is in severe financial emergency. The department is involved in the operation of the Nye County Regional Medical Center in Tonopah. Both counties have tax-rate problems, Mr. Pitlock remarked.

Referring to section 37.5 of S.B. 254, which is the appropriation, Senator Raggio asked whether an amendment is required to correct the amount. He suggested deleting section 37.5 of S.B. 254 and dealing with the issue in the budget, which has not been closed. He postulated if the bill is processed in that manner it would make it easier for the Assembly. Mr. Miles said Senator Raggio's suggestion is a valid option since the budget has not been closed by the joint subcommittee. He indicated if the information is submitted to the joint subcommittee and section 37.5 of S.B. 254 is deleted, the bill could be sent to the Assembly quicker. Mr. Miles remarked the appropriation could be incorporated into the budget of the Department of Taxation.

Senator Raggio requested a motion to amend and do pass S.B. 254 with the deletion of section 37.5.

SENATOR RAWSON MOVED TO AMEND AND DO PASS S.B. 254.

SENATOR REGAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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6-4-97

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JOURNAL OF THE SENATE

Roll call on Senate Bill No. 168:

YEAS---21.

NAYS---None.

Senate Bill No. 168 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 254.

Bill read third time.

The following amendment was proposed by the Committee on Finance:  
Amendment No. 493.

Amend the bill as a whole by deleting sec. 37.5.

Amend sec. 38, page 30, lines 34 and 35, by deleting: "13, 37 and 37.5" and inserting: "13 and 37".

Amend the title of the bill, eighth line, by deleting: "making an appropriation;"

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 353.

Bill read third time.

The following amendment was proposed by Senator McGinness:  
Amendment No. 475.

Amend section 1, page 1, by deleting lines 6 and 7 and inserting:

"(a) Purchase residential real property which [abuts] *shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access*, and which is adversely affected by the highway."

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 100.

Bill read third time.

Roll call on Assembly Bill No. 100:

YEAS---21.

NAYS---None.

(REPRINTED WITH ADOPTED AMENDMENTS)  
SECOND REPRINT

S.B. 254

SENATE BILL NO. 254—COMMITTEE ON GOVERNMENT AFFAIRS

APRIL 2, 1997

Referred to Committee on Government Affairs

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

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

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

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

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

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

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

6 Sec. 3. "County" includes Carson City.

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

8 1. *Is not a county, city or town;*

9 2. *Receives any portion of the proceeds of a tax which is included in the*  
10 *fund; and*

11 3. *The executive director determines is an enterprise district pursuant to*  
12 *the provisions of section 12.5 of this act.*

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

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

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Senate Bill No. 254.

Bill read third time.

Roll call on Senate Bill No. 254:

YEAS—20.

NAYS—None.

EXCUSED—Regan.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 353.

Bill read third time.

Roll call on Senate Bill No. 353:

YEAS—20.

NAYS—None.

EXCUSED—Regan.

Senate Bill No. 353 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 463.

Bill read third time.

Remarks by Senators Raggio, O'Connell and Neal.

Roll call on Assembly Bill No. 463:

YEAS—20.

NAYS—None.

EXCUSED—Regan.

Assembly Bill No. 463 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 91; Assembly Bill No. 156; Assembly Concurrent Resolutions Nos. 34, 35.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Adler, the privilege of the floor of the Senate Chamber for this day was extended to Mary Adler and Pauline Beville.

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

**Sixty-ninth Session  
June 18, 1997**

The Committee on Government Affairs was called to order at 8:10 a.m., on Wednesday, June 18, 1997. Chairman Douglas Bache presided in Room 3143 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List.

**COMMITTEE MEMBERS PRESENT:**

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

**COMMITTEE MEMBERS EXCUSED:**

Mr. Peter (Pete) Ernaut

**GUEST LEGISLATORS PRESENT:**

Senator Ann O'Connell, Senate District 5

**STAFF MEMBERS PRESENT:**

Denice Miller, Committee Policy Analyst, Research Division,  
Legislative Counsel Bureau (LCB)  
Kim Guinasso, Principal Deputy Legislative Counsel, LCB  
Sara Kaufman, Committee Secretary

OTHERS PRESENT:

Guy Hobb of Hobbs, Ong and Associates, Inc.  
Mary Walker, Director of Finance and Redevelopment, Carson City,  
Nevada  
Mary Henderson, Washoe County, Nevada  
Marvin Leavitt, City of Las Vegas, Nevada  
Michael Pitlock, Executive Director, Department of Taxation  
Carole Vilardo, Nevada Taxpayers Association  
Robert Hadfield, Nevada Association of Counties  
Thomas Grady, Nevada League of Cities

SENATE BILL 254 - Makes various changes to formulas for distribution of certain taxes.

Guy Hobb of Hobbs, Ong and Associates, Inc., testified. He submitted a four-page document (Exhibit C) and a chart depicting revenue distribution (Exhibit D). He informed the committee he was a member of the technical advisory committee to the committee created by Senate Concurrent Resolution 40 of the Sixty-Eighth Session (hereafter referred to as the SCR 40 committee) and that he represented counties.

Mr. Hobbs said the efforts of the SCR 40 committee began 2 years ago when the legislature approved formation of a committee to study the distribution of taxes between and among local governments in Nevada. The primary reason for initiating the study was that the systems currently used to distribute revenues had been in use for 16 years, were cumbersome and no longer served their purpose as effectively as they once had.

The Chair interrupted Mr. Hobb's testimony to allow Senator O'Connell to testify.

Senator Ann O'Connell, Senate District 5, testified. She praised the work of the technical advisory committee and said the product of that work, S.B. 254, had been agreed upon by all parties involved and would revolutionize Nevada's revenue distribution system. She stated the revenue distribution chart submitted by Mr. Hobbs (Exhibit D) provided a picturesque description of how revenues were currently distributed and how they would be distributed in the future under S.B. 254.

Senator O'Connell again praised the work of the technical ~~advisory committee~~ and expressed her appreciation to its members.

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

Chairman Bache thanked Senator O'Connell for her remarks.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 30 changed a statutory reference.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussions ensued between Mr. Mortenson and Mr. Leavitt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

Discussions ensued between Mrs. Lambert and Mr. Leavitt.

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

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

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

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

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

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

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

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

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

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

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

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

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

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION CARRIED.

The hearing on S.B. 254 resumed.

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

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

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

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

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

Chairman Bache turned the meeting over to Vice Chairman Neighbors.

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

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

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

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

**OBJECTIVES**

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

# FORMULA COMPARISON

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

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

## DESCRIPTION OF PROPOSED FORMULA

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

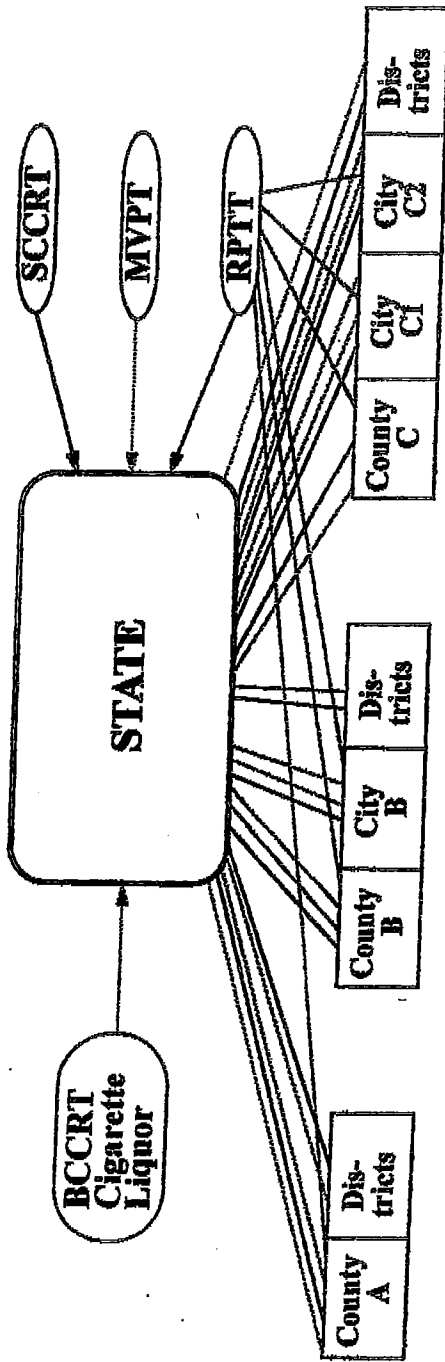
The excess revenues will be distributed to the counties, cities, towns and special districts in a proportionate relationship of the base amounts increased by the above statistics. This will cause the portions of the revenue in excess of the amount needed to fund the base amounts (plus CPI) to flow to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

## ATTRIBUTES

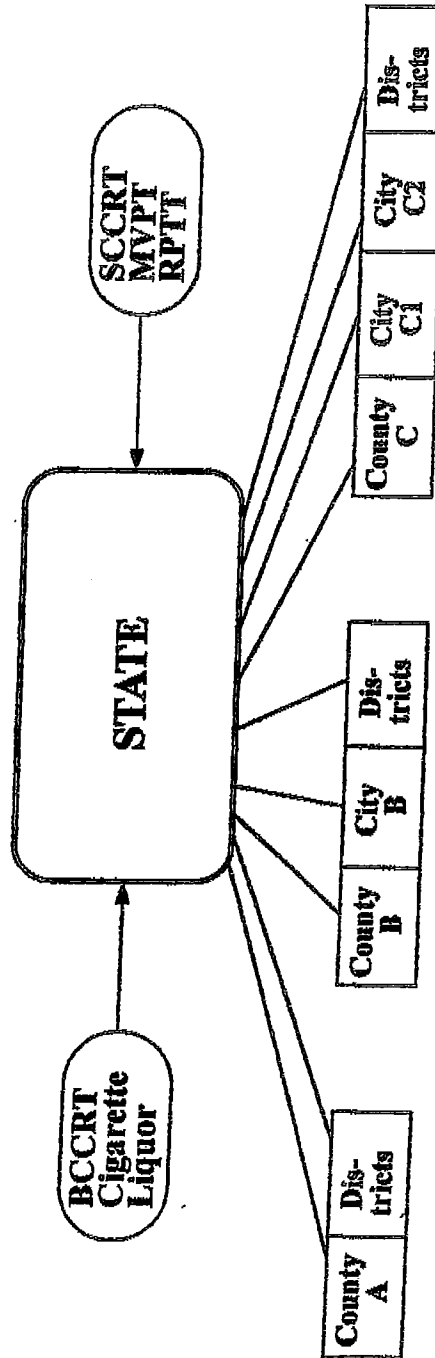
- Does not affect the distribution of revenues between counties.
- New formula is less complex. It replaces four separate formulae that used various combinations of population, assessed valuation and other factors with a single formula.
- Reduces competition among entities for funding.
- Recognizes growth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



## Existing Revenue Distribution



## Proposed Revenue Distribution



May 20, 1996

JOURNAL OF THE ASSEMBLY

7-5-97

2300

ONE HUNDRED AND SIXTY-SEVENTH DAY

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

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 103.

Bill read third time.

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

Amendment No. 1224.

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

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

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

Assemblyman Perkins moved the adoption of the amendment.

Remarks by Assemblymen Perkins, Nolan and Arberry.

Amendment adopted on a division of the house.

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

MOTIONS, RESOLUTIONS AND NOTICES

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

Remarks by Assemblyman Anderson.

Motion carried.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 254.

Bill read second time.

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

Amendment No. 1220.

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

Assemblyman Bache moved the adoption of the amendment.

Remarks by Assemblyman Bache.

Amendment adopted.

Case No. 66851  
JA 3163

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

Motion carried.

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

Senate Bill No. 315.

Bill read second time.

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

Amendment No. 1210.

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

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

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

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 319.

Bill read second time.

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

Amendment No. 1213.

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

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

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

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

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

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

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

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

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

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

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

**S.B. 254**

APRIL 2, 1997

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

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

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

**COMMITTEE MEMBERS PRESENT:**

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

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Chris Giunchigliani, Clark County, District No. 9

**STAFF MEMBERS PRESENT:**

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

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

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

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

ASSEMBLYMAN NEIGHBORS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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

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

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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

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

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

ASSEMBLYMAN LEE SECONDED THE MOTION.

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

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

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

JULY 7, 1997

2659

Roll call on Senate Bill No. 196:

YEAS — 37.

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

Excused — Freeman.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 200.

Bill read third time.

Remarks by Assemblywoman Von Tobel.

Roll call on Senate Bill No. 200:

YEAS — 40.

NAYS — None.

Absent — Giunchigliani.

Excused — Freeman.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 254.

Bill read third time.

Remarks by Assemblyman Bache.

Roll call on Senate Bill No. 254:

YEAS — 40.

NAYS — None.

Absent — Giunchigliani.

Excused — Freeman.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 319.

Bill read third time.

Remarks by Assemblywoman Evans.

Roll call on Senate Bill No. 319:

YEAS — 40.

NAYS — None.

Absent — Giunchigliani.

Excused — Freeman.

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

Bill ordered transmitted to the Senate.

## Senate Bill No. 254-Committee on Government Affairs

## CHAPTER 660

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

[Approved July 17, 1997]

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

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

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

Sec. 3. "County" includes Carson City.

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

1. Is not a county, city or town;
2. Receives any portion of the proceeds of a tax which is included in the fund; and

3. The executive director determines is an enterprise district pursuant to the provisions of section 12.5 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Local government's share of the remaining money by:
- (1) Multiplying one-twelfth of the amount allocated pursuant to section 10 of this act by one plus the sum of the:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Fire protection;
  - (b) Construction, maintenance and repair of roads; or
  - (c) Parks and recreation.
3. As used in this section:
- (a) "Fire protection" has the meaning ascribed to it in section 15 of this act.
  - (b) "Parks and recreation" has the meaning ascribed to it in section 15 of this act.
  - (c) "Police protection" has the meaning ascribed to it in section 15 of this act.
  - (d) "Construction, maintenance and repair of roads" has the meaning ascribed to it in section 15 of this act.

Sec. 14. 1. The governing bodies of two or more local governments or special districts, or any combination thereof, may, pursuant to the provisions of NRS 277.085, enter into a cooperative agreement that sets forth an alternative formula for the distribution of the taxes included in the fund to the local governments or special districts which are parties to the agreement. The governing bodies of each local government or special district that is a party to the agreement must approve the alternative formula by majority vote.

2. The county clerk of a county in which a local government or special district that is a party to a cooperative agreement pursuant to subsection 1 is located shall transmit a copy of the cooperative agreement to the executive director:

- (a) Within 10 days after the agreement is approved by each of the governing bodies of the local governments or special districts that are parties to the agreement; and
  - (b) Not later than December 31 of the year immediately preceding the initial year of distribution that will be governed by the cooperative agreement.
3. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts.
4. If at least two cooperative agreements exist among the local governments and special districts that are located in the same county, the executive director shall ensure that the terms of those cooperative agreements do not conflict.

5. Any local government or special district that is not a party to a cooperative agreement pursuant to subsection 1 must continue to receive money from the fund pursuant to the provisions of sections 10 and 11 of this act.

6. The governing bodies of the local governments and special districts that have entered into a cooperative agreement pursuant to subsection 1 may, by majority vote, amend the terms of the agreement. The governing bodies shall not amend the terms of a cooperative agreement more than once during the first 2 years after the cooperative agreement is effective and once every year thereafter, unless the committee on local government finance approves the amendment. The provisions of this subsection do not apply to any interlocal agreements for the consolidation of governmental services entered into by local governments or special districts pursuant to the provisions of NRS 277.080 to 277.180, inclusive, that do not relate to the distribution of taxes included in the fund.

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

8. For each fiscal year the cooperative agreement is in effect, the executive director shall continue to calculate the amount each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 would receive pursuant to the provisions of sections 10 and 11 of this act.

9. If the governing bodies of the local governments or special districts that are parties to a cooperative agreement terminate the agreement pursuant to subsection 7, the executive director must distribute to those local governments or special districts an amount equal to the amount the local government or special district would have received pursuant to the provisions of sections 10 and 11 of this act according to the calculations performed pursuant to subsection 8.

Sec. 15. 1. The governing body of a local government or special district that is created after July 1, 1998, and which provides police protection and at least two of the following services:

- (a) Fire protection;
  - (b) Construction, maintenance and repair of roads; or
  - (c) Parks and recreation,
- may, by majority vote, request the Nevada tax commission to direct the executive director to allocate money from the fund to the local government or special district pursuant to the provisions of sections 10 and 11 of this act.
2. On or before December 31 of the year immediately preceding the first fiscal year that the local government or special district would receive money from the fund, a governing body that submits a request pursuant to subsection 1 must:

- (a) Submit the request to the executive director; and
- (b) Provide copies of the request and any information it submits to the executive director in support of the request to each local government and special district that:

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

3. The executive director shall review each request submitted pursuant to subsection 1 and submit his findings to the committee on local government finance. In reviewing the request, the executive director shall:

(a) For the initial year of distribution, establish an amount to be allocated to the new local government or special district pursuant to the provisions of sections 10 and 11 of this act. If the new local government or special district will provide a service that was provided by another local government or special district before the creation of the new local government or special district, the amount allocated to the local government or special district which previously provided the service must be decreased by the amount allocated to the new local government or special district; and

(b) Consider:

(1) The effect of the distribution of money in the fund, pursuant to the provisions of sections 10 and 11 of this act, to the new local government or special district on the amounts that the other local governments and special districts that are located in the same county will receive from the fund; and

(2) The comparison of the amount established to be allocated pursuant to the provisions of sections 10 and 11 of this act for the new local government or special district to the amounts allocated to the other local governments and special districts that are located in the same county.

4. The committee on local government finance shall review the findings submitted by the executive director pursuant to subsection 3. If the committee determines that the distribution of money in the fund to the new local government or special district is appropriate, it shall submit a recommendation to the Nevada tax commission. If the committee determines that the distribution is not appropriate, that decision is not subject to review by the Nevada tax commission.

5. The Nevada tax commission shall schedule a public hearing within 30 days after the committee on local government finance submits its recommendation. The Nevada tax commission shall provide public notice of the hearing at least 10 days before the date on which the hearing will be held. The executive director shall provide copies of all documents relevant to the recommendation of the committee on local government finance to the governing body of each local government and special district that is located in the same county as the new local government or special district.

6. If, after the public hearing, the Nevada tax commission determines that the recommendation of the committee on local government finance is appropriate, it shall order the executive director to distribute money in the fund to the new local government or special district pursuant to the provisions of sections 10 and 11 of this act.

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

8. As used in this section:

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

(1) The prevention and suppression of fire; and  
 (2) Rescue, and the acquisition and maintenance of the equipment necessary to provide those services.

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

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

- (1) Routine patrol;
  - (2) Criminal investigations;
  - (3) Enforcement of traffic laws; and
  - (4) Investigation of motor vehicle accidents.
- (d) "Construction, maintenance and repair of roads" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a road and that is necessary for the safe and efficient use of the road except alleys and pathways for bicycles that are separate from the roadway and, including, without limitation:

- (1) Grades or regrades;
- (2) Gravel;
- (3) Oiling;
- (4) Surfacing;
- (5) Macadamizing;
- (6) Paving;
- (7) Cleaning;
- (8) Sanding or snow removal;
- (9) Crosswalks;
- (10) Sidewalks;
- (11) Culverts;
- (12) Catch basins;
- (13) Drains;
- (14) Sewers;
- (15) Manholes;
- (16) Inlets;
- (17) Outlets;
- (18) Retaining walls;
- (19) Bridges;
- (20) Overpasses;
- (21) Tunnels;
- (22) Underpasses;
- (23) Approaches;
- (24) Sprinkling facilities;
- (25) Artificial lights and lighting equipment;

- (26) *Parkways;*
  - (27) *Fences or barriers that control access to the road;*
  - (28) *Control of vegetation;*
  - (29) *Rights of way;*
  - (30) *Grade separators;*
  - (31) *Traffic separators;*
  - (32) *Devices and signs for control of traffic;*
  - (33) *Facilities for personnel who construct, maintain or repair roads;*
- and
- (34) *Facilities for the storage of equipment or materials used to construct, maintain or repair roads.*

Sec. 16. NRS 360.283 is hereby amended to read as follows:

360.283 1. The department shall adopt regulations to establish a method of determining annually the population of each town, township, city and county in this state and estimate the population of each town, township, city and county pursuant to those regulations.

2. The department shall issue an annual report of the estimated population of each town, township, city and county in this state.

3. Any town, city or county in this state may petition the department to revise the estimated population of that town, city or county. No such petition may be filed on behalf of a township. The department shall by regulation establish a procedure to review each petition and to appeal the decision on review.

4. The department shall, upon the completion of any review and appeal thereon pursuant to subsection 3, determine the population of each town, township, city and county in this state, and submit its determination to the governor.

5. The department shall employ a demographer to assist in the determination of population pursuant to this section and to cooperate with the Federal Government in the conduct of each decennial census as it relates to this state.

Sec. 17. NRS 369.173 is hereby amended to read as follows:

369.173 The department shall apportion, [and the state controller shall distribute,] on a monthly basis, from the tax on liquor containing more than 22 percent of alcohol by volume, the portion of the tax collected during the preceding month which is equivalent to 50 cents per wine gallon, among Carson City and the counties of this state in proportion to their respective populations. [The department shall apportion that money within the counties as follows:

1. If there are no incorporated cities within the county, the entire amount must go into the county treasury.
2. If there is one incorporated city within the county the money must be apportioned between the city and the county on the basis of the population of the city and the population of the county excluding the population of the city.
3. If there are two or more incorporated cities within the county, the entire amount must be apportioned among the cities in proportion to their respective populations.

4. In Carson City the entire amount must go into the city treasury.] The state controller shall deposit the amounts apportioned to Carson City and each county in the local government tax distribution fund created by section 8 of this act for credit to the respective accounts of Carson City and each county.

Sec. 18. NRS 370.260 is hereby amended to read as follows:

370.260 1. All taxes and license fees imposed by the provisions of NRS 370.001 to 370.430, inclusive, less any refunds granted as provided by law, must be paid to the department in the form of remittances payable to the department.

2. The department shall:

(a) As compensation to the state for the costs of collecting the taxes and license fees, transmit each month the sum the legislature specifies from the remittances made to it pursuant to subsection 1 during the preceding month to the state treasurer for deposit to the credit of the department. The deposited money must be expended by the department in accordance with its work program.

(b) From the remittances made to it pursuant to subsection 1 during the preceding month, less the amount transmitted pursuant to paragraph (a), per cigarette to the state treasurer for deposit to the credit of the account for the tax on cigarettes in the state general fund.

(c) Transmit the balance of the payments each month to the state treasurer for deposit [to the credit of the cigarette tax account in the intergovernmental fund.] in the local government tax distribution fund created by section 8 of this act.

(d) Report to the state controller monthly the amount of collections.

3. The money [in the cigarette tax account] deposited pursuant to paragraph (c) of subsection 2 in the local government tax distribution fund is to their respective populations.] The amount in the accounts in proportion collected during the preceding month must be apportioned by the department and distributed by the state controller as follows:

- (a) In a county whose population is 6,000 or more:
  - (1) If there are no incorporated cities within the county, the entire amount must go into the county treasury.
  - (2) If there is one incorporated city within the county the money must be apportioned between the city and the county on the basis of the population of the city and the population of the county excluding the population of the city.
  - (3) If there are two or more incorporated cities within the county, the entire amount must be apportioned among the cities in proportion to their respective populations.
- (b) In a county whose population is less than 6,000:
  - (1) If there are no incorporated cities or unincorporated towns within the county, the entire amount must go into the county treasury.
  - (2) If there is one incorporated city or one unincorporated town within the county the money must be apportioned between the city or town and the

county on the basis of the population of the city or town and the population of the county excluding the population of the city or town.

(3) If there are two or more incorporated cities or unincorporated towns or an incorporated city and an unincorporated town within the county, the entire amount must be apportioned among the cities or towns in proportion to their respective populations.

(c) In Carson City the entire amount must go into the city treasury.

4. For the purposes of this section, "unincorporated town" means only those towns governed by town boards organized pursuant to NRS 269.016 to 269.019, inclusive, and must be credited to the respective accounts of Carson City and each county.

Sec. 18.5. NRS 371.230 is hereby amended to read as follows:

371.230 Except as otherwise provided in NRS 371.1035 [.] or 482.180, money collected by the department for privilege taxes and penalties pursuant to the provisions of this chapter must be deposited with the state treasurer to the credit of the motor vehicle fund.

Sec. 19. NRS 375.070 is hereby amended to read as follows:

375.070 [1.] The county recorder shall transmit the proceeds of the real property transfer tax at the end of each quarter in the following manner:

[(a)] 1. An amount equal to that portion of the proceeds which is equivalent to 10 cents for each \$500 of value or fraction thereof must be transmitted to the state treasurer who shall deposit that amount in the account for low-income housing created pursuant to NRS 319.500.

[(b)] 2. The remaining proceeds must be transmitted to the [county] treasurer, who shall in Carson City, and in any county where there are no incorporated cities, deposit them all in the general fund, and in other counties deposit 25 percent of them in the general fund and apportion the remainder as follows:

(1) If there is one incorporated city in the county, between that city and the county general fund in proportion to the respective populations of the city and the unincorporated area of the county.

(2) If there are two or more cities in the county, among the cities in proportion to their respective populations.

2. If there is any incorporated city in a county, the county recorder shall charge each city a fee equal to 2 percent of the real property transfer tax which is transferred to that city.] state treasurer for deposit in the local government tax distribution fund created by section 8 of this act for credit to the respective accounts of Carson City and each county.

Sec. 20. NRS 377.055 is hereby amended to read as follows:

377.055 1. The department [.] shall monthly determine for each county an amount of money equal to the sum of:

(a) Any fees and any taxes, interest and penalties which derive from the basic city-county relief tax collected in that county pursuant to this chapter during the preceding month, less the corresponding amount transferred to the state general fund pursuant to subsection 3 of NRS 377.050; and

(b) That proportion of the total amount of taxes which derive from that portion of the tax levied at the rate of one-half of 1 percent collected pursuant to this chapter during the preceding month from out-of-state

businesses not maintaining a fixed place of business within this state, less the corresponding amount transferred to the state general fund pursuant to subsection 3 of NRS 377.050, which the population of that county bears to the total population of all counties which have in effect a city-county relief tax ordinance [.]

2. The department shall apportion and the state controller shall remit the amount determined for each county in the following manner:

(a) If there is one incorporated city in the county, apportion the money between the city and the county general fund in proportion to the respective populations of the city and the unincorporated area of the county.

(b) If there are two or more cities in the county, apportion all such money among the cities in proportion to their respective populations.

(c) If there are no incorporated cities in the county, remit the entire amount to the county treasurer for deposit in the county general fund.

3. The provisions of subsection 2 do not apply to Carson City, where the treasurer shall deposit the entire amount determined for the city and [.] received from the state controller in the general fund.

and deposit the money in the local government tax distribution fund created by section 8 of this act for credit to the respective accounts of each county.

2. For the purpose of the distribution required by this section, the occasional sale of a vehicle shall be deemed to take place in the county to which the privilege tax payable by the buyer upon that vehicle is distributed.

Sec. 21. NRS 377.057 is hereby amended to read as follows:

377.057 1. The state controller, acting upon the relevant information furnished by the department, shall distribute monthly from the fees, taxes, interest and penalties which derive from the supplemental city-county relief tax collected in all counties and from out-of-state businesses during the preceding month, except as otherwise provided in subsection 2, to:

(a) Douglas, Esmeralda, Eureka, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey and White Pine counties, an amount equal to one-twelfth of the amount distributed in the immediately preceding fiscal year multiplied by one plus:

(1) The percentage change in the total receipts from the supplemental city-county relief tax for all counties and from out-of-state businesses, from the fiscal year 2 years preceding the immediately preceding fiscal year to the fiscal year preceding the immediately preceding fiscal year; or

(2) Except as otherwise provided in this paragraph, the percentage change in the population of the county, as certified by the governor pursuant to NRS 360.285, added to the percentage change in the Consumer Price Index for the year ending on December 31 next preceding the year of distribution,

whichever is less, except that the amount distributed to the county must not be less than the amount specified in subsection [10.] 5. If the [United States] Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the governor pursuant to NRS 360.285, the percentage change calculated pursuant to subparagraph (2) for the ensuing fiscal year must be an estimate of the

change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

(b) All other counties, the amount remaining after making the distributions required by paragraph (a) to each of these counties in the proportion that the amount of supplemental city-county relief tax collected in the county for the month bears to the total amount of supplemental city-county relief tax collected for that month in the counties whose distribution will be determined pursuant to this paragraph.

2. If the amount of supplemental city-county relief tax collected in a county listed in paragraph (a) of subsection 1 for the 12 most recent months for which information concerning the actual amount collected is available on February 15 of any year exceeds by more than 10 percent the amount distributed pursuant to paragraph (a) to that county for the same period, the state controller shall distribute that county's portion of the proceeds from the supplemental city-county relief tax pursuant to paragraph (b) of subsection 1 in all subsequent fiscal years, unless a waiver is granted pursuant to subsection 3.

3. A county which, pursuant to subsection 2, is required to have its portion of the proceeds from the supplemental city-county relief tax distributed pursuant to paragraph (b) of subsection 1 may file a request with the Nevada tax commission for a waiver of the requirements of subsection 2. The request must be filed on or before February 20 next preceding the fiscal year for which the county will first receive its portion of the proceeds from the supplemental city-county relief tax pursuant to paragraph (b) of subsection 1 and must be accompanied by evidence which supports the granting of the waiver. The commission shall grant or deny a request for a waiver on or before March 10 next following the timely filing of the request. If the commission determines that the increase in the amount of supplemental city-county relief tax collected in the county was primarily caused by:

(a) Nonrecurring taxable sales, it shall grant the request.

(b) Normal or sustainable growth in taxable sales, it shall deny the request.

A county which is granted a waiver pursuant to this subsection is not required to obtain a waiver in any subsequent fiscal year to continue to receive its portion of the proceeds from the supplemental city-county relief tax pursuant to paragraph (a) of subsection 1 unless the amount of supplemental city-county relief tax collected in the county in a fiscal year again exceeds the threshold established in subsection 2.

4. The amount apportioned to each county must then be apportioned among the several local governments therein, including the county and excluding the school district, any district created to provide a telephone number for emergencies, any district created under chapter 318 of NRS to furnish emergency medical services, any redevelopment agency, any tax increment area and any other local government excluded by specific statute, in the proportion which each local government's basic ad valorem revenue bears to the total basic ad valorem revenue of all these local governments.

5. As used in this section, the "basic ad valorem revenue" of each local government, except as otherwise provided in subsection 6 of NRS

354.5987, is its assessed valuation, including assessed valuation attributable to a redevelopment agency or tax increment area but excluding the portion attributable to the net proceeds of minerals, for the year of distribution, 1981, for purposes other than paying the interest on and principal of its general obligations. For the purposes of this subsection:

(a) A county whose actual tax rate, for purposes other than debt service, for the fiscal year ending on June 30, 1981, was less than 50 cents per \$100 of assessed valuation is entitled to the use of a rate not greater than 80 cents per \$100 of assessed valuation.

(b) A fire district in such a county whose tax rate was more than 50 cents per \$100 of assessed valuation is entitled to the use of a rate not greater than \$1.10 per \$100 of assessed valuation.

6. For the purposes of determining basic ad valorem revenue, the assessed valuation of a:

(a) Fire protection district includes property which was transferred from private ownership to public ownership after July 1, 1986, pursuant to:

(1) The Santini-Burton Act, Public Law 96-586; or

(2) Chapter 585, Statutes of Nevada 1985, at page 1866, approved by the voters on November 4, 1986.

(b) Local government includes property which was transferred from private ownership, after July 1, 1997, to property held in trust for an Indian tribe pursuant to the provisions of the Indian Reorganization Act, 25 U.S.C. §§ 461 et seq.

7. On or before February 15 of each year, the executive director shall provide to each local government a preliminary estimate of the revenue it will receive from the supplemental city-county relief tax in the next fiscal year.

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

(a) Make an estimate of the receipts from the supplemental city-county relief tax on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles; and

(b) Provide to each local government an estimate of the tax that local government would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

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

10. *be deposited in the local government tax distribution fund created by section 8 of this act for credit to the respective accounts of each county.*

5. The minimum amount which may be distributed to the following counties in a month pursuant to paragraph (a) of subsection 1 is as follows:

Douglas	\$580,993
Esmeralda	53,093
Lander	155,106
Lincoln	72,973
Lyon	356,858
Mineral	118,299
Nye	296,609



Pershing.....	96,731
Storey.....	69,914
White Pine.....	158,863

[11.] 6. As used in this section, unless the context otherwise requires:

(a) ["Local government" includes a fire protection district organized pursuant to chapter 473 of NRS.] "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" [does not include the Nevada rural housing authority.] has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 21.5. NRS 377.080 is hereby amended to read as follows:

377.080 1. A local government or special district which receives revenue [from the supplemental city-county relief tax pursuant to NRS 377.057] pursuant to sections 10, 11 and 12 of this act may pledge not more than 15 percent of that revenue to the payment of any general obligation bond or revenue bond issued by the local government pursuant to chapter 350 of NRS.

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

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

(a) A pledge of 15 percent of the revenue distributed pursuant to sections 10, 11 and 12 of this act is substituted for the pledge of 15 percent of the revenue distributed pursuant to NRS 377.057, as that section existed on January 1, 1997, and

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

4. As used in this section, unless the context otherwise requires:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 22. Chapter 354 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 and 24 of this act.

Sec. 23. Except as otherwise provided in section 24 of this act, if one or more local governments assume the functions previously performed by a local government that no longer exists, the Nevada tax commission shall add to the allowed revenue from taxes ad valorem otherwise allowable to the local government or local governments pursuant to NRS 354.59811 an

amount equal to the allowed revenue from taxes ad valorem for the last fiscal year of existence of the local government whose functions were assumed. If more than one local government assumes the functions, the additional revenue must be divided among the local governments on the basis of the proportionate costs of the functions assumed. The Nevada tax commission shall not allow any increase in the allowed revenue from taxes ad valorem if the increase would result in a decrease in revenue of any local government in the county that does not assume those functions.

Sec. 24. 1. For the purpose of calculating the amount to be distributed pursuant to the provisions of sections 10 and 11 of this act from a county's account in the local government tax distribution fund to a local government, special district or enterprise district after it assumes the functions of another local government, special district or enterprise district: (a) Except as otherwise provided in this subsection and subsection 2, the executive director of the department of taxation shall:

(1) Add the amounts calculated pursuant to subsection 1 or 2 of section 10 of this act for each local government, special district or enterprise district and allocate the combined amount to the local government, special district or enterprise district that assumes the functions; and

(2) If applicable, add the population and average change in the assessed valuation of taxable property that would otherwise be allowed to the local government or special district whose functions are assumed, except to any assessed valuation attributable to the net proceeds of minerals, pursuant to subsection 3 of section 11 of this act to the population and average change in assessed valuation for the local government, special district or enterprise district that assumes the functions.

(b) If two or more local governments, special districts or enterprise districts assume the functions of another local government, special district or enterprise district, the additional revenue must be divided among the local governments, special districts or enterprise districts that assume the functions on the basis of the proportionate costs of the functions assumed.

The Nevada tax commission shall not allow any increase in the allowed revenue from the taxes contained in the county's account in the local government tax distribution fund if the increase would result in a decrease in revenue of any local government, special district or enterprise district in the county that does not assume those functions. If more than one local government, special district or enterprise district assumes the functions, the Nevada tax commission shall determine the appropriate amounts calculated pursuant to subparagraphs (1) and (2) of paragraph (a).

2. If a city disincorporates, the board of county commissioners of the county in which the city is located must determine the amount the unincorporated town created by the disincorporation will receive pursuant to the provisions of sections 2 to 15, inclusive, of this act.

3. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 25. NRS 354.470 is hereby amended to read as follows:

354.470 NRS 354.470 to 354.626, inclusive, and sections 23 and 24 of this act may be cited as the Local Government Budget Act.

Sec. 26. NRS 354.59813 is hereby amended to read as follows:

354.59813 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, [when] if the estimate of the revenue available from the supplemental city-county relief tax to the county as determined by the executive director of the department of taxation pursuant to the provisions of [NRS 377.057] subsection 8 of section 11 of this act is less than the amount of money that would be generated by applying a tax rate of \$1.15 per \$100 of assessed valuation to the assessed valuation of the [state,] county, the governing body of each local government may levy an additional tax ad valorem for operating purposes. The total tax levied by the governing body of a local government pursuant to this section must not exceed a rate calculated to produce revenue equal to the difference between the [amount] :

(a) Amount of revenue from supplemental city-county relief tax estimated to be received by [that local government and] the county pursuant to subsection 8 of section 11 of this act; and

(b) The tax that [if] the county would have been estimated to receive if the estimate for the total revenue available from the tax was equal to the amount of money that would be generated by applying a tax rate of \$1.15 per \$100 of assessed valuation to the assessed valuation of the [state,] county,

multiplied by the proportion determined for the local government pursuant to subparagraph (2) of paragraph (a) of subsection 3 of section 11 of this act.

2. Any additional taxes ad valorem levied as a result of the application of this section must not be included in the base from which the allowed revenue from taxes ad valorem for the next subsequent year is computed.

3. As used in this section, "local government" has the meaning ascribed to it in section 6 of this act.

Sec. 27. NRS 354.5982 is hereby amended to read as follows:

354.5982 1. The local government may exceed the limit imposed by NRS 354.59811 upon the calculated receipts from taxes ad valorem only if its governing body proposes to its registered voters an additional levy ad valorem, specifying the amount of money to be derived, the purpose for which it is to be expended and the duration of the levy, and the proposal is approved by a majority of the voters voting on the question at a primary or general election or a special election called for that purpose. The duration of the levy must not exceed 30 years. The governing body may discontinue the levy before it expires and may not thereafter reimpose it in whole or in part without following the procedure required for its original imposition.

2. A special election may be held only if the governing body of the local government determines, by a unanimous vote, that an emergency exists. The determination made by the governing body is conclusive unless

it is shown that the governing body acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the governing body must be commenced within 15 days after the governing body's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the governing body of the local government to prevent or mitigate a substantial financial loss to the local government or to enable the governing body to provide an essential service to the residents of the local government.

3. To the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 for a local government, the executive director of the department of taxation shall add any amount approved by the legislature for the cost to that local government of any substantial program or expense required by legislative enactment.

14. Except as otherwise provided in this subsection, if one or more local governments take over the functions previously performed by a local government which no longer exists, the Nevada tax commission shall add to the allowed revenue from taxes ad valorem and the basic ad valorem revenue, respectively, otherwise allowable to the local government or local governments pursuant to NRS 354.59811 and 377.057, an amount equal to revenue, respectively, for the last fiscal year of existence of the local government whose functions were assumed. If more than one local government assumes the functions, the additional revenue must be divided among the local governments on the basis of the proportionate costs of the functions assumed. The Nevada tax commission shall not allow any increase in the allowed revenue from taxes ad valorem or basic ad valorem revenue if the increase would result in a decrease in revenue of any local government in the county which does not assume those functions.]

Sec. 28. NRS 354.5987 is hereby amended to read as follows:

354.5987 1. For the purposes of NRS 354.59811, [and 377.057,] the allowed revenue from taxes ad valorem [and the basic ad valorem revenue] of any local government:

(a) Which comes into being on or after July 1, 1989, whether newly created, consolidated, or both;

[(b) Which was in existence before July 1, 1989, but for which the basic ad valorem revenue was not established for the fiscal year ending June 30, 1989; or

(c)] or

(b) Which was in existence before July 1, 1989, but did not receive revenue from taxes ad valorem, except any levied for debt service, for the fiscal year ending June 30, 1989,

must be initially established by the Nevada tax commission.

2. Except as otherwise provided in subsections 3 and [8,] 6, if the local government for which the allowed revenue from taxes ad valorem [and the basic ad valorem revenue are] is to be established performs a function previously performed by another local government, the total revenue allowed to all local governments for performance of substantially the same function in substantially the same geographical area must not be increased.



To achieve this result, the Nevada tax commission shall request the committee on local government finance to prepare a statement of the prior cost of performing the function for each predecessor local government. Within 60 days after receipt of such a request, the committee on local government finance shall prepare a statement pursuant to the request and transmit it to the Nevada tax commission. The Nevada tax commission may accept, reject or amend the statement of the committee on local government finance. The decision of the Nevada tax commission is final. Upon making a final determination of the prior cost of performing the function for each predecessor local government, the Nevada tax commission shall:

(a) Determine the percentage that the prior cost of performing the function for each predecessor local government is of [the basic ad valorem revenue and of] the allowed revenue from taxes ad valorem of that local government; and

(b) Apply the [percentages] *percentage* determined pursuant to paragraph (a) to the [basic ad valorem revenue and to the] allowed revenue from taxes ad valorem [ , respectively.] and subtract [those amounts respectively from the basic ad valorem revenue and] *that amount* from the allowed revenue from taxes ad valorem of the predecessor local government.

The [basic ad valorem revenue and] allowed revenue from taxes ad valorem [ , respectively,] attributable to the new local government for the cost of performing the function must equal the total of the amounts subtracted for the prior cost of performing the function from the [basic ad valorem revenue and] allowed revenue from taxes ad valorem [ , respectively.] of all of the predecessor local governments.

3. [If the local government for which the basic ad valorem revenue is to be established pursuant to subsection 1 is a city, the Nevada tax commission shall:

(a) Using the basic ad valorem revenue of the town replaced by the city, if any, as a basis, set the basic ad valorem revenue of the city at an amount sufficient to allow the city, with other available revenue, to provide the basic services for which it was created;

(b) Reduce the basic ad valorem revenue of the county by the amount set for the city pursuant to paragraph (a);

(c) Add to the basic ad valorem revenue of the county the basic ad valorem revenue of any town which the city has replaced; and

(d) Add to the allowed revenue from taxes ad valorem of the county the allowed revenue from taxes ad valorem for any town which the city replaced.

4.] If the local government for which the allowed revenue from taxes ad valorem [for the basic ad valorem revenue] is to be established is an unincorporated town which provides a service not previously provided by another local government, and the board of county commissioners has included the unincorporated town in a resolution adopted pursuant to the provisions of NRS 269.5755, the Nevada tax commission shall [:

(a) Establish the basic ad valorem revenue of the town at an amount which is in the same ratio to the assessed valuation of the town as the combined basic ad valorem revenues are to the combined assessed

valuations of all other unincorporated towns included in the common levy authorized pursuant to NRS 269.5755; and

(b) [If , if the unincorporated town [also] does not receive revenue from taxes ad valorem, establish the allowed revenue of the town from taxes ad valorem at an amount which is in the same ratio to the assessed valuation of the town as the combined allowed revenues from taxes ad valorem are to the combined assessed valuations of the other unincorporated towns included in the common levy.

15. The basic ad valorem revenue and]

4. The allowed revenue from taxes ad valorem of an unincorporated town which provides a service not previously provided by another local government must be:

(a) Reduced by 75 percent for the first fiscal year following the fiscal year in which the [basic ad valorem revenue and] allowed revenue from taxes ad valorem [are] is established pursuant to subsection [4,] 3;

(b) Reduced by 50 percent for the second fiscal year following the fiscal year in which the [basic ad valorem revenue and] allowed revenue from taxes ad valorem [are] is established pursuant to subsection [4,] 3; and

(c) Reduced by 25 percent for the third fiscal year following the fiscal year in which the [basic ad valorem revenue and] allowed revenue from taxes ad valorem [are] is established pursuant to subsection [4,] 3.

5. In any other case, except as otherwise provided in subsection [8,] 6, the allowed revenue from taxes ad valorem of all local governments in the county, determined pursuant to NRS 354.5981, must not be increased, but the total [basic ad valorem revenue and] allowed revenue from taxes ad valorem must be reallocated among the local governments consistent with subsection 2 to accommodate the amount established for the new local government pursuant to subsection 1.

17. Any amount of basic ad valorem revenue allowable which is established or changed pursuant to this section must be used to determine a new tax rate for the fiscal year ending June 30, 1981, for each affected local government. This new tax rate must be used to make the distributions among the local governments in the county required by NRS 377.057 for each year following the year in which the amount was established or changed.

8.] 6. In establishing the allowed revenue from taxes ad valorem of a county, city or town pursuant to this section, the Nevada tax commission shall allow a tax rate for operating expenses of at least 15 cents per \$100 of assessed valuation in addition to the tax rate allowed for any identified and restricted purposes and for debt service.

19.] 7. As used in this section:

(a) "Predecessor local government" means a local government which previously performed all or part of a function to be performed by the local government for which the allowed revenue from taxes ad valorem [and the basic ad valorem revenue are] is being established pursuant to subsection 1.

(b) "Prior cost of performing the function" means the amount expended by a local government to perform a function which is now to be performed

by another local government. The amount must be determined on the basis of the most recent fiscal year for which reliable information is available.

Sec. 29. NRS 354.59874 is hereby amended to read as follows:

354.59874 Except as otherwise provided in [subsection 4 of NRS 354.59874] sections 23 and 24 of this act and subsection 2 of NRS 354.5987, if one local government takes over a function or provides a service previously performed by another local government pursuant to an agreement between the local governments, upon petition by the participating local governments, the executive director of the department of taxation shall:

1. Reduce the allowed revenue from taxes ad valorem calculated pursuant to NRS 354.59811 of the local government which previously performed the function or provided the service, for the first year the service is provided or the function is performed by an amount equal to the cost of performing the function or providing the service; and

2. Increase the allowed revenue from taxes ad valorem calculated pursuant to NRS 354.59811 of the local government which assumed the performance of the function or the provision of the service, for the first year the service is provided or the function is performed by an amount equal to the amount by which the reduction was made pursuant to subsection 1.

Sec. 30. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the state highway fund.

2. Except as otherwise provided in subsection [6] 7 of NRS 482.180, the proceeds from the imposition of any license or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this state and the proceeds from the imposition of any excise tax on gasoline or other motor vehicle fuel must be deposited in the state highway fund and must, except for costs of administering the collection thereof, be used exclusively for administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The interest and income earned on the money in the state highway fund, after deducting any applicable charges, must be credited to the fund.

4. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

6. All bills and charges against the state highway fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the director and must be presented to and examined by the state board of examiners. When allowed by the state board of examiners and upon being audited by the state controller, the state controller shall draw his warrant therefor upon the state treasurer.

Sec. 31. NRS 482.180 is hereby amended to read as follows:

482.180 1. The motor vehicle fund is hereby created as an agency fund. Except as otherwise provided in subsection 4 or by a specific statute,

all money received or collected by the department must be deposited in the state treasury for credit to the motor vehicle fund.

2. The interest and income on the money in the motor vehicle fund, after deducting any applicable charges, must be credited to the state highway fund.

3. Any check accepted by the department in payment of vehicle privilege tax or any other fee required to be collected under this chapter must, if it is dishonored upon presentation for payment, be charged back against the motor vehicle fund or the county to which the payment was credited, in the proper proportion.

4. All money received or collected by the department for the basic vehicle privilege tax must be deposited in the local government tax distribution fund, created by section 8 of this act, for credit to the appropriate county pursuant to subsection 6.

5. Money for the administration of the provisions of this chapter must be provided by direct legislative appropriation from the state highway fund, upon the presentation of budgets in the manner required by law. Out of the appropriation the department shall pay every item of expense.

[5] 6. The privilege tax collected on vehicles subject to the provisions of chapter 706 of NRS and engaged in interstate or intercounty operation must be distributed among the counties in the following percentages:

Carson City .....	1.07 percent	Lincoln .....	3.12 percent
Churchill .....	5.21 percent	Lyon .....	2.90 percent
Clark .....	22.54 percent	Mineral .....	2.40 percent
Douglas .....	2.52 percent	Nye .....	4.09 percent
Elko .....	13.31 percent	Pershing .....	7.00 percent
Esmeralda .....	2.52 percent	Storey .....	19 percent
Eureka .....	3.10 percent	Washoe .....	12.24 percent
Humboldt .....	8.25 percent	White Pine .....	5.66 percent
Lander .....	3.88 percent		

The distributions must be allocated among local governments within the respective counties pursuant to the provisions of NRS 482.181.

[6] 7. As commission to the department for collecting the privilege tax on vehicles subject to the provisions of this chapter and chapter 706 of NRS, the department shall deduct and withhold 1 percent of the privilege tax collected by a county assessor and 6 percent of the other privilege tax collected.

[7] 8. When the requirements of this section and NRS 482.181 have been met, and when directed by the department, the state controller shall transfer monthly to the state highway fund any balance in the motor vehicle fund.

[8] 9. If a statute requires that any money in the motor vehicle fund be transferred to another fund or account, the department shall direct the controller to transfer the money in accordance with the statute.

Sec. 32. NRS 482.181 is hereby amended to read as follows:

482.181 1. Except as otherwise provided in subsection 4, the department shall certify monthly to the state board of examiners the amount

of the basic and supplemental privilege taxes collected for each county by the department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental privilege tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047.

3. The distribution of the basic privilege tax within a county must be made to local governments, [as defined in NRS 354.474, except enterprise districts pursuant to the provisions of sections 10 and 11 of this act. The distribution of the basic privilege tax must be made to the county school district within the county before the distribution of the basic privilege tax pursuant to the provisions of sections 10 and 11 of this act and in the same ratio as all property taxes were levied in the county in the previous fiscal year, but the State of Nevada is not entitled to share in that distribution. Land at least 5 percent of the basic privilege tax disbursed to a county must be deposited for credit to the county's general fund. The 5 percent must be calculated in the same manner as the commission calculated for the department of motor vehicles and public safety.] For the purpose of [this subsection,] calculating the amount of basic privilege tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.

4. An amount equal to any basic privilege tax distributed to a redevelopment agency or tax increment area in the fiscal year 1987-1988 must continue to be distributed to that agency or area as long as it exists but must not be increased.

5. [Local governments, other than incorporated cities, are entitled to receive no distribution of basic privilege tax if the distribution to the local government is less than \$100. Any undistributed money accrues to the county general fund of the county in which the local government is located.

6.] The department shall make distributions of basic privilege tax directly to [counties,] county school districts, [and incorporated cities. Distributions for other local governments within a county must be paid to the counties for distribution to the other local governments.]

6. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 33. Section 10 of chapter 590, Statutes of Nevada 1995, at page 2187, is hereby amended to read as follows:

Sec. 10. [1.] This section and sections 1 to 7, inclusive, and 9 of this act become effective on July 1, 1995.

Sec. 34. NRS 354.489 and section 8 of chapter 590, Statutes of Nevada 1995, at page 2183, are hereby repealed.

Sec. 35. 1. Notwithstanding the provisions of subsection 1 of section 10 of this act, the executive director of the department of taxation shall, for

the initial year of distribution of the money contained in the local government tax distribution fund, allocate to each enterprise district an amount in lieu of the amount allocated pursuant to subsection 1 of section 10 of this act that is equal to the average annual amount that the enterprise district received from the proceeds from each tax included in the fund for the fiscal years ending on June 30, 1996, and June 30, 1997.

2. Notwithstanding the provisions of subsection 2 of section 10 of this act, the executive director of the department of taxation shall, for the initial year of distribution of the money contained in the local government tax receives, before July 1, 1998, any of the proceeds from a tax which is included in the local government tax distribution fund an amount in lieu of the amount allocated pursuant to the provisions of sections 10 and 11 of this act that is equal to an amount calculated by:

(a) Multiplying the average of the amount of each tax included in the fund that was distributed to the local government or special district for the fiscal years ending on June 30, 1996, and June 30, 1997, by one plus the percentage change between the:

(1) Total amounts received by the local governments and special districts located in the same county for the fiscal year ending on June 30, 1997; and

(2) Average of the total amounts received by the local governments and special districts located in the same county for the fiscal years ending on June 30, 1996, and June 30, 1997; and

(b) Multiplying the amount calculated in paragraph (a) by one plus the percentage change in the Consumer Price Index (All Items) for the period from July 1, 1997, to December 31, 1997.

3. For the purposes of this section:

(a) For any unincorporated town to which the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996, applied, the amounts described in subparagraphs (1) and (2) of paragraph (a) of subsection 2 must be adjusted to equal the amounts that could have been received by that unincorporated town but for the provisions of subsection 5 of NRS 354.5987, as that section existed on July 1, 1996.

(b) The fiscal year ending on June 30, 1999, is the initial year of distribution.

4. For the fiscal year beginning on July 1, 2000, the executive director of the department of taxation shall increase the amount which would otherwise be allocated pursuant to subsection 2 of section 10 of this act to each unincorporated town that was created after July 1, 1980, and before July 1, 1997, for which the Nevada tax commission established the allowed revenue from taxes ad valorem or basic ad valorem revenue pursuant to subsection 4 of NRS 354.5987, as that section existed on July 1, 1996, by an amount equal to the amount of basic privilege tax that would have been distributed to the unincorporated town:

(a) Pursuant to NRS 482.181, as if the provisions of NRS 482.181 which existed on July 1, 1996, were still in effect; and

(b) As if the tax rate for the unincorporated town for the fiscal year beginning on July 1, 1980, were a rate equal to the average tax rate levied for the fiscal year beginning on July 1, 1980, by other unincorporated towns included in the same common levy authorized by NRS 269.5755 which were in existence on July 1, 1980.

5. The additional amount of money allocated to an unincorporated town pursuant to subsection 4 must continue to be treated as a regular part of the amount allocated to the unincorporated town for the purposes of determining the allocation for the town pursuant to subsection 2 of section 10 of this act for all future years.

6. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 36. 1. The governing body of a local government or special district that receives, before July 1, 1998, any portion of the proceeds from a tax which is included in the local government tax distribution fund may submit a request to the executive director of the department of taxation for an adjustment to the amount calculated pursuant to section 35 of this act.

2. A governing body that submits a request pursuant to subsection 1 must:

(a) Submit the request to the executive director of the department of taxation; and

(b) Provide copies of the request and any information it submits to the executive director in support of the request to each of the other local governments and special districts that receive any portion of the proceeds from a tax which is included in the local government tax distribution fund and which is located within the same county, on or before December 31, 1997.

3. The executive director of the department of taxation shall review a request submitted pursuant to subsection 1 and submit his findings to the committee on local government finance. In reviewing the request, the executive director shall:

(a) Analyze the revenues available to the local government or special district in the fiscal year ending on June 30, 1981, including, without limitation:

(1) The rate of property taxes levied for the fiscal year ending on June 30, 1981;

(2) The change in the rate of property taxes for the 5 years immediately preceding the fiscal year ending on June 30, 1981; and

(3) The change in the assessed valuation of the taxable property within the local government or special district over the 5 years immediately preceding the fiscal year ending on June 30, 1981, but excluding any assessed valuation attributable to the net proceeds of minerals; and

(b) Consider:

(1) The effect of an increase in the amount calculated pursuant to the provisions of sections 10 and 11 of this act for the local government or special district on the amounts that the other local governments and special districts that are located within the same county will receive from the local government tax distribution fund;

(2) Any other factors that may have caused the local government or special district to experience growth or other effects which are not reflected in the formula for distribution for the supplemental city-county relief tax set forth in NRS 377.057 as that formula exists before July 1, 1998; and

(3) The comparison of the amount calculated pursuant to the provisions of sections 10 and 11 of this act for the local government or special district to the amounts calculated pursuant to provisions of sections 10 and 11 of this act for the other local governments and special districts that are located in the same county.

The executive director shall not base his findings solely on the fact that a local government or special district did not levy a rate of property tax equal in rate to those levied by other similar local governments or special districts for the fiscal year ending on June 30, 1981.

4. The committee on local government finance shall review the findings submitted by the executive director of the department of taxation pursuant to subsection 3. If the committee determines that the adjustment to the amount calculated pursuant to subsection 2 of section 10 of this act is appropriate, it shall submit a recommendation to the Nevada tax commission that sets forth the amount of the recommended adjustment. If the committee determines that the adjustment is not appropriate, that decision is not subject to review by the Nevada tax commission.

5. The Nevada tax commission shall schedule a public hearing within 30 days after the committee on local government finance submits its recommendation. The Nevada tax commission shall provide public notice of the hearing at least 10 days before the date on which the hearing will be held. The executive director of the department of taxation shall provide copies of all documents relevant to the adjustment recommended by the committee on local government finance to the governing body of each local government and special district that is located in the same county as the local government or special district that requests the adjustment.

6. If, after the public hearing, the Nevada tax commission determines that the recommended adjustment is appropriate, it shall order the executive

**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 18 PART 3**

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director of the department of taxation to adjust the amount calculated pursuant to the provisions of sections 10 and 11 of this act.

7. The executive director of the department of taxation, the committee on local government finance and the Nevada tax commission shall not consider any request for an adjustment to the amount calculated pursuant to the provisions of sections 10 and 11 of this act for a local government or special district that is submitted after December 31, 1997.

8. As used in this section:

(a) "Local government" has the meaning ascribed to it in section 6 of this act.

(b) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 37. 1. On or before January 1, 1998, the executive director of the department of taxation shall:

(a) Notify each governmental entity he determines is an enterprise district pursuant to section 12.5 of this act of that determination; and

(b) Calculate the amount each enterprise district will receive pursuant to subsection 1 of section 10 of this act.

2. Any governmental entity that the executive director determines is an enterprise district pursuant to section 12.5 of this act may appeal that determination to the Nevada tax commission on or before April 1, 1998. The governing body of the governmental entity must notify each of the other local governments and special districts that is located in the same county of the appeal.

3. The Nevada tax commission shall convene a hearing on the appeal and issue an order confirming or reversing the decision of the executive director on or before July 1, 1998.

4. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in section 4 of this act.

(b) "Local government" has the meaning ascribed to it in section 6 of this act.

(c) "Special district" has the meaning ascribed to it in section 7 of this act.

Sec. 38. 1. This section and sections 1 to 7, inclusive, 12, 12.5, 13 and 37 of this act become effective upon passage and approval.

2. Sections 8 to 11, inclusive, and 14 to 36, inclusive, of this act become effective on July 1, 1998.

AN ACT relating to the state legislature; creating a legislative committee to study the distribution among local governments of revenue from state and local taxes; providing the powers of the committee; and providing other matters properly relating thereto.

[Approved July 17, 1997]

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. As used in sections 2 to 7, inclusive, of this act, "committee" means a legislative committee to study the distribution among local governments of revenue from state and local taxes.

Sec. 3. 1. There is hereby established a legislative committee to study the distribution among local governments of revenue from state and local taxes consisting of:

(a) Two members appointed by the majority leader of the senate from the membership of the senate standing committee on government affairs during the immediately preceding session of the legislature;

(b) Two members appointed by the majority leader of the senate from the membership of the senate standing committee on taxation during the immediately preceding session of the legislature;

(c) Two members appointed by the speaker of the assembly from the membership of the assembly standing committee on government affairs during the immediately preceding session of the legislature; and

(d) Two members appointed by the speaker of the assembly from the membership of the assembly standing committee on taxation during the immediately preceding session of the legislature.

2. The committee shall consult with an advisory committee consisting of the executive director of the department of taxation and 10 members who are for terms of 2 years commencing on July 1 of each odd-numbered year as follows:

(a) One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada League of Cities;

(b) One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada Association of Counties;

(c) One member of the committee on local government finance created pursuant to NRS 266.0165 appointed by the Nevada School Trustees Association;

(d) Three members involved in the government of a county appointed by the Nevada Association of Counties;

(e) Three members involved in the government of an incorporated city appointed by the Nevada League of Cities; and

(f) One member who is a member of a board of trustees for a general improvement district appointed by the legislative commission.

# EXHIBIT 2

# EXHIBIT 2

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of the three staff members for the interim study, whose recommendations you will be considering as part as this legislation.

I will go through Assembly Bill 68 section by section. I will start with section 1, which is on line 1 of page 2. Under current law the Department of Taxation is required to use population estimates certified by the Governor on or before March 1 of each year for the purpose of calculating the distribution of revenues among political subdivisions within the State of Nevada.

As we discussed in the meeting on Tuesday, these population estimates are used for the distribution, with respect to the Consolidated Tax (CTX) Distribution, for the first-tier distributions of cigarette tax, liquor tax, and out-of-state revenues that are generated from the basic city-county relief tax (BCCRT).

Under current law, the Department of Taxation is required to change the population percentages used to distribute revenues at the first-tier on July 1 of each year. The Department of Taxation uses modified accrual accounting standards under the Governmental Accounting Standards Board (GASB) rules for these revenue sources, which means that revenues that are generated during the last two months of the fiscal year, May and June, are not distributed to the Local Government Tax Distribution Account until after July 1, because this is what the law requires. Thus, under current law, the Department of Taxation within any fiscal year will distribute revenue for ten months under one set of population estimates, and for the last two months of the year they will use a brand new set. The change in section 1 clarifies *Nevada Revised Statutes* (NRS) 360.285 to require that the population estimates for a fiscal year be used for all 12 months of the fiscal year, and not with the ten-month/two-month split. This is the only recommendation that was brought forth by the Subcommittee that was not part of the working group by Mr. Aguero. This was actually a technical change that was proposed for consideration by Fiscal Analysis Division staff in cooperation with the Department of Taxation.

I will discuss sections 2 and 3 together. Section 2 begins on page 2, line 19. This section talks about the base allocation for each local government and special district at the second tier. As Mr. Aguero pointed out, under current law the base allocation for a local government or special district is the base allocation that they received in the previous year, adjusted by the one-year change in the Consumer Price Index (CPI). In section 2 is ~~the first of the two~~ changes that Mr. Aguero talked about. Rather than use the one-year percent change in the CPI, the change would be based on the average percentage

change in the CPI for the five calendar years immediately preceding the fiscal year for which the allocation is made. This proposed change would become effective on July 1, 2013, for distributions made by the Department of Taxation beginning in fiscal year (FY) 2014.

Section 3 of the bill, which is on page 3, beginning on line 7, makes a further change to NRS 360.680, with respect to the other change for the base allocations that Mr. Aguero referred to, to require that for calculating the base allocation for a local government or a special district, all revenues received by the entity, rather than just the previous year's base, be used to calculate the next year's base allocation, and then that base allocation, that is all the revenue they received in the prior year, is adjusted by that five-year average percentage change in the CPI. The reason this is broken out separately is that this proposed change would become effective on July 1, 2014, for distributions beginning in FY 2015. I would also note that the changes to NRS 360.680 that are proposed in sections 2 and 3 only affect the base allocations made on an annual basis to local governments and special districts. They do not affect the base allocations that are made to enterprise districts. As Mr. Reel pointed out on Tuesday, base allocations to enterprise districts are the exact amount that they received in the prior year, with no adjustments. They will continue to receive the same amount they were receiving in the prior year.

Before I move on to section 4, I will stop for any questions.

**Chairwoman Bustamante Adams:**

Are there any questions from the members of the Committee? [There were none.] Please proceed.

**Michael Nakamoto:**

Section 4 of the bill begins on page 3, line 24. This has to do with the distributions of excess revenues. As you remember, we went through all of the different scenarios under which the one-plus, no one-plus, or the modified one-plus distributions are to be made. As Mr. Aguero pointed out, the changes that were brought forth by the working group as their recommendations, and ultimately adopted by the Subcommittee, are contained within this section.

For the calculation of the excess revenue in all counties whose population is less than 100,000, that is everybody except Clark and Washoe County, the one-plus formula will be used for these distributions. For Clark and Washoe Counties, whose populations are above 100,000, ~~the 2 percent plus~~ formula, or 0.02 plus, is added to the five-year average change in assessed value and the five-year average change in population, depending on whether

# EXHIBIT 3

# EXHIBIT 3

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# Allocation of Money Distributed From the Local Government Tax Distribution Account



**Bulletin No. 13-04**

*Legislative Counsel  
Bureau*

**January 2013**



Case No. 66851  
JA 3187

**LCB01886**

**BULLETIN NO. 13-04**

**LEGISLATIVE COMMISSION'S SUBCOMMITTEE  
TO STUDY THE ALLOCATION OF MONEY DISTRIBUTED  
FROM THE LOCAL GOVERNMENT TAX DISTRIBUTION ACCOUNT**

**Assembly Bill 71  
(Chapter 384, Statutes of Nevada 2011)**

**Members**

**Assemblywoman Marilyn Kirkpatrick, Chair  
Senator Elizabeth Halseth (resigned)  
Senator John J. Lee  
Senator Mike McGinness  
Senator David R. Parks  
Assemblyman Richard (Skip) Daly  
Assemblyman John Ellison**

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**NOTE: Senator Elizabeth Halseth resigned from office on February 17, 2012. The  
Legislative Commission appointed Senator Mike McGinness to replace  
Senator Elizabeth Halseth on the Committee on March 29, 2012.**



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## **SUMMARY OF RECOMMENDATIONS**

### **Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account**

#### **Assembly Bill 71 (Chapter 384, Statutes of Nevada 2011)**

This summary presents the recommendations approved by the Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account at its final two meetings held on July 26 and August 30, 2012. These recommendations will be included in a bill draft request for consideration by the 77th Session of the Nevada Legislature in 2013. During the drafting process, specific details of the following proposals for legislation may be further clarified by staff in consultation with the Chair or others, as appropriate.

The recommendations include:

- (1) Use the five-year average percentage change in the Consumer Price Index (CPI) to adjust the annual base allocation for local governments and special districts, instead of only the average percentage change in the CPI during the prior year.
- (2) Revise the method by which a local government or special district's annual base allocation is calculated to include all revenue (base plus excess) distributed to that entity in the prior year, adjusted for inflation (based on recommendation #1 above), instead of only the base revenue distributed in the prior year, adjusted for inflation.
- (3) Modify the excess distribution formula for all seventeen counties. The provisions related to the no one-plus excess distribution formula would be repealed and the distribution of excess revenue would be determined as follows:
  - For a county whose population is less than 100,000 (currently all counties except Clark and Washoe), use the one-plus formula to determine the distribution of excess revenue. For a local government: use one-plus the sum of the five-year average percentage change for population and the five-year average percentage change for assessed value. For a special district: use one-plus the five-year average percentage change for assessed value.
  - For a county whose population is 100,000 or more (currently Clark and Washoe), use a new 0.02-plus formula to determine the distribution of excess revenue. For a local government: use 0.02 plus the sum of the five-year average percentage change for population, and the five-year average percentage change for assessed value. For a special district: use 0.02 plus the five-year average percentage change for assessed value. Additionally, for Clark and Washoe counties only:

- If a local government or special district has a five-year average percentage change in assessed value that is negative, the assessed value growth rate used in the excess distribution formula for that entity will be set to zero.
  - For a particular fiscal year, if the above calculations result in a negative value for all local governments (excludes special districts), the distribution of any excess revenue for all local governments and special districts would be based on the base distribution shares established pursuant to NRS 360.680.
- (4) Change the date by which a cooperative agreement for an alternative distribution of revenue among local governments and/or special districts within a county must be submitted to the Department of Taxation, from December 31 to April 1 prior to the fiscal year that will be governed by the cooperative agreement. Local governments would be required to submit a notice of their intent to enter into a cooperative agreement on or before March 1.
- (5) Revise the method by which annual population estimates are used to determine the distribution of certain revenues at the first tier of the Local Government Tax Distribution Account. This is a technical recommendation brought forward by Fiscal Analysis Division staff to clarify that the population estimates certified by the Governor prior to each fiscal year are to be used by the Department for all distributions attributable to the fiscal year beginning on July 1, although the actual distributions for a fiscal year may occur after July 1 due to the Governmental Accounting Standards Board (GASB) rules used by the Department of Taxation.

**Report to the 77<sup>th</sup> Session of the Nevada Legislature by the  
Legislative Commission's Subcommittee to Study the Allocation of  
Money Distributed from the Local Government Tax Distribution Account**

**I. Introduction**

The 76<sup>th</sup> Session of the Nevada Legislature approved Assembly Bill 71 (Chapter 384, *Statutes of Nevada 2011*), creating the Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account.

The Subcommittee was directed to review the structural components of the formula used for the allocation of money distributed from the Local Government Tax Distribution Account to local governments, special districts and enterprise districts from the inception of the formula to the present day, as well as examine whether the formula results in an equitable allocation among all those governmental entities, including, without limitation, any local library districts which do not currently receive such an allocation, and, if not, consider possible alternative methodologies to achieve a more equitable allocation among all those governmental entities.

The Subcommittee was comprised of six members: three members of the Senate and three members of the Assembly. The six members of the Subcommittee were:

Assemblywoman Marilyn Kirkpatrick, Chair  
Assemblyman Richard (Skip) Daly  
Assemblyman John Ellison  
Senator John J. Lee  
Senator Mike McGinness  
Senator David R. Parks

Staff services from the Legislative Counsel Bureau (LCB) were provided by:

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The Subcommittee held six meetings, including two work sessions, during the 2011-12 Legislative Interim. All meetings were open to the public and were videoconferenced between the Grant Sawyer State Office Building in Las Vegas and the Legislative Building in Carson City. All six meetings were also videoconferenced to locations in Elko and Winnemucca. As a result of these hearings, the Subcommittee adopted five recommendations for changes to the distribution of revenue in the Local Government Tax Distribution Account to be considered by the 2013 Legislature. (See Final Recommendations of the Subcommittee on Page 17.)

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Case No. 66851  
JA 3194

## II. Background / History of the CTX

### What is the Local Government Distribution Account, Consolidated Tax Distribution, or CTX?

The Local Government Tax Distribution Account, created by statute, is used by the Department of Taxation to aggregate and distribute revenues from six different revenues collected statewide to various government entities in all seventeen counties throughout the state. The mechanism to distribute revenues to the seventeen counties is informally referred to as the Consolidated Tax Distribution, or the CTX.

### What are the six revenues that are distributed through the CTX?

The six revenues distributed through the CTX are:

- **Basic City-County Relief Tax (BCCRT):** A portion of the state's combined sales and use tax rate equal to 0.5 percent. The proceeds from this portion of the rate, less a 1.75 percent commission kept by the state, are distributed through the CTX.
- **Supplemental City-County Relief Tax (SCCRT):** A portion of the state's combined sales and use tax rate equal to 1.75 percent. The proceeds from this portion of the rate, less a 1.75 percent commission kept by the state, are distributed through the CTX.
- **Governmental Services Tax (GST):** The tax levied based on the taxable value of a vehicle registered in the state. A portion of the 4-cent basic GST rate is distributed through the CTX.
- **Real Property Transfer Tax (RPTT):** The tax levied at the time of a transfer of title of real property whose value exceeds \$100. A portion of the rate equal to 55 cents per \$500 of value is distributed through the CTX.
- **Cigarette Tax:** The excise tax levied at the wholesale level on each package of cigarettes to be sold in Nevada. A portion of the rate equal to 10 cents per pack of cigarettes is distributed through the CTX.
- **Liquor Tax:** The excise tax levied at the wholesale level on liquors exceeding 22 percent alcohol by volume to be sold in Nevada. A portion of the rate equal to 10 cents per gallon of liquor exceeding 22 percent alcohol by volume is distributed through the CTX.

Depending on the revenue source, some or all revenue generated from these six sources is distributed through the CTX to local government entities throughout the state. See Appendix C, "History and Overview of the Local Government Tax Distribution Account", for a more detailed description of the distribution of these revenues.

### **How are these revenues distributed?**

For each of the six revenue sources, specific rules govern the distribution of each revenue source to the seventeen counties. Depending on the revenue source, monthly revenue generated may be distributed using one of three different methods:

- BCCRT revenues generated from sales within the state, as well as RPTT and GST revenues, are distributed to each of the seventeen counties based on where the taxable activity occurred.
- BCCRT revenues generated from sales outside of the state, as well as cigarette and liquor tax revenues, are distributed to each of the seventeen counties based on each county's population as a percentage of the total statewide population.
- SCCRT revenues are distributed to each of the seventeen counties based on statutory formulas in Chapter 377 of the NRS.

The distribution of revenue from the Local Government Tax Distribution Account into seventeen sub-accounts – one for each county – is known as the **first-tier distribution**.

Once the Department of Taxation has determined the amount to be distributed into each county's sub-account at the first tier, the revenue is then divided among eligible entities within the county, using statutory formulas that determine what is known as the **second-tier distribution**.

### **What entities receive second-tier distributions from the CTX?**

Chapter 360 of the Nevada Revised Statutes, which governs the CTX, currently differentiates the types of government entities within a county eligible to receive CTX revenue into three distinct categories:

- **Enterprise Districts:** Enterprise districts are entities that receive CTX revenues that are not counties, cities, or towns, and that were determined to be an enterprise district by the Executive Director of the Department of Taxation pursuant to NRS 360.620.
- **Local governments:** Local governments are counties, cities, and towns that receive CTX revenue pursuant to NRS 360.640.
- **Special districts:** Special districts are all other entities that are not either enterprise districts or local governments and who receive revenue pursuant to NRS 360.650.

Additionally, to be eligible to receive revenue from the CTX, an entity had to have been receiving revenue from at least one of the six revenue sources making up the CTX before its initialization in FY 1999. See Appendix C for more information.



**How much base revenue does each entity receive each month?**

Depending upon its classification, each entity is entitled to a monthly base distribution that is calculated as follows:

- **Enterprise districts** receive a monthly base distribution equal to one-twelfth of the annual base distribution received by that entity in the prior fiscal year. The distribution to the enterprise districts is always done before the distribution to the local governments and special districts.
- **Local governments and special districts** receive a monthly base distribution equal to one-twelfth of the annual base distribution received by that entity in the prior fiscal year, adjusted by the percentage change in the Consumer Price Index in the immediately preceding calendar year.

**How are base and excess revenues distributed at the second tier each month?**

If the Department of Taxation, after making the distribution to enterprise districts, determines that there is not sufficient revenue to distribute the full monthly base amount to the local governments and special districts, then the remaining amount is proportionately distributed to each local government and special district based on the percentage that each entity's monthly base amount makes up the total base amount for each of these entities in the county.

If the Department of Taxation, after making the distribution to enterprise districts, determines that there is more than sufficient revenue to distribute the full monthly base amount to the local governments and special districts, then it must determine whether there were any prior months in the fiscal year where there was not sufficient revenue to make the full base distribution to entities in a month. Any leftover revenue must first be used, if necessary, to make up the base distributions in prior months where revenue was not sufficient to fully pay the base distribution.

If there is revenue remaining after all previous months' base distributions have been backfilled, or if there are no prior months where there was not sufficient revenue to make the base distribution, then the revenue is considered to be "**excess**" revenue and is distributed under a separate set of formulas to local governments and special districts (enterprise districts are not entitled to excess revenue):

- **For local governments**, each entity's share is determined by taking the entity's base revenue, multiplied by the sum of the average change in population in the entity over the prior five calendar years and the average change in assessed value in the entity over the prior five calendar years.
- **For special districts**, each entity's share is determined by taking the entity's base revenue, multiplied by the average change in assessed value in the entity over the prior five calendar years.

- The above calculations for all local governments and special districts in the county are added together to generate a total, and each entity's share is its percentage of the total.

These calculations are informally known as the "no one-plus formula," because the formula does not require the addition of the number one to the sum of population and assessed value changes.

Under current law, there are alternative calculations that are required under certain circumstances to determine the excess distribution:

- If the average net proceeds of minerals in a county over the previous five fiscal years exceeds \$50 million, if the five-year average percentage change in population in the county is negative, or if both of these conditions occur, then the number one is added to each local government and special district's factor in making the calculations.
- If the sum of the five-year average percentage change in population and the five-year average percentage change in assessed value in each local government is negative, and the five-year average percentage change in assessed value in each special district is negative, then the number one is added to each local government and special district's factor in making the calculations.
- If the sum of the five-year average percentage change in population and the five-year average percentage change in assessed value in each local government is negative, but the five-year average percentage change in assessed value in any special district is positive, then the number one is added to each local government and special district's factor in making the calculations, and the percentage change in population for the county is also added to each special district's factor.

The first two of these alternative calculation methods are informally known as the "one-plus formula" because of the requirement to add one to the sum of the population and assessed value before multiplying this number by the entity's base amount. The third alternative calculation is known informally as the "modified one-plus formula," since it requires that the county's population change be added to each special district's change in assessed value.

Like the no one-plus formula, the excess revenue distribution for each local government and special district under the one-plus formula or the modified one-plus formula is the share of that entity's calculation of the total, when all calculations are added together for the local governments and special districts in each county.

### III. Overview of Committee Proceedings

During the 2011-12 Interim, the Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account held six meetings, including two work sessions. All six meetings were open to the public and were videoconferenced between the Grant Sawyer State Office Building in Las Vegas and the Legislative Building in Carson City. All six meetings were also videoconferenced to locations in Elko and Winnemucca. As a result of these hearings, the Subcommittee adopted six recommendations for changes to the distribution of revenue in the Local Government Tax Distribution Account to be considered by the 2013 Legislature. (See Final Recommendations of the Subcommittee on Page 17.)

Due to the complex nature of the Local Government Tax Distribution Account and the Consolidated Tax Distribution (CTX), the first two meetings of the Subcommittee held on February 1, 2012, and March 15, 2012, focused on establishing a comprehensive repository of information related to the CTX that could be utilized by all interested parties throughout the study. Legislative Counsel Bureau staff provided the Subcommittee with a series of presentations and reference documents covering all aspects of the CTX including the following topics:

- Overview of the Local Government Tax Distribution Account and the Consolidated Tax Distribution (CTX)
- Overview of the Six Revenue Sources Dedicated to the CTX and their Distribution To Counties Under the First Tier of the CTX
- Overview of the Distribution of First-Tier Revenues To Entities Within a County at the Second Tier of the CTX
- Base Calculation With and Without Excess Revenue Included
- Excess Distribution Shares Under No One-Plus, One-Plus, and Combinations of No One-Plus and One-Plus
- Hypothetical Examples of Base and Excess Distributions on a Monthly and Fiscal Year Basis

The above presentations were accompanied by the following resources developed by Fiscal Analysis Division staff for use during the study and placed on the Legislative Counsel Bureau's website:

- Actual Revenues Distributed Under the First Tier and Second Tier of the CTX and Other Statistics Related to the CTX Distribution
  - [http://www.leg.state.nv.us/Interim/76th2011/Committee/Studies/AllocationMoney/Other/15-March-2012/03152012\\_CTX\\_Data\\_Material%20.pdf](http://www.leg.state.nv.us/Interim/76th2011/Committee/Studies/AllocationMoney/Other/15-March-2012/03152012_CTX_Data_Material%20.pdf)
- Nevada Revised Statutes Related to the CTX from 1995 to 2011 as the Law Existed After Each Legislative Session
  - <http://www.leg.state.nv.us/interim/76th2011/Committee/Studies/AllocationMoney/Other/2-February-2012/MeetingPage.cfm?ID=13&MeetingDate=2-February-2012>

- History of Legislation Related to the CTX – Provides Access to CTX Bills and the Minutes from the Hearings on Each Bill
  - <http://www.leg.state.nv.us/interim/76th2011/Committee/Studies/AllocationMoney/Other/2-February-2012/MeetingPage.cfm?ID=13&MeetingDate=2-February-2012>
- List of Bulletins from Prior CTX Interim Studies
  - [http://www.leg.state.nv.us/Interim/76th2011/Committee/Studies/AllocationMoney/Other/1-February-2012/CTX Bulletins 02012012.pdf](http://www.leg.state.nv.us/Interim/76th2011/Committee/Studies/AllocationMoney/Other/1-February-2012/CTX%20Bulletins%2002012012.pdf)

In addition to the presentations by Legislative Counsel Bureau staff, the Subcommittee also received an overview of the creation of the CTX and the changes to the CTX formula since its inception. This presentation was provided by two of the members that served on the original technical advisory committee (SCR 40, 1995 Session) involved with developing the CTX formula, Marvin Leavitt, Chair, Committee on Local Government Finance and Guy Hobbs, Principal, Hobbs, Ong & Associates Inc.

Throughout the course of the study, the Subcommittee stressed the importance of all local governments being actively engaged in the study since the distribution of CTX revenue is ultimately a local government issue. The Subcommittee began the process of identifying the specific local government CTX issues and concerns by working with representatives from the Nevada Association of Counties and Nevada League of Cities. During the first meeting of the Subcommittee held on February 1, 2012, these organizations offered to assist the Subcommittee by ensuring that all local governments were aware of the interim study and invited to participate. The Subcommittee also directed staff to ensure that any local governments that were not represented by these organizations were also invited to participate in the study.

The Nevada Association of Counties and Nevada League of Cities assisted Legislative Counsel Bureau staff with the distribution of a CTX Issues Survey to solicit comments and concerns from local government entities across the state. Survey responses were received from 13 counties and 20 other local government entities statewide and during the second meeting of the Subcommittee held on March 15, 2012, the Subcommittee reviewed all of the survey responses and received testimony from several local governments regarding the CTX issues identified through the survey. All survey responses were included in the March 15, 2012, Subcommittee meeting packet and were also made available on the Legislative Counsel Bureau's website.

- <http://www.leg.state.nv.us/interim/76th2011/Committee/Studies/AllocationMoney/Other/15-March-2012/MeetingPage.cfm?ID=13&MeetingDate=15-March-2012>

During the third meeting of the Subcommittee held on April 30, 2012, Jeremy Aguero, Applied Analysis (a Las Vegas based consulting firm) advised the Subcommittee that his firm had been retained by the City of Las Vegas and the City of Henderson, independently, to analyze the CTX formula, its alternatives, impacts and trends. Mr. Aguero explained that his analysis of the CTX included extensive meetings with the Department of Taxation for the purpose of developing an Excel spreadsheet-based CTX model capable of simulating the impact to all local government entities based on

proposed changes to the CTX formula. Mr. Aguero noted that since mid-February 2012, an informal local government working group comprised of representatives from the cities of Las Vegas, Henderson and other local governments had been using the model to evaluate several alternatives to the CTX formula.

Given the development of the CTX model by Applied Analysis and the formation of the informal local government working group between the cities of Las Vegas and Henderson, the Subcommittee recommended that all local governments as well as representatives from the Nevada Association of Counties and Nevada League of Cities be invited to participate in the working group. The Subcommittee also directed the local government working group to evaluate the various proposals to change the CTX formula and present the Subcommittee with recommendations that were supported by all local governments.

Based on the Subcommittee's direction to the local government working group to evaluate the proposed changes to the CTX formula and make recommendations to the Subcommittee, Mr. Aguero of Applied Analysis facilitated approximately 20 local government working group meetings during May through August 2012 held at several locations across the state. The number of local government entities participating in the working group meetings increased over time and some of the meetings were conducted with small groups or individual local governments rather than the entire working group. Many of the meetings were attended by multiple local governments and several meetings were also made available to local governments via an Internet based "Go-To-Meeting" interface that allows participation in a meeting from a remote location using a computer and telephone.

Based on the status reports of the local government working group deliberations presented by Mr. Aguero of Applied Analysis during the Subcommittee meetings held on July 26 and August 30, 2012, the following is a brief summary of the major issues discussed by the working group along with the consensus reached by the working group regarding each issue.

#### **1. Consumer Price Index (CPI) Adjustment Used in Base Revenue Calculation**

It was determined that the CPI adjustment used in the base revenue calculation should be based on the average percentage change in the CPI over the previous five years (rather than the percentage change in the CPI for just the previous year).

The consensus of the local government working group is that the average percentage change of the CPI over five years helps to smooth out the impact of sharp ups and downs that may occur in the CPI for any one year and also protects against either hyper-inflation or deflation. This change also makes the CPI adjustment consistent with the methodology used in the excess revenue calculations that use the five-year average percentage change for both population and assessed value.

## **2. Base Revenue Calculation**

It was determined that the annual amount of base revenue allocated to each local government and special district should be equal to the total amount of revenue, base plus excess (rather than just the base amount), received by the entity in the previous fiscal year, adjusted for inflation using the CPI (as proposed in Issue #1 above).

The consensus of the local government working group is that allowing the excess revenue to carry forward from year to year (rather than adding the excess to the base each year as proposed) creates distribution inequities. During the recent decline in the economy, those entities that relied on a larger percentage of excess revenue experienced a greater decline in total revenue relative to those entities with less excess revenue as a percentage of total revenue. Adding the excess revenue to the base each year will limit the misconception that "excess" revenue is "extra" revenue and it will allow the CTX distributions to evolve over time as base amounts adjust with each community.

## **3. Excess Distribution Formula**

During the recent recession, several jurisdictions experienced annual declines in assessed value of 20, 30 and even greater than 40 percent in some cases while population levels also declined slightly. The local government working group determined that based on the current "no one-plus" excess distribution formula in which assessed value growth is added to population growth to determine the distribution of excess revenue, the declines in assessed value have been so severe that it could take several years before the sum of population and assessed value growth would result in a positive value, thus allowing the entity to participate in the distribution of any excess revenue.

The local government working group also determined that the current no one-plus formula creates uncertainty for local governments due to the potential for dramatic shifts in the distribution of excess revenue from year to year.

Based on the concerns identified regarding the current no one-plus excess distribution formula, the local government working group recommends the following changes to the CTX excess distribution formula:

- The statutory provisions related to the distribution of excess revenue under the no one-plus formula would be repealed for all 17 counties.
- For a county whose population is less than 100,000 (currently all counties except Clark and Washoe), use the "one-plus" formula for the distribution of excess revenue. This recommendation would reestablish the excess distribution formula that was enacted with the passage of the original CTX legislation during the 1997 Legislative Session.

- For a county whose population is 100,000 or more (currently Clark and Washoe), use a new "0.02-plus" formula for the distribution of excess revenue as follows:
  - For local governments: Multiply each entity's base revenue amount (as determined by Issue #2 above) by 0.02 plus the sum of the entity's five-year average percentage change in population and five-year average percentage change in assessed value.
  - For special districts: Multiply each entity's base revenue amount (as determined by Issue #2 above) by 0.02 plus the five-year average percentage change in assessed value.
  - If a local government or special district has a five-year average change in assessed value that is negative, the assessed value growth rate used in the excess distribution formula for that entity will be set to zero.
    - The consensus of the local government working group is that sharp declines in assessed value do not necessarily reflect sharp declines in the demand for government services. By setting an entity's assessed value factor to zero when the five-year average percentage change is negative, population growth remains as the only growth factor used in the excess distribution formula for that entity.
  - The above calculations for all local governments and special districts in the county are added together to generate a total, and each entity's share of excess revenue is equal to its percentage of the total.
  - For a particular fiscal year, if the above calculations result in a negative value for all local governments (excludes special districts), the excess distribution shares would be equal to the base distribution shares for that fiscal year as determined pursuant to NRS 360.680.

The consensus of the local government working group is that a single, one size fits all formula does not work for all 17 counties due to the significant differences in the demographics associated with the urban areas versus the rural areas of the state. The working group determined that utilizing the one-plus formula provides an element of revenue stability as desired in the rural areas while the 0.02-plus balances revenue stability and the nexus between revenue growth and community growth as desired in the urban areas. The working group established that a two percent growth rate, as represented by the 0.02-plus factor, approximates a modest rate of growth for all entities.

By utilizing the one-plus formula in the rural counties, the issue of negative assessed value or negative population growth becomes essentially irrelevant since the number one is added to the sum of the population and assessed value growth rates.

#### **4. Deadline for Entering into Cooperative Agreement for an Alternative Distribution of CTX Revenue**

It was determined that the current deadline for submitting a cooperative agreement to the Department of Taxation for an alternative distribution of CTX revenue, pursuant to NRS 360.730, should be changed from December 31 to April 1 prior to the fiscal year that will be governed by the agreement. Local governments will be required to submit a notice of intent to enter into a cooperative agreement on or before March 1 and submit the final cooperative agreement approved by all governing bodies on or before April 1.

Changing the deadline from December 1 to April 1 provides local governments with the opportunity to evaluate their preliminary budget estimates, received on or before February 15 from the Department of Taxation pursuant to NRS 360.690, in advance of the deadline for entering into a cooperative agreement. However, the proposed April 1 deadline is still in advance of the April 15 deadline for local governments to submit tentative budgets to the Department of Taxation pursuant to NRS 354.596.

The local government working group acknowledged that the final CTX revenue estimates provided on or before March 15 by the Department of Taxation pursuant to NRS 360.690 will not reflect the alternative distributions resulting from a cooperative agreement.

#### **5. Distribution of First-Tier CTX Revenue**

It was determined that the first-tier distribution of revenue to each county should not be changed. The current distribution based on guaranteed counties and point-of-origin county distribution has worked well historically and has helped to preserve stability in rural counties.

The only proposal brought forth regarding the first-tier distribution was by the City of Fernley. The City of Fernley requested the Subcommittee to consider why the City of Fernley does not receive an amount of CTX revenue that is comparable to the amount of CTX revenue received by other cities in the state that have population and assessed value levels comparable to that of Fernley. It was noted that the City of Fernley is unique since it is the only city to be incorporated after the CTX provisions were implemented in FY 1999 and based on the considerable population growth in Fernley relative to the rest of the county, the City of Fernley requested consideration for additional CTX revenue.

The proposal brought forward by the City of Fernley would provide for a redistribution of first-tier revenue in order to provide the City of Fernley with an amount of CTX revenue that is comparable to the amount of CTX revenue received by other cities in the state that have population and assessed value levels comparable to that of Fernley.



Based on a review of the provisions of NRS 360.740, the Subcommittee determined that the City of Fernley has not received a reallocation of CTX revenue since its incorporation in 2001 because the city has not met the requirement to provide police protection and at least two of the following three services: fire protection; construction, maintenance and repair of roads; or parks and recreation, as set forth in NRS 360.740.

It was determined that there are multiple factors contributing to why Fernley does not receive an amount of revenue comparable to other cities of similar size. Although two entities that are located in separate counties may be similar with respect to the level or even growth rate of population and assessed value, it is the underlying economy in each county and the amount of each revenue source actually collected in each county that drives the differences in revenue received by the entities. Additionally, the types of government services provided by each entity must also be taken into consideration when comparisons are made.

When Fernley became a city in 2001, Lyon County and Fernley entered into an agreement for Lyon County to continue to provide police protection services to the City of Fernley. However, that agreement did not include provisions for a reallocation of CTX revenue from Lyon County to the City of Fernley. The City of Fernley also does not receive CTX revenue directly for the purpose of providing fire protection services. Fire protection services are provided to the City of Fernley by the North Lyon Fire Protection District, which receives CTX revenue directly for this purpose.

The concerns raised by Fernley were also discussed by the local government working group and the consensus of the working group is that the formation of a new government entity (through incorporation) should not increase the cost of providing the current level of government services unless the residents of the new entity elect to tax themselves.

#### **6. Population and Assessed Value Factors Used to Determine Excess Revenue Distribution Shares**

It was determined that the current methodology of using the five-year average percentage change in population and the five-year average percentage change in assessed value to determine the distribution of excess revenue should not be changed.

The consensus of the local government working group is that equally weighted population and assessed value factors reflect the best available indicators to measure the growth and change in various communities. The factors intentionally double weight population growth based on the fact that the majority of assessed value is attributable to residential property values. The five-year averages are appropriate to smooth out any sharp annual variations and use of these factors also

reflect that each jurisdiction is unique with respect to the level of population and assessed value in each jurisdiction.

#### **7. Population Estimates Used in the CTX Formula**

The consensus of the local government working group is that the current methodology of using the State Demographer's population estimates, certified annually by the Governor, should not be changed since these estimates are the official estimates of the state and reflect the best available information.

The local government working group suggested a need to revisit this issue in order to consider the process by which the official population estimates are finalized and certified, particularly during census years when revised data being incorporated into the Demographers estimates results in large changes in population growth for only the census year. Although using the five-year average percentage change in population helps to address this issue, the anomaly created by the census adjustment occurring in a single year is also carried forward in the calculation for the next five years as well.

#### **8. Growth Factor for Special Districts in the Excess Distribution Formula**

It was determined that the current methodology of using only the five-year average percentage change in assessed value to determine the distribution of excess revenue for special districts should not be changed.

The consensus of the local government working group is that the CTX was intentionally designed to discourage the formation of new special purpose districts. The basic principles established during the creation of the CTX are still valid; single-purpose entities, such as special districts, are intentionally treated differently than multi-purpose entities, such as counties, cities or towns. Additionally, official population estimates do not exist for all special districts and special districts may also overlap other entities.

The local government working group suggested a need to revisit this issue in order to consider the long history of special district formation in Nevada and in particular, the formation of library districts, including how those districts are funded.

#### **9. Enterprise Districts**

The consensus of the local government working group is that the CTX was intentionally designed to discourage the formation of new special purpose districts. Enterprise districts receive the same amount of revenue from year to year, do not receive an annual CPI adjustment and do not receive any excess revenue. The CTX intentionally treats enterprise districts differently from local governments and special districts and these principles established during the creation of the CTX have not changed.

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## **10. Library Districts**

The City of North Las Vegas requested an explanation as to why the North Las Vegas Library District does not receive an allocation of CTX revenue while there are eight other library districts statewide that do receive an allocation.

Based on Legislative Counsel Bureau staff's research, at the time that the CTX was created, each of the eight library districts were receiving revenue from SCCRT and/or GST; thus, under the provisions establishing the initial CTX base in Senate Bill 254 of the 1997 Session, these entities were eligible to receive CTX revenue on an ongoing basis beginning in FY 1999.

Assembly Bill 441 (1993) amended the charter of the City of North Las Vegas by authorizing the creation of a library district by the city council. The provisions of the bill included language that specifically prohibited the North Las Vegas Library District from receiving any distribution of SCCRT revenue.

Because the provisions of the bill specifically excluded the North Las Vegas Library District from receiving SCCRT revenue, they were not receiving any portion of the six revenues that make up the first tier of the CTX prior to its creation; thus, under the provisions creating the initial base distributions in Senate Bill 254 of the 1997 Session, the North Las Vegas library district was not eligible to receive any distribution of revenue under the CTX beginning in FY 1999.

The local government working group suggested a need to revisit the history of special district formation in Nevada and in particular, the formation of library districts, including how those districts are funded.

## **11. Formation of a New Local Government Entity: City of Laughlin**

Terry Yurick, representing the Laughlin Economic Development Corporation, requested that the Subcommittee consider and clarify the process and basis for determining the amount of CTX revenue that should be allocated to a new local government entity.

Mr. Yurick requested clarification with regard to the amount of additional CTX that should be allocated to a new city when services are transferred from the county to a new city. Mr. Yurick argued that the current provisions of NRS 360.740 do not specify the scope or menu of transferred services, how to determine the actual transferred costs of the transferred services, how to determine the amount of additional CTX revenue that should be associated with the transferred services, and whether general fund or other revenue transfers are appropriate to offset costs associated with the transferred services.

During the Subcommittee meeting on March 15, 2012, Fiscal Analysis Division staff provided an overview of the CTX provisions regarding a newly created local government or special district (NRS 360.740). At the April 30, 2012, meeting, Terry Rubald, Chief of the Department of Taxation's Local Government Services Division, provided a more detailed presentation on the provisions of NRS 360.740 and also explained the specific information taken into consideration by the Department in applying those provisions.

#### **IV. Final Recommendations of the Subcommittee**

Based on the information provided by the local government working group, Legislative Counsel Bureau and Department of Taxation staff, and representatives from various local government entities throughout the state, the Subcommittee considered and adopted a total of five recommendations to be included in a single bill draft request for consideration by the Legislature during the 2013 Legislative Session.

**1. Revise the Consumer Price Index adjustment for determining the annual base allocation for local governments and special districts each fiscal year.**

The Subcommittee recommended an amendment to NRS 360.680 to require the adjustment to the annual base amount for the percentage change in the Consumer Price Index that is made for local governments and special districts be based on the average percentage change in the Consumer Price Index over the five calendar years immediately preceding the fiscal year for which the CTX allocations will be made. This change would become effective on July 1, 2013, for the distributions beginning in FY 2014, and would not affect any distributions made to enterprise districts.

Based on testimony given by Jeremy Aguero, the local government working group consensus indicated concerns that the current adjustment for inflation – requiring the use of only the annual percentage change in the Consumer Price Index for the prior year – may make the adjustments too volatile due to concerns of deflation or hyperinflation in the future. The usage of a five-year average would smooth out these anomalies and potentially lead to a more stable adjustment. It was also noted that the use of a five-year average percentage change in the Consumer Price Index would be consistent with the formulas for excess distribution of revenue, which require the use of both the five-year average percentage change in population and the five-year average percentage change in assessed value.

**2. Revise the calculation of the base allocation amount to be distributed to local governments and special districts each fiscal year.**

The Subcommittee recommended an amendment to NRS 360.680 that would require the annual base allocation for each local government and special district to be the total amount of all CTX revenues (base and excess) distributed to that entity in the prior fiscal year, adjusted by the five-year average percentage change in the Consumer Price Index approved in Recommendation 1. This change would become effective on July 1, 2014, for the distributions beginning in FY 2015, and would not affect any distributions made to enterprise districts.

Under current law, the annual base allocation for local governments and special districts is based on the actual amount of base revenue distributed to that entity in the prior fiscal year, adjusted for inflation, and excludes the amount of excess revenue distributed. Testimony from Jeremy Aguero indicated that this distribution method

has resulted in a significant amount of revenue being distributed to each entity as excess revenue – in some cases, as high as 80 percent. The recommendation to include excess revenue in the calculation for the annual base allocation would reduce the percentage that excess revenue comprises of the total CTX revenues distributed each year. Mr. Aguero noted that inclusion of all base and excess revenue in the annual base calculation was part of the original CTX formula, and that it should be restored to its original state.

Mr. Aguero also indicated that the July 1, 2014, effective date of this provision was included so that certain elements of the distribution formula currently in place – specifically, an interlocal agreement for the distribution of excess revenue effective in Clark County for FY 2012 and FY 2013 – would not affect the future distribution of base and excess revenue beginning in FY 2014.

**3. Revise the distribution of excess CTX revenue to local governments and special districts at the second tier.**

The Subcommittee recommended amendments to NRS 360.690 which would create two separate formulas for the distribution of excess CTX revenue, depending upon the population of the county:

- In counties whose population is less than 100,000 (currently, all counties except for Clark and Washoe), the excess distribution formula would use **one plus** the sum of the five-year average percentage change in population and the five-year average percentage change in assessed value for local governments, and **one plus** the five-year average percentage change in assessed value for special districts.
- In counties whose population is 100,000 or more (currently, Clark and Washoe), the excess distribution formula would use **0.02 plus** the sum of the five-year average percentage change in population and the five-year average percentage change in assessed value for local governments, and **0.02 plus** the five-year average percentage change in assessed value for special districts. **For any local government or special district whose five-year average percentage change in assessed value is less than zero, the calculation of the factor shall use zero for the assessed value change instead of the negative number. Additionally, for any local government whose total factor is calculated to be less than zero, the number zero shall also be used for the total factor.**

Additionally, in those counties whose population is 100,000 or more, if the factor calculated for each local government (excludes special districts) is zero, then any excess revenue that remains in a month shall be distributed among the local governments and special districts in proportion to each entity's base allocation share established under NRS 360.680.

Mr. Aguero's testimony to the Subcommittee indicated that the local government working group believed that it was not possible for the Legislature to create a single, "one-size-fits-all" formula for the distribution of all excess revenues that would create an optimal distribution of revenues in all seventeen counties in the state. Mr. Aguero noted that the one-plus formula was more beneficial to slower-growing entities, while the no-one-plus formula had a greater impact on faster-growing entities.

In creating two separate formulas for excess revenue calculations, Mr. Aguero noted that this particular recommendation addressed concerns from both the rural counties, who indicated reluctance throughout the duration of the interim study in moving away from the one-plus formula, as well as the urban counties, who still largely believed that the formula needed to be more responsive to growth. Testimony provided from various local government representatives indicated that the portions of the recommendation setting the negative average percentage change in assessed value to zero, as well as providing an alternative mechanism for excess revenue distribution when all local governments at a county had a calculation of zero, would potentially alleviate the undesired result of having all of a county's excess revenue distributed to only a few entities in the county.

**4. Revise the deadline for a cooperative agreement for an alternative distribution of revenues at the second tier of the CTX.**

The Subcommittee recommended amendments to NRS 360.730 that would move the deadline for two or more local governments or special districts who wish to enter into a cooperative agreement for an alternative distribution of CTX second-tier revenues from December 31 of the year immediately preceding the initial fiscal year of distribution to April 1 immediately preceding the initial fiscal year of distribution. The recommendation also requires that each local government or special district planning to enter into a cooperative agreement must provide the Department of Taxation with a notice of intent to enter into a cooperative agreement on or before March 1.

Local government representatives indicated that the current December 1 deadline for an interlocal agreement made it difficult, if not impossible, to react to revenue information given to entities by the Department of Taxation in February or March, which may indicate the need for these entities to enter into an interlocal agreement for the fiscal year beginning on July 1. Representatives from Clark County had been able to work around this issue in the 2011 Session through an amendment in Senate Bill 34 that temporarily extended the deadline in 2011 until May 30, but it was believed a more permanent fix would be needed.

The Department of Taxation indicated that moving the deadline from December 31 to April 1 did not adversely affect the budget building process; however, the department indicated that it would prefer to receive advance notice from affected parties who intended to enter into a cooperative agreement.

5. **Revise the period for which certified population estimates used for per-capita distribution of certain revenues at the first tier of the CTX must be utilized.**

The Subcommittee recommended an amendment to NRS 360.285 that requires, for any revenue where the distribution is based on population, that the population estimates certified on or before March 1 of each year be used for all distributions attributable to the fiscal year beginning on the July 1 immediately following.

Under current law, the Department of Taxation changes the population percentages used to distribute these revenues at the first tier on July 1 of each year. Due to the Governmental Accounting Standards Board (GASB) rules used by the Department for these revenue sources, revenue generated in May and June (the last two months of each fiscal year) is not distributed to the Local Government Tax Distribution Account until after July 1 of each year. Since these distributions occur after July 1, the department uses the new population percentages based on the latest March 1 estimates in making the first-tier distributions of these revenue sources. Thus, based upon current law, the Department of Taxation, for each fiscal year, distributes ten months of revenue under one set of population numbers, and distributes two months of revenue under another set of numbers. (This results in twelve months of revenue being distributed under each population calculation; however, this twelve-month period does not correspond with the twelve months of the fiscal year.)

This recommendation was brought forth as a technical change by Fiscal Analysis Division staff.

## **V. Concluding Remarks / Acknowledgements**

The Legislative Commission's Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account would like to thank the Department of Taxation as well as all of the local government entities (counties, cities, towns and special districts) across the state for their participation throughout the study. The Subcommittee would also like to thank the Nevada Association of Counties (NACO) and the Nevada League of Cities for facilitating the exchange of information between the Subcommittee and local governments across the state. Additionally, the Subcommittee would like to acknowledge the efforts of Jeremy Aguero of Applied Analysis for his work related to developing the CTX model, facilitating the local government working group meetings, and providing the Subcommittee with status reports on the working group's deliberations.

The Subcommittee members sincerely appreciate the time, expertise and recommendations of everyone who contributed to make the study as comprehensive and thorough as possible. This review would not have been possible without their assistance and cooperation.



**Appendix A**  
**Assembly Bill 71**

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Case No. 66851  
JA 3214

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

CHAPTER.....

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

**Legislative Counsel's Digest:**

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

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

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

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

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

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

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

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



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

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

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

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

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## **Appendix B**

### **CTX Bill Draft Request (BDR 32-247) and Bill Explanation**

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Case No. 66851  
JA 3218

SUMMARY—Revises various provisions relating to the distribution of certain taxes to local governments. (BDR 32-247)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.

Effect on the State: Yes.

AN ACT relating to taxation; revising the provisions relating to the certification of populations by the Governor; revising the provisions relating to the allocation and distribution of taxes from the Local Government Tax Distribution Account; revising the provisions relating to the establishment of an alternative formula for the distribution of taxes from the Local Government Tax Distribution Account by cooperative agreement; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

For purposes of apportioning taxes collected by the Department of Taxation where the basis of the apportionment is the population of the political subdivision, existing law requires the Department to use the populations certified by the Governor. (NRS 360.285) **Section 1** of this bill clarifies that each apportioned payment attributable to a fiscal year must be based upon the Governor's certification made on or before March 1 immediately preceding the fiscal year for which the payment will be made.

Existing law establishes the statutory formulas for distributing tax proceeds from the Local Government Tax Distribution Account to local governments, enterprise districts and special districts. (NRS 360.680, 360.690) **Sections 2-4** of this bill establish different formulas to calculate the distribution of the tax proceeds.

Existing law authorizes the governing bodies of two or more local governments or special districts, or any combination thereof, to enter into a cooperative agreement that sets forth an alternative formula for the distribution of taxes from the Local Government Tax Distribution Account. (NRS 360.730) **Section 5** of this bill changes the date by which a copy of an approved cooperative agreement must be transmitted to the Executive Director of the Department of Taxation from December 1 of the year immediately preceding the initial year of distribution that will be governed by the cooperative agreement to April 1 of the initial year of distribution. **Section 5** also requires local governments and special districts who anticipate being parties to such a cooperative agreement to provide to the Department of Taxation on or before March 1 of the initial year of distribution that will be governed by the cooperative agreement a nonbinding notice of intent to enter into the cooperative agreement.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 360.285 is hereby amended to read as follows:



360.285 1. For the purposes of this title, the Governor shall, on or before March 1 of each year, certify the population of each town, township, city and county in this state as of the immediately preceding July 1 from the determination submitted to the Governor by the Department pursuant to subsection 4 of NRS 360.283.

2. Where any tax is collected by the Department for apportionment in whole or in part to any political subdivision and the basis of the apportionment is the population of the political subdivision, the Department shall use the populations certified by the Governor. The transition from one such certification to the next must be made on July 1 following the certification for use in the fiscal year beginning then. Every payment ~~{before that date}~~ *attributable to a fiscal year* must be based upon the ~~{earlier}~~ certification ~~{and every payment on or after that date must be based upon the later certification.}~~ *made on or before March 1 immediately preceding the fiscal year to which the payment will be attributed.*

Sec. 2. NRS 360.680 is hereby amended to read as follows:

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

2. Except as otherwise provided in NRS 360.690 and 360.730, the Executive Director, after subtracting the amount allocated to each enterprise district pursuant to subsection 1, shall allocate to each local government or special district which is eligible for an allocation from the Account pursuant to NRS 360.670 an amount from the Account that is equal to the amount allocated to the local government or special district for the preceding fiscal year, minus any

excess amount allocated pursuant to subsection 4, 5, 6 or 7 of NRS 360.690, *as that section existed before July 1, 2013*, multiplied by 1 plus the *average* percentage change in the Consumer Price Index (All Items) ~~{for}~~ over the ~~{year ending on December 31}~~ 5 calendar years immediately preceding the year in which the allocation is made.

**Sec. 3.** NRS 360.680 is hereby amended to read as follows:

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

2. Except as otherwise provided in NRS 360.690 and 360.730, the Executive Director, after subtracting the amount allocated to each enterprise district pursuant to subsection 1, shall allocate to each local government or special district which is eligible for an allocation from the Account pursuant to NRS 360.670 an amount from the Account that is equal to the amount allocated to the local government or special district for the preceding fiscal year ~~1, minus any excess amount allocated pursuant to subsection 4, 5, 6 or 7 of NRS 360.690, as that section existed before July 1, 2013,~~ multiplied by 1 plus the average percentage change in the Consumer Price Index (All Items) over the 5 calendar years immediately preceding the year in which the allocation is made.

**Sec. 4.** NRS 360.690 is hereby amended to read as follows:

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

2. The Executive Director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to NRS 360.680 for each local government, special district and enterprise district by 12, and the State Treasurer shall, except as otherwise provided in subsections 3 to ~~8,~~ 7, inclusive, remit monthly that amount to each local government, special district and enterprise district.

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

4. Except as otherwise provided in subsections ~~5 to 8, inclusive,~~ 6 and 7, *for a county whose population is 100,000 or more*, 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 0.02

*plus the sum of ~~the~~ :*

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(I) ~~{Average}~~ *The 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;}~~ 8; and

(II) ~~{Average}~~ *The greater of zero or the 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 ~~{3}~~, *except that if the figure calculated pursuant to subparagraph (1) is less than zero, that figure must be treated as being zero for purposes of determining the allocation pursuant to this subparagraph; 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 *0.02 plus the greater of zero or the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but*

excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

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

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

5. Except as otherwise provided in subsection ~~16 or~~ 7, *for a county whose population is less than 100,000*, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, ~~and that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 or that the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure or that the average amount over the 5~~

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

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

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

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection ~~{9;}~~ 8; and

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

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments

and special districts located in the same county multiplied by the total amount available in the subaccount; and

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

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

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

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

6. Except as otherwise provided in subsection ~~{8,}~~ 7, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district ~~1, that the sum of the average percentage of change in~~

~~population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in each of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a negative figure, he or she shall immediately determine and allocate each:~~

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

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

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

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

~~——(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments~~



~~and special districts located in the same county multiplied by the total amount available in the subaccount; and~~

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

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

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

*→ The~~t~~ in a county whose population is 100,000 or more, and if the calculations performed pursuant to paragraph (a) of subsection 4 require the use of zero for each local government, the Executive Director shall allocate to each local government and special district an amount equal to its proportionate percentage of the total amount of the base monthly allocations determined pursuant to subsection 2 for all local governments and special districts within the*

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

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

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

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

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

~~——(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the~~

~~allocation is made, as projected by the Department, and the 4 fiscal years immediately preceding the year in which the allocation is made; and~~

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

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

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

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

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

~~—— (2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to~~

~~subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.~~

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

—8.1 The Executive Director shall not allocate any amount to a local government or special district pursuant to subsection 4, 5 ~~1.1~~ or 6 ~~for 7~~ unless the amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2 and the Executive Director determines there is money remaining in the county's subaccount in the Account after the distribution for the month has been made, he or she shall:

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

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

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

~~19.1~~ 8. The percentage changes in population calculated pursuant to subsections 4 ~~to 7~~, ~~inclusive,~~ and 5 must:

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

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

(c) If a local government files a formal appeal with the Bureau of the Census concerning the population total of the local government issued by the Bureau of the Census, be calculated using

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

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

(2) Greater than the population total initially issued by the Bureau of the Census, the Executive Director shall calculate the amount that would have been allocated to the local government pursuant to subsection 4, 5 ~~1-1~~ or 6, ~~1-7~~ as appropriate, if the population total finally determined pursuant to the appeal had been used and the State Treasurer shall remit to the local government an amount equal to the difference between the amount actually distributed and the amount calculated pursuant to this subparagraph or the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, whichever is less.

~~1-0~~ 9. On or before February 15 of each year, the Executive Director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the Account for that fiscal year.

~~1-1~~ 10. On or before March 15 of each year, the Executive Director shall: \_\_\_\_\_

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

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

~~{H2-}~~ 11. A local government, special district or enterprise district may use the estimate provided by the Executive Director pursuant to subsection ~~{H1}~~ 10 in the preparation of its budget.

**Sec. 5.** NRS 360.730 is hereby amended to read as follows:

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

2. *If a person who is authorized to make administrative decisions regarding cooperative agreements on behalf of a local government or special district anticipates that the local government or special district will enter into a cooperative agreement pursuant to subsection 1, a notice of intent must be provided to the Department on or before March 1 of the initial year of distribution that will be governed by the cooperative agreement. The notice:*

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*(a) May be submitted by the authorized person without a vote of the governing body of the local government or special district;*

*(b) Must be submitted on a form prescribed by the Department and, to the extent possible, be accompanied by an explanation of the provisions anticipated to be included in the cooperative agreement; and*

*(c) Is not binding on the local government or special district on whose behalf it is submitted, and does not prevent the local government or special district from negotiating or entering into a cooperative agreement after March 1 of the initial year of distribution that will be governed by the cooperative agreement.*

3. The county clerk of a county in which a local government or special district that is a party to a cooperative agreement pursuant to subsection 1 is located shall transmit a copy of the cooperative agreement to the Executive Director:

(a) Within 10 days after the agreement is approved by each of the governing bodies of the local governments or special districts that are parties to the agreement; and

(b) Not later than ~~{December 31 of the year immediately preceding}~~ April 1 of the initial year of distribution that will be governed by the cooperative agreement.

~~{3-}~~ 4. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts.



**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 18 PART 4**

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~~{4-}~~ 5. If at least two cooperative agreements exist among the local governments and special districts that are located in the same county, the Executive Director shall ensure that the terms of those cooperative agreements do not conflict.

~~{5-}~~ 6. Any local government or special district that is not a party to a cooperative agreement pursuant to subsection 1 must continue to receive money from the Account pursuant to the provisions of NRS 360.680 and 360.690.

~~{6-}~~ 7. The governing bodies of the local governments and special districts that have entered into a cooperative agreement pursuant to subsection 1 may, by majority vote, amend the terms of the agreement. The governing bodies shall not amend the terms of a cooperative agreement more than once during the first 2 years after the cooperative agreement is effective and once every year thereafter, unless the Committee on Local Government Finance approves the amendment. The provisions of this subsection do not apply to any interlocal agreements for the consolidation of governmental services entered into by local governments or special districts pursuant to the provisions of NRS 277.080 to 277.180, inclusive, that do not relate to the distribution of taxes included in the Account.

~~{7-}~~ 8. A cooperative agreement executed pursuant to this section may not be terminated unless the governing body of each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 agrees to terminate the agreement.

~~{8-}~~ 9. For each fiscal year the cooperative agreement is in effect, the Executive Director shall continue to calculate the amount each local government or special district that is a party to a

cooperative agreement pursuant to subsection 1 would receive pursuant to the provisions of NRS 360.680 and 360.690.

~~{9.}~~ 10. If the governing bodies of the local governments or special districts that are parties to a cooperative agreement terminate the agreement pursuant to subsection ~~{7.}~~ 8, the Executive Director must distribute to those local governments or special districts an amount equal to the amount the local government or special district would have received pursuant to the provisions of NRS 360.680 and 360.690 according to the calculations performed pursuant to subsection ~~{8.}~~ 9.

**Sec. 6.** NRS 354.59813 is hereby amended to read as follows:

354.59813 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, if the estimate of the revenue available from the supplemental city-county relief tax to the county as determined by the Executive Director of the Department of Taxation pursuant to the provisions of subsection ~~{11.}~~ 10 of NRS 360.690 is less than the amount of money that would be generated by applying a tax rate of \$1.15 per \$100 of assessed valuation to the assessed valuation of the county, except any assessed valuation attributable to the net proceeds of minerals, the governing body of each local government may levy an additional tax ad valorem for operating purposes. The total tax levied by the governing body of a local government pursuant to this section must not exceed a rate calculated to produce revenue equal to the difference between the:

(a) Amount of revenue from supplemental city-county relief tax estimated to be received by the county pursuant to subsection ~~{11.}~~ 10 of NRS 360.690; and

(b) The tax that the county would have been estimated to receive if the estimate for the total revenue available from the tax was equal to the amount of money that would be generated by applying a tax rate of \$1.15 per \$100 of assessed valuation to the assessed valuation of the county,

↳ multiplied by the proportion determined for the local government pursuant to subparagraph (2) of paragraph (a) of subsection 4 of NRS 360.690, subparagraph (2) of paragraph (a) of *subsection 5 of NRS 360.690* or subsection 6 of NRS ~~360.690~~ or ~~subparagraph (2) of paragraph (a) of subsection 7 of NRS~~ 360.690, as appropriate.

2. Any additional taxes ad valorem levied as a result of the application of this section must not be included in the base from which the allowed revenue from taxes ad valorem for the next subsequent year is computed.

3. As used in this section, "local government" has the meaning ascribed to it in NRS 360.640.

**Sec. 7.** NRS 354.598747 is hereby amended to read as follows:

354.598747 1. To calculate the amount to be distributed pursuant to the provisions of NRS 360.680 and 360.690 from a county's subaccount in the Local Government Tax Distribution Account to a local government, special district or enterprise district after it assumes the functions of another local government, special district or enterprise district:

(a) Except as otherwise provided in this section, the Executive Director of the Department of Taxation shall:



(1) Add the amounts calculated pursuant to subsection 1 or 2 of NRS 360.680 for each local government, special district or enterprise district and allocate the combined amount to the local government, special district or enterprise district that assumes the functions; and

(2) If applicable, add the average change in population and average change in the assessed valuation of taxable property that would otherwise be allowed to the local government or special district whose functions are assumed, including the assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, pursuant to subsection 4 ~~4, 5, 6 or 7~~ or 5 of NRS 360.690, as appropriate, to the average change in population and average change in assessed valuation for the local government, special district or enterprise district that assumes the functions.

(b) If two or more local governments, special districts or enterprise districts assume the functions of another local government, special district or enterprise district, the additional revenue must be divided among the local governments, special districts or enterprise districts that assume the functions on the basis of the proportionate costs of the functions assumed.

↪ The Nevada Tax Commission shall not allow any increase in the allowed revenue from the taxes contained in the county's subaccount in the Local Government Tax Distribution Account if the increase would result in a decrease in revenue of any local government, special district or enterprise district in the county that does not assume those functions. If more than one local government, special district or enterprise district assumes the functions, the Nevada Tax Commission shall determine the appropriate amounts calculated pursuant to subparagraphs (1) and (2) of paragraph (a).

2. If a city disincorporates, the board of county commissioners of the county in which the city is located must determine the amount the unincorporated town created by the disincorporation will receive pursuant to the provisions of NRS 360.600 to 360.740, inclusive.

3. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Special district" has the meaning ascribed to it in NRS 360.650.

**Sec. 8.** 1. This act becomes effective upon passage and approval for the purposes of performing any preparatory administrative tasks that are necessary to carry out the provisions of this act.

2. This section and sections 1, 2 and 4 to 7, inclusive, of this act become effective on July 1, 2013.

3. Section 3 of this act becomes effective on July 1, 2014.

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Case No. 66851  
JA **3242**

## Appendix B

### Bill Explanation – CTX Subcommittee Bill Draft Request

**Section 1:** Amends NRS 360.285, which requires the certification of the population of each town, township, city and county in the state by the Governor on or before March 1 of each year, to require that each payment of taxes distributed based on these certified population estimates for a fiscal year be based on the estimates certified on or before March 1 immediately preceding the fiscal year for which the payment is made.

Current law requires that each payment made on or after July 1 be made using the latest certification, while each payment made before July 1 be made using the earlier certification. Because the state of Nevada's modified accrual accounting system requires the distribution of May and June revenues after July 1, current law requires the Department of Taxation to use the earlier certification for ten months of distribution of certain taxes in a fiscal year, and to use the later certification for the last two months, since their distribution occurs after July 1.

The proposed change to Section 1 requires that, for any distribution of revenue by the Department of Taxation which is based on population estimates, the same certified population estimate is used for all twelve months of a fiscal year.

**Section 2:** Amends NRS 360.680, which governs the annual base allocation of revenue from the Local Government Tax Distribution Account to local governments, special districts, and enterprise districts, to require that annual inflation adjustments to the base amount for local governments and special districts be the average percentage change in the Consumer Price Index for the five calendar years immediately preceding the year in which the annual base allocation is made.

Under current law, the Department of Taxation, in calculating the annual base allocation for a local government or special district, is required to adjust the total revenue received by that entity in the prior fiscal year, excluding any excess revenue distributed to that entity, by the percentage change in the Consumer Price Index for the prior calendar year.

The provisions of Section 2 become effective on July 1, 2013, and expire by limitation on June 30, 2014, and are replaced by the provisions of Section 3 below, effective July 1, 2014.

**Section 3:** Amends NRS 360.680, which governs the annual base allocation of revenue from the Local Government Tax Distribution Account to local governments, special districts, and enterprise districts, to require that the annual base allocation for each local government and special district **must include all revenue (base and excess)** received by the entity in the prior fiscal year, adjusted by the average percentage change in the Consumer Price Index for the five calendar years immediately preceding the year in which the annual base allocation is made.

Under current law, the annual base allocation to each local government and special district is the total amount of revenue received by the local government or special district in the prior fiscal year, **excluding excess revenue**, adjusted by the percentage change in the Consumer Price Index for the prior calendar year.

**Section 4:** Amends NRS 360.690, which governs the distribution of any revenue remaining after all base distributions have been made to local governments, special districts, and enterprise districts, to make several changes to the distribution of these revenues, as follows:

- For counties whose population is less than 100,000 (all counties except for Clark and Washoe), the excess distribution formula would use **one plus** the sum of the 5-year average percentage change in population and the 5-year average percentage change in assessed value for local governments, and **one plus** the 5-year average percentage change in assessed value for special districts.
- For counties whose population is 100,000 or more (Clark and Washoe), the excess distribution formula would use **0.02 plus** the sum of the 5-year average percentage change in population and the 5-year average percentage change in assessed value for local governments, and **0.02 plus** the 5-year average percentage change in assessed value for special districts.

**For any local government or special district whose 5-year average change in assessed value is less than zero, the calculation of the factor shall use zero for the assessed value change instead of the negative number. Additionally, for any local government whose total factor is calculated to be less than zero based on the 5-year average percentage change in assessed value and population, the number zero shall also be used for the total factor.**

- In a county whose population is 100,000 or more, if the factor calculated for all local governments in the county is zero, then any excess revenue that remains in a month shall be distributed among the local governments and special districts in proportion to each entity's base allocation share.

- The alternative excess distribution formulas currently in subsections 5, 6, and 7 of NRS 360.690 are repealed.

Under current law, the Department of Taxation is required to distribute excess revenue in the following manner:

- 1) For local governments, the factor used to determine the distribution of excess revenue is calculated by taking the sum of the 5-year average percentage change in population and the 5-year average percentage change in assessed value.
- 2) For special districts, the factor used to determine the distribution of excess revenue is calculated by taking the 5-year average percentage change in assessed value.
- 3) Each local government's and special district's monthly base distribution is multiplied by the factors determined for that entity.
- 4) The calculations are added together to create a total for all local governments and special districts, and any excess distribution is distributed based on the proportion that each local government and special district's calculation comprises of the total.

Under certain circumstances, alternative formulas are used to calculate the shares of excess revenue for local governments and special districts in a county, as follows:

- Under subsection 5 of NRS 360.690, if the average net proceeds of minerals in a county over the previous five fiscal years exceeds \$50 million, if the 5-year average percentage change in population in the county is negative, or if both of these conditions occur, then the number one is added to each local government and special district's factor in making the calculations.
- Under subsection 6 of NRS 360.690, if the average change in population and assessed value in each local government is negative, and the average change in assessed value in each special district is negative, then the number one is added to each local government and special district's factor in making the calculations.
- Under subsection 7 of NRS 360.690, if the average change in population and assessed value in each local government is negative, but the average change in assessed value in any special district is positive, then the number one is added to each local government and special district's factor in making the calculations, and the percentage change in population for the county is also added to each special district's factor.

**Section 5:** Amends NRS 360.730, which allows two or more local governments, special districts, or any combination thereof to enter into a cooperative agreement for an alternative distribution of revenues from the Local Government Tax Distribution Account, to change the deadline by which a cooperative agreement must be submitted to the Department of Taxation to April 1 immediately preceding the initial year of distribution that will be governed by the cooperative agreement.

Section 5 also requires a person authorized to make administrative decisions regarding cooperative agreements on behalf of a local government or special district who anticipates that the local government or special district will enter into a cooperative agreement to provide notice of the intent to enter into an agreement to the Department of Taxation, on a form prescribed by the Department, on or before March 1 immediately preceding the initial year of distribution that will be governed by the Department. The notice of intent must, to the extent possible, include a description of the provisions to be included in the agreement and may be submitted by that authorized person without a vote of the governing body of the local government or special district. However, the notice of intent is not binding on that local government or special district, and it does not prevent the local government or special district from negotiating or entering into a cooperative agreement after March 1 of the initial year of distribution, so long as the final agreement is received by the Department of Taxation on or before April 1.

Under current law, a cooperative agreement must be received by the Department of Taxation from each local government and special district whose governing body has approved the agreement no later than December 31 of the year immediately preceding the initial year of distribution that will be governed by the cooperative agreement.

**Section 6:** Amends NRS 354.59813, which allows local governments to impose an additional ad valorem property tax rate if supplemental city-county relief tax (SCCRT) revenue does not meet a certain threshold, to reflect subsection changes made to NRS 360.690, as amended by Section 4 of this act.

**Section 7:** Amends NRS 354.598747, which determines the distribution of consolidated tax revenue at the second tier for a local government, special district, or enterprise district who assumes the functions of another local government, special district, or enterprise district, to reflect subsection changes made to NRS 360.690, as amended by Section 4 of this act.

**Section 8:** This act becomes effective upon passage and approval for the purposes of performing any preparatory administrative tasks that are necessary to carry out the provisions of this act.

This section and sections 1, 2, and 4 to 7, inclusive, become effective on July 1, 2013.

Section 3 becomes effective on July 1, 2014.



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Case No. 66851  
JA **3248**

## **Appendix C**

### **History and Overview of the Local Government Tax Distribution Account**



## Appendix C

### History and Overview of the Local Government Tax Distribution Account

The Local Government Tax Distribution Account, originally created by the Legislature in Senate Bill 254 of the 1997 Session, is the statutory name of the account used by the Department of Taxation to aggregate and distribute revenues from six different taxes that are collected at the state level, to various local government entities in all seventeen counties throughout the state. The distribution mechanism, informally referred to as the "Consolidated Tax Distribution," or CTX for short, is a series of statutory formulas that first distributes revenue from the following sources at the first tier – that is, from the state to a separate account for each of the seventeen counties:

- **Basic City-County Relief Tax (BCCRT):** Proceeds from the BCCRT, which is a portion of the state's sales and use tax rate equal to 0.5 percent, are remitted to the county in which the taxable sale occurred for in-state sales. Out-of-state sales where this tax is collected are distributed at the first tier based on the population of each county as a percentage of the statewide population.
- **Supplemental City-County Relief Tax (SCCRT):** Proceeds from the SCCRT, which is a portion of the state's sales and use tax rate equal to 1.75 percent, are first remitted to certain guaranteed counties, whose monthly distribution is calculated through a statutory formula. Other non-guaranteed counties then receive their share of the remaining revenue based upon their share of total SCCRT collections among the non-guaranteed counties.
- **Governmental Services Tax (GST):** Proceeds from the GST, which is the tax levied based on the value of a registered vehicle in the state at a rate of 4 cents per dollar of determined value, are distributed first to the State General Fund and then to school districts throughout the state. The amounts remaining after these distributions are made are placed into the CTX distribution for each county, with the revenue remaining in the county in which the vehicle is registered.
- **Real Property Transfer Tax (RPTT):** The RPTT is the tax levied at the time of a transfer of title of real property whose value exceeds \$100. Proceeds from a portion of the RPTT equal to 55 cents per \$500 of value are deposited into the CTX distribution at the first tier based on the county where the real property is located.
- **Cigarette Tax:** The cigarette tax is an excise tax levied at the wholesale level on each package of cigarettes to be sold in Nevada. Proceeds from a portion of the cigarette tax equal to 10 cents per pack are distributed at the first tier based on the population of each county as a percentage of the statewide population.
- **Liquor Tax:** The liquor tax is an excise tax levied at the wholesale level on beer, wine, and other liquors to be sold in Nevada. Proceeds from a portion of the liquor tax equal to 50 cents per gallon of any liquor above 22 percent alcohol by volume are distributed at the first tier based on the population of each county as a percentage of the statewide population.

On a monthly basis, the Department of Taxation is required to make the first-tier distributions of each of these revenues to each of seventeen sub-accounts -- one for each county in the state. These first tier revenues are then distributed to the entities within the county that are eligible to receive CTX revenue -- enterprise districts, local governments, and special districts -- at the second tier of the CTX.

Chapter 360 of the Nevada Revised Statutes, which governs the CTX, currently differentiates local entities eligible to receive CTX revenue into three distinct categories:

- **Enterprise Districts:** Enterprise districts are entities that receive CTX revenues that are not counties, cities, or towns, and that were determined to be an enterprise district by the Executive Director of the Department of Taxation pursuant to NRS 360.620. There are currently a total of fourteen enterprise districts, including various water, sanitation, and television districts throughout the state.
- **Local governments:** Local governments are counties, cities, and towns that receive CTX revenue pursuant to NRS 360.640.
- **Special districts:** Special districts are all other entities that are not either enterprise districts or local governments and who receive revenue pursuant to NRS 360.650.

The monthly amount of revenue that is distributed from the county sub-account at the first tier to each of the eligible entities within that county at the second tier is calculated based on a two-part process that first determines a base share for each entity, and then a second "excess" share if any revenue remains after all base distributions have been made. For the base distribution, the following rule is used:

- **Enterprise districts** receive a monthly base distribution equal to one-twelfth of the annual base distribution received by that entity in the prior fiscal year. The distribution to the enterprise districts is always done before the distribution to the local governments and special districts.
- **Local governments and special districts** receive a monthly base distribution equal to one-twelfth of the annual base distribution received by that entity in the prior fiscal year, adjusted by the percentage change in the Consumer Price Index in the immediately preceding calendar year.

If the Department of Taxation, after making the distribution to enterprise districts, determines that there is not sufficient revenue to distribute the full monthly base amount to the local governments and special districts, then the remaining amount is proportionately distributed to each local government and special district based on the percentage that each entity's monthly base amount makes up the total base amount for each of these entities in the county.

If the Department of Taxation, after making the distribution to enterprise districts, determines that there is more than sufficient revenue to distribute the full monthly base amount to the local governments and special districts, then it must determine whether there were any prior months in the fiscal year where there was not sufficient revenue to make the full base distribution to entities in a month. This revenue must be used, if necessary, to make up the base distributions in prior months where revenue was not sufficient to fully fund the base distribution.

If there is revenue remaining after all previous months' base distributions have been backfilled, or if there are no prior months where there was not sufficient revenue to make the base distribution, then the revenue is considered to be "excess" revenue and is distributed under a separate set of formulas to local governments and special districts (enterprise districts are not entitled to excess revenue):

- **For local governments**, each entity's share is determined by taking the entity's base revenue, multiplied by the sum of the average change in population in the entity over the prior five calendar years and the average change in assessed value in the entity over the prior five calendar years.
- **For special districts**, each entity's share is determined by taking the entity's base revenue, multiplied by the average change in assessed value in the entity over the prior five calendar years.

**These calculations are informally known as the "no one-plus formula," because the formula does not require the addition of the number one to the sum of population and assessed value changes.**

The above calculations for all local governments and special districts in the county are added together to generate a total, and each entity's excess distribution share is its percentage of the total.

Under current law, there are alternative calculations that are required under certain circumstances:

- If the average net proceeds of minerals in a county over the previous five fiscal years exceeds \$50 million; if the five-year average percentage change in population in the county is negative; or if both of these conditions occur, then the number one is added to each local government and special district's factor in making the calculations.
- If the average change in population and assessed value in each local government is negative, and the average change in assessed value in each special district is negative, then the number one is added to each local government and special district's factor in making the calculations.

- If the average change in population and assessed value in each local government is negative, but the average change in assessed value in any special district is positive, then the number one is added to each local government and special district's factor in making the calculations, and the percentage change in population for the county is also added to each special district's factor.

The first two of these alternative calculation methods are informally known as the "one-plus formula" because of the requirement to add one to the sum of the population and assessed value before multiplying this number by the entity's base amount. The third alternative calculation is known informally as the "modified one-plus formula," since it requires that the county's population change be added to each special district's change in assessed value.

Like the no one-plus formula, the excess revenue distribution for each entity under the one-plus formula is the share of each entity's calculation of the total, when all calculations are added together for the entities in each county.

#### **Entities Eligible to Receive CTX Distributions**

Chapter 360 of NRS classifies the three types of entities that are eligible to receive some portion of CTX revenue; however, it does not specifically determine that any particular entity will be entitled to revenue. When the CTX was originally put into place, the entities who were eligible to receive revenue from the CTX were those entities who were receiving at least one of the six revenues dedicated to the CTX before the transition to the CTX in FY 1999.

Prior to FY 1999, the six revenues were distributed among local government entities as follows:

- **BCCRT:** Distribution of BCCRT revenue to entities within a county, after the distribution had been made to that county, depended on the number of incorporated cities located within the county:
  - In counties with no incorporated cities, the county general fund received all BCCRT revenues
  - In counties with one incorporated city, the revenue was split between the city and county based on population
  - In counties with two or more incorporated cities, the revenue was split between the cities based on population, and the county received no revenue
  - In Carson City, the city general fund received all BCCRT revenues
- **SCCRT:** Distribution of SCCRT revenue was based on certain statutory formulas that took into account the amount of property tax revenue that was lost as a result of the reduction of the maximum property tax rate from \$5 to \$3.64 during the 1981 Legislative Session. (This effectively limited the distribution of SCCRT revenue only to those entities who had a property tax rate in 1981.)

- **GST:** GST revenue was distributed among the school district and other entities in a county based upon the property tax revenue that would have been generated in that county using the school district's property rate in FY 1979 (including the current year's debt rate, if higher than FY 1979) and the remaining entities' property tax rates in FY 1981. These calculations were used to determine the shares for each entity in the county.
- **RPTT:** RPTT revenue was distributed based on the number of incorporated cities in the county:
  - If the county had no incorporated cities, the county general fund received all of the revenue.
  - If the county had one or more incorporated city, the county received 25 percent of the revenue, and the remaining 75 percent of the revenue was distributed as follows:
    - If the county had one incorporated city, the 75 percent was distributed between the city and county based on population.
    - If the county had two or more incorporated cities, the 75 percent was distributed between the cities based on population, and the county would receive no additional revenue.
- **Cigarette Tax:** Proceeds from the cigarette tax revenue were distributed not only based on the number of cities within a county, but also were dependent upon the size of the county itself.
  - If the county's population was 5,000 or more and:
    - Had no incorporated cities, the county received all of the revenue.
    - Had one incorporated city, the county and city divided the revenue based on population.
    - Had two or more incorporated cities, the cities divided the revenue based on population, and the county received no revenue.
  - If the county's population was less than 5,000 and:
    - Had no incorporated cities or unincorporated town, the county received all of the revenue.
    - Had one incorporated city or unincorporated town, the county and city/town divided the revenue based on population.
    - Had two or more incorporated cities, incorporated towns, or a combination of cities and towns, the cities and towns divided the revenue based on population, and the county received no revenue.
- **Liquor Tax:** Proceeds from the liquor tax revenue were distributed based on the number of cities in the county:
  - In counties with no incorporated cities, the county general fund received all liquor tax revenue
  - In counties with one incorporated city, the revenue was split between the city and county based on population
  - In counties with two or more incorporated cities, the revenue was split between the cities based on population, and the county received no revenue



Upon creation of the CTX, Senate Bill 254 of the 1997 Session required that the initial base distribution of the CTX be based on the average amount of revenue that entities received from these six revenue sources under the old formulas in FY 1997 and FY 1998. Thus, the formula ensured that only those entities who were historically receiving at least one of the six revenues making up the CTX distribution would be able to participate in the CTX beginning in FY 1999.

### Legislative History of the CTX

Senate Concurrent Resolution 40 (1995) created an interim study to review laws governing the distribution of tax revenues among local governments within counties – what is now known as the “second-tier” distribution. The interim study recommended the consolidation of state and local taxes from multiple sources (including the SCCRT) into a single fund – the Local Government Tax Distribution Fund (also known as the consolidated tax, or CTX) – for distribution at the second tier under a single formula. The recommendations of this study were eventually adopted by the Legislature in Senate Bill 254 of the 1997 Session.

Senate Bill 254 (1997) created the Local Government Tax Distribution Fund, as proposed under the SCR 40 interim study, to receive revenues from the BCCRT, SCCRT, Motor Vehicle Privilege Tax (now the Government Services Tax), Real Property Transfer Tax, Cigarette Tax, and Liquor Tax, and adopting a single formula for second tier distribution. The bill required the Executive Director of the Department of Taxation to administer the fund and distribute revenue to eligible local governments, special districts, and enterprise districts according to that formula.

Under the provisions of Senate Bill 254, the initial base amount that was set for each enterprise district, beginning with Fiscal Year 1999, was the average amount of revenue each enterprise district received during FY 1996 and FY 1997. For local governments and special districts, the base amount for FY 1999 was the average amount received during those fiscal years, adjusted for the percentage change between the total amounts received by all local governments and special districts in the county for FY 1997 and the average of the total amounts received by those entities during FY 1996 and FY 1997, and further adjusted by the change in the Consumer Price Index between July 1, 1997, and December 31, 1997.

To determine the distribution in subsequent years, the executive director must first, from each county's allocation at the first tier, allocate an amount to each enterprise district equal to the amount that the enterprise district received in the prior year. After that allocation is made, the executive director must then allocate to each local government or special district eligible for an allocation from the fund an amount equal to the amount allocated to that local government or special district for the preceding fiscal year multiplied by one plus the percentage change in the Consumer Price Index (All Items) for the year ending on December 31 immediately preceding the year in which the allocation is made. This amount is used by the department to establish the base monthly allocation to be made to each local government or special district. For the purpose of making adjustments to the base, the excess amount distributed to each local government or special district in the prior fiscal year is also included under the bill's provisions.

If there is not sufficient money available in the county's account to make the base monthly allocation for each local government or special district after the distribution to the enterprise district is made, the amount of available money shall be prorated and allocated according to the percentage of the amount that each local government or

special district received as a total of the amount distributed among all local governments and special districts in the county in the fiscal year immediately preceding the year in which the allocation is made.

If the executive director determines that there is money remaining in the county's account in the fund after the base monthly allocation is made, the remaining money is to be allocated as follows:

- Each local government's share is determined by multiplying one-twelfth of the annual allocation for the local government by one plus the sum of:
  - The percentage change in the population of that local government for the fiscal year immediately preceding the year in which the allocation is made, as certified by the governor; and
  - The average percentage change in the assessed valuation of taxable property in the local government (except that assessed valuation attributable to the net proceeds of minerals) over the five fiscal years immediately preceding the year in which the allocation is made.
- Each special district's share is determined by multiplying one-twelfth of the annual allocation for the special district by one plus the average percentage change in the assessed valuation of taxable property in the special district (except that assessed valuation attributable to the net proceeds of minerals) over the five fiscal years immediately preceding the year in which the allocation is made.

The figures calculated above for each local government and special district in a county are multiplied by the local government's or special district's base amount, with each product added together to determine a total for the county. The allocation that is received for each local government or special district is the percentage that each local government or special district's calculation comprises of the sum.

If the executive director determines that there is money remaining in the county's account in the fund after the base monthly allocation is made, but there has been one or more months in the same fiscal year where the base monthly allocation could not be made, the executive director must first allocate the money necessary to ensure that these base allocations can be made before any excess is to be distributed using the formulas above.

Senate Bill 254 also allowed the governing bodies of two or more local governments or special districts to enter into an interlocal agreement to set forth an alternative formula for the distribution of revenues under the CTX. The governing bodies of each local government or special district that is part of the agreement must approve the alternative formula by majority vote.

The provisions of the bill allowed any local government or special district that received any portion of the taxes included in the CTX before July 1, 1998, to request an adjustment to the base amount calculated for the initial year (FY 1999). The request was to be made to the Department of Taxation, who was required to take into account several criteria for evaluating the request, no later than December 31, 1997. The Committee on Local Government Finance (CLGF) was required to evaluate the findings of the department and determine whether an adjustment is appropriate. If it determined an adjustment was appropriate, it was required to submit a recommendation to the Nevada Tax Commission specifying the amount of adjustment recommended. If the CLGF determined that an adjustment was not appropriate, then no action would be taken, and the decision was not subject to review by the Nevada Tax Commission.

If the CLGF made a recommendation to the Commission, the Commission was required to hold a public meeting within 30 days to review the recommendation, based on the information submitted by the department and the CLGF. If the Commission determined that the adjustment was appropriate, the department was required to adjust the base amount for that entity by the specified amount in the recommendation.

Finally, Senate Bill 254 also allows certain local governments or special districts created after July 1, 1998, to request the Nevada Tax Commission to direct the executive director to allocate money from the fund to that local government as it would to any other local government or special district eligible to receive an allocation. The executive director is required to review each request and make a determination as to the allocation, which is then reviewed by the CLGF. If the request is determined to be acceptable by the CLGF, it is submitted to the Nevada Tax Commission for final approval. If the allocation is not determined to be acceptable by the CLGF, then no distribution will occur, and the decision is not subject to review by the Nevada Tax Commission.

The Nevada Tax Commission is required to schedule a public meeting within 30 days after the recommendation by the CLGF is submitted, with public notice of the hearing given by the Commission at least 10 days before the hearing date. If, after the public hearing, the Commission determines that the CLGF's recommendation is appropriate, it shall order the executive director to make the appropriate distributions to the local government.

**Senate Bill 253 (1997)** created an interim legislative committee and an advisory committee (composed of Executive Director of Department of Taxation and ten local government finance representatives) to study the distribution of revenue among local governments. The provisions authorizing the legislative committee were to expire on June 30, 2001.

**Assembly Bill 124 (1999)** changed the name of the Local Government Tax Distribution Fund to the Local Government Tax Distribution Account. The account is also changed from a special revenue account within the state treasury to an intergovernmental fund.

**Senate Bill 534 (1999)**, which was one of the bills developed as a result of recommendations adopted by the interim committee created pursuant to Senate Bill 253 of the 1997 Session, created provisions requiring the executive director of the Department of Taxation to review allocations in local governments or special districts where population and assessed valuation (except that assessed valuation that is attributable to the net proceeds of minerals) decreases in each of the three preceding fiscal years. The executive director may determine the necessity to adjust the distribution, and if an adjustment is determined necessary, the findings made by the executive director shall be submitted to the CLGF.

The CLGF shall review the findings and, if it is determined that the adjustment amount is appropriate, shall submit a recommendation to the Nevada Tax Commission. (If it is not deemed to be appropriate, the decision is not subject to review by the Nevada Tax Commission.) The Nevada Tax Commission is then required to hold a public hearing within 30 days after the submission of the recommendation by the CLGF to determine whether the adjustment is appropriate. If the Commission determines that the adjustment is appropriate, it shall order the executive director to make the adjustment to the allocation for the affected local government or special district.

**Senate Bill 535 (1999)**, another of the bills developed as a result of recommendations adopted by the interim committee created pursuant to Senate Bill 253 of the 1997 Session, revised the calculation of assessed valuation, with respect to determining the local government distribution at the second tier, by requiring that the assessed valuation of a redevelopment agency located within a local government or special district be included in the calculation of assessed valuation for that local government or special district.

**Senate Bill 538 (1999)** clarified that the five-year period for which the average percentage change in assessed valuation is taken for determining second-tier allocations is the fiscal year for which the allocation is being made and the immediately preceding four fiscal years.

**Senate Bill 317 (2001)** clarified the procedures regarding excess allocations of revenue that occur if the certified population issued by the governor is higher than the population estimate made by the Census Bureau and the local government has filed a formal appeal with the Census Bureau. The bill also created provisions regarding the distribution of revenues based upon whether the appeal results in a population that was either greater or less than the population amount used to make the initial calculation.

**Senate Bill 557 (2001)** revised the prospective June 30, 2001, sunset of the interim committee created by Senate Bill 253 of the 1997 Session to study the distribution of revenue among local governments, extending the sunset for the committee until June 30, 2005.

Assembly Bill 10 of the 17<sup>th</sup> Special Session (2001) modified the distribution formula at the second tier by specifying that the base amount for a fiscal year for local governments and special districts is only amount of base revenue distributed in the prior fiscal year, multiplied by one plus the change in the Consumer Price Index for the year ending on December 31 immediately preceding the year in which the allocation is made. The amount of excess distributed to the entity in the prior year was no longer included in the base calculation under these provisions.

The bill also modified the second-tier distribution formula by phasing out the "one-plus" calculation established during the 1997 Session for the distribution of excess revenues remaining after base allocations are made, in favor of a "no one-plus" calculation, as follows:

- Each local government's share is determined by multiplying one-twelfth of the annual allocation for the local government by the sum of:
  - The average percentage change in the population of that local government for the fiscal year immediately preceding the fiscal year for which the allocation is being made and the four fiscal years immediately preceding the year in which the allocation is made, as certified by the governor; and
  - The average percentage change in the assessed valuation of taxable property in the local government, including the assessed value attributable to a redevelopment agency but excluding the assessed valuation attributable to the net proceeds of minerals, for the fiscal year for which the allocation is being made and the four fiscal years immediately preceding the year in which the allocation is made.
- Each special district's share is determined by multiplying one-twelfth of the annual allocation for the special district by the average percentage change in the assessed valuation of taxable property in the special district, including the assessed value attributable to a redevelopment agency but excluding the assessed valuation attributable to the net proceeds of minerals, over the five fiscal years immediately preceding the year in which the allocation is made.

As with the "one-plus" calculation, the figures calculated above for each local government and special district in a county are multiplied by each entity's base amount and then added together to determine a total for the county. The allocation that is received for each local government or special district is the percentage that each local government or special district's calculation comprises of the sum.

To minimize the distributional effects that this formula change would have on local governments and special districts, the change from "one-plus" to "no one-plus" was phased in:

- For FY 2002, the allocation would be made by using 25 percent of the no one-plus formula and 75 percent of the one-plus formula;

- For FY 2003, the allocation would be made by using 50 percent of the no one-plus formula and 50 percent of the one-plus formula;
- For FY 2004, the allocation would be made by using 75 percent of the no one-plus formula and 25 percent of the one-plus formula; and
- For FY 2005 and all future fiscal years, the allocation would be made by using 100 percent of the no one-plus formula.

The provisions of Assembly Bill 10 of the 17<sup>th</sup> Special Session also required an adjustment of the annual base allocation for the City of Henderson in the amount of \$4 million, beginning in FY 2002.

Senate Bill 469 (2003), which contained the recommendations developed from the interim committee authorized pursuant to Senate Bill 557 of the 2001 Session, further revised the second-tier distribution of excess revenues to allow the usage of the one-plus formula in certain counties where the sum of population and assessed valuation growth for each local government is negative. The bill provides for two different formulas that can be used, depending on whether the average change in assessed valuation for special districts is positive or negative.

If the sum of the average population growth and average assessed valuation growth for all local governments is negative, and the average change in assessed valuation for all special districts is also negative, the following formula is used:

- Each local government's share is determined by multiplying one-twelfth of the annual allocation for the local government by one plus the sum of:
  - The average percentage change in the population of that local government for the five years immediately preceding the year in which the allocation is made, as certified by the governor; and
  - The average percentage change in the assessed valuation of taxable property in the local government, including the assessed value attributable to a redevelopment agency but excluding the assessed valuation attributable to the net proceeds of minerals, for the fiscal year for which the allocation is being made and the four fiscal years immediately preceding the year in which the allocation is made.
- Each special district's share is determined by multiplying one-twelfth of the annual allocation for the special district by one plus the average percentage change in the assessed valuation of taxable property in the special district, including the assessed value attributable to a redevelopment agency but excluding the assessed valuation attributable to the net proceeds of minerals, for the fiscal year for which the allocation is being made and the four fiscal years immediately preceding the year in which the allocation is made.

If the sum of the average population growth and average assessed valuation growth for all local governments is negative, but the average change in assessed valuation for any special district is positive, the following formula is used:

- Each local government's share is determined by multiplying one-twelfth of the annual allocation for the local government by one plus the sum of:
  - The average percentage change in the population of that local government for the five years immediately preceding the year in which the allocation is made, as certified by the governor; and
  - The average percentage change in the assessed valuation of taxable property in the local government, including the assessed value attributable to a redevelopment agency but excluding the assessed valuation attributable to the net proceeds of minerals, for the fiscal year for which the allocation is being made and the four fiscal years immediately preceding the year in which the allocation is made.
- Each special district's share is determined by multiplying one-twelfth of the annual allocation for the special district by one plus the sum of:
  - The average percentage change in the population of that local government for the five years immediately preceding the year in which the allocation is made, as certified by the governor; and
  - The average percentage change in the assessed valuation of taxable property in the special district, including the assessed value attributable to a redevelopment agency but excluding the assessed valuation attributable to the net proceeds of minerals, for the fiscal year for which the allocation is being made and the four fiscal years immediately preceding the year in which the allocation is made.

The bill also revised the distribution of monthly base allocations to local governments and special districts for any month in which there is not sufficient revenue to make the entire monthly base allocation to all local governments and special districts. The bill required that, in these instances, the amount of each distribution to local governments and special districts be reduced, such that the total amount available for distribution is allocated to each local government and special district in an amount equal to its proportionate percentage of the total amount of the base monthly allocations for all local governments and special districts in the county.

**Senate Bill 38 (2005)** further revised the alternate distribution formula established under Senate Bill 469 of the 2003 Session by allowing counties whose average of net proceeds of minerals was \$50 million or more in the five fiscal years immediately preceding the year for which the allocation is being made, or whose average population growth is negative in the five fiscal years immediately preceding the year for which the allocation is being made, or who meet both of the above criteria, to use the one-plus calculation in lieu of the no one-plus calculation.



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## **Appendix D**

### **List of CTX Resources Available on the Legislative Counsel Bureau Website**

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## Appendix D

### List of CTX Resources Available on the Legislative Counsel Bureau Website

- Actual Revenues Distributed Under the First Tier and Second Tier of the CTX and Other Statistics Related to the CTX Distribution
  - [http://www.leg.state.nv.us/Interim/76th2011/Committee/Studies/AllocationMoney/Other/15-March-2012/03152012\\_CTX\\_Data\\_Material%20.pdf](http://www.leg.state.nv.us/Interim/76th2011/Committee/Studies/AllocationMoney/Other/15-March-2012/03152012_CTX_Data_Material%20.pdf)
- Nevada Revised Statutes Related to the CTX from 1995 to 2011 as the Law Existed After Each Legislative Session
  - <http://www.leg.state.nv.us/interim/76th2011/Committee/Studies/AllocationMoney/Other/2-February-2012/MeetingPage.cfm?ID=13&MeetingDate=2-February-2012>
- History of Legislation Related to the CTX – Provides Access to CTX Bills and the Minutes from the Hearings on Each Bill
  - <http://www.leg.state.nv.us/interim/76th2011/Committee/Studies/AllocationMoney/Other/2-February-2012/MeetingPage.cfm?ID=13&MeetingDate=2-February-2012>
- List of Bulletins from Prior CTX Interim Studies
  - [http://www.leg.state.nv.us/Interim/76th2011/Committee/Studies/AllocationMoney/Other/1-February-2012/CTX\\_Bulletins\\_02012012.pdf](http://www.leg.state.nv.us/Interim/76th2011/Committee/Studies/AllocationMoney/Other/1-February-2012/CTX_Bulletins_02012012.pdf)

# EXHIBIT 4

# EXHIBIT 4

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Senator Lee asked for clarification on the assessed value – residential versus commercial. He said that some communities had a larger population base and less assessed value because the community did not have a lot of commercial property. For example, the cities of Fernley and North Las Vegas had a huge population base, but a lot less assessed value. He asked if there was a way to see what the disparity could be so the assessed value could be considered differently as the Committee gets further in the process.

Chairwoman Kirkpatrick wanted to wait until the end of every meeting to determine the direction they wanted to send staff because they had to pick which issues to address since the Committee was limited to five meetings. She thought some the concerns would be addressed when they heard testimony on the assessed valuation from Mr. Hobbs and Mr. Leavitt.

Mr. Guindon noted that staff was working with the Department of Taxation on creating some additional historical data, and tables showing the population and assessed value for each of the local governments were forthcoming.

Chairwoman Kirkpatrick recognized Assemblywoman Dina Neal and Assemblywoman Irene Bustamante Adams, who were in attendance at the meeting.

## **VII. OVERVIEW OF THE CREATION OF THE CTX AND CHANGES TO THE CTX.**

Guy Hobbs, Principal, Hobbs, Ong and Associates, stated that staff of the Legislative Counsel Bureau provided a good summary of the first-tier CTX distribution and the revenues that comprise the CTX distribution. After hearing the descriptions of the various formulas that they were contending with in previous years, they could understand why the state moved from having six revenue sources being distributed under six different sets of mechanics and why it made sense to consolidate those into one formula as opposed to six. He said that a couple of the questions that came up were indicative of this – you could force the problems with the previous regimen for distributing these revenues if there were no incorporated cities. However, if there were one and then there became two cities, there were certain financial incentives and disincentives that were built into the formulas back then for whatever reason. With the adoption of CTX they have essentially gotten rid of those formulas. Mr. Hobbs guaranteed that if those six formulas were still in place today, there would be six different interim committees studying the individual formulas because of the problems that each formula created. While the CTX formula itself was not perfect, it certainly reduced the incidence of those types of issues.

Mr. Hobbs said that when originally looking at this, which he believed was important for the historical context, there were certain things that were discussed by the S.C.R. 40 Subcommittee (1997), an interim study on the laws relating to the distribution of revenue among local governments from state and local taxes. The S.C.R. 40 Subcommittee believed that there should be a consolidated tax formula, but they also spent considerable time trying to work through the principles that would be the foundation for that formula. One of the principles that inevitably came up when discussing changing

any revenue distribution mechanics was what kind of revenue change in the initial years was tolerable for the state, referred to as revenue neutrality. If a formula was drastically changed and resulted in an entity getting a different amount of revenue than the entity would have previously received from their share of those six revenues, was that something that would enable them to continue to provide the services for which they were created, or would it provide a potential negative jolt to their ability to do that? Mr. Hobbs said it was determined back at that point that revenue neutrality would be one of the underpinnings going forward for the consolidated tax formula, which was both positive and debatable. One of the things that was built into the system when there was revenue neutrality were all the sins of the formulas that preceded that. In addition, there was no question there was an intimate tie between consolidated tax, because it was so driven by sales tax, and property tax because of the changes to the tax structure in 1981. The sales tax was a minor player in the 1981 tax shift, and after the property taxes were reduced and replaced with sales tax, they became intricately locked together. Therefore, when looking at local government revenue, consolidated taxes was certainly one of the revenue sources that was extremely important to look at, but in his mind having been around during the 1981 Legislative Session, it was very hard to just simply look at consolidated tax without also considering its counterpart in 1981 – property tax. If the Committee truly wanted to look at the overall funding for an entity, both of those taxes had to be taken into account. It was that relationship which led to the basis, and the basis because of the revenue neutrality was still carried forward today.

Mr. Hobbs noted that people might remember the times when local governments would look at certain types of assessed value and want to have that within their jurisdictions, and there were other types of assessed value that they did not want. For example, it was much more economically positive to have assessed valuation that required very little services inside of the entity. Consequently, entities in those days would look for low maintenance assessed valuation, which was the commercial and industrial type of assessed valuation and less of the residential type of assessed valuation because it required more services. As a result, there were things like annexations and potential creations of one entity or another that were largely driven by coveting certain types of assessed valuation. In addition, there was a lot of inter-jurisdictional competition that often was rewarded because of the formulas in place. In other words, there were formulas largely driven by population which might make economic sense to do – not necessarily public service sense – and the same thing with the assessed valuation. Therefore, one of the underpinnings of the consolidated tax formula was to do whatever possible to reduce the type of inter-jurisdictional competition that existed between entities. Put another way, did they want to design a formula that rewarded growth, whether the growth occurred naturally or because of jurisdictional realignment. At the time they did not feel, nor did the legislators that adopted the changes to the tax structure feel that they should provide an incentive and reward system for that type of growth for the sake of growth; therefore, that was very much one of the foundational pieces. Mr. Hobbs stated he was talking about a formula that was devised 12 to 15 years ago and circumstances have changed, and the Committee may want to consider what those principles were going forward. He wanted the Committee to have a

# EXHIBIT 5

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# EXHIBIT 5

Case No. 66851  
JA. 3271



*Laws Relating to the Distribution Among  
Local Governments of Revenue  
From State and Local Taxes*



*Legislative Counsel  
Bureau*

*Bulletin No.  
97-5*

*January 1997*

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Case No. 66851  
JA 3273

**LCB02254**

**LAWS RELATING TO THE DISTRIBUTION AMONG  
LOCAL GOVERNMENTS OF REVENUE FROM STATE  
AND LOCAL TAXES**

**BULLETIN NO. 97-5**

**LEGISLATIVE COMMISSION  
OF THE  
LEGISLATIVE COUNSEL BUREAU  
STATE OF NEVADA**

**January 1997**

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Case No. 66851  
JA **3274**

**LCB02255**

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Case No. 66851  
JA 3275

**LCB02256**

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Case No. 66851  
JA 3277

**LCB02258**

## **SUMMARY OF RECOMMENDATIONS**

### **LAWS RELATING TO THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF REVENUE FROM STATE AND LOCAL TAXES S.C.R. 40**

1. The 1997 Session of the Nevada Legislature should consider legislation providing for a new formula for the distribution among the local governments within a county of: the Basic City/County Relief Tax; Supplemental City/County Relief Tax; Tax on Liquor; Tax on Tobacco; Real Property Transfer Tax; and Motor Vehicle Privilege Tax.
2. The 1997 Session of the Nevada Legislature should consider legislation that would provide for appropriate adjustments to the bases of the formula for revenue distribution of one or more local governments when previous functions are taken over or no longer exist.
3. The 1997 Session of the Nevada Legislature should consider legislation to allow two or more local governments within the same county to agree by cooperative agreement to alternative formulae for revenue distribution.
4. The 1997 Session of the Nevada Legislature should consider legislation to provide transitory language allowing a local government to request an adjustment to the base of the formula for revenue distribution purposes.
5. The 1997 Session of the Nevada Legislature should consider legislation providing for the number and type of services required to be provided by a new entity to qualify for inclusion in the formula for revenue distribution and to freeze the revenues of "enterprise" special districts at the base year.
6. The 1997 Session of the Nevada Legislature should consider legislation creating a legislative committee to continue the study of the distribution among local governments of revenue from state and local taxes.
7. That the Legislative Commission direct the S.C.R. 40 Advisory Committee to continue its analyses of local government revenues and to report its findings and recommendations to the Committees on Government Affairs in the Senate and Assembly during the 1997 Session.

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Case No. 66851  
JA 3279

**LCB02260**



## ABSTRACT

### LAWS RELATING TO THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF REVENUE FROM STATE AND LOCAL TAXES (S.C.R. 40)

The 68th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 40 (File No. 162, *Statutes of Nevada 1995*, pages 3034-3036), which directed the Legislative Commission to conduct an interim study of the laws relating to the distribution among local governments of revenue from state and local taxes. The study was to include, without limitation, an examination of laws relating to the distribution of revenue and alternate distribution methods to increase distribution efficiencies.

The Legislative Commission appointed a subcommittee of eight legislators and an advisory committee consisting of the Executive Director of the Department of Taxation, and eight local government finance representatives to complete the study and submit any findings and recommendations for legislation to the 69th Session of the Nevada Legislature. The subcommittee held five public hearings in Carson City, Las Vegas and Reno and received testimony primarily regarding the distribution of revenues to local governments from sales tax, liquor tax, cigarette and tobacco products tax, real property transfer tax, fuel taxes and vehicle privilege tax and their respective distribution formulas.

The subcommittee, at a final work session in Carson City, adopted six recommendations for proposed legislation and one recommendation (approved by the Legislative Commission) to continue the advisory committee's work, examining four specific additional revenue issues.

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Case No. 66851  
JA 3281

LCR02262

**REPORT TO THE 69<sup>TH</sup> SESSION OF THE NEVADA LEGISLATURE  
BY THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO  
STUDY THE LAWS RELATING TO  
THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF  
REVENUE FROM STATE AND LOCAL TAXES**

**I. INTRODUCTION**

The following is submitted in compliance with the Senate Concurrent Resolution No. 40 (File No. 162, *Statutes of Nevada 1995*, pages 3034-3036), which directed the Legislative Commission to conduct an interim study on the laws relating to the distribution among local governments of revenue from state and local taxes. The resolution requires that the Legislative Commission report the results of the study and any recommended legislation to the 69<sup>th</sup> Session of the Nevada Legislature. SCR 40 is included as Appendix A.

The resolution directed that a subcommittee consisting of two members of the Senate standing Committee on Government Affairs, two members of the Senate standing Committee on Taxation, two members of the Assembly standing committee on Government Affairs and two members of the Assembly standing Committee on Taxation appointed by the Legislative Commission conduct the study. The resolution further directed that the subcommittee meet at least six times during the interim (Appendix C) and consult with an advisory committee consisting of the executive director of the department of taxation, two members of the local government advisory committee created pursuant to NRS 266.0165, three members involved in the government of a county, and three members involved in the government of an incorporated city. Members of the subcommittee appointed to conduct the study were:

Senator Ann O'Connell, Chairman	Senator Jon C. Porter
Senator Dean A. Rhoads	Senator Raymond C. Shaffer
Assemblywoman Joan A. Lambert	Assemblyman Bob Price
Assemblyman P.M. Roy Neighbors	Assemblywoman Jeanine Stroth-Coward.

The advisory committee members appointed to conduct the study were:

Michael Pitlock, Director, Department of Taxation	
Marvin Leavitt, Las Vegas	Mike Alastuey, Clark County School District
Guy Hobbs, Clark County	Gary Cordes, Fallon
Mary Henderson, Washoe County	Terri Thomas, Sparks
Mary Walker, Carson City	Steve M. Hanson, Henderson.

Legislative Counsel Bureau staff services for the committee were provided by: Kevin D. Welsh, Deputy Fiscal Analyst; Ted A. Zuend, Deputy Fiscal Analyst; Kim Guinasso, Deputy Legislative Counsel; and Terry Cabauatan, Management Assistant, Fiscal Analysis Division. The report represents the findings and recommendations of the subcommittee. Information which affected the recommendations directly are included in either the narrative or the appendices. All supporting documents and meeting minutes are available from the Fiscal Analysis Division of the Legislative Counsel Bureau. The Legislative Commission, at its meeting on October 2, 1996, accepted this report and ordered it and its recommendations transmitted to the members of the 1997 Legislature for consideration and appropriate action. The Legislative Commission further directed the Advisory Committee to continue its analysis of local government revenues and report its findings and recommendations to the Committees on Government Affairs in the Senate and Assembly during the 1997 Session.

## II. BACKGROUND

Senate Concurrent Resolution No. 40 was passed to allow the Legislative Commission to review in the interim, laws relating to the distribution among local governments of revenue from state and local taxes. The technical nature of the subject matter and the requirement that comprehensive, heretofore, non-existent databases be compiled did not allow the standing committees of the Legislature time nor the resources to address this subject during session.

The subcommittee considered all of the subject areas identified in S.C.R. 40 as well as several brought before the subcommittee from independent sources during its deliberations. After reviewing all of the oral and written testimony submitted, the committee ultimately decided that it could and should address the following matters: (1) the distribution to local governments within any county (second tier distribution) of the Basic City/County Relief Tax (BCCRT), Supplemental City/County Relief Tax (SCCRT), tax on liquor, tax on cigarettes, real property transfer tax (RPTT) and motor vehicle privilege tax (MVPT) and various related matters providing for a new distribution formula and the application of that formula; (2) the inter and intra-county distribution of motor vehicle fuel taxes (the 1.25 cent and 2.35 cent components of that tax); and (3) the distribution of SCCRT revenue to special districts providing "enterprise" type services.

### BCCRT, SCCRT, LIQUOR, CIGARETTES, RPTT and MVPT TAX REVENUE DISTRIBUTION

The six taxes identified above are collected at various regional and local levels, remitted to the state, then distributed back to local governments by various formulas driven either by population or ad valorem tax rates (Appendix D). The subcommittee concluded that none of the existing revenue distribution formulas had any rational basis for distributing new revenue to new growth areas where it was both generated and it needed to meet the demands of the new growth (Appendices E, F, G and H). Therefore, the subcommittee made five recommendations requesting legislation to provide the above identified revenues be placed in one central fund to be distributed according to a rationally based formula which includes provisions for growth and population and assessed valuation, providing for various technical provisions regarding the application of that formula, allowing for the formula to rationally respond to changes in local government structure and providing criteria for newly formed entities wishing to take part in the formula.

### The Inter-Intra County Distribution of Motor Vehicle Fuel Tax and SCCRT Distribution to Special Districts

The committee realized that any finding and subsequent recommendations on the above identified subject areas would require the compilation of comprehensive databases resulting from extensive survey research (Appendices J, K, L and M). Therefore, the committee recommended that the Legislative Commission direct the subcommittee's advisory committee to continue the study in the subject areas as follows:

#### Motor Vehicle Fuel Tax (MVFT)

The advisory committee was to establish a consistent definition for different types of roadways, a survey to establish the comprehensive statewide inventory of the road miles for each type of road provide a per mile maintenance cost for each type of road, a factor for mitigating maintenance costs (snow removal) and establish a formula that would provide for the distribution of revenues, that would reflect a rational assessments of maintenance needs.

#### Special Districts

The subcommittee again realized that this subject matter would require a comprehensive data base based on extensive survey research. It further realized that the broad spectrum of special districts of Nevada could not be addressed by any one single methodology. Therefore, the advisory committee was directed to focus its effort on those special districts that were providing "enterprise" services only. The subcommittee was further directed to create a survey questionnaire, provide for a uniform and comprehensive completion of that questionnaire and create a comprehensive database from the information gleaned from it and report any findings and recommendations to the 1997 Legislature.

The subcommittee further recommended that the Legislature create a legislative committee to continue the study of the subject matter.

### STATE 1 (%) PERCENT COLLECTION FEE and DISTRIBUTION SCHEDULE

The advisory committee was also directed to study the rationale of the state one percent collection fee for the collection and distribution of local government sales tax revenues.  
Appendix N.

### III. FINDINGS and RECOMMENDATIONS

The subcommittee agreed that it had thoroughly researched and considered the subject matters that were within its time and resource constraints and provided for the continued study of the remainder of its charge. A detailed description of the committee's findings and recommendations is contained in Appendix Q.

The subcommittee, therefore recommends:

1. The 1997 Session of the Nevada Legislature should consider legislation providing for a new formula for the distribution among the local governments within a county of: the Basic City/County Relief Tax; Supplemental City/County Relief Tax; Tax on Liquor; Tax on Tobacco; Real Property Transfer Tax; and Motor Vehicle Privilege Tax.
2. The 1997 Session of the Nevada Legislature should consider legislation that would provide for appropriate adjustments to the bases of the formula for revenue distribution of one or more local governments when previous functions are taken over or no longer exist.
3. The 1997 Session of the Nevada Legislature should consider legislation to allow two or more local governments within the same county to agree by cooperative agreement to an alternative formula for revenue distribution.
4. The 1997 Session of the Nevada Legislature should consider legislation to provide transitory language allowing a local government to request an adjustment to the base of the formula for revenue distribution purposes.
5. The 1997 Session of the Nevada Legislature should consider legislation providing for the number and type of services required to be provided by a new entity to qualify for inclusion in the formula for revenue distribution and to freeze the revenues of "enterprise" special districts at the base year.
6. The 1997 Session of the Nevada Legislature should consider legislation creating a legislative committee to continue the study of the distribution among local governments of revenue from state and local taxes.
7. The Legislative Commission should direct the S.C.R. 40 Advisory Committee to continue its analyses of local government revenues and to report its findings and recommendations to the Committees on Government Affairs in the Senate and Assembly during the 1997 Session.

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Case No. 66851  
JA 3287

LCR02262



# *Appendix A*

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Case No. 66851  
JA 3289

LCB02270

Senate Concurrent Resolution No. 40—Committee on  
Government Affairs

FILE NUMBER.....

SENATE RESOLUTION—Directing the Legislative Commission to conduct an interim study of the laws of this state relating to the distribution among local governments of revenue from state and local taxes.

WHEREAS, Nevada is a dynamic state with a growing population and a diverse economic base; and

WHEREAS, Regional differences in the local economies of this state directly affect the population and economic growth throughout the state; and

WHEREAS, The increase in population and the growth in the state's economy has created a tremendous strain on the local governments as those governments attempt to address the demands of this growth; and

WHEREAS, Often the creation of additional governmental entities is required to accommodate the population and economic growth and alleviate the strain on the existing local governments; and

WHEREAS, The present laws relating to the distribution of revenue generated by state and local taxes are inadequate to meet the demands created by this growth; and

WHEREAS, Because of the inadequacies of the laws relating to the distribution of that revenue, local governments often must compete against each other for the available revenue rather than cooperating with each other to meet the demands that the population and economic growth create; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of the laws relating to the distribution among local governments of revenue from state and local taxes; and be it further

RESOLVED, That the Legislative Commission shall appoint a subcommittee consisting of:

1. Two members of the Senate Standing Committee on Government Affairs;

2. Two members of the Senate Standing Committee on Taxation;

3. Two members of the Assembly Standing Committee on Government Affairs; and

4. Two members of the Assembly Standing Committee on Taxation; and be it further

RESOLVED, That the study must include, without limitation, an examination of the laws relating to the distribution of revenue from:

1. The local school support tax imposed pursuant to chapter 374 of NRS;  
2. The tax on aviation fuel and fuel for motor vehicles imposed pursuant to chapter 365 of NRS;

3. The tax on fuel imposed pursuant to chapter 373 of NRS;

4. The tax on intoxicating liquor imposed pursuant to chapter 369 of NRS;

5. The tax on tobacco imposed pursuant to chapter 370 of NRS;

6. The vehicle privilege tax imposed pursuant to chapter 371 of NRS;

7. The tax imposed on gaming licenses pursuant to chapter 463 of NRS; and

8. The tax on the transfer of real property imposed pursuant to chapter 375 of NRS; and be it further

RESOLVED, That the Legislative Commission shall designate a chairman of the subcommittee from among the members of the Senate appointed to the subcommittee; and be it further

RESOLVED, That the subcommittee shall meet at least six times during the interim and consult with an advisory committee consisting of the Executive Director of the Department of Taxation and 8 members that are representative of various geographical areas of the state and are appointed by the Legislative Commission as follows:

1. Two members of the Local Governmental Advisory Committee created pursuant to NRS 266.0165;

2. Three members involved in the government of a county; and

3. Three members involved in the government of an incorporated city; and be it further

RESOLVED, That the members of the advisory committee serve without compensation, per diem allowance, travel expenses or other reimbursement; and be it further

RESOLVED, That any recommended legislation proposed by the subcommittee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the subcommittee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the findings of the subcommittee and any recommendations for legislation to the 69th session of the Nevada Legislature.